



CHAPTER xliii.

An Act to confer further powers upon the North Cheshire Water Company and for other purposes. A.D. 1917.

[2nd August 1917.]

WHEREAS the North Cheshire Water Company were incorporated by the North Cheshire Water Act 1864 and in pursuance of powers conferred upon them by that Act and by the North Cheshire Water Act 1877 are supplying water within the limits of the Act of 1864 as amended by subsequent Acts:

27 & 28 Vict.
c. cvii.

40 & 41 Vict.
c. cliii.

And whereas it is expedient to enlarge the borrowing powers of the Company and to make further provision with reference to their undertaking as in this Act contained:

And whereas the purposes of this Act 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 King'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:—

PRELIMINARY.

1.—(1) This Act may be cited as the North Cheshire Water Act 1917. Short and collective titles.

(2) The North Cheshire Water Act 1864 and the North Cheshire Water Act 1877 and this Act may be cited together as the North Cheshire Water Acts 1864 to 1917.

2. The following Acts and parts of Acts so far as the same are applicable for the purposes of this Act and not inconsistent with the provisions of the recited Acts and of this Act Incorporation of Acts.

A.D. 1917. are subject to the provisions of this Act hereby incorporated with this Act (namely):—

- (1) The Companies Clauses Consolidation Act 1845 except the provisions thereof with respect to the conversion of borrowed money into capital;
- (2) The Companies Clauses Act 1863 as amended by subsequent Acts except Part IV. (relating to change of name); and
- (3) The Waterworks Clauses Acts 1847 and 1863 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 section 44 of the Waterworks Clauses Act 1847.

Interpreta-
tion.

3.—(1) 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.

(2) In this Act unless the subject or context otherwise requires—

“The Company” means the North Cheshire Water Company;

“The limits of supply” means the limits within which the Company are authorised by the Act of 1864 as amended by subsequent Acts to supply water;

“The Act of 1864” and “the Act of 1877” mean respectively the North Cheshire Water Act 1864 and the North Cheshire Water Act 1877; and

“The recited Acts” means the Act of 1864 and the Act of 1877.

SUPPLY OF WATER.

Notice to
Company of
connecting
or discon-
necting
meters.

4. Before any person connects or disconnects any meter by means of 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 all alterations or repairs and the connecting and disconnecting of meters shall be done at his cost and under due superintendence of any officer of or person authorised by the

Company and any person offending against this enactment shall for every such offence be liable to a penalty not exceeding forty shillings. A.D. 1917.

5.—(1) Every person who wilfully fraudulently or by culpable negligence injures or suffers to be injured any pipe meter or other instrument for measuring water or any fittings belonging to the Company or who fraudulently alters the index to any meter or other instrument for measuring water or prevents any meter or other instrument for measuring water from duly registering the quantity of water supplied or fraudulently abstracts consumes or uses water of the Company shall (without prejudice to any other right or remedy for the protection of the Company) be liable to a penalty not exceeding five pounds and the Company may in addition thereto recover the amount of any damage sustained by them. Injuring
meters &c.

(2) In any case in which any person has wilfully fraudulently or by culpable negligence injured or suffered to be injured any pipe meter instrument or fittings belonging to the Company or has fraudulently altered the index to any meter or other instrument for measuring water or prevented the same from duly registering the quantity of water supplied or has fraudulently abstracted consumed or used water of the Company the Company may also enter upon the premises occupied by the offender and repair such injury and do all such works matters and things as may be necessary for insuring the proper registering by such meter of the quantity of water supplied by means thereof and the expense of such repair and of all such works matters and things shall be repaid to the Company by the person so offending and may be recovered by them as water rates are recoverable.

(3) The existence of artificial means for causing such injury alteration or prevention or for abstracting consuming or using water of the Company when such pipe meter instrument or fittings is or are under the custody or control of the consumer shall be *primâ facie* evidence that such injury alteration prevention abstraction consumption or use as the case may be has been fraudulently knowingly and wilfully caused by the consumer using such pipe meter instrument or fittings.

6. The Company by their agents or workmen after forty-eight hours' notice in writing to the occupier or if there be no occupier then to the owner or lessee of any house building or land in which any pipe meter or fitting belonging to the Power to
remove
meters and
fittings.

.D. 1917. 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 the space of forty-eight hours may enter such house building or land between the hours of nine in the morning and six 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 damage caused by such entry or removal.

FINANCIAL AND ADMINISTRATIVE PROVISIONS.

Power to borrow.

