CHAPTER lxv.

An Act for granting further powers to the Chester Waterworks Company. [30th June 1874.]

A.D. 1874.

WHEREAS by "The Chester Waterworks Act, 1857," (herein-after called the recited Act,) an Act (Local and Personal) of the seventh year of the reign of his late Majesty King George the Fourth, chapter one hundred and ten, intituled "An Act for better "supplying the inhabitants of the city of Chester with water," was repealed, and the company thereby incorporated was dissolved and re-incorporated by the name of the Chester Waterworks Company (herein-after called the Company), and further provision was made for supplying with water the city of Chester and suburbs thereof:

20 & 21 Vict. c. xi.

7 G. 4. c. cx.

And whereas by the recited Act the share capital of the Company was fixed at forty-eight thousand pounds, and the borrowing powers at twelve thousand pounds:

And whereas the Company have raised the whole of the said sum of forty-eight thousand pounds by shares, and have borrowed on mortgage the whole of the said sum of twelve thousand pounds, and the sums so raised, together with further sums of a considerable amount, have been expended upon their undertaking:

And whereas to enable the Company to pay their existing liabilities, and also to increase their works for extending and improving the supply of water within the limits prescribed by the recited Act, it is expedient that they should be authorised to raise more money by the creation of shares or stock, and by borrowing on mortgage, and that they should also be empowered to create debenture stock:

And whereas it is expedient that the powers of the Company should be enlarged, and that the powers contained in the recited Act should be extended and amended;

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

A.D. 1874.

with the advice and consent of the Lords Spiritual and Temporal, and of the 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 Chester Waterworks Act, 1874."

This Act and recited Act to be construed as one Act.

2. The provisions of the recited Act, so far as the same are unrepealed, and save so far as they are expressly repealed or varied by, or are inconsistent with the provisions of this Act, shall be incorporated with this Act, and this Act and the recited Act shall (save as aforesaid) be read and construed together as one Act.

Provisions of certain general Acts incorporated.

3. "The Waterworks Clauses Act, 1863," and Parts I., II., and III. of "The Companies Clauses Act, 1863," relating respectively to cancellation and surrender of shares, to additional capital, and to debenture stock, shall, except where expressly varied by this Act, be incorporated with and form part of this Act.

Interpretation of terms.

4. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings; and for the purposes of this Act, the expression "superior courts," or "courts of competent jurisdiction," or any other like expression in this Act or 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 common simple contract debt, and not a debt or demand created by statute, unless there be something in the subject or context repugnant to such construction.

Power to Company to raise additional capital.

5. The Company may raise any additional capital, not exceeding in the whole twenty-four thousand pounds, by the issue at their option of new ordinary shares or stock, or new preference shares or stock, or wholly or partially by any one or more of those modes respectively, but the Company shall not issue any share of less nominal value than ten pounds, nor shall any share vest in the person or corporation accepting the same unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

Limiting amount of calls.

6. Twenty per centum shall be the largest amount of a call which the Company may make in respect of any share, and there shall be an interval of not less than three months between any two calls, and the Company shall not call up more than three fourths of the amount of a share in any year.

Rate of dividend on new shares or stock.

7. The prescribed rate of dividend on any new ordinary shares or stock shall not exceed seven pounds per centum per annum, and the prescribed rate of preference dividend on any new preference

shares or stock shall not exceed six pounds per centum per annum on the amounts actually paid up in each case.

Except as otherwise provided, new shares or stock to be subject to the same incidents as other shares or stock.

8. Except as by this Act otherwise provided, the capital in new shares or stock created by the Company under this Act, and the new shares or stock therein, and the holders thereof respectively, shall be subject and entitled to the same powers, provisions, liabilities, rights, privileges, and incidents in all respects as if that capital were part of the now existing capital of the Company of the same class or description, and the new shares or stock were shares or stock in that capital.

New shares or stock to form part of capital.

