CAP. XCIII.

An Act for consolidating in One Act certain Provisions frequently inserted in Acts relating to Waterworks. [28th *July* 1863.]

10 & 11 Vict. c. 17.

'WHEREAS The Waterworks Clauses Act, 1847, was passed in order to comprise in One Act sundry Provisions which were at the Time of the passing of that Act usually introduced into Acts of Parliament authorizing the Construction of certain Waterworks:

'And whereas sundry Provisions of the like Nature, but not comprised in the said Act, are now frequently introduced into Acts of Parliament relating to Waterworks, and it is expedient to comprise such last-mentioned Provisions also in One Act, and that as well for the Purpose of avoiding the Necessity of repeating such Provisions in Special Acts relating to Waterworks, as for ensuring greater Uniformity in the Provisions themselves:'

Be it therefore enacted by the 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:

Preliminary.

Short Title.

1. This Act may be cited as The Waterworks Clauses Act, 1863; and The Waterworks Clauses Act, 1847, and this Act may be cited together as the Waterworks Clauses Acts, 1847 and 1863.

Application of Act and Interpretation of Terms.

2. This Act shall apply to any Waterworks to which any Special Act hereafter passed and incorporating this Act relates; and every such Special Act is herein-after referred to as "the Special Act."

Terms used in this Act have the same Meanings as the same Terms have when used in The Waterworks Clauses Act, 1847.

The Provisions respecting the Recovery of Penalties contained in the last-mentioned Act shall be incorporated with this Act.

Security of Reservoirs.

And with respect to the Security of the Reservoirs constructed by the Undertakers, be it enacted as follows:

Power for Justices to inquire as to Danger of Reservoir.

3. Whenever any Person interested complains to Two Justices that any Reservoir constructed by the Undertakers is in a dangerous State, such Justices shall forthwith make Inquiry into the Truth of the Complaint; or Two Justices, on their own View, and without Complaint by any Person, may proceed under the present Provisions as if a Complaint had been so made to them.

Order of Justices for immediate Repair.

4. If, on any such Inquiry, the Justices are satisfied that the Complaint is well founded, and that the Reservoir is in a dangerous State, and that the Danger is so imminent as not to admit of Delay in removing the Cause of Complaint, they shall order such Person as they think fit to enter on the Property of the Undertakers, and to lower the Water in the Reservoir, and to execute and do all such Works and Things as the Justices think requisite and proper for removing the Cause of Complaint.

Order of Justices on Undertakers to repair Reservoir.

5. If, on any such Inquiry, the Justices are satisfied that there is good Cause of Complaint, but are not satisfied that the Reservoir is in such an imminently dangerous State as not to admit of Delay in removing the Cause of Complaint, they shall issue their Summons to the Undertakers to answer the Complaint; and upon hearing the Parties, the Justices may, or upon Default of Appearance of the Undertakers, then in their Absence, the Justices shall, order the Undertakers, within such Period as the Justices think reasonable and specify in the Order, to lower the Water in the Reservoir, and to execute and do all such Works and Things as the Justices think requisite and proper for removing the Cause of Complaint.

Order of Justices on Failure of

If the Undertakers fail to execute or do within that Period any such Work or Thing, the Justices who made the Order, or any other Two Justices, on being satisfied of such Failure,

Failure, may either order such Persons as the Justices think fit to enter on the Property of the Undertakers, and to lower the Water in the Reservoir, and to execute and do all such Works and Things as the Justices think requisite and proper for removing the Cause of Complaint; or may, if they think fit, by Order impose on the Undertakers a Penalty, not exceeding Ten Pounds, for every Day during which such Failure continues after the making of the Order imposing the Penalty. Undertakers to repair.

6. Any Order of Justices made in any of the Cases aforesaid shall be in Writing under their Hands, and may be in the Form set forth in the Schedule to this Act, with such Variations as Circumstances require. Form of Order.

7. Any Person acting under and in pursuance of any such Order shall not be deemed a Trespasser; and if any Person wilfully obstructs any Person lawfully acting in obedience to any such Order, or wilfully does, or instigates, or suffers to be done, anything in contravention thereof, he shall for every such Offence be liable to a Penalty not exceeding Fifty Pounds. Persons acting under Order not Trespassers.

8. The Justices may order all, or such Part as they think fit, of the Costs of and incident to the applying for and obtaining of any such Order to be paid by the Undertakers, and also all, or such Part as the Justices think fit, of the Expenses of the Works and Things executed and done in pursuance of any such Order by any Person other than the Undertakers, to be paid by the Undertakers to such Person as the Justices appoint. Order for Payment of Costs and Expenses.

