



CHAPTER cxxxviii.

An Act to enable the Rathmines and Rathgar Improvement Commissioners to improve the Water Supply of the Rathmines and Rathgar Township; and for other purposes. A.D. 1880.
[6th August 1880.]

WHEREAS by the Rathmines Improvement Act, 1847 (hereinafter called "the Act of 1847"), the lands, premises, villages, and hereditaments affected thereby were (section 5) formed into a district, and powers were conferred on the Commissioners incorporated by that Act for better paving, cleansing, draining, regulating, lighting, and improving the district, and for otherwise promoting the health and convenience of the inhabitants: 10 & 11 Vict.
c. ccliii.

And whereas the said Commissioners were, among other things, authorised under the provisions of that Act (section 13) as often as they should think fit to erect and maintain all necessary water-works for the purpose of affording a sufficient and wholesome supply of water for the district, and the said Commissioners accordingly have from time to time expended sums of money for this purpose, and have for many years supplied and are supplying water in the district:

And whereas by the Rathmines and Rathgar Improvement Act, 1862 (herein called "the Act of 1862"), the district created by the Act of 1847 was extended so as to include therein the townlands of Rathgar and Sallymount, and the number of the said Commissioners was increased, and the name of the said Commissioners was changed from "the Rathmines Improvement Commissioners" to "the Rathmines and Rathgar Improvement Commissioners" (herein called "the Commissioners"):

And whereas by the Rathmines and Rathgar and St. Catherine's Improvement Act, 1866 (herein called "the Act of 1866"), the district created by the Acts of 1847 and 1862 was further extended so as to include therein the townlands of Cherry Orchard, Argos,

A.D. 1880. Harold's Cross, Mount Jerome, Rathland East, and Rathland West, and the district so extended became and has since been known as "the Rathmines and Rathgar Township" (herein called "the township"), and the said Acts of 1847, 1862, and 1866 are herein together called "the recited Acts":

40 & 41 Vict.
c. lxxxii. And whereas by the Rathmines and Pembroke Main Drainage and Improvement Act, 1877" (herein called "the Act of 1877"), the 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 the Act of 1877) the lord mayor, aldermen, and burgesses of the city of Dublin (therein and herein called "the Corporation") had been authorised to make, and the 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 and those townships respectively, and all such provisions of the said Acts of 1870, 1871, and 1875 were expressly repealed, and by the Act of 1877 (sections 93 to 99 inclusive) additional powers were also conferred upon the Commissioners, and upon the Commissioners of the Pembroke township as to water supply within their respective townships:

24 & 25 Vict.
c. clxxii. And whereas by the Dublin Corporation Water Act, 1861 (herein called "the Dublin Act, 1861"), the Corporation were empowered to supply water to the city of Dublin and to various parishes, townships, and extra-parochial and other places (in that Act referred to as "the extra-municipal districts"), including the districts that together form the township:

25 & 26 Vict.
c. xxxviii.
26 & 27 Vict.
c. lxxviii.
29 & 30 Vict.
c. xxiii.
33 & 34 Vict.
c. xcvi.
37 & 38 Vict.
c. cxlii.
37 & 38 Vict.
c. clxxxvi.
41 & 42 Vict.
c. xvi. And whereas various Acts and Provisional Orders have been passed from time to time amending the Dublin Act, 1861, among others the Dublin Corporation Fire Brigade Act, 1862, the Dublin Corporation Waterworks Amendment Act, 1863, the Dublin Corporation Waterworks Acts Amendment Act, 1866, the Dublin Corporation Waterworks Act, 1870, the Dublin Corporation Waterworks Act, 1874, the Dublin Corporation Waterworks and Fire Brigade Provisional Order, 1874, and the Dublin Corporation Waterworks Acts Amendment Act, 1878 (which Acts and Provisional Orders are herein together called "the Corporation Acts"):

10 & 11 Vict.
c. 17. And whereas by the said Dublin Corporation Waterworks Act, 1874 (herein called "the Dublin Act, 1874"), it was recited that under certain sections of the Waterworks Clauses Act, 1847, incor-

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porated with and forming part of the Dublin Act, 1861, a supply of water might be demanded by the owners of property, and that it might be inconvenient or physically impracticable in certain portions of the district as defined by the Dublin Act, 1861, to carry these provisions into effect, and the operation of those provisions was by section 2 of the Dublin Act, 1874, accordingly restricted to the districts and townships specifically named in that section, and as to the remainder of the extra-municipal districts defined in the Dublin Act, 1861, it was expressly declared that those provisions incorporated with and forming part of the Act of 1861 should not apply; and it was by the same section of the Dublin Act, 1874, further expressly provided that the Corporation should not thereafter have power to oppose any person, company, or incorporated body seeking parliamentary powers to obtain a water supply for any place or district excluded thereby:

And whereas the districts which together form the township excluded thereby were included in the remainder of the extra-municipal districts defined in the Dublin Act, 1861, and excluded by the said Act of 1874:

And whereas the township comprises a large, populous, and improving district, and the population and number of buildings have of late years greatly increased and are still increasing, and the demand for water has likewise proportionately increased, and may be expected still further to increase on the completion of the main drainage works authorised by the Act of 1877:

And whereas the existing waterworks of the Commissioners are no longer adequate for all the purposes of the township, and it is expedient that the Commissioners should be authorised to obtain an improved and independent supply in manner by this Act authorised, and to dispose of any existing works no longer suitable or required for the purposes of the township:

And whereas it is expedient that the Commissioners should by agreement have power to purchase from the Corporation any mains, pipes, or water rights belonging to the Corporation within the township:

And whereas various mills and factories are situated upon or near the river Dodder, below an artificial erection upon the said river called the city weir, and the said mills and factories are in part worked by the waters of the river Dodder, and the supply of water to such mills and factories may be affected by or in consequence of the works authorised by this Act, and it is expedient that compensation should be made to the several owners, lessees,

A.D. 1880. — and occupiers of such mills and factories for any loss or diminution of or interference with said supply of water as aforesaid :

And whereas the works aforesaid cannot be constructed or the several objects and purposes aforesaid be carried into effect by the Commissioners under their existing powers, and under the Act of 1847 and the Act of 1877 the Commissioners are authorised and required to make application to Parliament by special order as therein defined :

And whereas the Commissioners, by an absolute majority of their whole number at a meeting held on the thirteenth day of August 1879, after special notice setting forth the nature of the proposed application to Parliament, approved of the application, and resolved that the necessary steps be adopted for carrying out the same, and such resolution was confirmed by an absolute majority of the whole number of the Commissioners at a subsequent meeting held on the seventeenth day of September, notice of which subsequent meeting, together with the proceedings at the former meeting, was duly advertised in each of the weeks intervening between the two meetings in the "Daily Express" and "Freeman's Journal," being newspapers circulating in the township, and special notice in writing of which subsequent meeting was given to each of the Commissioners :

And whereas, after the holding of such subsequent meeting, and before any steps were taken by the Commissioners for carrying such resolution into effect, the said resolution, together with the proceedings at the former meeting and at the subsequent meeting, was duly advertised for four successive weeks in the "Daily Express" and "Freeman's Journal," and public notice thereof was also given by means of placards posted in public places within the township, reference being made in all such advertisements and notices to the fact that the plans or particulars of the work to which the resolution related might be seen gratuitously by the ratepayers at the Town Hall, Rathmines :

And whereas the only remonstrance against carrying into effect the said resolution or any part thereof signed or presented to the Commissioners was signed by nineteen ratepayers, the total number of ratepayers within the township being over three thousand :

And whereas it is expedient that the application should now be acceded to, and that the powers sought should be conferred upon the Commissioners :

And whereas plans and sections describing the lines, situation, and levels of the works authorised by this Act, and showing the

lands to be acquired compulsorily under the powers of this Act for the purposes of the said works, and books of reference to those plans containing the names of the owners or reputed owners, lessees or reputed lessees, and of the occupiers of all lands to be taken compulsorily have been deposited with the clerk of the peace for the county of Dublin, and are in this Act referred to as "the deposited plans, sections, and books of reference":

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And whereas the objects aforesaid 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, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

1. This Act may be cited for all purposes as the Rathmines and Rathgar Water Act, 1880. Short title.

2. The following provisions of the Act of 1877 (unless amended by or inconsistent with the provisions of this Act) shall for the purposes of this Act be read and have effect as if the same were repeated and re-enacted, mutatis mutandis, in this Act and made applicable by name to the Commissioners only and not to any other public body or bodies jointly with the Commissioners or apart from them, as the case may be; (that is to say,)

Construction of Act.

Sections 93 to 99 (inclusive) contained in Part IV. (water supply) and sections 100 to 109 (inclusive) contained in Part V. (miscellaneous) of the Act of 1877.

3. The following Acts or portions of Acts (as far as they are applicable for the purposes of and are not varied by or inconsistent with the provisions of this Act) are incorporated with and form part of this Act; (that is to say,)

Incorporation of general Acts.