9. The capital in new shares or stock so created shall form part of the capital of the Company.

Dividends on new shares or stock.

10. Every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the Company, and shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called and paid on such new shares, or to the whole amount of such stock, as the case may be.

Restriction as to votes in respect of preferential shares or stock.

11. Except as otherwise expressly provided by the resolution creating the same, no person shall be entitled to vote in respect of any new shares or stock to which a preferential dividend shall be assigned.

New shares or stock raised under this Act and recited Act may be of the same class.

12. Subject to the provisions of any Act already passed by which the Company are authorised to raise capital by new shares or stock, and to the provisions of this Act, the Company may, if they think fit, raise by the creation and issue of new shares or stock of one and the same class, all or any part of the aggregate capital which they are by such other Act and this Act respectively authorised to raise by the creation and issue of new shares or stock.

Power to borrow on mortgage.

13. The Company may, in respect of the additional capital of twenty-four thousand pounds which they are by this Act authorised to raise, from time to time borrow on mortgage as herein-after mentioned any sum not exceeding in the whole six thousand pounds, and of that sum they may borrow on mortgage any sum of money, not exceeding three thousand pounds in respect of every twelve thousand pounds of such capital, which has been issued and accepted and one half whereof has been paid up; but no such borrowing powers shall be exercised by the Company until they have proved to the justice who is to certify under the fortieth section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that shares for so much of the said additional capital in respect whereof the borrowing powers are in each case sought to be exercised

A.D. 1874.

as is to be raised by means of shares has been issued and accepted, and that one half of such capital has been paid up, and that not less than one fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and until stock for one half of so much of the said additional capital in respect whereof the borrowing powers are in each case sought to be exercised as is to be raised by means of stock is fully paid up, and the Company have proved to such justice as aforesaid, before he so certifies, that such shares or stock, as the case may be, were issued and accepted and paid up bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and also, if the said capital is raised by shares, that such persons or corporations, or their executors, administrators, successors, or assigns, are legally liable for the same; and upon production to such justice of the books of the Company, and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which certificate shall be sufficient evidence thereof.

Arrears may be enforced by appointment of a receiver.

14. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver; in order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than one tenth of the amount which the Company are for the time being authorised to borrow on mortgage.

Debenture stock.

15. The Company may create and issue debenture stock subject to the provisions of Part III. of "The Companies Clauses Act, 1863," bearing interest at a rate not exceeding five pounds per centum per annum, but notwithstanding anything therein contained the interest of all debenture stock at any time after the passing of this Act created and issued by the Company shall rank pari passu with the interest of all mortgages at any time after the passing of this Act granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Priority of principal moneys secured by existing mortgages.

16. All mortgages granted by the Company in pursuance of the powers of any Act of Parliament before the passing of this Act, and subsisting at the passing thereof, shall during the continuance of such mortgages have priority over any mortgages granted by virtue of this Act.

As to the conversion of borrowed

17. The Company shall not have power to raise the money by this Act authorised to be borrowed on mortgage, or any part thereof,

by the creation of shares or stock instead of borrowing, or to convert into capital the amount borrowed under the provisions of this Act, unless in either case all dividends upon the shares or stock, whether ordinary or preferential, are limited to a rate not exceeding five pounds per centum per annum.

Conversion of money into capital.

18. All money raised or to be raised by the Company on mortgage or debenture stock under the provisions of this Act shall have priority against the Company and the property from time to time of the Company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act: Provided always, that this priority shall not affect any claim against the Company or their property in respect of any rent-charge granted or to be granted by them in pursuance of "The Lands Clauses Consolidation Act, 1845," or "The Lands Clauses Consolidation Acts Amendment Act, 1860," or in respect of any rent or sum reserved by or payable under any lease granted or made to the Company in pursuance of any Act relating to the Company, which is entitled to rank in priority to or pari passu with the interest on their mortgages or debenture stock, nor shall anything in this section contained affect any claim for land taken, used, or occupied by the Company for the purposes of the Company's undertaking and works, or injuriously affected by the construction thereof, or by the exercise of any powers conferred on the Company.

