

[43 & 44 VICT.] *Rathmines and Rathgar (Milltown Extension) Act, 1880.* [Ch. cviii.]



CHAPTER cviii.

An Act for extending the Rathmines and Rathgar township, so as to include therein the adjoining townland of Milltown, in the county of Dublin; for the establishment of a Fire Brigade; and for other purposes. [2nd August 1880.] A.D. 1880

WHEREAS in the Session of Parliament held in the tenth and eleventh years of the reign of Her present Majesty an Act was passed for "better paving, cleansing, draining, regulating, lighting, and improving the district of Rathmines, Mount Pleasant, Ranelagh, Cullenswood, Milltown, Rathgar, and Harolds-Cross, and other portions of the parish of Saint Peter, within the barony of Uppercross, in the county of Dublin, and for otherwise promoting the health and convenience of the inhabitants," under the name or short title of the Rathmines Improvement Act, 1847 (herein-after called the "Act of 1847"):

10 & 11 Vict.
c. ccliii.

And whereas by the Rathmines and Rathgar Improvement Act, 1862 (herein-after called "the Act of 1862"), the district or township created by the Act of 1847 was extended so as to include therein the townlands of Rathgar and Sallymount:

25 & 26 Vict.
c. xxv.

And whereas by the Rathmines and Rathgar and St. Catherine's Improvement Act, 1866 (herein-after called "the Act of 1866"), the district or township created by the Acts of 1847 and 1862 was further extended so as to include therein the townlands of Cherry Orchard, Argos, Harold's Cross, Mount Jerome, Rathland East, and Rathland West, and the district so extended became and is known as "the Rathmines and Rathgar Township" (herein-after called "the existing township"):

29 & 30 Vict.
c. xii.

And whereas by the Rathmines and Pembroke Main Drainage and Improvement Act, 1877 (herein-after called "the Act of 1877"), the existing township and the adjoining Pembroke township were authorised jointly to construct a system of outfall sewers upon the failure of certain other works which (as recited in the preamble to

40 & 41 Vict.
c. lxxxii.

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(A.D. 1880. the Act of 1877) the Corporation of Dublin had been authorised to make: And the existing township and the Pembroke township were by the Act of 1877 (sections 52 and 53) severed, withdrawn, and discharged from the limits, works, rating, and other provisions of certain Public and Local Acts as to drainage passed in the years 1870, 1871, and 1875 in relation to the Corporation of Dublin and these townships respectively: And all such provisions of the said Acts of 1870, 1871, and 1875 were expressly repealed, and by the Act of 1877 additional powers as to water supply and otherwise were likewise conferred upon the Commissioners of the existing township and of the Pembroke township respectively:

33 & 34 Vict.
c. 106.
34 & 35 Vict.
c. cxxviii.
38 & 39 Vict.
c. 95.

And whereas the existing township comprises a large populous and improving district, and the population and number of buildings therein have of late years greatly increased and are still increasing:

And whereas the existing township has been sewered throughout, and the outfall sewer and main drainage works authorised by the Act of 1877 are approaching completion:

And whereas by section 5 of the Act of 1847 the townland of Milltown, forming part of the barony of Uppercross and immediately adjoining the existing township, was excluded from the operation of that Act, and it is expedient that the same should now be added to the existing township and should therewith form for the future one district:

And whereas in connexion with the water supply of the district the establishment of a fire brigade would be of public and private advantage; and it is likewise expedient that the Commissioners and the Pembroke Township Commissioners should be enabled to enter into agreements with reference to the use of a fire brigade and fire appliances as by this Act provided:

And whereas it is expedient that the provisions of the recited Acts, and of all other Acts for the time being in force with reference to the Commissioners and the existing township, should, with suitable modifications, be made applicable to and within the township as extended by this Act, and that the provisions of the recited Acts should be in certain respects amended, and that such further powers should be conferred as are herein-after expressed:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and 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; (that is to say,)

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1. This Act may be cited for all purposes as the Rathmines and Rathgar (Milltown Extension) Act, 1880. A.D. 1880.

Short title.

2. In construing this Act—

Interpretation of terms.

The expression “the recited Acts” means the Act of 1847, the Act of 1862, the Act of 1866, and so much of the Act of 1877 as in any way relates or refers to the existing township;

The expression “the new district” means the townland of Milltown, in the parish of St. Philip, Milltown, barony of Uppercross, and county of Dublin, by this Act added to the existing township;

The expression “the township” means the new district together with the existing township;

The expression “the Commissioners” means the Rathmines and Rathgar Improvement Commissioners, acting in and for the township or the existing township, as the case may be or require;

The expression “a justice” means a divisional justice of the police district of Dublin Metropolis.

