



CHAP. cxliii.

An Act to extend and define the limits of the borough of Enniskillen ; to enable the Commissioners for that borough to construct Waterworks and supply Water ; and for other purposes. A.D. 1870.
[1st August 1870.]

WHEREAS the Commissioners for the borough of Enniskillen (in this Act referred to as "the Commissioners") are constituted under and by virtue of an Act passed in the ninth year of the reign of His late Majesty King George the Fourth, intituled "An Act to make provision for the lighting, cleansing, and watching of cities, towns corporate, and market towns in Ireland, in certain cases," (in this Act referred to as "the Act of 1828,") and are acting in the execution of the same : 9 G. 4.
c. 82.

And whereas under and by virtue of an Act passed in the third and fourth years of the reign of Her present Majesty, intituled "An Act for the regulation of municipal Corporations in Ireland," (in this Act referred to as the Act of 1840,") all the estate, real and personal, of the late body corporate known as "The Portreeve, Free Burgesses, and Commonalty of the Borough of Enniskillen," which body corporate by the Act of 1840 was dissolved, became vested in the Commissioners, and the Commissioners were by the Act of 1840 authorised to apply the rents and profits of such real and personal estate, after defraying all charges to which such rents and profits were at the time of such vesting liable, in aid of the rates levied by the Commissioners, and the surplus thereof (if any) was directed to be applied by the Commissioners for the public benefit of the inhabitants and improvement of the borough of Enniskillen : 3 & 4 Vict.
c. 108.

And whereas the limits formerly comprised within the borough of Enniskillen as defined for municipal purposes, and since comprised within the jurisdiction of the Commissioners, (in this Act referred to as "the municipal borough,") are less extensive than the limits of the borough as defined for the purposes of parliamentary elections

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(in this Act referred to as "the parliamentary borough"), and it is expedient that the boundaries of the municipal borough be extended so as to be co-extensive with the boundaries of the parliamentary borough, the limits within which extended boundaries are in this Act referred to as "the borough":

And whereas it is expedient that the entire liability for the construction, repair, and maintenance of roads and bridges within the parliamentary borough be imposed on property within the parliamentary borough exclusively, and that such property be relieved from the payment of any county cess levied for or in respect of baronial purposes in the county of Fermanagh (in this Act referred to as "the county,"), including the expenses of the construction, repair, or maintenance of roads or bridges in the county outside the borough in the cases in which the expenses of such roads or bridges outside the borough are chargeable to any barony of the county, but not in the cases in which such expenses are chargeable to the county at large:

And whereas it would be for the benefit of both the county and the borough if better provision were made respecting the amounts which the borough is now by law liable to contribute to the county for the purpose of the county gaol, lunatic asylum, and other establishments, and for salaries of county officers, and for other purposes:

And whereas it would be of great local advantage if the Commissioners were empowered to supply water, and for the purposes of such supply to make and maintain waterworks:

And whereas the Commissioners have not hitherto borrowed any money, it is expedient for the purposes of this Act that the Commissioners be authorised to levy rates and borrow money in the manner and to the extent in this Act mentioned:

And whereas it is also expedient that powers for the better local management of the borough be conferred on the Commissioners, and that such further and other powers and provisions as are herein-after contained should be conferred and made:

And whereas plans and sections describing the lines, situations, and levels of the intended new waterworks, and the lands that may be taken compulsorily, and the lough, streams, and springs intended to be taken and diverted for the purposes of this Act, and a book of reference to the several plans, containing the names of owners, reputed owners, lessees or reputed lessees, and occupiers of lands in the lines of the proposed works or within the limits of deviation as defined on the plans, and describing all the lands aforesaid, have been deposited with the clerk of the peace for the county (which said plans, sections, and book of reference are in this Act referred

to respectively as "the deposited plans, sections, and book of reference") : A.D. 1870.

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

May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

1. This Act may be cited for all purposes as "The Enniskillen Borough Improvement Act, 1870." Short title.

PART I.—PRELIMINARY.

2. The following Acts and parts of Acts (so far as the same respectively are applicable for the purposes of this Act, and are not inconsistent with the provisions of the Act of 1828, the Act of 1840, and of this Act,) are hereby incorporated with this Act; (namely,)

General Acts herein named incorporated.

The Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860:

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

The Waterworks Clauses Acts, 1847 and 1863:

The provisions of the Railways Clauses Consolidation Act, 1845, with respect to the temporary occupation of lands near the railway during the construction thereof; but the said provisions shall apply only to the reservoirs by this Act authorised, and the words "centre of the railway" therein shall mean the boundary of the reservoir:

The Commissioners Clauses Act, 1847:

The following provisions of the Towns Improvement (Ireland) Act, 1854; namely, sections 29 to 46 (inclusive), 48 to 51 (inclusive), 54, 56, 58, 59, 70 to 77 (inclusive), 78 to 88 (inclusive), and sections 89 to 98 inclusive.

3. With respect to the interpretation of terms in and for the purposes of this Act, the following provisions shall have effect; (namely,)

Interpretation for the purposes of this Act.

Terms to which meanings are assigned in the Acts incorporated wholly or in part with this Act, or which have therein special meanings, have in this Act the same respective meanings:

In the Railways Act (Ireland), 1851, and the amending Acts incorporated with this Act, the term "the railway" shall for the purposes of this Act mean any waterwork or other work authorised by this Act:

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In the Railways Act (Ireland), 1851, and the amending Acts, and in the provisions of the Railways Clauses Consolidation Act, 1845, incorporated with this Act, the term "the company" shall for the purposes of this Act be taken to mean the Commissioners:

In the Towns Improvement (Ireland) Act, 1854, (except as expressly otherwise provided in this Act,) the term "the Commissioners" shall for the purposes of this Act be taken to mean the Commissioners acting in the execution of this Act:

In the Waterworks Clauses Acts, 1847 and 1863, and in any other Act incorporated herewith, the term "the promoters," "the undertakers," "the company," or any like expression, shall for the purpose of this Act be taken to mean the Commissioners.

Interpreta-
tion of terms.

4. In this Act the term "the borough" means the borough of Enniskillen, as extended and defined by the provisions of this Act, and wherever the centre of any road forms the boundary of the borough includes the other moiety of the said road:

The term "the former Acts" means the Act of 1828 and the Act of 1840:

The term "the Commissioners" means the Commissioners now and from time to time acting in the execution of the former Acts and this Act:

The term "the Lord Lieutenant" means the Lord Lieutenant or other chief governor or governors of Ireland for the time being:

The term "The Grand Jury Law Consolidation Act of 1836" means the Act of the session of the sixth and seventh years of the reign of King William the Fourth (cap. 116.), "to consolidate and amend the laws relating to the presentment of public money by grand juries in Ireland," and the term "Grand Jury Acts" means that Act and all Acts for the time being in force amending the same or otherwise relating to grand juries in Ireland:

The term "the grand jury" means the grand jury of the county of Fermanagh:

The word "person" includes a body corporate or unincorporate:

The word "roads" includes street, footpath, square, avenue, highway, bridge, culvert, arch, court, alley, thoroughfare, or public passage within the limits of this Act.

