CHAPTER cxxii.

An Act for incorporating and conferring powers upon the Newport (Monmouthshire) Hydraulic Power Company and for other purposes. [14th July 1884.]

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WHEREAS the establishment at Newport in the county of Monmouth of a system for applying motive power by hydraulic pressure to be used for working cranes dock gates and other machinery and for the extinction of fire and for other purposes would be of local and public advantage:

And whereas the persons herein-after named are willing (with others) to undertake the establishment of such a system and it is expedient that they be incorporated into a Company for that purpose:

And whereas the objects of this Act cannot be obtained 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):—

Short title.

1. This Act may be cited for all purposes as the Newport (Monmouthshire) Hydraulic Power Act 1884.

Incorporation of general Acts.

2. The Companies Clauses Consolidation Act 1845 Part I. (relating to cancellation and surrender of shares) of the Companies Clauses Act 1863 and the Lands Clauses Consolidation Acts 1845 1860 and 1869 (except the provisions of the Lands Clauses Consolidation Act 1845 with respect to the purchase of lands otherwise than by agreement and with respect to the entry upon lands by the promoters of the undertaking and with respect to small portions of intersected lands) are (except where expressly varied by this Act) incorporated with and form part of this Act.

Interpretation.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated with this

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Act have the same respective meanings unless there be something in the subject or context repugnant to such construction:

The expression "the Company" means the Company incorporated by this Act;

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

The expression "the corporation" means the mayor aldermen and burgesses of the borough of Newport in the county of Monmouth;

The expression "the water company" means the Newport and Pillgwenlly Waterworks 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.

Company incorporated.

4. The General Hydraulic Power Company Limited, James Joseph Allport, William Lansdowne Beale, Adolphus William Young, Henry Chapman, William Thomas Western, and John Whichcord and all other persons and corporations who have already subscribed or shall hereafter become proprietors in the undertaking and their executors administrators successors and assigns respectively shall be and are hereby united into a Company for the purposes of this Act and for those purposes shall be incorporated by the name of "The Newport (Monmouthshire) Hydraulic Power Company" and by that name shall be and are hereby constituted a body corporate with perpetual succession and a common seal and with power to purchase take hold and dispose of lands and other property for the purposes of this Act.

Defining district of Company.

5. The district of the Company for the purposes of this Act shall comprise and include the area within imaginary lines drawn parallel to the centre of the River Usk and distant therefrom six hundred yards on each side thereof and extending northwards to the Great Western Railway and southwards to an imaginary line drawn at right angles to the centre of the River Usk through the entrance to the Alexandra Docks.

Capital.

6. The capital of the Company shall be forty thousand pounds in four thousand shares of ten pounds each.

Shares not to be issued until one-fifth part thereof

7. The Company shall not issue any share created under the authority of this Act nor shall any share vest in the person accept-

ing 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. shall have been paid up.

8. 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 calls in any year upon any share. Calls.

9. Subject to the provisions of this Act the Company with the authority of three-fourths of the votes of the shareholders present in person or by proxy at a general meeting of the Company specially convened for the purpose may from time to time divide any share in their capital into half shares of which one shall be called "preferred half share" and the other shall be called "deferred half share" Provided always that the Company shall not divide any share under the authority of this Act unless and until not less than sixty per centum upon such share has been paid up and upon every such division fifty per centum upon the entire share shall be carried to the credit of the deferred half share (being the whole amount payable thereon) and the residue to the credit of the preferred half share. Power to divide shares.

10. The dividend which would from time to time be payable on any divided share if the same had continued an entire share shall be applied in payment of dividends on the two half shares in manner following (that is to say) first in payment of dividend after such rate not exceeding six per centum per annum as shall be determined once for all at a general meeting of the Company specially convened for the purpose on the amount for the time being paid up on the preferred half share and the remainder (if any) in payment of dividend on the deferred half share and the Company shall not pay any greater amount of dividend on the two half shares than would have from time to time been payable on the entire share if the same had not been divided. Dividends on half shares.

