ANNO VICESIMO OCTAVO & VICESIMO NONO

VICTORIÆ REGINÆ.

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Cap. clxv.

An Act for empowering the *Cheltenham* Waterworks Company to extend their Works and Limits of Supply, and to raise a further Sum of Money; and for other Purposes.

[29th *June* 1865.]

WHEREAS the *Cheltenham* Waterworks Company, hereinafter called "the Company," were incorporated by an Act 5 G. 4.
of the Fifth Year of King *George* the Fourth, for better c. cxxxii.
supplying the Town and Neighbourhood of *Cheltenham* in the County of *Gloucester* with Water: And whereas the said recited Act has been amended, and the Powers of the Company have been extended by Three other Acts, namely,

An Act of the Session of the Second Year of Her present Majesty, 2 & 3 Vict.
"for enabling the *Cheltenham* Waterworks Company to enlarge c. xxv.
"and extend their Works, and for amending the Acts relating "thereto;"

An Act of the Session of the Tenth Year of Her said Majesty, 10 & 11 Vict.
"for authorizing the *Cheltenham* Waterworks Company to raise c. viii.
"a further Sum of Money;" and

The "*Cheltenham* Waterworks (Capital) Act, 1858." 21 & 22 Vict.

And whereas it is expedient that the Company should be enabled to c. iv.
supply the Borough and Parish of *Tewkesbury* with Water, and to construct

construct additional Works, and to acquire Lands requisite for the same: And whereas the total Capital which the Company are under the recited Acts authorized to raise by Shares or Stock amounts to Ninety thousand Pounds, of which the Sum of Thirty-four thousand three hundred and seventy-five Pounds is authorized to be raised by Preference Shares or Stock, and the Sums which they are authorized to borrow under those Acts amount to Twenty-seven thousand Pounds: And whereas the Capital which the Company have actually raised consists of the Sum of Fifty-five thousand six hundred and twenty-five Pounds Ordinary Stock, and of the Sum of Seventeen thousand one hundred and eighty-seven Pounds Ten Shillings Share Capital, bearing a preferential Dividend of Four Pounds Ten Shillings *per Centum per Annum*, and the Company have authorized the Creation and Issue of further Shares to the Amount of Seven thousand one hundred and eighty-seven Pounds Ten Shillings, bearing a preferential Dividend of Four Pounds Ten Shillings *per Centum per Annum*, but no Portion of those Shares has been created or issued: And whereas the Sum which the Company have borrowed on Mortgage amounts to Twenty-two thousand seven hundred and seventy Pounds Sixteen Shillings and Eightpence: And whereas it is expedient that the Resolutions of the Company, authorizing the Creation and Issue of such last-mentioned Preference Shares should be cancelled, and that the Powers of the Company to raise additional Capital, and to borrow further Monies under the recited Acts, should be extinguished: And whereas it is expedient that the Company should be enabled under the Powers of the present Act to raise additional Capital, and that their borrowing Powers should be enlarged, and that other Powers should be conferred upon them: And whereas the Objects aforesaid 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:

Short Title.

1. This Act may be cited as "The *Cheltenham* Waterworks Act, 1865."

Interpretation of Terms.

2. In the present Act, and in any Act incorporated herewith, the Term "Superior Court" shall mean any Court of competent Jurisdiction, and the Term "Court of competent Jurisdiction" shall be read and have effect as if the Debt or Demand with respect to which the Expression is used were an ordinary Simple Contract Debt, and not a Debt or Demand created by Statute.

Same Meanings to Words in

3. The several Terms to which Meanings are assigned in the several Acts wholly or partially incorporated herewith shall have in the

the present Act the same respective Meanings so assigned to them, unless there be in the Subject or Context something repugnant to or inconsistent with such Construction. incorporated Acts as in this Act.

4. The present Act shall be carried into execution by the Committee of Management of the Company, except so far as the same or any Act incorporated herewith expressly requires anything to be done by or at a Meeting of the Company. Committee of Management to act.

5. The recited Acts (including the Acts or Parts of Acts incorporated therewith respectively) shall, so far as the Provisions thereof are applicable for the Purposes and are not inconsistent with the Provisions of the present Act, be incorporated with the present Act; and the present Act and the recited Acts, including as aforesaid, shall be read and have effect together as One Act. Company's former Acts incorporated with this Act.

