



ANNO VICESIMO NONO & TRICESIMO

VICTORIÆ REGINÆ.

Cap. clxxxviii.

An Act for supplying with Water the Town of *Kilmarnock*, Suburbs thereof, and Places adjacent.

[16th *July* 1866.]

WHEREAS by an Act passed in the Ninth and Tenth Year of the Reign of Her present Majesty, intituled *An Act for supplying with Water the Town of Kilmarnock, Suburbs thereof, and Places adjacent*, the *Kilmarnock Water Company* were incorporated, and were authorized to raise Capital to the Amount of Fifteen thousand Pounds by the Creation of Shares, and of Five thousand Pounds by borrowing on Mortgage or Bond, which Sums have been raised and expended in defraying the Cost of constructing the Waterworks authorized by the said Act, and in supplying with Water the said Town and Places adjacent: And whereas the Population and Trade of the said Town have greatly increased, and the present Supply of Water having become inadequate, it is expedient and would be for the public Advantage if the said Company were authorized to construct additional Works, and to increase the Supply of Water, and to raise additional Capital, and it is also expedient that the recited Act should be repealed, and that the Provisions thereof, so far as applicable and now in force, should be re-enacted with such further Provisions as may be necessary; but these Objects 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

9 & 10 Vict.
c. cclxxxv.

[*Local.*]

28 U

Queen's

The Kilmarnock Water Company's Act, 1866.

Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title. 1. This Act may be cited for all Purposes as "*The Kilmarnock Water Company's Act, 1866.*"

8 & 9 Vict. cc. 17. & 19.,
10 & 11 Vict. c. 17.,
23 & 24 Vict. c. 106., and
26 & 27 Vict. cc. 93. & 118.
incorporated.

2. "*The Companies Clauses Consolidation (Scotland) Act, 1845,*" and Parts First and Second of "*The Companies Clauses Act, 1863,*" relating respectively to Cancellation and Surrender of Shares and to additional Capital, "*The Lands Clauses Consolidation (Scotland) Act, 1845,*" "*The Lands Clauses Consolidation Acts Amendment Act, 1860,*" "*The Waterworks Clauses Act, 1847,*" and "*The Waterworks Clauses Act, 1863,*" are (except where expressly varied by this Act) incorporated with and form Part of this Act, and are hereby made applicable to the Undertaking herein-after described; and the Word "*Undertaking*" in the said Acts and this Act shall mean and include the whole Waterworks and Works connected therewith by this Act vested in or authorized to be constructed by the Company.

Interpretation of Terms 3. The following Expressions in this Act shall have the several Meanings hereby assigned to them:

"*The Company*" shall mean the *Kilmarnock Water Company* incorporated by this Act:

"*The Kilmarnock Water Company*" shall mean the *Kilmarnock Water Company* as incorporated previous to the passing of this Act.

Recited Act repealed. 4. From and after the First Day of *September* Eighteen hundred and sixty-six the recited Act shall be and is hereby repealed, and this Act shall commence and take effect.

Kilmarnock Water Company re-incorporated. 5. The several Persons who at the Time of the passing of this Act are Proprietors of or entitled to Shares in the Capital of the *Kilmarnock Water Company* under the recited Act shall be united into a Company for supplying with Water the Town of *Kilmarnock* and Suburbs thereof, and Places adjacent, in the Parishes of *Kilmarnock* and *Riccarton*, and shall be and are hereby incorporated by the Name of "*The Kilmarnock 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 their Undertaking, and to carry into effect the Provisions and Purposes of this Act and the Acts incorporated herewith.

Vesting the Property of the old in the new Company. 6. The Undertaking of the *Kilmarnock Water Company*, and the whole Waterworks and Mains, Pipes, Lands, Springs, Streams, Houses, Buildings, and Heritages connected therewith, and all Funds, Rates, Rents, Goods, Debts, Monies, and other Property and Effects whatsoever,

The Kilmarnock Water Company's Act, 1866.

whatsoever, heritable and moveable, real and personal, belonging or owing to or held by the *Kilmarnock Water Company*, subject to the existing Debts, Liabilities, Engagements, Contracts, Obligations, and Incumbrances affecting the same, are hereby vested in, and may be lawfully held, maintained, used, exercised, enforced, recovered, and enjoyed by, the Company.

7. All Conveyances, Purchases, Sales, Leases, Mortgages, Bonds, Assignations, Contracts, Agreements, Securities, and other Deeds, Instruments, and Writings made, executed, or entered into between any Person and the *Kilmarnock Water Company*, or by, to, or for the *Kilmarnock Water Company*, shall be and continue as good, valid, and effectual to all Intents and Purposes as if the recited Act had not been repealed, and the Company shall be liable for all the Debts, Obligations, and Engagements of the *Kilmarnock Water Company* due, owing, and subsisting at the Time of the passing of this Act.