11. Each preferred half share shall be entitled out of the profits of each year to the dividend which may have been attached to it by the Company as aforesaid in priority to the deferred half share bearing the same number but if in any year ending the thirty-first day of December there shall not be profits available for the payment of the full amount of dividend on any preferred half share for that year no part of the deficiency shall be made good out of the profits of any subsequent year or out of any other funds of the Company. Dividends on preferred shares to be paid out of the profits of the year only.

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Half shares to be registered and certificates issued.

12. Forthwith after the creation of any half shares the same shall be registered by the directors and each half share shall bear the same number as the number of the entire share certificate in respect of which it was issued and the directors shall issue certificates of the half shares accordingly and shall cause an entry to be made in the register of the entire shares of the conversion thereof Provided always that the directors shall not be bound to issue a certificate of any half share until the certificate of the existing share be delivered to them to be cancelled unless it be shown to their satisfaction that the certificate is destroyed or lost and on any certificate being so delivered up the directors shall cancel it.

Terms of issue to be stated in certificates.

13. The terms and conditions on which any preferred half share or deferred half share created under this Act is issued shall be stated on the certificate of each such half share.

Forfeiture of preferred shares.

14. The provisions of the Companies Clauses Consolidation Act 1845 with respect to the forfeiture of shares for non-payment of calls shall apply to all preferred half shares to be created under the authority of this Act and every such preferred half share shall for that purpose be considered a whole share distinct from the corresponding deferred half share Provided always that until any forfeited preferred half share shall be sold by the directors of the Company all dividends which would be payable thereon if the same had not been forfeited shall be applied in or towards payment of any expenses attending the declaration of forfeiture thereof and of the arrears of calls for the time being due thereon with interest.

Preferred shares not to be cancelled or surrendered.

15. No preferred half share created under the authority of this Act shall be cancelled or be surrendered to the Company.

Half shares to be half shares in capital.

16. The several half shares under this Act shall be half shares in the capital of the Company and every two half shares whether preferred or deferred or one of each held by the same person shall confer such right of voting at meetings of the Company and (subject to the provisions herein-before contained) shall confer and have all such other rights qualifications privileges liabilities and incidents as attach and are incident to an entire share.

Receipts on behalf of incapacitated persons.

17. If any money be payable to any shareholder being a minor idiot or lunatic the receipt of the guardian or committee of his estate as the case may be shall be a sufficient discharge to the Company for the same.

Power to borrow.

18. The Company may from time to time borrow on mortgage any sum not exceeding in the whole ten thousand pounds (that is to say) in respect of each twenty thousand pounds of the capital of

forty thousand pounds the Company may borrow any sum not exceeding five thousand pounds but no part of any such sum of five thousand pounds shall be borrowed until the whole capital of twenty thousand pounds in respect of which the borrowing power is exercised is 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 capital of twenty thousand pounds has been 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 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 persons or corporations to whom the same was issued or their executors administrators successors or assigns and that such persons or corporations their executors administrators successors or 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.

For appointment of a receiver.

19. 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 two thousand five hundred pounds in the whole.

Application of moneys.

20. All moneys raised under this Act whether by shares debenture stock or borrowing shall be applied only to the purposes of this Act to which capital is properly applicable.

First ordinary meeting.

21. The first ordinary meeting of the Company shall be held within six months next after the passing of this Act.

Quorum of general meetings.

22. The quorum of a general meeting of the Company whether ordinary or extraordinary shall be ten shareholders holding in the aggregate not less than two thousand pounds of the capital of the Company.

Number of directors.

23. The number of directors shall be five but the Company may from time to time reduce the number of directors so that the number be not less than three.

Qualification of directors.

24. The qualification of a director shall be the possession in his own right of not less than forty shares.

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Quorum.

25. The quorum of a meeting of directors shall be three and if the number of directors is less than five the quorum shall be two.

First directors.

26. James Joseph Allport, William Lansdowne Beale, Adolphus William Young, Henry Chapman, William Thomas Western, and John Whichcord shall be the first directors of the Company and shall continue in office until the first ordinary meeting held after the passing of this Act At that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act or any of them or may elect a new body of directors or directors to supply the place of those not continued in office the directors appointed by this Act being if qualified eligible for re-election and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the power herein-before contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office agreeably to the provisions in the Companies Clauses Consolidation Act 1845 contained and the several persons elected at any such meeting being neither removed nor disqualified nor having resigned shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Power to acquire lands by agreement.

