CHAPTER cxxxv.

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An Act to empower the Coleraine Harbour Commissioners to make certain short railways and further to improve the navigation of the River Bann and for other purposes.

[31st July 1885.]

WHEREAS by the Act of the session of the seventh and eighth years of George the Fourth cap. ciii. intituled "An Act for "improving the harbour of Portrush in the county of Antrim" (herein-after referred to as "the Act of 1827") the Portrush Harbour Company (herein-after referred to as "the company") were incorporated and were authorised to make improvements of the town and harbour of Portrush for the benefit of shipping resorting thereto: 7&8Geo.IV. c. ciii.

And whereas the company proceeded to put the Act of 1827 into execution:

And whereas by the Portrush Harbour Amendment Act 1852 (herein-after referred to as "the Act of 1852") the company were authorised to execute works for the improvement of the navigation of the River Bann from the salmon leap above the town of Coleraine to the sea: 15 & 16 Vict. c. lxxx.

And whereas the company having failed to make more than a small part of the improvements authorised by the Act of 1852 by the River Bann Navigation Act 1863 (in this Act referred to as "the Act of 1863") the Coleraine Town Commissioners (in this Act referred to as "the town commissioners") were incorporated and the sale to them of the rights and privileges of the company under the recited Acts in and over the River Bann was authorised and further powers with respect to the navigation of that river were conferred upon the town commissioners: 26 & 27 Vict. c. c.

And whereas under the authority of the Act of 1863 all the rights and privileges of the company in and over the River Bann were purchased by and transferred to the town commissioners:

And whereas by the Act of 1863 the town commissioners were empowered to borrow on mortgage of all or any part of their estates

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comprised in their borough fund any sums not exceeding in the whole ten thousand pounds and on mortgage of the River Bann Fund by the Act of 1863 constituted any sums not exceeding in the whole forty thousand pounds subject to the conditions and restrictions in that Act contained:

And whereas at the passing of the Act next herein-after recited the town commissioners had borrowed and then owed on mortgage of their estates comprised in their borough fund the sum of eight thousand one hundred and sixty-six pounds and had also borrowed and then owed on mortgage of the River Bann Fund the sum of eight thousand seven hundred and thirty-five pounds:

And whereas the town commissioners not having been able to carry into execution many of the provisions of the Act of 1863 and having failed to execute more than a part of the works thereby authorised the Coleraine Harbour Commissioners (in this Act referred to as "the Commissioners") were by the River Bann Navigation Act 1879 (in this Act referred to as "the Act of 1879") constituted and incorporated and the property powers rights and privileges of the town commissioners under the Act of 1863 were vested in them and they were empowered to execute the several works in that Act mentioned for improving the entrance to the said harbour and the channel of the said river and to levy such rates and to borrow such moneys as might be required therefor subject nevertheless to the provisions conditions and restrictions in that Act contained:

42 & 43 Vict. c. clxxv.

And whereas the Society of the Governor and Assistants London of the New Plantation in Ulster within the realm of Ireland (commonly called and herein-after referred to as "the Honourable the Irish Society") under and by virtue of Letters Patent under the Royal Sign Manual bearing date the 29th day of March in the 11th year of the reign of King James I. and by Letters Patent under the Royal Sign Manual bearing date the 10th day of April in the 14th year of the reign of King Charles II. were duly incorporated and claim to be seised and possessed of (inter alia) the water creek river stream or rivulet of the Bann lying between the high sea and the salmon leap called the Cutts above the town of Coleraine and the ground and soil of the same and also the rocks and salmon leap there with the appurtenances and the whole piscary fishery and taking of fishes as well salmon and eels as all other kind of fishes whatsoever of in or within the same as well with nets of what kind soever as otherwise howsoever and being desirous to promote the prosperity of the town of Coleraine and to improve the navigation of the River Bann did of their bounty under certain conditions in the Act of 1879 contained agree to contribute the

sum of thirty thousand pounds towards the execution of the works in that Act mentioned And by that Act facilities were afforded to the Honourable the Irish Society for raising the said sum:

And whereas in order to set at rest certain doubts which had arisen as to the chargeability of the River Bann Fund in respect of mortgages of the estates of the town commissioners comprised in their borough fund it was by the Act of 1879 (section 95) provided that the River Bann Fund should be free from all liability in respect of such mortgages and that in order to enable the Commissioners the more readily to borrow such moneys as they might require for the purposes of that Act it was thereby provided (section 96) that the mortgages of the River Bann Fund made by the town commissioners under the Act of 1863 (in the Act of 1879 and this Act referred to as "B mortgages") should be secured on the River Bann Fund but should rank next after the mortgages made by the Commissioners under the authority of that Act:

And whereas the Commissioners have nearly completed the works authorised by the Act of 1879 but in order to secure the full benefit thereof it is expedient that the Commissioners be empowered to dredge and remove certain shoals in the said river:

And whereas the Honourable the Irish Society have of their bounty promised and agreed with the Commissioners under certain conditions to contribute towards the further improvement of the harbour the further sum of four thousand two hundred and forty pounds and it is expedient that facilities be afforded to the Honourable the Irish Society for raising that sum:

And whereas the construction of the railways by this Act authorised to connect the harbour of Coleraine with the railway system of the Belfast and Northern Counties Railway Company (in this Act called "the Northern Counties Company") would be of public and local advantage and the Commissioners are willing at their own cost to construct the same:

And whereas it is expedient the more conveniently to effect the said connexion that two of the said intended railways should be vested in the Northern Counties Company and that upon the completion thereof that company should abandon the short piece of their railway herein-after described:

And whereas it is expedient that the articles of agreement between the Commissioners and the Northern Counties Company as set forth in the Second Schedule to this Act be confirmed:

And whereas it is expedient that funds be constituted (in this Act referred to as "the Bann Railway Capital Fund" and "the Bann Railway Revenue Fund") to the credit of which all moneys received

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for or in relation to the railways should be carried and out of which all expenses for or in relation to the same matters should be paid:

And whereas it is expedient that the Commissioners be authorised to borrow money for the construction of the said railways and that the other provisions in this Act contained should be made:

And whereas the objects aforesaid cannot be attained without the authority of Parliament:

And whereas plans and sections of the railways and works by this Act authorised showing the lines and levels thereof and the lands in or through which the same are intended to be made and which may be taken for the purposes of this Act with books of reference thereto specifying the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of the lands have been deposited for the purposes of this Act with the clerk of the peace for the county of Londonderry and the same are in this Act referred to as "the deposited plans sections and books of reference":

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 (as follows):

PART I.

Preliminary.

Short title.

1. This Act may be cited as the River Bann Navigation Act 1885.

Act divided into parts.

2. This Act is divided into parts as follows:—

Part I.—Preliminary;
Part II.—Works &c.;
Part III.—Tolls &c.;
Part IV.—Financial;
Part V.—Miscellaneous.

Incorporation of general Acts.

3. The following Acts and parts of Acts (that is to say):—

The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883;

The Railways Clauses Consolidation Act 1845;

The Railways Acts (Ireland) 1851 1860 and 1864;

The Railways Traverse Act;

Part I. (construction of a railway) and Part III. (working agreements) of the Railways Clauses Act 1863 as amended by the Regulation of Railways Act 1873;

The provisions of the Commissioners Clauses Act 1847 with respect to the mortgages to be executed by the Commissioners (except section 84);

are except where the same are expressly varied by this Act incorporated with and form part of this Act.

Interpretation.

4. Unless the subject or context otherwise requires:

In this Act—

The several words and expressions to which meanings are assigned by the Act of 1879 or by the Acts wholly or partly incorporated herewith have the same respective meanings;

In this Act and for the purposes of this Act in any Act wholly or partly incorporated herewith:

"The railway" means the railways by this Act authorised;

"The Coleraine Harbour Railway" means Railways No. 2 and No. 3 by this Act authorised to be made and the portion of the railway of the Northern Counties Company situate between the commencement of Railway No. 2 and the Coleraine Station of that company and that station together with all sidings watering-places warehouses and conveniences connected therewith respectively;

"The Company" means the Commissioners;

"Superior courts" or "court of competent jurisdiction" or any other like expression shall be read and have effect as if the debt or demand with respect to which the expression is used were a common simple contract debt and not a debt or demand created by statute and "superior courts" shall include any court of competent jurisdiction.

As to deposit of plans with clerks of unions.

5. With reference to this Act all the provisions of sections 7 8 and 9 of the Railways Clauses Consolidation Act 1845 shall be read and construed as if the expression "clerks of the unions within "which such parishes are included in Ireland" or the words "clerks "of the unions" (as the case may be) had been used and inserted in such sections instead of the expression "the postmasters of the post "towns in or nearest such parishes in Ireland" or instead of the word "postmasters" (as the case may be).

PART II.

Works, &c.

Power to make railways &c.

6. Subject to the provisions of this Act the Commissioners may make and maintain in the lines and according to the levels shown on the deposited plans and sections the railways and works herein-after described with all proper stations sidings approaches works cranes and conveniences connected therewith respectively and may exercise

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the following powers with respect thereto and in connexion therewith and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for those purposes.

The railways and works herein-before referred to and authorised by this Act are:

A railway (Railway No. 1) one furlong four chains and two yards in length commencing by a junction with and at the termination of the siding of the Northern Counties Company running from Coleraine Station towards Brook Street otherwise Old Portstewart Road and terminating by a junction with the main line of the Northern Counties Company from Belfast to Londonderry at a point about eighty yards westward of the Portrush Road;

A railway (Railway No. 2) two furlongs and seven chains in length commencing by a junction with the said main line of the Northern Counties Company at a point about six yards westward of the westward side of Portrush Road and terminating at the southern end of the new wharf of the Commissioners on the River Bann;

A railway (Railway No. 3) four chains in length commencing by a junction with the said main line of the Northern Counties Company at a point about eighty-five yards eastward of Brook Street aforesaid and terminating by a junction with the said siding of the Northern Counties Company at a point about one hundred and ten yards from its termination measured along the said siding.

Width of certain roadway.

7. The Commissioners may make the roadway over the bridge by which the following road will be carried over the railway of such width between the fences thereof as the Commissioners think fit not being less than the width herein-after mentioned (that is to say):—

No. on deposited Plans.	Parish.	Description of Road.	Width of Roadway.
26	Coleraine - -	County road -	25 feet

Period for completion of railways.

8. If the railways herein-before authorised by this Act are not completed within seven years from the passing of this Act then on the expiration of that period the powers by this Act granted for making and completing the railways or otherwise in relation thereto

shall cease to be exercised except as to so much thereof as is then completed.

Lands for extraordinary purposes.

9. The quantity of land to be taken by the Commissioners for the extraordinary purposes mentioned in the Railways Clauses Consolidation Act 1845 shall not exceed five acres.

Power to take easements by agreement.

10. Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Commissioners any easement right or privilege (not being an easement of water) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Period for compulsory purchase of lands.

11. The powers for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of five years from the passing of this Act.

Restriction on displacing persons of labouring class.

12.—(1.) The Commissioners shall not under the powers of this Act without the consent of the Local Government Board for Ireland purchase or acquire in any urban sanitary district as defined by the Public Health (Ireland) Act 1878 ten or more houses which after the passing of this Act have been or on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers.