Agreements and Deeds to remain in force and Company liable for Debts.

8. The Company may enforce in their own Name against any Person, and any Person may enforce against the Company, to the same Extent and Effect as might have been enforced by or against the *Kilmarnock Water Company* if this Act had not been passed,—

Contracts and Agreements may be enforced by and against the Company.

All Acts of Parliament other than the Act hereby repealed, and Provisions of Acts of Parliament, conferring any Right or Privilege on the *Kilmarnock Water Company* or on such Person or his Predecessors :

All Contracts or Agreements for the Sale or Purchase of Land and other Contracts or Agreements whatsoever entered into or adopted by the *Kilmarnock Water Company*, and such Person or his Predecessors :

All Grants, Conveyances, Leases, Discharges, or other Deeds or Writings granted to the *Kilmarnock Water Company* by such Person or his Predecessors, or to such Person or his Predecessors by the *Kilmarnock Water Company*, or to which any of the said Parties have acquired Right :

All Claims for Compensation or Damages, or for Penalties, Monies, Costs, or Expenses, payable or recoverable by or from the *Kilmarnock Water Company* under or reserved by the recited Act, or in consequence of any Act, Deed, Matter, or Thing done or omitted to be done by such Person or his Predecessors, or by the *Kilmarnock Water Company* :

All Rights, Privileges, Liberties, Exemptions, Decrees, or Causes of Action possessed or enjoyed or claimed by the *Kilmarnock Water Company*, or by any Person or his Predecessors, under the recited Act, or in consequence of any Act, Deed, Matter, or Thing done or omitted to be done by such Person or his Predecessors or by the *Kilmarnock Water Company*.

9. All

The Kilmarnock Water Company's Act, 1866.

Actions not
to abate.

9. All Actions, Suits, and Proceedings, and all Arbitrations, to which the *Kilmarnock Water Company* are Parties at the Date of the passing of this Act, may be proceeded in by or against the Company, without the Necessity of intimating such Action, Suit, Proceeding, or Arbitration to the Company, or making them formally Parties thereto; and all Offences against the Provisions of the recited Act committed before the passing of this Act may be prosecuted, and all Penalties incurred by reason of such Offences may be sued for and recovered, by or against the Company in the same Manner in all respects as if this Act had not been passed.

Proceedings
under recited
Act saved.

10. Notwithstanding the Repeal of the recited Act, and except only as is by this Act otherwise expressly provided, everything done or suffered under the recited Act shall be as valid as if the same were not repealed, and the Repeal thereof and this Act respectively shall accordingly be subject and without Prejudice to everything so done or suffered, and to all Rights, Liabilities, Claims, and Demands, both present and future, which, if the recited Act were not repealed and this Act were not passed, would be incident to or consequent on any and every thing so done or suffered; and with respect to all such Rights, Liabilities, Claims, or Demands which affect or should or might affect the *Kilmarnock Water Company*, the Company shall represent the *Kilmarnock Water Company*, and may enforce and shall be liable in respect of such Rights, Liabilities, Claims, or Demands in the same Manner and to the same Extent as the *Kilmarnock Water Company* could enforce or would be liable in respect of such Rights, Liabilities, Claims, or Demands: Provided that the Generality of this Enactment shall not be restricted by any of the other Clauses or Provisions of this Act.

Arrears of
Rates to be
paid to the
Company.

11. All Rates, Rents, or Charges leviable under or by virtue of the recited Act, and which at the Date of the passing of this Act shall be due and payable, or if this Act had not been passed would have accrued due and been payable, to the *Kilmarnock Water Company*, shall continue in force and be due and payable to the Company, and may be sued for, collected, and recovered in the same Manner as any Rates may be sued for, collected, or recovered under or in pursuance of this Act.

Certificates
and Trans-
fers to
remain in
force.

12. All Certificates, Sales, Transfers, and Dispositions before the passing of this Act made or executed of or in respect to any Share in the Capital of the *Kilmarnock Water Company* under or in pursuance of the recited Act shall remain in full Force and Effect, and shall be and continue available in all respects whatsoever.

13. All

The Kilmarnock Water Company's Act, 1866.

13. All Books, Plans, and other Documents by the recited Act authorized or directed to be kept, and thereby made Evidence, shall be admitted as Evidence in all Courts and Proceedings whatsoever. Books and Plans to be Evidence.

