



CHAPTER cxxxix.

An Act for enabling the River Wear Commissioners to make a series of short branch lines of railway leading to their Docks, and for amending the Acts relating to the Commissioners ; and for other purposes. A.D. 1874.
[16th July 1874.]

WHEREAS the River Wear Commissioners (in this Act called the Commissioners) are constituted and incorporated under the following Acts ; (that is to say,)

An Act of the eleventh year of the reign of King George the Fourth (chapter forty-nine, local and personal), intituled “ An Act for the Improvement and Preservation of the river Wear and port and haven of Sunderland, in the county palatine of Durham ;”

The Sunderland Dock Act, 1855 ;

The Wear Navigation and Sunderland Dock Act, 1859 ; and

The Wear Navigation and Sunderland Dock Act, 1863 ;

which first-mentioned Act is in this Act referred to as the Wear Act, 1830, and all which Acts are in this Act referred to collectively as the Commissioners Acts :

And whereas powers are vested in the Commissioners for the improvement and conservancy of the river Wear and the port and haven of Sunderland, in the county of Durham, and for the establishment and maintenance of docks and works there :

And whereas the making and maintenance of a series of short branch lines of railway communicating between the Commissioners docks and the Durham and Sunderland branch of the railways of the North-eastern Railway Company (in this Act referred to as the North-eastern Railway) and the railway made or maintained under the Londonderry Railway (Seaham to Sunderland) Act, 1863, (in this Act referred to as the Londonderry Railway) would tend to promote the coal export trade of the port of Sunderland, and would otherwise be of great local and public advantage :

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And whereas the Commissioners are willing to make and maintain such railways as aforesaid at their own expense on being properly empowered in that behalf, and it is expedient that they be so empowered accordingly :

And whereas it is expedient that the provisions of the Commissioners Acts relating to elections of Commissioners, and to removal and prevention of obstructions and repair and maintenance of quays and works in the river Wear, and other provisions of those Acts, be amended and extended :

And whereas it is expedient that the other provisions in this Act contained be made :

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

And whereas plans and sections describing the lines, situations, and levels of the proposed works and the lands in or through which the same are intended to be made, and plans of the lands which the Commissioners are by this Act empowered to acquire and appropriate, and a book of reference to those plans containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the said lands, have been deposited with the clerk of the peace for the county of Durham (which plans, sections, and book of reference are in this Act referred to as the deposited plans, sections, and book 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 ; (that is to say,)

Short titles
and construction
of Acts.

1. The Act in this Act referred to as The Wear Act, 1830, may be cited for all purposes by that short title, and this Act may be cited as The Wear Navigation and Sunderland Dock Act, 1874, and the Commissioners Acts and this Act shall be read and have effect together as one Act.

Provisions
of certain
general
enactments
incorporated.

2. The following enactments (as far as they are applicable for the purposes of and are not varied by or inconsistent with this Act) are hereby incorporated with and shall be part of this Act ; (that is to say,)

The Lands Clauses Consolidation Acts, 1845, 1860, and 1869 (in this Act referred to as the Lands Clauses Acts) ;

The Railways Clauses Consolidation Act, 1845, and Part I. (construction of a railway) and Part III. (working agreements) of the Railways Clauses Act, 1863.

3. In this Act and (for the purposes of this Act) in enactments incorporated with this Act the term "court of competent jurisdiction" shall have effect as if the debt or demand with respect to which it is used was a common simple contract debt, and not a debt or demand created by statute, and the term "superior courts" shall include any court of competent jurisdiction.

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Interpretation of terms.

4. 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 in this section described, with all proper stations, sidings, approaches, works, and conveniences connected therewith, and may enter on, take, and use the lands delineated on and described in the deposited plans and books of reference. The railways authorised by this Act are the following; (that is to say,)

Power to make railways according to deposited plans.