27. The Company may from time to time acquire but only by agreement and may hold and use any lands (not exceeding five acres in the whole) which they may think requisite for any of the purposes of the undertaking and may acquire provide erect maintain and use and work thereon any buildings steam and other engines machinery apparatus and conveniences which they may think requisite for any of the purposes of the undertaking.

Power to use other water byagreement.

28. The Company on the one hand and the water company on the other hand may from time to time enter into and carry into effect agreements with reference to the supply to and use by the Company for the purposes of the undertaking of water from the waterworks mains or pipes of the water company.

Water to be used for the purposes of motive power only.

29. The Company shall not supply water to be used for any other purpose than for the supply of motive power by hydraulic pressure.

Power to supply motive power and to sell and let machinery &c.

30. The Company may within their district under this Act supply motive power by hydraulic pressure for any purposes to which such motive power is applicable to any person or persons or company and may purchase and sell or let for hire and may erect and work any machinery or other apparatus for the purpose of utilising such motive power upon such terms (pecuniary or otherwise) and

subject to such conditions as may be agreed upon between the Company and the person or persons or company to whom the same is so let.

Certain plant of the Company not liable to distress for rent, &c.

31. The meters and pipes and other works and appliances of the Company used for the purpose of supplying such motive power as aforesaid shall not be liable to distress for rent of the premises where the same are situated or used or to be attached or taken in execution under any process in any court of law or equity or in any other legal proceedings against any person or persons or any company other than the Company nor shall any machinery or apparatus so let as aforesaid and not fixed to the freehold of the premises where the same are situated or used be so liable provided that such machinery or apparatus is the actual property of the Company and has upon it a distinguishing metal plate affixed to a conspicuous part thereof or a distinguishing brand or other mark conspicuously impressed or made thereon sufficiently indicating the Company as the actual owners thereof Provided always that this section shall have effect only so long as the Company do not themselves make or manufacture any of the machinery or apparatus so let as aforesaid.

Penalty for using water for other than hydraulic power.

32. If any person supplied by the Company with water for the purposes of hydraulic power under the powers of this Act shall use the water so supplied for any other purposes than as a motive force he shall for every such offence forfeit to the water company the sum of not exceeding twenty pounds and a further sum of not exceeding ten pounds for every day during which such offence shall be continued or repeated after notice to him of this enactment to be recoverable before a magistrate or by an action at law in any court of competent jurisdiction.

For the protection of the Newport Harbour Commissioners.

33. If in the execution of the powers of this Act the Company shall do or permit to be done by their agents or servants any act matter or thing whereby the depth of water in the tideway of the River Usk shall be to any extent either temporarily or permanently diminished the Company shall forthwith at their own expense by dredging or otherwise to the reasonable satisfaction of the Newport Harbour Commissioners restore so far as may be practicable the depth of water in the said tideway.

Works affecting River Usk not to be executed without consent of Newport Harbour Commissioners.

34. Nothing in this Act contained shall be deemed to authorise the Company either during the execution of the works executed under the authority of this Act or after the completion of such works without the consent of the Newport Harbour Commissioners first had and obtained in writing to make or construct any permanent

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embankment or wall or other like works between high-water mark and low-water mark in the River Usk.

Power to break up streets &c.

35. The Company from time to time for the purpose of laying down maintaining and renewing any pipe or any valve or other work connected therewith within their district may open and break up any public street subject to the following regulations:

(1) They shall give to the corporation notice of their intention specifying the time at which they will begin the works and the portion of street proposed to be opened or broken up such notice to be given three days at least before the commencement of the work;

(2) They shall not unless in cases of emergency open or break up any street except under the superintendence and to the reasonable satisfaction of the corporation unless the corporation refuses or neglects to give such superintendence at the time specified in the notice or discontinue the same during the work;

(3) They shall pay all reasonable expenses to which the corporation is put on account of such superintendence;

(4) They shall not without the consent of the corporation open or break up or keep open or broken up at any one time a greater length than one hundred yards of any street.

