CHAP. 72.

An Act to amend "The Drainage and Improvement of Lands (Ireland) Act, 1863," and to afford further facilities for the purposes thereof. [9th August 1869.]

A.D. 1869.

WHEREAS an Act passed in the session of Parliament holden in the twenty-sixth and twenty-seventh years of Her Majesty, chapter eighty-eight, intituled "An Act to enable landed proprietors "to construct works for Drainage and Improvement of Lands in "Ireland:" 26 & 27 Vict. c. 88.

And whereas a further Act was passed in the session holden in the twenty-seventh and twenty-eighth years of Her Majesty, chapter seventy-two, explaining certain provisions contained in the said Act: 27 & 28 Vict. c. 72.

And whereas a further Act was passed in the session of Parliament holden in the twenty-eighth and twenty-ninth years of Her Majesty, chapter fifty-two, intituled "An Act to amend the Drainage "and Improvement of Lands Acts (Ireland), and to afford further "facilities for the purposes thereof:" 28 & 29 Vict. c. 52.

And whereas by the thirty-sixth section of the first of the said Acts it was provided that the Commissioners of Public Works in Ireland might make advances of public monies for the purpose of aiding in the completion of the drainage or improvement of works in any district; and by the thirty-eighth section of the same Act it was provided that no issue or instalment of any such loan or advance should be made unless the said commissioners should be satisfied that the drainage board had previously bonâ fide expended a sum of money equal to the amount of such issue or instalment in the drainage or improvement of such district, nor in any case should any such loan or advance be made exceeding one moiety of the monies proposed to be expended on the drainage and improvement of such district:

And by the thirty-ninth and the six next following sections of the said Act provision is made for the making by the same commissioners of a certain award therein called "the apportionment of

A.D. 1869.

expenses award," and for giving effect to the terms of such award:

And by the forty-sixth and five next following sections of the same Act provision is made for the making by the same commissioners of a certain other award to be called "the repayment of public advances award," and for giving effect to the terms of such last-mentioned award, and for the purpose of securing the repayment of any advances of public monies made in the manner so herein above referred to; and it is thereby provided that the said last-mentioned award shall specify the principal monies so advanced by the said commissioners, with interest thereon at the rate of four pounds per centum per annum, from the respective dates of such advances to the date of such award, and that such consolidated sum of principal and interest should be thereby apportioned amongst the respective proprietors in such districts, and on their lands respectively, and that the several lands mentioned in any such award should from the date thereof be charged with the payment to Her Majesty of an annual rentcharge of six pounds ten shillings for every one hundred pounds charged on such lands, to be payable for the term of twenty-two years, to be computed from the fifth day of April or tenth day of October, which should next happen after the date of such award, to be paid by equal half-yearly payments on the said fifth day of April and tenth day of October in every year, the first of such payments to be made on the second of such days which should happen after the date of such award:

And whereas by the "Drainage and Improvement of Lands Amendment Act (Ireland), 1865," aforesaid, so much of the said thirty-eighth section of the said first-recited Act as limited or restricted the amount of public monies to be advanced as aforesaid was repealed, and the said Commissioners of Public Works were thereby empowered (with the sanction of the Commissioners of Her Majesty's Treasury), by such instalments, and subject to such rules and regulations as the said last-mentioned commissioners might think proper, to advance any sum or sums of money which the said Commissioners of Public Works might think necessary and proper for execution of the works in any district, and for defraying the expenses which the said commissioners might consider properly connected therewith; provided that no second or subsequent instalment of any such loan should be made until it should have been proved to the satisfaction of the said Commissioners of Public Works that the preceding instalment had been properly expended in the execution of the works in such district:

A.D. 1869.

And whereas in certain cases in which districts have been constituted, and have been drained and improved under the provisions of the said Acts, the whole of the monies expended on such drainage and improvement of works have consisted of public monies advanced by the said Commissioners of Public Works under the provisions of the same Acts, and it is anticipated that in other instances in which works for the drainage and improvement of other districts may be hereafter carried on in pursuance of the provisions of the same Acts the whole of the monies required for such works may in like manner be advanced by the said commissioners:

And whereas it would be more convenient if, in all cases where the monies so expended on drainage or improvement of any district have consisted or shall consist of public monies, one award only shall be made, in which should be combined the several particulars required to be specified in the said two awards respectively as aforesaid:

And whereas in order to prevent the accumulation of interest chargeable in respect of the public advances aforesaid, it is expedient to alter and amend the provisions aforesaid, with respect to the period up to which interest on such public advances is directed to be calculated, and from which such rentcharge is directed to commence, in the manner herein-after contained:

And whereas by the seventy-second and the three next following sections of the same Act provision is made in certain cases for taking down, altering, removing, and rebuilding any existing bridge, culvert, or archway, for the discharge of water under any public road, and for certain other works in relation thereto:

And it is by the said section seventy-three provided that it shall be lawful for the said Commissioners of Public Works in Ireland to issue a certificate under their seal declaring the amount which the county within which such works shall be situate ought to contribute towards the expenses so incurred by the drainage board therein mentioned, and that such certificate shall be laid before the grand jury of the said county at the assizes next after the issuing of the same, and the grand jury of the said county is thereby authorized and required without any application to presentment sessions to present the amount mentioned in such certificate to be levied off the county at large, by such sums and at such times as shall be mentioned in such certificate, and to be paid to the said drainage board, and the same provision is also thereby made applicable where any such new bridge, culvert, or archway shall be over any stream or river

A.D. 1869.

forming a boundary between two counties, and provision is also made for levying such sums by order of the court, in case any grand jury should refuse to make any such presentment:

And it would be more equitable in some cases if such expenses so incurred as aforesaid were charged upon a particular barony or particular baronies or half baronies of a county or counties, and not upon such county or counties at large; and it is expedient to make provision accordingly, and it would be more convenient if the monies to be paid by any county or counties, barony or baronies, half barony or half baronies as aforesaid, should in all cases when as aforesaid the whole or any part of the monies required for such works shall have been or shall hereafter be advanced out of the public monies, be paid to the said Commissioners of Public Works in Ireland:

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, as follows:

Short title.

1. This Act may be cited for all purposes as "The Drainage and "Improvement of Lands Amendment Act, Ireland, 1869."

Where advances made by Commissioners of Public Works to district drainage boards, the said commissioners may make an award, setting forth land drained, money expended, &c.

2. In case any such loan or advance shall have been or shall be made to any drainage board of any district by the Commissioners of Public Works as aforesaid, and the monies expended on the drainage and improvement of such district shall have consisted or shall consist entirely of public monies so lent or advanced, then and in such case it shall be lawful for the said commissioners if they in their discretion shall think fit, on the completion of the works in the district within the period mentioned in the order of the commissioners, or within such further period as the commissioners may have appointed for the completion of the said works, or in case the works in any district shall not be completed within either of the periods aforesaid, then at such time as the commissioners shall think proper, to make an award, which shall describe in general terms, and by reference to maps and schedules, or otherwise as the commissioners shall think proper, the land or river drained or improved, and the works which shall have been completed, or so far as the same shall have been completed, and such award shall also specify the several quantities belonging to the reputed proprietors respectively of such land so drained or improved as aforesaid, and the original value, and the increase of the value of the land so drained or improved; and such award shall also

specify the amount of the sums which shall have been expended upon and about the works which shall have been so executed for drainage or improvements by drainage, and which shall have been so advanced by the commissioners, and all other expenses incurred by the said commissioners about the same and interest on the same at the rate of four pounds per cent. per annum from the date of such advance or of such expenditure as aforesaid, up to and including the next preceding fifth day of April or tenth day of October, whichever of said gale days shall have happened next before the date of the said award, and such consolidated sum of principal and interest shall by such award be apportioned amongst the respective proprietors in such district and on their lands respectively, and such award shall specify the respective amounts of the gross sums of money and the rentcharges payable in respect of such loan, interest, and expenses as aforesaid, which shall be charged upon the said several parcels or portions of land as aforesaid, regard being had to the degree of benefit conferred or expected to be conferred upon the said several lands by the said several works within the said district. And the said commissioners may insert in every such award all such other determinations, matters, and things as they shall think necessary and proper, and the said commissioners shall also specify in every such award the proportions in which the land drained and improved as aforesaid; and the proprietors of such lands in respect thereof respectively for the time being shall in future be annually charged towards the costs and expenses which may from time to time be incurred in or about the maintaining, cleansing, and keeping in repair the several watercourses, sluices, drains, ditches, cuts, rivers, lakes, streams, tunnels, culverts, banks, bridges, outlets, weirs, embankments, fences, and other works executed under this Act, and shall also specify, according to such proportions as aforesaid, the rate which shall be payable towards such costs and expenses as last aforesaid, for the year next ensuing the date of such award, and the like proceedings in all respects shall be had with regard to the said award as are directed of and concerning the award to be made under the first recited Act, and called "the "district apportionment of expenses award."