3. The recited Acts, as each is amended by any subsequent Act and by this Act, and this Act shall be read and have effect as one Act, and, subject to the provisions of this Act, all the provisions of the recited Acts shall be read and have effect as if the new district under this Act formed part of the new district under the Rathmines and Rathgar Improvement Act, 1866, and as if the several purposes of this Act were purposes of such last-mentioned Act, but in each case as and from the passing of this Act only: Provided always, that in construing the recited Acts or any of them for the purposes of this Act, in case there shall be any inconsistency between the provisions of the recited Acts or any of them and this Act, the provisions of this Act shall in every and in all cases prevail, and the generality of this enactment shall not be restricted by expressions used in any other section of this Act. Recited Acts and this Act to be executed as one Act.

4. From and after the passing of this Act the new district together with the existing township shall form and constitute one district for the purposes of the recited Acts as amended as aforesaid and this Act, and the township shall be called or continue to be called “the Rathmines and Rathgar Township,” and the recited Acts as amended as aforesaid and this Act shall be put in force within the limits of such district. Limits of Act.

5. For the purposes of the election of Commissioners the new district shall be annexed to and shall form part of the Rathgar ward. New district to form part of Rathgar ward.

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Protection
of port of
Dublin.

6. Whereas under the powers of this Act the sewage of the new district will have a common outfall in the River Liffey with the sewage of the existing township, and it is fitting that the provisions contained in the Act of 1877 for the protection of the Dublin Port and Docks Board, and the removal of any accumulations of sewage matter within the Port of Dublin, should be expressly extended to any increased drainage occasioned by the execution of the powers of this Act: Be it therefore enacted that the extension of the limits of the Rathmines and Rathgar township under the powers of this Act shall not prejudicially affect the provisions contained in the twenty-eighth and thirty-sixth sections of the Act of 1877 for the protection of the Port of Dublin and of the Great South Wall, and of the other works of the Dublin Port and Docks Board, and paragraph (5) of the said thirty-sixth section shall be read as though the annual sum of two hundred and sixty-five pounds had been inserted therein instead of the sum of two hundred and fifty pounds.

Roads, &c.
exempted
from juris-
diction of
grand jury
and placed
under Com-
missioners.

7. The grand jury of the county of Dublin, in this Act referred to as the grand jury, shall not have any jurisdiction, power, or authority with respect to the making or maintaining of any road or bridge within the new district, but all roads and bridges within the new district shall be made and maintained by the Commissioners at the cost of the township, and the grand jury shall not have any jurisdiction, power, or authority with respect to any other work in the new district.

Commis-
sioners to
have same
power as
grand jury
in making
roads, &c.

8. The Commissioners shall from time to time have under this Act the like jurisdiction, power, and authority with respect to the making and maintaining of the roads and bridges within the new district as by the Acts of the session of the sixth and seventh years of William the Fourth, chapter one hundred and sixteen, and the session of the seventh and eighth years of Her present Majesty, chapter one hundred and six, are vested in the grand jury with respect to the making and maintaining of any roads and bridges within their jurisdiction, and the Commissioners shall further have within the new district like jurisdiction, power, and authority in all respects to those conferred by section 78 of the Act of 1877 in relation to roads, culverts, and bridges within the existing township.

Grand jury
not to present
for repairing
roads, &c.
within the
district.

9. After the passing of this Act the grand jury shall not make any presentment for the making and maintaining any road, bridge, or other work within the new district, and the district or township shall not be chargeable with the cost of making or maintaining any

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other like works within the county or barony not within the district or township, save and except those the cost of which under the Act of the seventh and eighth years of Her present Majesty's reign, intituled "An Act to consolidate and amend the laws for the regulation of Grand Jury Presentments in the county of Dublin," or any other statute amending the same, are chargeable upon the county at large. A.D. 1880.
7 & 8 Vict.
c. 106.

10. After the passing of this Act the grand jury shall not present the whole or any part of the salary of any county surveyor appointed by them to be raised or levied on the new district, but all such salaries shall be borne and paid by the residue of the county at large, exclusive of the new district, and shall be apportioned thereon accordingly. No part of salary of county surveyor to be levied on the district.

11. Provided that all warrants issued by the Finance Committee of the county of Dublin before the passing of this Act for the collection of public moneys in the new district shall remain in full force and effect until the several collections thereunder are fully completed, anything in this Act contained to the contrary notwithstanding. Warrants in force at commencement of Act to continue.