The provisions of the Commissioners Clauses Act, 1847,

10 & 11 Vict.
c. 16.

With respect to the mortgages to be executed by the Commissioners, except section 84;

With respect to the accounts to be kept by the Commissioners;

With respect to the making of byelaws; and

With respect to giving notices and orders:

The Lands Clauses Consolidation Act, 1845, and the Lands

8 & 9 Vict.

Clauses Consolidation Acts Amendment Act, 1860 (so far as

c. 18.

these Acts respectively are not inconsistent with the Acts next

23 & 24 Vict.

herein-after mentioned):

c. 106.

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Water Act, 1880.

14 & 15 Vict.

c. 70.

23 & 24 Vict.

c. 97.

27 & 28 Vict.

c. 71.

31 & 32 Vict.

c. 70.

8 & 9 Vict.

c. 20.

The Railways Act (Ireland), 1851, the Railways Act (Ireland), 1860, and the Railways Act (Ireland), 1864 :

The Railways Traverse Act :

Sections 8, 9, and 10 (relating to alterations of plans) and sections 15 to 18 (relating to execution of works) of the Railways Clauses Consolidation Act, 1845, and the several provisions of that Act—

With respect to the temporary occupation of lands near the railway during the construction thereof, but such provisions shall be applicable only to the construction of the reservoirs by this Act authorised and to works immediately connected therewith ;

With respect to the crossing of roads or other interference therewith ;

And with respect to the recovery of damages not specially provided for and of penalties, and to the determination of any other matter referred to justices :

The Waterworks Clauses Act, 1847 (except the sections with respect to the payment and recovery of the water rates and with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit, and except section 35) :

The Waterworks Clauses Act, 1863.

26 & 27 Vict.
c. 93.

Interpreta-
tion of ex-
pressions in
general
Acts.

26 & 27 Vict.
c. 92.

4. In construing for the purposes of this Act the Commissioners Clauses Act, 1847, the Railways Clauses Act, 1863, the Waterworks Clauses Acts, 1847 and 1863, or any other Act or Acts mentioned in the next preceding enactment, the following words, unless there be something in the subject or context repugnant to such construction, (that is to say,) the expressions “the promoters,” “the promoters of the undertaking,” “the undertakers,” or “the Company,” shall mean the Commissioners ; the words “the railway” and “the undertaking” shall mean the works by this Act authorised ; the words “works” and “railways” in the Railways Clauses Consolidation Act, 1845, and in the Railways Clauses Act, 1863, shall mean the works authorised by this Act.

Errors and
omissions
in plans, &c.
may be cor-
rected by
two jus-
tices.

5. If any omission, mis-statement, or erroneous description shall have been made of any lands, or of the owners, lessees, or occupiers of any lands, described in the deposited plans or books of reference, it shall be lawful for the Commissioners, after giving ten days notice to the owners, lessees, and occupiers of the lands affected by such proposed correction, to apply to two justices for the correction thereof ; and if it shall appear to such justices that such omission,

mis-statement, or erroneous description arose from mistake, they shall certify the same accordingly, and they shall in such certificate state the particulars of any such omission, and in what respect any such matter shall have been mis-stated or erroneously described, and such certificate shall be deposited with the clerk of the peace of the county of Dublin, and shall also be deposited with the clerk of the union within which the lands affected thereby shall be situate, and such certificate shall be kept by such clerk of the peace and clerk of the union respectively along with the other documents to which they relate, and thereupon such plans or books of reference shall be deemed to be corrected according to such certificate, and it shall be lawful for the Commissioners to make the works in accordance with such certificate.

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6. Unless there be something in the subject or context repugnant to such construction in this Act, the several words and expressions to which meanings are assigned by the incorporated Acts have the same respective meanings; and

Interpre-
tation of
terms.

The expression "the Commissioners" means the Rathmines and Rathgar Improvement Commissioners for the time being:

The expression "the township" means the Rathmines and Rathgar township:

The expression "the Local Government Board" means the Local Government Board for Ireland:

The expression "the water undertaking" means and includes the works hereby authorised and the waterworks belonging to the Commissioners at the passing of this Act, and vested in them:

The word "streams" includes springs, brooks, rivers, and other running water:

The expression "a justice" or "a divisional justice" means a divisional justice of the police district of Dublin metropolis.

7. The Commissioners and their successors in office shall and they are hereby authorised and required to carry this Act into execution.

Commis-
sioners to
carry Act
into exe-
cution.

8. The limits of this Act for the compulsory supply of water for domestic purposes shall comprise and include the township as defined and constituted by the recited Acts, and by any Act passed or to be passed in the present session of Parliament.

Limits of
Act.

9. Subject to the provisions of this Act, the Commissioners may make and maintain, in the lines and according to the levels shown on the deposited plans and sections, the works herein-after described, and may enter upon, take, and use such of the lands delineated on

Power to
execute and
maintain
works.

A.D. 1880. the said plans, and described in the deposited books of reference, as may be required for that purpose; (that is to say,)

1. An impounding reservoir (herein called Work No. 1), formed on the bed of the River Dodder and on lands immediately adjoining, and situated on both sides thereof, by an embankment 240 yards in length, or thereabouts, placed across the said River Dodder, nearly at a right angle therewith in a north-easterly and south-westerly direction at a point in the townland of Ballymorefinn distant 405 yards, or thereabouts, measured down the centre of the said River Dodder from the footbridge in the said townland of Ballymorefinn, and situated as follows, viz., a length of about 150 yards on the eastern and a length of about 90 yards on the western side of the centre of the said river respectively, the said Work No. 1 commencing at the said embankment, and extending thence up the said River Dodder in a southerly direction for a distance of 1,700 yards, or thereabouts, and terminating at a point adjacent to the confluence of the stream in which flow the united waters of the Cot-Brook and the Slade Brook with the said River Dodder, the said Work No. 1 being situated in the following townlands, or some of them, viz., Glassamucky Brakes, Castlekelly, Glassavullaun, Ballymorefinn, and Glassamucky, and parish of Tallaght:
2. A conduit or catchwater drain (herein called Work No. 2), commencing in the said Work No. 1 on its western side at a point in the said townland of Ballymorefinn distant 70 yards, or thereabouts, measured in a southerly direction from the south-west end of the said embankment, and terminating in the stream flowing from Ballinascorney Gap at or near the point where the boundary between the townlands of Belgard Deerpark, and Ballinascorney Lower crosses the said stream distant 270 yards, or thereabouts, measured in a westerly direction along said townland boundary from the bridge carrying the road leading to Belgard school-house over said stream, the said Work No. 2 being situated in the following townlands or some of them, viz., Ballymorefinn, Allagour, Ballinascorney Upper, Ballinascorney Lower, and Belgard Deerpark, and parish of Tallaght:
3. A conduit or catchwater drain (herein called Work No. 3), commencing by a junction with the said Work No. 2 at the said termination thereof, and terminating in the stream forming the boundary between the townlands of Ballymana and Ballymaice at a point distant 240 yards, or thereabouts,

measured in a westerly direction from the north-west angle of the said Belgard schoolhouse; the said Work No. 3 will be situated in the following townlands, or some of them, viz., Ballinascorney Lower, Belgard Deerpark, Ballymaice, and Ballymana, and parish of Tallaght: A.D. 1880.
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4. A conduit (herein called Work No. 4), commencing by a junction with the said Work No. 2, in the said townland of Ballymorefinn, at a point distant 80 yards, or thereabouts, measured in a northerly direction from the north end of the house occupied by Anne Cochrane, and terminating in a stream in the said townland of Ballymorefinn at a point distant 60 yards, or thereabouts, measured in a southerly direction from the south end of the house occupied by Patrick Rogers, the said Work No. 4 being situated wholly in the townland of Ballymorefinn and parish of Tallaght:
5. A conduit (herein called Work No. 5), commencing by a junction with the said Work No. 4 at the commencement thereof in the said townland of Ballymorefinn, and terminating in a stream in the said townland of Ballymorefinn at a point distant 44 yards, or thereabouts, measured in a westerly direction from the north-west angle of the house occupied by the said Anne Cochrane, the said Work No. 5 being situated wholly in the townland of Ballymorefinn and parish of Tallaght:
6. A conduit or catchwater drain (herein called Work No. 6), commencing in the said Work No. 1 on its eastern side at a point in the said townland of Glassamucky distant 175 yards, or thereabouts, measured in a north-easterly direction from the said footbridge over the said River Dodder, and terminating in a stream in the said townland of Glassamucky at a point distant 280 yards, or thereabouts, measured in a north-easterly direction from the north-east angle of Glenismool Male National School, the said Work No. 6 being situated wholly in the townland of Glassamucky and parish of Tallaght:
7. A conduit or catchwater drain (herein called Work No. 7), commencing by a junction with the said Work No. 6 at the said termination thereof, and terminating at the fence forming the boundary between the townlands of Friarstown Lower and Glassamucky at a point distant 210 yards, or thereabouts, measured in a south-westerly direction along the said fence from the point where the said townland boundary crosses the road at the eastern side of the said