14. The Officers and Servants of the *Kilmarnock Water Company* at the Time of the passing of this Act shall be Officers and Servants of the Company until removed, and shall be subject to the Provisions of this Act and the Acts incorporated herewith as regards both their past and future Actings and Intromissions; and all Bonds and Securities granted to the *Kilmarnock Water Company* for the Performance of the Duties of such Officers and Servants, and accounting for their Intromissions, shall remain valid and effectual, and may be enforced by the Company in the same Manner and to the same Extent and Effect as such Bonds and Securities might have been enforced by the *Kilmarnock Water Company*. Present Officers continued.

15. The Capital of the Company shall consist of the Sum of Fifteen thousand Pounds authorized to be raised by the recited Act, and the Sum of Ten thousand Pounds authorized to be raised by this Act, amounting together to Twenty-five thousand Pounds, and shall be divided into Two thousand five hundred Shares of Ten Pounds each. Capital of the Company.

16. Every Person or Company who is the Proprietor of Shares in the Capital of the *Kilmarnock Water Company* at the Time of the passing of this Act shall become and be the Proprietor of Shares of the same Amount in the Capital of the Company hereby incorporated. As to Shares created under recited Act.

17. The Certificates of Shares granted by the *Kilmarnock Water Company* shall be deemed to be Certificates granted by the Company of Shares held under this Act. Former Certificates to be sufficient.

18. The Shares in the Capital of the Company which are hereby substituted in lieu of the Shares of the *Kilmarnock Water Company* held under the recited Act shall be vested in and be held and enjoyed by the several Persons entitled to the same upon such and the same Trusts, if any, and for such and the same Interests, and under and subject to such and the same Dispositions, Charges, Liens, and Incumbrances, if any, as such last-mentioned Shares were or might have been held if this Act had not been passed. Shares to be held under same Trusts.

19. For defraying the Cost of the Works to be constructed, and the Lands and other Property to be acquired, under the Authority of this Act, and bringing in an increased Supply of Water, and for the general Purposes of their Undertaking, the Company may from Time to Time raise any Sum not exceeding Ten thousand Pounds by the Creation and Issue of new Ordinary Shares and new Preference Shares in their Undertaking, or by either of those Modes, and of such Amounts respectively, as the Company may think fit. Additional Capital for new Works.

[Local.]

28 X

20. The

The Kilmarnock Water Company's Act, 1866

Shares not to issue until One Fifth paid up.

20. The Company shall not issue any Share under the Authority of this Act, nor shall any Share vest in the Person accepting the same, unless and until a Sum not being less than One Fifth of the Amount of such Share shall have been paid up in respect thereof.

New Capital to be subject to same Provisions as original Capital.

21. The Capital to be raised by such new Shares shall be Part of the general Capital of the Company, and, except as otherwise provided by the Special General Meeting of the Company which shall resolve to create and issue the same, such new Shares shall confer and impose on the Holders thereof all the Rights and Privileges, Liabilities and Obligations, which the existing Shares of the *Kilmarnock Water Company*, by this Act made Shares of the Company, confer and impose on the Holders thereof.

Calls.

22. One Fifth of the Amount of a Share shall be the greatest Amount of a Call, and Two Months at least shall be the Interval between successive Calls, and One Half of the Amount of a Share shall be the utmost aggregate Amount of the Calls made in any Year upon any Share.

Power to borrow on Mortgage.

23. The Company may from Time to Time borrow on Mortgage, in addition to the Sum authorized to be borrowed under the recited Act, any Sums not exceeding in the whole Three thousand three hundred Pounds, but no Part thereof shall be borrowed until the whole Sum of Ten thousand Pounds by this Act authorized to be raised is subscribed for, issued, and accepted, and One Half thereof is paid up, and the Company have proved to the Sheriff who is to certify under the Forty-second Section of "The Companies Clauses Consolidation (*Scotland*) Act, 1845," before he so certifies, that the whole of the said Sum of Ten thousand Pounds 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 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 Subscribers or their Assignees, and that such Subscribers or their Assignees are legally liable for the same; and upon Production to such Sheriff 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 Judicial Factor.

24. The Mortgagees of the Company may enforce Payment of Arrears of Principal and Interest due on their Mortgages by the Appointment of a Judicial Factor, and in order to authorize the Appointment of a Judicial Factor the Amount owing to the Mortgagees by whom the Application for a Judicial Factor shall be made shall not be less than One thousand Pounds in the whole.

25. The

The Kilmarnock Water Company's Act, 1866.

