ANNO SEXTO & SEPTIMO

VICTORIÆ REGINÆ.

****

Cap. c.

An Act for amending an Act passed in the Second Year of the Reign of Her present Majesty, for draining and embanking certain Lands in *Lough Swilly* and *Lough Foyle* in the Counties of *Donegal* and *Londonderry*, so far as the same relates to the said Lands in *Lough Foyle*. [17th *August* 1843.]

WHEREAS an Act was passed in the Second Year of the Reign of Her present Majesty Queen *Victoria*, intituled *An Act for draining and embanking certain Lands in* Lough Swilly *and* Lough Foyle *in the Counties of* Donegal *and* Londonderry, (1 & 2 Vict. c. 87.) whereby certain Persons therein named, their several and respective Executors, Administrators, and Assigns, were declared to be the Undertakers for executing the Purposes of that Act, so far as the same related to *Lough Foyle*, or the Waste Lands, Mud Banks, or Slobs of, in, or near thereto, in the County of *Londonderry*, as in the said Act described: And whereas it is expedient that some of the Provisions of the said Act, so far as the same relate to the said Waste Lands, Mud Banks, or Slobs in or near to *Lough Foyle* aforesaid, should be altered and amended; but the same cannot be effected without the Aid and 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same, That all the Provisions, Matters, and Things contained in the said recited Act (except such of them as are hereby repealed, altered, or otherwise provided for) shall, so far as the same relate to the said Waste Lands, Mud Banks, or Slobs in or near to *Lough Foyle* aforesaid, extend to this Act, and shall be and continue in force as fully and effectually to all Intents and Purposes whatsoever as if the same Provisions, Matters, and Things were re-enacted in this Act.

Powers of former Act, as far as applicable, extended to this Act.

II. And whereas it is by the said recited Act enacted, that upon Payment or legal Tender of any Money, and upon the Assignment of any Land agreed on as Compensation between the said Undertakers, or any of them, and any Person or Persons whatsoever, or awarded or assessed as Compensation in manner therein provided, and as soon as the said Embankment and Drainage should have been completed, and not before, all and singular the Waste Lands, Mud Banks, and Slobs in *Lough Foyle* thereby authorized to be embanked and drained (except as to the several and respective Parts, Shares, and Proportions to be given, allotted, assigned, agreed for, or appointed as therein is mentioned), together with all yearly and other Profits thereof, and all the Estate, Right, Title, Interest, Use, Trust, Possibility, Claim, and Demand whatsoever therein or thereto, either at Law or in Equity, of any Person or Persons, Bodies Politic or Corporate, and Corporations Aggregate or Sole, should, subject to the Provisoes therein-after contained, be vested in and become the Property of the said Undertakers, their Executors, Administrators, and Assigns, for the Term of Three hundred Years from the First Day of *January* One thousand eight hundred and thirty-seven, in such Shares and Proportions as might be agreed upon between themselves, and thenceforth all and every the Estates, Rights, Titles, and Interests of all Persons and Corporations whatsoever in the said Waste Lands, Mud Banks, and Slobs should, save as therein is provided, be barred and determined: And whereas it is expedient that the said recited Provision should be altered and amended as hereinafter mentioned; be it therefore enacted, That when the Embankment and Drainage of the Waste Lands, Mud Banks, or Slobs comprised in any Levels, from Time to Time to be formed by the Justices for the County of *Londonderry*, pursuant to the Power for that Purpose contained in the said recited Act, shall be completed to the Satisfaction of the *Lough Foyle* Board of Commissioners, appointed or to be appointed by virtue of the said recited Act, and such Completion shall be certified under the Hands of the said Commissioners, or the major Part of them, at a Meeting to be held for that Purpose, pursuant to the Directions of the said recited Act, and upon Payment or legal Tender of any Money, and upon the Assignment of any Land, agreed on as Compensation between the said Undertakers, or any of them, and any Person or Persons whatsoever having an Interest in any of the Lands comprised in such Level, or awarded or assessed as Compensation in manner provided by the said recited Act, all and singular the Waste Lands, Mud Banks, and Slobs comprised in such Level (except as to the several and respective Parts, Shares, and Proportions to be given, allotted, assigned,

