ANNO OCTAVO & NONO

VICTORIÆ REGINÆ.

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C A P. LXIX.

An Act to amend an Act of the Sixth Year of Her present Majesty, for promoting the Drainage of Lands, and Improvement of Navigation and Water Power in connexion with such Drainage, in *Ireland*. [31st *July* 1845.]

5 & 6 Vict. c. 89.

WHEREAS by an Act 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, it is amongst other things enacted, that if the Proprietors of Two Thirds or more in Extent of the Lands proposed to be drained or improved by Drainage under the Provisions of the said Act should have assented in Writing to the Execution of the proposed Works, the Commissioners acting in execution of said Act should make and sign a Declaration describing the Lands proposed to be drained or improved, and declaring the then actual Value thereof, and the Increase in such Value by means of the proposed Works, and the Proportion in which such Lands should be chargeable towards the Expence of the proposed Works, such Proportion being fixed according to such actual Value and such estimated Increase as aforesaid, and also stating the several other Matters and Things in and by the

the said Act authorized and required; and it is by the said Act further enacted, that it should and might be lawful for the Commissioners appointed under the said Act, from Time to Time as Occasion should require, to borrow and take up at Interest any Sum or Sums of Money required for defraying the Costs, Charges, and Expences to be incurred by them in the Execution of any Works for the Drainage and Improvement of any Land, or the Navigation of any River, or the Formation of any Reservoir under or by virtue of the said Act, and that the Repayment of such Sum or Sums of Money, with Interest at a Rate not exceeding Five Pounds *per Centum per Annum*, should be secured to the Party lending the same upon the Monies accruing to the said Commissioners under or by virtue of the Award to be made by the said Commissioners as in the said Act mentioned; and it is in and by the said Act further enacted, that as soon as conveniently might be after any Works for the Drainage or Improvement of any Land or the Navigation of any River under the said Act, or any other Work by the said Act authorized, should have been completed, the Commissioners should draw up an Award or Instrument in Writing in the Manner and Form therein particularly mentioned and described, and that the respective Sums of Money which by the Award of the said Commissioners should be specified as the Proportions or Contributions payable in respect of the several Parcels or Portions of the Land drained or improved by Drainage, or by any Works under the said Act, towards the total Amount of the Sums expended in and about such Drainage or Improvements as aforesaid, with Interest for such respective Sums of Money at a Rate not exceeding Five Pounds *per Centum per Annum* from the Date of such Award, should be charged on such several Parcels or Portions of the Land so drained or improved as aforesaid, and that in preference to and with Priority over all Incumbrances on such Land: Provided nevertheless, that any Quit or Chief Rent issuing thereout, or other Incumbrance thereon, previously to the Date of the said Award, should have Priority to such Charges to the Extent of the Value of such Land before the Improvements were effected, but no further; and the same respective Sums of Money, with such Interest for the same as aforesaid, should also be charged upon so much of any other Land situate within One Mile of any Part of the Lands so drained or improved, and settled with the Lands so drained or improved to the same Uses, Intents, and Purposes, by virtue of Limitations contained in the same Instrument or the same Set of Instruments, as the said Commissioners should by their said Award, or any Instrument under their Hands and Seals enrolled in the Rolls Office, direct, limit, and appoint, having regard to the Sufficiency of the said Lands to satisfy and secure the Charge thereon, but subject, as to such other Land, to the full Amount of all Incumbrances affecting the same prior to the Date of the said Award: And whereas Applications have been made to the said Commissioners for the Drainage of Land, and the Improvement of Navigation and Water Power of several Rivers and Lakes, in *Ireland*, and Undertakings and Works for those Purposes are now in progress under the Direction of the said Commissioners: And whereas it is expedient and just that the Monies to be charged upon Lands by any such Award as aforesaid shall take Priority and

