ANNO QUINTO & SEXTO

GULIELMI IV. REGIS.

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C A P. LXVII.

An Act for the Improvement of the Navigation of the River *Shannon*. [9th *September* 1835.]

WHEREAS the Improvement of the Navigation of the River *Shannon*, from its Source in *Lough Allen* in the County of *Leitrim* to the Mouth of the said River, will contribute to the general Prosperity, Commerce, Agriculture, and Revenue of *Ireland*, and also tend to the Advantage and Improvement of the respective Counties and Districts adjoining such Navigation: And whereas certain Surveys have been made under the Direction of the Lord Lieutenant of *Ireland*, whereby it appears that the whole Course of the said River, embracing Two hundred and thirty-two Miles of continuous Navigation, may be improved and thrown open and rendered effectually navigable by the Execution of divers proposed Works; and it is expedient that the necessary Works should be executed under the Direction of the Commissioners for the Promotion and Extension of Public Works in *Ireland*, and the Control and Conservation of such Navigation vested in them; and that the Expenditure attendant upon the Improvement of the said Navigation shall in the first instance (when the Plans, Estimates, and Specifications for the proposed Works, together with the Conditions under which such Works shall be proposed to be executed, shall have been submitted to and approved of by Parliament,) be defrayed out of the Public Revenue, and that one Moiety of the Sum so advanced shall be a free Grant for the Improvement of such Navigation, and the other Moiety repaid by Twelve half-yearly Instalments out of the

 Surplus

Surplus of the Produce of such Tolls as may accrue from the said Navigation, after defraying the Expences of maintaining the said Navigation; and in case the Surplus of such Tolls should prove insufficient in any Year to pay the annual Instalment then due, that the Deficit shall be made good by a local Rate or Assessment upon the Counties and Districts adjoining such Navigation and benefited by the Improvement thereof, in such Shares and Proportions as may be fixed and established in manner herein-after mentioned, according to the particular Extent of Benefit arising out of such Improvement of the said Navigation to each of the said Counties and Districts respectively: And whereas it is expedient, with a view to the Improvement of the said Navigation in the most judicious, effectual, and economical Manner, that the Works necessary to be executed for that Purpose should be previously ascertained, and an Estimate made of the Expence attendant thereon, and of the Sum required to be paid for the Compensation of the several Persons possessed of any Right of Fishery or other Right in anywise injured or prejudiced by the said proposed Works, and for the Purchase of any Lands or Tenements required to be taken for the Erection of Wharfs, Piers, Landing Places, or other Purposes connected with the said Navigation: Be it therefore enacted by the King'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 it shall and may be lawful for the Lords Commissioners of His Majesty's Treasury, or any Three or more of them, by Warrant under their Hands, to constitute and appoint Three or more Persons to be Commissioners for the Purpose of ascertaining the Works necessary to be executed for the Improvement of the said Navigation, and making an Estimate of the Expence thereof, and inquiring into and determining the Proportions in which the several Counties and Districts adjacent to such Navigation and benefited by the Improvement thereof should contribute towards making good the Proportion of such Expence which may, in defect of the surplus Tolls arising from such Navigation being adequate to that Purpose as herein-before mentioned, fall upon such Counties and Districts, and for the other Purposes of this Act.

Lords of Treasury may appoint Commissioners for carrying this Act into execution.

II. And be it enacted, That the said Commissioners so to be appointed under this Act shall each of them, previously to his entering upon the Execution of such Commission, take an Oath before one of the Justices or Barons of one of His Majesty's Superior Courts of Record at *Dublin* (which Oath they are hereby respectively authorized to administer) of the Tenor herein-after following; (that is to say,)

Commissioners appointed shall swear duly to execute the Trusts committed to them.

'I *A. B.* do swear, That I will faithfully and impartially, according 'to the best of my Judgment, execute the several Powers and 'Trusts vested in me by an Act, intituled [*here set out the Title of 'this Act.*]'

III. And be it enacted, That the said Commissioners may meet and sit from Time to Time in such Place or Places as they shall find most convenient, with or without Adjournment; and that all Acts,

Commissioners may meet from Time to

Matters, and Things which the said Commissioners for the Execution of this Act are by this Act authorized to do or execute may be done and executed by any Three or more of them; and that they shall and may, with the Consent and Approbation of the said Lords Commissioners of the Treasury, employ such Officers as they may find necessary, and that all and every the Persons so employed in any such Capacity may from Time to Time be dismissed at the Pleasure of the said Commissioners, and any other Person or Persons, with the like Consent and Approbation, appointed in his or their Stead.

Time, and employ the necessary Officers.