25. The Mortgages and Bonds granted by the *Kilmarnock Water Company* under the Authority of the recited Act shall during their Subsistence have Priority over any Mortgage to be granted by the Company under the Authority of this Act. Priority of existing Mortgages.

26. All Monies raised under this Act, whether by Shares or borrowing, shall be applied for the Purposes of this Act only. Application of Monies.

27. The First Ordinary General Meeting of the Company shall be held within Two Months after the passing of this Act, and an Ordinary General Meeting of the Company shall be held in the Month of *July* in each Year, and all Meetings of the Company, whether ordinary or extraordinary, shall be held in the Town of *Kilmarnock*. Ordinary Meetings of the Company.

28. The Quorum for every General Meeting of the Company shall be Ten Shareholders holding in the aggregate not less than One thousand Pounds of the Capital of the Company. Quorum for General Meeting.

29. Extraordinary Meetings of the Company may be called on the Requisition of any Five Shareholders holding in the aggregate not less than Five hundred Pounds of the Capital of the Company, or on the Requisition of any Three Directors. Extraordinary Meetings.

30. The Scale according to which the Shareholders may vote in respect of their Shares shall be as follows; (that is to say,) for One Share or more, but not exceeding Twenty, One Vote in respect of each Share, and for more than Twenty Shares an additional Vote for every Five Shares: Provided that no Shareholder shall be entitled to vote at any Meeting unless he shall have paid all the Calls then due upon the Shares held by him. Votes of Shareholders.

31. The Number of Directors shall be Nine, but the Company may from Time to Time reduce the Number, provided the reduced Number be not less than Five. Number of Directors.

32. The Qualification of a Director shall be the Possession in his own Right of not less than Ten Shares in the Capital of the Company. Qualification of Directors.

33. The Quorum of a Meeting of Directors shall be Five, and if the Number of Directors be reduced to Five the Quorum shall be Three. Quorum of Directors.

34. *John Dickie, Alexander John Bruce, James Donald, James Smith Gregory, Patrick Dunlop, John Paxton, Peter Ritchie, John Bicket,* and *James Murchie* shall be the First Directors of the Company under this Act, and shall continue in Office until the First Ordinary General First Directors of the Company.

The Kilmarnock Water Company's Act, 1866.

General Meeting of the Company to be held after the passing of this Act.

Election of Directors at First General Meeting.

35. At the First Ordinary General Meeting of the Company to be held after the passing of this Act the Shareholders present personally or by proxy may either continue in Office the Directors appointed by this Act, or any of them, till the Ordinary General Meeting in *July* Eighteen hundred and sixty-seven, 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 being, if qualified, eligible for Re-election.

Rotation of Directors.

36. At the Ordinary General Meeting of the Company to be held in the Month of *July* Eighteen hundred and sixty-seven, and at the Ordinary General Meeting to be held in the Month of *July* in every Year thereafter, the Shareholders present personally or by proxy shall (subject to the Power herein-before contained to reduce the 'Number of Directors) elect Persons to supply the Places of the Directors then retiring from Office under the Provisions of "The Companies Clauses Consolidation (*Scotland*) Act, 1845;" and the several Persons elected at any such Meeting, being neither removed nor disqualified nor having resigned, shall continue to be Directors until others are elected in their Stead in manner provided by the said Companies Clauses Consolidation (*Scotland*) Act.

Period for balancing Books.

37. The Books of the Company shall be brought to a Balance on the Thirtieth Day of *June* in each Year.

Newspapers for Advertisements.

38. Advertisements relating to the Affairs of the Company shall be inserted in any Newspaper published in the Town of *Kilmarnock*, and if no Newspaper be published in *Kilmarnock* such Advertisements shall be inserted in any Newspaper published in the County of *Ayr*.

Limits of Act.

39. The Limits of this Act shall comprise and include the Town of *Kilmarnock* and the Suburbs thereof, and Places adjacent, within the Parishes of *Kilmarnock* and *Riccarton* and County of *Ayr*.

Undertaking of the Company.

40. The Undertaking of the Company shall consist of and include the existing Reservoirs at *North Craig* and *Gainford*, called respectively the *North Craig* Reservoir and the *Gainford* Reservoir, and the existing Tank or distributing Basin at *North Craig*, and the Embankments, Weirs, Sluices, Culverts, and other Works connected therewith, and the whole Cisterns, Filters, Conduits, Main Pipes, Distribution and Service Pipes, and other Works and Appurtenances constructed and laid or acquired by the *Kilmarnock Water Company*, and also the Reservoir, Conduits, or Main Pipes and other Works by this Act authorized.