Priority of mortgages over other debts.

19. All money raised under this Act by new shares, stock, mortgage, or debenture stock, shall be applied for the purposes of this Act and for the general purposes of the Company's undertaking, and not otherwise.

Application of money raised under this Act.

20. The Company may contract with any corporation, local board of health, commissioners, trustees, surveyors, and other bodies and persons within the limits of the recited Act for the supply of water in bulk or otherwise.

Company may contract with local bodies as to supply of water.

21. The Company may enter into agreements for the supply of water by measure to any consumer.

Company may sell by measure.

22. No person shall be entitled to require, nor shall the Company be bound to supply, any dwelling-house with water (otherwise than by meter or by special agreement) where any part of such dwelling-house is used for any trade or business purposes for which water is required.

Company not bound to supply water in certain cases.

23. The Company shall not be compelled to supply water to the occupier of any part of a dwelling-house, or for any premises occupied with a dwelling-house, which dwelling-house or premises has or have only one tap, cistern, or other source of supply used in

Company not bound to supply part of a house only.

A.D. 1874.

common by all the occupiers of such dwelling-house or premises, unless the water rate is paid for the whole of such dwelling-house and premises: Provided always, that if a part or parts of a dwelling-house occupied by a separate tenant or tenants shall become unoccupied, the tenant or tenants of the other part or parts of the said dwelling-house shall not be responsible for payment of any rate in respect of the part or parts so becoming unoccupied.

Company not bound to supply several premises by one pipe.

24. The Company shall not be bound to supply more than one house by means of the same pipe, but they may, if they think fit, require that a separate pipe be laid into each house supplied by them with water.

Supply to tenements in a row.

25. Where there are several tenements in a row, no tenant or occupier of any one of the tenements, nor any person on his behalf, shall take or use the water laid on by the Company to any other such tenement, unless the tenant or occupier be in respect of the tenement so occupied by him rated under this or the recited Act for a supply of water, and every person so taking or using water, or allowing the same to be used, contrary to the provisions of this or the recited Act, shall for every such offence forfeit and pay to the Company a sum not exceeding five pounds, and the Company may in addition thereto recover the amount of any damages sustained by them.

Stand-pipes for water supply to be provided for courts.

26. The Company or the owners of property may erect stand-pipes in courts, alleys, and other like places, for the use of all the persons occupying the houses therein, with proper fittings and apparatus, and the following provisions and regulations shall apply to such stand-pipes; that is to say: The supply of water so provided shall for the purposes of levying and recovering water rents, and for all other purposes under this Act, be deemed and considered a separate supply for each house the occupiers whereof use the same. Wherever such stand-pipe and apparatus shall be erected in lieu of a system of supply by pipes and taps, or in lieu of any stand-pipe and apparatus used at the time of the passing of this Act, the cost and expense of providing the stand-pipe and apparatus shall be borne by the Company. In all other cases the cost and expense of providing the stand-pipe and apparatus shall be borne by the owner of the houses, the tenants whereof have the right of using the same; and in all cases the expense of maintaining such stand-pipe and apparatus, and keeping the same in repair, shall be borne by the owner of the premises, the tenants whereof have the right to use the same. If such stand-pipe and apparatus shall not be kept in repair the Company may cause all necessary repairs to be made and may recover the cost from such owner. In case of there being

more than one such owner liable to contribute to any of such costs and expenses, their respective proportion shall be settled by the engineer of the Company for the time being. Any moneys payable under this section shall be recoverable in the same manner as water rates or rents may be recovered by the Company.

Water to be laid on under pressure for sixteen hours daily.

27. Subject always to the proviso in the fifty-ninth section of the recited Act contained, the water to be supplied by the Company, except where this cannot be done by reason of accident beyond the control of the Company, shall be laid on under the pressure by the said section prescribed, from six o'clock in the morning to ten o'clock in the evening continuously in every day.