12. Notwithstanding the passing of this Act all contracts made and entered into between any person and the grand jury, or on their behalf, for public works wholly or in part within the new district, and subsisting at the time of the commencement of this Act, shall be and continue in full force, and in case such works shall be wholly within the new district the Commissioners shall be bound by, and be liable to execute and perform, and be entitled to enforce the same, and the grand jury are by this Act freed from all liability in respect thereof from and after the commencement of this Act, and with respect to such works as shall be in part only within the new district all the powers and authorities vested in the grand jury and their officers for the due supervision and execution thereof shall be and continue in full force, and the township shall pay and contribute a proportion of the amount of such contracts, which amount shall be ascertained and regulated by reference to the number of the perches in each contract or the gross amount of such contract, and as an arbitrator to be appointed in case of difference by the Board of Trade shall decide, and the costs of the reference shall be in the discretion of the arbitrator. Contract with grand jury preserved.

13. All the roads and footpaths within the township and new district, including boundary roads, shall be made and maintained at the cost of the township, and wherever the centre of any road belonging to or under the control of the grand jury now forms the Roads, &c. within township to be maintained by township.

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A.D. 1880. — boundary of the township the entire of such road shall be included and deemed to be within the township.

Grand jury may call on township to repair roads within new district out of repair.

14. It shall be lawful for the grand jury of the county of Dublin, or for the finance committee of the said county, at any time and from time to time after the passing of this Act, upon a statement of the county surveyor that any portion or portions of the roads within the new district is or are not in good and sufficient repair, to call upon the Commissioners by notice in writing to repair the same, and if the same shall not be repaired within a reasonable time after such notice the grand jury or finance committee, upon being satisfied by the report of the county surveyor that such complaint is well grounded, may direct the county surveyor to repair the same, and the expenses properly incurred by the county surveyor in so doing shall be included and form part of the moneys charged upon the township rate by warrant next issued.

Rathmines and Rathgar improvement rate.

15. To carry into execution the purposes of this Act and of the Acts of 1847, 1862, and 1866, or any of them, the Commissioners shall raise the requisite moneys by an improvement rate on the township, under the name of "the Rathmines and Rathgar Improvement Rate, 1880," instead of raising moneys by the Rathmines and Rathgar improvement rate on the existing township under the Rathmines and Rathgar Improvement Act, 1866, and "the Rathmines and Rathgar Improvement Rate, 1880," is accordingly by this Act substituted for "the Rathmines and Rathgar Improvement Rate, 1866."

Rating of Dublin, Wicklow, and Wexford Railway Company and Alliance Gas Company.

16. For the purpose of any rate to be made or levied under the provisions of this Act so far as regards the new district all lands situated in the new district used as and for the purposes of a railway constructed under the powers of any Act of Parliament for public conveyance by the Dublin, Wicklow, and Wexford Railway Company, and all lands situated as aforesaid used for the passage of underground pipes by the Alliance Gas Company, shall be assessed and liable in the proportion of one-fourth part only of the nett annual value of such lands respectively: Provided that nothing herein contained shall alter the amount or mode of rating levied or leviable on any lands within the existing township belonging to or occupied by the said railway company and gas company, or either of them.

Amendment of qualification of voters under 10 & 11 Vict. c. ccliii. s. 7.

17. Section 7 of the Act of 1847 ("persons qualified to vote for Commissioners") shall for the purposes of this Act and the recited Acts be read and have effect as if instead of the words in that section "shall be elected by all male persons of full age rated to

the relief of the poor," the words "shall be elected by all male persons of full age rated to the Rathmines and Rathgar Improvement Rate 1880" had been inserted, with all necessary incidents and consequences thereof. A.D. 1880.

18. The clerk to the Commissioners, at least fifteen days before the day appointed for the annual election of Commissioners in each year, shall make out an alphabetical list of the names of all persons, with their respective residences, entitled to vote at such election in respect of premises within the township as they appear in the rates made for the purposes of the recited Acts, amended as aforesaid, or of this Act, and also of all persons entitled to vote at such election in respect of property within the township. Such list shall be evidence that the persons therein named are entitled to vote at the next annual election for Commissioners, and also at any other election for one or more Commissioners which may be held before the next annual list is made out. The clerk to the Commissioners shall forthwith cause to be printed copies of the list, to be made out by him in every year as aforesaid, and shall deliver a copy of such list to all persons requiring the same, on payment of the sum of one shilling for each copy, and shall cause a copy of such list to be fixed on or near the outer door of the office of the Commissioners, and in some other public and conspicuous situation within the township, on every day during the ten days next preceding the day appointed for the election of the Commissioners in each year.