have

have Effect as to such Lands from the Date of the said Declaration in and by the said Act authorized, instead of the Date of the said Award; and for the more effectual Attainment and Extension of the Benefits likely to arise from the said Act it is expedient to facilitate the raising of Monies for the Purposes thereof, and to amend the said Act in certain other respects as herein-after mentioned: 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 in the Case of all Loans to be effected and Declarations to be made by the said Commissioners after the passing of this Act, under the Provision of said recited Act or this Act, the respective Sums of Money which, by the Award to be made by the said Commissioners, shall be specified as the Proportions or Contributions payable in respect of the several Parcels or Portions of the Land drained or improved by Drainage, or by any Works under the said Act or this Act, towards the total Amount of the Sums expended in and about such Drainage or Improvements as aforesaid, with Interest for such respective Sums of Money at the Rate not exceeding Five Pounds *per Centum per Annum*, shall from the Date of such Declaration be charged on such several Parcels or Portions of the Land so drained or improved as aforesaid, and that in preference to and with Priority over all Incumbrances on such Land, save only that any Quit or Chief Rent issuing thereout, or other Incumbrance thereon, previously to the Date of the Memorandum of the Registry of such Declaration, as by this Act authorized and directed to be made by the said Commissioners, shall have Priority to such respective Sums of Money so charged to the Extent of the Value (as stated by the said Commissioners in any such Declaration) of such Land before the Improvements were commenced, but no further; and the same respective Sums of Money, with such Interest for the same as aforesaid, shall also be charged upon so much of any other Land situate within One Mile of any Part of the Lands so drained or improved, and settled with the Lands so drained or improved, to the same Uses, Intents, and Purposes, by virtue of Limitations contained in the same Instrument or the same Set of Instruments, as the said Commissioners shall by the said Award, or any Instrument under their Hands and Seals, and enrolled in the Rolls Office, direct, limit, and appoint, having regard to the Sufficiency of the said Lands to satisfy and secure the Charge thereon, but subject, as to such other Land as aforesaid, not being Part of the Lands so drained or improved, to the full Amount of all Incumbrances affecting the same prior to the Registry of the Memorandum of such Declaration.

Apportioned Expences of Works to be charged on Lands.

II. And be it enacted, That the Provisions in the said recited Act and this Act contained relating to the Charge of any Monies or Interest on Land situate within One Mile of any Part of the Land drained or improved shall be deemed and construed to extend and apply to all Land belonging to the same Proprietor, as the Land so drained or improved, situate within One Mile of any Part of the Lands so drained and improved, for all his Estate and Interest existing at the Time of such Declaration of the said Commissioners as aforesaid.

Provisions in recited Act as to Charge on Lands to apply to Land of the same Proprietor.

III. And

The Proprietors may give other Security in lieu of the Lands so situate.

III. And be it enacted, That if any Proprietor shall prefer to give other Security in lieu of the Lands so situate within One Mile of the Lands drained or improved as aforesaid, such Security shall be given within a Time to be fixed by public Notice by the Commissioners previous to the Date of the Declaration aforesaid, any thing in the said Act to the contrary notwithstanding.

The whole of the Lands chargeable shall be described in the Declaration.

IV. And be it enacted, That the Extent of the whole of the Land or Premises which, under the Provisions of said Act or this Act, may become chargeable with the Monies expended in pursuance of the Provisions thereof, shall be entered, stated, or described in every such Declaration, as herein-before mentioned, to be made by said Commissioners; and when such Declaration shall be finally settled a Copy thereof shall be printed, and deposited with the Clerk of the Peace, as in said Act directed.

The Commissioners to cause Memorandum of Declaration to be drawn up and registered.

V. And be it enacted, That so soon as conveniently may be after the making of any such Declaration as in and by the said recited Act or this Act authorized as aforesaid the said Commissioners shall draw up a Memorandum or Instrument in Writing, setting forth therein the several Lands (with the County, County of a City or Town, and Barony or Parish in which the same may be situate) which shall be the Subject of or contained in such Declaration, and also setting forth the Proprietors of such Lands respectively, and which Memorandum or Instrument shall be signed and sealed by the said Commissioners, and be in the Form in the Schedule marked (B.) to this Act annexed, or as near thereto as the Circumstances of the Case will admit; and the said Commissioners shall at the same Time sign and seal a Memorial of such Memorandum or Instrument, directed to the Registrar for registering Deeds, Conveyances, and Wills in *Ireland*, and cause the Memorial of such Instrument to be registered in the Office for Registry of Deeds in the City of *Dublin*; and the Registrar of said Registry Office, his and their Assistant, Deputies, and other Officers, are hereby authorized and required to receive and register the same in such and the same Manner as any Deeds or Instruments are registered in said Office, and enter all such Memorials of such Instruments in the Abstract Books and Indexes of or relating to Memorials registered and kept in the said Offices, subject to the Payment of such Fees as may now be lawfully demanded and received upon the Registry of Memorials of Deeds in the said Office.

