CHAPTER xxxv.

An Act to authorise the Newport and Pillgwenlly Waterworks Company to construct further works and to raise additional capital; and for other purposes. [27th June 1872.]

A.D. 1872.

WHEREAS by "The Newport and Pillgwenlly Waterworks Act, 1854," (in this Act called "the Act of 1854,") the Newport and Pillgwenlly Waterworks Company (in this Act called "the Company"), incorporated by a previous Act thereby repealed, were continued, and were authorised to maintain their then existing waterworks, and to construct further works, and to continue and furnish a supply of water to the town and borough of Newport, and the parishes of Saint Woollos, Christchurch, and Malpas, in the county of Monmouth: 17 & 18 Vict. c. cxci.

And whereas by the Act of 1854 the share capital of the Company, inclusive of their then existing capital, was declared to be forty thousand pounds, and the Company were empowered to borrow on mortgage any sums not exceeding in the whole (together with the sums previously borrowed by them and then remaining due) the sum of thirteen thousand pounds:

And whereas the whole of the share and loan capital authorised by the Act of 1854 has been raised:

And whereas since the passing of the Act of 1854 the demand for water within the Company's limits has increased and is still increasing, and it is expedient that the Company be authorised to obtain a further supply of water and to construct additional works, and for those purposes to raise additional moneys:

And whereas by the Act of 1854 the Newport Harbour Commissioners were authorised to subscribe towards the undertaking of the Company not exceeding four thousand pounds, and it is expedient that they be authorised to subscribe further sums towards the undertaking of the Company:

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And whereas plans and sections of the proposed additional works, showing the lines, situations, and levels thereof respectively, and books of reference to such plans, containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the lands and streams in or through which the same are intended to be made or pass, or which may be taken under the powers of this Act, have been deposited with the clerk of the peace for the county of Monmouth, and are in this Act respectively referred to as the deposited plans, sections, and books of reference:

And whereas the objects 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 Newport and Pillgwenlly Waterworks Extension Act, 1872."

Interpretation of terms in this and incorporated Acts.

2. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith shall have the same respective meanings, unless there be something in the subject or context repugnant to such construction; and in interpreting in connexion with this Act the Acts wholly or partially incorporated herewith, the word "lands" shall include easements or rights in, over, or affecting any lands; 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 be read and have effect as if the debt or demand with respect to which that term is used was a common simple contract debt, and not a debt or demand created by statute.

Provisions of general Acts herein named incorporated.

3. The following Acts and parts of Acts (so far as the same respectively are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act; namely,

"The Waterworks Clauses Acts, 1847 and 1863," "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869:"

The 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 the means of enforcing the payment of calls, the forfeiture of shares for nonpayment 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 the shares into stock, and the provision to be made for affording access to the special Act by all parties interested:

Part I. (relating to cancellation and surrender of shares), Part II. (relating to additional capital), and Part III. (relating to debenture stock) of the "Companies Clauses Act, 1863:"

The provisions of "The Railways Clauses Consolidation Act, 1845," with respect to the temporary occupation of lands near the railway during the construction thereof.

Incorporating Act of 1854.

4. The provisions of the Act of 1854 (except any of those provisions which may be inconsistent with the provisions of this Act or of any Act or part of an Act incorporated herewith) are hereby incorporated with this Act, and shall accordingly be read and have effect as if the same were expressly re-enacted in this Act.

Power to make waterworks and take lands, &c.

5. Subject to the provisions in this Act and in the incorporated Acts and parts of Acts contained, the Company may make and maintain, in the lines or situations and according to the levels and upon the lands shown on the deposited plans and sections and described in the deposited books of reference, the reservoirs, aqueducts, conduits, lines of pipes, and other works shown on the deposited plans, with all necessary and convenient approaches, works, and conveniences connected therewith, and may enter on, take, and use any of the lands described in the said plans and book of reference, or any easement (not being an easement of water) or right in, over, or affecting any such lands, and may take, use, and appropriate for those purposes the waters of the Pant-yr-Eos Brook, and of all streams and waters shown or mentioned on the deposited plans as intended to be intercepted or otherwise taken, and all waters found in or under any lands taken by them, and may stop up all roads and ways within the limits of deviation defined on the deposited plans which are shown thereon as intended to be stopped up.

Effect of sect. 60 of Act of 1854 as incorporated with this Act.

6. Section 60 of the Act of 1854 herewith incorporated shall have effect as if this Act had been mentioned in the said section instead of the Act therein mentioned.

Limits of lateral deviation.

7. Wherever and so far as the line of any work shown upon the deposited plans passes along any road, and no limits of lateral deviation are marked thereon, the Company may in the construction of such work deviate laterally from the line thereof as laid down on such plans to the extent of the boundaries of such road, and elsewhere the Company may in constructing the said works deviate

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laterally from the lines thereof as laid down on the said plans to the extent of the limits of lateral deviation shown thereon.

Limits of vertical deviation.

8. In constructing the said works the Company may deviate vertically from the levels shown on the deposited sections to any extent not exceeding five feet.

Temporary occupation of lands.

9. The provisions with respect to the temporary occupation of lands incorporated with this Act shall apply only to the reservoirs authorised by this Act, and the works immediately connected therewith, and for the purposes of this Act those provisions shall be read as if the said reservoirs and works were therein mentioned instead of the railway, and the boundaries of the reservoirs and works instead of the centre of the railway.

