CHAPTER cliii.

An Act for conferring further powers on the North Cheshire Water Company for the raising of Money and otherwise in relation to their Undertaking. [2d August 1877.]

A.D. 1877.

WHEREAS by the "North Cheshire Water Act, 1864," (in this Act called "the Act of 1864,") the North Cheshire Water Company (in this Act called "the Company") were incorporated for the purpose of supplying water within the limits of that Act, and for doing all acts necessary for that purpose, and for other the purposes by that Act authorised, and the capital of the Company was declared to be thirty-six thousand pounds, and, subject to the provisions in that Act contained as to the creation of half shares of five pounds each, to consist of three thousand six hundred shares of ten pounds each, and the Company were empowered to borrow not exceeding in the whole nine thousand pounds:

27 & 28 Vict. c. cvii.

And whereas the Company have raised and expended the whole of the said share capital of thirty-six thousand pounds, and have also borrowed and expended for the purposes of the Act of 1864, and now owe, the said sum of nine thousand pounds by that Act authorised to be borrowed:

And whereas since the passing of the Act of 1864 the population within the limits of that Act has greatly increased and is still increasing, and in order to meet the increasing demands for water it is necessary that the Company should lay down additional mains and pipes, and it is expedient that they be authorised to raise further moneys for the purpose, and for the better and more effectually carrying out the objects and purposes of their undertaking:

And whereas some of the provisions of the Act of 1864 have been found inconvenient in operation, and it is expedient that the Act be in divers respects amended, and that other provisions be made with respect to the Company:

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

A.D. 1877.

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 for all purposes as The North Cheshire Water Act, 1877.

Certain provisions of general Acts hereinnamed incorporated.

2. The following Act and parts of Acts are (except where expressly varied by this Act) incorporated with and form part of this Act; (that is to say,)

The clauses and provisions of the Companies Clauses Consolidation Act, 1845, with respect to the following matters; (namely,)

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions and the means of enforcing the payment of calls;

The forfeiture of shares for nonpayment of calls;

The remedies of creditors of the Company against the shareholders;

The borrowing of money by the Company on mortgage or bond;

The conversion of borrowed money into capital;

The consolidation of shares into stock;

The making of dividends;

The giving of notices;

The provision to be made for affording access to the special Act by all parties interested;

And Part I. (relating to cancellation and surrender of shares), and Part II. (relating to additional capital), and Part III. (relating to debenture stock) of the Companies Clauses Act, 1863;

And the Companies Clauses Act, 1869.

Interpretation of terms.

3. 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, unless there be something in the subject or context repugnant to such construction; 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 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 to raise additional capital.

4. The Company may, subject to the provisions of Part II. of the Companies Clauses Act, 1863, from time to time raise any additional capital, not exceeding in the whole thirty-six thousand pounds, by the issue at their option of new ordinary shares or new preference shares, or wholly or partially by either of those modes.

Shares not to issue until one-fifth part paid up.

5. The Company shall not issue any share created under the authority of this Act 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.

Calls.

6. One fifth of the amount of a share shall be the greatest amount of a call, and two months at the least shall be the interval between successive calls, and three fourths of the amount of a share shall be the utmost aggregate amount of the calls made in any year upon any share.

Receipt in case of persons not sui juris.

7. If any money is payable to a shareholder being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Except as otherwise provided, new shares to be subject to same incidents as ordinary shares.

8. Except as is by this Act otherwise provided, the capital in new shares created by the Company under this Act, and the new shares therein, and the holders thereof respectively, shall be subject and entitled to the same powers, provisions, liabilities, rights, privileges, and incidents whatsoever 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 were shares in that capital. The capital in new shares so created shall form part of the capital of the Company.

Restriction as to votes in respect of preferential shares.

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

Profits of the Company limited.

10. The Company shall not in any one year make out of their profits any larger dividend on the additional share capital to be raised under the powers of this Act than seven pounds in respect of every one hundred pounds actually paid up of such additional capital as shall be issued as ordinary capital, or six pounds in respect of every one hundred pounds actually paid up of such capital as may be issued as preference capital.

Dividend on different classes of stock or shares to be paid rateably.

11. In case in any half year the net revenues of the Company applicable to dividend shall be insufficient to pay the full amount of the prescribed maximum rate of dividend on each class of ordinary stock or shares in the capital of the Company, a rateable deduction shall be made in the dividend of each class.

Power to borrow on mortgage.

12. The Company may, in respect of the additional capital of thirty-six thousand pounds which they are by this Act authorised to raise, from time to time borrow on mortgage any sum not exceeding in the whole nine thousand pounds, but no part thereof shall be borrowed until shares for the whole of the said additional

A.D. 1877.

capital are issued and accepted, and one half of such capital is paid up, and the Company 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 the whole of such capital have 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 that such shares were issued and accepted bonâ fide, and are held by the persons or corporations to whom the same were issued, or their executors, administrators, successors, or assigns, and that such persons or corporations, 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.

