



ANNO QUINTO & SEXTO

VICTORIÆ REGINÆ.

C A P. CV.

An Act to amend an Act of the First and Second Years of His late Majesty King *William* the Fourth, to empower Landed Proprietors in *Ireland* to sink, embank, and remove Obstructions in Rivers. [10th August 1842.]

WHEREAS an Act was passed in the Session of Parliament holden in the First and Second Years 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 it is expedient to amend the said Act in certain respects: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act no Commission constituting any Persons a Joint Stock Company for the Purposes of and under the Provisions of the said Act shall issue until it be proved to the Satisfaction of the Lord Lieutenant or other Chief Governor or Governors of *Ireland* that a Sum equal to One Tenth Part of the Amount of the Estimate to be made and subscribed pursuant to the Provisions of the said Act has been deposited with the Bank of

1 & 2 W. 4.
c. 57.

No Commission shall issue until One Tenth Part of the Amount subscribed shall be deposited.

Ireland, in the Names of Three or more solvent Persons, in Trust for the Purposes of the said Undertaking, in case such Commission shall issue, and that not less than Three Fourths in Number of the Subscribers shall have paid up their Shares of such Deposit.

Calls may be recovered by Action.

II. And be it enacted, That if at the Time appointed by any Joint Stock Company which may be hereafter constituted under the Provisions of the said Act any Shareholder shall fail to pay the Amount of any Call made at any General or Special Meeting, the Company may sue such Shareholder for the Amount of such Call in any Court of Law or Equity having competent Jurisdiction, in the Name of the Person who shall be for the Time being the Chairman of the Committee of Management of the said Company, or in the Name of any Three Members of the said Company, as the nominal Plaintiff or Plaintiffs, and on behalf of such Company, in like Manner and subject to the like Provisions and Regulations as in the Case of other Suits or Actions brought by or on behalf of any such Company, and the said Company may recover the Amount of such Call, with Interest, at the Rate of Six Pounds *per Centum per Annum*, from the Day upon which such Call may have been payable; and that in any such Action to be brought against any Shareholder to recover the Money due for any Call it shall not be necessary to set forth the special Matter, but it shall be sufficient to declare that the Defendant is a Holder of One Share or more in the Company (stating the Number of Shares), and is indebted in the Sum of Money to which the Calls in arrear shall amount in respect of One Call or more upon One Share or more (stating the Number and Amount of each of such Calls), whereby an Action hath accrued by virtue of this Act; and on the Trial of such Action it shall be sufficient to prove that the Defendant at the Time of making such Call was a Holder of One Share or more in the Company, and that such Call was in fact made, and Notice thereof in Writing under the Hand of the Clerk or Treasurer of the said Company given or sent by the Post to or left at the usual Place of Abode of the Defendant.

Power to make Surveys preparatory to applying for a Commission under recited Act, making Compensation.

Justices to award Compensation in case of Complaint.

III. And be it enacted, That it shall and may be lawful for any Engineer appointed for the Purpose of making a Survey or Surveys preliminary to the making of any Application for a Commission under the said recited Act, and for his Servants and Attendants, at all reasonable Times to enter in and upon the Grounds and Lands of all Persons whatsoever; provided that he or they shall make reasonable Compensation to the Occupier or Occupiers of such Lands respectively for any Damage or Injury which may be occasioned by reason of the said Engineer, or his Servants or Attendants, entering thereupon; and it shall and may be lawful for the Justices presiding at the nearest Petty Sessions, upon their Summons, without Information, to hear and determine all Applications and Complaints in reference to such Damage and Injury, and for that Purpose to examine upon Oath the Parties or either of them, and such Witnesses as they or either of them shall produce, which Oath the said Justices are hereby empowered to administer, and to dismiss the said Complaint, or make such Order for Payment of such Sum to such Complainant or Complainants by the said Party or Parties so summoned,

as to them shall seem just and reasonable, as and for such Compensation, and as to the Costs of such Inquiry to be paid by the Party against whom such Order shall be made, and the same shall be recovered and levied as any Penalty under the said recited Act may be recovered and levied.