Declarations heretofore made to be registered.

VI. And be it enacted, That the said Commissioners shall, within Three Months from the passing of this Act, draw up Memorandums or Instruments in Writing in the Manner and Form aforesaid, or as near thereto as the Circumstances of each Case will admit, of the several Declarations heretofore by them made under the Provision of the said recited Act, and Memorials thereof respectively, and cause the said Memorials to be entered and registered in the Register's Office for registering of Deeds in the City of *Dublin* in the same Manner as last aforesaid.

VII. And

No Appeal, unless Notice in Writing within 21 Days after Declaration.

VII. And be it enacted, That no Appeal to any Assistant Barrister against any Declaration to be made by the said Commissioners shall be heard, unless a Notice in Writing of such Appeal be lodged with the Secretary of the said Commissioners at their Office in *Dublin* within Twenty-one Days next after the Publication of such Declaration.

Power to borrow Money to pay Interest pending Execution of Works.

VIII. And be it enacted, That when the said Commissioners shall think fit to borrow or raise at Interest or shall have borrowed any Sum of Money under the Powers for that Purpose given by the said recited Act or this Act, it shall and may be lawful for the said Commissioners, if they shall so think fit, to include in such Loan as well the Principal Sum estimated to be required as all Interest which may be agreed to be paid thereon during the Interval between such Loan and the making of the Award relative to the Works for which such Loan may have been contracted, such Interest to be payable half-yearly or otherwise as the said Commissioners shall think fit; and all Sums so borrowed for Payment of Interest shall be secured in like Manner as the Principal Sum of which the Interest shall have been so provided for as aforesaid.

Certificate of Loans may be transferred by Endorsement.

IX. And be it enacted, That from and after the passing of this Act it shall not be necessary that any Transfer of the Right or Interest in or to any Sum secured by any Certificate heretofore issued or hereafter to be issued under the said recited Act or this Act shall be in any specified Form, and that every Person who shall be entitled to the Money secured by any such Certificate may transfer his Right and Interest to the Principal Sum and Interest Money thereby secured to any Person by Endorsement thereon, and that all Rights and Remedies of the Person so endorsing in, to, or in respect of such Certificate shall, after such Endorsement, be vested in the Person to whom such Transfer shall be made, and that it shall not be necessary that the said Transfer or Endorsement shall be produced or certified to the Secretary of the said Commissioners, or for the said Secretary to make an Entry thereof, as in and by the said recited Act directed.

Commissioners may make Certificates payable within certain Periods.

X. And be it enacted, That it shall and may be lawful for the said Commissioners, in any Case where they shall so deem fit, to make any Certificate or Set of Certificates granted under the said Act or this Act for the whole of the Monies required to be borrowed for such Case, payable at any Time (to be fixed as herein-after provided) intervening between Two Periods to be stated in such Certificates; and it shall be lawful for the said Commissioners to alter the Form of the Certificate provided by the said Act to suit the Circumstances of each Case, and such Certificate so varied shall be equally good and effectual as if the same were according to the Form by said Act prescribed.

Commissioners to determine by Ballot the Order in

XI. And be it enacted, That where more than One Certificate for any such Case shall be so issued and made payable between Two such Periods as aforesaid, the Commissioners shall, as soon as may be convenient after the final Settlement of their Award, give

which Certificates shall be paid.

give Notice in the *Dublin Gazette*, and in such other Newspapers and by such other Means as they shall think fit, to the Holders of such Certificates of their Intention, on a Day and Hour in said Notice to be fixed, not sooner than Fourteen Days from the Publication thereof, to hold a Ballot for the Purpose of determining the Order in which such Certificates shall be paid off; and upon the Day and at or after the Hour named the Commissioners shall accordingly proceed to make such Ballot in presence of such (if any) the Holders of such Certificates, or their Agents or Representatives, as shall attend at such Ballot, and if none of such Persons shall attend then in the Absence of such Persons; and the Result of such Ballot shall be recorded in the Office of the said Commissioners, and noted upon all such of the said Certificates as shall be then or subsequently produced to the said Commissioners; and such Record and Notification shall be signed by the Secretary for the Time being of said Commissioners, and all such Certificates shall be paid off in the Order so to be determined by such Ballot.

