CAP. CX.

An Act to authorize the Application of certain Sums granted by Parliament for Drainage and other Works of public Utility in *Ireland* towards the Completion of certain Navigations undertaken in connexion with Drainages, and to amend the Acts for promoting the Drainage of Lands and Improvements in connexion therewith in *Ireland*. [14th *August* 1855.]

5 & 6 Vict. c. 89. 8 & 9 Vict. c. 69. 9 & 10 Vict. cc. 4 and 86. 10 & 11 Vict. c. 79. 16 & 17 Vict. c. 130. 9 & 10 Vict. c. 4.

'WHEREAS an Act was passed in the Session of Parliament holden in the Fifth and Sixth Years of Her Majesty, Chapter Eighty-nine, "to promote the Drainage of "Lands and Improvement of Navigation and Water Power in connexion with such "Drainage in *Ireland*:" And whereas the said Act was amended by an Act passed in the Session of Parliament holden in the Eighth and Ninth Years of Her Majesty, Chapter Sixty-nine, and by an Act passed in the Session of Parliament holden in the Ninth and Tenth Years of Her Majesty, Chapter Four, and by an Act passed in the same Session of Parliament, Chapter Eighty-six, and by an Act passed in the Session of Parliament holden in the Tenth and Eleventh Years of Her Majesty, Chapter Seventy-nine, and by an Act passed in a Session of Parliament holden in the Sixteenth and Seventeenth Years of Her Majesty, Chapter One hundred and thirty: And whereas by the said Act of the Ninth and Tenth Years of Her Majesty, Chapter Four, it is enacted, that in all Cases where, for the Purposes of Navigation connected with Drainage, a free Grant of a Moiety or more of the Expense of making or improving any such Navigation should or might be made under the Authority of Parliament, and the other Moiety or Residue of the Expense of making or improving such Navigation should or might be raised or advanced by way of Loan under the Provisions of the therein recited Acts or the said Act now in recital, then such Moiety or Residue so raised or advanced should, with Interest from the Date of such Loan, be charged upon the District which by the Declaration to be made in such Case by the said Commissioners under the Provisions of the therein first-recited Act, it should be declared would be benefited by the making or improving of such Navigation, and the several Baronies, Half Baronies, and Townlands in such District, and should be repaid by and levied from such Baronies, Half Baronies, and Townlands in the Proportions in which it should be so declared that such Baronies, Half Baronies, and Townlands would be respectively benefited, in One Sum or by Instalments, under and subject to the several Provisions and Regulations in the therein-recited Acts or the Act now in recital contained in relation to the Levy and Recovery of any Sums which under the Final Award of the said Commissioners should be payable by the Grand Jury of any County in respect of the Improvement of the Navigation of any River: And whereas by the said Act of the Tenth and Eleventh Years of Her Majesty it is enacted, that in all Cases where, for the Purposes of Navigation connected with Drainage, a free Grant of a Moiety or more of the Expenses of making or improving any such Navigation should be or should have been made by the Authority of Parliament, and the other Moiety or Residue of the Expense of making or improving such Navigation should be or should have been raised or advanced by way of Loan, then such Moiety or Residue so raised or advanced should be charged upon the District therein mentioned, and the several Baronies, Half Baronies, and Townlands in such District, and should be repaid by and levied from such Baronies, Half Baronies, and Townlands, without any Declaration of the Justices and Associated Cesspayers, and without any Presentment previously made by the Grand Jury of the County or any of the Counties wherein such District as aforesaid should be situate; and in all such Cases all Proceedings hitherto taken by or before the Commissioners for the Execution of the said Acts under the therein-recited Provision, and all Loans, if any, made to them, and all Securities given by them for the same under such Provision, should be valid and effectual, notwithstanding any Omission or Defect as regards any such Declaration or Presentment as aforesaid: And whereas in connexion with the Drainage of Lands in certain Districts the Four several Navigations herein-after mentioned have been undertaken and in Part executed under the Provisions of the said recited Acts of the Ninth and Tenth and Tenth and Eleventh Years of Her Majesty; (that is to say,)

10 & 11 Vict. c. 79.