IV. And whereas it was by the said recited Act provided, that where the clearing, sinking, banking, or altering the Course of any River or Stream might be accomplished at or for a Sum not exceeding Two hundred Pounds, it should be lawful for the Grand Jury of any County through or on the Borders of which such River or Stream may flow, on the Application of any Person having, in Lands bordered or intersected by any such River or Stream, a Freehold Estate of Fifty Acres at least, or a Term of Years of which Twenty-one shall then be unexpired in Lands of like Extent, and who may be willing to advance the Money required for and desirous of undertaking the Performance of any such Work as aforesaid, to make a Presentment enabling him in that Behalf; and divers Provisions were by the said Act made in respect to such Application and Presentment, and regulating the Proceedings consequent thereon: And whereas it is expedient to authorize the Execution of Works of greater Extent by Presentment as aforesaid; be it therefore enacted, That the said recited Provision shall apply and extend to Cases where the Amount of the Expence of the proposed Works shall not exceed Five hundred Pounds, as fully and effectually, to all Intents and Purposes, as to Works the Expence whereof may not exceed the Sum in the said Act limited.

Works not exceeding 500l. may be executed by virtue of Grand Jury Presentment, under 1 & 2 W. 4. c. 57.

V. And be it enacted, That if, where any such Grand Jury Presentment as aforesaid shall hereafter be made, the Owners or Occupiers of Lands bounded or intersected by any such River or Stream as aforesaid shall omit or neglect to meet, and nominate and appoint Applotters, as by the said recited Act directed, or if the Person appointed Applotter shall refuse, omit, neglect, or cease to act in or proceed with such Applotment, it shall and may be lawful for the Grand Jury at any Assizes, upon the Application of the Person named in such Grand Jury Presentment, to nominate and appoint some Person, being an Engineer or Surveyor, who shall be thereupon authorized to make out and proceed with such Applotment, in like Manner as is prescribed to and with the like Powers as are conferred upon any Person or Persons appointed by the Owners and Occupiers under the said recited Act to make an Applotment or Survey thereof.

Lord Lieutenant to appoint Applotters in default of Owners and Occupiers.

VI. And whereas it was by the said recited Act enacted, that it might be lawful for the Lord Lieutenant or other Chief Governor or Governors of *Ireland*, in certain Cases, to grant to One or more Person or Persons, not exceeding Six, and not being a Joint Stock Company, a Commission constituting such Person or Persons an Undertaker or Undertakers, within the Meaning of the said Act, for executing the Works by such Commission authorized; but it was by the said Act provided that no such Commission should be granted to any Person or Persons (not being created a Joint Stock Company) until and unless such Person or Persons should previously enter into

Obligation to the Crown required by 1 & 2 W. 4. c. 57, dispensed with.