Provision in former Act, amended, and Slobs, &c. of Foyle vested in the Undertakers, &c.

assigned, agreed for, or appointed as in the said recited Act is mentioned), together with all yearly and other Profits thereof, and all the Estate, Right, Title, Interest, Use, Trust, Possibility, Claim, and Demand whatsoever therein or thereto, either at Law or in Equity, of any Person or Persons, Bodies Politic or Corporate, and Corporations Aggregate or Sole, shall, subject to the Provisions in the said recited Act contained, be vested in and become the Property of the said Undertakers, their Executors, Administrators, and Assigns, for the Term of Three hundred Years from the First Day of *January* One thousand eight hundred and thirty-seven, in such Shares and Proportions as may be agreed upon between themselves: Provided always, that nothing in this Act contained shall be deemed or construed to confirm, prejudice, or affect the Agreement dated the Twenty-first Day of *May* One thousand eight hundred and thirty-eight, and made between the Governor and Assistants, *London*, of the new Plantation in *Ulster* within the Realm of *Ireland* of the one Part, and *Thomas Isaac Dimsdale* and *John Robertson* of the other Part, in the said recited Act mentioned, or the Rent thereby reserved.

Certain Lands on the South-west of Ballykelly Canal not to vest until other Lands are reclaimed.

III. Provided always, and be it enacted, That the Waste Lands, Mud Banks, or Slobs on the South-west of the *Ballykelly* Canal, fronting the Lands belonging or claimed to belong to the Wardens and Commonalty of the Mystery of Fishmongers of the City of *London*, shall not vest in the said Undertakers, their Executors, Administrators, or Assigns, until the Portion of the said Waste Lands, Mud Banks, or Slobs, which by the said recited Act is reserved to the Owners of the Estate so being or being claimed to be the Estate of the said Wardens and Commonalty, shall have been embanked and drained according to the Provisions of the said Act, or such Compensation be given as may be hereafter agreed upon between the said Undertakers, their Executors, Administrators, or Assigns, and the said Owners of the said Estate.

Undertakers to mark out the Parts where Drainage is certified to be completed.

IV. And be it enacted, That the said Undertakers, their Executors, Administrators, and Assigns, shall from Time to Time and at all Times hereafter mark out and distinguish at their own Costs and Charges, by sufficient Posts or other substantial Landmarks, the exact Boundaries of all Waste Lands, Mud Banks, or Slobs which shall be formed into any Level by the Justices of the County of *Londonderry* as aforesaid, and be certified by the said Commissioners as aforesaid to have been completed; and shall also from Time to Time keep up and maintain at their Costs and Charges the said Posts and Landmarks or other sufficient Posts or Landmarks; and in default thereof it shall be lawful for any Person, being an Owner or Occupier of Lands adjoining such Waste Lands, Mud Banks, or Slobs, or having any Estate or Interest therein, to apply to any Justice of the Peace for the County wherein the said Waste Lands, Mud Banks, or Slobs are situate, and to lay an Information in respect of such Default against the said Undertakers, or any of them, their or any of their Executors, Administrators, and Assigns; and such Justice shall hear and determine the Matter in the same Manner as Justices are empowered to hear and determine Informations for

Offences

Offences against the said recited Act; and upon Evidence being given to the Satisfaction of the said Justice of this present Provision not having been complied with, it shall be lawful for the said Justice and he is hereby required to direct the Party summoned to cause such sufficient Posts or Landmarks as aforesaid to be set up within a reasonable Time, to be specified by an Order for that Purpose, to be made and signed by the said Justice; and if such Order be not complied with it shall be lawful for the said Justice, or any other Justice of the Peace for the said County, and he and they is and are hereby required, on Application by any such Owner, Occupier, or Party interested as aforesaid, to grant a further Summons against the Party not complying with the said Order, and unless such Party shall prove, to the Satisfaction of the said Justice, that such Order has been complied with, he shall forfeit such Sum, not exceeding Fifty Pounds, as the said Justice shall direct, to be recovered in the same Way as Penalties are directed to be recovered under the said recited Act, and to be paid to the Person making the Application to the said Justice.