6. The Limits within which the Company may supply Water shall be extended to and include the Borough and Parish of *Tewkesbury* in the County of *Gloucester*, and the Limits so extended and defined shall be deemed to be the Limits of the present Act; and, subject to the Provisions and Restrictions of the present Act, all the Powers, Provisions, Penalties, Forfeitures, Rates, Charges, Remedies, Restrictions, Matters, and Things contained in the recited Acts shall be in force within such extended Limits, so far as the same are applicable thereto. Limits of Supply.

7. And whereas Plans and Sections of the Waterworks intended to be constructed or laid down under the Authority of the present Act, showing the Lines, Situations, and Levels thereof respectively, together with a Book of Reference to such Plans containing the Names of the Owners or reputed Owners, Lessees or reputed Lessees, and Occupiers of the Lands in, over, upon, through, or under which the same are intended to be constructed or laid down, have been deposited with the Clerk of the Peace for the County of *Gloucester*: Therefore, it shall be lawful for the Company, subject to the Provisions and Restrictions in the present Act and the Acts incorporated herewith contained, to make, construct, and maintain so much of the said Waterworks as are indicated upon so much of the said Plans and Sections as relates to the Borough and Parish of *Tewkesbury*, and all necessary and proper Conveniences connected therewith, in the Lines and Situations, and upon the Lands, Roads, Highways, Bridges, and Railways delineated upon the said Plans and described in the said Book of Reference, and according to the Levels shown on the said Sections, and for that Purpose to purchase and to enter upon, take, and use such of the said Lands delineated on the said Plans and described in the said Book of Reference, or any Easement, Privilege, Power to make new Waterworks according to deposited Plans.

Privilege, Power, or Authority in or over the same, and to enter upon and use such of the Roads, Highways, Bridges, and Railways delineated on the said Plans, or such of the Lands situate on either Side of any such Roads, Highways, or Railways, and comprised within the Limits of Deviation delineated or marked or referred to on the said Plans, as shall be deemed necessary for the Purposes of the said Works, or any of them, or for any other Purpose connected therewith; and the Company may take, divert, and appropriate any Quantity of the Water of the River *Severn* not exceeding Five hundred thousand Cubic Feet *per Diem*.

8 & 9 Vict. cc. 16. & 18., 10 & 11 Vict. c. 17., 23 & 24 Vict. c. 106., and 26 & 27 Vict. c. 93. incorporated.

8. "The Lands Clauses Consolidation Act, 1845," "The Lands Clauses Consolidation Acts Amendment Act, 1860," the Sections 88 and 89 of "The Companies Clauses Consolidation Act, 1845," relating to the Rotation of Directors, and the supplying of occasional Vacancies in the Office of Directors, and the Provisions of "The Waterworks Clauses Act, 1847," with respect to the Construction of the Waterworks, and with respect to the Construction of Works for the Accommodation of Lands adjoining the Waterworks, and "The Waterworks Clauses Act, 1863" (except Section 12 thereof), are for the Purposes of the present Act incorporated herewith, except so far as the same are expressly varied or altered by the present Act; and in construing the 88th and 89th Sections of "The Companies Clauses Consolidation Act, 1845," in connexion with the present Act, the Expression "the Directors" shall mean the Committee of Management of the Company.

Limits of Deviation.

9. The Company, in constructing the Works shown on the deposited Plans, shall not deviate laterally from the Lines thereof laid down on such Plans beyond the Limits of lateral Deviation shown or described thereon, and shall not deviate vertically from the Levels thereof shown on the deposited Plans and Sections to any greater Extent than Five Feet, unless with the Consent in Writing of the Owner of the Lands through or in which any such Deviation shall be made.

Powers for compulsory Purchases limited.

10. The Powers of the Company for the compulsory Purchase or taking of Lands for the Purposes of the present Act shall not be exercised after the Expiration of Five Years from the passing of the same Act.

Time for Completion of Waterworks.

11. The Works authorized by this Act shown on the deposited Plans shall be completed within Five Years after the passing of the present Act, and on the Expiration of that Time the Powers by the present Act given to the Company for the Construction of those Works, or in relation thereto, shall cease to be exercised, except as to so

so much thereof as is then completed; nevertheless, the Company may extend, enlarge, alter, repair, remove, or renew their Mains, Pipes, or other Works when and as may be necessary for the Purpose of supplying Water within their authorized Limits.

For Protection of Midland Railway Company.