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townland of Friarstown Lower, which said Work No. 7 will be situated in the following townlands, viz., Glassamucky, Piperstown, and Friarstown Lower, and parish of Tallaght :

8. A conduit (herein called Work No. 8), commencing in the said townland of Glassavullaun at or near the southern angle of Saint Anne's graveyard, and terminating in the said River Dodder at or near the upper end of the impounding reservoir Work No. 9 next herein-after mentioned, the said Work No. 8 being situated in the following townlands, or some of them, viz., Glassavullaun, Ballymorefinn, and Glassamucky, and parish of Tallaght :
9. An impounding reservoir (herein called Work No. 9), formed on the bed of the said River Dodder and on lands immediately adjoining, and situated on both sides thereof, by an embankment 200 yards in length placed across the said River Dodder nearly at a right angle therewith in an easterly and westerly direction at a point in the townland of Glassamucky distant 900 yards, or thereabouts, measured in a southerly direction up the centre of the said River Dodder from Fort Bridge, the said embankment being situated as follows, viz., a length of about 77 yards being on the eastern and a length of about 123 yards being on the western side of the centre of the said river respectively, the said Work No. 9 commencing at the said embankment and extending thence in a southerly direction for a distance of 1,700 yards, or thereabouts, and terminating at a point distant 330 yards, or thereabouts, measured down the centre of the said River Dodder from the point where the centre of the embankment of the said Work No. 1 crosses the said River Dodder, the said Work No. 9 being situated in the following townlands, or some of them, viz., Ballymorefinn, Allagour, Glassamucky, Ballinasorney Lower, and Friarstown Upper, and parish of Tallaght :
10. A diversion of streams or watercourse (herein called Work No. 10), commencing by a junction with the said River Dodder at a point in the townland of Castlekelly distant 440 yards, or thereabouts, measured in a south-easterly direction up the centre of the said River Dodder from Castlekelly Bridge, which conduit shall be continued past both reservoirs and terminate by a junction with the said River Dodder at a point about 28 chains measured up stream in a south-westerly direction from Fort Bridge :
11. A line of pipes (herein called Work No. 11), commencing by a junction with the said reservoir, Work No. 1, at a point

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in the said townland of Ballymorefinn distant 110 yards, or thereabouts, measured in a northerly direction from the said footbridge over the said River Dodder, and terminating in a tank, Work No. 12, next herein-after described, the said Work No. 11 being situated in the following townlands, or some of them, viz., Ballymorefinn, Glassamucky, Allagour, Ballinascorney Lower, Ballymaice, Killtipper, Friarstown Upper, and Bohernabreena, and parish of Tallaght :

12. A tank (herein called Work No. 12), in the townland of Bohernabreena, the centre of the said intended tank being at a point distant 130 yards, or thereabouts, measured in a northerly direction from the western angle of Bohernabreena House, the said Work No. 12 being situated wholly in the townland of Bohernabreena and parish of Tallaght :
13. A line of pipes (herein called Work No. 13), commencing by a junction with the said Work No. 12, and terminating in the service reservoir, Work No. 14, next herein-after mentioned, the said Work No. 13 being situated in the following townlands, or some of them, viz., the townlands of Bohernabreena, Oldcourt, and Ballycullen, in the parish of Tallaght, and the townlands of Woodtown and Newtown, in the parish of Cruagh :
14. A service reservoir (herein called Work No. 14), in the townland of Newtown, in a field bounded on the east by the main road from Rathfarnham to Killakee and on the south by the road leading from the said main road to Woodbine Lodge, the centre of the said intended service reservoir being distant 110 yards, or thereabouts, measured in a north-westerly direction from the junction of the road leading to Woodbine Lodge with the public road from Rathfarnham to Killakee, the said Work No. 14 being situated wholly in the townland of Newtown and parish of Cruagh :
15. A line of pipes (herein called Work No. 15), commencing by a junction with the said Work No. 14, and terminating at the western boundary of the township at the point where the said boundary crosses the Terenure Road, the said Work No. 15 being situated in the following township, townlands, and parishes, or some of them, viz., the township of Rathmines and Rathgar, the townland of Newtown in the parish of Cruagh, the townland of Ballyboden in the parish of Whitechurch, the townland of Ballyroan in the parish of Tallaght, and the townlands of Scholarstown, Old Orchard,

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Ballyroan, Willbrook, Rathfarnham, Terenure, and Rathgar, or some of them, in the parish of Rathfarnham :

Together with all embankments, bridges, ways, basins, gauges, dams, weirs, outfalls, discharge pipes, shafts, tunnels, aqueducts, channels, mains, pipes, junctions, engines, sluices, conduits, culverts, wells, adits, cuts, drains, filtering beds, valves, bye-washes, tanks, roads, approaches, and other works, apparatus, and conveniences necessary or expedient to be used as part of or in connexion with or subsidiary to the said reservoirs, lines of pipes, and other intended works, or any of them, or which may be necessary for conducting, inspecting, maintaining, repairing, cleansing, or managing the works aforesaid, or any of them.

Fire plug
to be pro-
vided.

10. The Commissioners shall with all reasonable despatch provide and for ever after maintain to the satisfaction of the Secretary of State for War a fire-plug at some convenient point within the township near the north gate of the Portobello barracks.

As to user
of streams.

11. The Commissioners, subject to the provisions herein-after contained, may likewise, by means of the works before described other than Work No. 13, Work No. 14, and Work No. 15, take, collect, divert, impound, store up, use, and appropriate for the purposes of this Act the waters of the River Dodder, the Cot Brook, the Slade Brook, the stream flowing through the townlands of Piperstown and Glassamucky, the stream flowing from Ballinascorney Gap, the stream flowing past Belgard schoolhouse, and the tributaries or affluents thereof, and all streams, rivulets, or springs now flowing into the River Dodder which may or which but for this enactment might be intercepted by any of the said works, and also any springs, streams, or waters which may be found in the course of the construction of the said works, or of any of them, except the waters of the River Dodder, the Cot Brook, the Slade Brook, and the stream forming the boundary between the townlands of Castlekelly and Glassavullaun, where they are crossed and will be intercepted and taken by the conduit, Work No. 10, to be extended past both the reservoirs called Works Nos. 1 and 9, and except the waters of the streams in the townlands of Allagour, Ballinascorney Lower, Belgard Deer Park, and Ballymaice, flowing between the conduits, Works Nos. 2 and 3, and the line of the said conduit No. 10 so to be extended as aforesaid, into which such streams may be intercepted and conveyed into the River Dodder below the embankment of the reservoir No. 9 at the termination of the conduit, Work No. 10, so to be extended : Provided always, that when the flow of water down the said conduit No. 10 exceeds 1,500 cubic feet per minute,

the Commissioners may abstract and take from the said conduit any water in excess of such flow; and the Commissioners shall, to the satisfaction of the engineer for the time being of the mill-owners, erect and for ever after maintain a suitable gauge for the purpose of determining the flow of water down the said conduit No. 10, and such gauge shall at all times be open to the inspection of such engineer.

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12. The Commissioners may from time to time establish and maintain such wires and apparatus for the transmission of messages and other communications wholly or partially by means of electricity, which wires and apparatus are in this section called any such apparatus as aforesaid, as they think expedient or necessary for the better execution of any of the powers or authorities for the time being vested in them; and in relation to any such apparatus as aforesaid, for the purposes of the Telegraph Act, 1863, the Commissioners shall be in the like position in all respects as a company authorised by special Act of Parliament to construct and maintain telegraphs would be or might have been under that Act, so, however, that it shall not be requisite for the Commissioners to give any notice respecting the opening, for the purposes of erecting or laying any such apparatus as aforesaid, of any street or court under their own management; but 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.

Power to
establish
telegraphs,
&c.26 & 27 Vict.
c. 112.

13. In the construction of the works by this Act authorised the Commissioners may, subject to the provisions of this Act, deviate from the lines of such works to any extent not exceeding the limits of lateral deviation shown on the deposited plans, and from the levels shown on the deposited sections in the case of reservoir No. 1 to any extent not exceeding six feet, and in the case of reservoir No. 9 to any extent of lesser height which will enable the Commissioners to give a sufficient supply of water for compensation purposes in terms of this Act, and in the case of any other works to any extent not exceeding ten feet; but the Commissioners shall not, in the exercise of the power of lateral deviation hereby given, construct any embankment or wall of any reservoir of a greater height above the general surface of the ground than

Limits of
deviation.

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that shown on the plans with reference to the corresponding embankment or wall and six feet in addition.

Notice to
be given
of taking
houses of
labouring
classes.

14. The Commissioners shall, not less than eight weeks before they take in any parish fifteen houses or more occupied either wholly or partially by persons belonging to the labouring classes as tenants or lodgers, make known their intention to take the same by placards, handbills, or other general notice placed in public view upon or within a reasonable distance from such houses; and the Commissioners shall not take any such houses until they have obtained the certificate of a justice that it has been proved to his satisfaction that they have so made known their intention.