Regulations for preventing waste, &c. of water.

28. For the purpose of preventing the waste, misuser, or undue consumption or contamination of the Company's water, the Company from time to time may, by byelaws to be approved by the Local Government Board, prescribe the size, nature, strength, materials, mode of arrangement, and repair of the pipes, valves, cocks, cisterns, waterclosets, and other apparatus to be used, and may interdict any arrangement and the user of any pipes, valves, cocks, cisterns, waterclosets, and other apparatus which in their judgment may tend to any such waste, misuser, undue consumption, or contamination, and in the event of any dispute as to any of the matters aforesaid, the same shall be settled by two justices in the manner by "The Railways Clauses Consolidation Act, 1845," provided with respect to the recovery of damages not specially provided for, and of penalties, and for the determination of any other matter referred to justices.

Conditions of supply.

29. The Company shall not be bound to supply any water unless the pipes, cocks, cisterns, waterclosets, or other apparatus to be used be made of such size, nature, strength, and materials, and be so arranged and repaired as the Company from time to time prescribe or approve; and in the event of any dispute as to whether such pipes, cocks, cisterns, waterclosets, and other apparatus are of such size, nature, strength, and materials as aforesaid, or have been so arranged and repaired as prescribed and approved by the Company, such dispute shall be settled by two justices in the manner provided by the immediately preceding section.

Company not bound to supply water gratis to charities founded after the passing of this Act.

30. Notwithstanding anything in the recited Act contained, the Company shall not be liable or bound to furnish and supply water free of charge to any charity within the city and liberties of Chester, except the several public charities following; that is to say, the Chester Infirmary, the almshouses in Duke Street, the almshouses in Pepper Street, the almshouses in Little Saint John Street, the almshouses in Crook Street, the almshouses in Saint Martin's-in-

A.D. 1874.

the-Fields, and the almshouses belonging to Saint John's Hospital, and any other public charities of the like nature which shall be founded or established after the passing of this Act.

Repair of pipes, &c. by Company.

31. The Company may, after twenty-four hours notice in writing of any repair or alteration necessary to prevent any waste of water, repair or alter any pipe, valve, cock, cistern, watercloset, or other apparatus of any person supplied by them with water, so as to prevent any waste of water, and the expenses of the repair or alteration shall be repaid to them by the person on whose credit the water is supplied thereto, and may be recovered by them as damages.

Entry on premises to cut off supply in certain cases.

32. In cases in which the Company are authorised to cut off the pipe or to turn off water from any premises, the Company, their agents and workmen (after giving notice to the owner or occupier as herein-after provided), may, if such premises are divided into several holdings, enter into any part of such premises in respect of which the right of the Company to cut off the pipe or turn off the water arises between the hours of nine in the forenoon and four in the afternoon, or with the authority in writing of a justice at any other time, for the purpose of cutting off any pipe by which the water of the Company shall be supplied to such part of the said premises as aforesaid.

Mode of giving notice.

33. The notice to be given previously to such entry shall be in writing, and shall be served in manner following; (that is to say,)

If the premises intended to be entered be occupied, then by leaving the notice thereat or by delivering the same to the occupier thereof twenty-four hours at least previously to such entry;

If such premises be unoccupied, and the owner thereof and his usual place of abode be in England and be known to the Company, then by delivering the notice to such owner or by leaving the same at his usual place of abode twenty-four hours, or by sending the same by post in a registered letter addressed to him at his usual place of abode, and posted forty-eight hours at least previously to such entry;

If such premises be unoccupied and the owner thereof or his usual place of abode be not in England or be not known to the Company after due inquiry, then by affixing the notice on some conspicuous part of such premises three days at least previously to such entry:

And for the purposes of this section any person receiving the rents of any such premises, either on his own account or as agent for any other person, shall be deemed the owner of such premises.

Service pipes.