7. The Company may at any time borrow on mortgage of their undertaking in respect of the capital issued under the recited Acts any sum or sums not exceeding in the whole (inclusive of the sums already borrowed by them under the provisions of those Acts) the sum of twenty-four thousand pounds and all powers conferred upon the Company by the recited Acts of borrowing money on mortgage of their undertaking so far as the same have not been exercised prior to the passing of this Act are hereby repealed.

Borrowed money not to be converted into capital.

8. The provisions of the Companies Clauses Consolidation Act 1845 with respect to the conversion of the borrowed money into capital shall cease to apply to the Company.

Appointment of receiver.

9.—(1) Section 16 (Arrears may be enforced by appointment of a receiver) of the Act of 1877 is hereby repealed but without prejudice to any appointment heretofore made or to any proceedings pending at the passing of this Act.

(2) The mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver and 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 two thousand pounds in the whole.

Power to create debenture stock.

10. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 and of section 17 of the Act of 1877.

Priority of mortgages and debenture stock over other debts.

11. All money raised by the Company on mortgage or debenture stock under the provisions of this Act shall have priority against the Company and all 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 rentcharge granted or to be granted by them in pursuance of the Lands Clauses Acts or in respect of any rent or sum reserved by or payable under any lease granted or made 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 their undertaking and works or injuriously affected by the construction thereof or by the exercise of any powers conferred on the Company.

12.—(1) If any money is payable to any shareholder stockholder mortgagee or debenture stockholder being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company. Receipt in case of persons not sui juris.

(2) Section 37 (Receipts on behalf of incapacitated persons) of the Act of 1864 is hereby repealed.

13. The Company shall not under the powers of this Act raise or borrow any money during the present war and within twelve months thereafter unless the consent of the Treasury has been previously obtained. Consent of Treasury to raising of money.

14. All moneys raised under this Act shall be applied only to purposes to which capital is properly applicable. Application of money.

15.—(1) Notwithstanding anything in section 66 of the Companies Clauses Consolidation Act 1845 unless the Company shall by a resolution of a general meeting otherwise determine the ordinary meetings of the Company shall be held once only in each year in the month of February or in such other month as may be prescribed by such resolution. Meetings of Company.

(2) The Company in general meeting may from time to time alter or rescind any resolution referred to in this section.

(3) Section 21 (Repeal of section 42 of Act of 1864 and provisions in lieu thereof) of the Act of 1877 is hereby repealed.

16. Unless the Company shall determine that the ordinary meetings of the Company shall be held more often than once in each year it shall be lawful for the directors to declare and pay in any year an interim half-yearly dividend out of the Interim dividends.

A.D. 1917. profits of the Company without the sanction or direction of a general meeting but no such half-yearly dividend on any class of shares or stock shall exceed one half of the amount of the prescribed rate applicable to that class.

Closing of transfer books previous to declaring dividend.

17.—(1) The directors may close the register of transfers for a period not exceeding fourteen days previous to the declaration of any dividend and they may close the register of transfers of debenture stock for a period not exceeding fourteen days previous to each date at which the interest thereon shall be payable and in the case of either such register they may fix a day for closing the same of which seven days' notice shall be given either by circular to each proprietor or by advertisement in a newspaper published or circulated in the limits of supply.

(2) Any transfer of stock or debenture stock made during the time when the register of transfers or the register of transfers of debenture stock as the case may be is so closed shall as between the Company and the person claiming under the same but not otherwise be considered as made subsequently to the declaration of any such dividend or the payment of any such interest as the case may be.

Number of directors.

18. The number of directors shall not exceed six nor be less than four.

Notice of candidature for office of director.

19. Except in the case of a director retiring by rotation and offering himself or being proposed for re-election no person shall be capable of being elected at a general meeting a director of the Company unless notice in writing that such person intends to offer himself or will be proposed for the office of director shall have been given to the secretary or left at the office of the Company ten days at least before the day of election.

Continuing directors.

20. The continuing directors may act notwithstanding any vacancy in their body but so that if at any time the number of directors of the Company holding office shall be less than three the directors shall not except for the purpose of filling vacancies and allotting shares to any proposed director or directors act so long as the number is below such minimum.

As to qualification of directors.

21.—(1) No person shall be disqualified for becoming or continuing a director of the Company by reason of his holding any office or place of trust or profit under the Company or by

reason of his or any partner of his being or becoming interested in any contract with the Company either in his own behalf or as a member of any other company corporation local authority or partnership but no such person shall as a director vote in respect of any question as to any such contract or the remuneration attached to any such office or place of trust or profit. A.D. 1917.

