



## CHAPTER xxix.

An Act for supplying with Water the parishes of Lymm and Oughtrington, both in the county of Chester. A.D. 1874.

[30th June 1874.]

**W**HEREAS the present supply of water to the parishes of Lymm and Oughtrington, both in the county of Chester, is insufficient for the wants of the inhabitants thereof, and it is expedient to increase and improve such supply, and for such purposes to make and maintain the works herein-after mentioned :

And whereas the persons herein-after named, and others, are willing at their own expense to provide such increased and improved supply, and to make and maintain the necessary works for the purposes aforesaid, on being incorporated into a company (in this Act called "the Company") for that purpose :

And whereas by the North Cheshire Water Act, 1864, the North Cheshire Water Company are incorporated and empowered to supply water to (amongst other parishes) the said parish of Lymm, and that company are willing and it is expedient that their power to do so be determined as by this Act provided :

And whereas plans and sections of the wells, water tower, aqueducts, main pipes, and other works proposed to be made for the purpose of affording a better supply of water as aforesaid, showing the line and levels thereof, and the lands which may be taken for the purposes thereof, together with books of reference to such plans containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the said lands, were duly deposited with the clerk of the peace for the county of Chester, and those plans, sections, and books of reference are in this Act referred to as the deposited plans, sections, and books of reference :

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 Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal,

A.D. 1874. 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 Lymm Water Act, 1874."

Provisions of certain general Acts incorporated. **2.** The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, "The Companies Clauses Consolidation Act, 1845," Parts I. and III. of "The Companies Clauses Act, 1863," "The Companies Clauses Act, 1869," "The Waterworks Clauses Acts, 1847 and 1863," and the provisions of "The Railways Clauses Consolidation Act, 1845," with respect to the crossing of roads and other interference therewith, and with respect to the temporary occupation of lands, are (except where expressly varied by this Act) incorporated with and form part of this Act, and the provisions of "The Railways Clauses Consolidation Act, 1845," shall be read so as to apply only to the construction of the water tower and other works by this Act authorised and the works immediately connected therewith, and as if such water tower and works were therein referred to instead of the railway, and the boundaries of the said water tower and works were therein mentioned instead of the centre of the railway, and the prescribed limits shall be two hundred yards from the margin of the intended water tower and works.

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; the expression "the Company" means the Company incorporated by this Act; the expression "the undertaking" means the undertaking by this Act authorised; 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.

Limits of Act, and repeal of sect. 5 of 27 & 28 Vict. c. cvii. **4.** The limits of this Act shall be the parishes of Lymm and Oughtrington, both in the county of Chester; and from and after the passing of this Act so much of section 5 of the North Cheshire Water Act, 1864, as includes the parishes of Lymm and Oughtrington, therein called the parish of Lymm, within the limits of supply of that Act, and shall be and the same is hereby repealed.

Company incorporated. **5.** George Charnley Dewhurst, George Bakewell Dewhurst, and John Dalby Dewhurst, and all other persons and corporations who

have already subscribed to or shall hereafter become proprietors in the undertaking, and their executors, administrators, successors, and assigns respectively, shall be and are hereby united into a company for the purpose of supplying with water the inhabitants, buildings, lands, and premises within the limits of this Act, and for making and maintaining waterworks for that purpose, together with all proper works and conveniences connected therewith, and for other the purposes of this Act, and for those purposes shall be and are hereby incorporated by the name of "The Lymm Water Company," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

6. Subject to the provisions of this Act the Company may make and maintain in the line and according to the levels shown on the deposited plans and sections the several works by this Act authorised and herein-after described, and may enter upon, take, and use such of the lands, springs, and waters delineated on the said plans and described in the deposited books of reference as may be required for that purpose. The works herein-before referred to and authorised by this Act are :

Power to make works according to deposited plans.

1. A well or shaft in a certain field or piece of land in the parish of Lymm aforesaid, called or known as the Valley or Dingle, and belonging or reputed to belong to George Charnley Dewhurst ;
2. A pumping station, turbine, and other suitable works and conveniences adjacent to the aforesaid well or shaft, and in connexion therewith, and with all necessary pumps, shafts, and wells ;
3. A conduit or main pipe commencing at the before-mentioned pumping station, and passing through, across, and along land belonging or reputed to belong to the said George Charnley Dewhurst, and roads in the district and parish of Lymm and county aforesaid, and terminating at the water tower next herein-after described ;
4. A water tower sixty feet or thereabouts in height, with a tank for storing water, and all proper works and conveniences connected therewith, situated on a piece of land belonging or reputed to belong to and in the occupation of the said George Charnley Dewhurst, in the parish of Lymm and county aforesaid, on the south side of the turnpike road from Warrington to Altrincham, sometimes called by the name of the Higher Lane ;

A.D. 1874. — all which works, and the lands to be taken for the purposes thereof, are situate in the township and parish of Lymm and county of Chester aforesaid.

