CHAPTER lxxxvi.

An Act to confer further Powers on the Barry Dock and Railways Company. A.D. 1889.

[26th July 1889.]

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 (herein-after 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 nearly completed the said works: 47 & 48 Vict. c. cclvii.

And whereas the Company require additional capital for the completion and equipment of their authorised undertaking and it is expedient that further powers should be conferred upon them for that purpose:

And whereas previous to the passing of the Bristol Channel Pilotage Act 1861 vessels passing up and down or upon the Bristol Channel were required to be piloted by pilots authorised and licensed by the mayor burgesses and commonalty of the city of Bristol except that under the Ely Tidal Harbour and Railway Act 1856 and the Penarth Harbour Dock and Railway Act 1857 separate provisions were made with regard to the pilotage to and from the harbour and docks of Penarth: 24 & 25 Vict. c. ccxxxvi. 19 & 20 Vict. c. cxxii. 20 & 21 Vict. c. lxix.

And whereas by the Bristol Channel Pilotage Act 1861 it was recited that owing to the extension of trade in the several ports of Cardiff Newport and Gloucester it was expedient that separate systems of pilotage should be established in the Bristol Channel in connexion with those respective ports and such systems of pilotage were established accordingly under the supervision of Pilotage Boards for each of the said ports except the harbour and docks of Penarth:

And whereas it was subsequently arranged with the consent of the Penarth Harbour Dock and Railway Company that the pilots for the port of Cardiff should also be pilots for the harbour and docks of Penarth:

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43 & 44 Vict. c. cxxiv.

And whereas the Bristol Channel Pilotage Act 1861 was amended by the Bristol Channel Pilotage (Cardiff) Act 1880:

And whereas the port of Cardiff to which the powers and provisions of the said Acts with respect to pilotage extend was defined to mean the customs port of Cardiff for the time being:

And whereas the dock of the Company is within the limits of the customs port of Cardiff but is situate eight miles or thereabouts from Cardiff Docks and is nearer to the sea than the said Cardiff Docks and is free from the special difficulties of navigation attaching to the entrance to the said docks and it is expedient that provisions such as in this Act contained should be made with reference to the pilotage to and from the dock and works of the Company and that the provisions of the Barry Dock and Railways Act 1885 with reference to pilots and pilotage should be amended:

And whereas the Company have at considerable expense constructed upon land acquired by them new roads in the parishes of Saint Andrew's Major Cadoxton-juxta-Barry Sully and Merthyr Dovan in the county of Glamorgan which form a convenient means of communication between Barry and Cadoxton on the one hand and Cardiff and the neighbourhood on the other hand and it is expedient that provision should be made for authorising agreements between the Company and the local authorities with reference to the said roads:

And whereas it is expedient that for the better regulation and management of the undertaking of the Company the other powers herein-after contained should be conferred:

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 1889.

Extending certain provisions of Companies Clauses Acts.

2. 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.

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:
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.

Additional capital.

4. The Company may for the general purposes of their undertaking from time to time subject to the provisions of Part II. of the Companies Clauses Act 1863 raise in addition to the sums of money which they are already authorised to raise any additional sum or sums not exceeding in the whole three hundred thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock or wholly 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 Provided that not more than one hundred and fifty thousand pounds of such shares or stock shall be issued as preference.

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

5. No share created under the authority of this Act shall be issued nor shall any such share 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 shall have been paid in respect thereof.

Receipt in case of persons not sui juris.

6. 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.

7. 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.

8. The Company may in respect of the additional capital of three hundred 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 one hundred 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.

9. Section 19 of the Barry Dock and Railways Act 1888 with respect to the appointment of a receiver by mortgagees of the Company is hereby repealed but without prejudice to any appoint-

ment 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.

10. 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 Notice of the effect of the said section shall be given on all mortgages and certificates of debenture stock issued after the passing of this Act.

Former mortgages to have priority.