Security

Security by a Writing obligatory to our Sovereign Lord the King, in such penal Sum or Sums of Money as the Lord Lieutenant or other Chief Governor or Governors of *Ireland* shall direct (such Sum not being less than the Amount of the Estimate of the Expence of the whole Works proposed to be executed under the said Commission), binding himself or themselves, jointly and severally, to execute and perform, within a Time to be limited in such Writing obligatory, the said Works, conformably to the Plan and Specification thereof previously to be made: And whereas it is expedient to substitute in lieu of the said Obligation to the Crown a Bond to the Secretary for the Time being of the Commissioners of Public Works in *Ireland*; be it therefore enacted, That, notwithstanding any thing in the said recited Act to the contrary, it shall not be necessary, in order to obtain such Commission as aforesaid, for any Person or Persons to enter into such Security as aforesaid by Writing obligatory to our Sovereign Lady the Queen; but that, in lieu thereof, such Person or Persons shall enter into a Bond or Obligation in Writing to the Secretary for the Time being of the said Commissioners of Public Works, together with a Warrant of Attorney for confessing Judgment thereon (the entering of which Judgment shall be in the Discretion of the said Commissioners), whereby the Obligor or Obligors therein named shall bind themselves, himself or herself, their, his, or her Executors or Administrators, in such Penalty, not being less than the Amount of the Estimate of the Expence of the whole Works proposed to be executed under the said Commission, to execute and perform, within a Time to be limited in such Writing obligatory, the said Works, conformably to the Plan and Specification thereof; and so often as any Breach or Default shall be made in the Performance of all or any Part of the Condition of any Bond or Obligation which shall be entered into to the said Secretary under the Provisions of this Act it shall be lawful for the said Commissioners from Time to Time, at their Discretion, to direct their Solicitor for the Time being to proceed against all or any of the Obligors or Obligor, his, her, or their Heirs, Executors, or Administrators; and upon Proof of any such Breach or Default the Jury shall award such Sum for Damages and Costs as they shall think fit, not exceeding the Penalty of the said Bond or Obligation; and such Sum so awarded, when levied, shall be paid into the Bank of *Ireland*, to the Credit of the said Commissioners, to be applied by them, under the Direction of the Lord Lieutenant or other Chief Governor or Governors of *Ireland*, to the Indemnification of any Persons prejudiced by such Breach or Default, in such Manner and Proportions as he or they shall direct: Provided always, that the said Commissioners shall and they are hereby authorized, at any Time, at their Discretion, to direct against which of the Obligors in any such Bond, if there are more than One, Proceedings shall be from Time to Time taken on any such Bond or Obligation, and by Writing under their Hands and Seals, to be exhibited to the Barons of Her Majesty's Court of Exchequer in *Dublin*, to direct any such Proceedings to be discontinued, quashed, or abated, and the same shall thereupon be discontinued, quashed, or abated.

A Bond to be entered into, and a Warrant of Attorney given.

Bond may be sued upon.

Upon Performance of the Con-

VII. And be it enacted, That so soon as the Work in respect of which any such Bond or Obligation shall have been made to the said Secretary

Secretary shall be completed, and the Conditions thereof fully satisfied to the Satisfaction of the said Commissioners, it shall be lawful for the said Commissioners, and they are hereby required, upon the Application of any Obligor therein named, to certify in Writing that the said Condition has been performed, and upon Production of such Certificate to the proper Officer of any of Her Majesty's Courts in *Ireland* in which Judgment may have been entered up on such Bond or Obligation, Satisfaction shall be entered upon the Record of such Judgment, and in case Judgment shall not have been entered up thereupon the said Bond or Obligation shall be delivered up by the Party holding the same to such Obligor, to be cancelled accordingly.

ditions, the Bond to be cancelled.

VIII. And be it enacted, That where, after the issuing of a Commission creating a Joint Stock Company of Undertakers under the said Act, any Meeting of Owners and Occupiers has been heretofore or shall be hereafter summoned, under the said recited Act, by the Chief or Under Secretary of the Lord Lieutenant or other Chief Governor or Governors of *Ireland*, for the Purpose of appointing a Person to act on behalf of such Owners and Occupiers in making a Survey and Valuation pursuant to the said recited Act, and such Meeting has refused, neglected, or omitted, or shall refuse, neglect, or omit, to nominate and appoint a Person for such Purpose, it shall and may be lawful for such Chief or Under Secretary, upon the Application of such Company for the Time being, if he shall think fit, upon Inquiry and Consideration of all the Circumstances of the Case, to summon another Meeting of Owners and Occupiers for the like Purpose; and it shall be lawful for such Meeting to adjourn from Time to Time, so as no such Adjournment shall be made to any Day later than Three Calendar Months from such first Meeting under this Act; and Notices of such Meeting, or any Adjournment thereof, shall be published and given as in the said recited Act directed; and any Person nominated and appointed by such Meeting, or any adjourned Meeting held within the said Period of Three Months, shall be invested with all such Powers and may do all such Acts as if such Person had been nominated and appointed under and by virtue of the said recited Act; and if any Person so nominated and appointed by any such Meeting, or otherwise, on the Part of such Owners or Occupiers under this or the said recited Act, shall die, or shall become incapable of acting in discharge of the several Duties prescribed for such Person by such recited Act, then it shall and may be lawful for such Chief or Under Secretary for the Time being, upon the like Application, to summon a Meeting of Owners and Occupiers, in like Manner as in the said recited Act pointed out, for the Purpose of nominating and appointing another Person in the Place and Stead of such Person so dying or becoming incapable of acting as aforesaid; and such Notice shall be published and given in manner pointed out by the said recited Act; and such Person so appointed shall be authorized to do all the Acts and be thereby invested with all the Powers prescribed and conferred by the said recited Act to and upon Persons nominated and appointed to make such Survey and Valuation, as

