ANNO DECIMO SEXTO & DECIMO SEPTIMO

VICTORIÆ REGINÆ.

****

Cap. lxv.

An Act to amend the Acts relating to the Drainage and Embankment of certain Lands in *Lough Swilly* and *Lough Foyle* in the Counties of *Donegal* and *Londonderry*. [28th *June* 1853.]

WHEREAS an Act was passed in the Session of Parliament held in the First and Second Years of the Reign of Her present Majesty, intituled *An Act for draining and embanking certain Lands in* Lough Swilly *and* Lough Foyle *in the Counties of* Donegal *and* Londonderry, and Two other Acts were passed in the Sessions of Parliament held in the Sixth and Seventh and Ninth and Tenth Years of the Reign of Her present Majesty, whereby the Provisions of the first-recited Act were amended, and further Powers were granted to the Undertakers named in the same Act for the Completion of the Works thereby authorized: And whereas by the first-mentioned Act the Undertakers therein named were authorized and empowered to embank from the Sea, drain and improve not only the Waste Lands, Mud Banks, or Slobs in *Lough Foyle* and *Lough Swilly*, in the said Act particularly defined, but also, with the Consent of the Owners or reputed Owners of the adjoining Estates, any other of the Waste Lands, Mud Banks, or Slobs situate

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in the same Loughs respectively: And whereas considerable Sums of Money have been expended in the Reclamation and Embankment of the said Lands, and extensive Works have been completed, and others are now in progress; but Difficulties have arisen in carrying out a Part of the Undertaking, and it is therefore expedient that further Powers should be granted for facilitating the Completion of the same, and that some of the Provisions of the said Acts should be amended and enlarged; but the Objects aforesaid cannot be effected without the 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,

Power to embank, drain, and improve Waste Lands on the South-east Side of Letterkenny Channel.

I. That it shall be lawful for the Undertakers, with such Consent as is herein-after mentioned, to embank from the Sea, drain, and improve such of the said Waste Lands, Mud Banks, or Slobs in *Lough Swilly* aforesaid as are situate on the South-east Side of the *Letterkenny Channel*, as the same are defined on the Plan deposited at the Office of the Commissioners for executing the Office of Lord High Admiral.

Certain Consents to be obtained before the Works are proceeded with.

II. That previously to the Embankment, Drainage, and Improvement of the Waste Lands, Mud Banks, or Slobs on the South-east Side of the *Letterkenny Channel* herein-before mentioned, the Undertakers shall have obtained the Consent of the Majority of the Owners or reputed Owners of the Estates adjoining to the same, signified in Writing under their respective Hands: Provided always, that each and every of the Owners or reputed Owners who shall decline or refuse to give such Consent as aforesaid shall, notwithstanding, be entitled to claim One Tenth Part of so much of the Waste Lands, Mud Banks, or Slobs embanked, drained, and improved by the Undertakers in pursuance of such Consent as aforesaid as shall be situate opposite and adjoining to his Estate, and between the same Estate and the Waters of the said Lough.

Power to enter upon, use, and occupy Roads and Lands for temporary Purposes.

III. That it shall be lawful for the Undertakers, at any Time before the Expiration of the Period limited by the said recited Act of the Ninth and Tenth Years of the Reign of Her present Majesty for the Completion of the Works, to enter upon any Roads or Lands within Five hundred Yards of the Waste Lands, Mud Banks, and Slobs in *Lough Swilly* and *Lough Foyle*, or either of them, by the said recited Acts authorized to be embanked and reclaimed, and to occupy such Roads temporarily during the Progress of the Works authorized by the

the said recited Acts, and to use such Lands for any of the following Purposes; (that is to say,)

For the Purpose of taking Earth or Soil by Side Cuttings therefrom:

For the Purpose of depositing Spoil thereon:

For the Purpose of obtaining Materials therefrom for the Construction or Repair of Embankments and other Works:

For the Purpose of forming Roads thereon to or from or by the Side of the said Embankments and other Works, and the said Waste Lands, Mud Banks, or Slobs:

And all the Clauses in "The Railways Clauses Consolidation Act, 1845," with respect to the temporary Occupation of Lands near the Railway during the Construction thereof, shall be incorporated with and form Part of this Act; and such Clauses shall be construed as if the Word "Undertakers" had been used therein instead of the Word "Company," and as if the Words "Embankment and Reclamation" had been used therein instead of the Word "Railway:" Provided always, that nothing in this Act contained shall authorize the Undertakers to enter upon or use any Roads or Lands within Five hundred Yards of any Waste Lands, Mud Banks, or Slobs authorized by the first-recited Act to be embanked, drained, and improved with the Consent of the Owners or reputed Owners of the adjoining Estates.