As to conversion of borrowed money into capital.

13. 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.

Priority of principal moneys secured by existing mortgages.

14. 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 hereof, shall, during the continuance of such mortgages, have priority over any mortgages granted by virtue of this Act, but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

Repeal of provisions of former Acts with respect to appointment of a receiver.

15. Every provision in any Act relating to the Company passed before the present session of Parliament by which the mortgagees of the Company are empowered to enforce payment of principal and interest, or principal or interest, due on their mortgages by the appointment of a receiver, is by this Act repealed, but without prejudice to any appointment heretofore made or to the continuance of any proceedings which may have been commenced under any such provision prior to the passing of this Act.

Arrears may be enforced by appointment of a receiver.

16. 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 thousand eight hundred pounds in the whole.

Power to create debenture stock.

17. The Company may create and issue debenture stock, subject to the provisions of Part III. of the Companies Clauses Act, 1863; but, notwithstanding anything therein contained, the interest of all debenture stock at any time 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 mortgages over other debts.

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.

Application of moneys.

19. All moneys raised under this Act, whether by shares, debenture stock, or borrowing, shall be applied for the purposes of the Company's undertaking only.

Amendment of sect. 36 of the Act of 1864.

20. From and after the passing of this Act, section 36 (defining financial year) of the Act of 1864 shall be read and have effect as if the twenty-fourth day of June had been, inserted therein instead of the thirty-first day of July.

Repeal of sect. 42 of Act of 1864, and provisions in lieu thereof.

21. From and after the passing of this Act, section 42 (general meetings) of the Act of 1864 is hereby repealed, and in lieu thereof be it enacted, that the balance sheet to be produced at each of the ordinary general meetings of the Company held after the passing of this Act, or any adjournment thereof, shall embrace and extend to the transactions of the Company during the half year immediately preceding the twenty-fourth day of June and the

A.D. 1877.

twenty-fifth day of December respectively next before the meeting at which the same is produced.

Rates to be paid in advance half yearly.

22. From and after the passing of this Act the rates for a supply of water by the Company shall be paid in advance by equal half-yearly payments on the first day of January and the first day of July in every year.

23. With respect to the Post Office telegraph system the following provisions shall take effect:

Restrictions on works affecting Post Office telegraph system.

(A.) The Company shall not by any work or thing interfere with any telegraph post, wire, tube, apparatus, or work of Her Majesty's Postmaster General, or execute or do any work or thing causing or likely to cause any interruption of or impediment to postal telegraphic communication, unless and until the Company have given to the Postmaster General one calendar month's previous notice in writing of their intention to execute or do the proposed work or thing, specifying all necessary and proper particulars relating thereto, and unless and until the Postmaster General has approved of the proposed work or thing by writing delivered to the Company, or has failed to approve or to disapprove of the same for one calender month after service of such notice and particulars on him: Provided always, that this section shall not be deemed to prevent the Company executing any repairs or other works or things which shall be necessary to prevent accidents, and in any such case the Company shall forthwith give notice to the Postmaster General of any such interference and the reason for the same:

Power for Postmaster General to annex conditions.

(B.) Her Majesty's Postmaster General may annex to his approval under this Act of any work or thing such reasonable terms and conditions as to the time and mode of execution of any such work or thing as he thinks fit, and the Company shall observe and perform the same:

Power of entry for Postmaster General.

(C.) The engineer and other officers and servants and workmen of Her Majesty's Postmaster General may at and for all reasonable times enter on and into and remain on any of the lands and works of the Company for the purpose of examining, repairing, altering, or removing any telegraph post, wire, tube, apparatus, or work the property of the Postmaster General being thereon:

Compensation by Company to Postmaster

(D.) The Company shall from time to time make full compensation to Her Majesty's Postmaster General for any expense, loss, or damage which he is put to or sustains by reason

of the Company, by any work or thing executed or done by them, interfering with any telegraph post, wire, tube, apparatus, or work of the Postmaster General; and if at any time any such work or thing causes an interruption of or impediment to postal telegraphic communication, the Company shall, in addition to making compensation as aforesaid, be liable to forfeit a sum not exceeding twenty pounds for every twenty-four hours during which that interruption or impediment continues; and the amount of any such expense, loss, damage, or forfeiture shall be a debt due from the Company to the Crown, and be recoverable accordingly with costs, or the same may be recovered with costs on behalf of the Postmaster General as a penalty is recoverable from the Company:

General and penalty.

(E.) Inasmuch as it is contemplated to introduce a general measure for the better protection of the national telegraphs, and to enlarge the powers of the Postmaster General in relation thereto, this section shall only remain in force for one year from the date of the passing of this Act, and to the end of the then next session of Parliament.

Provisions to remain in force for one year and to the end of the then next session of Parliament.

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

Expenses of Act.

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