(A.) A railway (No. 1), five furlongs five chains and twelve links in length, commencing by a junction or junctions with the North-eastern Railway at a point two hundred and thirty-six yards or thereabouts, measured in a southerly direction, from the south-west corner of the Sea Banks Farm dwelling-house, and terminating at a point thirteen yards or thereabouts, measured in a westerly direction, from the west side of the junction entrance of the Hendon Dock :

(B.) A railway (No. 2), eight chains and twenty-five links in length, commencing by a junction or junctions with the Londonderry Railway, two hundred and seven yards or thereabouts, measured in a southerly direction, from the south-west corner of the Sea Banks Farm dwelling-house, and terminating by a junction or junctions with railway (No. 1) at a point forty-one yards or thereabouts, measured in a south-easterly direction, from the south-east corner of that dwelling-house :

(C.) A railway (No. 3), four furlongs and four chains in length, commencing by a junction or junctions with railways (No. 1) and (No. 2) at a point forty-one yards or thereabouts, measured in a south-easterly direction, from the south-east corner of the Sea Banks Farm dwelling-house, and terminating by a junction or junctions with railway No. 1 at a point thirty yards or thereabouts, measured in a westerly direction, from the west side of the junction entrance of the Hendon Dock :

(D.) A railway (No. 4), one furlong six chains and seventy links in length, commencing by a junction or junctions with railway No. 1 at a point three hundred and forty-three yards or thereabouts, measured in a northerly direction, from the north-east corner of the Sea Banks Farm building nearest to the London-

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derry Railway, and terminating at a point fifty-four yards or thereabouts, measured in a westerly direction, from the south-east corner of the Hendon Dock :

- (E.) A railway (No. 5), one furlong five chains and thirty links in length, commencing by a junction or junctions with railway (No. 3) at a point three hundred and forty-three yards or thereabouts, measured in a northerly direction, from the north-east corner of the Sea Banks Farm building nearest to the Londonderry Railway, and terminating by a junction or junctions with railway (No. 4) at a point seventy-four yards or thereabouts, measured in a westerly direction, from the south-east corner of the Hendon Dock :
- (F.) A railway (No. 6), one furlong two chains and thirty links in length, commencing by a junction or junctions with railway (No. 1) at a point three hundred and ninety-nine yards or thereabouts, measured in a northerly direction, from the north-east corner of the Sea Banks Farm building nearest to the Londonderry Railway, and terminating at a point eighty-two yards or thereabouts, measured in a northerly direction, from the south-west corner of the Hendon Dock :
- (G.) A railway (No. 7), one furlong and ninety links in length, commencing by a junction or junctions with railway (No. 3) at a point three hundred and ninety-nine yards or thereabouts, measured in a northerly direction, from the north-east corner of the Sea Banks Farm building nearest to the Londonderry Railway, and terminating by a junction or junctions with railway (No. 6) at a point fifty-six yards or thereabouts, measured in a northerly direction, from the south-west corner of the Hendon Dock :
- (H.) A railway (No. 8), one furlong two chains and seventy links in length, commencing by a junction or junctions with railway (No. 1) at a point four hundred and sixty-one yards or thereabouts, measured in a northerly direction, from the north-east corner of the Sea Banks Farm building nearest to the Londonderry Railway, and terminating at a point one hundred and forty-nine yards or thereabouts, measured in a northerly direction, from the south-west corner of the Hendon Dock :
- (I.) A railway (No. 9), one furlong one chain and thirty-five links in length, commencing by a junction or junctions with railway (No. 3) at a point four hundred and sixty-one yards or thereabouts, measured in a northerly direction, from the north-east corner of the Sea Banks Farm building nearest to the Londonderry Railway, and terminating by a junction or junctions with

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railway (No. 8) at a point one hundred and seventy-three yards or thereabouts, measured in a northerly direction, from the south-west corner of the Hendon Dock. A.D. 1874.

5. In constructing the railways the Commissioners may deviate from the lines shown on the deposited plans to any extent within the limits of deviation marked thereon, and may deviate from the levels shown on the deposited sections to any extent not exceeding five feet. Limits of deviation.

6. The provisions contained in the Railways Clauses Act, 1863, with respect to the crossing on a level any turnpike or public carriage road, shall extend and apply to the crossing on a level the Londonderry Railway by this Act authorised. Extending provisions of 26 & 27 Vict. c. xcii. as to level crossings to crossing of Londonderry Railway.

7. If the railways are not completed within four years from the passing of this Act, then on the expiration of that period the powers by this Act granted to the Commissioners for making and completing the same, or otherwise in relation thereto, shall cease to be exercised, except as to so much thereof as is then completed. Period for completion of works.

8. The powers of the Commissioners for the compulsory purchase of lands for the purposes of this Act shall not be exercised after the expiration of two years from the passing of this Act. Powers for compulsory purchases limited.

