CHAPTER clxxxii.

An Act to enable the Barry Dock and Railways Company to purchase additional lands and make certain works near Barry Island and for other purposes. [7th August 1888.] A.D. 1888.

WHEREAS the Barry Dock and Railways Company (who are in this Act referred to as "the Company") were incorporated by the Barry Dock and Railways Act 1884 (hereinafter referred to as "the Act of 1884") and were by that Act authorised to construct a dock at Barry and railways and works connected therewith and the Company have made considerable progress towards the completion of the said works: 47 & 48 Vict. c. cclvii.

And whereas it is expedient that powers should be conferred on the Company to purchase and acquire certain land and foreshore lying to the eastward of their authorised dock works and to hold use and deal with the same in connection with their undertaking and also to construct certain works described in this Act:

And whereas plans and sections showing among other things the situation line and level of the works authorised by this Act and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act were duly deposited with the clerk of the peace for the county of Glamorgan and are hereinafter respectively referred to as the deposited plans and sections and book of reference:

And whereas it is expedient that powers should be conferred upon the Company in certain events to run over and use the portions of railway hereinafter specified:

And whereas the Company require additional capital for the purposes of this Act, and also for the completion and equipment of their authorised undertaking:

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And it is expedient that further powers should be conferred upon them to raise additional capital and that further powers should be conferred upon the Company such as are hereinafter mentioned:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Short title.

1. This Act may be cited as the Barry Dock and Railways Act 1888.

Incorporation of general Acts.

2. The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883 (so far as they are applicable for the purposes of and are not inconsistent with the provisions of this Act) are hereby incorporated with and form part of this Act:

Extending certain provisions of Companies Clauses Acts.

And the clauses and provisions of the Companies Clauses Consolidation Act 1845 with respect to—

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions and means of enforcing payment of calls;

The forfeiture of shares for non-payment of calls;

The remedies of creditors of the Company against the shareholders;

The borrowing of money by the Company on mortgage or bond;

The conversion of the borrowed money into capital;

The consolidation of shares into stock;

The general meetings of the Company and the exercise of the right of voting by the shareholders;

The making of dividends;

The giving of notices; and

The provision to be made for affording access to the special Act by all parties interested:

And also parts I. II. and III. of the Companies Clauses Act 1863 (relating respectively to the cancellation and surrender of shares to additional capital and to debenture stock) as amended by the Companies Clauses Act 1869:

shall subject to the provisions of this Act extend and apply to the capital and money hereby authorised to be raised by shares or stock or borrowing and the proprietors thereof.

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Interpretation.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction:—

The expression "the Company" means the Barry Dock and Railways Company;

The expression "the works" means the works by this Act authorised;

And the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or any Act wholly or partially incorporated herewith shall for the purposes of this Act be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute.

Power to purchase lands.

4. Subject to the provisions of this Act the Company may enter upon purchase and take and may hold and use for the purposes of this Act and for the general purposes of their undertaking the lands hereinafter described so far as the same are delineated on the deposited plans and described in the deposited book of reference namely:—

Certain land and buildings in the parish of Merthyr-dovan situate at Holton Fawr between the road from East Barry to Cadoxton and the railway of the Company as in course of construction:

Lands in the parishes of Cadoxton-juxta-Barry Saint Andrew's Major and Sully or some or one of them situate on both sides of and adjacent to the Cadoxton Brook or River and extending from the mouth of the said river near Mill Cottage for a distance of a mile or thereabouts in a north-easterly direction which lands comprise the westernmost portion of the parish of Sully extending along the sea or foreshore from the Cadoxton Brook to a point about thirty chains south-east of Warren Tump and including about fifty acres and also so much of the parishes of Saint Andrew's Major and Cadoxton-juxta-Barry as lies southward of the new road over Cadoxton Moors authorised by the Barry Dock and Railways Act 1884 and lately formed or in course of construction by the Company:

But this Act shall not authorise the purchase and taking any greater portion of the piece of common or commonable land known as Cadoxton Moors in the said parish of Cadoxton-juxta-Barry than twenty acres:

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Provided that nothing in this Act shall empower the Company to take (otherwise than by agreement) any greater quantity of land from the Right Honourable Ivor Bertie Baron Wimborne than is required for the dam and diversion of Cadoxton Brook by this Act authorised and any difference between the Company and the said Baron Wimborne as to the quantity of land required for the above-mentioned works or either of them shall be settled by an arbitrator to be appointed by the President of the Institution of Civil Engineers.