If the Justices before whom the Complaint is made think that there is no sufficient Ground for the Complaint, they may, if they think fit, order the Complainant to pay to the Undertakers the whole or any Part of their Costs of or incident to the Complaint.

9. If the Undertakers consider themselves aggrieved by any Order or Determination of Justices under the present Provisions, they may in like Manner and subject to the like Conditions as by The Railways Clauses Consolidation Act, 1845, are provided in the Case of Appeals in respect of Penalties, appeal to the Court of General or Quarter Sessions for the County or Place where the Cause of Appeal arises; and that Court may, on the Hearing of the Appeal, either affirm or quash the Order or Determination, or make such other Order in the Premises as may seem fit, and may make such Order as to the Costs, both of the original Proceedings and of the Appeal, as may seem fit; but the Order or Determination appealed against shall, pending the Appeal, continue in force. Appeal by Undertakers.

10. Notwithstanding anything in the Special Act contained, the Undertakers shall not be liable to pay any Damages, Penalties, Costs, Charges, or Expenses for or in respect of, or be answerable or accountable for, any Diminution or Cessation of the Supply of Water, or any other Breach or Nonperformance of their or any of their Duties, Liabilities, or Obligations under the Special Act, that may be occasioned by or result from the Execution of any such Order. Undertakers not to be responsible for Consequences of Order.

11. The present Provisions with respect to the Security of Reservoirs shall apply to *England* and *Ireland*; and they shall also apply to *Scotland*, subject to the following Variations, namely,—the Sheriff shall be deemed to be empowered thereby, as well as Two Justices; and the Appeal given shall lie from Two Justices in manner provided by Sections One hundred and fifty-one and One hundred and fifty-two of The Railways Clauses Consolidation (*Scotland*) Act, 1845, and shall lie from a Sheriff Substitute to the Sheriff Depute, where the Matter comes in the first instance before a Sheriff Substitute; and in that Case the Sheriff Depute shall hear and determine the Appeal, and may either confirm, recall, vary, or supersede the Order of the Sheriff Substitute as he thinks proper; and the Costs of the Appeal shall be in the Discretion of the Sheriff; and the Order or Judgment of the Sheriff in the Appeal shall be final. Provisions as to Scotland.

Supply of Water.

And with respect to the Supply of Water to be furnished by the Undertakers, be it enacted as follows:

12. A Supply of Water for domestic Purposes shall not include a Supply of Water for Cattle, or for Horses, or for washing Carriages where such Horses or Carriages are kept for Supply for other than domestic Purposes.

for Sale or Hire or by a Common Carrier, or a Supply for any Trade, Manufacture, or Business, or for watering Gardens, or for Fountains, or for any ornamental Purpose.

Want of Supply for other than domestic Purposes, when excused.

13. Where the Undertakers are authorized by the Special Act to supply Water for other than domestic Purposes, they shall not be liable, in the Absence of express Stipulation, under any Agreement for the Supply of Water for other than domestic Purposes, to any Penalty or Damages for not supplying such Water, if the Want of such Supply arises from Frost, unusual Drought, or other unavoidable Cause or Accident.

Power to let Meters for Hire.

14. Where the Undertakers are authorized by the Special Act to supply Water by Measure, they may let for Hire to any Consumer of Water so supplied any Meter or Instrument for measuring the Quantity of Water supplied and consumed, and any Pipes and Apparatus for the Conveyance, Reception, or Storage of the Water, for such Remuneration in Money as may be agreed upon between them and the Consumer, which shall be recoverable in the same Manner as Rates due to the Undertakers for Water; and the Meters, Instruments, Pipes, and Apparatus shall not be subject to Distress or to the Landlord's Hypothec for Rent of the Premises where the same are used, or be attached or taken in Execution under any Process of any Court of Law or Equity, or under or in pursuance of any Adjudication or Order in Bankruptcy, or other legal Proceeding, against or affecting the Consumer of the Water or the Occupier of the Premises, or other the Person in whose Possession the Meters, Instruments, Pipes, and Apparatus may be.

Power for ascertaining Quantity consumed by Meter, and for removing Meters, &c.

15. The Officers of the Undertakers may enter any House, Building, or Lands to, through, or into which Water is supplied by them by Measure, in order to inspect the Meters, Instruments, Pipes, and Apparatus for the measuring, Conveyance, Reception, or Storage of Water, or for the Purpose of ascertaining the Quantity of Water supplied or consumed, and may from Time to Time enter any House, Building, or Lands, for the Purpose of removing any Meter, Instrument, Pipe, or Apparatus the Property of the Undertakers; and if any Person hinders any such Officer from entering or making such Inspection, or effecting such Removal, he shall for every such Offence be liable to a Penalty not exceeding Five Pounds; but, except with the Consent of a Justice or the Sheriff, this Power of Entry shall be exercised only between the Hours of Ten in the Forenoon and Four in the Afternoon.