Commis-
sioners in-
corporated,

5. The Commissioners appointed and authorised under and by virtue of the former Acts, and their successors from time to time

appointed and authorised under and by virtue of the former Acts and this Act, shall be a body corporate, by the name of "the Commissioners of the borough of Enniskillen," and by that name shall have perpetual succession and a common seal, with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act and the former Acts, and shall be the Commissioners for carrying this Act into execution.

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and to carry
Act into
execution.

6. Notwithstanding such incorporation of the Commissioners as aforesaid, or other thing in this Act contained—

Saving for
acts of
Commis-
sioners, &c.

(1.) The Commissioners shall continue and be seized, possessed of, and entitled to all rights, interests, and property of or to which they are at the commencement of this Act seized, possessed, or entitled, as if this Act had not been passed :

(2.) All acts, matters, and things before the commencement of this Act done under the powers and authorities of the former Acts or either of them, or under any other Act or authority, and which are at the commencement of this Act good, valid, and available, and all conveyances, leases, bonds, covenants, deeds, instruments, contracts, agreements, obligations, rights, and remedies at the commencement of this Act existing under the same, shall be and continue as good, valid, and available for all purposes, and for and against all parties, as if this Act had not been passed :

(3.) All actions, suits, prosecutions, or other proceedings by or against the Commissioners, by reason of any matter or thing done before the commencement of this Act, in execution of or in relation to the former Acts or either of them, may be continued, commenced, or prosecuted by or against the Commissioners as if this Act had not been passed :

(4.) All rates or rents at the commencement of this Act due or accruing due to the Commissioners may from and after the commencement of this Act be collected and recovered by the Commissioners as if this Act had not been passed :

(5.) All books and documents shall be receivable in evidence as if this Act had not been passed.

7. Except as expressly otherwise provided, this Act shall commence and have effect from and immediately after the passing thereof.

Commence-
ment of Act.

PART II.—EXTENSION OF THE BOROUGH.

8. From and after the commencement of this Act, the boundaries of the municipal borough shall be co-extensive with the boundaries

Extension of
borough.

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A.D. 1870. of the parliamentary borough, and the boundaries of the borough for the purposes of this Act shall be those which are set forth in the schedule to this Act.

Extension of powers of Commissioners. **9.** From and after the commencement of this Act, the powers, authorities, rights, and privileges of the Commissioners under the former Acts and this Act and otherwise shall extend and be in full force to and throughout the borough.

Provision for future extension of the borough. **10.** In case the same shall be or become necessary or desirable, the limits of the borough may hereafter be extended in the manner and subject to the conditions in this Act mentioned, so as to include within the limits of the borough any district or districts adjoining the same.

Consent of Lord Lieutenant to proposed extension requisite. **11.** To any extension from time to time or at any time proposed of the limits of the borough, by the annexation of any adjacent district or districts, under the provisions of this Act, the consent and approval of the Lord Lieutenant must be sought and obtained, and it shall be competent for the Lord Lieutenant in his discretion to give or withhold such consent and approval.

Consent of grand jury to proposed annexation. **12.** Before any district is annexed under the provisions of this Act, and before the consent and approval of the Lord Lieutenant are formally signified to any such annexation and extension as aforesaid, it shall be proved to the satisfaction of the Lord Lieutenant that the grand jury of the county have received from the Commissioners at some spring assizes, at least twelve months previous to any application being made to the Lord Lieutenant for his approval and consent, notice of the intention of the Commissioners to annex such district, and of the limits and extent of the district proposed to be annexed, and that the grand jury at the next following or some other assizes have approved of the annexation so proposed by the Commissioners.

Effect of extension of borough. **13.** Upon and from the approval by the Lord Lieutenant of any such annexation and extension of the borough, the Commissioners and the grand jury shall act in the matter of the roads within the district so annexed in like manner and to the same effect as they are by this Act authorised to act in relation to the roads within the borough.

Provisions of Act to apply to district annexed. **14.** From and after the annexation of any district or districts in manner aforesaid to the borough, the district or districts so annexed shall form part of the borough as defined by the schedule to this Act, and be subject to the like rates and obligations, and be entitled to the like rights, privileges, and advantages, as if such district or districts had been originally placed under the operation of this Act.

15. Upon the approval by the Lord Lieutenant of any such annexation and extension of the borough as aforesaid, the Commissioners shall forthwith publish in the Dublin Gazette and in one or more newspapers a notice specifying the limits and extent of the district or districts so annexed to the borough.

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Notice of extension of borough to be published.

PART III.—TRANSFER FROM GRAND JURY.

16. From and after the commencement of this Act, all roads within the borough shall be made, remade, built, rebuilt, maintained, and repaired by the Commissioners exclusively.

Repair of streets in borough by Commissioners.

17. From and after the commencement of this Act, sections 12, 51, 55, 56, and 60 of "The Grand Jury Law Consolidation Act of 1836," and all the provisions of the Grand Jury Acts relative thereto, in so far as such sections and such provisions relate to the presenting of sums of money to be levied off a barony or baronies, shall cease to operate in relation to the borough.

Exclusion of part of the Grand Jury Acts.

18. All contracts made and entered into by and between any person and the grand jury, or any person on their behalf, for the public works wholly within the borough, and subsisting at the time of the commencement of this Act, shall be and continue in full force, and the Commissioners, as representing in that behalf the grand jury, and all such persons respectively, shall be bound by and be liable to execute and perform and be entitled to enforce the same according to the terms and conditions of the respective contracts, and the grand jury shall be by this Act freed from all liability in respect thereof, and all the powers and authorities at the time of the commencement of this Act vested in the grand jury and their officers for the due supervision and execution of the works according to the respective contracts are by this Act transferred to and vested in the Commissioners.

Subsisting contracts vested in Commissioners.

19. From and after the commencement of this Act, and whether any such contracts as aforesaid shall then be in existence or not, the Commissioners shall have similar jurisdiction, power, and authority with respect to roads and other public works within the borough to the jurisdiction, power, and authority which before the passing of this Act were vested in the grand jury by the Grand Jury Acts or otherwise however: Provided that the cost of constructing, repairing, or maintaining any roads or other public works (except all county buildings) within the borough shall hereafter be defrayed out of the rates authorised, and in manner provided by this Act.