9. The Commissioners may take by agreement, and any person by the Lands Clauses Acts or otherwise enabled to sell lands, may grant to them, any term, estate, easement, interest, right, or privilege in, over, affecting, or belonging to lands, at a yearly rent or otherwise, but in the case of a person not enabled otherwise than by the Lands Clauses Acts to sell lands, then subject and according to the provisions relative to the taking of lands by agreement contained in those Acts, for which purpose any term, estate, easement, interest, right, or privilege as aforesaid shall be deemed lands within those Acts. Power to agree for easements, &c.

10. The agreement made the twenty-second day of April one thousand eight hundred and seventy-four between the owners of the Londonderry Railway, by Ralph Park Philipson, their agent lawfully thereunto authorised, and the Commissioners, a copy of which is set forth in the schedule to this Act, is hereby sanctioned and confirmed; and the Commissioners shall not for the purposes of this Act take any lands of the said owners except under and in accordance with the provisions of the said agreement. Confirmation of agreement between owners of Londonderry Railway and Commissioners.

11. The Commissioners may apply for the purposes of this Act any money from time to time raised by or accruing to them under the Commissioners Acts. Power to apply corporate funds.

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Tolls and application.

12. The Commissioners may demand and take in respect of the use of the railways and the works connected therewith, and for the conveyance of goods or merchandise over the same respectively, such tolls, rates, and charges, not exceeding twopence per ton, as they deem reasonable, and their receipts in respect thereof shall form part of their consolidated revenue.

Alteration of provisions respecting lists of electors of Commissioners.

13. And whereas under the Commissioners Acts, the elections of Commissioners by the coalowners, shipowners, importers, and exporters respectively take place triennially, and it is expedient that the respective lists of electors be made out triennially instead of as now yearly: Therefore sections twenty-four to fifty-two (both inclusive) of the Wear Navigation and Sunderland Dock Act, 1859, and section fifty-five of that Act, (relating to the making, printing, and publishing of lists, and to the making of registers, and to scales of votes, and to votes of partners and joint owners, and to revision of lists, and to the elections, retirement, and rotation of Commissioners, and to the filling up of vacancies among the Commissioners,) are hereby repealed as from and immediately after the thirty-first day of December one thousand eight hundred and seventy-four; and in lieu thereof the following provisions of this Act relating to the like matters or some of them, with other matters, shall take effect on and after that repeal: Provided always, that the certified lists of coalowners and registered shipowners and the alphabetical list of importers and exporters which shall be in force on the thirty-first day of December one thousand eight hundred and seventy-four shall respectively continue in force until new lists of coalowners and shipowners and importers and exporters shall be framed in accordance with the provisions herein-after contained.

Clerk to prepare list of coalowners entitled to vote.

14. For the purposes of the Commissioners Acts, the clerk to the Commissioners shall, on or before the seventh day of August in the year one thousand eight hundred and seventy-seven, and the seventh day of August in every subsequent third year, make and deliver to the Commissioners a list wherein shall be entered the names of all persons being respectively coalowners who in the year ending with the thirtieth day of June then next preceding shipped at least ten thousand tons of coal, coke, or cinders in the river Wear and the docks, or any or either of them, and the quantities of coal, coke, or cinders so shipped by them respectively during the year, and shall at the foot of the list sign a certificate of its accuracy.

Collector to prepare list of ship-

15. For the purposes of the Commissioners Acts, the collector of tonnage rates and duties thereunder shall, on or before the seventh

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day of August in the year one thousand eight hundred and seventy-seven, and on or before the seventh day of August in every subsequent third year, make and deliver to the Commissioners a list wherein shall be entered the names of all persons residing in Sunderland, or within ten miles from any part of the parliamentary borough boundary, and being respectively registered in the books of the Custom House at Sunderland as the owners or part owners on the thirtieth day of June then next preceding of any vessels registered at the port of Sunderland, with the names and registered tonnage respectively of the vessels, and shall at the foot of the list sign a certificate of its accuracy.

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owners entitled to vote.

16. The coalowners shall be entitled to votes according to the following scale; (to wit,) every person appearing by the certified list to be the shipper of ten thousand tons or upwards of coal, coke, or cinders shall have one vote for every ten thousand tons up to fifty thousand tons, and one additional vote for every fifty thousand tons above the first fifty thousand tons.

Scale of votes of coalowners.

17. The shipowners shall be entitled to votes according to the following scale; (to wit,) every person appearing by the certified list to be a shipowner, whether as part owner or sole owner or both, to the amount or aggregate amount of one hundred tons or upwards shall have one vote for the first or only one hundred tons, and one additional vote for every two hundred and fifty tons above the first one hundred tons, but no shipowner shall have more than six votes.