(2.) For the purposes of this section the expression "labouring class" means and includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them.

Power to dredge.

13. The Commissioners may dredge scour and improve so much of the bed of the River Bann as is below low-water mark of ordinary spring tides and lies between an imaginary line drawn across that river about ten yards northward of Coleraine County Bridge and the sea and subject to the provisions of this Act they may dredge take away and appropriate for the construction of the railways material from so much of the foreshore of the River Bann as lies

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between the wharf of the Commissioners and the bridge carrying the said main line of the Northern Counties Company over that river:

Provided that the Commissioners shall not under or by virtue of this Act acquire any right or title to the bed or soil of the river or any part thereof and that no ballast or other material shall be deposited in the bed of the river except with the previous consent of the Honourable the Irish Society given under their common seal from time to time and then only upon such terms and conditions as the Honourable the Irish Society shall direct or approve of.

Saving rights of the Irish Society to land reclaimed.

14. If in the course or by means of the execution of any works under this Act any part of the shore or bed of the harbour not now belonging to the Commissioners be inned or gained or reclaimed from the water the Commissioners shall not have or exercise any right upon the same or in respect thereof but the inning gaining or reclaiming thereof shall subject to the provisions of sections 42 and 43 of this Act enure absolutely for the benefit of the Honourable the Irish Society their successors or assigns and the Commissioners shall not at any time afterwards take enter upon or interfere with the lands so inned gained or reclaimed for any purpose whatever without the previous consent of the Honourable the Irish Society given under their common seal.

Consent of Commissioners of Woods and Forest to works on Crown lands.

15. The Commissioners shall not execute any work on any land belonging to Her Majesty in right of Her Crown without the previous consent in writing of the Commissioners of Her Majesty's Woods Forests and Land Revenues and which consent they or one of them may give.

Consent of Irish Society to works on part of their lands at and above the bridge and saving their rights.

16. The Commissioners shall not without the previous consent of the Honourable the Irish Society given under their common seal from time to time and upon terms as to time and mode of construction and maintenance of such works to be arranged with the said society execute any works other than the works specially described in section 58 and section 68 of the Act of 1879 and this Act on any land belonging or claimed to belong to that society and shall not without such consent and upon such terms as aforesaid execute any works whatsoever within the limits of the Act of 1879 in connexion with the River Bann at or above Coleraine County Bridge and shall not without such consent and upon such terms as aforesaid do or authorise any act matter or thing in reference to the River Bann within the said limits other than the said works specially described as aforesaid which can or may in the opinion of the Honourable the Irish Society be detrimental to or interfere with the fishery belonging to them in the said River Bann and the appurten-

ances thereof or which can or may abridge prejudice or affect any estate right title power or privilege of or enjoyed by the Honourable the Irish Society in or over the same river and the ground and soil of the same or in reference thereto or to the said fishery and except as is by this Act expressly provided this Act or anything herein contained shall not take away abridge prejudice or affect any of the estates rights powers or privileges of or enjoyed by the Honourable the Irish Society.

Limitation of power of dredging.

17. The Commissioners shall not except as in this section provided in any year dredge any portion of the bed of the harbour between the first day of June and the thirty-first day of July both days inclusive Provided that this section shall not prevent the Commissioners executing between the said dates any dredging works requisite and necessary in the making of the works comprised in section 58 sub-sections 1 2 3 and 6 of the Act of 1879 but if any damage or injury shall be caused by any dredging executed for the purposes aforesaid between the said dates to the Honourable the Irish Society or their lessees or tenants in respect of their fisheries the Commissioners shall forthwith pay to the Honourable the Irish Society or their lessees or tenants (as the case may be) the full amount of such damage or injury such amounts to be ascertained if the parties differ by an arbitrator to be appointed for that purpose by the Board of Trade on the application of the Commissioners and the Honourable the Irish Society or either of them.

Approval of Board of Trade for works on sea shore.

18. Before commencing any work below high-water mark at ordinary spring tides the Commissioners shall deposit at the office of the Board of Trade plans sections and working drawings of every such work for the approval of the Board of Trade to be signified in writing under the hand of their secretary or assistant secretary and every such work shall be made only in accordance with their approval and when any such work is begun or made the Commissioners shall not at any time alter or extend it without first obtaining the like approval.

Abatement by Board of Trade of works on sea shore made without approval.

19. If any such work below high-water mark be begun or completed or be altered extended or made by the Commissioners contrary to the provisions of this Act the Board of Trade may abate alter and remove the same and restore the site thereof to its former condition at the expense of the Commissioners and the amount thereof shall be a debt due from the Commissioners to the Crown and be recoverable accordingly with costs of suit or as a penalty.

Board of Trade may order a local survey at

20. If and whenever the Board of Trade deem it expedient to order a local survey and examination of any works of the Commissioners in over or affecting any tidal or navigable water of the

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expense of Commissioners.

harbour the Commissioners shall defray the costs of every such local survey and examination and the amount thereof shall be a debt due from the Commissioners to the Crown and be recoverable with costs of suit accordingly or as a penalty.

Works affecting tidal waters abandoned may be removed by Board of Trade.

21. If any works made by the Commissioners in over or affecting any tidal or navigable water of the harbour or if any portion of any work which affects or may affect any tidal or navigable water of the harbour or access thereto be abandoned or suffered to fall into decay or disuse the Board of Trade may abate or remove it or so much thereof as they think fit at the expense of the Commissioners and in any such case the amount of the expense shall be a debt due from the Commissioners to the Crown and be recoverable with costs of suit accordingly or as a penalty.

Dredging engines.