The Commissioners may, on Notice, pay off Certificates.

XII. And be it enacted, That in all Cases of Certificates issued in the Mode herein-before prescribed, and also in all Cases where, pursuant to the Provisions of the said recited Act, the Commissioners are empowered or required to borrow Money at a lower Rate of Interest than the Certificates which for the Time being shall be in force shall bear, and shall issue like Certificates at such reduced Rate of Interest, it shall and may be lawful for the said Commissioners and they are hereby required to publish a Notice or Notices in the *Dublin Gazette*, and in such other Newspapers as they shall deem fit, fixing a Time, not sooner than Six Months from the Date of such Notice, when the Principal Money secured by any or the whole of such Certificates shall become payable, having regard to the Order in which, in pursuance of the Provisions of this Act and the said recited Act, such Certificates shall have been made payable; and in such Notice the Certificates to become payable shall be described by the Name of the District or Work for which they have been issued, and the Number, Letter, or other Mark fixed by said Commissioners on such Certificates; and it shall be lawful for the said Commissioners, at the Expiration of the Time in such Notice stated, to pay off the Monies due on account of such Certificates named in such Notice, and from and after the Expiration of the Time appointed by said Notice the Interest on the Principal Monies secured by such Certificates shall cease and determine.

Commissioners may invest Funds.

XIII. And be it enacted, That it shall be lawful for the said Commissioners from Time to Time to invest in any of the Public or Government Funds or Securities, in their Names as such Commissioners, or in the Name of their Secretary for the Time being, for the Benefit of the Parties interested in such Funds, (but without Risk to the said Commissioners,) any Sums of Money applicable to the Purposes of the said recited Act or this Act which may be in their Hands remaining unapplied.

XIV. And

Power to sue and be sued.

XIV. And be it enacted, That the said Commissioners may and shall in all Cases sue and be sued in the Name of the Secretary of the Commissioners of Public Works in *Ireland* for the Time being for and on behalf of the said Commissioners; and that in all Indictments or Criminal or Civil Proceedings the Name of the Commissioners of Drainage shall be a sufficient Description of the said Commissioners; and that no such Action or Suit at Law or in Equity shall abate or be discontinued by the Death or Removal of such Secretary; and the Secretary for the Time being shall always be deemed the Plaintiff or Defendant in such Action or Suit (as the Case may be).

Commissioners may in Declaration refer to Maps and Schedules.

XV. And be it enacted, That it shall and may be lawful for the said Commissioners, in making any Declaration or Award, or doing any other Act by this Act or the said recited Act authorized, to do so in and by reference to Maps, Plans, and Schedules, or otherwise, as they may think best.

Assents to be in the Form in Schedule.

XVI. And be it enacted, That the Assents of Proprietors and Owners under the said recited Act shall be in the Form in the Schedule (A.) to this Act annexed, or as near thereto as the Circumstances of each Case will permit, and that the Assent of every Proprietor given under his Hand in such Form shall, to all Intents and Purposes, be conclusive against and binding upon such Proprietor of and all Persons interested in the Lands of such Proprietor in respect of which such Assent shall be given, and also upon and against the same Lands respectively.

Production of Assents to be Proof of Execution.

XVII. And be it enacted, That the Production of such Assents by or from the Office of the said Commissioners shall be deemed and taken in all Courts of Law and Equity as good and sufficient Proof thereof, and of the due Execution thereof, without any further or other Evidence of the Execution of same.

Officers to give Security.

XVIII. And be it enacted, That every Clerk, Collector, Receiver, or other Officer to be appointed or employed under the said recited Act or this Act, shall, when required so to do by the said Commissioners, give such Security to the Secretary for the Time being of the Commissioners of Public Works in *Ireland* in such Sum as shall be determined on by the Commissioners acting in execution of the said recited Act and this Act, conditioned for the due Performance and Execution of such Duties and Works for which such Person or Persons shall respectively be so appointed or employed as aforesaid, or in such other Condition as the Commissioners of Drainage may think proper and require; and each Security shall and may be sued upon and enforced by the Secretary of Commissioners of Public Works for the Time being for and on behalf of the said Commissioners of Drainage.