Commissioners to have same power as grand jury for making roads, &c.

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Power of purchase by agreement as under Public Health Act, 1848, sec. 73.

20. For the purpose of making any new street or road within the borough, or for the purpose of widening, opening, enlarging, or otherwise improving any street or road within the borough, the Commissioners shall have power to purchase, by agreement, lands or premises within the borough (in like manner as by section 73 of the Public Health Act, 1848, power is conferred on local boards of making purchases by agreement), and any part of the lands or premises so purchased which shall not be wanted for the purpose in respect of which such purchase was made shall be resold at the best price that can be gotten for the same, and the proceeds of such resale shall be carried to the borough fund.

Exemption of county from expenses specified.

21. From and after the commencement of this Act, all the expenses of providing and printing registry books and lists of registered voters required by the Acts for the time being in force relating to the election of a member to serve in Parliament for the borough, and all other expenses relative to the registration of voters for the borough, shall be paid by the Commissioners, and no portion thereof shall be chargeable to the county.

Exemption of borough from expenses specified.

22. From and after the commencement of this Act, no part of the expenses to be incurred by or on behalf of the county for the following purposes or any of them shall be chargeable or charged on the borough; (namely,)

For the salaries of the county surveyor and his assistants and clerk :

For the expenses of the revision of the tenement valuation of property in the county under any Act for the time being in force, except so far as such revision relates to property in the borough :

For the expenses of providing and printing registry books and lists of registered voters required by the Acts for the time being in force relating to the election of members to serve in Parliament, or other expenses relative to the registration of voters for the county.

Levying of county cess in borough to cease.

23. From and after the commencement of this Act, all the powers and duties of the grand jury in relation to the presenting, applotting, and levying of county cess on any rateable property within the borough shall cease; but in case the grand jury shall pay to the persons or any of them who have entered into any contract with the grand jury any sum or sums for the repair, maintenance, or otherwise of any of the roads within the borough, which but for this Act would have been applotted by the grand jury at any assizes

for the year eighteen hundred and seventy, or at any future assizes during the continuance of such contract, it shall be lawful for the treasurer of the county to add, and he shall add, the amount of such sum or sums (subject to the right of traverse by the Commissioners herein-after conferred) to the sum to be certified by him and presented as the contribution by the borough to the county, in accordance with the provisions of this Act, and such sum shall be considered for all purposes contemplated by this Act as portion of such contribution.

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24. All warrants issued by the treasurer of the county before the commencement of this Act for the collection of public moneys of the borough shall remain in full force and effect until the several collections thereunder be fully completed.

Warrants in force at the commencement of Act to continue.

25. Except as in this Act expressly provided, the borough shall continue liable, in the same manner as if this Act had not been passed, to contribute towards the several amounts from time to time presented for or in respect of county at large purposes by the grand jury.

Contribution of borough to other county purposes.

26. The amount of the contribution of the borough towards the amount presented as aforesaid shall be proportioned to the valuation of property in the borough as compared to the valuation of property in the county, and the amount of such contribution shall be certified in detail under the hand of the treasurer of the county, such certificate to be delivered to the clerk to the Commissioners at the time when the warrants for collecting are delivered to the collectors of county cess, and six weeks at least before the commencement of each assizes for the county: Provided always, that the chairman of the Commissioners for the time being shall be entitled to sit and act as one of the associated cesspayers at every county at large presentment sessions, and to represent the borough at every such sessions.

Proportion of contribution.

27. The Commissioners may traverse any such presentment as aforesaid in as full and ample a manner as any person paying grand jury cess within the borough might by law at the passing of this Act traverse any such presentment.

Power of traverse to the Commissioners.

28. The amount stated in such certificate (subject to the right to traverse as aforesaid) shall be a first charge on the "borough of Enniskillen improvement rate" authorised by this Act, and (subject as aforesaid) the said amount shall be paid by the Commissioners fourteen days at least before the first day of the assizes next following the date of such certificate.

Contribution to be a first charge upon the borough of Enniskillen improvement rate.

29. In order to raise money for the maintenance, construction, and repair of roads and other public works within the borough, and

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for carrying into execution the several provisions of this Act with reference to the same, and with reference to the arrangements with the grand jury by this Act authorised, the Commissioners may once in every year, computed from the first day of August after the commencement of this Act, or more often if they think it necessary, make one or more general assessment or assessments, to be levied by two equal half-yearly instalments, under this Act, upon the occupiers, or in case the same shall be unoccupied, upon the owners of all rateable property within the borough, and to be called the "borough of Enniskillen improvement rate," and the total assessment in any one year shall not exceed two shillings and sixpence in the pound.

PART IV.—WATERWORKS.

Power to take lands referenced.

30. Subject to the provisions of this Act and of the Acts incorporated wholly or in part with this Act, the Commissioners may from time to time enter on, purchase, take, hold, and use such of the lands described in the deposited plans and book of reference as they require for the purposes of this Act.

Power to take additional lands by agreement.

31. The Commissioners may from time to time, for the purposes of this Act, purchase, by agreement, any lands in addition to lands which they are authorised to take by compulsion, and the Commissioners may hold the same; provided that the additional lands so purchased and held shall not exceed in the whole at one time five acres.

Persons may grant easements.

32. The persons empowered by the Lands Clauses Consolidation Act, 1845, to convey lands, may, if they think fit, but subject to the provisions contained in that Act and in the Lands Clauses Consolidation Acts Amendment Act, 1860, with respect to land, grant to the Commissioners for the purposes of this Act any easement, liberty, privilege, power, or authority (except of water) in or over any such lands.

Period for compulsory purchase.

33. The powers of the Commissioners for compulsory purchase of lands under this Act shall not be exercised after the expiration of five years from the commencement of this Act.

Power to make water-works and take waters, &c.

34. Subject to the provisions of this Act, the Commissioners may make and maintain in the lines or situations and according to the levels shown on the deposited plans and sections the reservoirs, lines of pipes, alterations, deviations, and other works for supply of water shown on the deposited plans, with all proper approaches, works, and conveniences connected therewith, and may stop up all highways, roads, and ways within the limits of deviation defined on the deposited plans, which are shown thereon as intended to be

stopped up, and may appropriate for the purposes of this Act the sites of the highways, roads, and ways so stopped up, and may divert, appropriate, take, and use for the purpose of the waterworks by this Act authorised the waters of Ballydoolagh Lough, and all such brooks, streams, springs, and waters as flow into and shall be found within the limits of deviation marked upon the deposited plans, and may collect and impound such waters or any of them in the reservoirs by this Act authorised, and from thence may distribute and supply the same.