Clerk to the Commissioners to make out alphabetical list of the persons entitled to vote.

19. The Commissioners may from time to time acquire lands by agreement, not exceeding one acre, and hold the same for the purposes of a fire brigade, and for such purposes may hire, or take on lease, or erect buildings within the township for fire brigade stations, engine-houses, and firemen's dwellings, alarm or signal stations, stables, and other premises necessary for fire brigade purposes, and may alter or enlarge any buildings for the time being vested in them, and repair and furnish and fit up any such buildings with all proper conveniences and appliances for fire brigade purposes.

Power to provide fire stations, &c.

20. The Commissioners may provide and maintain such steam and other engines for extinguishing fire, together with water-buckets, pipes, hose, water-carts, and appurtenances for such engines, and such fire-escapes, salvage-carts, ropes, ladders, and other implements or appliances for safety or use in case of fire, as they consider necessary, and may purchase, keep, or hire horses for drawing such engines, carts, or other vehicles.

Power to provide fire engines and other implements.

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Power to
maintain and
equip fire
brigade.

21. The Commissioners may likewise provide and maintain an efficient force of firemen, and furnish them with all such accoutrements, tools, and implements as may be necessary for the complete equipment of the force, or conducive to the efficient performance of their duties.

Inspector
of fires.

22. The Commissioners may appoint an inspector of fires (herein-after called "the inspector"), who shall be responsible to the Commissioners for the maintenance of the fire brigade and fire establishment by this Act authorised in a complete state of efficiency, and for the good conduct of the firemen.

Constitution
and remuneration of
fire brigade.

23. The inspector and men composing the fire brigade shall be appointed and removed at the pleasure of the Commissioners, and the Commissioners shall pay such salaries as they think expedient to the fire brigade. The Commissioners may likewise make such regulations as they think fit with respect to all or any of the following matters :

The compensation to be made to the members of the fire brigade in case of accident, or to their wives or families in case of their death ;

The pensions or allowances to be paid to them in case of retirement ;

The gratuities to be paid to persons giving immediate notices of fires ;

The gratuities by way of a gross sum or annual payment to be from time to time awarded to any member of the force, or to any other person for extraordinary services performed in cases of fire ;

The gratuities to turncocks when a supply of water is furnished with extra speed.

Prompt
attendance
at fires to be
ensured.

24. The inspector of fires shall make provision for securing a speedy attendance of firemen with engines and their appurtenances, and with fire-escapes and other implements, upon every alarm of fire within the township, and he may, in his discretion, but only in pursuance of general directions to be given by the Commissioners, and subject to such conditions as the Commissioners may prescribe, send such of the engines under his charge with their appurtenances, and such of the firemen appointed by him as he can spare, beyond the township for the purpose of extinguishing fire as and when emergency arises or occasion may require.

Brigade
when em-
ployed

25. In any case where part of the fire brigade is sent beyond the township for the purpose of extinguishing fire at the request

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of the owner or occupier of any property, or of any person on his behalf, such owner or occupier shall be liable to defray all the expenses that may be incurred by the fire brigade in attending the fire, and shall pay to the Commissioners a reasonable charge for the attendance of the fire brigade and the use of their engines, escapes, and other implements. In case of difference between the Commissioners and the owner or occupier of the property, or either of them, the amount of the expenses shall be summarily determined by two justices. In default of payment any expenses under this section may be recovered by the Commissioners in a summary manner.

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beyond limits
of the town-
ship.

26. The inspector and firemen may be sworn in as special constables if in uniform or provided with their warrant, and shall be entitled to act in that capacity along with or in the absence of police constables on all occasions of fire.

Inspector
and firemen
to be sworn
constables.

27. The Commissioners may make byelaws for the training, discipline, and good conduct of the men belonging to the fire brigade, for their speedy attendance with engines, fire-escapes, and all necessary implements on the occasion of any alarm of fire, and generally for the maintenance in a state of efficiency of the brigade, and may annex to any breach of such byelaws penalties not exceeding in amount forty shillings; but no byelaw under this Act shall be of any validity unless it is made in manner directed by the Towns Improvement Clauses Act, 1847, and confirmed by the Local Government Board for Ireland, and all the provisions of the recited Acts relating to byelaws and the recovery of penalties under the same shall with the necessary variations apply to any byelaws made in pursuance of this Act.

Regulations
as to fire
brigade.

10 & 11 Vict.
c. 34.

28. For the more effectual and speedy extinction of fires within the township, the following provisions shall be observed and have effect :

Powers of
fire brigade.