Powers for compulsory purchases limited.

10. 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 three years from the passing of this Act.

Power to agree for easements, &c.

11. The Company may take by agreement, and any person by "The Lands Clauses Consolidation Act, 1845," or otherwise enabled to sell lands may grant to them, any easement, interest, right, or privilege therein (not being an easement, right, or privilege of water) at a yearly rent or otherwise, but in the case of a person not enabled otherwise than by "The Lands Clauses Consolidation Act, 1845," to sell lands, then subject and according to the provisions relative to the taking of lands by agreement contained in that Act and "The Lands Clauses Consolidation Acts Amendment Act, 1860," for which purpose any such easement, interest, right, or privilege shall be deemed lands within the meaning of those Acts.

Power to take additional lands.

12. The Company may from time to time for the purposes of their undertaking purchase by agreement, in addition to the lands which they are authorised to take by compulsion, any lands not exceeding in the whole five acres.

Limitation of time for construction of works.

13. If the works by this Act authorised shall not be completed within ten years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the Company for constructing the works or in relation thereto shall cease to be exercised, except as to so much thereof as is then completed, but nothing herein contained shall restrict the Company from extending, enlarging, deepening, altering, or removing any of their engines, machinery, wells, shafts, mains, or pipes at any time and from time to time as occasion may require upon any lands acquired by them under the powers of this Act, or of any previous Act or Acts.

Application of moneys raised under previous Acts.

14. The Company may apply for the purposes by this Act authorised any part or parts of the moneys raised or to be raised under the powers of any previous Act or Acts, and not required for the purposes to which such moneys are by such Act or Acts made applicable.

Power to raise additional share capital.

15. In addition to the existing share capital of the Company they may from time to time raise any further sums not exceeding in the whole the sum of forty thousand pounds by the creation and issue of new ordinary shares or new ordinary stock, or new preference shares or new preference stock, and the preferential dividend or interest which they may attach to any such preference shares or stock shall not exceed six pounds per centum per annum.

Shares not to be issued until one fifth part thereof shall have been paid.

16. The Company shall not issue any share created under the authority of this Act, nor shall any such share vest in the person accepting the same, unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

Calls.

17. One fifth of the amount of a share shall be the greatest amount of a call, and three months at least shall be the interval between successive calls, and three fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Power to borrow.

18. In addition to any sums which they are now authorised to borrow, the Company may from time to time borrow on mortgage any sum or sums not exceeding in the whole ten thousand pounds, but no part thereof shall be borrowed until the whole additional capital of forty thousand pounds by this Act authorised is subscribed and 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 the whole of such additional capital has been subscribed for, issued, and accepted, and that one half thereof has been paid up, and that not less than one fifth part of the amount of each separate share or portion of stock in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide and is held by the subscribers or their assigns, and that such subscribers or their assigns are legally liable for the same; and 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 shall be sufficient evidence thereof.

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Existing mortgages to have priority.

19. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and subsisting at the passing thereof, shall during their respective continuance have priority over any mortgages granted by virtue of this Act.

Sect. 45 of Act of 1854 repealed.

20. Section 45 of the Act of 1854 is hereby repealed, but without prejudice to any appointment heretofore made or proceedings now pending under that section.

Arrears may be enforced by appointment of a receiver.

21. 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, and in order to authorise the appointment of a receiver the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than six thousand pounds in the whole.

Priority of mortgages and debenture stock over other debts, &c.

22. All moneys raised on mortgage by the Company under this Act, and the interest due thereon, and the interest due on debenture stock created and issued under this Act, shall have priority against the Company and the property from time to time of the Company over all other claims on account of debts incurred or engagements entered into by the Company after the passing of this Act; but this priority shall not affect any claim against the Company in respect of any rentcharge granted or to be granted by them in pursuance of "The Lands Clauses Consolidation Act, 1845," or "The Lands Clauses Consolidation Acts Amendment Act, 1860," or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company by any person in pursuance of any Act relating to the Company which is entitled to rank in priority to or pari passu with the interest or dividends on the mortgages and debenture stock, nor shall anything herein-before contained affect any claim for land taken, used, or occupied by the Company for the purposes of their works, or injuriously affected by the construction thereof, or by the exercise of any powers conferred on the Company.

Debenture stock.

23. The Company may create and issue debenture stock.

Application of money.

24. All moneys raised under this Act, whether by shares, stock, debenture stock, or borrowing, shall be applied only for purposes of this Act or the Act of 1854.

Power to Newport Harbour Commissioners to subscribe further sums to Company's undertaking.

25. It shall be lawful for the Newport Harbour Commissioners to subscribe towards the undertaking of the Company any sum or sums of money not exceeding in the whole one thousand pounds, in

addition to the sums which they are now authorised to subscribe towards the undertaking of the Company. A.D. 1872.

Liability to rates, &c. not to disqualify justices.

26. No justice or judge of any county court shall be disqualified for acting in the execution of this Act or the recited Act of 1854 by reason of his being liable to any rate or sum under this Act or the said Act of 1854, or by reason of his being a shareholder in the Company.

Expenses of Act.

27. All 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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