34. All fittings connected with any service pipe to communicate with the mains and pipes of the Company which shall be provided by any person shall be placed and removed under the superintendence of the Company and at the expense of such person.

Power to remove meters and fittings.

35. The Company, after forty-eight hours notice in writing under the hand of the secretary or some other officer of the Company to the occupier, or if there is no occupier then to the owner or lessee of any building or lands in which any pipe, meter, or fittings belonging to the Company is laid or fixed, and through or in which the supply of water is from any cause other than the default of the Company discontinued for not less than forty-eight consecutive hours, may enter such building or lands between the hours of nine in the morning and four in the afternoon, or at any other time, with the authority in writing of a justice, for the purpose of removing, and may remove every such pipe, meter, and fitting, repairing all damages caused by such entry or removal; and if any person obstructs, or attempts to obstruct, or incites any person to obstruct, any officer or workmen of the Company in the exercise of the power by this section conferred, he shall be liable for every such offence to a penalty not exceeding five pounds; and every notice required by this section shall be served by being delivered to the person for whom it is intended or left at his usual or last known place of abode or business in England, or if such person or his usual place of abode or business in England is not known to the Company after proper inquiry, then by being affixed on some conspicuous part of such building or lands.

Notice to Company of putting up meters, &c.

36. Before any person connects or disconnects any meter through which any of the water of the Company is intended to be or has been registered, he shall give not less than twenty-four hours notice in writing to the Company of his intention to do so, and any person offending against this enactment shall for every such offence be liable to a penalty not exceeding forty shillings.

Repair of meters.

37. Every consumer of water of the Company shall at all times at his own expense keep all meters belonging to him whereby any water of the Company is registered in proper order for correctly registering such water, in default whereof the Company may cease to supply water through such meters, and the Company shall at all reasonable times have access to and be at liberty to take off, remove, test, inspect, and replace any meter belonging to a consumer, such taking off, removal, testing, and inspecting, and replacing to be done at the expense of the Company if the meter be found in proper order, but otherwise at the expense of the consumer.

A.D. 1874.

Register of meter to be primâ facie evidence.

38. The register of the meter when in perfect working order shall be primâ facie evidence of the quantity of water consumed by any customer of the Company in respect of which any water rate or rent is charged and sought to be recovered by the Company.

Fraudulently injuring meters, &c.

39. If any person wilfully, fraudulently, or by culpable negligence injures or suffers to be injured any pipe, meter, or fitting belonging to the Company, or fraudulently alters the index to any meter, or fraudulently prevents any such index from duly registering the quantity of water supplied, he shall (without prejudice to any other right or remedy for the protection of the Company or the punishment of the offender) for every such offence be liable to a penalty not exceeding five pounds; and the Company may in addition thereto recover the amount of any damages sustained by them; and the Company may also discontinue the supply of water to the person so offending until the injury is remedied, and the amount of the damages is paid, notwithstanding any contract previously existing; and the existence of artificial means for causing such alteration or prevention, when such pipe, meter, or fitting is under the custody or control of the consumer, shall be primâ facie evidence that such alteration or prevention has been fraudulently caused by the consumer using such pipe, meter, or fitting.

Penalty for affixing tubes to Company's pipes without their consent.

40. It shall not be lawful for any owner or occupier of any house supplied with water by the Company, without the consent of the Company, to affix, or permit or suffer to be affixed, to any of the mains or other pipes of the Company, or to any service pipe of such owner or occupier, any gutta-percha or other tubes or pipes for the purposes of washing the windows or fronts of houses or other buildings, or the pavements or roads adjacent thereto, or for any other purposes whatsoever; and any person who shall act contrary to this enactment shall for every such offence forfeit to the Company any sum not exceeding five pounds.

Power to Company to supply materials, &c.