IV. And be it enacted, That the several Surveys, Maps, and Plans heretofore made, under the Direction of the Lord Lieutenant of *Ireland*, of the said Navigation, and all other Papers and Documents relating to the same and material to the Purposes of this Act, shall be delivered to the said Commissioners to be appointed under this Act, and that they shall take the same into their Consideration, and cause such other Surveys, Maps, Plans, and Sections as they shall find necessary to be made, and inquire into and ascertain, by the Examination of Witnesses and all such other Ways and Means as they shall think proper, the most effectual and judicious Mode of improving the said Navigation and of opening and clearing the said River *Shannon* from its Source to the Sea, and of carrying into execution all such Works as they shall find necessary in relation thereto; and shall likewise ascertain the proper and convenient Places for the Formation of such Havens, Piers, Wharfs, and Landing Places as they shall think necessary, distinguishing such of them as ought to form Part of the Works to be undertaken in pursuance of this Act under the Direction of the said Commissioners for the Promotion and Extension of Public Works in *Ireland*, and such of them as may be conveniently left to individual Enterprise; and, having made such Inquiry, the said Commissioners for the Execution of this Act shall, if necessary, make out a Plan and Estimate, with proper Plans, Maps, Drawings, and Sections, and Elevations thereto attached, showing and describing the said Navigation and the several Works proper in their Judgment to be executed for the clearing and improving the same, and for confining the Waters thereof, and preventing the Inundation of the contiguous Lands, and the proper Places for the Erection of Toll Houses; and it shall be lawful for the said Lords Commissioners of the Treasury from Time to Time to give such Orders and Directions as they shall think proper, defining the Duties of the said Commissioners for the Execution of this Act in respect of such Matters, and the Extent of their Inquiries; and the said Commissioners for the Execution of this Act shall obey and observe all such Orders and Directions as aforesaid which shall from Time to Time be signified to them by the said Lords Commissioners of the Treasury.

Commissioners to arrange the Mode of improving the Shannon, and prepare Plans, &c. to be laid before the Treasury.

V. And be it enacted, That for the Purposes of such Survey and Inquiry, or any other of the Purposes of this Act, it shall and may be lawful for the said Commissioners for the Execution of this Act, by themselves, their Surveyors, Engineers, Agents, Officers, and Workmen, to enter upon any Lands or Premises being near or contiguous to

Commissioners may enter Lands, &c. for the Purposes of this Act.

to the said River *Shannon*, or any of the Rivers or Streams connected therewith, and, if necessary, to dig or bore therein; and that for the Purposes aforesaid it shall be in like Manner lawful for the said Commissioners for the Execution of this Act, their Surveyors, Engineers, Agents, Officers, and Workmen, to raise and examine any Weir, Sluice, or Flood Gate erected in or upon the said River *Shannon* or any other of the Rivers or Streams aforesaid, and to make any Soundings, or bore the Bed or Channel of any Part of the said River *Shannon*, or of any Rivers or Streams, or Mill Course or Dam connected therewith, in what Person, Company, or Corporation soever the Navigation, Control, Direction, or Property in such River or Stream, or Mill Course or Dam, may be in anywise vested.

Commissioners to prepare a Schedule of Lands, &c. to be taken for the Purposes of this Act, which shall be left open for Inspection at certain Places, and Notice given thereof.

VI. And be it enacted, That the said Commissioners for the Execution of this Act, having ascertained and determined upon the Works proper in their Judgment to be executed for the Purpose of improving and completing the said Navigation, shall prepare a Schedule, with such Maps and Plans thereto attached as may be necessary, showing and describing the Lands, Tenements, or Hereditaments required to be taken for the Purposes of this Act, and the Mills, Weirs, Fisheries, or other Rights or Franchises, so far as they may be known to the said Commissioners, liable to be anywise injuriously affected by the proposed Works, and shall cause Copies thereof to be made and deposited in such and so many convenient Places in the Vicinity of such Navigation, and of the Premises mentioned in such Schedule, as they shall think proper, there to remain open to public Inspection at all reasonable Times for Three successive Weeks, and shall cause Notices of the Place or Places where the same may be deposited to be posted in the usual Places for posting Grand Jury Notices in each adjacent Barony or Half Barony, and shall also cause a like Notice to be inserted once in each Week for Three successive Weeks in the *Dublin Gazette*, and in some One or more Newspapers circulating in the Neighbourhood of such Navigation; and the said Commissioners shall also cause a Notice in Writing to be delivered to or left at the usual Place of Abode of the Owners or Occupiers or reputed Owners or Occupiers (where the same may be known to the said Commissioners) of all such Lands, Tenements, and Hereditaments, Mills, Weirs, Fisheries, or other Rights or Franchises required to be taken for or liable to be injuriously affected by the said proposed Works, requiring such Owners and Occupiers to prefer their respective Claims before the said Commissioners for the Value of such Property, or the Compensation to be allowed for any Prejudice or Injury resulting thereto from such Works.