Commis-
sioners to
procure ac-
commoda-
tion for per-
sons of the
labouring
classes to
be dis-
placed.

15. Before taking in any parish fifteen houses or more occupied either wholly or partially by persons belonging to the labouring classes as tenants or lodgers who may for the time being be the occupier or occupiers of any house or part of any house which the Commissioners are by this Act authorised to acquire, the Commissioners shall (unless the Commissioners and such person or persons otherwise agree) procure sufficient accommodation elsewhere for such person or persons: Provided always, that if any question shall arise as to the sufficiency of such accommodation, the same shall be determined by a justice, and the Commissioners may for the purpose of procuring such accommodation appropriate any lands for the time being belonging to them or which they have power to acquire, and may purchase by agreement such further lands as may be necessary for such purpose, and may on such lands erect labouring class dwellings, and may let or otherwise dispose of such lands and dwellings, and may apply, for the purposes of this section or any of them, any moneys they are by this Act authorised to raise.

Additional
land for
water-
works by
agreement.

16. The Commissioners may purchase by agreement for the purposes of the waterworks by this Act authorised, in addition to the lands delineated on the deposited plans and referred to in the deposited books of reference, any quantity of land not exceeding in the whole fifteen acres.

Compen-
sation to
owners, &c.
of mills, &c.
in River
Dodder.

17. The Commissioners shall make compensation to the several owners, lessees, and occupiers of mills, manufactories, and other works which are situate upon or near the River Dodder below the city weir for any loss or diminution of or interference with the supply of water to such mills, manufactories, and other works occasioned by reason of the works authorised by this Act.

Reservation
of claims
for compen-
sation.

18. Nothing herein contained shall affect the right of such owners, lessees, and occupiers of such mills, manufactories, and

other works to make any lawful claim for compensation against the said Commissioners by reason of the works authorised by this Act, or any lawful claim for damages by reason of any act or omission of said Commissioners at any time in reference thereto. A.D. 1880.

19. The powers hereby granted to the Commissioners for the compulsory purchase of lands and other property shall not be exercised after three years from the passing of this Act. Period for compulsory purchase of lands, &c.

20. 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 Commissioners for executing such works shall cease to be exercised except as to so much thereof as shall then be completed: Provided always, that nothing in this Act contained shall prevent or restrain the Commissioners from enlarging and extending, or otherwise altering, renewing, or repairing their mains and pipes and works of distribution, or other similar works from time to time whenever they may deem it necessary or proper for the purposes of this Act so to do. Period for completion of works.

21. 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 Commissioners any easement, right, or privilege, not being an easement of water, required for the purposes of this Act, in, over, or affecting such lands, and the provisions of the said Acts with respect to lands and rentcharges, as 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. Certain persons may grant leases of lands.

22. It shall be lawful for the Commissioners to hold any lands hereafter to be vested in them which they may deem necessary for the purpose of protecting their waterworks against nuisances, encroachment, or injury, and so long as such necessity shall continue such lands shall not be deemed to be superfluous lands within the meaning of this Act or of any Act herewith incorporated; provided it shall not be lawful for the Commissioners to erect buildings on such lands except for water purposes. Power to hold lands needful to protect waterworks against nuisances, &c.

23. On the sale by the Commissioners under sec. 127 of the Lands Clauses Consolidation Act, 1845, of any land acquired for the purposes of the waterworks, they may reserve to themselves all or any part of the water or water rights and other easements belonging thereto, and may make the sale subject to such reserva- Reservation of water rights, &c. on sale.

A.D. 1880. — tions accordingly, and may make any such sale subject also to such other reservations, special conditions, restrictions, and provisions with respect to use or flow of water, exercise of noxious trades, or discharge, passage, or deposit of manure, sewage, or other matter as they think fit.

Provision for
compensa-
tion for
upper mill-
owners and
others on
River
Dodder.

24. As full compensation to the Corporation of Dublin, and to the owners, lessees, and occupiers of mills and works, and all other parties interested in that part of the River Dodder called the Upper Dodder, and which part extends from the source of the said river to the city weir, and thence by the city watercourse and its branches to the city of Dublin and the River Liffey, and which Corporation, owners, lessees, and occupiers and other parties aforesaid, are in this Act called the upper millowners, for all the waters which can be taken or diverted from the lands draining to the reservoirs Nos. 1 and 9 authorised by this Act to be constructed, the Commissioners shall cause to flow into the River Dodder for the use of the upper millowners in the course of every week a quantity of water not being less than 14,700,000 gallons, and the discharge of the said 14,700,000 gallons shall commence and be continued on and from the day on which the said reservoirs shall be completed and filled with water, or on which water shall be taken for supplying the districts included in this Act. The said reservoirs shall be first filled at such times as the volume of the said river exceeds 1,800 cubic feet per minute.

Working
day defined.

25. For the purposes of this Act with respect to the discharge of compensation water (except otherwise determined at a meeting to be held under section 32 of this Act) a working day shall mean every day in the year except Sunday, Good Friday, and Christmas Day, but in no event shall the aforesaid total quantity of compensation water to be discharged in any week be affected by any change or increase in the number of days.

Discharge
of compensa-
tion water.

26. Subject to the provisions of this Act, and until the upper millowners otherwise determine, the compensation water shall be discharged into the said river as follows on each working day of twenty-four hours 2,450,000 gallons in a regular and continuous flow.

Milowners
to regulate
length of
working
day and
discharge of
compensa-
tion water.

27. The upper millowners may regulate from time to time the hours of which a working day shall consist, and the times and proportions in which the supply of compensation water shall be discharged into the said river: Provided always, that they shall not alter the hours, times, or proportions at any time fixed by them within a shorter period than one month.

28. Provided always, that nothing in this Act shall entitle the upper millowners to require that there be discharged in any one week as compensation water under this Act a total quantity greater than 14,700,000 gallons.

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Weekly discharge of compensation water.

29. The Commissioners shall erect and construct and for ever after maintain in convenient places one or more suitable measuring gauge or gauges over or through which the compensation water shall flow or be discharged, and every such gauge shall be examined, and, when approved of as fit and proper for the purpose, shall be certified accordingly by the engineer of the upper millowners at the expense of the Commissioners, and shall thereafter be open to the inspection and examination of an inspector to be from time to time appointed by the upper millowners.

Gauges to be erected.

30. If at any time any gauge over or through which the compensation water from the reservoir or any part of such compensation water is to pass shall be in an unfit state of repair or condition for the purposes for which it is intended, the same shall forthwith be put into a proper and efficient state of repair and condition by and at the expense of the Commissioners, or if they fail so to do within seven days after notice given to them by or on behalf of any three of the upper millowners requiring the Commissioners so to do, it shall be lawful for the upper millowners or any of them to cause such works to be done and performed in connexion with the said gauge as shall be necessary for placing it in a proper and efficient state and condition, and to recover the expenses of such works with full costs of suit against the Commissioners in any court of competent jurisdiction.

Millowners may repair gauges if the Commissioners fail to do so.

31. In case of any neglect on the part of the Commissioners by or in consequence of which the quantity of water so flowing from the said reservoir shall be less than the quantity by this Act prescribed, the upper millowners shall be entitled to compensation for the deficiency from the Commissioners at the rate of one hundred pounds for every day during which the deficiency shall continue, to be recoverable as liquidated damages by the clerk or secretary to the upper millowners for the time being by action in any court of competent jurisdiction, and the amount so recoverable shall be taken as full compensation for all the upper millowners.

Penalty for neglecting to discharge compensation water.

32. For the purpose of regulating the joint proceedings of the upper millowners, it shall be lawful for any three of the upper millowners (not being joint owners, lessees, or occupiers of the same upper mill or other work) to convene a meeting of all the said upper millowners to be held at some convenient place in the city

Meetings of upper millowners may be held.

A.D. 1880. of Dublin by notice specifying the object of such meeting and inserted in some two newspapers published or circulating in Dublin seven days at least prior to the day appointed for the holding of such meeting, and all questions which may be submitted to such meeting consistently with the notice convening the same shall be decided by a majority of the votes of the persons present thereat according to the scale and manner of voting herein-after provided for, and shall be binding on all the said upper millowners whether present at or absent from such meeting.

Chairman
to be ap-
pointed.

33. The persons present and entitled to vote at such meetings shall elect a chairman before the commencement of their proceedings, and in case of an equality of votes such chairman shall be entitled to a casting vote, and any three persons entitled to vote at any such meeting shall be sufficient to form a quorum, and the said meeting may adjourn from time to time as they may see fit.

Minutes of
proceedings
to be kept.

34. Minutes of the proceedings and resolutions at every such meeting shall be entered in a book to be kept for the purpose and signed by the chairman of every such meeting.

Scale of
voting.

