# CHAPTER clii.

An Act to enable the Corporation of Yeovil to construct an additional Reservoir and other Waterworks and to raise money for the purpose by borrowing on mortgage or otherwise. A.D. 1896.

[20th July 1896.]

WHEREAS by the Yeovil Improvement Act 1870 (herein-after referred to as "the Act of 1870") the mayor aldermen and burgesses of the borough of Yeovil (in this Act called "the Corporation") were empowered to construct waterworks and to supply water within the borough of Yeovil and (subject to due provision being made for the wants of the borough) within the other places mentioned in the Act of 1870: 33 & 34 Vict. c. lxxxviii.

And whereas the Corporation constructed the works authorised by the Act of 1870 and are supplying water within the limits as defined by that Act but their reservoirs and works are inadequate to enable them properly to meet the demands for water within the said limits and it is expedient that the Corporation should be authorised to construct the additional waterworks herein-after described:

And whereas the Corporation were authorised by the Act of 1870 to borrow on mortgage for the purposes of the waterworks by that Act authorised to be made any sums not exceeding in the whole twenty thousand pounds and for the other purposes of the Borough of Yeovil Extension and Improvement Act 1854 and the Act of 1870 any sums not exceeding in the whole five thousand pounds: 17 & 18 Vict. c. cxxv.

And whereas by the Borough of Yeovil Provisional Order scheduled to and confirmed by the Local Government Board's Provisional Orders Confirmation (Aysgarth Union &c.) Act 1879 the Corporation were empowered subject to the sanction of the Local Government Board to borrow and apply to the purposes of the waterworks authorised by the Act of 1870 all or any part of the said sum of five thousand pounds: 42 & 43 Vict. c. lxxviii.

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And whereas the Corporation have raised and expended in connexion with their waterworks practically the whole of the said sums of twenty thousand pounds and five thousand pounds and it is expedient that they should be empowered to raise further moneys for the purposes of this Act:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

And whereas estimates have been prepared of the cost of and in connexion with the execution of the waterworks by this Act authorised and such estimates amount to nine thousand pounds or thereabouts:

And whereas the several works included in such estimates are permanent works within the meaning of section 234 of the Public Health Act 1875:

38 & 39 Vict. c. 55.

And whereas an absolute majority of the whole number of the council at a meeting held on the nineteenth day of February one thousand eight hundred and ninety-six after ten clear days' notice by public advertisement of such meeting and of the purpose thereof in the Western Gazette a newspaper published and circulating in the borough (such notice being in addition to the ordinary notices required for summoning such meeting) resolved that the expense in relation to promoting the Bill for this Act should be charged on the borough rate of the borough:

And whereas such resolution was published twice in the Western Gazette and has received the approval of the Local Government Board:

And whereas the propriety of the promotion of the Bill for this Act was confirmed by an absolute majority of the whole number of the council at a further special meeting held in pursuance of a similar notice on the fourth day of May one thousand eight hundred and ninety-six being not less than fourteen days after the deposit of the Bill in Parliament:

And whereas the owners and ratepayers of the borough by resolution in the manner provided in the Third Schedule of the Public Health Act 1875 consented to the promotion of the Bill for this Act:

And whereas plans and sections showing the lines situation and levels of the works by this Act authorised and plans showing the lands which may be acquired under the powers of this Act and a book of reference to those plans containing the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of and describing such lands have been deposited with the clerks of the peace for the counties of Somerset and Dorset respectively and are

in this Act referred to as the deposited plans sections and book of reference:

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 Yeovil Corporation (Waterworks) Act 1896.

Incorporation of Acts.

**2.** The following Acts and parts of Acts (that is to say):—

The Lands Clauses Acts;

The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof but for the purpose only of constructing the service tank and works immediately connected therewith by this Act authorised;

The Waterworks Clauses Act 1847 except the provisions thereof with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit and except the words "with the consent in writing of "the owner or reputed owner of any such house or of the agent "of such owner" in the 44th section of that Act; and

The Waterworks Clauses Act 1863;

so far as they are applicable for the purposes of and not varied by or inconsistent with this Act are hereby incorporated with and form part of this Act.

Interpretation.