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35. If any omission, misstatement, or erroneous description is found to have been made of any lands, or of any owners, lessees, or occupiers of any lands described or intended to be described in the deposited plans or book of reference, the Commissioners may apply to two justices for the correction thereof, after giving ten days notice to the owners of the lands affected by the proposed correction, and if it appears to such justices that the omission, misstatement, or erroneous description arose from mistake, they shall certify the same accordingly, stating the particulars of the omission, misstatement, or erroneous description, and such certificate shall be deposited with the clerk of the peace for the county, and shall be kept by him with the other documents to which it relates, and subject and according to the same enactments and provisions as apply to those other documents, and thereupon the deposited plans or book of reference shall be deemed to be corrected according to the certificate, and the Commissioners may enter on, take, hold, and use those lands accordingly.

Correction of errors, omissions, &c.

36. The waterworks authorised by this Act are the following; (that is to say,)

Description of works.

First, a reservoir, with all necessary and proper embankments, sluices, dams, connecting and other weirs, gauges, tunnels, catch-water dams, conduits, pipes, approaches, relief tanks, and other works and conveniences connected therewith, in, upon, and around the shores and bed of Ballydoolagh Lough as the said lough at present exists, to be constructed by widening and strengthening the existing embankment at the north-western end of the said lough, the said reservoir and embankment being situate wholly in the townland of Ballydoolagh, parish of Magheracross, and county of Fermanagh :

Second, a line of pipes commencing by a junction with the reservoir aforesaid at a point at the south-western end of the said existing embankment where it abuts on a partly formed public road in the townland and parish aforesaid, and terminating in the service reservoir next herein-after described at a

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point distant one hundred and ninety-two yards or thereabouts, measured in a north-easterly direction, from the centre of the bridge carrying the old road between Enniskillen and Chanterhill over the line of the Irish North-western Railway, and also distant three hundred and eleven yards or thereabouts in a north-westerly direction from the western angle of the County Infirmary in the townland of Breandrum, parish of Enniskillen, and county of Fermanagh :

Third, a service reservoir, with all necessary works as aforesaid, to be constructed on Tonystick Hill in a field in the occupation of John Quinton, wholly in the townland of Tonystick and parish of Enniskillen, the centre of which service reservoir will be distant one hundred and eighty yards or thereabouts, measured in a north-easterly direction, from the centre of the herein-before described bridge, and also distant two hundred and seven yards or thereabouts, measured in a northerly direction, from the centre of the principal doorway on the south side of the passenger station of the Irish North-western Railway Company at Enniskillen in the said townland of Tonystick, parish of Enniskillen, and county of Fermanagh :

Fourth, a line of pipes commencing by a junction with the aforesaid service reservoir on its western side in the said townland of Tonystick and said parish of Enniskillen, and terminating in the centre of the public road at the north-east end of the East Bridge in the town of Enniskillen, townland of Tonystick, parish of Enniskillen, and county of Fermanagh.

Power to deviate laterally and vertically.

37. In the construction of the works by this Act authorised to be made and constructed, it shall be lawful for the Commissioners to make lateral deviations from the lines of such works, provided that such deviations shall not extend beyond the limits of lateral deviation defined upon the said plans; and the Commissioners may deviate vertically to any extent in the case of the herein-before mentioned service reservoir, and in the event of the site of it being changed from that shown in the deposited plans to such an extent as to require such vertical deviation in order that it may retain the required capacity, not exceeding fifteen feet, and in case of any other work to any extent not exceeding five feet, from the levels of such works as shown upon the said sections.

Period for completion of works.

38. If the works for the supply of water authorised by this Act are not completed within five years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the Commissioners for executing the same or in relation thereto shall cease to be exercised, except as to so much thereof as is then com-

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pleted, but nothing herein shall restrict the Commissioners from extending, enlarging, or otherwise altering, renewing, repairing, or removing any of their engines, machinery, mains, pipes, works of distribution, or other works, or from improving their supply of water, at any time and from time to time, as occasion requires.

39. On any sale by the Commissioners of any lands, they may reserve to themselves all or any part of the water or water rights or other easements belonging thereto, and may make the sale subject to such reservations accordingly, and may also make any such sale subject to such other reservations, special conditions, restrictions, and provisions with respect to use of water, exercise of various trades, or discharge or deposit of manure, sewage, or other impure matter, as they think fit.

Reservation of water rights, &c. on sale.

40. The Commissioners shall supply water for domestic purposes for the use of the inhabitants for the time being of the borough; and the limits of the borough as defined by this Act shall be the limits of this Act with respect to the supply of water by the Commissioners.

Supply of water and limits of Act.

41. Section 44 of the Waterworks Clauses Act, 1847, shall for the purposes of this Act have effect as if the words "with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner" were omitted therefrom.

Supply of water to houses of ten pounds value or under.

42. Once or oftener in every year the Commissioners may make a special assessment, to be called "the borough of Enniskillen water rate," under this Act, upon the occupiers, or in case the same shall be unoccupied, upon the owners of all rateable property within the borough; provided that the total amount to be raised in any one year by "the borough of Enniskillen water rate" shall not exceed the rate of one shilling and sixpence in the pound.

Water rate.

43. The Commissioners may supply any person 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.

44. The Commissioners may supply water for any purpose to any person beyond the borough, on such terms and conditions as they and he from time to time agree, but not so as to interfere with the supply of water within the borough.

Power to supply water beyond borough.

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Com-
missioners
may take
deposit for
contract
water rate.

45. In the case of all contracts for the supply of water by the Commissioners for other than domestic purposes, the Commissioners, or any person authorised by them in that behalf, may demand and receive payment in advance by way of deposit: Provided always, that the Commissioners shall deduct the amount of every such deposit from and allow the same as part of the rate or rent to be collected or received from the person who shall have made such deposit as aforesaid.

Contract
water rate.

46. The several rates or rents charged to or upon or payable by the several persons with whom the Commissioners shall contract for the supply of water for other than domestic purposes shall constitute a rate to be called the "contract water rate," but no such contract need be under the common seal of the Commissioners.

Contract for
water with
any person
not to dis-
qualify him
from being
a Commis-
sioner.

47. No person entering into a contract with the Commissioners for a supply of water for any purpose shall thereby or by reason thereof be in any respect disqualified or disabled from being elected, or being, or continuing, or acting as a Commissioner under this Act, or incur any penalty by reason of such contract, or of his being, or continuing, or acting as a Commissioner.

Where
several
houses sup-
plied by one
pipe, each
owner or
occupier to
pay.