Power to make works.

5. Subject to the provisions of this Act the Company may make and maintain in the line or situation and according to the levels shown on the deposited plans and sections with all proper works approaches and conveniences connected therewith:

A dam commencing at the outside wall enclosing the basin of the Company's authorised dock as in course of construction about three chains from the south-eastern corner of the said basin and extending in a south-easterly direction to a point nineteen chains or thereabouts measured in a south-easterly direction from the south-eastern corner of the said basin and thence in a north-easterly direction to and along the line of the recently formed bank (extending from the field numbered one hundred and thirty on the 25-inch Ordnance map of the parish of Sully near the rocks known as the Black Rocks in a south-westerly direction on to the foreshore) and terminating at the mainland;

A diversion of the watercourse known as the Cadoxton Brook or Cadoxton River as shown on the deposited plans.

Diversion of roads.

6. The Company may so far as they may find necessary in constructing or maintaining the works divert alter or stop up any roads within the limits of deviation delineated on the deposited plans and described in the deposited book of reference in the manner shown on the deposited plans and sections.

Period for compulsory purchase of lands.

7. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of five years from the passing of this Act: Except that the powers of the Company for the compulsory purchase of such of the lands delineated on the deposited plans and described in the deposited books of reference as belong at the passing of this Act to the Right Honourable Ivor Bertie Baron Wimborne shall not be exercised after the expiration of two years from the passing of this Act.

As to taking houses of persons of the labouring class.

8. The Company shall not except with the previous consent in writing of the Local Government Board under the powers of this Act purchase or acquire in any city borough or other urban sanitary district or any parish or part of a parish not being within an urban sanitary district ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

For the purposes of this section the expression "labouring class" includes mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any such persons who may be residing with them.

Period for completion of works.

9. If the works by this Act authorised are not completed within the period of eight years from the passing of this Act then on the expiration of that period the powers by this Act granted to the Company for making and completing the same shall cease to be exercised except as to so much thereof as is then completed.

Application of purchase-money for common land.

10. The money to be paid by way of purchase-money and compensation in respect of any common land in the parish of Cadoxton-juxta-Barry taken by the Company under the powers of this Act shall be laid out in the purchase of additional lands to be added to and form part of Cadoxton Common or in the improvement of that common or other public work for the benefit of the district as may be determined by a resolution to be passed by the commoners of the said parish in manner prescribed by the Commonable Rights Compensation Act 1882.

Deviation.

11. The Company in the execution of the works may deviate laterally from the lines thereof shown on the deposited plans to any extent within the limits of deviation shown thereon and vertically from the levels shown on the deposited sections to any extent not exceeding ten feet.

Power to lease warehouses &c.

12. Notwithstanding anything in the Harbours Docks and Piers Clauses Act 1847 the Company may from time to time lease or grant the use or occupation of any warehouses buildings wharves yards landing-stages coal-tips staiths cranes machines or other conveniences belonging to them for such period or periods not exceeding seven years at any one time at such rents and on such terms and conditions as shall be agreed between the Company and the corporations companies or persons taking the same.

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Power to sell and grant leases.

13. The Company may from time to time sell exchange or grant leases for such term or terms as they may think fit of any of the lands of the Company not required or likely to be required for the purposes of the works authorised by this Act or any of the other Acts relating to the Company and they may also grant by way of lease or otherwise the use of such waterway quay room wharfage room and other easements as may be requisite or convenient for the purpose of any trade or business to be carried on at or near the Dock Works or in connection with the undertaking of the Company: Provided that money received on any sale or exchange shall be treated as capital and applied only to purposes to which capital is properly applicable.

Company may apply their funds towards purposes of Act and may raise additional capital.

14. The Company may apply towards the construction of the works by this Act authorised and other purposes of this Act any money which they are already authorised to raise and which may not be required by them for the purposes for which the same was authorised to be raised and the Company may from time to time subject to the provisions of Part II. of the Companies Clauses Act 1863 raise in addition to the said moneys any additional sum or sums not exceeding in the whole two hundred and ten thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or partly by any one or more of those methods respectively which shares or stock shall form part of the general capital of the Company.

Shares or stock not to vest until one-fifth part paid up.