11. 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.

Application of moneys.

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

Vessels to and from the Company's docks to be exempt from Bristol Channel pilotage.

13. From and after the passing of this Act the expression "the board" in the Bristol Channel Pilotage Act 1861 shall as respects all vessels coming to or departing from the dock and works of the Company and the pilotage of such vessels mean the pilotage board for the port of Barry as constituted under this Act instead of the board as defined by the said Act and the provisions of the said Act applicable to the several boards thereby established and the members thereof shall so far as applicable for the purposes and subject to the provisions of this Act apply to the pilotage board constituted under this Act.

Repeal of section 31 of Act of 1885.

14. Section 31 of the Barry Dock and Railways Act 1885 as to the appointment by the Company of persons to be members of the pilotage board of the port of Cardiff is hereby repealed as from the passing of this Act.

Constitution of Barry Pilotage Board.

15. From and after the passing of this Act three of the directors of the Company to be nominated and removed by the Company from time to time by writing under their common seal (with any additional persons nominated as herein-after provided) shall be the

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pilotage board for the port of Barry (in this Act called "the Barry Pilotage Board"):

Any persons not exceeding nine at any one time may be appointed in addition to the said three directors of the Company to be members of the Barry Pilotage Board in the manner and proportions following (that is to say):—

Six persons being shipowners of the port of Cardiff as defined by the Bristol Channel Pilotage (Cardiff) Act 1880 to be nominated and removed from time to time by the Cardiff Incorporated Shipowners Association in writing under their seal:

Two other persons by the pilots licensed by the Barry Pilotage Board:

One other person by the Board of Trade (if the Board of Trade think fit to appoint):

The persons to be appointed by the pilots licensed by the Barry Pilotage Board shall be nominated and appointed in the same manner and subject to the same provisions as persons to be appointed by the pilots of the port of Cardiff under the Bristol Channel Pilotage (Cardiff) Act 1880 are appointed as members of the Pilotage Board for Cardiff and for the purpose of such appointments the expression "the board" in the said Act shall mean the Barry Pilotage Board and the expression "pilots of the port of Cardiff" shall mean pilots licensed by the Barry Pilotage Board.

Appointment of pilots, &c.

16. It shall be lawful for the Barry Pilotage Board from time to time to license and appoint such number of proper persons to act as pilots within the waters of the British Channel eastward of Lundy Island to vessels destined for and departing from the docks and works of the Company as they may think necessary and to remove any such persons and if any person without being licensed and appointed as aforesaid shall pilot or attempt to pilot any such vessel within the limits of the dockmaster's authority as defined by the Act of 1884 every person so offending shall be liable to a penalty not exceeding ten pounds and the board may from time to time fix the charges to be paid by the owners or masters of vessels to licensed pilots rendering pilotage services to any such vessel:

Provided always that in the event of no pilot licensed by the Barry Pilotage Board being within reach of signalling and answering the signal nothing in this Act shall be deemed to take away or alter the power of the master of any vessel bound for the Barry Docks to require the assistance of any other licensed pilot whose boat may be within reach of signalling:

Provided also that any such pilot may at the request of the master of the vessel be superseded by any pilot licensed by the

Barry Pilotage Board and the pilotage rate payable in respect of such vessel shall be divided between the two pilots in such proportions as shall be determined by the Barry Pilotage Board:

Provided also that during a period of three years after the passing of this Act the pilots to be licensed by the Barry Pilotage Board for piloting (elsewhere than within the limits herein-after defined) shall be persons already licensed for the Bristol Channel.

Defining limits of port for pilotage purposes.

17. For the purpose of pilotage the expression "the port of Barry" shall mean and include the navigable waters comprised within the following limits viz.: An imaginary line drawn from Breaksea Point to the Breaksea Lightship thence in an easterly direction to the Flatholm and thence in a north-westerly direction to Lavernock Point.

Company not responsible for damage done by pilots.