(2) If any director shall be made bankrupt or shall go to reside abroad or shall become lunatic or of unsound mind or shall neglect to attend a meeting of directors for six months (unless such neglect to attend be occasioned by illness or other reasonable cause allowed by the directors) then in any of the cases aforesaid the office of such director shall become vacant.

22.—(1) The directors of the Company may appoint one or more of their body to be managing director or managing directors of the Company either for a fixed term or without any limitation as to time and may remove or dismiss him or them from office and appoint another or others in his or their place or places. Managing
director.

(2) A managing director shall not while holding that office be subject to retirement by rotation and shall not be taken into account in determining the rotation of retirement of directors but if he ceases to hold the office of director from any other cause he shall ipso facto immediately cease to be managing director.

(3) The remuneration of a managing director shall from time to time be fixed by the directors and may be by way of salary or commission or participation in profits or by any or all of those modes.

(4) The directors may entrust to and confer upon any managing director such of the powers exercisable by the directors and subject to such conditions as they may think fit and may from time to time revoke withdraw alter or vary all or some of such powers Provided that the directors shall be responsible for the acts of any managing director acting under the powers of this section.

23. The prescribed number of auditors shall be one or the members of one firm unless the number be increased to two by an order of a general meeting and such auditor or one of such auditors shall be a member or members of the Institute of Chartered Accountants for England and Wales or of the Society Number and
qualification
of auditors.

A.D. 1917. of Incorporated Accountants and Auditors or an accountant or accountants approved by the Board of Trade and need not hold shares in the Company.

Determination of remuneration of secretary and auditors.

24. In addition to the powers which the directors may exercise under the Companies Clauses Acts 1845 to 1889 they may determine the remuneration of the secretary and auditors.

Appointment of proxies.

25. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 the attorney of any shareholder of the Company duly authorised in writing may appoint a proxy to vote for and on behalf of the shareholder and for that purpose may execute on behalf of the shareholder the necessary form of proxy Provided that the instrument appointing the attorney shall be transmitted to the secretary at the same time as the instrument appointing the proxy.

Joint holders.

26. Notwithstanding anything contained in the Companies Clauses Consolidation Act 1845 where several persons are jointly entitled to and registered as holders of any shares in the capital of the Company any one of those persons may vote at any meeting (at which holders of shares of the same class are entitled to vote) either personally or by proxy in respect of the shares as if he were solely entitled thereto but if more than one of the joint holders be present at any meeting personally or by proxy that one of the said persons so present whose name stands first on the register in respect of the shares shall alone be entitled to vote in respect thereof.

MISCELLANEOUS.

For protection of Cheshire County Council.

27. For the protection of the county council of the county palatine of Chester (in this section called "the county council") the following provisions shall unless otherwise agreed in writing between the county council and the Company apply and have effect (that is to say):—

(1) Except in cases of laying down connecting or repairing consumers' service pipes and except in cases of leakage bursting or other emergency the notice required under section 30 of the Waterworks Clauses Act 1847 to be given by the Company to the county council shall be not less than seven days instead of three days:

(2) The plan required by section 31 of the Waterworks Clauses Act 1847 shall be accompanied by a description of the proposed works and shall be delivered (except

in cases of emergency) to the county council by the Company not less than in the case of a bridge twenty-one days and in all other cases ten days before the Company commence to open or break up any main road or interfere with any county or hundred bridge or approach or any drain pipe or work of the county council: A.D. 1917.

- (3) All mains pipes culverts or other works to be laid constructed altered improved extended or enlarged by the Company in along across or in any way affecting any main road or county or hundred bridge or approach thereto under the control or management of or vested in or maintainable by the county council shall be laid down constructed altered improved extended or enlarged under the superintendence (if the same be given) and to the reasonable satisfaction of the surveyor to the county council and in such position in or at the side thereof and at such depth as he shall by writing under his hand reasonably direct and in accordance with plans and sections to be reasonably approved of by him in writing before the commencement of any such work and the Company shall in executing any such work conform to all the reasonable requirements of the said surveyor Provided that if the said surveyor shall not within twenty-eight days after the same shall have been submitted so express his approval or disapproval thereof or signify his requirements in relation thereto he shall be deemed to have approved thereof and the Company may forthwith proceed to execute the works specified without his superintendence and further that if he shall express his disapproval thereof such works shall in case of difference be laid or constructed in accordance with plans and sections to be approved by an arbitrator appointed in manner hereinafter provided:
- (4) Any works executed by the Company shall be so executed as not to stop and so far as reasonably practicable as not in any way to impede or interfere with the traffic over or along any such main road county or hundred bridge or approach and the Company shall not without the consent of the county council