15. No share or stock created under the authority of this Act shall be issued nor shall any such share or stock vest in the person accepting the same unless and until a sum not being less than one-fifth part of the amount of such share or stock shall have been paid in respect thereof.

Receipt in case of persons not sui juris.

16. If any money is payable under this Act to a holder of shares or stock being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge.

As to votes of proprietors of new shares or stock.

17. The proprietors of any ordinary shares or stock to be issued under the authority of this Act shall be entitled to such number of votes in respect thereof as the nominal amount represented thereby would have entitled them to if the same had been original shares or stock of the Company.

Power to borrow.

18. The Company may in respect of the additional capital of two hundred and ten thousand pounds which they are by this Act authorised to raise from time to time borrow on mortgage any sum not exceeding in the whole seventy thousand pounds but no part of the said sum shall be borrowed until shares for so much of the

capital by this Act authorised as is to be raised by means of shares are issued and accepted and one-half thereof is paid up and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that shares for so much of such capital as is to be raised by shares have been issued and accepted and that one-half thereof has been paid up and that not less than one-fifth of the amount of each such separate share therein has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one-half of so much of such capital as is to be raised by means of stock is fully paid up and the Company have proved to such justice as aforesaid before he so certifies that such shares or stock as the case may be were issued and accepted and paid up bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators or assigns and also if the said capital is raised by shares that such persons or corporations or their executors administrators or assigns are legally liable for the same.

Upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

Appointment of receiver.

19. Section 24 of the Barry Dock and Railways Act 1885 with respect to the appointment of a receiver by mortgagees of the Company is hereby repealed but without prejudice to any appointment made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under that section. The mortgagees of the Company may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than ten thousand pounds in the whole.

Debenture stock.

20. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 and of section 44 of the Act of 1884.

Former mortgages to have priority.

21. The principal moneys secured by all mortgages granted by the Company in pursuance of the powers of any former Act and subsisting at the time of the passing of this Act shall during the continuance of such mortgages have priority over the principal moneys secured by any mortgages granted by virtue of this Act.

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Application of moneys.

22. All moneys raised under this Act whether by shares stock debenture stock or borrowing shall be applied for the purposes of this Act or for the general purposes of the undertaking being in all cases purposes to which capital is properly applicable.

Taff Vale Railway Company to afford facilities for exchanging traffic.

23. (1) The Taff Vale Railway Company shall punctually and regularly forward and afford all reasonable facilities for goods and mineral traffic destined for or coming from the undertaking of the Company from or to Treforest or any place northward thereof at rates per mile not greater than the lowest rate which shall for the time being be charged by the Taff Vale Railway Company for like traffic to or from the docks at Cardiff Penarth or Barry and shall deliver all such traffic into and take the same from the Company's sidings as regards all traffic coming from or destined for Hafod or any place westward thereof at Hafod and as regards other traffic at Treforest without any terminal or other charge in respect thereof but with such bonus (if any) in respect of traffic exchanged at Hafod as in default of agreement between the Taff Vale Railway Company and the Company shall be from time to time determined on the application of either of them by the Railway Commissioners sitting as arbitrators having regard to all the circumstances of the case and to the following proviso: Provided that where any such traffic shall be carried on the Taff Vale Railway for a less distance than four miles the Taff Vale Railway Company shall be entitled to charge in respect of such traffic as if it were carried on their railway for a distance of four miles and the Company shall in all respects be placed on at least as favourable a footing as any other company with regard to traffic exchanged with the Taff Vale Railway Company.

Taff Vale Railway Company not to use Coast Railway for certain traffic.

(2) The Taff Vale Railway Company shall not (except with the consent of the Company under their common seal) use the railway authorised by the Cardiff Penarth and Cadoxton-juxta-Barry Junction Railway Act 1885 for mineral traffic other than local traffic.

Company empowered in certain events to run over and use part of Taff Vale Railway.