22. The Commissioners from time to time may build purchase hire provide and use such vessels to be worked by steam or otherwise at their discretion for executing the dredging scouring cleansing and deepening of the River Bann by this Act authorised and such other vessels machinery and apparatus for those purposes as they think fit.

PART III.

Tolls &c.

Railways No. 1 and No. 3 to form part of the Northern Counties Railway.

23. Subject to the provisions of this Act Railways No. 1 and No. 3 and the works connected therewith respectively constructed under the authority of this Act shall on their completion vest in the Northern Counties Company and for the purposes of toll and all other purposes whatsoever form part of the Northern Counties Railway and shall be maintained by them accordingly and the Northern Counties Company may and shall upon such vesting abandon so much of their existing main line of railway as lies between the commencement of Railway No. 2 and the termination of Railway No. 1.

Maximum rates for animals and goods.

24. The maximum rate of charge to be made by the Northern Counties Company for the conveyance of animals and goods (except such small parcels and single articles of great weight as are hereinafter specified) on the Coleraine Harbour Railway including the tolls for the use of the railway and for waggons or trucks and locomotive power and for every other expense incidental to the conveyance except a reasonable charge for loading and unloading goods at the wharf of the Commissioners or at the Coleraine Station and for collection and delivery and any other service incidental to the duty or business of a carrier where any such service is performed

by the Northern Counties Company shall not exceed the following sums that is to say:

For animals.

Class 1. For every horse ass mule or other beast of draught or burden one shilling and sixpence;

Class 2. For every ox cow bull or head of neat cattle ninepence;

Class 3. For every calf pig sheep lamb or other small animal threepence:

Tonnage on articles of merchandise.

In respect of the tonnage of all articles conveyed upon the railway or any part thereof as follows:—

Class 4. For all coals coke culm cannel ironstone iron ore pig iron bar iron rod iron sheet iron hoop iron plates of iron slabs billets and rolled iron limestone chalk lime bricks salt sand fire-clay cinders slag and stone per ton sixpence;

Class 5. For all dung compost and all sorts of manure and all undressed materials for the repair of public roads or highways and for heavy iron castings including railway chairs per ton not exceeding sixpence;

Class 6. For all charcoal and all stones for building pitching and paving all tiles slates clay (except fire-clay) sugar grain corn flour hides dye woods earthenware timber and deals metals (except iron) nails anvils vices and chains and for light iron castings per ton sixpence;

Class 7. For all cotton and other wools drugs manufactured goods and all other wares merchandise fish articles matters or things per ton sixpence;

And for every article of whatever description not being a carriage adapted and used for travelling on a railway and requiring for itself one truck or platform three shillings.

Regulations as to tolls.

25. The following provisions and regulations shall apply to the fixing of all tolls and charges payable under this Act in respect of the Coleraine Harbour Railway (that is to say):—

Fractional parts of a ton.

For a fraction of a ton the Northern Counties Company may demand tolls according to the number of quarters of a ton in such fraction and if there be a fraction of a quarter of a ton such fraction shall be deemed a quarter of a ton;

General weight.

With respect to all articles except stone and timber the weight shall be determined according to the imperial avoirdupois weight:

Weight of stone and timber.

With respect to stone and timber fourteen cubic feet of stone forty cubic feet of oak elm mahogany teak beech or ash and thirty cubic feet of green or unseasoned timber of all kinds and fifty cubic feet of any other timber shall be deemed one ton weight and so in proportion for any smaller quantity.

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Tolls for small parcels and articles of great weight.

26. With respect to small parcels not exceeding five hundred and sixty pounds in weight and single articles of great weight notwithstanding the rates prescribed by this Act the Northern Counties Company may demand and take any tolls not exceeding the following (that is to say):—

For the carriage of parcels on the Coleraine Harbour Railway or any part thereof as follows:

For any parcel not exceeding fifty-six pounds in weight one penny;

For any parcel exceeding fifty-six pounds but not exceeding one hundred and twelve pounds in weight twopence;

For any parcel exceeding one hundred and twelve pounds but not exceeding five hundred and sixty pounds in weight threepence;

For any parcel exceeding five hundred and sixty pounds in weight the Northern Counties Company may demand any sum which they think fit:

For the carriage of single articles of great weight as follows:

For any one boiler cylinder or single piece of machinery or single piece of timber or stone or other single article the weight of which including the carriage shall exceed four tons but shall not exceed eight tons the Northern Counties Company may demand such sums as they think fit not exceeding two shillings per ton;

For the carriage of any single piece of timber stone machinery or other single article the weight of which with the carriage shall exceed eight tons the Northern Counties Company may demand such sums as they think fit.

Maximum rates to be charged except with certain consents.

27. So long as any moneys shall be owing by the Commissioners on the security of the Bann Railway Revenue Fund herein-after defined the rates actually charged for the conveyance of animals goods and parcels on the Coleraine Harbour Railway shall not be less than the maximum rates by this Act authorised except with the consent of the mortgagees of that fund Provided further that if at any time or times the Commissioners desire that the charge for such conveyance shall be less than the said maximum rate the Commissioners shall call a meeting of the mortgagees of the Bann Railway Revenue Fund by a circular stating the object of the meeting and the proposed alteration to be submitted thereto and addressed to each such mortgagee at his last known or usual address and sent by post or delivered at such address not less than ten days before the holding of such meeting and the majority in value of mortgagees present at such meeting may either reject confirm or modify the proposed alterations or any of them and thereupon the rates so altered shall be the rates for the time being payable in respect of the Coleraine Harbour Railway.

Craneage charges.