A.D. 1917.

under the hand of their surveyor open or break up at any one time a greater consecutive length of such road bridge or approach than one hundred and fifty yards and a clear space of not less than fifty yards shall intervene between each part of any such road bridge or approach as may be broken up:

- (5) On completion of any work and on reinstatement to the reasonable satisfaction of the said surveyor of any such road or bridge (so far as affects the roadway over it) or approach the Company shall (notwithstanding anything contained in the Waterworks Clauses Act 1847) in lieu of keeping such road or bridge (so far as affects the roadway over it or approaches) in repair as provided by section 32 of that Act repay to the county council all reasonable expenses of and incident to the maintenance and repair thereof for the period prescribed by the said section but if any difference arise with regard thereto the same shall be settled in manner hereinafter provided:
- (6) Nothing in this Act contained shall interfere with the right of the county council to alter the level of deviate or improve in any manner they think fit any main road in or along which any mains pipes or works of the Company shall have been laid and the Company shall with all reasonable despatch on receiving one month's notice in writing under the hand of the clerk or surveyor to the county council so to do alter the position of any such mains pipes or works in the manner and to the extent prescribed by such notice or as in case of difference shall be determined in the manner hereinafter prescribed and all expense incurred by the Company in making such alteration shall be repaid to them by the county council Provided that during any such alteration deviation or improvement the county council shall not interrupt the continuous supply of water:
- (7) It shall be lawful for the county council at any time or times on giving to the Company one month's previous notice in writing to remove alter or renew any county or hundred bridge or the approaches thereto in or over which any pipes or works of

the Company are carried without making any compensation to the Company for any expense or loss to which the Company may be put in consequence of such removal alteration or renewal and the Company shall at their own expense on receiving one month's notice in writing from the county council alter the position of such pipes or works as aforesaid and place the same to the reasonable satisfaction of the said surveyor Provided that during any such removal alteration or renewal the county council shall not interrupt the continuous supply of water:

(8) If the Company in the execution of any works in or affecting any such road bridge or approach as aforesaid shall cause any damage injury or disturbance to such road bridge or approach and shall neglect or refuse to make good all such damage injury or disturbance in accordance with the provisions of the Waterworks Clauses Act 1847 or shall fail to execute alter or remove any works which they may by the said Act of 1847 or by this Act be required to execute alter or remove then it shall be lawful for the county council after reasonable notice to the Company of the alleged neglect failure or refusal and of the works which they propose to execute to do all works necessary for making good all such damage injury or disturbance or such works of alteration or removal and the Company shall repay to the county council all reasonable costs charges and expenses which the county council shall incur in carrying out such works:

(9) If any difference shall arise between the county council and the Company under this section such difference shall be referred to an arbitrator to be appointed failing agreement by the President of the Institution of Civil Engineers and the provisions of the Arbitration Act 1889 shall apply to any such arbitration and any difference between the county council and the Company which under the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes would be determined by two justices shall instead thereof be determined by arbitration under this subsection.

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Authenti-
cation and
service of
notices by
Company.

28.—(1) Any notice to be served by the Company shall be sufficiently authenticated by the signature of the secretary or other officer of the Company for the time being authorised in writing by the directors being affixed thereto in writing or in print or by a stamp.

(2) Any such notice may be served on any person either personally or by sending the same through the post by a pre-paid letter addressed to him by name at his last known or usual place of abode or business or by delivering the same to some inmate at his last known or usual place of abode or business or (in the case of a person supplied with water) to any inmate of the premises supplied or if such premises be unoccupied and the place of abode of the person to be served is after proper inquiry unknown it shall in the case of any notice not being a notice to pay any charge be sufficient to affix such notice or a copy thereof upon some conspicuous part of such premises.

Contents of
summons &c.

29. Where the payment of more than one sum by any person is due under this Act or any other Act relating to the Company any summons or warrant issued for the purposes of such Acts or any of them in respect of that person may contain in the body thereof all the sums payable by him.

Recovery of
demands.

30. Proceedings for the recovery of any demand made under the authority of this Act or of the recited Acts or any incorporated enactment whether provision is or is not made for the recovery in any specified court or manner may be taken in any county court having otherwise jurisdiction in the matter provided that the demand does not exceed the amount recoverable in that court in a personal action.

Costs of Act.

31. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company and shall be charged against revenue.

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