35. At every such meeting to be held as aforesaid the representatives of the Corporation, (that is to say,) the lord mayor, the high sheriff, the town clerk, the chairman and deputy chairman of the waterworks committee of the Corporation for the time being, who shall each have one vote, and the upper millowners who shall be present at such meeting shall be entitled to vote in manner following; that is to say, if the occupier of any mill or work shall alone attend such meeting, he shall be entitled to vote; if the owner and occupier of any mill or work shall both attend such meeting, then the occupier alone shall be entitled to vote; if the occupier of any such mill or work be absent and the lessee present, such lessee alone shall be entitled to vote; and if both lessee and occupier of any such mill or work be absent and the owner thereof present, then such owner shall be entitled to vote.

Mode of
voting in
case of joint
owners, &c.

36. In case of joint owners, lessees, and occupiers of any mill or work, only one of such joint owners, lessees, and occupiers shall be entitled to vote in respect of such mill or work, and if such joint owners, lessees, or occupiers who may be entitled to vote at such meeting cannot agree amongst themselves as to the vote to be given thereat, such vote shall not be received; each person entitled to vote at such meeting shall have one vote in respect of every entire foot of head and fall of water of or belonging to every mill or work in respect of which he is entitled to vote.

37. Any of the upper millowners (whether owner, lessee, or occupier) may attend any such meeting by deputy, but the appointment of every such deputy shall be made by writing under the hand of the party or parties making such appointment, and such writing shall be deposited with the clerk or secretary for the time being appointed by the upper millowners (should there be such clerk or secretary), and it shall not be necessary to make a fresh appointment of deputy for each meeting.

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Appoint-
ment by
upper mill-
owners of
deputies.

38. The upper millowners shall have power at any meeting to be convened for the purpose to appoint and from time to time to remove as they may think fit a civil engineer to act in their behalf in fulfilling or giving effect to the provisions of this Act, and also a clerk or secretary, or to nominate one of their number to act as such clerk or secretary, and to confide to him the custody of the book relating to their proceedings and the execution of any resolutions which may be come to at any such meetings, and to appoint and from time to time to remove as they may see fit the inspector to inspect the gauge or gauges to be constructed as aforesaid, and also the quantity of water passing over the said gauge or gauges, and to make such rules for regulating their proceedings and the duties of their officers and servants as they may deem expedient; and all expenses attending the proceedings of the upper millowners, and the remuneration of any officers or servants to be appointed by them, shall be borne by the occupiers for the time being of the mills who may be entitled to attend at such meetings rateably in the proportions which the number of votes in respect of the water power appropriated to the mills or works occupied by them respectively shall bear to the total number of votes.

Power for
millowners
to appoint
an engineer,
clerk, and
officers.

39. All notices to be served by the upper millowners shall be sufficient if signed by their clerk or secretary for the time being by order of any meeting of the upper millowners, and all proceedings at law or otherwise may be instituted and all appointments may be made on behalf of the whole of the upper millowners in the name of any three of them, provided such proceedings or such appointments shall have been duly authorised at some meeting of the upper millowners held in accordance with the provisions of this Act; and all notices to be served upon the upper millowners in fulfilment of any of the provisions of this Act shall be sufficient if sent through any post office to or left at the residence or place of business of their clerk or secretary for the time being, or if they shall have no clerk or secretary if sent through any post office to or left at the respective residences of any three of the upper millowners.

Signature
to notices,
&c.

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Resolution
of mill-
owners to
be acted
upon by the
Commis-
sioners.

40. The resolutions of every such meeting of upper millowners shall from time to time be communicated in writing under the hand of the chairman of such meeting for the time being to the secretary of the Commissioners, and shall, subject to the provisions of this Act and so far as any such resolution may be properly applicable to the Commissioners, be acted upon by the Commissioners in the several particulars to which such resolutions shall relate from and after the expiration of seven days from the receipt of such notice.

Water sup-
plied to
mills to be
taken as
full com-
pensation.

41. When the Commissioners shall commence and so long as they shall continue to discharge from and out of their said reservoirs Nos. 1 and 9 and works the due quantity of compensation water in manner aforesaid, the same shall be accepted and taken by all parties interested as full compensation for all water which the Commissioners can collect or divert from the lands draining to the said reservoirs.

Reservation
of claim for
compensa-
tion.

42. Save as aforesaid nothing herein contained shall affect the right of such upper millowners to make any lawful claim for compensation against the said Commissioners by reason of the works authorised by this Act, or any lawful claim for damages by reason of any act or omission of the said Commissioners at any time in reference thereto.

Public foun-
tains, &c.

43. After the completion of the waterworks by this Act authorised the Commissioners may if they think fit erect for the free use of the inhabitants of the township such and so many public fountains and water troughs for the use of cattle and other animals in such places within the township as the Commissioners shall think fit, and they may likewise in their discretion construct and maintain such and so many baths, wash-houses, and other accommodation as may be necessary or desirable for the health and convenience of the township: And the Commissioners shall make all such arrangements as they deem expedient for securing an abundant supply of water to such fountains, troughs, baths, and wash-houses when erected or constructed, and also for the extinction of fires, the flushing of sewers, and in other respects as the circumstances of the township from time to time require.

Works not
required
may be dis-
posed of.

44. After the completion of the waterworks by this Act authorised it shall be lawful for the Commissioners if they shall deem it expedient so to do to discontinue the existing waterworks belonging to them or any part thereof, and to sell, let, or grant leases for a term of years, or dispose of their said existing waterworks, or any part or parts thereof, and the sites thereof, and of water rights

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(if any) connected therewith, and also from time to time to fill, take up, and remove all or any of the reservoirs, conduits, pipes, and works no longer used by them for the supply of water and which may not be required by them, and to sell, let, and dispose thereof, and of such lands, property, materials, and other things as shall be found unnecessary for the supply of water under the powers of this Act or the recited Acts; and the Commissioners shall apply the proceeds of any such sales, leases, or other dispositions to and in furtherance of the purposes of this Act: Provided always, that nothing in this enactment contained shall take away or defeat any rights or privileges of the Grand Canal Company or of the Commissioners under their existing agreements as to a water supply for the township.

45. For the protection of the rights and interests of the Grand Canal Company (herein-after in this section called "the company") the following provisions shall take effect:

Provisions
for the
Grand Canal
Company.

1. So long as the Commissioners or their lessees or transferees (if any) shall continue to take from the canal of the company a supply of water for the township of Rathmines and Rathgar, or any extension of it, under the contract entered into between the said parties of the 26th November 1862, for any purpose or purposes whatever, they shall pay for such supply an annual rent equal to the average of the annual sum received for the last three years by the company from the Commissioners under said contract; but in case the present valuation of the houses supplied with water within the township for domestic purposes from any source shall be at any time increased the rent payable by the Commissioners shall be increased so as to bear the same ratio to the said rent as such increased valuation shall bear to such present valuation:
2. If the Commissioners or their lessees or transferees (if any) should not require the whole or any part of the supply in respect of which such payments are to be made, then the Commissioners or their lessees or transferees (if any) shall be at liberty to sell and dispose of so much of the water supply as may not be required by them for use within or for the purposes of the township to such persons, for such purposes, and generally upon such terms and conditions as they think fit: Provided always, that in the event of any portion of such supply being disposed of by the Commissioners or their lessees or transferees (if any) for purposes other than those mentioned in the said contract of 26th

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November 1862, the Company shall be paid by the Commissioners or their lessees or transferees (if any) one half of all such sums as shall be received by the Commissioners or their lessees or transferees (if any) after deducting all necessary outlay and expenses attendant on the sale and distribution of the said supply of water for or in respect of the portion of the said supply which shall be so disposed of, and the quantity so disposed of shall be ascertained by meter, and shall be disposed of at a scale of prices to be agreed upon between the Commissioners or their lessees or transferees (if any) and the Company :

3. Before the Commissioners or their lessees or transferees (if any) shall discontinue the existing waterworks belonging to them, or any part thereof, they shall give to the Company six months notice in writing of their intention so to do by leaving such notice at the office of the Company :
 4. The Commissioners or their lessees or transferees (if any) shall not sell, let, or grant leases, or dispose of their water rights which they hold from the Company, or of their existing waterworks in or upon any part of the Company's lands and property, without the consent of the Company, the reasonableness or otherwise of the withholding of such consent, in case of disagreement between the Commissioners or their lessees or transferees (if any) and the Company, to be subject to arbitration as herein-after mentioned :
 5. Before the Commissioners or their lessees or transferees (if any) shall remove any such reservoirs, conduits, pipes, and works herein-before mentioned, or any part or parts thereof, constructed or being upon the land, banks, or other property of the Company, they shall give to the Company three months notice in writing of their intention so to do, and no such reservoirs, conduits, pipes, and works as aforesaid, or any part or parts thereof, shall be removed except under the superintendence of the engineer or other authorised officer of the Company :
 6. The Commissioners and their lessees or transferees (if any) shall comply with and conform to all reasonable directions and regulations of the Company in the removal of the said works, and shall save harmless the Company against all and every the expenses occasioned thereby, and shall after the removal of any pipes pay all necessary expenses
- 22

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incurred by the Company for a period of twelve months after such removal in maintaining the portion of the Company's trackway from which such pipes shall be removed; and all such works shall be done and executed at the proper costs, charges, and expenses of the Commissioners or their lessees or transferees (if any), and all the reasonable costs, charges, and expenses which the Company may be put to for or by reason of the removal of the said works or of the superintendence of the said officer, or otherwise in relation to the same, shall be borne and paid by the Commissioners or their lessees or transferees (if any) on demand:

7. If the traffic of the canal of the Company be interfered with by or during the removal of the said works by the Commissioners or their lessees or transferees (if any), or by the acts of any of the contractors or workmen employed by them, so as to cause any damage, loss, or injury to the Company, the Commissioners or their lessees or transferees (if any) shall make good and pay to the Company the amount of such damage, loss, or injury when ascertained, and such sum or amount in case of disagreement, together with all other matters in controversy between said parties under this section and not herein-before provided for, shall stand referred to arbitration and be adjudicated upon in the manner provided by sections 216 and 217 of the Public Health (Ireland) Act, 1878, and for that purpose the said sections 216 and 217 are hereby incorporated with this Act:

44 & 42 Vict.
c. 52.