28. The Commissioners may make such reasonable charges as they think fit for the use of cranes erected and worked by them on their wharves and for any service performed by the Commissioners at their wharves in respect of any goods received thereat or despatched therefrom.

Classification table to be open for inspection.

29. The book tables or other document in use for the time being containing the general classification of goods carried by goods or merchandise train on the Coleraine Harbour Railway or the Railway No. 1 shall during all reasonable hours be open to the inspection of any person without the payment of any fee at every station at which goods or merchandise are received for transmission and such book tables or other document as annually revised shall be kept on sale at the office of the Northern Counties Company at a price not exceeding one shilling. The Northern Counties Company shall within one week after application in writing made to them by any person interested in the carriage of any goods which may have been or are intended to be carried over the respective railways render an account to the person so applying in which the charge made or claimed by the Northern Counties Company for the carriage of such goods shall be divided and the charge for conveyance over the respective railways shall be distinguished from the terminal charges (if any) and if any terminal charge is included in such account the nature and detail of the terminal expenses in respect of which it is made shall be specified. If the Northern Counties Company fail to comply with the provisions of this section they shall for each offence and in the case of a continuing offence for every day during which the offence continues be liable to a penalty not exceeding five pounds which penalty shall be recovered and applied in the same manner as penalties imposed by the Regulation of Railways Act 1873 section 14.

Copies to be sold.

As to rebates &c.

30. The Commissioners and the Northern Counties Company may respectively make allowances drawbacks or rebates on traffic upon their respective undertakings which is destined for or coming from the Coleraine Harbour Railway.

Confirmation of agreement with Northern Counties Company.

31. The articles of agreement set forth in the Second Schedule to this Act are hereby confirmed and made binding upon the Commissioners and the Northern Counties Company.

PART IV.

Financial.

As to Bann Railway funds.

32. For the purposes of this Act all moneys in the nature of revenue from time to time received by or for the use of the Commissioners for or in relation to the Coleraine Harbour Railway and all craneage charges shall be carried to the credit of a fund to be formed and called the Bann Railway Revenue Fund and all money from time to time

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borrowed by or received by or for the use of the Commissioners in relation to their railway in the nature of capital shall be carried to the credit of a fund to be formed and called the Bann Railway Capital Fund and all expenses of the Commissioners for or in relation to the execution of the powers of this Act with respect to the Coleraine Harbour Railway and the said cranes of the Commissioners shall be paid as to charges on capital out of the Bann Railway Capital Fund and as to charges on revenue out of the Bann Railway Revenue Fund.

The said funds shall be wholly distinct from the River Bann Fund and shall not be liable to any debts secured on or chargeable against that fund.

Power to borrow.

33.—(1.) The Commissioners may from time to time borrow at interest on the security of the Bann Railway Revenue Fund:—

(A.) For paying the costs of this Act as herein-after defined the sum requisite for that purpose;

(B.) For carrying into execution the powers of this Act in relation to the railways properly chargeable to capital account any sums not exceeding in the whole six thousand pounds.

(2.) The Commissioners by way of additional or collateral security may include in the security for any such loan any surplus revenue of the River Bann Fund after payment of all yearly sums first secondly thirdly and fourthly payable thereout under the provisions of section 100 of the Act of 1879:

Provided that none of the revenues from the River Bann shall be applied for such security in any year in which the River Bann Fund shall not be more than sufficient to meet all the said yearly sums payable thereout as aforesaid without the aid of any of the rates on the town or baronies authorised by the Act of 1879.

(3.) In the event of any part of the sums borrowed by the Commissioners under this Act being repaid by any means except the sinking fund by this Act provided for the repayment thereof the Commissioners may from time to time re-borrow the same and so toties quoties.

(4.) All sums so borrowed or re-borrowed shall be repaid within such period not exceeding sixty years from the date of the borrowing of the same in the first instance as the Commissioners may agree upon with the lender.

Amount of sinking fund.

34. The amount to be set apart by the Commissioners yearly for the sinking fund for repayment of moneys borrowed on the security of mortgages under the authority of this Act (other than mortgages to secure loans made to them by the Commissioners of Public Works in Ireland under the authority of any Act of Parliament and for the

repayment of which loans special provision shall be made in accordance with such Act) shall be such sums as when invested and accumulated in pursuance of this Act will be sufficient to pay within the period stipulated with the lender but in no case exceeding sixty years the amount due to him Provided always that it shall not be obligatory upon the Commissioners unless they otherwise decide to set apart any moneys for the sinking fund in respect of any moneys borrowed under the authority of this Act until after the expiration of five years from the borrowing of the same and provided also that the Commissioners may from time to time apply the said sinking fund in repayment of the principal moneys borrowed under the authority of this Act until thereby or otherwise the whole of the same have been fully paid and that whenever any of such principal moneys have been so paid off the Commissioners shall thenceforward until the whole of such principal moneys have been paid off pay into the sinking fund every year in addition to the other sums herein-before required to be set apart and appropriated a sum equal to the annual interest of the principal money so paid off and also that whenever and so long as the yearly income arising from the sinking fund shall be equal to the annual interest of the principal moneys then due and outstanding the Commissioners may in lieu of investing the said yearly income apply the same in payment of such interest and may during such periods discontinue the payment to the sinking fund of the yearly sums herein-before required to be paid thereto.

Protection of lenders from inquiry.

35. A person lending money to the Commissioners shall not be bound to inquire as to the observance by them of any provision of this Act or be bound to see to the application or be answerable for any loss misapplication or non-application of the money lent or any part thereof.

Commissioners not to regard trusts.