Repeal of Provision in former Act as to carrying out Streams in a direct Line.

IV. That so much of the Clause numbered 49 of the first-recited Act as relates to the Formation of convenient open Channels navigable for Boats and Lighters in a direct Line across the Waste Lands, Mud Banks, or Slobs in *Lough Swilly* and *Lough Foyle*, for the *Newtown Cunningham River* in the *Blanket Nook*, and for the *Muff River* and the *Faughanvale River* in *Lough Foyle*, shall be and the same is hereby repealed; and it shall be lawful for the said Undertakers and they are hereby required to leave or form convenient open Channels for the said Rivers navigable for Boats and Lighters across the said Waste Lands, Mud Banks, or Slobs in such Directions as shall be most convenient for the Purposes of the Reclamation of the several Waste Lands and Mud Banks or Slobs respectively: Provided always, that the Mode of carrying out the *Newtown Cunningham River* and the Direction of the same shall be subject to the Approval of the Owner for the Time being of the *Castle Cunningham* Estate, to be signified in Writing under his Hand; and the Works connected with the carrying out of such River shall be completed within Twelve Calendar Months after the Commencement of such Works; and the Mode of carrying out the *Faughanvale River* and the Direction of the same shall in like Manner be subject to the Approval of the Wardens and Commonalty of the Mystery of Fishmongers of the City of

of *London*, to be signified in Writing under the Hand of their Clerk for the Time being; and the Mode of carrying out the *Muff River* and the Direction of the same shall in like Manner be subject to the Approval of the Wardens and Commonalty of the Mystery of Grocers of the City of *London*, to be signified in Writing under the Hand of their Clerk for the Time being.

Act not to extend to certain Lands.

V. That nothing in this Act contained shall extend or be construed to extend to any of the Lands on the Shores of *Lough Foyle* already embanked and drained, nor to any of the Waste Lands, Mud Banks, and Slobs on the *Donegal* Side of *Lough Foyle*, nor to any Lands immediately adjoining to the last-mentioned Waste Lands, Mud Banks, and Slobs respectively; and it shall not be lawful for the said Undertakers, their Heirs or Assigns, to enter upon, use, or occupy, for the Purposes aforesaid or either of them, any of the Roads or Lands belonging to the said Wardens and Commonalty of the Mystery of Fishmongers of the City of *London*, without their Consent in Writing first obtained, and that nothing in this Act contained shall prejudice or affect any existing Agreements between the said Undertakers and the said Wardens and Commonalty.

Plans to be deposited at the Admiralty within Twelve Months, and Works to be subject to their Approval.

VI. That the Undertakers shall within Twelve Months after the passing of this Act deposit at the Admiralty Office Plans, Sections, and Working Drawings of the whole of the Lands proposed to be reclaimed, and the proposed Lines of Embankment for the same, and also of all of the navigable Channels for Boats and Lighters proposed to be formed across any reclaimed Lands, and of all Works connected therewith, for the Approval of the Lord High Admiral of the United Kingdom of *Great Britain* and *Ireland*, or the Commissioners for executing the Office of Lord High Admiral aforesaid, such Approval to be signified in Writing under the Hand of the Secretary of the Admiralty, and such Reclamation, Lines of Embankment, and navigable Channels and Works, shall be made and constructed only in accordance with such Approval, and no other Works other than those of which Plans, Sections, and Working Drawings shall be deposited at the Admiralty within such Period of Twelve Months shall be constructed or proceeded with, under the Provisions of this Act or of any or either of the recited Acts, or otherwise howsoever; and if any other such Works be commenced or completed the same shall be deemed and are hereby declared to be Nuisances: Provided always, that it shall be lawful for the said Lord High Admiral or Commissioners, upon the Application of the Undertakers, to consent to Alterations or Modifications of the said Plans, Sections, and Working Drawings, such Consent to be signified in manner aforesaid, and the Works shall then be constructed

and

and proceeded with according to such altered or modified Plans, Sections, and Working Drawings.

Works below High-water Mark not to be executed without the Consent of the Lords of the Admiralty.