Commissioners to adjudicate upon Claims for Damages, &c. arising under the Execution of this Act.

VII. And be it enacted, That any Person having or claiming to have any Right, Title, or Interest in or to any Lands, Tenements, or Hereditaments, Mill, Weir, Fishery, or other Right or Franchise liable to be in anywise injured or damaged by the said proposed Works, or required to be taken for the Purposes thereof, whether the same shall be included in the said Schedule or otherwise, shall and may, within such Time and in such Manner and Form as the said Commissioners for the Execution of this Act shall by some general Rules to be by them framed and published notify and appoint, apply to

to the said Commissioners, stating the Value of their respective Properties, and claiming the same, or the Compensation to be allowed for any Injury or Damage resulting or which may result thereto from such Works; and the said Commissioners shall proceed, in the Manner prescribed by such general Rules to be by them established as aforesaid, to inquire into and adjudicate upon such Claims, and shall, after due Inquiry and Examination, assess and declare the Value of the several Lands, Tenements, or Hereditaments required to be purchased for the Purposes of the said Works so proposed to be executed for the Improvement and Completion of the said Navigation, and the Amount of Compensation to be allowed to the Owners of any Mill, Weir, Fishery, or other Right or Franchise of what Nature soever, necessary to be extinguished or liable to be anywise injuriously affected by such Works, and shall fix such Value or Compensation as of an Estate in Fee Simple or the absolute and entire Estate and Interest therein, without specifying the Person or Persons entitled to or interested therein, or the Value of their respective Shares and Interest, or the Amount of Compensation due to them severally; and having ascertained and declared the Value of such Lands, Tenements, or Hereditaments, and the Amount of such Compensation in each such Case as aforesaid, the said Commissioners for the Execution of this Act shall by public Advertisement and otherwise, as the said Lords Commissioners of the Treasury shall direct, notify and appoint a Time and Place for the Confirmation of their said Award and Adjudication, and shall attend at such Time and Place, and shall thereat or at some Adjournment therefrom proceed in open Court to declare such Award and Adjudication on each Case, and hear all such Objections which may be offered thereto by any Person whatsoever, and receive all such Evidence as they shall find pertinent and proper, and amend or confirm and finally settle each such Award and Adjudication accordingly.

Commissioners shall adjudicate upon the Proportions of Expence to be borne by the Counties, &c. benefited under this Act.

VIII. And be it enacted, That at some Time previous to the said Court so to be holden by the said Commissioners for the Execution of this Act, they shall, by all such Ways and Means as they shall think necessary, inquiring into and ascertaining the several Counties, or Parts of Counties, through or near to which the said Navigation may pass, and which are likely to derive Benefit from the said Navigation being improved and thrown open, or from any Work proposed to be executed by the said Commissioners, and shall ascertain and determine the Proportions in which such Benefit is likely to accrue to such Counties or Parts of Counties respectively; and in case they should find that any particular Lands are likely to derive peculiar Benefit from the Waters of such Navigation being confined to their natural Channel, so as to relieve such Lands from Inundation, or are likely to derive peculiar Benefit from any other proposed Work, the said Commissioners shall assign the particular Share or Proportion of Benefit likely to accrue to such Lands; and having so fixed and ascertained such Proportions as aforesaid, the said Commissioners shall, at such open Court to be holden as aforesaid, proceed to declare such Proportions, and hear all such proper and pertinent Evidence as shall be offered to them in reference thereto, and finally award and adjudicate upon such Proportions.

Commissioners authorized to take Examinations on Oath.

IX. And be it further enacted, That the said Commissioners for the Execution of this Act may examine upon Oath or Affirmation (which Oath or Affirmation they or any One or Two of them are and is hereby authorized to administer) all Persons who shall appear before them to be examined as Witnesses touching any Matters or Things which may be depending, or touching any Questions which may arise in the Execution of the Powers vested in the said Commissioners by this Act, and may also receive any Affidavits or Depositions in Writing, upon Oath or Affirmation, touching such Matters or Things as aforesaid, which shall be made before any Justice of the Peace of any County or Shire, or any Magistrate of any Borough or Town Corporate in *Great Britain* or *Ireland*, where or near which the Person making such Affidavit or Deposition shall reside, or before any Judge of any of His Majesty's Superior Courts at *Westminster* or *Dublin*, and certified and transmitted to the said Commissioners under the Hand and Seal of such Justice or Magistrate or Judge respectively (and which Oath or Affirmation every such Justice or Magistrate shall be and is hereby authorized and empowered to administer); provided, that in every such Affidavit or Deposition there shall be expressed the Addition of the Party making such Affidavit or Deposition and the particular Place of his or her Abode.