36. The Commissioners shall not be bound to see to the execution of any trust whether expressed or implied or constructive to which any loan or security for loan given by them may be subject but the receipt of the person in whose name any loan or security for loan stands in the register book of the Commissioners shall from time to time be a sufficient discharge to the Commissioners in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not the Commissioners have had express or implied notice of any such trust or of any charge or incumbrance upon or transfer of such loan or security or any part thereof or interest thereon not entered on their register and the Commissioners shall not be bound to see to the application of the money paid on any such receipt or be answerable or accountable

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for any loss misapplication or non-application of any of such money.

Appointment of a receiver.

37. The mortgagees of the Commissioners having security on the Bann Railway Revenue Fund may enforce payment of the arrears of interest or principal or of principal and interest due on their mortgages by the appointment of a receiver and the amount of principal owing to mortgagees which shall entitle them to apply for a receiver shall be not less than six hundred pounds in the whole.

Annual return to Board of Trade with respect to sinking fund.

38. The clerk to the Commissioners shall within twenty-one days after the expiration of each year during which any sum is required to be set apart for a sinking fund under this Act transmit to the Board of Trade a return in such form as may be prescribed by that Board and verified by statutory declaration if so required by them showing the amount which has been set apart or invested for the purpose of such sinking fund during the year preceding the making of such return and the description of the securities upon which the same has been invested and also showing the purposes to which any portion of the moneys invested for the sinking fund and the interest thereof have been applied during the same period and the total amount remaining invested at the end of the year and in the event of any wilful default in making such return such clerk shall be liable to a penalty not exceeding twenty pounds which shall be paid to the Board of Trade and shall be recoverable by that Board in the same manner as penalties recoverable under the Public Health (Ireland) Act 1878 in a summary manner may be recovered by parties aggrieved within the meaning of that Act If it appear to the Board of Trade by such return or otherwise that the Commissioners have failed to set apart the sum required by this Act for the sinking fund or have applied any portion of the moneys so set apart or any interest thereof to any purposes other than those authorised by this Act the Board of Trade may by order direct that a sum not exceeding double the amount in respect of which such default has been made shall be set apart and applied or invested as part of the sinking fund and such order shall be enforceable by writ of Mandamus to be obtained by the Board of Trade out of the High Court of Justice in Ireland.

Irish Society may charge estates with repayment of money borrowed.

39. It shall be lawful for the Honourable the Irish Society to secure the repayment of all moneys borrowed by them for the purpose of carrying out their proposed contribution of four thousand two hundred and forty pounds towards the execution of the works in this Act mentioned by the issue of debentures which debentures may be in the form contained in the First Schedule to this Act or

to the like effect and shall rank after the quitrents payable under the charter of the society granted by His Majesty King James the First in the eleventh year of His reign over England France and Ireland and over Scotland the six and fortieth confirmed by the charter granted by His Majesty King Charles the Second in the fourteenth year of His reign and to the annual rentcharge of two hundred and fifty pounds payable to the Lord Bishop of Derry for the time being under the provisions of an Act passed in the third and fourth years of the reign of Her Majesty Queen Anne intituled "An "Act for settling the right of several parcels of land and other tene- "ments and of several fishings and tythes of fishings in the Society "of the Governor and Assistants London of the New Plantation in "Ulster within the realm of Ireland and their successors and for "settling a rentcharge of two hundred and fifty pounds per annum "upon the Lord Bishop of Derry and his successors for ever" and to the debentures issued by the Honourable the Irish Society under the provisions of the Londonderry Bridge Act 1877 and to the debentures issued and to be issued by the Honourable the Irish Society under the provisions of the Act of 1879 Provided always that nothing in this Act contained shall be deemed to diminish in any way any right of borrowing money on the security of their properties or otherwise now possessed by the Honourable the Irish Society.

Incorporating certain provisions of the Companies Clauses Consolidation Act 1845.

40. Sections 39 and 42 and sections 44 to 55 both inclusive of the Companies Clauses Consolidation Act 1845 shall be incorporated with and form part of this Act so far as to make them applicable to the borrowing of money by the Honourable the Irish Society for the purposes of this Act upon debenture but not further or otherwise and the expression "the Company" in that Act shall for the purposes of this Act mean the Honourable the Irish Society and "mortgage" shall mean "debenture."

Application of moneys received from the Honourable the Irish Society.

41. All moneys from time to time received by the Commissioners from the Honourable the Irish Society under and by virtue of this Act shall be applied in payment of the capital expenditure of the Commissioners for and in relation to the piers or other structural works authorised by the Act of 1879 and the dredging of the River Bann as by this Act authorised and for no other purpose.

PART V.

Miscellaneous.

Saving rights of Crown under Crown Lands Act.

42. Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities mentioned in or reserved

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by sections 21 and 22 of the Crown Lands Act 1866 and belonging to or exerciseable on behalf of Her Majesty Her heirs or successors.

Saving rights of the Crown in the foreshore.

43. Nothing contained in this Act shall authorise the Commissioners to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of Her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exerciseable by the Queen's Majesty Her heirs or successors.

Saving rights of Ballast Board Dublin.

44. Except as by this Act expressly provided this Act or anything herein contained shall not take away lessen prejudice or alter any of the jurisdictions franchises rights powers or privileges of the corporation for preserving and improving the port and harbour of Dublin.

Commissioners &c. not exempt from Merchant Shipping Acts and general Acts.

45. Nothing in this Act contained shall exempt the Commissioners or the harbour or any pier or work under their jurisdiction from the provisions of any general Act already or hereafter to be passed and from time to time in force with respect to harbours docks or piers or rates or dues on vessels or on goods carried in vessels or from the provisions of the Merchant Shipping Acts relating to pilotage and to lights buoys and beacons and to the rights and privileges of the general lighthouse authorities or from any future revision and alteration under the authority of Parliament of the rates and dues by this Act authorised or of the limits of this Act with respect to rates and dues.