For protection of London and North-western Railway Company.

7. Any works to be constructed, laid down, or executed by the Company in exercise of the powers conferred by this Act crossing or in any way affecting any railway now or hereafter belonging to or worked by the London and North-western Railway Company, or any of the bridges, stations, or works thereof; or any lands or property now or hereafter belonging to that company, or in which that company now is or hereafter may be interested, shall be done under the superintendence and to the reasonable satisfaction of their principal engineer, and according to plans to be reasonably approved by him in writing before any such works are begun, but in all things at the expense of the Company, and so as not to cause any injury to any such railway, bridges, stations, works, lands, or property, or interruption to the passage or conduct of the traffic over any such railway, or at any station thereof, and if owing to or by reason of any of the matters aforesaid any injury shall arise to any such railway, bridges, stations, lands, or property, or interruption to such traffic, the Company shall make full compensation to that company in respect of such injury or interference.

Execution of works affecting railways and canals.

8. Where the Company shall in the construction or execution of any works interfere with any railway (other than the London and North-western Railway) or canal, or any of the bridges, works, or conveniences thereof, they shall execute and complete the work to the reasonable satisfaction of the respective railway or canal company, or other persons being the owners or having the management and maintenance of the railway or canal, and so as to interrupt as little as may be the traffic on or at the railway or canal.

As to supply of existing well.

9. If the works of the Company shall diminish the present supply in the well in the township of Lymm, shown on the deposited plans, the Company shall, as soon as they are in a condition to supply water under this Act, be and they are hereby required to carry a pipe to the well so affected, and, unless prevented by accident or other unavoidable circumstance, to deliver into such well a constant supply of water, so that the supply in such well may not be less in quantity than the present supply obtained therefrom, and at the same level as the present supply, or as near thereto as circumstances admit.

Capital.

10. The capital of the Company shall be twelve thousand pounds in two hundred and forty shares of fifty pounds each.

Shares not to be issued until one fifth paid up.

11. The Company shall not issue any share created under the authority of this Act, nor shall any such 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. A.D. 1874.

**12.** One fifth of the amount of a share shall be the greatest amount of a call, and three months at 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. Calls.

**13.** 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. Receipt clause in case of persons not sui juris.

**14.** The Company may from time to time borrow on mortgage any sum not exceeding in the whole three thousand pounds, but no part thereof shall be borrowed until the whole capital of twelve thousand pounds is issued and accepted, and one half thereof is paid up, and the Company have proved to the justice who is to certify under the 40th section of the Companies Clauses Consolidation Act, 1845, before he so certifies, that the whole of such capital has been issued and accepted, and that one half thereof 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 capital was issued bonâ fide and is held by the persons or corporations to whom the same was 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 shall be sufficient evidence thereof. Power to borrow on mortgage.

**15.** 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 three hundred pounds in the whole. Arrears may be enforced by appointment of a receiver.

**16.** 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 Power to create debenture stock.

A.D. 1874. — granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Priority of mortgages over other debts.

**17.** 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 rentcharge 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 of the powers conferred on the Company.

Application of moneys.

**18.** All moneys raised under this Act, whether by shares, debenture stock, or borrowing, shall be applied for the purposes of this Act only.

First ordinary meeting.

**19.** The first ordinary meeting of the Company shall be held within six months after the passing of this Act.

Manner of voting at meetings.

**20.** At all the meetings of the Company every holder of five shares and under shall be entitled to one vote, and every shareholder shall be entitled to an additional vote for every five shares held by him beyond the first five.

The number of shareholders to convene extraordinary meeting.

**21.** The number of shareholders on whose requisition an extraordinary meeting of the Company may be required to be convened shall not be less than twenty shareholders, holding in the aggregate not less than two thousand pounds in the capital of the Company.

Newspaper for advertisements.

**22.** The newspaper for advertisements shall be any newspaper published or circulating in the county of Chester.

Number of directors.

**23.** The number of directors shall be five, but the Company may from time to time reduce the number, provided that the number be not less than three.