12. The Company shall not take, use, or interfere with any Part of the *Midland* Railway, or the Works thereof, or the Land or Property of the *Midland* Railway Company, except that in crossing the Line of Railway in the Town of *Tewkesbury* they shall not affect the Line or Level of the Rails except for a Time not exceeding Six Hours, such Time to be fixed by Arrangement with the Engineer of the *Midland* Railway Company, and the Works to be performed by the Company shall be so performed, and at all Times hereafter maintained at their Expense, but under the Superintendence and Direction of the Engineer of the *Midland* Railway Company for the Time being, and to his reasonable Satisfaction, and so as not to interfere in any way with the Traffic of the said Railway.

Additional Lands.

13. The Company may, from Time to Time, purchase by Agreement, and hold, in addition to the Lands now held by them and to those which they are authorized by the present Act to take by Compulsion, any Lands not exceeding in Quantity in the whole Six Acres.

Power for Sale of partial Interest.

14. Any Person empowered to sell and convey or release Lands for the Purposes of the present Act, shall have Power, in consideration of any yearly or other Rent or otherwise, to grant, and the Company shall have Power to take and hold accordingly, any Term, Estate, Interest, Right, or Easement in, over, or affecting Lands.

Grants by Persons under Disability to be at best Rent.

15. In any such Grant to be made by any Party under any Disability or Incapacity to sell and convey Lands, as defined by "The Lands Clauses Consolidation Act, 1845," the Amount of the Rent, Charge, or Compensation for any such Grant shall be ascertained and settled in manner provided by "The Lands Clauses Consolidation Acts Amendment Act, 1860," and be subject to all the Provisions with respect to Land granted or conveyed under the Provisions of the last-mentioned Act.

Rents to be First Charge.

Remedies for recovery thereof.

16. Every such yearly Rent shall be charged on the Water Rates or Water Rents payable under the present Act, or if the Rates be leased, then on the Rent reserved by the Lease, in preference to any Charge whatever not subsisting at the Time of the passing of the present Act; and if at any Time any such Rent be not paid within Thirty Days after the same becomes payable, and after Demand thereof in Writing, the Person to whom such Rent is payable may either recover the same from the Company, with Costs of Suit, by

Action of Debt in any Court of competent Jurisdiction, or may levy the same by Distress of the Goods and Chattels of the Company.

Regulations for preventing Waste &c., of Water.

17. The Company may, from Time to Time, make such Rules and Regulations as they may think necessary to be observed by the Persons supplied with the Company's Water; and may thereby direct the Use and prescribe the Size, Nature, Strength, and Materials, and the Mode of Arrangement, Alteration, and Repair of the Pipes, Valves, Cocks, Cisterns, Baths, Soilpans, Waterclosets, and other Apparatus or Receptacles, or any of them, to be used by such Persons respectively, for conveying, delivering, and receiving such Water; and may thereby interdict any Arrangement, and the Use of any Pipes, Valves, Cocks, Cisterns, Baths, Soilpans, Waterclosets, and other Apparatus or Receptacles which, in their Judgment, will be likely to occasion any such Waste, Misuse, undue Consumption or Contamination; and shall not be bound to supply or continue to supply Water to any such Person unless such Rules and Regulations be and continue to be duly observed by him, and the Pipes, Valves, Cocks, Cisterns, Baths, Soilpans, Waterclosets, and other Apparatus and Receptacles used or to be used shall be made of such Size, Nature, Strength, and Materials, and shall be so arranged, kept, and repaired, as the Company shall from Time to Time so prescribe or otherwise approve.

Occupier liable to Water Rent in certain Cases.

18. Except in the Case in which the Owner of any Dwelling House or Tenement the annual Value of which shall not exceed the Sum of Ten Pounds shall have agreed with the Company to pay the Water Rent for the Supply of Water to such Dwelling House or Tenement, the Water Rent due or accruing due in respect of such Supply shall be payable by and may be recovered from the Occupier of such Dwelling House or Tenement.

Particulars of Penalties &c., to be published.

19. The Company shall from Time to Time publish the short Particulars of the several Offences for which any Penalty is imposed by the Acts relating to the Company, or any of them, or by any Byelaw of the Company affecting other Persons than the Shareholders, Officers, or Servants of the Company, and of the Amount of every such Penalty, and also of the Rules and Regulations to be for the Time being in use and observed within the Limits of the present Act, and shall cause such Particulars to be painted on a Board or printed on Paper and pasted thereon, and shall cause such Board to be hung up or affixed on or in some conspicuous Part of the principal Office or Place of Business of the Company.

Power to Company to apply

20. The Company may from Time to Time apply to or for the general Purposes of their Undertaking, under the Acts relating to the Company,

Company, all or any Part of the Monies raised or authorized to be raised by them. Corporate Funds.

