CHAPTER xxxii.

An Act for empowering the Corporation of Birmingham to make certain deviations of the Aqueduct authorised by the Birmingham Corporation Water Act 1892 and to construct an additional short line of railway and to acquire additional lands and for other purposes. A.D. 1896.

[2nd July 1896.]

WHEREAS by the Birmingham Corporation Water Act 1892 (in this Act called "the Act of 1892") the mayor aldermen and citizens of the city of Birmingham (in this Act called "the Corporation") were empowered to construct and maintain the waterworks short lines of railway and other works in the said Act mentioned:

And whereas it is expedient to empower the Corporation to make and maintain the deviations in this Act described of the Aqueduct (Work 27) by the said Act authorised:

And whereas it is expedient to empower the Corporation to construct the short line of railway in this Act mentioned:

And whereas it is expedient to make further provision with respect to the acquisition of lands and the deposit of spoil by the Corporation:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

And whereas estimates for the execution of the said works and the purchase of the said lands have been prepared by the Corporation and the amount estimated to be required for those purposes is the sum of one hundred and ten thousand pounds and the said works are permanent works within the meaning of section 234 of the Public Health Act 1875:

And whereas plans and sections of the works proposed to be constructed under this Act and books of reference containing the names of the owners and lessees or reputed owners and lessees and

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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 clerks of the peace for the counties of Radnor Salop Hereford and Worcester and are in this Act referred to as the deposited plans sections and books of reference :

And whereas by the Birmingham Corporation (Consolidation) Act 1883 it is enacted to the effect (section 288) that no application shall be made to Parliament by the Corporation for further powers or for power to raise further sums of money for the purposes of that Act or for the purposes of any further or other Act until the Corporation shall by notice given in two consecutive weeks in at least two of the newspapers published in the city have called a public meeting of the ratepayers of the city at which meeting the Corporation shall cause to be stated the object of the intended application to Parliament nor unless at such meeting the Corporation shall be authorised by a majority of the ratepayers present at such meeting to make such application Provided that the mayor of the city shall be the chairman of such meeting and the voting at such meeting shall be according to the principle established by the Acts 58 George III. cap. 69 and 59 George III. cap. 85 for the regulation of vestries Provided also that if a poll shall be demanded at the said meeting in respect of any question it shall be open to all the ratepayers within the city during a period of three days next following the holding of such meeting to signify their votes in writing in respect of such question and the same shall be decided by the majority of votes so signified and the principle of voting shall be in accordance with the principle to be adopted at the meeting under the provisions in the said section contained :

And whereas under the last-recited enactment the Corporation caused to be held a meeting of the ratepayers of the city on the seventh day of December one thousand eight hundred and ninety-five and at that meeting a resolution was duly passed authorising the council to make an application to Parliament for an Act empowering the Corporation to make certain deviations of the aqueduct authorised by the Act of 1892 and to construct an additional short line of railway and to acquire additional lands and for other purposes :

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 Birmingham Corporation Water Act 1896 and the Act of 1892 together with this Act may be cited as the Birmingham Corporation Water Acts 1892 and 1896.

Incorporation of general Acts.

2. The Lands Clauses Acts the Waterworks Clauses Acts 1847 and 1863 (except the provisions of the Waterworks Clauses Act 1847 with respect to the amount of profit to be received by the undertakers and except the words in section 44 of that Act "the consent in writing of the owner or reputed owner of any such house or of the agent of such owner") and the Railways Clauses Consolidation Act 1845 and Part I. of the Railways Clauses Act 1863 are (except where expressly varied or otherwise provided for by this Act) incorporated with and form part of this Act Provided that nothing in this Act contained shall be deemed to authorise the Corporation to take tolls rates or charges in respect of the carriage or conveyance of passengers or goods upon or the use of the railway by this Act authorised.

Execution of Act.

3. This Act shall be carried into execution by the Corporation as an Act amending and enlarging the powers of the Corporation under the Act of 1892.

Interpretation.

4. Expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have in this Act the same respective meanings Provided that the following expressions in the Acts wholly or partially incorporated with this Act have for the purposes of and in this Act the following meanings :—

The expressions "the promoters of the undertaking" and "the Company" mean respectively the Corporation ;

The expression "court of competent jurisdiction" or any like expression shall have effect as if the debt or demand with respect to which it is used were a simple contract debt and not a debt or demand created by statute.

Power to construct works.