VII. That it shall not be lawful for the Undertakers to construct below High-water Mark at ordinary Spring Tides any Work, or to construct or form any navigable Channel or Channels, or to divert any Channel or Channels or Stream or Streams of Water hereby or otherwise authorized to be made, without the previous Consent of the Lord High Admiral of the United Kingdom of *Great Britain* and *Ireland*, or the Commissioners for executing the Office of Lord High Admiral aforesaid, for the Time being, to be signified in Writing under the Hand of the Secretary of the Admiralty, and then only according to such Plan and under such Restrictions and Regulations as the said Lord High Admiral or the said Commissioners for executing the Office of Lord High Admiral may approve, such Approval being signified as last aforesaid; and where any such Work, Channel, or Stream shall have been constructed or diverted it shall not be lawful for the Undertakers at any Time to alter, extend, or divert the same, without obtaining, previously to making any such Alteration, Extension, or Diversion, the like Consent or Approval; and if any such Work, Channel, or Stream shall be commenced or completed, or altered, extended, or diverted, contrary to the Provisions of this Act, it shall be lawful for the said Lord High Admiral or the said Commissioners for executing the Office of Lord High Admiral to abate, alter, and remove or re-divert the same, and restore the Site thereof to its former Condition, at the Cost and Charge of the Undertakers, and the Amount thereof shall be a Debt due from the Undertakers to the Crown, and be recoverable accordingly, with Costs of Suit.

Admiralty may order a local Survey.

VIII. That if at any Time or Times it shall be deemed expedient by the Lord High Admiral of the United Kingdom or the Commissioners for executing the Office of Lord High Admiral to order a local Survey and Examination of any Works of the Undertakers in, over, or affecting any tidal Water or navigable River or reclaimed Land, or of the intended Site thereof, the Undertakers shall defray the Costs of every such local Survey and Examination, and the Amount thereof shall be a Debt due to Her Majesty from the Undertakers, and if not paid, upon Demand, may be recovered as a Debt due to the Crown, with the Costs of Suit, or may be recovered, with Costs, as a Penalty is or may be recoverable from the Undertakers.

Admiralty may abate and remove of Works aban-

IX. That if any Work to be constructed by the Undertakers in, over, or across any tidal Water or navigable River, or if any Portion

doned or suffered to fall into Decay.

of the Work which affects any such Water or River, or Access thereto, shall be abandoned or suffered to fall into Disuse or Decay, it shall be lawful for the Lord High Admiral or the Commissioners for executing the Office of Lord High Admiral to abate and remove the same, or such Part or Parts thereof as he or they may at any Time or Times deem fit and proper, and to restore the Site thereof to its former Condition, at the Cost and Charge of the Undertakers, and the Amount thereof shall be a Debt due from the Undertakers to the Crown, and be recoverable accordingly, with Costs of Suit.

Limiting Period for Completion of Works.

X. That upon the Expiration of Three Years from the passing of this Act all the Powers hereby or by the said recited Acts or any or either of them granted to the Undertakers shall cease, except as to so much and such Part of the Works as shall then be completed under or by virtue of this Act or of any or either of the recited Acts, and in accordance therewith.

Saving Rights of the Crown and other Persons.

XI. That nothing contained in this Act shall extend to authorize the said Undertakers to enter upon, use, occupy, or otherwise interfere with any Land, Soil, Tenements, or Hereditaments, or any Rights in respect thereof, belonging to Her Majesty in right of Her Crown, without the Consent in Writing of the Commissioners or Commissioner for the Time being of Her Majesty's Woods, Forests, and Land Revenues, having the Management and Direction of the Land Revenues of the Crown in *Ireland*, first had and obtained for that Purpose, and which such Commissioners or Commissioner are and is hereby authorized and empowered to give, or to prejudice, diminish, alter, or take away any of the Rights, Privileges, Powers, or Authorities vested in or enjoyed by Her Majesty, Her Heirs or Successors, or any other Person or Persons whomsoever.

Saving the Rights of the Irish Society.

XII. That nothing in this Act contained shall extend to prejudice, diminish, alter, or take away any of the Rights, Privileges, Powers, or Authorities vested in or enjoyed by the Honourable the *Irish* Society, the Governor and Assistants, *London*, of the New Plantation of *Ulster* within the Realm of *Ireland*, under or by virtue of any Charter or Charters heretofore granted to them by the Crown, or of any Statute or Statutes in anywise relating thereto.

Short Titles of recited Acts and of this Act.

XIII. That in citing the recited Acts and this Act in other Acts of Parliament, and for any Purpose whatsoever, it shall be sufficient to use the following Expressions; (that is to say,) with respect to the first-recited Act, "The *Lough Swilly* and *Lough Foyle* Reclamation Act, 1838," with respect to the secondly-recited Act, "The *Lough Swilly*

The Lough Swilly and Lough Foyle Reclamation Acts Amendment, 1853.

Swilly and *Lough Foyle* Reclamation Act Amendment, 1843," with respect to the thirdly-recited Act, "The *Lough Swilly* and *Lough Foyle* Reclamation Acts Amendment, 1846," and with respect to this Act, "The *Lough Swilly* and *Lough Foyle* Reclamation Acts Amendment, 1853."

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