Qualification of directors.

**24.** The qualification of a director shall be the possession in his own right of not less than twenty shares.

- 25.** The quorum of a meeting of directors shall be three. Quorum.
- 26.** George Charnley Dewhurst, George Bakewell Dewhurst, John Dalby Dewhurst, and two persons to be nominated by them or the majority of them and consenting to such nomination, shall be the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act; at that meeting the shareholders present in person or by proxy may either continue in office the directors appointed by this Act or nominated as aforesaid, or any of them, or may elect a new body of directors, or directors to supply the place of those not continued in office, the directors appointed by this Act or nominated as aforesaid being, if qualified, eligible for re-election, and at the first ordinary meeting to be held in every year after the first ordinary meeting the shareholders present in person or by proxy shall (subject to the power herein-before contained for reducing the number of directors) elect persons to supply the places of the directors then retiring from office, agreeably to the provisions in the Companies Clauses Consolidation Act, 1845, and the several persons elected at any such meeting, being neither removed nor disqualified nor having died or resigned, shall continue to be directors until others are elected in their stead in manner provided by the same Act. First directors.  
Election of directors.
- 27.** Whenever and so far as the line of any works shown upon the deposited plans passes along any road, and no limits of lateral deviation are marked thereon, the Company may in the construction of such works deviate laterally from the line thereof as laid down on such plans to the extent of the boundaries of such road, and elsewhere the Company may in constructing the said works deviate laterally from the lines thereof as laid down on the said plans to the extent of the limits of lateral deviation shown thereon. Limits of lateral deviation.
- 28.** In constructing the said works the Company may deviate vertically from the level thereof as shown on the deposited sections to any extent not exceeding five feet. Limits of vertical deviation.
- 29.** The Company may from time to time by agreement purchase or acquire for the purposes of this Act any lands not exceeding in quantity five acres, in addition to the lands which they are by this Act authorised to take by compulsion. Lands for extraordinary purposes.
- 30.** The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of three years from the passing of this Act. Powers for compulsory purchases limited.
- 31.** The works by this Act authorised shall be completed within five years from the passing of this Act, and on the expiration of that period the powers by this Act granted to the Company for exe- Period for completion of works.

A.D. 1874. — cutting the works or otherwise in relation thereto shall cease to be exercised, except as to so much thereof as shall then be completed: Provided that nothing in this Act shall restrain the Company from extending their aqueducts, mains, pipes, works, and conveniences from time to time whenever they find it requisite for the purposes of increasing their supply of water, or supplying water within the limits of this Act.

Power to take easements, &c. by agreement.

**32.** Persons empowered by the Lands Clauses Consolidation Act, 1845, to sell and convey or release lands may, if they think fit, subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act, 1860, and of this Act, grant to the Company any easement, right, or privilege, not being an easement of water, required for the purposes of this Act, in, over, or affecting any such lands, and the provisions of the said Acts with respect to lands and rentcharges, so far as the same are applicable in this behalf, shall extend and apply to such grants and to such easements, rights, and privileges as aforesaid respectively.

Contracts between Company and public bodies for supply of water.

**33.** The Company may from time to time enter into agreements with any local boards, commissioners, corporations, or other public or local bodies for the supply by the Company within the limits of this Act of water to or for those bodies respectively, in bulk or otherwise, for any purpose whatsoever, and the contracts may be for such times and for such remuneration and on such terms and conditions as the contracting parties think fit.

As to supply of water beyond limits.

**34.** The Company may from time to time, on terms mutually agreed on, supply water in bulk for domestic or other purposes within the parish of Warburton, and at other places beyond the limits of this Act, provided the same can be supplied without prejudice to a full supply for the inhabitants within such limits: Provided always, that nothing in this section contained shall prejudice any application by any company or sanitary authority for parliamentary powers to supply with water the places beyond the limits of this Act, which may be so supplied by the Company under this Act, and that if such powers be granted the Company shall, if so required by such company or sanitary authority, sell to them all their mains, pipes, and other works within the district of such company or sanitary authority, at the price to be fixed, in default of agreement, by arbitration under the provisions of the Land Clauses Acts.

Supply of water under pressure.

**35.** The Company shall not be compelled to carry water to a higher level than can be reached by the pressure afforded by their water tower herein-before described.



**36.** 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 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 Act shall for every such offence forfeit and pay to the Company any sum not exceeding five pounds.