5. Subject to the provisions of this Act the Corporation may make construct lay down and maintain in the situation and lines and according to the levels shown on the deposited plans and sections relating thereto the several works shown on the said plans.

The works herein-before referred to include the works following with all necessary or proper incidental works and conveniences connected therewith (that is to say) :—

Deviation A.—A deviation of the line and level of a part of the Aqueduct (Work 27) authorised by the Act of 1892 commencing in the township of Whitton and parish of Burford in the field numbered 33 on the $\frac{1}{2500}$ Ordnance map of the said parish and terminating in the parish of Caynham in the field numbered

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592 on the $\frac{1}{2500}$ Ordnance map of the said parish which work will consist of one or more conduits or lines of pipes:

Deviation B.—A deviation of the line and level of a part of the said authorised aqueduct commencing in the parish of Kidderminster Foreign in the field numbered 911 on the $\frac{1}{2500}$ Ordnance map of the said parish and terminating in the parish of Wolverley in the field numbered 996 on the $\frac{1}{2500}$ Ordnance map of the said parish which work will consist of one or more conduits or lines of pipes:

A railway 7 furlongs 4·08 chains in length in the parish of Frankley commencing by a junction with a siding belonging or reputed to belong to Viscount Cobham on the south side of the Halesowen Railway and terminating in the field numbered 136 on the $\frac{1}{2500}$ Ordnance map of the said parish.

Power to deviate.

6. Subject to the provisions of this Act the Corporation may in the construction of the works by this Act authorised deviate from the lines or position thereof as shown on the deposited plans relating thereto to any extent within the limits of deviation defined on those plans and where the line of any work is shown on those plans as passing along any road and no limits of lateral deviation are marked on the deposited plans the Corporation may in making such work deviate laterally to any extent within the boundaries of such road and the Corporation may also deviate from the levels of the works by this Act authorised as delineated on the deposited sections to any extent not exceeding three feet upwards and to any extent downwards or in the case of the deviations of the said aqueduct to any extent not exceeding eight feet upwards if such deviation do not cause any part of the aqueduct to be raised above the surface of the ground.

Power to cross certain roads on the level.

7. Subject to the provisions in the Railways Clauses Consolidation Act 1845 and in Part I (relating to the construction of a railway) of the Railways Clauses Act 1863 contained in reference to the crossing of roads on the level the Corporation may in the construction of the railway carry the same with a single line only whilst the railway shall consist of a single line and afterwards with a double line only across and on the level of the roads next herein-after mentioned (that is to say):—

Number on Deposited Plan.	Parish.	Description of Road.
8	Frankley - -	Public carriage road.
15	Frankley - -	Public carriage road.
19	Frankley - -	Public carriage road.

Provided that the Corporation shall in connexion with the said level crossings provide and maintain such safety points sidings and things as the Board of Trade may require for securing the safety of the traffic on the said roads.

Time for completion of works.

8. If the railway by this Act authorised is not completed within five years and the other works by this Act authorised are not completed within seven years from the passing of this Act then on the expiration of those periods respectively the powers by this Act granted for the making of such respective works or otherwise in relation thereto shall cease except as to such of them or so much thereof respectively as is then completed Provided that the Corporation may at any time lay down an additional line or lines of pipes to form part of the deviations A and B by this Act authorised.

Power to acquire lands.

9. Subject to the provisions of this Act and for the purposes of the Act of 1892 and this Act the Corporation may enter on take and use all or any of the lands delineated on the deposited plans and described in the deposited books of reference.

Correction of errors and omissions in plans and books of reference.

10. If any omission mis-statement or wrong description shall have been made of any land or of the owners lessees or occupiers of any land delineated on the deposited plans or described in the deposited books of reference the Corporation after giving ten days notice to the owners lessees and occupiers of the lands affected by such proposed correction may apply to any two justices for the correction thereof.

If it appears to such justices that such omission mis-statement or wrong description arose from mistake they shall certify the same accordingly and they shall in their certificate state the particulars of any such omission mis-statement or wrong description and the certificate with the other documents to which it relates shall be deposited with the clerk of the peace for the county where such lands are situate and with the town clerk of the city.

The certificate shall be kept by the clerk of the peace and town clerk respectively with the other documents to which it relates and thereupon such plans or books of reference shall be deemed to be corrected according to the certificate and the Corporation may take any land in accordance with the certificate as if such omission mis-statement or wrong description had not been made.

Power of persons under disability to grant easements.

11. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Corporation any easement right or privilege (not being any easement right or privilege of water in which other than parties to the agreement

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have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Incorporation of sections of Act of 1892.

12. The following sections of the Act of 1892 shall so far as the same are applicable in that behalf and are not inconsistent with the provisions of this Act extend and apply mutatis mutandis to and in relation to the works and lands by this Act authorised to be constructed and taken (that is to say) :—

Section 7 (Power to acquire easements only);

Section 11 (Power to hold lands for protection of works);

Section 12 (Reservation of water rights &c. on sale);

Section 13 (Proceeds of sale of superfluous lands to be treated as capital);

Section 25 (Powers for repair of aqueducts and temporary discharge of water into streams);

Section 26 (New works to form part of existing waterworks undertaking).

Restriction on taking houses of labouring class.

13. The Corporation shall not under the powers of this Act purchase or acquire ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

For the purpose of this section the expression "labouring class" means and 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.

For protection of Worcestershire County Council.

14. The following provisions shall apply and have effect for the protection of the county council of Worcestershire as to main roads vested in or maintainable by them :—

If in the course of executing the works by this Act authorised the Corporation shall break up or interfere with any main road vested in or maintained by the county council of Worcestershire or any of the culverts or other works belonging thereto they shall from time to time make good all damage

done by them to such main road culverts or other works to the reasonable satisfaction of the surveyor of the said county council for the time being And if any question shall arise as to the damage done to such road culverts or other works or as to the reinstatement thereof by them such question shall be referred to the determination of two justices and such justices may direct such repairs to be done or such sum of money to be paid to the said county council in lieu thereof so to be by them expended in effecting such repairs within such period as they may think reasonable.

Limit of time for compulsory purchase.

15. The powers of the Corporation for the compulsory purchase or taking of lands under this Act shall as respects lands required for works authorised by this Act cease after the expiration of three years from the passing of this Act and as respects other lands shall cease after the expiration of five years from the passing of this Act.

Additional lands by agreement.

16. Section 10 of the Act of 1892 (Power to purchase additional lands by agreement) shall be read and have effect as if the words "two hundred" were therein inserted instead of the words "one hundred."

Powers for deposit of spoil.

17. (1) Where land on which the Corporation are entitled to deposit spoil (whether such land belongs to the Corporation or not) is separated from land where any waterworks of the Corporation have been commenced by intervening land which is delineated and described on the plans and in the books of reference deposited for the purposes of the Act of 1892 or this Act it shall be lawful for the Corporation to cross and if requisite to make a temporary road for the purpose of crossing such intervening land with horses carts waggons and engines for the purpose of depositing spoil on such first-mentioned land subject to the following provisions :—

(i) The Corporation shall within one month after entry on such intervening land pay to the occupier of so much thereof as shall be used by them the value of any crop or dressing thereon as well as full compensation for any other damage of a temporary nature which he may sustain by reason of their so using his land :

(ii) The Corporation shall also from time to time during their occupation of such land pay rent half yearly to the occupier or to the owner of the land as the case may require :

(iii) The Corporation shall also within six months after they have ceased to use the said land either re-instate the same to its former condition or make compensation to the owner for any loss damage or injury that may have been sustained

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by him by reason of the exercise of the powers herein-before granted:

(iv) Any dispute as to the amount of compensation or rent payable by the Corporation under this section shall be settled by a court of summary jurisdiction.

(2) Notwithstanding any enactment of the Act of 1892 it shall be lawful for the Corporation to remove any surplus material arising from the construction or maintenance of their works and to deposit it on any lands belonging to them or which they are entitled to use for the purpose of depositing spoil but the Corporation shall pay compensation to the owner of any such surplus material for loss or damage (if any) occasioned to him by reason of the removal of such surplus material from his estate.

For the protection of the Arley Castle Estate and of Robert Woodward.

18. Except as provided by a certain memorandum of agreement bearing date the twenty-eighth day of February one thousand eight hundred and ninety-six and made between Robert Woodward of Arley Castle in the county of Stafford Esquire of the one part and the Corporation of the other part nothing in this Act shall prejudice diminish alter or affect the operation of section 44 of the Act of 1892 whereof the marginal note is "For the protection of the Arley Castle Estate and of Robert Woodward" or any of the rights of Robert Woodward or other the owner or owners for the time being of the Arley Castle Estate in the last-mentioned section referred to under the provisions of that section or the provisions of the said memorandum of agreement.

For the protection of Robert William Daker Harley Esquire and the Brampton Bryan Estate.