- (a.) The officer in charge of the fire brigade may in his discretion remove or order any fireman to remove any persons who interfere with the operations of the fire brigade, and generally he may take any measures that appear expedient for the protection of life and property, with power by himself or his men to break into or through, or take possession of, or pull down, any premises for the purpose of putting an end to a fire, doing as little damage as possible, and the officer and members of the fire brigade may further do all such acts and things as he or they may deem necessary or

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expedient for extinguishing fire in any building, or for protecting the same, or rescuing any person or property therein from fire, or for preventing the extension of or diminishing the loss caused or likely to be caused by any fire. The officer in charge may also on any such occasion cause the water to be shut off from the mains and pipes of any district in order to give a greater supply and pressure of water in the district in which the fire has occurred, and the Commissioners shall not be liable to any penalty or claim by reason of any interruption of the supply of water occasioned only by compliance with the provisions of this section ;

(b.) All police constables shall be authorised to aid the fire brigade in the execution of their duties. They may close any street in or near which a fire is burning, and they may of their own motion or on the request of the officer in charge of the fire brigade remove any persons who interfere by their presence with the operation of the fire brigade.

Additional firemen may be employed on emergency.

29. The inspector may employ any additional number of persons he thinks proper on the occasion of any fire, although not regularly appointed as firemen, or sworn in as special constables, but he shall, as soon as may be, report the names of such persons to the Commissioners.

Inspector to estimate expense of fire.

30. The inspector shall make up and deliver to the Commissioners a statement of the whole expense attending each fire occurring within the township, which shall include the wages payable to the firemen and other persons employed at it, the rewards or premiums which he recommends to be given to such firemen, and other persons, the outlay incurred in taking them and the engines to the spot where such fire occurred, and in obtaining a supply of water, and other like expense, and such statement, in so far as approved of or altered by the Commissioners, shall be *prima facie* evidence of the amount of expenses attending such fire.

Agreements with insurance companies.

31. It shall be lawful for the Commissioners to agree with all or any companies or persons as to any matters calculated to promote the more efficient working of the fire brigade, and as to any fixed or variable sums to be contributed by such companies or persons respectively towards the cost of the fire brigade and fire establishment.

Expenses of fire brigade.

32. The Commissioners may apply moneys arising from any improvement rate for the time being levied within the township, or

any of their other funds which may not be required for the purposes to which they are specially applicable, towards defraying the costs, charges, and expenses of and attending the establishment and maintenance of such fire brigade and fire establishment. A.D. 1880.

33. The Commissioners may from time to time enter into, make, and carry into effect agreements with the Pembroke township commissioners with reference to the use of a fire brigade and fire appliances, on such terms and conditions, and on payment of such contributions from their funds in furtherance or with reference to such purposes, as may be agreed upon between them. Commissioners and Pembroke township commissioners may agree as to use of fire brigade.

34. The Commissioners may enter into contracts for the establishment of signalling or telegraphic communications between their several fire stations, or, if they think fit, may themselves make and establish, and from time to time extend by means of telegraphic wires or other approved means, such rapid signalling or other communication between the houses and buildings in which their fire engines, fire escapes, and fire brigade may be stationed and maintained and the more distant parts of the township, as to them may seem expedient, and may do all other necessary acts and things for the furtherance and facilitating of such communication: Provided that nothing in this Act shall authorise the Commissioners to work any such apparatus as aforesaid in consideration of any money payment or other valuable consideration, or for any purpose other than the execution of their powers and authorities aforesaid, or in contravention of any exclusive privilege by law vested for the time being in the Postmaster-General, or to construct any such apparatus as aforesaid which shall interfere in any way with any telegraph in the possession or under the control of the Postmaster-General. Rapid communications between fire stations, &c. may be established.

35. Subject to the provisions of this Act, the provisions of all Acts for the time being in force relating to the Commissioners and the existing township (including the provisions of the Rathmines and Rathgar Water Act, 1880, if passed in the present session of Parliament) shall extend to and be applicable throughout the township. Acts relating to existing township extended throughout the township. 43 & 44 Vict. c. 138.

36. All the costs, charges, and expenses of and incidental to the preparing for, obtaining, and passing of this Act shall be paid by the Commissioners in the first place out of any of their funds, but shall be ultimately paid out of funds to be raised in like manner in all respects, and with the like machinery, mutatis mutandis, as the costs of the Act of 1866 were directed by that Act to be paid, the new district under this Act being substituted for the new Expenses of Act.

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A.D. 1880. district under the Act of 1866, and the proportion of two-thirds
— of such costs, charges, and expenses being paid by the new
district under this Act in lieu of one moiety as provided by the
Act of 1866.

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