**3.** Unless the subject or context otherwise requires—

In this Act—

"The borough" means the borough of Yeovil;

"The Corporation" means the mayor aldermen and burgesses of the borough;

"The council" means the council of the borough;

"The borough fund" and "the borough rate" respectively mean the borough fund and the borough rate of the borough;

"The water undertaking" means the waterworks undertaking for the time being of the Corporation:

Terms to which meanings are assigned in Acts incorporated wholly or in part with this Act or which have therein special meanings have in this Act (unless varied thereby) the same respective meanings; and

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In the Railways Clauses Consolidation Act 1845 for the purposes of this Act—

The expressions "the railway" "the work" and "the centre of the railway" respectively mean the service tank and works immediately connected therewith and the boundaries thereof respectively by this Act authorised.

Act to be executed by council.

**4.** This Act shall be carried into execution by the Corporation acting by the council.

Power to make works.

**5.** Subject to the provisions of this Act the Corporation may in the lines and situation and upon the lands delineated on the deposited plans and described in the deposited book of reference make and maintain the works shown on the deposited plans and sections among which are the following principal works (that is to say):—

(A) A line or lines of pipe to be situate wholly in the parish of Yetminster in the county of Dorset near the farm known as Winterhays:

(B) A line or lines of pipe commencing in the parish of Clifton Maybank in the county of Dorset near Stoford Bridge and terminating in the parish of Barwick in the county of Somerset near the bridge carrying the London and South Western Railway over the public road leading from the village of Stoford to Yeovil:

(C) A line or lines of pipe to be situate wholly in the parish of Yeovil (Without) in the county of Somerset and terminating in the service tank next herein-after described:

(D) A service tank to be situate on lands at Summer-house Hill or Newton Hill in the said parish of Yeovil (Without) being the fields and enclosures numbered 905 and 930 on the Ordnance map (scale $\frac{1}{2500}$) of the said parish:

(E) A line or lines of pipe to be situate wholly in the said parish of Yeovil (Without) commencing in the lastly described service tank and terminating at or near the footbridge over the Yeovil and Durston Branch of the Great Western Railway known as Dodham Bridge.

Power to make subsidiary works.

**6.** The Corporation in addition to the foregoing works may upon any lands for the time being belonging to them make and maintain all such aqueducts culverts drains sluices bywashes filter-beds tanks banks walls approaches and other works as may be necessary or convenient in connexion with the before-mentioned works or any of them.

Limits of deviation.

**7.** In the construction of the works authorised by this Act the Corporation may deviate laterally to any extent not exceeding the limits of lateral deviation shown on the deposited plans and where on any road no such limits are shown the boundaries of such road shall be deemed to be such limits and they may also deviate vertically from the levels shown on the deposited sections to any extent not exceeding in the case of the service tank three feet upwards and five feet downwards and in the case of all other works to any extent not exceeding three feet upwards and ten feet downwards but not so as to raise any pipe above the surface of the ground unless so shown on the deposited plans or sections and then only to the extent so shown.

Period for completion of works.

**8.** If any works authorised by this Act are not completed within the period of five years from the passing of this Act then on the expiration of such period the powers by this Act granted to the Corporation for executing the same or in relation thereto shall cease except as to so much thereof as is then completed but nothing in this Act shall restrict the Corporation from extending enlarging altering reconstructing or removing any of their tanks tunnels engines sluices machinery apparatus filter-beds mains pipes or other works or plant at any time and from time to time as occasion may require.

For the protection of the Great Western Railway Company.

**9.** For the protection of the Great Western Railway Company (herein-after referred to as "the Great Western Company") the following provisions shall apply :—

(A) In laying down altering improving enlarging extending maintaining or renewing or in executing or effecting the repairs or renewals of the line or lines of pipes under or in any way affecting the railway lands and property now or hereafter belonging to or used or occupied by the Great Western Company the same shall be done under the superintendence and to the reasonable satisfaction of the principal engineer for the time being 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 in writing or in the event of any dispute or difference between such engineer and the engineer of the Corporation then in such manner as shall be settled by arbitration as herein-after provided :

(B) All such works and operations and all matters incidental thereto shall be constructed executed and done by and at the expense of the Company and so as to cause as little injury as may be to such railway works lands or property or interruption to the passage or conduct of traffic over such railway :

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(c) The works by this Act authorised shall be so constructed maintained repaired and used as not to cause any unnecessary damage or injury to the railway and works of the Great Western Company or to impede the free and uninterrupted use of the said railway and works:

(d) The Corporation shall acquire only such an easement across over or under the railway works or property of the Great Western Company as may be necessary for constructing or maintaining any of the works of the Corporation authorised by this Act and shall pay to the Great Western Company for any such easement to be acquired by them such sum either annual or otherwise as may be agreed upon or failing agreement as shall be settled by arbitration in manner provided by the Lands Clauses Consolidation Act 1845 with respect to the acquisition of lands otherwise than by agreement and for the purposes of such arbitration the easement so to be taken shall be deemed to be lands:

(e) If the Great Western Company at any time or times hereafter require to construct any additional or other works upon their lands or railway or to alter or repair their railway or works upon across over or under which any of the works of the Corporation authorised by this Act may have been constructed or laid the Great Western Company may on giving to the Corporation seven days' notice in writing under the hand of their secretary or general manager for the time being and in case of emergency (of which their engineer shall be sole judge) without notice divert support or carry the said works of the Company across over or under their lands railway or works at any other point or otherwise deal with the same in as convenient a manner as circumstances will admit without interrupting the supply and doing as little damage as may be without being liable to pay compensation in respect thereof:

(f) Except as in this section otherwise provided any dispute or difference which may arise between the Great Western Company and the Corporation with reference to the provisions of this section or in any way arising thereout or as to any works to be carried out in pursuance thereof shall be settled by arbitration by an engineer or other fit person to be appointed by the Board of Trade on the application of the Great Western Company and the Corporation or either of them.

Power to Corporation to take lands.

**10.** Subject to the provisions of this Act the Corporation may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as

they require for the construction and maintenance of the works by this Act authorised.

Corporation may acquire easements only in certain lands.

**11.** The Corporation may in lieu of acquiring any lands for the purposes of the works by this Act authorised acquire such easements and rights in such lands as they may require for the purpose of constructing placing laying inspecting maintaining cleansing repairing conducting or managing the same and may give notice to treat in respect of such easements and rights and may in such notice describe the nature thereof and the several provisions of the Lands Clauses Acts inclusive of those with regard to arbitration and the summoning of a jury shall apply to such easements and rights as fully as if the same were lands within the meaning of such Acts Provided always that except as to land forming part of a street nothing herein contained shall authorise the Corporation to acquire by compulsion any such easement in any case in which the owner in his particulars of claim shall require the Corporation to acquire the lands in respect of which they have given notice to treat for the acquisition of an easement only and every notice to treat for the acquisition of an easement shall be endorsed with notice of this proviso.

Limitation of time for compulsory purchase of lands.

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

Power to acquire additional lands by agreement.

**13.** The Corporation may (in addition to lands they are authorised to acquire and hold under the powers of the recited Acts and under the other powers of this Act) from time to time by agreement acquire in fee either by purchase or by way of exchange or otherwise for the purposes of their water undertaking any land not exceeding in the whole ten acres or any easement power or privilege therein thereunder thereover or thereupon (not being an easement right or privilege of water in which other than parties to the agreement have an interest) which shall be deemed necessary by the Corporation but the Corporation shall not deal with any such lands so as to create or permit a nuisance nor shall they use for any building purpose unconnected with their waterworks any land acquired under the powers of this section.

Power to take additional lands by agreement for protection of water supply.

**14.** The Corporation may for the purposes only of protecting from contamination fouling or discolouration any reservoirs or any waters over which they for the time being have any right or in which they for the time being have any interest and any waters which flow into such reservoirs or waters acquire by agreement or take on lease and hold either temporarily or permanently any lands

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situate within the drainage area of such reservoirs or waters and such lands shall not be deemed to be superfluous lands within the meaning of the Lands Clauses Consolidation Act 1845 (except as herein-after provided in the case of sale by the Corporation) or the recited Acts but the Corporation shall not deal with such lands so as to create or permit a nuisance nor use any such lands for any building except buildings required for the undertaking of the Corporation or for the purposes of farms.

Consideration for such acquisition.

**15.** The consideration for any such acquisition may be either money or land or a mixed consideration of money and land and on any exchange the Corporation may give or take any money for equality of exchange.

Restriction on taking houses of labouring class.

**16.**—(1) 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 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 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 of such persons who may be residing with them.

Sale of superfluous lands.

**17.** The Corporation may (subject to the provisions of the Lands Clauses Consolidation Act 1845 with respect to the sale of superfluous lands in cases where such provisions are applicable) from time to time sell lease or otherwise dispose of in such manner and to such persons as the Corporation think fit any lands houses or other property for the time being held by the Corporation for the purposes of their water undertaking and which they do not require for the purposes of that undertaking and in any such sale or lease the Corporation may reserve to themselves all or any water or water rights or other easements belonging to the lands sold or leased and may make the sale or lease for such consideration and subject to such reservations conditions restrictions or provisions and generally upon such terms and conditions as the Corporation think fit.