19. Except as provided by the section of this Act with the marginal note "Powers for deposit of spoil" nothing in this Act shall prejudice diminish alter or affect the operation of section 45 of the Act of 1892 whereof the marginal note is "For the protection of Mr. Harley and the Brampton Bryan Estate" or any of the rights of Robert William Daker Harley or other the owner or owners for the time being of the Brampton Bryan Estate in the last-mentioned section referred to under the provisions of that section and nothing in this Act shall prejudice diminish alter or affect the operation of the provisions of the two agreements each dated the eighth day of April one thousand eight hundred and ninety-six entered into between the said Robert William Daker Harley and the Corporation relating to the acquisition of an easement for and the construction and maintenance of the Aqueduct (Work 27) within the said Brampton Bryan Estate or incidental thereto.

For the protection of the Dderw Estate.

20. Except as provided by the section of this Act with the marginal note "Powers for deposit of spoil" nothing in this Act shall be construed to repeal alter or affect any of the provisions for

the protection of the Dderw Estate contained in section 60 of the Act of 1892. A.D. 1896.

For the protection of the Downton Castle Estate and of Andrew Johnes Rouse Boughton Knight.

21. Except as provided by the section of this Act with the marginal note "Powers for deposit of spoil" nothing in this Act shall prejudice diminish alter or affect the rights of Andrew Johnes Rouse Boughton Knight or other the owner or owners for the time being of the Downton Castle Estate in the counties of Hereford and Salop under or in respect of section 57 of the Act of 1892 whereof the marginal note is "For the protection of the owners of property in the counties of Radnor and Salop intersected by or taken for purposes of aqueduct" or the provisions of the two agreements each dated the sixth day of May one thousand eight hundred and ninety-six entered into between the said Andrew Johnes Rouse Boughton Knight and the Corporation relating to the acquisition of an easement for and the construction and maintenance of the Aqueduct (Work 27) within the said Downton Castle Estate or incidental thereto.

For the protection of the Stanage Park Estate and of Charles Coltman Rogers.

22. Except as provided by the section of this Act with the marginal note "Powers for deposit of spoil" nothing in this Act shall prejudice diminish alter or affect the rights of Charles Coltman Rogers or other the owner or owners for the time being of the Stanage Park Estate in the counties of Radnor and Hereford under or in respect of section 57 of the Act of 1892 whereof the marginal note is "For the protection of the owners of property in the counties of Radnor and Salop intersected by or taken for purposes of aqueduct" or the provisions of the two agreements each dated the sixth day of May one thousand eight hundred and ninety-six entered into between the said Charles Coltman Rogers and the Corporation relating to the acquisition of an easement for and the construction and maintenance of the Aqueduct (Work 27) within the said Stanage Park Estate or incidental thereto.

For the protection of the Oakley Park Estate and of Lord Windsor.

23. Except as provided by the section of this Act with the marginal note "Powers for deposit of spoil" nothing in this Act shall prejudice diminish alter or affect the rights of the Right Honourable Baron Windsor or other the owner or owners for the time being of the Oakley Park Estate in the county of Salop under or in respect of section 57 of the Act of 1892 whereof the marginal note is "For the protection of the owners of property in the counties of Radnor and Salop intersected by or taken for purposes of aqueduct" or the provisions of the two agreements each dated the sixth day of May one thousand eight hundred and ninety-six entered into between the said Right Honourable Baron Windsor and the

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Corporation relating to the acquisition of an easement for and the construction and maintenance of the Aqueduct (Work 27) within the said Oakley Park Estate or incidental thereto.

Arrangements with Postmaster-General.

24. The Corporation may undertake to pay to the Postmaster-General any loss he may sustain by reason of the establishment or maintenance at their request of any post or telegraph office or of any additional facilities (postal or other) in any rural district in connection with the works authorised by this Act or the Act of 1892 and any expenses incurred by the Corporation under such undertaking may be defrayed out of any revenue or funds of the Corporation.

Power to apply moneys borrowed under Act of 1892.

25. The Corporation may apply any moneys borrowed by them under the Act of 1892 to the execution of works or the purchase of lands under the powers of this Act.

Costs of Act.

26. The costs charges and expenses preliminary and of and incidental to preparing obtaining and passing this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation out of the revenue of the water undertaking or out of moneys borrowed under the powers of the Act of 1892.

Printed by Eyre and Spottiswoode,
FOR
T. Digby Pigott, Esq., C.B., the Queen's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
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