48. When several houses or parts of houses, in the occupation of several persons, shall be supplied by one common pipe, the several owners or occupiers of such houses or parts of houses shall be liable to the payment of the same rates for the supply of water as they would have been liable to if each of such several houses or parts of houses had been separately supplied with water from the works of the Commissioners by a distinct pipe: Provided always, that the Commissioners shall not be compelled to supply water to the occupier of any part of a dwelling-house, or for any premises occupied with a dwelling-house, unless the water rate is paid for the whole of such dwelling-house and premises.

Constant
pressure not
required.

49. Water supplied under this Act shall not be constantly laid on under pressure if the Commissioners shall be prevented from doing so by unforeseen accident or the cleansing of the reservoirs, nor shall water be supplied in any case at a level above that at which it can be supplied by gravitation from the service reservoir authorised by this Act, or some other reservoir on the same or a higher level.

Power to
supply water
by measure.

50. The Commissioners may require any person supplied with water for other than domestic purposes to take and pay for his supply by measure.

Meters,
by whom
furnished.

51. 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.

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52. 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 (which shall include the cost of keeping the said meter in repair) shall be recoverable in the same manner as the rents or sums due to the Commissioners for water.

Power to let meters.

53. No meter, whether supplied by the Commissioners or the consumer, shall be altered or repaired except under the direction or with the consent of the Commissioners, or the surveyor or other officer of the Commissioners, and the Commissioners shall be entitled to keep all meters which may be provided by the consumer in repair, at the cost of the consumer, at such moderate rate of remuneration as may be agreed upon between the Commissioners and the consumer, or in case of dispute as may be fixed by the justices.

Meters to be repaired by the Commissioners.

54. Every person who shall wilfully, fraudulently, or by culpable negligence injure or suffer to be injured any meter, pipes, or fittings belonging to the Commissioners, or who shall fraudulently alter the index to any meter, or who shall knowingly and wilfully prevent any meter from duly and properly registering the quantity of water supplied, shall for every such offence forfeit to the Commissioners a sum not exceeding five pounds, and the Commissioners may, in addition thereto, recover the amount of any damage by them sustained.

Penalty for injury to and fraudulent use of meters.

55. 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, nor any private bath which is so made as to hold when filled more than fifty gallons of water.

Provision as to water-closets and baths.

56. 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.

Notice of discontinuance.

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Commissioners may draw off water from the reservoirs for the purposes of repairs and cleansing.

57. It shall be lawful for the Commissioners from time to time to cause the water to be drawn or let off from any of the reservoirs, for the purpose of repairing such reservoirs, or any of the dams, banks, tanks, channels, water gates, pipes, or other works appertaining thereto, or for the purpose of cleansing out such reservoirs or any part thereof; but in any such case the Commissioners shall use all convenient speed in making such repairs or in executing such cleansing; and the Commissioners shall not be liable for any loss or damage sustained by any person by reason of such proceedings or any of them.

Works not required may be disposed of.

58. It shall be lawful for the Commissioners to fill, take up, and remove at any time and from time to time all or any of their conduits, pipes, or works which may not be required, and at any time and from time to time to sell and dispose thereof, and also at any time and from time to time to sell and dispose of all such lands, waters, property, materials, and other things as shall be found unnecessary or superfluous, and the Commissioners shall apply the proceeds of such sales to the purposes of the waterworks authorised by this Act.

Public fountains.

59. Within six calendar months after the completion of the waterworks by this Act authorised, the Commissioners shall erect, for the free use of the inhabitants of Enniskillen, not less than ten public fountains, and eight watering troughs for the use of cattle, in such streets or public places within the borough as the Commissioners shall think fit.

Regulations for preventing waste of water.

60. For preventing waste, misuse, undue consumption, or contamination of the water of the Commissioners, the following provisions shall have effect; (namely,)

1. The Commissioners may from time to time make such regulations as they think expedient for the objects aforesaid, to be observed by persons supplied with water:
2. By any such regulations the Commissioners may direct the use and prescribe the size, nature, strength, and materials, and the mode of arrangement, alteration, and repair of the pipes, valves, cocks, cisterns, baths, soilpans, waterclosets, and other apparatus or receptacles, or any of them, to be used by such persons respectively for carrying, delivering, and receiving water:
3. The Commissioners shall not be bound under any agreement or otherwise to supply or continue to supply water to any person unless such regulations as are for the time being in force are duly observed by him:

4. In case of the failure of any such person to observe such regulations as are for the time being in force, the Commissioners may, if they think fit, after twenty-four hours notice in writing, enter, and by or under the direction of their duly authorised officer repair, replace, or alter any pipe, valve, cock, cistern, bath, soilpan, watercloset, or other apparatus or receptacle belonging to or used by any person supplied by them; and the expense of every such repair, replacement, or alteration shall be repaid to the Commissioners by the person on whose credit the water is supplied, and may be recovered by them as damages for the recovery of which no special provision is made.

61. In the following cases; (namely,)

(1.) If any person supplied with water by the Commissioners fails to pay any water rate or rent due from him to the Commissioners;

Power to cut off supply on failure in payment of water rent, &c.

(2.) If any such person wrongfully does, or causes or permits to be done, anything in contravention of the provisions of this Act relating to the supply of water, or wrongfully fails to do anything which he ought to do for the prevention of the waste, misuse, undue consumption, or contamination of the water of the Commissioners;

(3.) If any person acting under the authority of the Commissioners is refused admittance at all reasonable hours into any building or land supplied with water by the Commissioners, and prevented from making any inspection or examination therein;

the following provisions shall take effect; (that is to say,)

(A.) The Commissioners may, notwithstanding any existing contract with the person supplied with water, and without prejudice to any other remedy or proceeding against him, cut off any service or other pipe used by him for the supply of water, or turn off or otherwise stop the supply to him of water, and may cease to supply him with water until he has paid the water rate or rent due from him, together with all expenses incurred by the Commissioners in or about the cutting off of any pipe, or the turning off or otherwise stopping of any such supply, or (as the case may be) so long as his wrongful act or omission continues or is not remedied:

(B.) Any officers and workmen of the Commissioners, after giving twenty-four hours previous notice to the occupier,

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or if the building is unoccupied to the owner or his agent, may enter into the building or lands supplied, between the hours of nine in the forenoon and four in the afternoon, or at any other time with the authority in writing of a justice, and remove and carry away any meter, instruments, pipes, apparatus, or other works, the property of the Commissioners, making compensation to the owner for any damage sustained by him.

PART V.—RATES, &c.

Assessments, when computed.

62. Assessments of rates under this Act shall be calculated from the first day of August in each year.

Rates vested in the Commissioners.