Application of moneys from sale &c. of land.

**18.** The Corporation shall apply all moneys from time to time received by them in respect of any sale exchange or disposition of

lands acquired by them under this Act or by way of fine or premium on any lease of any such lands in or towards paying off moneys borrowed and for the time being owing under this Act or if there shall be no moneys owing under this Act such proceeds shall be applied in or towards paying off any other moneys for the time being owing by the Corporation and such proceeds shall not be applicable to the payment of instalments or to payments into the sinking fund except to such extent and upon such terms as may be approved by the Local Government Board.

Power to borrow.

**19.**—(1) The Corporation may from time to time independently of any other borrowing power borrow at interest any sum or sums of money for the purposes herein-after mentioned not exceeding the respective amounts following (that is to say) :—

(*a.*) For the purchase of land for and the execution of the works authorised by this Act the sum of ten thousand pounds ;

(*b.*) For paying the costs and expenses of this Act as herein-after provided the sum requisite for that purpose :

And with the approval of the Local Government Board such further moneys as the Corporation may require for any of the purposes of this Act or otherwise in relation to the water undertaking.

(2) In order to secure the repayment of the moneys borrowed under this section and the payment of the interest thereon the Corporation may mortgage the revenue of their water undertaking and the borough fund and borough rate.

Inquiries by Local Government Board.

**20.**—(1) The Local Government Board may direct any inquiries to be held by their inspectors which they may deem necessary in regard to the exercise of any powers conferred upon them or the giving of any consents under this Act and the inspectors of the Local Government Board shall for the purposes of any such inquiry have all such powers as they have for the purposes of inquiries directed by that Board under the Public Health Act 1875.

(2) The Corporation shall pay to the Local Government Board any expenses incurred by that Board in relation to any inquiries under this section including the expenses of any witnesses summoned by the inspector holding the inquiry and a sum to be fixed by that Board not exceeding three guineas a day for the services of such inspector.

Mode of raising money.

**21.** The Corporation may raise all or any moneys which they are authorised to borrow under this Act either by mortgage or by issue of debentures or annuity certificates under and subject to the provisions of the Local Loans Act 1875 or partly in one way and partly in another.

Certain regulations of Public Health Act as to borrowing not to apply.

**22.** The powers of borrowing money by this Act given shall not be restricted by any of the regulations contained in section 234 of the Public Health Act 1875 and in calculating the amount which the Corporation may borrow under that Act any sums which they may borrow under this Act shall not be reckoned.

Provisions of Public Health Act as to mortgages to apply.

**23.** The following sections of the Public Health Act 1875 shall extend and apply to mortgages granted under this Act (that is to say):—

Section 236. Form of mortgage;

Section 237. Register of mortgages;

Section 238. Transfer of mortgages;

Section 239. Receiver may be appointed in certain cases.

Periods for payment off of money borrowed.

**24.** The Corporation shall pay off all moneys borrowed by them under this Act within the respective periods (in this Act referred to as "the prescribed periods") following (that is to say):—

As to moneys borrowed for the purpose (A) herein-before mentioned within fifty years from the date or dates of the borrowing of the same;

As to moneys borrowed for the purpose (B) herein-before mentioned within ten years from the date or dates of the borrowing of the same;

As to moneys borrowed with the approval of the Local Government Board within such period as they may think fit to sanction.

Mode of payment off of money borrowed.

**25.**—(1) The Corporation shall pay off all moneys borrowed by them on mortgage under the powers of this Act either by equal yearly or half-yearly instalments of principal or of principal and interest or by means of sinking funds or partly by such instalments and partly by sinking funds and the payment of the first instalment or the first payment to the sinking fund shall be made prior to the twenty-fifth day of March next following the time of borrowing the sum in respect of which the payment is made.

(2) The following provisions shall apply in regard to any sinking fund to be formed under this Act:—

(A) The Corporation in every year shall appropriate and set apart out of the funds rates and revenue on the security of which such moneys shall have been borrowed such equal annual sums as will with the accumulations thereof by way of compound interest at a rate not exceeding three pounds per centum per annum be sufficient to pay off the principal moneys borrowed (so far as the same are repayable by means of a sinking fund) within the prescribed periods:

(b) The yearly sums so appropriated and set apart shall be invested from time to time and accumulated in the way of compound interest by investing the same and the dividends interest and annual income thereof respectively in any security in which trustees are by law authorised to invest or in mortgages debentures debenture stock or other securities issued by any local authority as defined in section 34 of the Local Loans Act 1875 (other than securities of the Corporation and securities transferable by delivery) and if and as often as the rate of interest by investment is not equal to the prescribed rate of accumulation any deficiency arising thereby shall be made good out of the respective funds or rates which are liable to contribute to the sinking fund:

(c) The Corporation may at any time apply the whole or part of the sinking fund in or towards the repayment of the borrowed moneys in respect of which such sinking fund is set apart in such order and manner as they deem proper Provided that in such case they pay into such sinking fund in each year afterwards and accumulate as herein-before prescribed until the whole of such borrowed moneys are discharged a sum equal to the interest produced by the sinking fund or part thereof so applied at the rate per centum on which the equal annual payments to the sinking fund are based:

(d) Whenever and so long as the yearly income arising from the sinking fund would if the sinking fund were invested at the same rate of interest as is payable on the borrowed moneys then outstanding be equal to the annual interest of such borrowed moneys the Corporation may in lieu of investing the said yearly income apply the same in payment of such interest and may during such periods discontinue the payment to the sinking fund of the yearly sums required to be so paid thereto.

Power to reborrow.

**26.** If the Corporation pay off any moneys borrowed by them under this Act otherwise than by instalments appropriations or annual repayments or by means of a sinking fund or out of the proceeds of the sale of land or other property or out of fines or premiums on leases or out of other moneys received on capital account not being borrowed moneys they may from time to time reborrow the same but all moneys so reborrowed shall be repaid within the prescribed period and shall be deemed to form the same loan as the moneys originally borrowed and the obligations of the Corporation with respect to the repayment of the loan and to the provision to be made for such repayment shall not be diminished by reason of such reborrowing.

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Protection of lender from inquiry.

**27.** A person lending money to the Corporation under this Act shall not be bound to inquire as to the observance by them of any provisions of this Act or be bound to see to the application or be answerable for any loss or non-application of the money lent or of any part thereof.

Application of money borrowed.

**28.** Moneys borrowed or raised by the Corporation under this Act shall be applied only to the purposes in respect of which they were respectively authorised to be borrowed or raised and to which capital is properly applicable.

Annual return to Local Government Board with respect to sinking fund.

**29.** The town clerk of the borough shall within twenty-one days after the expiration of each year during which any sum is required to be set apart for a sinking fund or any instalment is required to be paid under this Act transmit to the Local Government Board a return in such form as may be prescribed by that Board and verified by statutory declaration if so required by them showing the amount which has been paid as an instalment or invested for the purpose of such sinking fund during the year preceding the making of such return and the description of the securities upon which the same has been invested and also showing the purposes to which any portion of the moneys invested for the sinking fund and the interest thereof have been applied during the same period and the total amount remaining invested at the end of the year and in the event of any wilful default in making such return the town clerk shall be liable to a penalty of not exceeding twenty pounds which shall be paid to the Local Government Board and shall be recoverable by that Board in the same manner as penalties recoverable under the Public Health Act 1875 in a summary manner may be recovered by parties aggrieved within the meaning of that Act If it appear to the Local Government Board by such return or otherwise that the Corporation have failed to pay any instalment or to set apart the sum required by this Act for the sinking fund or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised by this Act the Local Government Board may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested as part of the sinking fund and such order shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the High Court and the provisions of this section shall apply mutatis mutandis to appropriations and annual repayments.

Saving for existing charges.

**30.** Nothing in this Act shall prejudicially affect any charge on the revenue and rates or the estates and property of the Corporation

subsisting at the passing of this Act and every mortgagee or person for the time being entitled to the benefit of any such charge shall have the same priority of charge and all the like rights and remedies in respect of the revenue rate and property subject to his charge as if this Act had not passed and all such charges created before the passing of this Act shall during the subsistence thereof have priority over any mortgage or charge granted under this Act on the same revenue rate and property.

Power to Corporation to supply water in bulk to local authorities &c. through whose district works will be made.

**31.** The Corporation may enter into and fulfil contracts and agreements with any other corporation company or person in or having jurisdiction within any parish in or through which the works by this Act authorised will be made or pass for or in relation to the supply of water in bulk by the Corporation to such other corporation company or person and the execution of the works and the acquisition of the lands requisite for the purpose of such supply The Corporation may for the purposes aforesaid exercise the powers of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes But the powers of this section shall not be exercised without the consent of the local authority or company (if any) having statutory powers to supply water within the parish to which the agreement relates.

Expenses of Act.

**32.** All the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of 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.

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