1st. In

1st. In the District of Lough *Neagh*, situate in the Counties of *Antrim*, *Derry*, *Tyrone*, *Armagh*, and *Down*, the Navigation of the *Lower Bann River* from the Bridge of *Coleraine* in the tidal Part of the said River to Lough *Neagh*, and extending thence to the First Lock or Entrance of the *Lagan*, *Newry*, *Ulster*, and *Coal Island* Canals:

2d. In the District of Loughs *Oughter* and *Gowna* and River *Erne*, situate in the Counties of *Fermanagh* and *Cavan*, the Navigation from *Beleek* by the Course of Upper and Lower Lough *Erne*, Lough *Oughter* and the River *Erne*, and the Towns of *Enniskillen* and *Belturbet* to *Killeshandra* and near to the Town of *Cavan*:

3d. In the District of *Ballynamore* and *Ballyconnell*, situate in the Counties of *Leitrim*, *Cavan*, and *Fermanagh*, the Junction Navigation by the Course of the *Woodford* River and Lakes, from Lough *Erne*, at the Mouth of the said River, to the River *Shannon* near the Village of *Leitrim*:

4th. In the District of Loughs *Corrib*, *Mask*, and *Carra*, in the County of the Town of *Galway* and Counties of *Galway* an *Mayo*, the Navigation by the River and Lake *Corrib*, and Loughs *Corrib*, *Mask*, and *Carra* from the Sea at *Galway* to the Northern Extremity of the said Lough *Mask* and *Carra*, and to *Cloon Lough* in the River *Aill*:

'And whereas free Grants to the Amount of One hundred and thirty-five thousand five 'hundred and seventy-three Pounds Three Shillings and Sevenpence have been heretofore 'made by the Authority of Parliament for the Purposes of the said Navigations: And 'whereas it is expedient to make further Provision by way of free Grant for the Completion 'of the said Navigations respectively, or such of them or such Portions of them or any of 'them as, upon Inquiries already made or to be hereafter made under the Directions of the 'Commissioners of the Treasury, it may be deemed expedient to complete:' 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:

The Treasury may issue Money for the Purposes of Completion of Navigations.

I. It shall be lawful for the Commissioners of Her Majesty's Treasury, out of the Sum of Eight hundred thousand Pounds which, by an Act passed in the Session of Parliament holden in the Thirteenth and Fourteenth Years of Her Majesty, Chapter Thirty-one, is authorized to be issued to the Commissioners of Public Works in *Ireland*, to issue such Sum as may be necessary towards defraying the Expenses incurred in respect of the Four several Navigations herein-before mentioned, and towards the Completion of such several Navigations, or such of them or such Parts of them or any of them as it may be considered by the Commissioners of the Treasury expedient and proper to complete.

Power to the Treasury to authorize Completion of the Works.

II. The said Commissioners of the Treasury may authorize and direct the Commissioners of Public Works in *Ireland* to cause to be completed the Navigation Works so undertaken as aforesaid, or such of the same Works or such Portions of them or any of them as, upon any Inquiries already made or to be hereafter made under the Directions of the said Commissioners of the Treasury such Commissioners of the Treasury may think fit, and with any Modifications or Alterations which to the said Commissioners of the Treasury may appear expedient; and the said Commissioners of Public Works shall have full Power and Authority to cause to be executed or completed the Works so authorized and directed by the said Commissioners of the Treasury to be completed or executed as aforesaid, and for that Purpose to do and execute all Acts and exercise all Powers and Authorities by the said Acts or this Act given for the Execution of any Work.

Power to the Treasury to reduce the Portion of Expenses chargeable on Counties, &c.