63. The several rates from time to time made under this Act by the Commissioners are by this Act vested in the Commissioners, and shall be payable when and as they appoint, and to the collectors or other persons whom they appoint to receive the same.

Produce of rates, how to be applied.

64. All money levied by means of "the borough of Enniskillen improvement rate," or "the borough of Enniskillen water rate," "the contract water rate," or any of those rates, or otherwise howsoever, under the provisions of this Act, shall be paid to the treasurer, and shall be carried to and shall form part of the borough fund, and be applied accordingly.

Rates to be prospective or retrospective.

65. The Commissioners may make any rate prospectively in order to raise money to pay expenses to be incurred after the making the rate, or retrospectively in order to raise money to pay expenses incurred within six months before the making of the rate.

Value of property to be ascertained according to poor law rating.

66. Subject to the provisions of this Act, the annual value of all property rateable under this Act shall, on every occasion of a rate being made, be ascertained according to the then next preceding assessment for the relief of the poor within the borough.

Power to levy rates in respect of property not included in the poor rate.

67. If any rateable property, being unoccupied at the time when the rate for the relief of the poor is made, afterwards becomes occupied, the Commissioners may cause a valuation to be made of the annual value thereof, and a rate to be made upon the owner or occupier thereof as from the time of its becoming occupied, as if the same had been included in the then next preceding assessment for the relief of the poor.

Power of Commissioners to inspect rate books.

68. The Commissioners may cause all or any of the books or assessments of rates for the relief of the poor within the borough to be produced before them, and may cause a copy thereof or of any part thereof to be taken without payment; and if any person in whose custody or power any such book or assessment is fails, when required,

to attend the Commissioners therewith, or to permit the Commissioners to cause to be taken a copy thereof or of any part thereof, he shall be liable to a penalty not exceeding two pounds.

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69. The owner instead of the occupier of property may from time to time, at the option of the Commissioners, be rated in the following cases; (namely,)

Power to rate owner instead of occupier in cases described.

- (1.) Where the rateable value of the property rated does not exceed the sum of four pounds :
- (2.) Where buildings or lands are let to weekly or monthly tenants :
- (3.) Where buildings are let in separate apartments :
- (4.) Where the rents become payable or are collected at any shorter period than quarterly :

Subject to the following provision; namely,

- (1.) When the owner is rated instead of the occupier, he shall be assessed on such reduced estimate as the Commissioners deem reasonable of the rateable value, not being less than one half or more than three fourths thereof :
- (2.) Where such reduced estimate is in respect of any house let in tenements, whether wholly occupied or unoccupied, then such assessment may be made on one half of the amount of the rateable value of such house.

70. Every rate made under the authority of this Act shall be fairly transcribed in a book, and shall be sealed with the seal of the Commissioners, and no allowance, publication, or other formality whatever, other than such as is expressly prescribed by this Act, shall be requisite to the validity of any such rate.

Form of rate.

71. Where the name of any owner liable to be rated is not known, after diligent inquiry, to the officer of the Commissioners by whom the rate book is made, it shall be sufficient for such officer to rate such owner in the rate book as the owner of the property to be rated, by the designation of "the owner," without stating his name.

Owner may be rated without stating his name.

72. Notice of every rate made under this Act having been made, and of the place where the rate is deposited, shall be given by the Commissioners by placards posted in some public places, within twenty-one days next after the rate is made, but it shall not be necessary in any case to prove that such notice has been given.

Notice of rate to be given.

73. Immediately after any rate is made, the same shall be open to the inspection of any person rated, at all reasonable times; and any such person may take copies of or extracts from such rate, without payment; and if the person having the custody of such rate does not permit any person rated to take such copies or extracts, he shall be liable, on summary conviction, to a penalty not exceeding two pounds.

Rate to be open to inspection of ratepayers.

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Power to
amend rates.

74. The Commissioners may from time to time amend any rate, by inserting therein the name of any person who ought to have been rated, or who since the making thereof has become liable to be rated, or by striking out the name of any person who ought not to have been rated, or by making such other alteration therein as will make such rate conformable to this Act, and no such alteration shall be held to vitiate the rate or render it less operative; and in the case of any person the amount of whose rate is increased by the amendment, or whose name is newly inserted as aforesaid, the rate shall not be payable by him until fourteen days after notice of the amendment given to him.

Rates may
be recovered
by action or
distress.

75. If any person fail to pay the amount due by him in respect of any rate, the Commissioners may recover the amount, with the costs and expenses, by proceeding in any court of competent jurisdiction, or any justice may, on the application of the Commissioners, summon such person to appear before him or any other justice, at the time to be mentioned in the summons, to show cause why the rate due from him should not be paid, and in case sufficient cause for the nonpayment of such rate is not shown, the same, with such costs as to the justice seem reasonable, may be levied by distress, and such justice may issue his warrant accordingly: Provided always, that if sufficient distress cannot be found within the borough whereon to levy the said rate and costs, and it so appears upon oath before a justice of any other jurisdiction in which any goods or chattels of the defaulter may be, the last-mentioned justice shall endorse his signature upon the said warrant, and thereupon the amount to be levied, or so much thereof as is unsatisfied, shall be levied off the last-mentioned goods and chattels, as if the defaulter had been assessed in the last-mentioned jurisdiction.

Rates due
from owner
may be
recovered
from occu-
pier.

76. If the amount due by any owner of property in respect of any rate is not paid by him within three months after it becomes due, the Commissioners may recover that amount from the occupier for the time being of such property as if he had been originally liable to pay the same, and the occupier may deduct the amount so paid by him from any rent then due and payable by him to such owner: Provided always, that the amount of rate so to be recovered from the occupier shall not exceed the amount of rent then due and payable by him to the owner of the property as aforesaid.

Rates made
for a certain
period to be
apportioned.

77. When any rate is made for a particular period, and the owner or occupier rated ceases to be the owner or occupier of the property in respect whereof he is rated before the end of such period, he shall only be liable to pay the proportion of the rate for

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the time during which he continued owner or occupier, and if any other person becomes the owner or occupier of the property during any part of such period such person shall only be liable to pay the proportion of the rate for the time during which he holds or occupies the property, and the same may be recovered from him as if he had been originally rated.

78. In case any person quits or is about to quit any rated property before he has paid all rates due from him, and fails to pay the same on demand, the collector or any constable may by warrant under the hand of a justice (which warrant a justice is hereby authorised and required to grant without issuing any previous summons to such person, upon proof to his satisfaction of such removal or intended removal, or that there is reason to suspect the same,) distrain the goods and chattels of such person, and sell the same, rendering the overplus (if any), after having deducted the reasonable expenses attending such distress and sale, together with the rates so due, to the owner of such goods and chattels, upon demand.