Provisions as to general railway Acts.

46. Nothing in this Act contained shall exempt the Commissioners or the railway from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies now in force or which may hereafter pass during this or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels authorised by this Act.

Expenses of Act.

47. All the costs charges and expenses of incident and preliminary to the preparing and applying for obtaining and passing of this Act and otherwise in relation thereto shall be paid by the Commissioners.

The SCHEDULES referred to in the foregoing Act.

THE FIRST SCHEDULE.

FORM OF DEBENTURE.

THE HONOURABLE THE IRISH SOCIETY.

Debenture No. £

By virtue of the River Bann Navigation Act 1885 the Society of the Governor and Assistants London of the New Plantation in Ulster within the realm of Ireland commonly called the Honourable the Irish Society and herein-after called "the Irish Society" in consideration of pounds paid to them by A. B. of hereby covenant with the said A. B. to pay to him his executors administrators or assigns on the day of 18 the sum of pounds and also in the meantime to pay to him his executors administrators and assigns interest upon the said sum of pounds after the rate of pounds for every one hundred pounds by the year by equal half-yearly instalments on the day of and the day of in every year And the Irish Society do hereby charge with such payments their lands works properties and effects (both present and future) but so that the same may be a floating security not hindering any sale exchange or lease of the said lands or any part thereof or the receipt or payment of any moneys or any other dealings in the course of the business or transactions of the Irish Society but attaching to the premises leased and to the premises received by way of exchange and the proceeds of any sale or exchange and the lands or other properties possessed therewith or with any other moneys of the Irish Society so long as such lands or other property shall remain the property of the Irish Society.

Given &c.

THE SECOND SCHEDULE.

ARTICLES OF AGREEMENT made between the Coleraine Harbour Commissioners (herein-after called "the Commissioners") of the one part and the Belfast and Northern Counties Railway Company (herein-after called "the Company") of the other part.

WHEREAS the Commissioners are promoting a Bill in Parliament for (amongst other things) the construction of three railways at Coleraine (in the Bill and herein-after referred to separately as "Railway No. 1" "Railway No. 2" and "Railway No. 3" and collectively as "the railways") for the purpose of

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connecting the harbour of Coleraine with the railway system of the company and for the vesting the said Railway No. 1 and the said Railway No. 3 when completed in the company absolutely as part of their system:

And whereas the land on which it is intended to construct Railways No. 1 and No. 3 is the property of the company:

And whereas Railway No. 2 and Railway No. 3 and the said portion of the Northern Counties Railway together constitute a continuous line of railway from the wharf of the Commissioners at Coleraine to the Coleraine Station of the company and it has been agreed between the company and the Commissioners that the company shall work and use the said continuous line of railway and the Coleraine Station and other works herein-after specified for the conveyance interchange accommodation reception and delivery of all animal goods and mineral traffic destined for or coming from or passing over any portion of the undertaking of the Commissioners upon the terms and conditions herein-after contained:

Now this agreement witnesseth that for the mutual considerations herein appearing the Commissioners and the company for themselves and their respective assigns do hereby mutually agree each with the other of them as follows (that is to say):—

1. In this agreement the following expressions shall have the following meanings namely:

"The Act" shall mean the Bill as passed into an Act;

"The Coleraine Harbour Railway" shall mean Railway No. 2 Railway No. 3 and the portion of the Northern Counties Railway lying between the intended commencement of Railway No. 2 and the Coleraine Station of the Northern Company and also that station and the sidings depôts watering places warehouses and conveniences connected therewith respectively.

2. This agreement is made subject to the sanction of Parliament.

3. This agreement is dependent on the Bill passing into an Act in this present or the next ensuing session of Parliament and shall be scheduled to and confirmed by the Bill and shall be in perpetuity.

4. Subject to the proviso herein-after contained the company shall and will either by contract or by their own workmen as they shall elect as to Railway No. 1 and Railway No. 3 and the Commissioners as to Railway No. 2 shall and will in due time construct those respective railways as single lines of railway on the same gauge as the Northern Counties Railway and shall and will complete the same in all respects fit for use for the conveyance thereon of animal goods and mineral traffic.

Provided that the company shall not be bound to commence the construction of Railway No. 1 and Railway No. 3 until after the Commissioners shall have actually commenced the construction of Railway No. 2 and then only on the following conditions (that is to say):—

(A.) If the company elect to carry out the construction of said Railways Nos. 1 and 3 by contract the Commissioners shall before the contract is entered into either deposit in the Provincial Bank of Ireland in the joint names of the company and the Commissioners a sum sufficient to cover the entire cost of the construction and completing fit for such use of those railways and the works in connexion therewith according to the reasonable estimate

of the principal engineer to the company and which sum is herein-after referred to as "the deposit" or shall secure the payment thereof to the satisfaction of the board of directors of the company.

(B.) The Commissioners shall out of the said deposit (if made) or by other means from time to time as required by the company provide and pay over to the company such sum or sums as shall according to the certificate in writing of the said principal engineer be then payable by the company to the contractor and which certificate shall be final and binding on the Commissioners.

(C.) If the company elect to construct said railways and works by their own workmen the Commissioners shall pay to the company on the first day of each month such sum or sums as shall be sufficient according to the certificate in writing of the said principal engineer (which for this purpose shall be final) to provide for the estimated cost of the work to be executed in the next succeeding month and to make up the deficiency (if any) on the sum or sums paid to the company in any previous month and the Commissioners may in each month take credit for so much if any of the said sum or sums paid for but unexpended in the previous month and for the purposes aforesaid the company shall so far as in their power produce to the Commissioners with the said certificate vouchers showing the expenditure for such last preceding month and the Company may use in the construction of said railways and works any suitable rails or other materials they may have in stock and they shall be paid for same by the Commissioners at cost price.