III. It shall be lawful for the said Commissioners of the Treasury, when, upon any Inquiries made or to be made as aforesaid, it appears to them just that the Counties, Baronies, or Townlands to be charged under the Award in relation to the said Navigation Works heretofore or hereafter to be executed should be relieved from any Portion of the Moiety or Residue of the Expenses incurred in relation to such Works, to authorize and direct the said Commissioners of Public Works in and by their Award to be made under this Act to charge upon the Counties, Baronies, or Townlands made liable under such Award in respect of such Works such lesser Sum than the full Amount of such Moiety or Residue of the Expenses of and incidental to such Works as to the said Commissioners of the Treasury may, under the Circumstances of each of the said Navigations, appear just; and such

lesser Sum shall be charged upon the County or Counties, Barony or Baronies, District, or Townland or Townlands, which, in Awards to be made by the Commissioners of Public Works as herein-after provided, it shall be stated and awarded will, in the Opinion of the said Commissioners, be benefited by the making of such Navigations, by such Instalments and at such Times as shall be mentioned in any such Awards.

Advances which are not to be chargeable on Counties, &c. to be free Grants.

IV. It shall be lawful for the said Commissioners of the Treasury to order and direct, as to any Sums of Money which out of the Funds applicable to Loans in aid of the said Navigation Works have been already advanced or issued, or may hereafter be advanced or issued, for the Execution of such Works, that so much of such Advances as in the Judgment of the said Commissioners of the Treasury should not be charged on any County, Barony, District, or Townland by the Awards of the Commissioners of Public Works should be and be deemed to be free Grants.

The Commissioners of Public Works to make an Award on Completion of the Works.

V. As soon as conveniently may be after any of the said Navigations shall have been completed in such Manner and to such Extent as shall be directed or approved of by the Commissioners of Her Majesty's Treasury, the said Commissioners of Public Works shall make an Award in such Manner and Form as may be convenient, specifying the total Amount of the Costs, Charges, and Expenses incurred in the making of any such Navigation, and showing the Portion which, under the Authority of the Commissioners of the Treasury, is to be charged of such Costs and Charges, together with the County or Counties, Barony or Baronies, Townland or Townlands, or any Part thereof, to be charged with such Portion of such Costs and Expenses as aforesaid, and the Instalments by and the Manner in which the Amount of such Portion is to be paid, as also the Proportions in which such County or Counties, Barony or Baronies, or Townlands, are to be chargeable towards such Portion of the Costs and Expenses aforesaid.

The Commissioners to certify Amount to the Grand Jury of the County, who are to make Presentment accordingly.

VI. The Secretary of said Commissioners of Public Works shall, after the making of such Award, certify to the Secretary of the Grand Jury of every County, County of a City, or County of a Town in which the Lands chargeable shall be situate, the Amount of such Sum of Money and the Instalments and Manner by and in which the same is payable under the Award of the said Commissioners, and every such Grand Jury is hereby required, at the Assizes next ensuing the Date of such Certificate, without Application to Presentment Sessions, to make Presentment of the Amount mentioned in such Certificate to be raised off the County at large, Barony or Baronies, Townland or Townlands, as may be mentioned in any such Award or Certificate, by the Instalments and in the Manner mentioned in such Certificate; and in default of such Presentment the Treasurer of such County, County of a City, or County of a Town is hereby required, without Presentment or Authority, when issuing his Warrant for levying Grand Jury Cess, immediately after the Assizes next ensuing the Date of such Certificate, and from Time to Time after each succeeding Assizes (until the whole of the Instalments by any such Certificate payable shall be fully paid off and discharged), to insert in a separate Warrant to be by him issued for the Levy of the same the Amount mentioned in such Certificate to be raised off such County, Barony or Baronies, Townland or Townlands, therein mentioned; and such Amounts as shall be so presented, or so included in any such Warrant as aforesaid, shall be applotted, raised and levied, sued for and recovered, by such and the same Ways and Means as any Grand Jury Cess; and when and so soon as such Amount as aforesaid shall be from Time to Time raised and received by the Treasurer of the County such Treasurer shall immediately pay the same to the Paymaster of Civil Services in *Ireland* for the Time being, and the same shall be by him paid into Her Majesty's Exchequer, in discharge of the Sum mentioned in any such Award.