8. Save so far as is expressly provided by this Act, nothing contained in this Act shall annul, alter, or prejudicially affect the said contract dated 26th November 1862, or any of the rights, privileges, or property of the Company or of the Commissioners.

46. When under this Act any act or thing is required or directed or permitted to be done by or before any justice or justices, if the matter requiring the cognisance of such justice or justices shall arise within the police district of Dublin metropolis, such act or thing shall and may be done by or before one of the divisional justices of the said police district, and such divisional justice shall have and may exercise every jurisdiction by this Act conferred upon two justices.

Any act to be done before justices under this Act may be done before divisional justice of police district.

47. It shall be lawful for the Corporation to sell to the Commissioners, and for the Commissioners to purchase by agreement,

Corporation may sell main pipes,

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&c. within
township to
the Commis-
sioners.

any mains and other water pipes belonging to the Corporation situated within the township, and any water or other rights connected therewith, and the Commissioners, in the event of any such agreement being entered into, may apply any of the funds authorised to be raised by them under this Act towards such purchase.

Commis-
sioners to
provide
water at
high pres-
sure.

48. The Commissioners shall, so soon as conveniently may be done after the completion of the works by this Act authorised, provide and keep in the pipes now laid down or to be laid down by them a supply of pure and wholesome water sufficient for the domestic use of the inhabitants of all houses in the township, and such supply shall, except in case of frost or fire (when the water may be temporarily shut off from one or more parts of the township to increase the supply to other parts) or other unavoidable contingency or accident, be constantly laid on at such a pressure as will make the water reach the top story of the highest houses within the township; and the Commissioners may cause main pipes to be laid down and water to be brought through every street within the township, and shall, at the request of the owner or occupier of any house in any street within the township where such main pipe has been laid down, furnish to such person within such house, by means of branch pipes and other necessary and proper apparatus to be provided, laid down, and maintained at the cost of such person, or in accordance with the provisions of the recited Acts, or otherwise as may be agreed upon in any case, a sufficient supply of water for domestic purposes; and the owner of any house within the township not otherwise adequately supplied with water shall when so required by the Commissioners provide a branch pipe and other necessary and proper apparatus from any main pipe which now is or hereafter may be laid in any street in which such house may be situate.

Definition
of water for
domestic
purposes.

49. A supply of water for domestic purposes shall include a supply of water for waterclosets or baths not exceeding two in number in private houses, but shall not include a supply of water for cattle, or for horses, or for washing carriages (where such horses or carriages are kept for sale or hire or by a common carrier), or for steam engines, or for mills, or for railway purposes, or for working any machine or apparatus, or any trade, manufacture, or business whatsoever, or for watering gardens, or washing horses or carriages by means of any tap, tube, pipe, hose, or other such like apparatus, or for fountains, or for flushing sewers or drains, or for public baths, or for any ornamental purpose whatsoever.

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50. The Commissioners may supply any person within the township with water for other than domestic purposes on such terms as they and he agree on, but notwithstanding any such agreement no person shall be entitled to such a supply whenever and as long as the Commissioners are of opinion that the same would interfere with the supply of water for domestic purposes under this Act; and every such agreement shall be by virtue of this Act determinable by the Commissioners on one month's notice in writing.

Water for
other than
domestic
purposes.

51. In the case of all agreements or contracts for the supply of water by the Commissioners for other than domestic purposes, the Commissioners may demand and receive by their officers and servants payment in advance by way of deposit: Provided always, that the Commissioners shall deduct the amount of such deposit from the amount payable under any such agreement or contract by the person who made such deposit as aforesaid.

Commis-
sioners may
take deposit.

52. No person entering into an agreement or contract with the Commissioners for a supply of water, and no person becoming a mortgagee of the water revenues of the Commissioners, shall thereby be disabled from being, continuing, or acting as a Commissioner, or as an officer or servant of the Commissioners, or shall incur any penalty by reason of the fulfilment of any such agreement or contract, or of his being, continuing, or acting as such Commissioner, officer, or servant.

No contract
entered into
shall dis-
qualify per-
sons from
acting as
Commis-
sioners.

53. The Commissioners may contract and agree with any public authority, company, or person for the supply by the Commissioners of water in bulk or otherwise for public or private purposes within the township, but not so as to interfere with the sufficiency of the supply for domestic purposes.

Commis-
sioners may
supply in
bulk, &c.

54. If at any time the Commissioners shall be in possession of a supply of water under this Act greater or more abundant than is required for the health or convenience of the inhabitants of the township, it shall be lawful for any person or associated body of persons in any immediately adjoining place or district excluded by section 2 of the Dublin Act, 1874, to obtain by agreement from the Commissioners a water supply for such adjoining place or district, but so as not to interfere with the sufficiency of the supply for domestic purposes within the township.

Excluded
districts
may obtain
benefit from
surplus
water.

55. The Commissioners may require any person supplied with water for other than domestic purposes, or any public authority, company, or person supplied by agreement or contract as aforesaid, to take and pay for his or their supply by measure.

Power to
supply
water by
measure.

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Sections 38
to 43 of
10 & 11 Vict.
c. 17, when
applicable.

56. Sections 38 to 43 (both inclusive) of the Waterworks Clauses Act, 1847, herewith incorporated, shall not apply to the township till after the expiration of two years from the commencement of the supply of water from the waterworks by this Act authorised, or such earlier date as may be fixed for that purpose by the Commissioners.

Temporary
interruption
of supply.

57. From and after the completion of the works by this Act authorised, the Commissioners may at any time in their discretion authorise the laying, constructing, removing, renewing, or repairing any of their pipes, works, or fittings for or in relation to water supply, and during the execution of any such works or operations, the Commissioners shall not be bound to furnish any further water supply within any part of their district affected by such operations than the convenient conduct of such operations will permit.

Meters, by
whom fur-
nished.

58. In all cases where water shall be supplied for other than domestic purposes by meter, the meters and all necessary fittings shall be provided and fixed by the Commissioners at the expense of the party requiring such supply, or (at the option of such party) be provided and fixed by him, the same being previously and from time to time tested and approved by the Commissioners and fitted and adjusted to their satisfaction.

Power to let
meters.

59. The Commissioners may let for hire any meter for ascertaining the quantity of water consumed or supplied, and any pipes or fittings, for such remuneration in money as shall be agreed upon between the Commissioners and any person to whom the same shall be so let, and such remuneration shall be recoverable in the same manner as other rates may be recovered by the Commissioners under this or the recited Acts.

Provision as
to water-
closets and
baths.

60. The Commissioners shall not be compelled to supply with water any watercloset or bath unless the same and the apparatus and pipes connected therewith shall be so constructed and used as to prevent the waste, misuse, and undue consumption of the water of the Commissioners, and the flow or return of foul air or other noisome or impure matter into the mains or pipes of the Commissioners, or into any pipes connected or communicating therewith, or to supply with water any private bath which is so made as to hold, when filled, more than fifty gallons of water.

Notice of
discontinu-
ance.

61. Notice to the Commissioners for the discontinuance of the supply of water shall not be of any effect unless it is in writing and is left at the office of the Commissioners.

62. If any person to whom water is supplied by the Commissioners is detected wilfully or negligently causing or permitting waste of the water supplied by the Commissioners, whether such waste is owing to his own default or neglect or to any defective pipes, fittings, valves, cocks, or other water apparatus belonging to or used by him, he shall forfeit and pay to the Commissioners a sum not exceeding five pounds over and above any damage or loss sustained by the Commissioners, and the powers of this section shall be in addition to all other remedies and powers vested in or exerciseable by the Commissioners.

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Prevention
of waste.