Commissioners may compel the Attendance and Examination of Witnesses.

X. And be it further enacted, That the said Commissioners for the Execution of this Act shall be and are hereby authorized by a Summons under their Hands, or under the Hands of any Three of them, to require the Attendance before them, by a Time to be in such Summons for that Purpose limited, of any Person or Persons competent, or whom such Commissioners may have Reason to believe to be competent, to give Evidence upon any Question or Matter depending before them touching or concerning the said Navigation, or the Value of the Premises required to be taken for the Purposes thereof, or the Amount of any Compensation as aforesaid; and if any Person upon whom any such Summons shall be served by the actual Delivery thereof to him or her, or by the leaving thereof at his or her usual Place of Abode, shall, without reasonable Cause to be allowed by such Commissioners, fail to appear before them at the Time and Place in such Summons for that Purpose mentioned, or so appearing shall refuse to be sworn or to make his or her solemn Affirmation, as the Case may be, or having been so sworn, or having made such Affirmation, shall not make Answer to any such Questions as may by the said Commissioners be proposed to him or her touching any Matter or Thing depending before them under the Provisions of this Act, or shall refuse or fail to produce and exhibit to the said Commissioners any such Papers and Documents relating to any Question, Matter, or Thing depending before such Commissioners as shall by them be called for or required, every such Person shall for such his Default, Refusal, or Neglect as aforesaid incur and become liable to all such Fines and Penalties, Prosecutions, Civil Suits, or Actions as any Person may by Law incur or become liable to for Default of Appearance or for refusing to be sworn or to give Evidence upon any Issue joined in any Action depending in His Majesty's Court of King's Bench; and the said Commissioners shall have all such and the same Powers, Jurisdiction, and Authority

for imposing and causing to be levied and recovered any such Fines and Penalties as aforesaid as are by Law vested in any of the Judges of the said Court for imposing or causing to be levied and recovered any Fines or Penalties incurred by any Person failing to appear as a Witness, or refusing to be sworn and to give Evidence in the Trial of any Action before any such Judges or Judge.

Penalties for swearing falsely before Commissioners, &c.

XI. And be it further enacted, That if any Person or Persons, upon Examination on Oath or Affirmation before the said Commissioners respectively, or if any Person or Persons making any such Affidavit or Deposition as before mentioned, shall wilfully and corruptly give false Evidence, or shall in such Affirmation, Affidavit, or Deposition wilfully or corruptly swear, affirm, or allege any Matter or Thing which shall be false or untrue, every such Person or Persons so offending, and being thereof duly convicted, shall be and is and are hereby declared to be subject and liable to the Pains and Penalties of Persons convicted of wilful and corrupt Perjury by any Law in force at the Time of such Perjury being committed.

Commissioners shall transmit all Documents connected with the Execution of this Act to Lords of Treasury, who shall cause the same to be laid before Parliament

XII. And be it enacted, That the said Commissioners shall, with all convenient Speed after the Completion of the several Duties herein-before appointed to be executed by them under this Act, prepare a Plan, Estimate, and Specification, with proper Maps and Schedules thereto attached, of the several Works proper in their Judgment to be executed for the Improvement and Completion of the said Navigation, and the Erection of Toll Houses thereon, and the Expence of executing such Works and erecting such Toll Houses, including and distinguishing the Sums required to be paid for the Purchase of Premises required for the Purposes of the said Navigation, and to be paid as Compensation, and shall also form such Plan as they may think advisable for the levying and collecting proper Tolls (stating the Amount thereof) upon the said Navigation for the Maintenance of the same, and for the Repayment of the Moiety of the Advances to be made as herein-before recited for the Improvement and Completion of the said Navigation, and shall transmit such Plans, Maps, Specifications, Estimates, Awards, and Adjudications, and Plan for Tolls, to the said Commissioners of His Majesty's Treasury, together with a Report on such Matters concerning the Improvement of such Navigation, and the State of the same, as the said Lords Commissioners shall direct; and the said Lords Commissioners shall, on the Receipt thereof, lay all such Documents before both Houses of Parliament, if Parliament be then sitting, and if Parliament be not then sitting, such Documents shall be laid before the said Two Houses within Fourteen Days after the Commencement of the then next Session of Parliament.

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