21. The Resolutions of the Company authorizing the raising of the said Sum of Seven thousand one hundred and eighty-seven Pounds Ten Shillings, by the Creation and Issue of Preference Shares, shall be and the same are hereby cancelled and annulled; and the Power of the Company to raise that Sum, and also any further Sums, or to borrow any further Sums of Money under the recited Acts, shall be and the same is hereby extinguished: Provided always, that nothing herein contained shall prevent or restrict the Company from re-borrowing any Money to the Extent of the Sums secured by any existing Mortgage which may from Time to Time be paid off. Resolution authorizing Preference Shares, and Powers of raising Money under recited Acts extinguished.

22. The Company may from Time to Time, by Order of any General or Special Meeting, raise any further Sums they think requisite, not exceeding Ninety-three thousand Pounds, by the Issue at their Option of new Shares or Stock, ordinary or preference, or partly ordinary and partly preference, as they think fit: Provided always, that the Rate of Interest or Dividend to be attached to any Preference Shares or Stock to be issued under the present Act shall not exceed the Sum of Six Pounds *per Centum per Annum* on the Amount for the Time being paid up on the Shares or Stock to which the same may be attached. Power to raise additional Capital by new Shares.

23. It shall not be lawful for the Company to issue any Share or Stock, nor shall any Share or Stock vest in the Person accepting the same, unless and until a Sum not being less than One Fifth Part of the Amount of such Share or Stock shall have been paid up in respect thereof. Shares or Stock not to issue until One Fifth paid up.

24. Notwithstanding anything in the Seventeenth Section of "The Companies Clauses Consolidation Act, 1863," contained, the new Shares or Stock shall be offered to the Holders of Ordinary Shares or Stock as therein provided, although at the Time of the Issue of such new Shares or Stock the Ordinary Shares or Stock may not be at a Premium. As to issue of new Shares or Stock.

25. Any Shares or Stock to which under the Powers of the present Act any fixed preferential or prior Interest or Dividend may for the Time being be attached shall not confer upon the Holders thereof any Right of voting or interfering in the Affairs of the Company, or any Qualification. Preference Shares, &c. not to confer Votes.

26. When the Sum of Forty-six thousand five hundred Pounds, being One Half of the additional Capital by the present Act authorized Borrowing Powers.

rized, has been subscribed for or taken, and One Half of such Sum of Forty-six thousand five hundred Pounds has been paid up, the Company may borrow on Mortgage any additional Sum of Money not exceeding Eleven thousand five hundred Pounds, and when the further Sum of Forty-six thousand five hundred Pounds, being the Residue of the additional Capital by the present Act authorized, has been subscribed for or taken, and One Half of such further Sum of Forty-six thousand five hundred Pounds has been paid up, the Company may borrow on Mortgage any further Sum not exceeding Eleven thousand five hundred Pounds: Provided always, that these respective Sums shall not be borrowed until the Company shall have proved to the Justice who is to certify, under the Provisions contained in the 40th Section of "The Companies Clauses Consolidation Act, 1845," that the above Conditions with reference to the Subscription for or taking of such additional Capital and the paying up of One Half thereof have in each Case been respectively complied with, and that One Fifth Part of all Shares or Stock has been paid on the Issue of the same, and that such Shares or Stock are or is held by Subscribers or their Assigns, and for which such Subscribers or their Assigns are legally liable, of which Facts the Certificate of the Justice under that Section shall be sufficient Evidence.

Priority of existing Mortgages.

27. All Mortgages or Bonds for the Time being granted as Security for Money borrowed or reborrowed under the recited Acts or either of them shall during their respective Continuance have Priority over all Mortgages granted under the present Act.

Parts of 26 & 27 Vict. c. 118., incorporated.

28. Part I. of "The Companies Clauses Act, 1863," shall be incorporated with the present Act, and shall be applicable to all the Capital of the Company raised under the recited Acts, and authorized to be raised by the present Act; Parts II. and III. of "The Companies Clauses Act, 1863," shall also be incorporated with the present Act, but shall only be applicable to the further Capital by the present Act authorized to be raised, and to the Monies to be borrowed under the present Act.

Power to create Debenture Stock.

29. The Company may create and issue Debenture Stock.

Expenses of Act.

30. All the Costs, Charges, and Expenses of applying for, obtaining, and passing the present Act, or preparatory or incident thereto, shall be paid by the Company.

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