Completion of works and reinstatement of road.

36. When the Company have opened or broken up any portion of any street they shall be under the following obligations (namely):—

(1) They shall with all convenient speed and in all cases within two weeks at the most (unless the corporation otherwise consent in writing) complete the work on account of which they opened or broke up the same and fill in the ground and make good the surface and to the satisfaction of the corporation restore the portion of the street to as good condition as that in which it was before it was opened or broken up and clear away all superfluous material or rubbish remaining after such restoration:

(2) They shall in the meantime cause the place where the street is opened or broken up to be fenced and watched and to be properly lighted at night:

(3) They shall bear or pay all reasonable expenses of the repair of the street for six months after the same is restored so far as those expenses are increased by the opening or breaking up:

If the Company fail to comply in any respect with the provisions of this section they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of

this Act or to any other remedy against them) be liable to a penalty not exceeding five pounds for each day during which any such failure continues after the first day in which such penalty is incurred.

Rights of corporation and others &c. to open roads reserved.

37. Nothing in this Act shall take away or abridge any power now vested or to be hereafter vested in the corporation or in the water company or in any other company body or person to open break up or alter any street in which any pipe or work of the Company is laid for the purpose of repairing altering or improving such street or of laying down repairing altering or removing any subway sewer or drain or any main or pipe for the supply of water or gas or any telegraphic tubes wires or apparatus or for any other purpose for which such power is given.

Company to remove pipes laid in streets into a subway when made.

38. If at any time hereafter the corporation shall construct any subway or tube or covered way for the purpose of receiving gas water or other mains or pipes or works in any street in which the pipes of the Company are laid and shall by notice in writing served upon the Company require that the pipes of the Company shall be removed from their then position and laid in any such subway tube or covered way the Company shall consent thereto and shall pay such proportion of the expense of constructing such subway tube or covered way as may be agreed upon or shall in case of difference be settled in manner herein-after provided and shall forthwith at their own expense proceed to remove and lay and thereafter maintain their pipes in such subway tube or covered way in such position as the corporation by their engineer for the time being may direct and in accordance in all respects with the directions of such engineer Provided always that any difference between the parties as to the position in which any such pipes shall be laid and maintained and the proportion of expense of construction to be paid by the Company shall be settled by a referee to be appointed by the Board of Trade on the application of either party and such arbitration shall be made under and subject to the provisions of the Lands Clauses Consolidation Act 1845.

For protection of the sewers &c.

39. Where any work of the Company interferes with any sewer drain watercourse subway pipe or other work of the corporation or any water main pipes or other work of the water company or any gas main or pipe of the Newport (Monmouthshire) Gas Company (hereafter called "the gas company") or in any way affects the sewerage or drainage of the borough the Company shall not commence any such work until they shall have given to the corporation or the water company or the gas company as the case may

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be fourteen days previous notice in writing of their intention to commence the same by leaving such notice at the office of the engineer of the corporation or of the water company or of the gas company as the case may require with all necessary particulars relating thereto nor until the corporation or the water company or the gas company as the case may be shall have signified their approval of the same unless such corporation or company fail to signify their approval disapproval or other directions within fourteen days after service of the said notice and particulars as aforesaid and the Company shall comply with and conform to all reasonable directions and regulations of the corporation and of the water company and of the gas company in the execution of the said works and shall provide by new altered or substituted works in such manner as the corporation or the water company or the gas company shall reasonably require for the proper protection of and for preventing injury or impediment to the sewers water and gas mains and pipes and other works herein-before referred to by or by reason of the works of the Company and the Company shall not remove or displace any of the mains or pipes or other works belonging to the corporation or the water company or the gas company respectively or do anything to impede the passage of water or gas through the same without the consent of the water company or the gas company or in any other manner than the gas company or water company respectively shall approve until good and sufficient mains pipes and other works necessary or proper for continuing the supply of water or gas as sufficiently as the same was supplied by the mains or pipes proposed to be removed or displaced shall at the expense of the Company have been first made and laid down in lieu thereof and ready for use and to the satisfaction of the engineer of the water company or of the gas company as the case may require and the Company shall save harmless the said water and gas companies respectively against all expense loss and damage to be occasioned by or by reason of the works authorised by this Act or incident thereto and shall also make full compensation to all parties for any loss or damage which they may sustain by reason of any interference with the aforesaid mains pipes or other works or with the private service pipes of any person supplied with water by the water company or gas by the gas company and all works affecting the aforesaid mains pipes or other works shall be done by the water company or the gas company as the case may be under the direction superintendence and control of the engineer of the water company or of the gas company at the reasonable costs charges and expenses in all respects of the Company and when any new altered or substituted works as aforesaid or any works connected therewith shall be