(3) If at any time on application made by the Company to the Railway Commissioners sitting as arbitrators the said Commissioners shall decide that the Taff Vale Railway Company have failed to give any of the facilities herein provided for and shall not within reasonable time after notice have remedied such failure or if the Taff Vale Railway Company use the Cardiff Penarth and Barry Railway contrary to the provisions of this Act or in case the Cardiff Penarth and Barry Junction Railways Company shall use or permit to be used their railway for the conveyance of mineral traffic other than for local traffic then the Company may run over and use with their

engines carriages and waggons and officers and servants whether in charge of any engines or trains or for other purposes and for the purposes of their traffic of every description the railways and stations following (that is to say):—

So much of the railways belonging to or leased or worked by the Taff Vale Railway Company as is situate to the northward or westward of the termination of Railway No. 7 authorised by the Act of 1884;

Together with all stations on the said portions of railway and all roads platforms points signals water water-engines engine-sheds standing room for engines booking and other offices sidings junctions machinery works and conveniences of or connected with the said portions of railway and stations:

Provided always that if and whenever the Company shall exercise the running powers by this section conferred the Taff Vale Railway Company shall during the period of such exercise be relieved and discharged from any obligation under this section to deliver traffic to the Company at Hafod or Treforest and from any restrictions as to the use of the Cardiff Penarth and Barry Railway.

Terms of such use.

24. The terms conditions and regulations in respect of the said use and the tolls or other consideration to be paid for the same shall if not agreed upon between the Company and the Taff Vale Railway Company be from time to time determined by an arbitrator to be appointed on the application of either party in difference by the Board of Trade and the decision of such arbitrator shall be binding and conclusive on the parties in difference and the costs and expenses of such arbitration shall be defrayed as the arbitrator shall direct and either of the parties who shall refuse or neglect to perform observe and conform to any decision given or regulation made by any such arbitrator in the premises shall forfeit and pay to the other of them as the arbitrator shall determine any sum not exceeding fifty pounds for every such offence and twenty pounds for every day during which such offence shall continue.

Bye-laws to be observed.

25. In running over and using any portion of railway and in using any of the said stations and conveniences in accordance with the provisions hereinbefore contained the regulations and bye-laws for the time being in force on the undertaking so used shall be at all times observed so far as such bye-laws shall be applicable.

As to traffic in different valleys.

26. Except to the extent of the bonus (if any) which the Company may have to pay in respect of traffic exchanged at Hafod under the provisions of this Act the Company shall not in the exercise of the powers conferred by this Act give any undue advantage to traffic

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passing from or to any of the valleys traversed by the railways of the Taff Vale Railway Company over traffic of the like description passing from or to any other of such valleys under the same circumstances.

As to steam tugs, &c.

27. The Company may purchase build hire maintain and use tugs boats and other vessels for use at their docks as they may from time to time think necessary and may make in respect thereof such charges as they may think reasonable.

Trespassers.

28. Any person who shall trespass upon any of the dock property railways or stations of the Company in such manner as to expose himself to danger or risk of danger shall without having received any personal or other warning than hereinafter mentioned forfeit and pay by way of penalty any sum not exceeding forty shillings for every such offence and the provisions of the Railways Clauses Consolidation Act 1845 with respect to the recovery of damages not specially provided for and of penalties and to the determination of any other matters referred to justices shall apply to this enactment: Provided that no person shall be subject to any penalty under this enactment unless the Company shall prove to the satisfaction of the justices before whom complaint is laid that they have painted on boards or printed painted or enamelled on enamelled or other iron or any other material public warning to persons not to trespass upon their dock property or railway and that one or more of such boards has been affixed at the station on their railway and at the level crossing (if any) nearest to the spot where such trespass is alleged to have been committed and the Company shall renew such warning as often as the same shall be obliterated or destroyed and no penalty shall be recoverable unless such warning is so placed and renewed: Provided also that no person lawfully crossing the railway at any level crossing thereof shall be liable to any such penalty as aforesaid: And provided lastly that this enactment shall not interfere with but shall be subject to any future general enactment on the subject of trespassing on railways.

Interest not to be paid on calls paid up.

29. Except as expressly authorised by the Barry Dock and Railways Act 1887 no interest shall be paid out of any share or loan capital which the Company are by this or any Act authorised to raise to any shareholder on the amount of calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

Deposits for future Bills not to be paid out of capital.

30. The Company shall not out of any money by this Act authorised to be raised pay or deposit any sum which by any Standing Order of either House of Parliament now or hereafter in force may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other railway or to execute any other work or undertaking.

Provision as to general railway Acts.

31. Nothing in this Act contained shall exempt the Company or the railways from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels.

Saving rights of Crown under Crown Lands Act.

32. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities mentioned in or reserved by sections twenty-one and twenty-two of the Crown Lands Act 1866 and belonging to or exerciseable on behalf of Her Majesty Her heirs or successors.

Costs of Act.

33. All the costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

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