Style of award.

3. The award so made shall and may be called "the "district apportionment of expenses, and repayment of public "advances consolidated award."

A.D. 1869.

Such lands to be charged with annual rentcharge to Her Majesty.

4. The several lands mentioned in any such award (as last aforesaid) shall, from the date of such award, become charged with the payment to Her Majesty of an annual rentcharge of six pounds ten shillings for every one hundred pounds charged on the said lands respectively, and so in proportion for any lesser amount, to be payable for the term of twenty-two years, to be computed from the fifth day of April or tenth day of October, whichever shall next precede the making of such award, such rentcharge to be paid by equal half-yearly payments on the fifth day of April and tenth day of October in every year, the first of such payments to be made on the first of such days which shall happen after the date of such award: Provided always, that where the gross sum chargeable upon any particular parcel or denomination of lands in respect of any such advance of public monies shall not exceed the sum of one hundred pounds, it shall be lawful for the Commissioners of Public Works by their said award to fix and determine the instalments by which such sum, together with interest at the rate of four pounds per centum per annum from the date of such award, shall be repaid, and such instalments shall be charged and recovered in like manner as the rentcharge aforesaid.

All provisions as to rentcharges in recited Acts to apply to rentcharges under this Act.

5. All the provisions in the said several Acts contained or referred to respecting the rentcharges therein mentioned and payable to the said commissioners, and the securing, charging, paying, recovery, and priority of the same, shall be applicable to the rentcharges mentioned in the award so to be made by virtue of the provisions of this Act.

Commissioners to settle contributions in respect of proceedings under ss. 73, 74, and 75 of 28 & 29 Vict. c. 52.

6. The said commissioners in all proceedings under the said seventy-third, seventy-fourth, and seventy-fifth sections of the said "Drainage and Improvement of Lands Act (Ireland), 1863," may, if they shall so think fit, declare by their certificate that the amount of the expenses of works mentioned therein and to be paid by any county or in equal moieties by any two counties shall be paid either by such county at large or in equal moieties by such counties at large respectively, or that the amount to be paid by such county or each of such counties as aforesaid shall be contributed by any barony or baronies, half barony or half baronies within the same in such proportions as the commissioners may think fit, having regard to the benefits which in their judgment are likely to be derived by such barony or baronies, half barony or half baronies respectively by reason of the execution of the said works,

and the amount mentioned in any such certificate shall be presented by such grand jury or grand juries as the case may be, to be levied off such county or counties, baronies or half baronies, according to the tenor of such certificate, and in case any grand jury of any county shall fail or refuse to present the sum mentioned in any such certificate according to the effect thereof, the court shall make an order directing the treasurer of such county to insert such sum in his warrant, to be levied off such county, or barony or baronies, half barony or half baronies thereof, as the case may be, and as if the same had been duly presented by such grand jury, and the same shall be levied accordingly.

Treasurers to pay amounts certified by commissioners.

7. In all cases in which the certificate of the said commissioners shall so direct, the amounts so levied as aforesaid shall be paid by the treasurer or treasurers of such county or counties to the said commissioners.

Provision as to damage caused to banks of drains by cattle.

8. From and after the passing of this Act, in all cases where the banks of any drain or river made, opened, or widened, deepened, or improved under the provisions of the aforesaid Acts of Parliament or of an Act passed in the session held in the fifth and sixth years of Her Majesty, chapter eighty-nine, and the Acts amending the same, shall be broken down or damaged by cattle grazing or being upon any lands abutting upon any such drain or river as aforesaid, by reason whereof such drain or river shall be dammed up or obstructed, the person or persons occupying the lands at the time of such damage shall be deemed to have committed an offence within the meaning of the twenty-third section of the "Drainage Maintenance Act, 1866."

Definition of term "court."

9. The court in the said firstly recited Act and this Act shall mean the court before which presentment traverses are tried at assizes.

Acts to be construed together.

10. This Act and the said several herein recited Acts shall be read together and construed as one Act.

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