63. In order to defray the expenses to which the Commissioners are or may be subject under this Act, or for the general purposes of water supply within the township, they may, at any time after the passing of this Act, and from time to time as often as occasion requires, and according to the powers, provisions, and restrictions (except restrictions as to amount of rate) of the recited Acts or of the Act of 1877, make and levy a rate to be called "The Rathmines and Rathgar Water Rate" upon the owners and occupiers of all kinds of property for the time being assessable under the recited Acts to the Rathmines and Rathgar Improvement Rate, 1866, or under the Act of 1877 to the Rathmines and Rathgar Main Drainage Rate, or to any rate which may from time to time be substituted for such rates, or either of them.

Rathmines
and Rath-
gar water
rate.

64. For the purpose of any water rate authorised to be made or levied under the provisions of this Act, all lands 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 shall be assessed and liable in the proportion of one fourth part only of the net annual value of such lands respectively.

Rating of
Dublin,
Wicklow,
and Wex-
ford Rail-
way.

65. For the purposes of any water rate authorised to be made or levied under the provisions of this Act, the rental or annual value of all underground gas pipes shall be held to be the nearest aggregate sum of pounds sterling to one fourth of the annual value thereof as ascertained for the purposes of any rates now or heretofore levied within the township.

Under-
ground gas
pipes, how
rated.

66. The Commissioners may from time to time borrow at interest on mortgage of the rates, rents, and moneys coming to the Commissioners under this Act, such sum or sums of money as they from time to time think fit, not exceeding in the whole the sum of one hundred thousand pounds.

Power to
borrow on
mortgage.

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Re-borrow-
ing.

67. If, having borrowed any money under the provisions of this Act, the Commissioners pay off the same or any part thereof, they may (unless the money borrowed was repaid out of the sinking fund or by instalments as herein-after mentioned) re-borrow the amount paid off, and so from time to time.

Payment of
money bor-
rowed by
instalments
or sinking
fund.

68. The Commissioners shall pay off any money for the time being borrowed by them on mortgage or debenture stock under the powers of this Act within sixty years after borrowing the same, either by instalments or by means of a sinking fund appropriated for that purpose, and with the accumulations thereof (if any) from time to time applied for that purpose, which instalments or sinking fund shall be such as the Local Government Board, having regard to the provisions of this section, approve: Provided that it shall not be obligatory on the Commissioners to pay off any money under this section before the expiration of five years from the passing of this Act.

Appoint-
ment of a
receiver.

69. The mortgagees of the Commissioners under this Act may enforce the payment of arrears of interest or principal, or of principal and interest, due to them, and the debenture stock-holders may enforce the payment of arrears of interest due to them by the appointment of a receiver, and the amount of principal in arrear to authorise the appointment of a receiver by or on behalf of the mortgagees shall be not less than ten thousand pounds, and the amount of interest in arrear to authorise the appointment of a receiver by or on behalf of the debenture stock-holders shall be not less than one hundred pounds, and any receiver so appointed shall have and may exercise as against the Commissioners all such powers and remedies (including the power of applying for a writ of Mandamus) as are herein-after conferred.

Receiver
may apply
for a Man-
damus to
levy rate.

70. It shall be lawful for any receiver appointed under the provisions of this Act to apply to the Queen's Bench Division of the High Court of Justice in Ireland for a writ of Mandamus to compel the Commissioners to make and cause to be levied such additional water rate or rates of such amount as shall be sufficient to make good any deficiency in the funds applicable to the payment of interest or principal, or, as the case may be, of principal and interest, and so from time to time, and the said Division of the High Court is hereby authorised, on cause duly shown, to order and direct such writ of Mandamus to issue, and if and when the same shall be made peremptory the Commissioners shall and they are hereby authorised and required to make or cause to be levied

a rate or rates of such amount, or as near thereto as may be, as shall be sufficient to make good any and every deficiency of interest or principal, or, as the case may be, of principal and interest, and the costs and expenses attending the recovery of the same.

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71. The Commissioners may issue coupons for interest on their mortgages, each coupon referring to the mortgage to which it relates, and specifying the amount and time of payment of one half year's interest on the principal money secured by that mortgage, and being authenticated by the signatures of two persons thereunto expressly authorised by the Commissioners (which authorisation shall be presumed until the contrary is shown), and on presentation to the clerk of the Commissioners of a coupon, he shall pay to the presenter the amount of interest thereon expressed and thereby appearing to be due and payable, and on the audit of the clerk's accounts the coupon shall be accepted as a sufficient warrant for the payment by him of the amount for which it was issued, but the clerk shall not be bound to make any payment of interest on coupons beyond the amount of the money of the Commissioners in his hands and applicable in that behalf.

Coupons for interest on mortgages.

72. For enabling the Commissioners to substitute a continuing stock for renewable mortgages in the ordinary form the following provisions shall have effect; (that is to say,)

Power to Commissioners to create debenture stock.

(1.) The Commissioners may raise any money which they are by this Act authorised to borrow by the creation and issue, at such times, in such amounts and manner, at such price, on such terms, subject to such conditions, and with such rights and privileges, as they think fit, of stock, to be called "Rathmines and Rathgar Water Debenture Stock" (hereinafter called "Water Debenture Stock"), charged upon the rates, rents, and moneys by this Act authorised or made payable to the Commissioners, bearing a fixed and continuing interest payable half-yearly or otherwise and redeemable (at the option of the Commissioners) at par at such time and on such conditions as the Commissioners declare on the creation thereof:

(2.) The water debenture stock shall be transferable by deed, and shall have all the incidents of personal estate:

(3.) The Commissioners shall cause entries of the water debenture stock from time to time issued by them to be made in a register, with the names and addresses of the holders, and the amounts of their holdings:

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—

- (4.) The register shall be accessible for inspection at all reasonable times to mortgagees and holders of water debenture stock of the Commissioners without charge :
- (5.) The Commissioners shall deliver to each holder of water debenture stock a certificate stating the amount held by him :
- (6.) The water debenture stock shall entitle the holder to the rights and powers of a mortgagee of the Commissioners other than the right to require payment of the nominal principal money represented thereby :
- (7.) The interest of the water debenture stock shall rank next to the interest payable on the mortgages of the Commissioners legally granted and charged upon the rates, rents, and moneys by this Act authorised, or any of them, before the creation of such debenture stock, but the holders of the water debenture stock shall not as among themselves be entitled to any preference or priority :

Provided always, that :

- (a.) Nothing in this Act contained as to the creation or issue of water debenture stock shall in any way affect any mortgage or bond or other debenture stock at any time legally granted by the Commissioners before the creation or issue of such water debenture stock, but the holders of all such mortgages and bonds or other debenture stock shall, during the continuance thereof respectively, be entitled to the same priorities, rights, and privileges in all respects as they would have been entitled to if the creation and issue of water debenture stock had not been authorised by this Act :
- (b.) Separate and distinct accounts shall be kept by the Commissioners showing how much money has been received for or on account of water debenture stock, and how much money borrowed or owing on mortgage which they have power so to borrow under this Act has been paid off by water debenture stock or raised thereby instead of being borrowed on mortgage :
- (c.) The power of the Commissioners to raise money on mortgage under this Act shall be diminished by the amount of water debenture stock so from time to time created and issued.

Annual re-
turn to
Local Go-
vernment
Board with

73. The clerk to the Commissioners shall, within twenty-one days after the expiration of each year during which any sum is required to be set apart for a sinking fund under this Act, transmit to the Local Government Board a return in the form prescribed

by that Board, and verified by statutory declaration if so required by them, showing the amount which has been invested for the purpose of such sinking fund during the year preceding the making of such return, and the description of the securities upon which the same has been invested, and also showing the purposes to which any portion of the moneys invested for the sinking fund, and the interest thereof, have been applied during the same period, and the total amount remaining invested at the end of the year, and in the event of any wilful default in making such return such clerk shall be liable to a penalty not exceeding twenty pounds. If it appear to the Local Government Board, by such return or otherwise, that the Commissioners have failed to set apart the sum required by this Act for the sinking fund, or have applied any portion of the moneys set apart for that fund, or any interest thereof, to any purposes other than those authorised by this Act, the Local Government Board may, if they think just, and after hearing the Commissioners if desiring to be heard, by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart and invested as part of the sinking fund, and such order shall be enforceable by writ of Mandamus to be obtained by the Local Government Board out of the Queen's Bench Division of the High Court of Justice in Ireland, and this section shall extend to payment of instalments as far as the nature of the case admits.

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respect to
sinking
fund.

74. A lender of money to the Commissioners under this Act shall not be bound or entitled to inquire respecting the observance by them of any provision of this Act, or be bound to see to the application, or be answerable for any loss, non-application, or mis-application of the money lent, or of any part thereof.

Protection
of lenders
from in-
quiry.

75. Nothing in this Act shall prejudicially affect any charge upon the property, rates, rents, or revenues of the Commissioners by way of mortgage or otherwise subsisting at the passing of this Act, and every mortgagee or person for the time being entitled to the benefit of any such charge shall have the same priority of charge and all the like rights and remedies in respect of the property, rates, rents, or revenues subject to the charge as if this Act had not been passed: Provided always, that in case any water rate shall hereafter, under the authority of this Act, be levied separately from the improvement rate so as to diminish the amount of such improvement rate as levied before the passing of this Act, the said improvement rate shall nevertheless continue and be subject to such and the same charges in all respects until payment thereof as such rate was liable to before the passing

Saving for
existing
charges.