41. Whereas

The Kilmarnock Water Company's Act, 1866.

41. Whereas a Plan and Sections describing the Lines, Situation, and Levels of the Works to be made and maintained under the Authority of this Act, and the Lands, Waters, and Streams proposed to be taken for the Purposes thereof, with a Book of Reference to such Plan containing the Names of the Owners or reputed Owners, Lessees or reputed Lessees, and Occupiers of such Lands, Waters, and Streams, have been deposited with the Principal Sheriff Clerk of the County of *Ayr*: The Company may, subject to the Provisions of this Act, make and maintain in the Lines and according to the Levels described on the said deposited Plan and Sections the Reservoir and Conduits herein-after described, with all necessary Embankments, Weirs, Sluices, Culverts, Drains, Roads of Access, and other Works and Conveniences connected therewith, and may enter upon, take, and use such of the Lands and Streams delineated on the said Plan, and described in the said Book of Reference, as may be required for the Purposes of this Act.

Powers to
make Works
according to
deposited
Plans.

42. The Works by this Act authorized to be made and maintained are,—

Description
of Works.

First, a Reservoir situate on the Stream called the *Balgray Burn* near the Farm Steading of *Highburn*, to be called the *Highburn Reservoir*:

Second, the raising of the Embankments of the said *Gainford Reservoir*, and the Level of the Water therein, to the Extent respectively described on the said deposited Plan and Sections:

Third, a Conduit or Main Pipe commencing at the *Gainford Reservoir*, and terminating at the *North Craig Reservoir*:

Fourth, a Conduit or Main Pipe commencing at the Tank or distributing Basin at the *North Craig Reservoir*, and terminating by a Junction with the existing Main Pipes of the Company at or near the *George Hotel* in the Town of *Kilmarnock*:

All which Works will be situate in or pass from, through, or into the Parishes of *Fenwick* and *Kilmarnock* and County of *Ayr*.

43. The Company may make lateral Deviations from the Lines of the Works by this Act authorized to the Extent marked on the said deposited Plan, and may make vertical Deviations from the Levels as defined on the said deposited Sections of the said Works other than the said Reservoirs to any Extent not exceeding Five Feet, and in the Case of the said Reservoirs to any Extent not exceeding Three Feet.

Powers of
Deviation.

44. In addition to the Lands authorized to be taken as aforesaid, the Company may purchase by Agreement Lands not exceeding in the whole Two Acres for the Purposes of Depôts, Pipe Yards, and other Buildings and Conveniences in connexion with the Works by this

Lands may
be taken by
Agreement.

The Kilmarnock Water Company's Act, 1866.

Act authorized, and it shall be lawful for any Person to sell and convey Lands to the Company for such Purposes, and to contract in reference thereto.

Powers for compulsory Purchases limited.

45. 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.

Period for Completion of Works.

46. The Works by this Act authorized to be constructed shall be completed within Seven Years from the passing of this Act, and on the Expiration of that Period the Powers by this Act granted to the Company for executing the said Works, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as shall then be completed.

As to Supply of Water under constant Pressure.

47. Until the Works by this Act authorized to be constructed are completed, the Water to be supplied by the Company need not be constantly laid on under Pressure.

Works on Estate of Rowallan.

48. Nothing in this Act contained shall authorize the Construction of any Engines or similar Machinery, or of more than One House for the Accommodation of a Keeper of the Works, on or within the Estate of *Rowallan*.

Company to have Access to Grounds.

49. The Company shall have Access to the Lands in, through, or upon which any of the Works or Machinery belonging to them shall be constructed by the Gates or other Mode of Entry thereto used as Access for other Purposes at all Times during the Day, not earlier than Six of the Clock in the Morning nor later than Sunset (except in the Case of any Accident to the said Works or Machinery requiring immediate Repair), by themselves, or their Engineer or Superintendent, or Servants or Workmen, specially named by the Company to inspect the said Works and Machinery; but for no other Purpose and on no other Pretence whatever; and in the event of Repairs of the said Works being found necessary the Company shall have the like Access for their Workmen or Servants to execute the same, the Company indemnifying the Owner or Occupier of the said Lands for all Damages thereby done: Provided that it shall not be lawful for such Engineer, Superintendent, Servants, or Workmen to bring or allow any Dog to enter with them into or upon the said Lands when availing themselves of such Access.

Power to take Water from Streams.

50. Subject to the Provisions and Restrictions in this Act contained, the Company may from Time to Time divert or alter the Course of and take the Water flowing from or into the *Dinnans Burn*, the *Carmel Burn*, the *Balgray Burn*, the *Old Hall Burn*, and the

[*Haghouse*

The Kilmarnock Water Company's Act, 1866.

