CHAPTER cxxxv.

An Act to confer further powers upon the Borough of Portsmouth Waterworks Company as to the construction of works and for other purposes. [20th July 1896.] A.D. 1896.

WHEREAS it is expedient that the Borough of Portsmouth Waterworks Company (in this Act called "the Company") should be empowered to make and maintain the works and to acquire the additional lands waters and water rights herein-after respectively described or referred to and that the provisions of the Company's existing Acts should be in some respects amended as herein-after provided:

And whereas plans and sections of the works by this Act authorised showing the lines and levels thereof and plans showing also the lands by this Act authorised to be taken by the Company and a book of reference to the plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands have been deposited with the clerk of the peace for the county of Southampton and those plans sections and book of reference are in this Act respectively referred to as the deposited plans sections and book of reference:

And whereas the objects of this Act cannot be attained 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:—

1. This Act may for all purposes be cited as the Borough of Portsmouth Waterworks Act 1896 and this Act and the several Acts of the Company passed in the years 1857 1861 1868 1873 1879 1883 and 1890 and the Cosham Havant and Emsworth Water Short title.

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Order 1872 may be cited together as the Borough of Portsmouth Waterworks Acts and Order 1857 to 1896.

Incorporation of general Acts.

2. The Lands Clauses Acts and the Waterworks Clauses Acts 1847 and 1863 are (except where expressly varied by this Act) incorporated with and form part of this Act and section 44 of the Waterworks Clauses Act 1847 shall for the purposes of the Borough of Portsmouth Waterworks Acts and Order 1857 to 1896 be read as if the words "with the consent in writing of "the owner or reputed owner of any such house or of the agent of "such owner" were omitted therefrom.

Same meanings to words in incorporated Acts and this Act.

3. The several words and expressions to which by the Acts in whole or in part incorporated with this Act meanings are assigned have in this Act the same respective meanings unless excluded by the subject or context And in the Waterworks Clauses Acts 1847 and 1863 as incorporated with this Act the expression "the undertaking" and the expression "the waterworks" respectively mean and include the waterworks and works connected therewith by this Act authorised to be made and maintained And for the purposes of this Act the expression "superior courts" or "court of competent jurisdiction" or any other like expression in this Act or in any Act wholly or partially incorporated herewith shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt and not a debt or demand created by statute.

Power for Company to take lands.

4. Subject to the provisions of this Act the Company from time to time may enter upon take hold and use for the purposes of their undertaking all or any of the lands and premises shown on the deposited plans and described in the deposited book of reference and all or any of the waters of any streams brooks and springs which may be found in upon or under those lands or in or under any other lands now belonging to the Company or any of them or which may or can be taken or diverted by means of any of the works by this Act authorised or other works of the Company and where they think fit they may purchase (by agreement but not otherwise) any easements interests or rights (not being easements or rights of water in which other than the parties to the agreement have an interest) in out of over or affecting any of those lands without taking such lands or any other estate or interest therein.

Power for Company to make works.

5. Subject to the provisions of this Act the Company from time to time may make and maintain the works and do the things by this Act authorised and so far as the lines situations and levels of the works are shown on the deposited plans and sections

respectively may make and maintain the works in the lines and situations and in accordance with the levels so shown and in the lands shown on the deposited plans and described in the deposited book of reference.

Works authorised to be made and maintained.

6. The works by this Act authorised to be made and maintained and the things by this Act authorised to be done by the Company are the following (that is to say):—

(1) The alteration and diversion of the stream or watercourse known as Bedhampton or Hermitage Stream in the parishes of Bedhampton and Havant in the county of Southampton between a point on the said stream seventy yards or thereabouts north of the bridge known as Hermitage Bridge carrying Havant Road over the stream and a point thereon south of and near to the ford which crosses the said stream below Bedhampton Mill and the stopping or filling up and discontinuance of the existing channel of the said stream between the commencement of the said diversion and the junction with the said stream of the Blue Hole Spring or stream;

(2) The laying down and maintenance of a watercourse or drain commencing in the main road from Portsmouth to Havant at Bedhampton at a point one hundred and twenty yards or thereabouts west of the top or end of Bidbury Lane there and terminating in Bedhampton Stream at a point thirty-five yards or thereabouts south-east of the Upper Bedhampton Mill;