Recovery of rates from persons removing.

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

Incoming tenant not to be liable for arrears of water rate.

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

Several names in one warrant.

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

Costs of distress.

82. No justice shall be disqualified from acting in the execution of this Act by reason of his being liable to any rate, rent, or charge under this Act, or of his being one of the persons by or from among whom the Commissioners shall be from time to time elected.

Justice not disqualified.

83. The books of the Commissioners shall be received as evidence of rates made by the authority of this Act.

Rate books to be evidence.

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Rating powers under former Acts not to be exercised.

84. When and as long as any rate is levied by the Commissioners under the authority of this Act within the borough, the powers conferred upon the Commissioners by the former Acts or either of them with respect to the making and levying of rates shall not be exercised or put in force by them: Provided nevertheless, that if the Commissioners shall so declare in writing, and shall give public notice of their determination to that effect, the provisions of the former Acts with respect to the collecting and recovering of rates, and matters incidental thereto, shall apply, *mutatis mutandis*, to any rate or rates levied under the authority of this Act.

PART VI.—THE BOROUGH FUND.

Creation and maintenance of borough fund.

85. In order to the creation and maintenance of a general fund for the purposes of the borough, to be applied to the maintenance and improvement of the borough, the following provisions shall have effect; namely,

From and after the passing of this Act, there shall be paid to the treasurer of the Commissioners, and by him on receipt carried to "the borough fund," the rents and profits of the lands and other property of the Commissioners, and all such rates, yearly and other sums, as under the Act of 1828 and the Act of 1840, or otherwise than under this Act, are for the time being receivable by the Commissioners, or any officer thereof as such;

Together with all improvement rates, water rates, yearly and other sums, arising under this Act, the application whereof is not otherwise provided for under the provisions of this Act;

Together also with the surplus from any such rates, yearly and other sums, and other duties arising under this Act, after the purposes to which under this Act such rates, yearly and other sums, may in each case be primarily applicable shall have been fulfilled;

And together also with any money belonging or payable to the Commissioners at the passing of this Act, and all sums arising from penalties inflicted under this or any other Act relating to the Commissioners;

but this enumeration of certain particulars shall not restrict the generality of the description before given in the present provision.

Application of borough fund.

86. The borough fund shall be applied by the Commissioners for the following purposes; namely,

In payment of the expenses of this Act, and of the establishment and working expenses of the Commissioners, including all charges of collecting the rates by this Act authorised:

In payment from time to time of all interest accruing due on moneys borrowed by the Commissioners, according to their respective priorities: A.D. 1870.

In the general superintendence and improvement of the borough, and in carrying into execution all the provisions of this Act.

PART VII.—BORROWING POWERS.

87. The Commissioners may from time to time borrow money at interest for the purposes of this Act, not exceeding in the whole the sum of sixteen thousand pounds, and may mortgage the borough fund as a security for the repayment of the amount so borrowed, with interest thereon. Power to borrow on security of borough fund.

88. The mortgagees of the Commissioners under this Act may enforce the payment of the arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver, and in order to authorise the appointment of a receiver in respect of principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than one thousand six hundred pounds in the whole. Arrears may be enforced by appointment of a receiver

89. If the Commissioners pay off any part of any money borrowed by them otherwise than by means of a sinking fund they may re-borrow the same amount, and so from time to time. Power to re-borrow.

90. If the Commissioners shall not sooner provide for repayment of principal moneys borrowed under this Act, by means of a sinking fund or otherwise, they shall, from and immediately after the expiration of eight years from the time or times at which they shall have borrowed any sum or sums of money under this Act, set apart every year out of the rents and profits of the lands and other property of the Commissioners, and out of the rates to be levied under this Act, a sum not less than one sixtieth part of every sum or sums so borrowed, together with a sum not less than the interest which would have accrued during the preceding year on the amount of debt from time to time paid off; and the sum so set apart shall form a sinking fund and be accumulated at compound interest until the same shall be applied in repayment of the principal moneys so borrowed, at such time or times and in such amounts as may be agreed upon between the lenders of such moneys and the Commissioners. Provision for a sinking fund.

91. The Commissioners for executing the Acts authorising advances of money out of the Consolidated Fund for carrying on public works and fisheries and for the employment of the poor may Loans from Public Works Loan Commissioners.

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(if they think fit) lend to the Commissioners, on the security of the borough fund, all or any part of the money which the Commissioners are authorised to borrow, upon the terms upon which the Commissioners for executing the said Acts are for the time being empowered to lend moneys under the said Acts, to persons or bodies having power to borrow the same, and the Commissioners may borrow all or any part of the money authorised to be borrowed by them upon such terms accordingly.

Limitation as to expenditure of money borrowed.

92. The Commissioners shall not out of the money borrowed by them under this Act expend more than the respective amounts following in connexion with the following purposes; namely,

In connexion with the waterworks by this Act authorised, eight thousand pounds;

In connexion with public works and improvements within the borough, eight thousand pounds;

and such respective parts of the money borrowed by them as are intended to be expended in connexion with their respective purposes shall be carried to separate accounts.

Protection of lenders from injury.

93. Any person lending money to the Commissioners shall not be bound or entitled to inquire as to the observance by them of any provision of this Act, or be bound to see to the application or be answerable for any loss or non-application of such money or of any part thereof.

PART VIII.—REGULATION OF BOROUGH.

Restrictions as to width of streets.

94. Save with the consent of the Commissioners, it shall not be lawful to build in any street formed after the passing of this Act, within the borough, any house or row of houses unless the house or row of houses be at least twenty-two feet from the centre of the road, and unless there be on either side of the road a footpath eight feet in width, such width of eight feet being included in the measurement of twenty-two feet from the house or row of houses to the centre of the road, and the centre of the road, for the purposes of this Act, shall be deemed to be the centre of the part thereof made with gravel or small stones.

Commissioners to provide fireplugs.

95. For securing a proper supply of water for extinguishing fire within the limits of this Act, the following provisions shall take effect:

- (1.) The Commissioners shall fix and maintain fire-plugs in their main and other pipes at such places as they think requisite, having regard to the number of buildings near such pipes, and other circumstances:

- (2.) The Commissioners shall, at the request and expense of the owner or occupier of any warehouse or manufactory in any street or court within or beyond the borough in which there is a pipe of the Commissioners, place in such street or court and maintain a fire-plug (to be used only for extinguishing fires) as near as conveniently may be to the exterior of such warehouse or manufactory :
- (3.) As soon as any such fire-plug is completed, the Commissioners shall deposit a key or keys thereof in such place or places as they think fit, and shall put up a public notice in some conspicuous place in each street or court in which such fire-plug is placed, showing its situation, which notice they may put up on any building in such street or court :
- (4.) The Commissioners shall keep charged with water all pipes to which fire-plugs are fixed (unless prevented by frost, unusual drought, or other unavoidable accident or reasonable cause), and shall allow persons at all times to take and use water for extinguishing fire without payment.