Additional Land vested in Fishmongers Company.

V. And be it enacted, That in addition to such Part of the said Waste Lands, Mud Banks, and Slobs as under the Provisions of the said recited Act will, when embanked and drained as therein mentioned, be or become vested in the Owners of the Estate being or being claimed to be the Estate of the Wardens and Commonalty of the Mystery of Fishmongers of the City of *London* as in the said Act mentioned, Two hundred Statute Acres, Part of the said Waste Lands, Mud Banks, and Slobs, not being Part of *Shell Island* (lying next adjacent and opposite to and in continuation of Part of the said last-mentioned Estate, between the Canal of the said Wardeus and Commonalty, known as the *Ballykelly* Canal in the said Act mentioned, and the River *Roe*, such Two hundred Acres to be next adjoining to and to be bounded on or towards the West or South-west by the said Canal, and to extend along the whole Length of such Canal, or so far as the Embankment of the said Waste Lands, Mud Banks, and Slobs shall be carried out and to be bounded on or towards the East or North-east by an imaginary Line to be drawn parallel to the said Canal) shall, when embanked and drained, at the Expence in all things of the said Undertakers, their Executors, Administrators, or Assigns, or some One of them, be vested in the Owners of the said last-mentioned Estate, their Successors, Executors, Administrators, and Assigns, for the Term of Three hundred Years from the First Day of *January* One thousand eight hundred and thirty-seven, to and for their own Use and Benefit, any thing herein or in the said recited Act contained to the contrary thereof notwithstanding, but subject nevertheless as herein-after mentioned; and the said Two hundred Acres shall be so vested and held without prejudice to any Claim of the said Owners in respect of the Fee Simple of the same subject to the same Term.

Fishmongers Company to have Option as to retaining Land

VI. And be it enacted, That in case it shall happen that under and by virtue of the Provisions of the said recited Act and of this Act as well the said Part of the said Waste Lands, Mud Banks, and Slobs in the said recited Act particularly described or mentioned,

as also the Two hundred Acres described or mentioned in this Act, shall actually become vested in the Owners of the said Estate being or claimed to be the Estate of the said Wardens and Commonalty as aforesaid, then and in such Case the said Wardens and Commonalty, their Successors or Assigns, shall and may at their Option either retain and enjoy the whole of such reclaimed Land as shall or may become vested in them under and by virtue of the said recited Act, they the said Wardens and Commonalty, their Successors or Assigns, thereupon conveying and assigning unto such Person or Persons as, but for the Provisions in that Behalf herein-before contained, would have been entitled to the aforesaid Two hundred Acres of Land, for the absolute Use of such Person or Persons during the Residue of the said Term of Three hundred Years, and at the Costs and Charges of the said Undertakers, their Executors, Administrators, and Assigns, all the Estate, Right, Title, and Interest of them the said Wardens and Commonalty, and their Successors, of, to, or in the said Two hundred Acres of Land which shall or may be or become vested in the said Owners, their Successors or Assigns, under and by virtue of this Act; or the said Wardens and Commonalty, their Successors or Assigns, shall and may at their Option retain the whole of the said Two hundred Acres of Land last aforesaid for their own Use, upon and in consideration of their conveying and assigning unto the said Undertakers, their Executors, Administrators, and Assigns, for their own absolute Use for the Residue of the said Term of Three hundred Years, at the Costs and Charges of such Person or Persons, all the Estate, Right, Title, and Interest of them the said Wardens and Commonalty, and their Successors, of, to, or in some Two hundred Acres of Land out of such Part of the said Waste Lands, Mud Banks, and Slobs as under the Provisions of the said recited Act shall or may have become vested in the Owners of the said Estate as aforesaid, and which Two hundred Acres last aforesaid shall be set out and appointed for such Purpose by the said Wardens and Commonalty, their Successors or Assigns, but to be lying immediately together, and to form One Plot or Piece of Land.

granted by this or the former Act.