(3) The laying down and maintenance of a watercourse or drain commencing in the said main road by a junction with the existing watercourse or drain at or near the post office situate at or near the corner of Brookside Road in the parish of Bedhampton at its junction with the said main road and terminating on the south side of Church Lane in the existing watercourse or drain on the west side of the rectory at or near the point where the said watercourse or drain passes under the said lane and the stopping up and discontinuance of the existing watercourse or drain between the commencement and termination of the said new watercourse or drain;

(4) The laying down and maintenance in the parish of Bedhampton of two lines of pipes (No. 1) commencing at the spring known as Bedhampton Spring Brookside which is situate at or near Brookside Road and terminating by a junction with the line of pipes (No. 2) next herein-after described at or near the junction of Church Lane with Bidbury Lane and (No. 2) commencing in and at the south end of the

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Bidbury ponds and springs and terminating by a junction with the existing conduit in the mill dam of the Upper Bedhampton Mill;

(5) The construction laying down and maintenance in the parish of Havant and the use for the purposes of the Company's undertaking of lines of rails across and on the level of Meyrick Road and Brockhampton Lane for the purpose of connecting the lands and works of the Company lying on both sides of the said road and lane respectively and for that purpose the Company may break up and otherwise interfere with the said roads Provided that no steam engine shall be used upon the said lines of rails across the said Meyrick Road and Brockhampton Lane respectively and that all works under this sub-section shall be executed under the superintendence and to the reasonable satisfaction of the engineer or surveyor for the time being of the local authority:

And the Company may appropriate for the purposes of their undertaking and may hold the bed and banks of the portions of Bedhampton or Hermitage Stream and of the said existing watercourse or drain respectively which they are by sub-sections 1 and 3 of this section authorised to stop or fill up and discontinue and they may enclose and fence in the said Bidbury ponds and springs where they abut upon and adjoin the south end of Bidbury Lane so as to preserve the purity thereof.

For the protection of the London Brighton and South Coast Railway Company

7. (A) Any works connected with the laying down altering or renewing the mains pipes culverts or other works by this Act authorised under the railway of the London Brighton and South Coast Railway Company (herein-after referred to as "the Brighton Company") in the parish of Bedhampton shall be done under the superintendence and to the reasonable satisfaction of the principal engineer for the time being of the Brighton Company and according to such plans and in such manner as shall be submitted to and approved by him in writing or in the event of disapproval then in such manner as shall be determined by arbitration in manner herein-after provided.

(B) All such works shall be done by and at the expense of the Company who shall also restore and make good to the reasonable satisfaction of the said engineer any portion of the said railways of the Brighton Company which may be interfered with and all such works shall be carried out so as to cause as little injury as may be to such railways and so as not to cause any interference with the passage or conduct of traffic thereover.

(c) If any injury or interruption of traffic shall arise from or be in any way owing to any of the works of the Company by this Act authorised or to the bursting leakage or failure of any such mains pipes culverts or works the Company shall make full compensation to the Brighton Company in respect thereof.

(d) The Company shall only be entitled to acquire such an easement across over or under any of the railways and property of the Brighton Company as may be necessary for constructing and maintaining their works by this Act authorised and shall have no power without their consent to purchase or acquire any land or property of the Brighton Company.

(e) Any dispute or difference which may arise between the Company and the Brighton Company with reference to the provisions of this section or in any way arising thereout or to any works to be carried out in pursuance thereof shall be settled by arbitration by an engineer to be agreed upon between the Company and the Brighton Company or failing such agreement by an engineer to be appointed by the Board of Trade on the application of either party and the costs of such arbitration shall be in the discretion of the arbitrator.

For the protection of the Havant Urban District Council.

8. For the protection of the Havant Urban District Council (in this section called "the council") the following provisions shall have effect unless otherwise agreed between the council and the Company (that is to say):—

(1) The alteration and diversion of the Bedhampton or Hermitage Stream by this Act authorised shall be carried out by means of a culvert or pipe having an internal diameter of five feet into which the said stream shall be diverted and such alteration and diversion so far as the same is within the district of the council shall be carried out to the reasonable satisfaction of the council and in accordance with plans to be previously submitted to and reasonably approved by the council Provided that if for one month after the submission of such plans the council fail to signify their disapproval of such plans and the grounds of such disapproval they shall be deemed to have approved thereof:

(2) Any works which may be necessary for connecting with the said culvert or pipe any drains now connected with the portion of the existing stream proposed to be altered and diverted under the powers of this Act shall (so far as the same are within the district of the council) be executed by the council or by the person in whom such drains respectively may be vested but at the expense of the Company and under

