



Railways Clauses Consolidation Act 1845

1845 CHAPTER 20

Drainage of Lands

And whereas there are large Tracts of Land in *Ireland* subject to Flood and Injury by Water, and the Rivers, Streams, and Watercourses are, in many Places obstructed by Shoals, insufficient Bridges, Culverts, Weirs, and other Works, whereby the Waters thereof are elevated above their natural Level: And whereas an Act of Parliament was passed in the Second Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to empower Landed Proprietors in Ireland to sink, embank, and remove Obstructions in Rivers* : And whereas another Act was passed in the Sixth Year of the Reign of Her present Majesty, intituled *An Act to promote the Drainage of Lands and Improvement of Navigation and Water Power in connexion with such Drainage, in Ireland*; and by the said last-mentioned Act Public Commissioners were appointed to carry the said last-recited Act into execution : And whereas it is essential for carrying into effect the Purposes of the said Acts, and for the Improvement of Agriculture, that ample Provision be made in all Railway Works in *Ireland*, for the free and uninterrupted Passage of the Waters at such Level as will be sufficient not only for the present but all future Discharge of the Waters from Lands crossed by or being on either Side of such Works, and that the Bridges of Railways crossing all Watercourses, Rivers, Lakes, or Estuaries which are or hereafter may be made navigable shall be so constructed as to admit of the commodious Navigation of the same : Therefore, with respect to the Provision to be made for the Drainage of Land in *Ireland* which may be crossed by the Railway, and for the Protection of the Navigation connected therewith, be it enacted as follows :

XXV The Company from Time to Time to submit to the Drainage Commissioners in Ireland Plans, &c. of the Portion of the Railway which they are about to execute.

If the Special Act shall authorize the Construction of a Railway in *Ireland*, the Company shall and they are hereby required from Time to Time, before proceeding to construct any Portion of the Railway, to submit to the Commissioners acting in execution of the said Act of the Sixth Year of Her present Majesty, or any Act amending the same, such Plans, Sections, and Surveys as shall be necessary to enable the said Commissioners to decide upon the Number and Adequacy of the Waterways of all Bridges, Culverts, Tunnels, Watercourses, and other Works across the Line of

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such Portion as aforesaid of the Railway for the free and uninterrupted Discharge of the Waters from all Lands crossed by or lying on either Side of or near the Railway, at such Level as shall in the Opinion of the said Commissioners be sufficient for the present and prospective Drainage and Improvement of such Lands, and (in Cases of Rivers, Lakes, Estuaries, or Watercourses, which are now or may be capable of being made navigable,) upon the Height and Adequacy of all Bridges and Works crossing the same, for the commodious Navigation thereof.

XXVI Such Commissioners to investigate and report on the Works necessary for Drainage.

The said Commissioners shall and they are hereby required, without any unnecessary Delay, to investigate, by such Means as to them shall seem fit, the Adequacy of all such Works for such Purposes as aforesaid, and to decide and certify, by a Writing under their Hands, or the Hands of any Two of them, the Number, Situation, and least possible Dimensions as to Breadth, Depth, and Height of the several Openings of such Bridges, Culverts, Tunnels, or other Works connected with such Portion of the Railway as aforesaid, which shall be necessary for the Passage of Water, or for Navigation under or across such Railway; and it shall not be lawful for the Company to proceed with the Execution of any of the Works connected with any Portion of the Railway without having first obtained such a Certificate as aforesaid respecting such Portion of the Railway, under the Hands of the said Commissioners or any Two of them, as aforesaid; nor shall the Company be at liberty to deviate from such Certificate in respect to such Works, nor to execute the same otherwise than in conformity therewith, without the previous Approbation in Writing of the said Commissioners.

XXVII Summary Application to the Court of Chancery to enforce the Execution of such Works.

It shall be lawful for the said Commissioners to apply by Petition in a summary Way to the Court of Chancery, complaining of any Omission on the Part of the Company to submit such Plans, Sections, and Surveys to the said Commissioners as aforesaid, or of the Omission to construct any such Bridge, Culvert, Tunnel, or other Works for the Passage of Water, in such Manner as shall be so certified by the said Commissioners, and thereupon it shall be lawful for the said Court to direct such Works to be made or constructed by the Company in such Manner as shall be conformable to the Certificate of the said Commissioners, and to the said Court shall seem necessary or proper, and to make from Time to Time such further or other Order for restraining the Company or any other Persons from proceeding with any of the Works connected with such Portion of Railway, except in conformity with the Certificate of the said Commissioners, and to issue any Writ of Injunction for the Purpose aforesaid; and such Court shall have Power to award Costs to be paid by such Company or Persons.

XXVIII Saving of the Powers of the Drainage Commissioners.

Nothing in this or the Special Act shall extend or be construed to prejudice or affect the Powers or Authorities of the Commissioners acting in execution of the said Act of the Sixth Year of Her present Majesty, but all such Powers shall be in full Force as to the Formation of any Cut, River, or Watercourse across the Railway, but such Powers shall not be exercised so as to prevent or obstruct the working or using of the Railway.

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XXIX The Drainage Commissioners in Ireland to have Power to decide Questions as to the Execution of Works or to execute Works for carrying Watercourses across the Railway.

And whereas it is expedient to encourage the Establishment of Manufactories to be worked by Water Power in *Ireland* : Be it therefore enacted, That whenever it may be requisite for the Formation of a Watercourse for manufacturing Purposes to construct an Arch, Culvert, Tunnel, or Watercourse, beneath or an Aqueduct above any Railway in *Ireland*, and that Differences shall have arisen between the Directors of such Railway and the Person interested in obtaining the Water Power, either as to the Manner in which such Works shall be executed, or the Amount of Compensation which should be paid, it shall be lawful to refer the Questions in issue to the Commissioners acting under the said recited Act of the Fifth and Sixth Years of the Reign of Her Majesty Queen Victoria, and their Decision thereon shall be final and conclusive; and if the said Commissioners shall be of opinion that the proposed Works can be executed without Injury to the Railway, and if they shall think proper so to do, they may undertake the Execution of so much of the said Works as shall be in connexion with such Railway, at the Expense of the Parties for whose Benefit the Watercourse shall be made, with the same Powers and Authorities as are given by the said Act for the Execution of any Works for Drainage.