Protection of Water.

And with respect to the Waste or Misuse of the Water supplied by or belonging to the Undertakers, be it enacted as follows:

Power to cut off Water in certain Cases.

16. If any Person supplied with Water by the Undertakers wrongfully does or causes or permits to be done anything in contravention of any of the Provisions of the Special Act, or wrongfully fails to do anything which, under any of those Provisions, ought to be done for the Prevention of the Waste, Misuse, undue Consumption, or Contamination of the Water of the Undertakers, they may (without Prejudice to any Remedy against him in respect thereof) cut off any of the Pipes by or through which Water is supplied by them to him, or for his Use, and may cease to supply him with Water, so long as the Cause of Injury remains or is not remedied.

Penalty for Waste, &c. of Water by Non-repair of Pipes, &c.

17. If any Person supplied with Water by the Undertakers wilfully or negligently causes or suffers any Pipe, Valve, Cock, Cistern, Bath, Soil-pan, Watercloset, or other Apparatus or Receptacle to be out of repair, or to be so used or contrived as that the Water supplied to him by the Undertakers is or is likely to be wasted, misused, unduly consumed, or contaminated, or so as to occasion or allow the Return of foul Air, or other noisome or impure Matter, into any Pipe belonging to or connected with the Pipes of the Undertakers, he shall for every such Offence be liable to a Penalty not exceeding Five Pounds.

Penalty for Application of Water contrary to Agreement.

18. If any Person—

First, not having from the Undertakers a Supply of Water for other than domestic Purposes, uses, for other than domestic Purposes, any Water supplied to him by the Undertakers; or

Secondly,

Secondly, having from the Undertakers a Supply of Water for any other than domestic Purposes, uses, for any Purposes other than those for which he is entitled to use the same, any Water supplied to him by the Undertakers,—

he shall for every such Offence be liable to a Penalty not exceeding Forty Shillings, without Prejudice to the Right of the Undertakers to recover from him the Value of the Water misused.

Penalty for Extension or Alteration of Pipes.

19. It shall not be lawful for the Owner or Occupier of any Premises supplied with Water by the Undertakers, or any Consumer of the Water of the Undertakers, or any other Person, to affix or cause or permit to be affixed any Pipe or Apparatus to a Pipe belonging to the Undertakers, or to a Communication or Service Pipe belonging to or used by such Owner, Occupier, Consumer, or other Person, or to make any Alteration in any such Communication or Service Pipe, or in any Apparatus connected therewith, without the Consent in every such Case of the Undertakers; and if any Person acts in any respect in contravention of the Provisions of the present Section, he shall for every such Offence be liable to a Penalty not exceeding Five Pounds, without Prejudice to the Right of the Undertakers to recover Damages from him in respect of any Injury done to their Property, and without Prejudice to their Right to recover from him the Value of any Water wasted, misused, or unduly consumed.

Penalty for Use of Water without Agreement.

20. If any Person, not being supplied with Water by the Undertakers, wrongfully takes or uses any Water from any Reservoir, Watercourse, Conduit, or Pipe belonging to the Undertakers, or from any Pipe leading to or from any such Reservoir, Watercourse, Conduit, or Pipe, or from any Cistern or other like Place containing Water belonging to the Undertakers, or supplied by them for the Use of any Consumer of the Water of the Undertakers, he shall for every such Offence be liable to a Penalty not exceeding Five Pounds.

Recovery of Rates.

And with respect to the Recovery of Water Rates and other Money, be it enacted as follows:

Recovery of Rates by Action.

21. If any Person refuses or neglects to pay to the Undertakers any Rate or Sum due to them under the Special Act, they may recover the same, with Costs, in any Court of competent Jurisdiction; and their Remedy under the present Section shall be in addition to their other Remedies for the Recovery thereof.

SCHEDULE.

Form of Order of Justices.

To *A.B.* of &c.

We the undersigned, Two of Her Majesty's Justices of the Peace acting for the [County] of do hereby order and direct you [and such Person and Persons as you may require to aid and assist you herein,] forthwith to lower the Water in the [*here describe the Reservoir and the Extent to which the Water is to be lowered*], and to do all such Works and Things as are requisite to repair and make secure the said Reservoir [and you shall do as little Injury as possible to the Property of the and for acting as you are hereby directed this shall be your sufficient Warrant].

Given under our Hands this Day of One thousand eight hundred and

A.B.
C.D.