Haghouse or *Gairdrum Mill Burn*, including the various Tributaries, Affluents, and Sources of the said Streams: Provided that in the event of severe Drought causing the aforesaid Streams to be much dried up, the Tenants of the Marquis of *Hastings* whose Farms adjoin to or are intersected by the above Streams, or any of them, shall be entitled to a Supply of Water primarily and preferably to the Inhabitants of *Kilmarnock*.

51. Nothing in this Act contained shall authorize the Company to enter upon the Estate of *Rowallan*, or to take or affect the Streams, Springs, or Waters arising in or flowing through the said Estate, or to make or construct Works of any Kind thereon, unless and until the Company shall have submitted to a Civil Engineer, to be appointed by the Owner of the Estate of *Rowallan* for the Time being, Plans showing the Places on the said Estate at or from which it is intended to take or divert the Water proposed to be taken by the Company, and Plans and Specifications of the whole Works of every Description intended to be constructed by the Company on the said Estate, nor until the Owner of the said Estate for the Time being shall have signified his Consent to the taking of such Water, and his Approbation of the Plan of the Works intended to be so constructed.

Company
not to enter
on Estate of
Rowallan
without
Consent of
Proprietor.

52. The Company shall, when required by the Marquis of *Hastings*, or his Heirs or Successors, Proprietors for the Time of the Estate of *Rowallan*, construct and uphold at their own Expense a Compensation Reservoir on the *Loch Goyn* District of the Estate of *Rowallan* of adequate Capacity for securing Compensation to Proprietors and Mill-owners, by intercepting and containing in reserve such a Quantity of surplus Water as shall be equal in Quantity to One Half of the Water yearly abstracted for the Supply of *Kilmarnock*; and if such Capacity be found inadequate to carry practically into effect the Principle of the Compensation intended, namely, the Supply by surplus Water for the Use of the Mills in dry Times of Water equal in Quantity to what is yearly abstracted for *Kilmarnock*, then the Deficiency shall be provided for either by an Enlargement of the Compensation Reservoir, or by additional Drainage into the same by Catch Drains or otherwise; and the Regulation of the Compensation Reservoir and the letting off of the Water shall be under the Control of the Mill-owners on the *Rowallan* and *Kilmaurs* Estates, and the necessary Expenses attending such Regulation and letting off the Water shall be defrayed by the Company; and in the event of any Dispute regarding such Expense, the same shall be decided by the Sheriff, whose Decision shall be final and not subject to Appeal; and for the Purpose of constructing the said Compensation Reservoir it shall be lawful for the Company to purchase and acquire, with Consent of the Owners and Occupiers, any Land which may be necessary, not exceeding

Compensa-
tion Reser-
voir to be
constructed.

The Kilmarnock Water Company's Act, 1866.

exceeding Twenty Acres, in addition to the Lands by this Act authorized to be acquired by Consent.

Disputes to
be settled by
Arbitration.

53. In case any Dispute shall at any Time arise between the Company and the said Millowners, or between the said Millowners themselves, in regard to the Regulation of the said Reservoir, the same shall be decided by a neutral Engineer to be appointed by the Sheriff of the County of *Ayr*, or his Substitute, on the Application of the said Parties or any of them, and the said Sheriff shall have Power to decide all Questions of Expenses connected with such Applications.

Company
liable for
Damage
from Leak-
age, &c.

54. The Company shall be liable for all Damages which may be occasioned by the bursting or Overflow or Leakage of any Reservoir, Aqueduct, or Pipe to be constructed or laid by them.

Right of
fishing
reserved to
Owner of
Estate of
Rowallan.

55. The Owner of the Estate of *Rowallan*, and those having Right from him, shall have and enjoy the exclusive Right and Privilege of fishing, shooting, and sporting in and over the Reservoirs constructed upon the said Estate, and also of keeping and using Boats on any Reservoirs to be formed thereon; and it shall not be lawful for the Company, or any Person authorized by them, to fish, shoot, or sport, or to keep or use Boats thereupon, except for the Purpose of inspecting or repairing their Works.

Saving
Rights of
Proprietors
and Tenants
of Lands.