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of this Act, and the said improvement rate accordingly shall in such event continue and be levied to such an amount in the aggregate and in such manner as will effectually defray and provide for any or all such charges as aforesaid during their continuance.

Application
of borrowed
moneys.

76. All moneys raised by mortgage or water debenture stock under the provisions of this Act shall be applied by the Commissioners in the first place in payment of the costs, charges, and expenses incurred by the Commissioners in reference to the preparing, applying for, and passing of this Act, or otherwise in relation thereto, and afterwards in payment of the costs of constructing the waterworks by this Act authorised, and of any consequential additions to or extensions, enlargements, or alterations of the existing waterworks belonging to the Commissioners, and properly chargeable to capital.

Moneys
raised under
Act to be
kept sepa-
rate.

77. All moneys raised under the provisions of this Act, whether by mortgage, water debenture stock, rates, rents, charges, or otherwise applicable to water purposes, including such part of the general rate as being applicable to water as the Commissioners may fix, in case the water rate shall not be levied separately from but as part of one general rate upon the township, shall be carried to an account separate from the other accounts of the Commissioners to be called "The Rathmines and Rathgar Water Fund Account," or some other distinctive name, and in such account all such moneys shall be properly distinguished as capital or revenue, as the case may be.

Provisions
as to exist-
ing rate
applied to
main drain-
age rate.

78. The several powers and provisions of the recited Acts and of the Act of 1877, and (so far as may be necessary or expedient) of any other Act relating to the township with respect to the making, levying, collection, and recovery of improvement, main drainage, or other rates within the township, and with respect to exemptions and limitations (but not restrictions as to amount) of any such rate, shall extend and apply to all rates to be levied by the Commissioners under this Act.

Rate may
be collected
with exist-
ing rates.

79. For the purpose of diminishing the expenses of assessing, making, levying, and collecting any rates under this Act, the Commissioners may include the same in any rate collected by them under the recited Acts or any other Act relating to the township, and may make, collect, and recover the same as part of or along with the improvement rate or other rate for the time being levied by the Commissioners within the township.

80. The amount of any rates to be levied by the Commissioners under this Act may, if the Commissioners think fit, be such an amount as in their judgment will be sufficient to raise or discharge not only the sum in respect of which the rates are made, but also such a sum as will meet the expenses or what is in their judgment a due proportion of the expenses incurred and to be incurred in and about making and recovering the rates.

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Amount of
rate to in-
clude ex-
penses of
recovering
it.

81. The rates and charges levied or received under the authority of this Act shall be applied in manner following; (that is to say,) Application of rates.

(1.) In payment of the costs, charges, and expenses incurred by the Commissioners in reference to the preparing, applying for, and passing of this Act, and otherwise in relation thereto, and in payment of the expenses of and incidental to the making, levying, and recovering the rates and charges, and the borrowing of moneys under this Act, and of management and maintenance of the water undertaking of the Commissioners, including all establishment charges connected therewith, and the annual costs, charges, and expenses of providing and supplying water, and in payment of any ground rent or charges for any lands therein or property required for the purposes of the water undertaking of the Commissioners, including salaries of the clerk and other officials, and of keeping accounts, and of office rent :

(2.) In payment of the interest of money borrowed by the Commissioners under the authority of this Act or raised by water debenture stock :

(3.) In payment of such portion of the cost of enlarging or increasing and renewing the number of mains and pipes and other water apparatus as may from time to time be requisite, and of any other annual expenditure which may in the opinion of the Commissioners be necessary or expedient for giving effect to the purposes of this Act :

(4.) In payment of the sum required to be annually set apart and appropriated for the purpose of the sinking fund or for payment of instalments as herein provided.

82. Subject to the provisions of this Act, the several powers by this Act conferred upon the Commissioners, as far as the same or any of them are applicable in that behalf, may be exercised by the Commissioners in connexion as well with the existing water supply of the township as with the water supply by this Act authorised. Application of Act to existing water supply.

83. Save as by this Act otherwise provided, nothing in this Act contained shall alter, vary, prejudice, or affect the rights of the Corporation under Acts. Reservation of rights of Corporation under Acts.

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Corporation under an Act passed in the Parliament of Ireland in the 6th year of the reign of King George the First, intituled "An Act for cleansing and repairing the watercourse leading from the River Dodeer to the city of Dublin, and to prevent the diverting and corrupting the water therein," or under the Dublin Corporation Waterworks Act, 1861, or any Act amending or extending the same, but all such rights are save as aforesaid hereby reserved entire as if this Act had not been passed.

Indemnity
to Corpora-
tion in
respect of
actions.

84. The Commissioners shall at all times guarantee the Corporation against the results of any actions successfully brought against them for the consequences of any interference with the water in the city watercourse and its branches under the provisions of this Act.

Protection
of Edward
Cecil
Guinness.

85. Nothing in this Act contained shall alter, vary, or interfere with any rights of Edward Cecil Guinness in relation to a supply of water from the city watercourse, or from one of the mains belonging to the Corporation, under a deed executed by the Corporation, and bearing date the 28th day of September 1784; but all rights conferred by the said deed, and all remedies in respect thereof, are hereby reserved entire as if this Act had not been passed.

Protection of
Alliance Gas
Company.

86. For the protection of the Alliance and Dublin Consumers Gas Company (herein-after referred to as "The Alliance Company") the following provisions shall be observed and have effect; (that is to say,)

In the construction or execution of the works by this Act authorised, or any of them—

(1.) The Commissioners, if they shall deem it necessary to raise, sink, or otherwise alter the position of any mains, pipes, or other works belonging to the Alliance Company, shall cause the same to be done with as little detriment and inconvenience to the Alliance Company, and to any houses, premises, or persons supplied with gas or other illuminating power by means of such mains, pipes, or other works as the circumstances will permit:

(2.) The Commissioners shall not remove or displace any mains, pipes, or other works belonging to the Alliance Company, or do anything to interrupt or impede the supply of gas or other illuminating power into, through, or by means of such mains, pipes, or other works until good and sufficient arrangements have been made by the Commissioners for enabling the supply of gas or other illuminating power to be carried on by the Alliance Company:

- (3.) The Commissioners shall repair and made good all damage done to the property of the Alliance Company by disturbance occasioned by the construction of any of the works authorised by this Act : A.D. 1880.
- (4.) The Commissioners, if they construct any work over any main or pipe of the Alliance Company, shall construct and maintain a good and sufficient culvert over such main or pipe (so as to cover the same and make it accessible for the purpose of repairs) together with all other works necessary for the protection from injury of such main or pipe, and the Commissioners, in case they undermine any gas main or other work of the Alliance Company, shall cause the same to be temporarily supported during the execution of the work, and the foundation afterwards made good, or, in case it is found absolutely necessary to remove such gas main or work, shall make good and effectual arrangements for enabling the supply of gas or other illuminating power to be carried on otherwise than through or by means of such main or work :
- (5.) All works herein-before authorised or required to be executed by the Commissioners involving interference with any mains, pipes, syphons, plugs, or other works of the Alliance Company, or the supply thereby of gas or other illuminating power, shall be executed at the cost of the Commissioners and to the reasonable satisfaction in all things of that Company or their engineer, if they or he think fit to attend after receiving not less than forty-eight hours notice from the Commissioners or their proper officer of any such works, which notice the Commissioners (save in cases of sudden emergency) shall be bound to give :
- (6.) If the Commissioners or any of their contractors, agents, officers, workmen, or servants, or any person in the employment of them, or any of them, interrupt the supply of gas or other illuminating power by the Alliance Company, the Commissioners shall make good any loss occasioned thereby to the Alliance Company, and the amount shall be determined by arbitration in manner next herein-after provided :
- (7.) Any dispute or controversy between the Alliance Company and the Commissioners touching or concerning the true meaning or construction of this Act or any of the provisions thereof, or any payment to be made by the Commissioners to the Alliance Company under such provisions, shall be referred to arbitration in accordance with the provisions of the Railway Companies Arbitration Act, 1859, as if the Alliance 22 & 23 Vict.
c. 59.

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Company and the Commissioners were two railway companies :

(8.) Except as is by this Act expressly provided, nothing in this Act shall take away, lessen, prejudice, or alter any of the estates, rights, interests, powers, and privileges vested in or possessed by the Alliance Company under the special Acts relating to that company, or otherwise howsoever.

Saving
rights of
Commis-
sioners.

87. Nothing in this Act contained shall prejudice, lessen, or defeat any powers, rights, privileges, or authorities otherwise belonging to or vested in the Commissioners with respect to water, or with respect to any other matter whatsoever, but all such powers, rights, privileges, and authorities shall be and remain good, valid, and effectual.

Expenses of
Act.

88. 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 Commissioners out of any of their funds, but the same shall be recouped by and charged to the water fund account or other similar account of the Commissioners.