Drainage Awards not to be affected, and to be made as if no Work of Navigation had been connected therewith.

VII. Nothing herein contained shall extend to prevent the said Commissioners of Public Works from making their Awards in relation to the Drainage of the Lands in connexion with the Drainage of which the said Works of Navigation may have been undertaken, or in relation to the Improvement of Mill Power, or to affect or interfere with the Provisions in relation to such Awards, and such Awards may be made and all Provisions in relation thereto shall take effect in like Manner as if no Works of Navigation had been undertaken in connexion with such Drainage or Mill Improvement Works.

VIII. It

VIII. It shall be lawful for the said Commissioners of Public Works, by and with the Consent of the Commissioners of Her Majesty's Treasury, by Warrant under the Hands of the said Commissioners of Public Works or any Two of them, from Time to Time to direct that the said Navigations or any of them, with the Tolls thereof, shall be deemed and become the public Property of the County, or Counties if more than One, in which respectively the Lands chargeable under the Award in relation to the said Navigations respectively are situate; and from and after the Date of any such Warrant such Navigation, together with all Locks, Weirs, and other Works, Rights, Members, and Appurtenances thereto belonging, shall be deemed and taken to be the public Property of such County or Counties as aforesaid, and be held, maintained, and preserved by the Grand Jury or Juries of such County or Counties, with such Powers and Authorities and subject to such Provisions and Regulations as may hereafter be established by Parliament in relation thereto.

Navigations may be transferred to Counties.

IX. 'Whereas by the said Act of the Sixteenth and Seventeenth *Victoria*, Chapter One 'hundred and thirty, it is amongst other things enacted, that it should be lawful for the 'said Commissioners of the Treasury to authorize and direct the said Commissioners of 'Public Works in *Ireland*, by their Award to be made under the said Acts, to charge upon 'the Lands made liable under such Award such lesser Sum than the full Amount of the 'Expenses of and incidental to Works as to the said Commissioners of the Treasury might 'under the Circumstances of each Case appear just; provided always, that in all Cases the 'whole Amount of the Purchase Money or Compensation payable in respect of Land taken 'for or injuriously affected by any Works commenced and completed or executed, should 'be included in or charged under the Award to be made in relation to such Works: And 'whereas it frequently happens that Claims are made after Completion of the Works in the 'District, and in respect of which an Award has been made or is about to be made, and at 'Times when there are no Funds in the Hands of the said Commissioners or otherwise 'available for or properly applicable to the Payment of such Claims; and it is expedient to 'authorize the Commissioners in such Cases, within such limited Times as herein-after 'mentioned, in case it shall in their Discretion seem expedient so to do, to make a further 'or additional Award for the Purpose of charging the Amount of Purchase Money or 'Compensation which may be found to be due to any Person upon the Proprietors of 'Lands in the District in respect of the said Drainage whereof such Claims shall arise, and 'to limit the Time within which all Claims for Compensation or otherwise may be made:' Be it therefore enacted, That in all Cases where after the Completion of the Works in any District, whether before or after the making the Final Award in relation to such Works, any Person shall be awarded or otherwise be entitled to be paid Purchase Money or Compensation in respect of Injury sustained or arising from such Drainage, or the Works incidental thereto, it shall be lawful for the Commissioners of Public Works, without Meeting or other preliminary Proceeding, in case they deem it proper or expedient so to do, by the first or by an additional Award or Awards, in such Form as the said Commissioners may think proper, from Time to Time to charge upon the Lands of the Proprietors within such District the Amount which may be found to be due for such Purchase Money or Compensation to be paid to the Person entitled to the same, as and when the same shall be received by the said Commissioners, such Sum or Sums by any such additional Award to be charged upon and paid out of the several Lands of the Proprietors in the District in such and the same Manner, and with the same Priority, and the same Rights, Privileges, and Powers for the Recovery thereof, as in and by the said Acts, or any of them, are given for the Recovery of the Sum specified in the Final Award: Provided nevertheless, that the Commissioners may declare that the Sums mentioned in such further or additional Awards shall be paid and payable at such Times and by such Instalments as the said Commissioners shall therein for that Purpose limit and direct, so nevertheless that the entire Amount thereof shall be payable as between the said Proprietors of Lands in the said District in the same Proportions as the Sum charged by the Final Award in such District.