56. Nothing in this Act contained shall prejudice, impair, or affect the Right of the Proprietors of the Estates of *Rowallan* and *Kilmaurs*, or of the Right Honourable the Earl of *Glasgow*, his Heirs and Successors, or any of their respective Tenants, to the Water of the said Streams called the *Dinnans Burn*, the *Carmel Burn*, the *Balgray Burn*, the *Oldhall Burn*, and the *Haghouse* or *Gairdrum Mill Burn*, or other Sources of Water within the *Rowallan* and *Kilmaurs* Estates or the Estates of the said Earl of *Glasgow*, including the various Sources, Tributaries, and Affluents of the said Streams, or the Right to use the said Streams, and the Sources, Tributaries, and Affluents thereof, for any Purpose whatsoever for which before the passing of this Act the said Proprietors of the Estates of *Rowallan* and *Kilmaurs* and the said Earl of *Glasgow*, or their respective Tenants, might have lawfully taken and used such Streams or Water, nor shall anything in this Act contained prejudice, impair, or affect any Right of using the said Streams for Drainage or Scourage, or for Machinery, or other Purposes competent to the said Proprietors of the said Estates of *Rowallan* and *Kilmaurs*, and the said Earl of *Glasgow* and his Heirs or Successors, or their respective Tenants, and all such Rights shall be and are hereby saved and reserved entire as if this Act had not been passed: Provided that the Company shall be bound to supply the Tenant of *North Craig* Farm with Water gratuitously, as at present,

The Kilmarnock Water Company's Act, 1866.

present, for household Purposes, and for the Use of his Cattle on the said Farm of *North Craig*.

57. The Company shall, at the Request of the Owner or Occupier of any Dwelling House or Part of a Dwelling House within the Limits of this Act which is within Twelve Yards of any Pipe of the Company, or of any Person who under the Provisions of this Act or any Act incorporated herewith shall be entitled to demand a Supply of Water for domestic Purposes, furnish to such Owner or Occupier or other Person a sufficient Supply of Water for domestic Purposes; and the Company may charge and receive for or in respect of such Supply of Water any Sum not exceeding Five Pounds *per Centum per Annum* of the yearly Rent or yearly Value of such Dwelling House or Part of a Dwelling House or other Premises: Provided that the Company shall not be bound to furnish such Supply of Water to any such Owner or Occupier or other Person for any shorter Period than One Year, or for any less Sum than Five Shillings in any Year, unless such yearly Rent or yearly Value shall be Two Pounds or under, in which Case the Supply of Water shall be furnished at a Rate not exceeding Three Shillings *per Annum*.

Supply of
Water for
domestic
Purposes.

58. The Company may supply Water to any Person or Company desiring such Supply for trading or manufacturing Purposes, or for any Purpose other than domestic, at such Rates and upon such Terms and Conditions as shall be agreed upon between the Company and such Person or Company.

Water for
Purposes
other than
domestic
may be
supplied by
Agreement.

59. The Rates by this Act authorized shall be paid in advance at the Office of the Company yearly on the Twenty-sixth Day of *May*, or, in the Option of the Ratepayer, by equal half-yearly Payments on the Twenty-sixth Day of *May* and Twenty-second Day of *November* in each Year; and the First Payment shall be made at the Time when the Pipe by which the Water is supplied is made to communicate with the Pipes of the Company, or at the Time when the Agreement to take Water from the Company is made.

Rates to be
paid yearly
or half-
yearly.

60. Whereas the Rates authorized by the recited Act are payable quarterly in advance on the First *Tuesday* of *January*, the First *Tuesday* of *April*, the First *Tuesday* of *July*, and the First *Tuesday* of *October*: Be it enacted, That a proportional Part of the Rates authorized by the recited Act shall be paid in advance for the Period from the First *Tuesday* of *July* till the First Day of *September* Eighteen hundred and sixty-six, and a proportional Part of the Rates authorized by this Act shall be paid in advance for the Period from the First Day of *September* Eighteen hundred and sixty-six till the Twenty-sixth Day of *May* Eighteen hundred and sixty-seven, or, in

Proportional
Parts of
Rates to be
paid.

The Kilmarnock Water Company's Act, 1866.

the Option of the Ratepayer, till the Twenty-second Day of *November* Eighteen hundred and sixty-six.

Parties giving Notice to discontinue Use of Water or removing to pay to the next half-yearly Term.

61. The Occupier of any Dwelling House or Part of a Dwelling House liable to the Payment of any Water Rate who shall give Notice of his Intention to discontinue the Use of the Water supplied by the Company, or who shall remove from his Dwelling between any half-yearly Days of Payment, shall pay the Water Rate in respect of such Dwelling House or Part of a Dwelling House for the Half Year ending on the half-yearly Day of Payment next after his quitting the same or giving such Notice.

Recovery of Arrears of Rates.