41. The Company may, if requested by any person supplied or about to be supplied by them with water, furnish to him and from time to time repair or alter any such pipes, valves, cocks, cisterns, baths, soil-pans, waterclosets, apparatus, and receptacles, as are required or permitted by their regulations, and may provide all materials and do all work necessary or proper in that behalf, and the cost of providing such material and executing such work shall be paid by the person requiring the same, and shall be recoverable from such person in the same manner as the water rates or rents.

Definition of annual value in recited Act.

42. The term "annual value" in the recited Act, relating to the rate at which water is to be supplied by the Company for domestic purposes, shall mean the annual rent which a tenant might be reasonably expected, taking one year with another, to pay for the dwelling-house or part of a dwelling-house supplied with water, if he undertook to pay all tenant's rates and taxes, and if the landlord undertook to bear the cost of the repairs, and insurance, and other expenses (if any) necessary to maintain the premises in a state to command the said rent: Provided always, that where a separate charge is made for a supply of water for watering a garden attached to a dwelling-house supplied with water by the Company, the estimated annual value of such garden shall be deducted in computing the annual value of such dwelling-house.

Recovery of sums due.

43. If any person fails to pay any water rent, meter rent, rate, damages, costs, expenses, or other sum due to or recoverable by the Company under this or the recited Act, then, if the amount thereof is not bonâ fide disputed, the same may be levied by distress (the person in default being first duly summoned), and any justice may and shall issue his warrant accordingly, and the remedies of the Company under this section shall be in addition to their other remedies for recovery of any such rent, rate, damages, costs, expenses, or other sum.

Costs of distress.

44. Any justice who issues any such warrant of distress may order that the cost of the proceedings for the recovery of such rate or sum shall be paid by the person liable to pay such rate or sum, and such costs may be ascertained by the justice, and may be included in the warrant of distress for the recovery of such rate or sum.

Liability to rates, &c. not to disqualify justices, &c.

45. A justice or a judge of any court shall not be disqualified from acting in the execution of this or the recited Act by reason of his being liable to the payment of any water rent, meter rent, rate, or charge under this or the recited Act.

Representation of the Company in cases of bankruptcy, &c.

46. In proceedings under any bankruptcy or deed of composition or arrangement, the secretary of the Company, or any person appointed in this behalf by writing under his hand, may represent the Company, and shall be competent to act for the Company, and his acts and omissions shall bind the Company in all respects as if the claim or demand of the Company in such proceedings were the personal claim or demand of such secretary or person, and not of the Company.

Directors not to be disqualified

47. No person shall be disqualified as a director by being a commissioner or a trustee under any Act of Parliament, or member

A.D. 1874.

by being commissioners under Local Acts.

of any municipal corporation or local board for any public purposes within the limits of the recited Act, or mortgagee of rates, or justice of the peace for any borough or county within such limits, and no shareholder of the Company shall be disqualified as such commissioner, trustee, or member by reason of any contract between the Company and the commissioners, trustees, corporation, or local board: Provided always, that no commissioner, trustee, or member who is a director or shareholder shall act or vote at any meeting of such commissioners, trustees, corporation, or board, or at any committee appointed by such commissioners, trustees, corporation, or board, on any question or with reference to any matter in which such director or shareholder has direct or indirect interest as a shareholder.

Power to purchase and hold premises for offices or business of Company.

48. The Company may, out of any moneys in their hands, or to be received by them under the authority of this Act, defray the expenses incurred or to be incurred in the purchasing and fitting up of the premises now held and partially occupied by them as offices for the carrying on of their business, and all payments heretofore made by them for such purposes are hereby confirmed; and the Company may from time to time demise or lease for such terms and on such conditions as they see fit, such parts of the same premises as may not be required by them for their own purposes, and they may also from time to time contract and agree with any person for the purchase or erection of any messuages, buildings, lands, tenements, or hereditaments which they may require for the purpose of using the same for the general purposes of the Company.

Repeal of certain sections of recited Act.

49. Sections 60 to 69, both inclusive, of the recited Act are hereby repealed.

Expenses of Act.

50. All costs, charges, and expenses of and incident to the applying for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Company.

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