18. The Company shall not be liable or responsible for any accident loss or damage which may arise to any vessel or to the cargo thereof in consequence of the employment of any pilot licensed by the Barry Pilotage Board but the pilot so employed shall be answerable for any wilful or culpable neglect and mismanagement.

Rates of pilotage.

19. It shall be lawful for the Barry Pilotage Board to fix the rates and charges to be made and levied in respect of pilotage upon the master or owner of every vessel employing the services of any pilot licensed by them but the amounts of such rates and charges shall not exceed amounts approved from time to time by the Board of Trade and the said Pilotage Board shall be bound at all times to license if requested so to do such a number of pilots as in the opinion of the Board of Trade will constitute an efficient staff.

Company to provide office and secretary.

20. The Company shall provide free of cost to the Barry Pilotage Board an office at Barry for the transaction of their business and also the services of a secretary.

Agreements with road authorities as to new roads.

21. It shall be lawful for the Company on the one hand and the Dinas Powis Highway Board and the Barry and Cadoxton Local Board or any other authority having control of the highways in the said parishes or either of them on the other hand to enter into and carry into effect any agreements as to the transfer of the said new roads or any part thereof to the said authorities or either of them for the purpose of maintenance and management subject to such terms as to the use to be made of the said roads and as to their maintenance and management as may be agreed between them But except if and so far as may be provided by any such agreement the said roads shall not become public roads but the site and soil thereof shall remain vested in the Company.

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Company not to be liable for loss in certain cases.

22. The Company shall not be liable to make good any loss or damage which may happen to any goods which at the request or with the consent of the owner or consignee thereof after due notice given of the effect of this enactment have been stored placed or left upon the dock works or quays instead of being stored or placed in the warehouses of the Company.

Collection and storage of water.

23. The Company may collect store and use any water which may be found or obtained by them in or under any of their lands and supply and enter into agreements for the supply of such water to the docks property and undertaking of the Company and to lessees and tenants of the Company and to vessels But nothing in this Act shall authorise the Company except with the consent in writing of the Barry and Cadoxton Gas and Water Company to supply water for domestic purposes within the limits of that Company except to officers and servants of the Company occupying houses belonging to the Company and to offices and premises on any part of the property of the Company but this restriction shall not be construed to relate to the supply of water to vessels resorting to the undertaking of the Company.

Power to make further byelaws.

24. The Company in addition to their other powers of making byelaws may from time to time make such byelaws as they think fit for all or any of the following purposes (that is to say) :—

For preventing persons from going into or upon or loitering about at the docks and works of the Company without having any reason of business or other sufficient reason in that behalf and whether causing obstruction to business or not ;

For regulating the conduct of marine store dealers pedlars and hawkers resorting to the docks and works of the Company and for requiring marine store dealers to take out from the Company an annual or other periodical license and to pay for the same a fee not exceeding one pound in a year ;

For preventing persons from removing coal wood iron rope and other things from the docks and works of the Company without having passes from masters of vessels or owners of yards or warehouses or other premises and for requiring them to produce such passes on the demand of a constable :

And the provisions of the Harbours Docks and Piers Clauses Act 1847 with respect to the byelaws to be made by the undertakers shall extend and apply to byelaws made under the authority of this section.

Penalties on unlicensed dealers.

25. Any person being or representing himself to be a marine store dealer or dealer in second-hand goods or the agent or repre-

sentative of any such person who shall without such license enter upon any part of the docks quays works or property of the Company or any vessel lying therein or who shall do anything in contravention of the provisions of this Act or the regulations of the Company with respect to such license or shall neglect or omit to comply with any of such provisions shall be liable to a penalty not exceeding ten pounds and a further penalty not exceeding five pounds for every day during which such offence shall continue after conviction.

Interest not to be paid on calls paid up.

26. 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.

27. 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.

28. 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.

Costs of Act.

29. 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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