Security for Sums heretofore advanced.

XIX. And be it enacted, That the respective Sums of Money which shall become chargeable under any Award to be made by the said Commissioners in respect of any District as to which the said Commissioners have heretofore made a Declaration, and as to which Money has

has been borrowed and taken up by them for the Execution of any Work in such District, shall, for the Purpose of securing the Money so borrowed and taken up by the said Commissioners, be Charges on the Lands to become chargeable therewith as in said Act mentioned, but with Priority over all Charges created on such Lands after the passing of this Act.

Value of Lands.

XX. And be it enacted, That the Extent in Value of the Land drained or improved before the Improvements were effected in said Act mentioned shall be construed, deemed, and taken to be the Value thereof before the Improvements were commenced.

Interpretation of Act.

XXI. And be it enacted, That the said recited Act shall continue and be in full Force and Effect, save and except so far as the same is altered by or inconsistent with this Act, and that the said recited Act and this Act shall be construed together as One Act; and that in the Construction of this Act, except where the Nature of the Provision or the Context of this Act shall exclude such Construction, the Words "Lands," "River," "Person" or "Persons," "Proprietor" or "Proprietors," "Quit or Chief Rent," and "Counties," shall be construed to extend and be applied as in said recited Act is directed and provided; and every Word importing the Singular Number only shall extend and be applied to several Persons and Things as well as one Person or Thing; and every Word importing the Plural Number shall extend and be applied to one Person or Thing as well as several Persons or Things; and every Word importing the Masculine Gender only shall extend and be applied to a Female as well as a Male; the Words "said Commissioners" shall mean the Commissioners or any Two of them acting in execution of the said recited Act and this Act; and the Word "Proprietor" in the said recited Act and this Act, in addition to the Meanings in the said recited Act applied to it, shall also mean the reputed Proprietor.

Alteration of Act.

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

SCHE-

SCHEDULES to which the foregoing Act refers.

SCHEDULE (A.)

DRAINAGE ACTS, VICT. c.

ASSENT.

District of

WHEREAS, under the Provisions of an Act 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 of another Act passed in the Eighth and Ninth Years of the Reign of Her present Majesty amending the same, it is proposed to drain and improve by Drainage certain Lands within the District designated by the Commissioners for the Execution of the said Act the District of in the County of for which Purpose certain Maps, Plans, Sections, Estimate, and Schedules have been lodged, in pursuance of the Provisions of said first-recited Act, for public Inspection for Six successive Weeks, as thereby directed, at in the County of and which said Maps, Plans, Sections, and Estimate are signed by Commissioners for the Execution of the said Acts.

And whereas I, the undersigned, am a Proprietor, within the Terms of said Act, of some of the Lands within said District, and comprised in said Schedules; that is to say, in the Townlands of

Now these Presents witness, that I have assented and do hereby assent, as such Proprietor, to the Execution of the Works for the Drainage and Improvement by Drainage of the Lands within said District by the said Commissioners, pursuant to the Provisions of the said Acts.

Witness my Hand, this Day of 184 .

Present

The undersigned, being Tenant of of the above Lands, whose Concurrence in the above Assent is required under the Provisions of the said Act, do hereby consent to the Execution of the said Works.

Witness my Hand, this Day of 184 .

Present when signed by

SCHEDULE (B.)

Memorandum of a Declaration under the Drainage Act.

District of County of

We, the Commissioners acting in execution of an Act made and passed in the Sixth Year of the Reign of Her present Majesty Queen Victoria, intituled [*here set forth Title of the original Act*], and also of another Act passed in the Eighth and Ninth Years of the Reign of Her present Majesty amending the same, have heretofore, to wit, on the Day of 18 , made a Declaration in the Manner by the said Acts or one of them directed, and in the Schedule hereunto annexed we have set forth the several Lands which are the Subject of or contained in the said Declaration, as well as the Names of the Proprietors of such Lands respectively.

In witness whereof, *&c.*

Signed, sealed, and delivered by the said

In Presence of

Townland.	Barony or Parish.	County, County of a City or Town.	Name of Proprietor.

London: Printed by George E. Eyre and Andrew Spottiswoode, Printers to the Queen's most Excellent Majesty. 1845.