Power to Commissioners of Public Works to charge Amounts which may be found due for Compensation, &c.

X. No Claim for Compensation or Damages in respect or by reason of any Act or Omission of the said Commissioners, or for or by reason of any Works whatsoever done or professed to be done by the said Commissioners, shall be made by Action, Suit, or otherwise, save within Six Months after the Act complained of.

Limit of Time within which Claims to be made.

XI. Nothing

Act not to abridge Powers of 16 & 17 Vict. c. 130.

XI. Nothing in this Act contained shall be deemed, taken, or construed to repeal, alter, or abridge any of the Provisions contained in the said Act of the Sixteenth and Seventeenth *Victoria*, Chapter One hundred and thirty.

Power to set off Benefit resulting during Execution of the Works.

XII. In all Cases of Claims for Compensation or Purchase Money made or to be made upon the said Commissioners it shall be lawful for the said Commissioners to set off against such Claims the Value of any Benefit which may have resulted or accrued to the Lands of the Party or Person making such Claim during the Execution of the Works of the said Commissioners, and before the making of the Final Award for the District in which such Lands may be situate; and the Arbitrator before whom any such Claim shall be made, when setting forth the Price or Compensation to be paid in respect of any such Claim, and the Jury before whom the Trial of any Traverse against the Award of such Arbitrator shall be had, shall take into consideration any Advantages or Benefit which may have resulted or accrued as aforesaid to the Lands of the Party or Person making such Claim.

Power to the Commissioners to release a Portion of the Lands.

XIII. It shall be lawful for the said Commissioners of Public Works, with the Sanction of the Commissioners of Her Majesty's Treasury, from Time to Time and at any Time, (when and so often as by reason of the Redemption of any Part of the Monies charged under any Award of the said Commissioners upon the Lands of any Proprietor the annual Instalments payable in respect of the Lands mentioned in such Award shall be reduced,) by any Deed or Instrument under the Hands and Seals of the said Commissioners, or any Two of them, to release any of the Lands originally charged with the Payment of any Instalment under any such Award as aforesaid; and no Release of any Portion of the Lands charged under any such Award shall in anywise avoid, diminish, or affect any Remedies by the Acts herein-before recited or otherwise given to be had and exercised for the Recovery of the Monies by any such Award charged in respect of the Residue of the Lands charged therewith.

As to the Appointment of Trustees for Drainage Districts connected with Navigation.

XIV. Anything in the said recited Act of the Fifth and Sixth Years of the Reign of Her present Majesty to the contrary notwithstanding, the Provisions of the said Act or any of the Acts amending the same, as far as regards the Appointment of Trustees for the Maintenance of Works of Drainage, and the several Powers and Authorities of such Trustees when so appointed, shall be held and deemed equally to apply to all Works of Drainage, though a Navigation may have been improved or formed, or a Reservoir may have been formed in connexion with such Drainage.

Providing for Trustees in case of only One Proprietor in a District, or any Number not exceeding Six.

XV. Provided always, That, anything in the said recited Acts to the contrary, in all Cases where there is only One Proprietor in any Drainage District, or where the Proprietors in any District do not exceed Six in Number, such One Proprietor or such Proprietors not exceeding Six, or other Persons nominated by them or any Two of them at any Meeting for the Purpose, shall be the Trustee or Trustees for the Maintenance of the Works in such District.

Power to further deepen the River Lung.