completed at the costs charges and expenses of the Company under the provisions of this Act the same shall thereupon vest in and be completely under the direction jurisdiction and control of the corporation or of the water company or the gas company as the case may be.

For the protection of the Great Western Railway Company.

40. In laying down or executing or in effecting the repairs or renewals of any mains pipes or other works in the exercise of the powers contained in this Act upon across over under or in any way affecting the lands or property now or hereafter belonging to or used or occupied by the Great Western Railway Company (in this section referred to as "the Great Western Company") or the railways canals towing-paths bridges approaches viaducts stations or other works of the Great Western Company or in any street where the same is crossed on the level by the railways or sidings of the Great Western Company the same shall be done under the superintendence and to the reasonable satisfaction of the principal engineer of the Great Western Company and only according to such plans and in such manner as shall be submitted to and as shall be previously reasonably approved by him and by and at the expense of the Company who shall also restore and make good the roads over any canals towing-paths bridges level crossings and approaches which the Great Western Company are or may be liable to maintain and which may be disturbed or interfered with by or owing to any operation of the Company and all such works and operations and all matters incidental thereto shall be constructed executed and done so as not to cause any injury to such railways canals towing-paths bridges approaches viaducts stations works lands or property or interruption to the passage or conduct of traffic over such railways canals or towing-paths or connected with or at any station on such railways and if any such injury or interruption shall arise from or in any way be owing to any of the works operations and matters aforesaid or to the bursting leakage or failure of any such mains pipes or works the Company shall make compensation to the Great Western Company in respect thereof the amount of such compensation together with full costs to be recoverable by the Great Western Company from the Company by all and the same means as any simple contract debt is recoverable Whenever the Company shall commence any of the works by this Act authorised crossing or in any way affecting the said railways canals towing paths level crossings works or land of the Great Western Company they shall proceed with and complete the same with all due despatch.

Saving of rights of dock companies.

41. Nothing contained in this Act shall authorise the Company to take use or in any manner interfere with any land water or

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other property belonging to or held by the Alexandra (Newport and South Wales) Docks and Railway Company or the Newport (Alexandra) Dock Company Limited or either of those companies without their previous consent in writing first had and obtained neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the rights privileges powers or authorities vested in or enjoyed or exerciseable by the said two dock companies or either of them.

Company not exempte from action &c.

42. Nothing in this Act contained shall be deemed or construed to exempt the Company from any indictment suit action or other proceedings at law or in equity in respect of any nuisance caused by them.

Provision as to general Acts.

43. Nothing herein contained shall be deemed or construed to exempt the Company from the provisions of any general Act for the improvement of the sanitary condition of towns or the abatement of nuisances or for any other purpose relating to the Company or their undertaking now in force or which may hereafter pass or from any enactments which may be hereafter from time to time made by Parliament for limiting the maximum dividends to be declared and paid by the Company and for restricting the power of the Company to convert borrowed money into capital and for fixing and revising the rates and tolls to be received by the Company and for giving all persons and corporations the right to avail themselves of the several works and appliances of the Company on payment of such rates and tolls without preference or favour and for empowering the corporation to take and purchase the undertaking of the Company after the expiration of such term of years as Parliament shall determine with all the rights powers and authorities of the Company and either subject or not subject to their liabilities debts contracts and obligations at a price to be ascertained by arbitration in such manner as Parliament shall determine together with all proper provisions for effectuating the purposes aforesaid or for any one or more of such purposes exclusively of the others or other of them.

Costs of Act.

44. 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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