A.D. 1874.  
Supply of water to tenements in a row.

**37.** The Company shall, at the request of every person entitled under this Act to demand a supply of water, furnish to the occupier of every dwelling-house or part of a dwelling-house to which the request relates, within the limits in that behalf of this Act, a sufficient supply of wholesome water for the domestic purposes (including one watercloset) of every such occupier, at any rate not exceeding the following rates; (that is to say,)

Rates for supply of water for domestic purposes.

Where the yearly value of the premises supplied does not exceed five pounds, at a rate not exceeding twopence per week:

Where the annual value of a house or part of a house shall exceed five pounds and not exceed thirty pounds, a yearly rate not exceeding seven pounds per centum on the annual value of such house or part of a house:

Where such annual value shall (except as herein-after mentioned) exceed thirty pounds, a yearly rate not exceeding six pounds per centum on the amount of such annual value:

Provided that all inns and hotels, whether public or private, to which the supply is laid on, the annual value of which exceeds five pounds, shall be liable to a rate not exceeding seven pounds ten shillings on the amount of such annual value, whether the same exceeds thirty pounds or not.

**38.** The Company may charge in any one year in respect of the first bath supplied with water in or belonging to any private dwelling-house the sum of ten shillings, and in respect of every watercloset beyond the first, and of every bath beyond the first, the sum of five shillings.

Rates for waterclosets and baths.

**39.** The rates for a supply of water for domestic purposes shall be payable in advance by equal quarterly payments on Lady-day, Midsummer-day, Michaelmas-day, and Christmas-eve in every year.

Rates payable quarterly in advance.

**40.** The Company may supply any person with water for other than domestic purposes for such remuneration and on such terms and conditions as are agreed on between the Company and the persons desirous of having the supply: Provided always, that the Company

Water for other than domestic purposes to be supplied by agreement.

A.D. 1874. shall not supply water for other than domestic purposes if the same shall in any way interfere with or unduly diminish the supply of water for domestic purposes as by this Act authorised.

Penalty for using water for other than domestic purposes without agreement.

41. Every person using for other than domestic purposes any water of the Company without having previously agreed with them for a supply of water for other than domestic purposes, or any person using for any purpose other than the purposes so agreed on any water so supplied by the Company, shall for every such offence forfeit and pay to the Company any sum not exceeding five pounds.

Regulation for supply of water.

42. The Company shall not be obliged to supply any water unless the pipes and cocks and other apparatus necessary for the supply are constructed of such strength, material, and size, and on such principle as are required or approved by the Company, and are used so as to prevent the waste or undue consumption of the water of the Company, and the access of foul air and other noisome or impure matter to the pipes belonging to or connected with the mains or pipes of the Company.

Incoming tenant not liable to pay arrears of water rate.

43. In case any consumer of the water of the Company shall leave the premises where such water has been supplied without paying to the Company the rate due from him, the Company shall not be entitled to require from the next tenant of such premises the payment of the arrears left unpaid by the former tenant, unless such incoming tenant shall have agreed with the former tenant to pay or exonerate him from the payment of such arrears.

Undisputed rates may be recovered by distress.

44. All rates and sums due to the Company, and all damages, costs, and expenses by this Act directed to be paid, and the amount whereof respectively is not disputed, may be levied by distress after the defaulter has been duly summoned, and any justice, on application by the Company, may and shall issue his warrant accordingly.

Costs of distress.

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

Several names in one warrant.

46. Any number of names and sums may be included in any warrant of distress or notice obtained or given by the Company for any of the purposes of this Act, and may be stated either in the body of the warrant or notice or in a schedule thereto.

Liability to rates not to disqualify justices.

47. No justice or judge of any county court shall be disqualified from acting in the execution of this Act by reason of his being liable to any rate or sum under this Act.

**48.** Penalties imposed on the Company by several Acts for one and the same offence shall not be cumulative, and for this purpose this Act and each of the several Acts incorporated therewith shall be deemed a separate Act. A.D. 1874.  
Penalties not cumulative.

**49.** Except as is by this Act otherwise expressly provided with respect to the parishes of Lymm, Oughtrington, and Warburton, nothing in this Act contained shall authorise the Company to supply water within the limits of the North Cheshire Water Act, 1864, for the supply of water, or take away, lessen, prejudice, or affect any of the estates, rights, interests, powers, privileges, or authorities of the North Cheshire Water Company. Saving rights of North Cheshire Water Company.

**50.** All the 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. Expenses of Act.