62. The Company may recover any Arrears of Rates due and payable under the Provisions of this Act by obtaining from the Sheriff of the County of *Ayr*, or any of his Substitutes, a summary Warrant to recover such Arrears, with the Addition of Ten *per Cent.* on the Amount thereof as Costs, from the Persons liable to pay such Arrears of Rates; and the said Sheriff or Sheriff Substitute shall grant such Warrant on Production of a List of the Names and Addresses of the Persons so in arrear, and the Amounts respectively due by them, with a Certificate by the Secretary of the Company that they have been severally required to make Payment of such Arrears by a printed or written Requisition in the Name of the Company delivered to them personally, or left at their respective Residences, or in the Premises in respect of which such Arrears are due, at least Fourteen Days previously, and that such Arrears are truly due by such Persons, and do not exceed the Rates fixed by or under the Provisions of this Act: Provided that any Person so in arrear who objects to the Rates charged by the Company may, on Consignation in the Hands of the said Secretary of the Sum alleged to be due and Costs, cite the said Secretary to appear before the said Sheriff or Sheriff Substitute, who shall thereupon summarily inquire into and dispose of any Objections to such Rates, and wholly or partially confirm or recall the said Warrant, and the Decision of the said Sheriff or Sheriff Substitute shall be final and not subject to Review in any Court or by any Process whatsoever.

Power to lease the Water Rates.

63. The Company may lease the whole or any of the Water Rates or Rents payable to the Company by virtue of this Act or otherwise for any Term not exceeding Three Years, and upon such Rents, Covenants, and Conditions, as the Company may think fit.

Power to prevent Use of Pipes, &c.

64. For the Purpose of preventing the Waste, Misuse, or Pollution of the Company's Water in any House, Building, or Premises which may be erected, or for which a Supply of Water by the Company may for the First Time be required after the passing of this Act, the Company may prohibit and prevent the Use in any such House, Building,

The Kilmarnock Water Company's Act, 1866.

Building, or Premises of any Pipes, Valves, Cocks, Cisterns, Water-closets, or other Apparatus which may tend to any such Waste, Misuse, or Pollution.

65. If any Dispute shall arise between the Company and the Owner or Occupier of any House, Building, or Premises to which Water is or may be supplied by the Company with respect to any of the Matters specified in the immediately preceding Section, such Dispute shall be determined by the Sheriff of the County of *Ayr*, or any One of his Substitutes, in the Manner provided by "The Railways Clauses Consolidation (*Scotland*) Act, 1845," with respect to the Recovery of Damages not specially provided for, and to the Determination of any other Matter referred to the Sheriff or to Justices.

Appeal to the Sheriff in certain Cases.

66. For the Purpose of preventing the Waste or Misuse of Water in the Case of Property occupied as separate Tenements, and supplied by the Company with Water by any Well, Crane, or other Apparatus to which the Occupiers have Access by Keys for drawing Water therefrom, the Occupier of every such separate Tenement shall, when the Supply of Water to such Property is discontinued or cut off, be bound to deliver up to the Company his Key to such Well, Crane, or other Apparatus on receiving from the Company the Sum paid by him for such Key; and if any such Occupier refuses or neglects to deliver up his Key when so required by the Company or their Surveyor he shall be liable to a Penalty not exceeding Five Shillings.

Occupiers of separate Tenements to deliver up Keys of Wells.

67. The Surveyor of the Company, or other Person acting under their Authority, may, between the Hours of Nine o'Clock in the Forenoon and Four o'Clock in the Afternoon of any lawful Day, enter into any House, Building, or other Premises supplied with Water by the Company in order to examine if there be any Waste or Misuse of such Water; and if such Surveyor or other Person at any such Time be refused Admittance into such House, Building, or Premises, or be prevented from making such Examination as aforesaid, the Occupier of such House, Building, or Premises shall for every such Offence forfeit to the Company a Sum not exceeding Five Pounds.

Surveyor may enter Houses for Purpose of Examination.

68. If any Person supplied with Water by the Company wrongfully does or causes or permits to be done anything in contravention of any of the Provisions of this Act, or of any of the Acts incorporated herewith, or of any Byelaw made under the Authority of this Act, or wrongfully fails to do anything which under any of those Provisions ought to be done for the Prevention of Waste, Misuse, undue Consumption, or Contamination of the Water of the Company, they may (without Prejudice to any Remedy against such Person in respect thereof) cut off any of the Pipes by or through which Water is supplied

Power to cut off Water in certain Cases.

The Kilmarnock Water Company's Act, 1866.

supplied by them to such Person or for his Use, and may cease to supply him with Water so long as the Cause of Injury remains or is not remedied.

Expenses of
Act.

69. 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.

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