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the superintendence and to the reasonable satisfaction of the engineer for the time being of the Company :

(3) All works which the Company are by this Act authorised or required to construct in the district of the council shall be maintained by and at the expense of the Company :

(4) If any difference shall arise between the council and the Company or between their respective engineers or surveyor under this section or as to anything to be done or not to be done thereunder the matter in difference shall be determined by an independent engineer to be appointed on the application of either party by the president for the time being of the Institution of Civil Engineers and the costs of and connected with such determination shall be borne and paid as such engineer shall direct.

For the protection of the Havant Rural District Council.

9. For the protection of the Havant Rural District Council (in this section called "the council") the following provisions shall have effect unless otherwise agreed between the council and the Company (that is to say) :—

(1) The alteration and diversion of the Bedhampton or Hermitage Stream by this Act authorised shall be carried out by means of a culvert or pipe having an internal diameter of five feet into which the said stream shall be diverted and such alteration and diversion so far as the same is within the district of the council shall be carried out to the reasonable satisfaction of the council and in accordance with plans to be previously submitted to and reasonably approved by the council Provided that if for one month after the submission of such plans the council fail to signify their disapproval of such plans and the grounds of such disapproval they shall be deemed to have approved thereof :

(2) Any works which may be necessary for connecting with the said culvert or pipe any drains now connected with the portion of the existing stream proposed to be altered and diverted under the powers of this Act shall (so far as the same are within the district of the council) be executed by the council or by the person in whom such drains respectively may be vested but at the expense of the Company and under the superintendence and to the reasonable satisfaction of the engineer for the time being of the Company :

(3) Before the Company take any water from the spring described on the deposited plans as the Bedhampton Spring No. 1 they shall at their own cost construct a three-inch pipe commencing at the said spring and terminating at the northern end of that part of the existing stream which passes along the east side of Brookside Road and the level of the top of such three-inch pipe

at the said spring shall be the same as the level of the top of the line of pipes No. 1 by this Act authorised and they shall at their own cost provide fix and keep in repair for the use of the inhabitants and to the reasonable satisfaction of the council and at such points as shall be agreed upon between the council and the Company or as failing agreement shall be determined by an independent engineer as herein-after provided—

(a) Two water troughs for horses cattle and sheep and two stand pipes with proper draw-off taps in or near Brookside Road in the parish of Bedhampton;

(b) One water trough for horses cattle and sheep and one stand pipe with proper draw-off tap in connexion with the Bidbury Springs at or near the south end of Bidbury Lane in the parish of Bedhampton:

(4) All works which the Company are by this Act authorised or required to construct in the district of the council shall be maintained by and at the expense of the Company:

(5) If any difference shall arise between the council and the Company or between their respective engineers or surveyor under this section or as to anything to be done or not to be done thereunder the matter in difference shall be determined by an independent engineer to be appointed on the application of either party by the president for the time being of the Institution of Civil Engineers and the costs of and connected with such determination shall be borne and paid as such engineer shall direct.

For the protection of the patron of the living of Bedhampton.

10. For the benefit and protection of the patron and owner for the time being of the advowson of the living of Bedhampton in the county of Southampton of which Alice Fanny Sanderson wife of Charles Poyntz Sanderson clerk in holy orders now is the patron and owner the following provisions shall have effect:—

(1) Notwithstanding anything contained in this Act or shown on the deposited plans the Company shall be entitled to intercept divert and appropriate only so much of the water of the spring referred to in section 6 hereof and known as the Bedhampton Spring Brookside and described on the deposited plans as Bedhampton Spring No. 1 as may remain after due provision (as herein-after described) shall have been made for allowing a quantity of water amounting to not less than thirty thousand gallons to flow each day into the grounds of Bedhampton Rectory for the benefit and use of the owners or occupiers for the time being thereof and the glebe and other lands attached thereto:

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(2) The Company shall not be required to improve or regulate the natural capacity of the said spring so as to insure the outflow therefrom of thirty thousand gallons per diem in dry or unfavourable seasons but in order to secure as far as possible the delivery of the said quantity of water into the grounds of Bedhampton Rectory the Company will at their own expense construct and at all times maintain in good and serviceable repair and condition to the satisfaction of the owners for the time being of the said rectory and the glebe and other lands attached thereto a line of cast-iron pipes of not less than three inches in diameter and capable of delivering the said daily quantity of water and commencing at the said Bedhampton Spring Brookside at a point marked B and thence along Brookside Road and terminating at a point marked D on the plan signed in duplicate by Joseph Quick as engineer on behalf of the Company and by Robert White as engineer on behalf of the owners:

(3) The said line of pipes shall be independent of any other pipes or conduits constructed by the Company under the powers of this Act and its intake at the Bedhampton Spring Brookside shall be placed six inches at least lower in a vertical direction than the bottom of the line of pipes No. 1 by this Act authorised or than any other pipe of the Company taking water from the said spring:

(4) The said intake shall be constructed of such materials and in such manner as shall be reasonably approved by an engineer appointed by the said Alice Fanny Sanderson and the line of pipes shall be made and laid down subject to the superintendence and reasonable approval of such engineer whose reasonable charges for such superintendence shall be borne and paid by the Company:

(5) The said works shall be completed before the commencement by the Company of any operations interfering with or affecting the flow of the said Bedhampton Spring Brookside:

(6) In the event of the Company desiring to adopt any other means than those prescribed by this section for delivering the said quantity of water from the Bedhampton Spring No. 1 into the grounds of Bedhampton Rectory at the said point marked D it shall be lawful for them to do so provided they obtain the approval in writing of the owners to the adoption of such other means.

Lateral and vertical deviation.

11. In making the works by this Act authorised the Company may deviate laterally from the lines thereof shown or described on

the deposited plans to any extent within the limits of deviation shown thereon and may deviate vertically from the levels thereof shown on the deposited sections to any extent not exceeding in any one place five feet upwards or downwards but shall not raise above the surface of the ground any part of the pipes which are not so shown on the deposited sections.

Period for compulsory purchase of lands.

12. The powers of the Company for the compulsory purchase of lands under this Act shall cease after the expiration of three years from the passing of this Act.

Period for completion of works.

13. The works authorised by this Act shall be completed within seven years from the passing of this Act and on the expiration of that period the powers by this Act granted to the Company for making and executing such works or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

Power to owners to sell easements &c. by agreement.

14. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement right or privilege of water in which other than the parties to the agreement have an interest) required for the purposes of the Company 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.

Restriction on taking houses of labouring class.

15.—(1) The Company 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.

(2) For the purposes of this section the expression "labouring class" means and includes mechanics artisans 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 of such persons who may be residing with them.

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Saving rights of drainage.

16. Nothing in this Act shall prejudice or abrogate any existing rights of drainage into the Bedhampton or Hermitage Stream on both sides thereof but any such rights may be exercised in respect of the alteration and diversion of the said stream by this Act authorised to the same extent as they might have been exercised in respect of the existing stream between the commencement and termination of the said diversion but nothing in this Act shall confer upon any authority body or person any new or increased rights of drainage into the said stream or the said diversion thereof nor shall confer upon or take away from any authority body or person any rights of drainage into the watercourses or drains authorised by this Act to be laid down and maintained by the Company.

Works below high-water mark not to be commenced without consent of Board of Trade.

17. The Company shall not under the powers of this Act construct on the shore of the sea or of any creek bay arm of the sea or navigable river communicating therewith where and so far up the same as the tide flows and reflows any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve of such approval being signified as last aforesaid and where any such work may have been constructed the Company shall not at any time alter or extend the same without obtaining previously to making any such alteration or extension the like consents or approvals If any such work be commenced or completed contrary to the provisions of this Act the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the costs and charges of the Company and the amount of such costs and charges shall be a debt due from the Company to the Crown and shall be recoverable accordingly with costs.

Saving rights of the Crown in the foreshore

18. Nothing contained in this Act shall authorise the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of Her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exerciseable by the Queen's Majesty Her heirs or successors.

Saving rights of Crown under Crown Lands Act.

19. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities mentioned in or reserved by sections 21 and 22 of the Crown Lands Act 1866 and belonging to or exerciseable on behalf of Her Majesty Her heirs or successors.

Power to Company to apply their funds.

20. The Company may from time to time apply for or towards all or any of the purposes of this Act to which capital is properly applicable any sums of money which they have already raised or are authorised to raise by any of their Acts or which may be in their possession or under their control and which are not required for the purposes to which they are by those Acts made specially applicable.

Costs of Act.

21. 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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