VII. Provided always, and be it enacted, That nothing herein contained shall be deemed or construed to enlarge or extend the Time limited by the said recited Act for the Completion of the said Embankment and Drainage, and for rendering the said Lands, Mud Banks, or Slobs fit for Use and Occupation.

Act not to enlarge Time for completing Works.

VIII. Provided always, and be it enacted, That nothing in this Act contained shall be deemed or construed to prejudice or affect any Stipulation, Arrangement, Contract, or Agreement made or entered into by or with *John Gyllyatt Booth*, *Thomas Isaac Dimsdale*, *Thomas Edge*, *John Robertson*, *Francis Stedman*, *Francis William Staines*, and *James Whiskin*, in the said recited Act mentioned, or any or either of them, with any Person or Persons in relation to any of the Waste Lands, Mud Banks, or Slobs in *Lough Foyle* by the said recited Act authorized to be embanked and drained, or the Right or Interest of any Person or Persons, or Body Politic or Corporate, Aggregate or Sole, under any such Stipulation, Arrangement, Contract

Act not to prejudice certain Contracts, &c.

tract, or Agreement as aforesaid, in relation to the said Waste Lands, Mud Banks, or Slobs, or to any Compensation to be given under any such Contract or Agreement or otherwise by the said Undertakers, or any or either of them; and all such Contracts or Agreements shall be equally binding and effectual on *John Gyllyatt Booth*, *Thomas Isaac Dimsdale*, *Thomas Edge*, *John Robertson*, *Francis Stedman*, *Francis William Staines*, and *James Whiskin*, and on all and every Person or Persons who shall be or shall hereafter become Undertaker or Undertakers of such Embankment and Drainage, as if this Act had not been passed.

Saving Rights of Parties to any Suit.

IX. Provided always, and be it enacted, That nothing in this Act contained shall conclude, or be deemed, taken, or construed to conclude or affect the Rights of the Parties, or any of them, in a certain Suit now pending in the High Court of Chancery in *Ireland*, wherein the said *Thomas Isaac Dimsdale* is Plaintiff, and the said *John Robertson* and others are Defendants, but said Suit may be prosecuted, and the Relief prayed by the Bill in the said Suit or any Amendment of the same, by Supplemental Bill or otherwise, or by any Part of the said Bill or of any such Supplemental Bill, may be decreed, and the Rights of the Parties therein be declared conformably to the Prayer of the said Bill in the said Suit, or of any such Supplemental Bill as aforesaid, as to the said Court of Chancery shall seem fit at any Time and from Time to Time as if this Act had not been passed, nor shall any thing in this Act contained prejudice or affect any Proceeding at Law or in Equity subsisting between any other Person or Persons whomsoever in relation to the said Lands of *Lough Foyle* or any Contract relating thereto, but the same may be prosecuted and the Rights of the Parties decreed and ascertained therein as if this Act had not been passed, and that the said Lands shall continue subject to all such Equities and Rights of the Parties in the said several Suits as may be decreed therein, or in any Amendments thereof by Supplemental Bill or otherwise, as if this Act had not been passed.

For paying Expence of Act.

X. And be it enacted, That all the Costs, Charges, and Expences of applying for, obtaining, and passing this Act shall be paid by the said Undertakers, their Executors, Administrators, or Assigns.

Public Act.

XI. And be it enacted, That this Act shall be a Public Act, and shall be judicially taken notice of as such.

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