(D.) If on completion of said railways and works by contract or by the company's workmen it shall be found that the deposit or the sums so paid in advance as the case may be shall be insufficient to meet the cost thereof the Commissioners shall forthwith pay to the company the balance of such cost and if upon such completion the same shall be found to be in excess of such cost the Commissioners shall be absolutely entitled to the amount of such excess.

5. The company shall permit Railway No. 1 and Railway No. 3 to be constructed on lands belonging to them free of all cost and charge in respect of such lands and such lands shall during and after the construction of those railways continue to be and shall be the property of the company.

6. The company shall and will at their own cost maintain in good working order and condition the Coleraine Harbour Railway save Railway No. 2 and shall and will also maintain in good working order and condition Railway No. 2 upon the Commissioners from time to time (when called on so to do by the company) providing or paying the reasonable cost of providing all materials requisite for the maintenance repair and renewal of said last-mentioned railway.

7. The company shall and will at their own expense keep open work and use the Coleraine Harbour Railway for the purpose of such traffic as aforesaid and shall and will on every day receive and convey thereon all such traffic as shall be destined for or as shall come from or over any portion of the undertaking of the Commissioners with all accommodation despatch and facilities (including through booking through invoicing through waggons trucks and other

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arrangements) proper and sufficient for the safe and convenient carriage and delivery thereof so as fairly to work the traffic of that undertaking Provided that the company may subject as aforesaid convey the said traffic at such times in each day as may be most convenient to them.

Subject to the safe and convenient working and user by the company of the Coleraine Harbour Railway the Commissioners may use Railway No. 2 for the conveyance thereon of materials used in the construction maintenance or improvement of their undertaking.

8. The company shall and will at their own cost provide all necessary engines and rolling stock superintendents inspectors station masters clerks porters engine drivers stokers guards watchmen and workmen and all other officers and servants and all materials plant and labour (except as herein-after provided) proper and convenient for the effectual working of the Coleraine Harbour Railway and the conveyance and delivery of the said traffic Provided that the company shall not be required to nor will they erect use or work any cranes on the wharf of the Commissioners nor shall the company provide labour for or be under any obligation in respect of the loading or unloading of goods animals minerals or other traffic into or out of the company's waggons at the wharf of the Commissioners all which labour shall be supplied and performed by the Commissioners.

9. The company shall and will indemnify and save harmless the Commissioners from and against all penalties forfeitures damages losses costs charges expenses claims and demands in any way occasioned by or by reason of any act or default of the company or any of their officers agents or contractors or the servants or workmen of the company or their contractors with respect to the management maintenance repair working or use of the Coleraine Harbour Railway or any part thereof or any traffic thereon under this agreement.

10. The Commissioners shall pay all taxes chargeable on or in respect of Railway No. 2 and the company shall pay the like taxes in respect of Railways Nos. 1 and 3.

11. Subject to the provisions of the Acts relating thereto the Commissioners shall fix the rates tolls and charges (including any terminal charges) from time to time to be charged and taken for and with respect to the Coleraine Harbour Railway and the traffic thereon.

12. All the tolls rates and charges including any terminal charges and other revenue arising and receivable from the working and use of the Coleraine Harbour Railway except any revenue arising from the said cranes or in respect of any service performed by the Commissioners (herein-after referred to as "gross receipts") shall from time to time be paid to or taken or received by the company and they shall retain one moiety thereof for their own use and benefit as the consideration for their so working and using the Coleraine Harbour Railway and for all their services under this agreement and shall pay the other moiety thereof to the Commissioners for their use Provided nevertheless that if the Commissioners should at any time without the consent of the directors of the company first had fix the rate of charge for conveyance of any article at less than sixpence per ton the share of the company in the rate so charged therefor shall never be less than threepence per ton.

13. The payments to be made to the Commissioners in accordance with the foregoing article shall fall due on the thirtieth day of June and the thirty-first day of December in every year and shall be made in the months of September and March next following.

14. The company shall and will at all times keep full true and proper accounts of all the traffic to which this agreement relates and of the gross receipts. The said accounts shall be kept with such details and vouchers as shall be proper and sufficient for the full explanation and for proving the correctness thereof and shall with the vouchers therefor be open at all reasonable times to the inspection and transcription of the Commissioners and their clerk solicitor manager and accountant and the company shall and will afford them all proper facilities for those purposes.

15. Within twenty-one days after the thirtieth of June and thirty-first December in each year the secretary of the company shall send to the principal office of the Commissioners a true and correct statement of all the traffic and receipts of the preceding half year with all such particulars as shall be requisite for the understanding thereof.

16. If any question arise between the company and the Commissioners touching the construction effect incidents or consequences of this agreement or as to anything to be done or not to be done or any money to be paid or any traffic to be included or any receipts to be apportioned or any expenditure to be made or any accounts to be kept or rendered thereunder or anything which is a subject-matter of this agreement such question shall be determined by an arbitrator to be appointed (unless agreed on) on the application of either party by the Board of Trade and the costs of the arbitrator and of and incident to the arbitration shall be borne and paid as he shall direct.

In witness whereof the said Commissioners and the said company have hereunto affixed their common seals respectively the day and year first herein written.

Sealed by the said Commissioners in presence of
WILLIAM BRADLEY,
Coleraine.

L.S.

Sealed by the Belfast and Northern Counties Railway Company in presence of
CHARLES STEWART, Secretary.
FRED. J. HOPKIRK.

L.S.

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