Meeting of Landholders to be convened to appoint a Valuator in certain Cases.

aforesaid: Provided always, that in the Case of any Company constituted a Joint Stock Company before the passing of this Act, no such Meeting as aforesaid shall be summoned unless upon an Application to be made within Twelve Calendar Months next after the passing of this Act, nor until it shall be proved to the Satisfaction of the Lord Lieutenant or other Chief Governor or Governors of *Ireland* that a Sum equal to One Tenth Part of the Amount of the Estimate made and subscribed under the Provisions of the said-recited Act for the Purposes of the Undertaking has been *bond fide* raised, and paid into the Hands of the Treasurer of the Company, and that not less than Three Fourths in Number of the Subscribers shall have paid up their Shares of such Part of the Subscription.

Mills, Weirs,
&c. causing
Injury to
Lands may
be taken, and
Compensa-
tion awarded.

IX. And be it enacted, That if any Mill or Factory, or any Weir, Dam, or other Work or Obstruction belonging to or connected with any Mill or Factory, shall cause the flooding of any such Lands included in any such District as aforesaid, so as thereby to injure such Lands, or prevent their Improvement to an Extent in Value equivalent to or exceeding Three Times the then present Value of such Mill or Factory, it shall be lawful for the said Company of Undertakers, in case they shall not agree for the Purchase of such Mill or Factory, Weir, Dam, or other Work, to take the same, and Compensation for the Value thereof shall be awarded in like Manner as by the said recited Act is provided in reference to any Land to be taken by the said Company for the Purpose of any Works to be executed under the said recited Act.

Saving for
Property of
the Ord-
nance.

X. Provided always, and be it enacted, That nothing in this Act or in the said recited Act contained shall extend or be construed to extend to prejudice or in any Manner affect any of the Estates, Rights, or Property of Her Majesty, Her Heirs or Successors, or of the principal Officers of Her Majesty's Ordnance, in Trust for Her Majesty, Her Heirs or Successors, for the public Service, or authorize or enable any Company, or any Trustees constituted or elected, or to be constituted or elected under the Authority of the said recited Act or of this Act, or any other Person or Persons whomsoever, in any Manner to interfere with any Fortification, Battery, or other Work of Defence, or any such Estates, Rights, or Property as aforesaid, or any Easement, Watercourse, or other Commodity or Advantage belonging to or enjoyed therewith, or to quarry, dig, or raise Gravel, Earth, Stones, Sand, or other Materials therein, without the Consent of the said principal Officers or their Successors in Office, or of the Commanding Royal Engineer in *Ireland* or the District for the Time being.

Not to affect
the Powers
of the Irish
Society,
under
1 & 2 Vict.
c. lxxxvii.

XI. Provided also, and be it enacted, That nothing in this Act contained shall extend to or affect the Powers vested in the *Irish Society* by an Act passed in the Second Year of the Reign of Her present Majesty, intituled *An Act for draining and embanking certain Lands in Lough Swilly and Lough Foyle in the County of Donegal and Londonderry.*

XII. And

XII. And be it enacted, That this Act and the said recited Act shall be construed together as one Act. Recited Act
construed
with this.

XIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament. Act may be
altered.

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