XVI. And whereas the said Commissioners of Public Works have put the Powers of the said recited Acts into Operation in the District to which they have affixed the Name of the Lough *Gara* and *Mantua* District in *Ireland*, and in the Execution of the Works in the said District have partially deepened and widened the River *Lung*, situate in the Counties of *Roscommon* and *Mayo*: And whereas it is expedient that the said River should be further deepened and widened for the Purpose of draining additional Lands in the said District or its Vicinity: Be it therefore enacted, That it shall be lawful for One or more of the Proprietors of additional Lands to be drained in the said District, having first obtained the Consent in Writing of One Half of the Proprietors or more in extent of the Lands so proposed to be drained, to undertake the Execution of the Works necessary for further deepening and widening the said River, and to make and complete the same out of his or their own proper Funds, according to and in conformity with Plans, Sections, and Specifications approved of by the said Commissioners; and when such Works shall have been executed and completed to the Satisfaction of the said Commissioners, it shall be lawful for the said Commissioners to make an Award charging upon the Lands of the Proprietors within such District appearing to the said Commissioners to be benefited by such additional Works the Amount

Amount of the Expenses incurred in respect of such additional Works, such Sum by any such Award to be charged upon and paid out of the several Lands of the Proprietors so benefited by such additional Works, in such Proportion as may appear to the said Commissioners just, and in the same Manner, and with the same Priority, Rights, and Powers for the Recovery thereof, as in the said Acts, or any of them, are given for the Recovery of any Sum charged under the Final Award of the said Commissioners in any District: Provided always, that the total Amount of the Expenses to be charged in respect of such additional Works shall not exceed the Sum of Five hundred Pounds.

Acts to be construed as One Act.

XVII. The several Acts mentioned in this Act shall be construed together as One Act; and the several Words and Expressions to which an extended Signification is given in the said Acts, or any of them, shall have the like Signification as this Act; and (save where such Construction would be inconsistent with the Context) the Expression "the Commissioners" where used in this Act, shall mean the Commissioners of Public Works in *Ireland*.

CAP. CXI.

An Act to amend the Law relating to Bills of Lading. [14th *August* 1855.]

'WHEREAS by the Custom of Merchants a Bill of Lading of Goods being transferable by Endorsement the Property in the Goods may thereby pass to the Endorsee, but nevertheless all Rights in respect of the Contract contained in the Bill of Lading continue in the original Shipper or Owner, and it is expedient that such Rights should pass with the Property: And whereas it frequently happens that the Goods in respect of which Bills of Lading purport to be signed have not been laden on board, and it is proper that such Bills of Lading in the Hands of a *bonâ fide* Holder for Value should not be questioned by the Master or other Person signing the same on the Ground of the Goods not having been laden as aforesaid:' 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:

Rights under Bills of Lading to vest in Consignee or Endorsee.

I. Every Consignee of Goods named in a Bill of Lading, and every Endorsee of a Bill of Lading to whom the Property in the Goods therein mentioned shall pass, upon or by reason of such Consignment or Endorsement, shall have transferred to and vested in him all Rights of Suit, and be subject to the same Liabilities in respect of such Goods as if the Contract contained in the Bill of Lading had been made with himself.

Not to affect Right of Stoppage in transitu or Claims for Freight.

II. Nothing herein contained shall prejudice or affect any Right of Stoppage *in transitu*, or any Right to claim Freight against the original Shipper or Owner, or any Liability of the Consignee or Endorsee by reason or in consequence of his being such Consignee or Endorsee, or of his Receipt of the Goods by reason or in consequence of such Consignment or Endorsement.

Bill of Lading in Hands of Consignee, &c. conclusive Evidence of the Shipment as against Master, &c.

Proviso.

III. Every Bill of Lading in the Hands of a Consignee or Endorsee for valuable Consideration representing Goods to have been shipped on board a Vessel shall be conclusive Evidence of such Shipment as against the Master or other Person signing the same, notwithstanding that such Goods or some Part thereof may not have been so shipped, unless such Holder of the Bill of Lading shall have had actual Notice at the Time of receiving the same that the Goods had not been in fact laden on board: Provided, that the Master or other Person so signing may exonerate himself in respect of such Misrepresentation by showing that it was caused without any Default on his Part, and wholly by the Fraud of the Shipper, or of the Holder, or some Person under whom the Holder claims.