PART IX.—BYELAWS, NOTICES, &c.

96. The Commissioners may from time to time, when and as they think fit, and subject to the provisions in this Act and in the Acts with this Act incorporated, make and enforce byelaws for all or any of the following purposes ; that is to say, Byelaws.

- (1.) For regulating the proceedings of the Commissioners :
- (2.) For regulating the duties and conduct of the officers and servants of the Commissioners :
- (3.) For regulating the use of water within the borough :
- (4.) For the better regulation of the streets and thoroughfares of the borough and the traffic therein :
- (5.) And generally for carrying into execution the purposes and provisions of this Act and the Acts incorporated herewith.

97. With respect to byelaws to be made by the Commissioners under this Act, the following provisions shall have effect ; (namely,) Regulation
as to bye-
laws.

- (1.) Nothing in this Act shall authorise the Commissioners to make any byelaw repugnant to law or to this Act :
- (2.) All byelaws shall be reduced into writing, and be under the seal of the Commissioners or otherwise formally approved by them :
- (3.) The Commissioners may by any byelaw impose penalties for offences against the same, not exceeding in respect of any offence two pounds, so that all byelaws be so framed as

[Ch. cxliii.] *The Enniskillen Borough Improvement Act, 1870.* [33 & 34 VICT.]

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to allow of part only of the maximum penalty being inflicted :

- (4.) Penalties under byelaws shall be recoverable as penalties under this Act are recoverable :
- (5.) A byelaw shall not take effect until it is allowed by the Lord Lieutenant (who may allow or disallow the same as he thinks proper), and any such byelaw shall not be allowed unless notice of the intention to apply for the allowance of the same is given by notice, the publication whereof is completed not less than two months before the making of such application, and for three months at least before such application a copy of the proposed byelaw shall be kept at the Town Hall, and be open during office hours thereat to the inspection of the ratepayers of the borough, without payment, and the clerk to the Commissioners shall furnish a copy thereof or every part thereof to every ratepayer applying for the same, on payment of threepence for every hundred words in such copy, or if the proposed byelaw has been printed by the Commissioners, then at such reasonable price, not exceeding sixpence for each copy, as the Commissioners direct :
- (6.) All byelaws, when allowed, shall be printed, with the date at which they are made, and the clerk to the Commissioners shall keep a printed copy thereof at the Town Hall, and all persons may at all reasonable times inspect such copy without payment ; and the Commissioners, shall cause to be delivered a printed copy, signed by the chairman of the Commissioners, of all byelaws for the time being in force, to every person applying for the same, on payment by him of such sum, not exceeding sixpence for every such copy, as the Commissioners direct, and a printed copy, signed by the chairman of the Commissioners, of the byelaws for the time being in force relative to any particular subject, to every person applying for the same, on payment by him of such sum, not exceeding threepence for every such copy, as the Commissioners direct :
- (7.) Proper extracts from the byelaws, painted or placed on boards, shall be set up in such places as the Commissioners think fit :
- (8.) A printed copy of the byelaws, dated and purporting to be allowed as aforesaid, and to be signed by the chairman of the Commissioners, shall be *primâ facie* evidence of the existence and of the due making and allowance of such byelaws, without proof of the signature of the said chairman.

98. The newspaper for the advertisements of the Commissioners shall be some newspaper published at least once a week within the borough, and if there be none, then within the county, and if there be none there, then in some newspaper published in Dublin.

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Newspaper
for advertise-
ments.

99. Every notice, statement, claim, or other document to be served, delivered, or used under this Act may be in writing or print, or partly in writing and partly in print.

Form of
notices, &c.

PART X.—MISCELLANEOUS.

100. The justice by whom any penalty under this Act is imposed shall award it to the Commissioners, to be by them carried to the credit of the borough fund, and applied accordingly.

Application
of penalties.

101. Nothing contained in this Act or in any Act herewith incorporated shall affect the former Acts or either of them, relating to the Commissioners, further or otherwise than in this Act is expressly provided.

Saving
former Acts.

102. Nothing in this Act contained shall divest, take away, prejudice, diminish, or alter any right, duty, privilege, power, or authority now vested in the Right Hon. the Earl of Enniskillen, by charter, use, custom, or otherwise, with respect to any markets, fairs, or slaughter-houses within the borough, or the tolls, rates, customs, or management thereof.

Saving
rights of
Earl of
Enniskillen.

103. All the costs, charges, and expenses preliminary to and of and incidental to the preparing, applying for, obtaining, and passing of this Act shall be paid by the Commissioners out of the borough fund, or out of any money borrowed on the credit thereof.

Expenses of
Act.

A.D. 1870.

The SCHEDULE to which the foregoing Act refers.

THE BOUNDARIES OF THE BOROUGH OF ENNISKILLEN FOR THE
PURPOSES OF THE FOREGOING ACT,

Being the boundaries for parliamentary purposes which are limited and described in the Schedule (No. 18) to the Act 2nd and 3rd Will. IV. cap. 89, intituled "An Act to settle and describe the limits of cities, towns, and boroughs in Ireland, in so far as respects the election of members to serve in Parliament," as enlarged and extended by the ninth section of "The Representation of the People (Ireland) Act, 1868," (31 and 32 Vict. cap. 49).

THE ISLAND OF ENNISKILLEN,

and also the spaces included between Lough Erne and the two following boundaries respectively denominated "east" and "west."

EAST.—The boundary of the townland of Tonystick, including within the borough the whole of that townland.

WEST.—From the point at which the boundary between the townlands of Cole's Hill and Windmill Hill meets Lough Erne westward along the said boundary to a point which is distant one hundred yards (measured along such boundary) beyond the point where that boundary crosses the Florence Court Road; thence in a straight line to the salient angle of the southwestern bastion of the West Fort; thence in a straight line to the point at which the boundary between the townlands of Windmill Hill and Portora meets the eastern bank of Lough Galliagh; thence northward along the eastern bank of Lough Galliagh to the point at which the same meets the Church Hill Road; thence towards the town along the last-mentioned road to the lodge gate of Portora School; thence along a hedge which runs at the foot of the lawn of Portora School northward to Lough Erne to the point at which the same meets Lough Erne.