Scale of votes of shipowners.

18. For the purposes of the Commissioners Acts, the Commissioners shall make a register to be called the Register of Importers and Exporters, and shall keep it at their office, and therein shall enter the names of all persons residing in Sunderland, or within ten miles from any part of the parliamentary borough boundary, and who respectively within twelve months, beginning with the first day of July in one year and ending with the thirtieth day of June in the next year, pay any of the rates or duties mentioned in Schedule B. to the Wear Navigation and Sunderland Dock Act, 1859, as extended by the forty-first section of the Wear Navigation and Sunderland Dock Act, 1863, to the amount in the whole of five pounds or upwards, and in the register shall enter the several sums paid by every such person, with the dates of the payments by him: Provided that the person appearing on the bills of lading, or other shipping documents, in the case of exports as consignor, and in the case of imports as consignee, shall for the purposes of the register be deemed the person paying the rates and

Commissioners to keep a register of importers and exporters.

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Com-
missioners to
prepare list
of importers
and ex-
porters.

19. On or before the seventh day of August in the year one thousand eight hundred and seventy-seven, and on or before the seventh day of August in every subsequent third year, the Commissioners shall make an alphabetical list of all persons whose names appear by the register to have paid in the then last preceding year any of the aforesaid rates or duties to the amount in the whole of five pounds or upwards, and the alphabetical list shall specify the number of votes to which every such person is entitled under the provisions herein-after contained.

Votes of im-
porters and
exporters.

20. The importers and exporters shall be entitled to vote according to the following scale; (to wit,) every person who in the year ending with the thirtieth day of June next before the making of the list has paid any of the aforesaid rates and duties to the amount of five pounds or upwards shall have one vote for the first or only five pounds, and one additional vote for every twenty-five pounds above the first five pounds up to one hundred and five pounds, and one additional vote for upwards of one hundred and five pounds, but no importer or exporter shall have more than six votes.

As to votes
of partners
and joint
owners.

21. In every case of several persons being coalowners in partnership, and in every case of several persons being registered as joint owners of any ship or share of a ship, and in every case of several persons being importers or exporters in partnership, they respectively shall, with respect to the scale of votes, be deemed one person, and in case of partnership the member whose name stands first in the firm, or one of the members authorised in writing by the other members of the firm or by a majority of them, and in the case of joint owners the person whose name stands first on the certified list, shall alone be entitled to exercise their right of voting at the election of Commissioners by the coalowners or the shipowners, or the importers and exporters, as the case may be.

Lists to be
printed and
published.

22. The Commissioners shall print the certified lists of coalowners and shipowners and the alphabetical list of importers and exporters, and on every day during the seven days ending with the twenty-first day of August one thousand eight hundred and seventy-seven, and during the seven days ending with the twenty-first day of August in every subsequent third year, a printed copy of each of the said lists shall be posted by the Commissioners on the door of their principal office in Sunderland, and printed copies thereof shall be kept at that office for public inspection, and on payment of

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a reasonable sum for the same, not exceeding sixpence, the Commissioners shall deliver a copy of any printed list to any person requiring it.

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23. On or within one month before the thirtieth day of June one thousand eight hundred and seventy-seven, and on or within one month before the thirtieth day of June in every subsequent third year, the Commissioners shall appoint two of their number to be two of the revisors of the lists of coalowners and of shipowners, and of importers and exporters respectively, and the two persons so appointed shall, on or before the fourteenth day of August next after their appointment appoint a third person, being a person whose name is on one of the lists for the year ending with the thirtieth day of June in that year, to be the third of those revisors and to be the chairman of the revisors, and the three persons so appointed shall be the revisors of the lists.

Revisors of lists to be appointed.

24. The revisors shall, during the seven days next before the first day of September one thousand eight hundred and seventy-seven, and the seven days next before the first day of September in every subsequent third year, revise at the Commissioners office the lists of the coalowners and of the shipowners, and of the importers and exporters respectively, giving not less than three nor more than seven days public notice of every such revision: Provided always, that in the case of the decease or failure to act of any of the revisors the others or other of them may make or complete the revision.

Revision of lists.

25. On every such revision any person whose name is omitted from any list may, in person or by his agent, claim to have his name inserted therein, and any person whose name is inserted in any list may, in person or by his agent, claim to have the number of votes attributed therein to him corrected, and may object to any other person as not being entitled to have his name retained therein or as not being entitled to the number of votes attributed to him therein.

Claims and objections before revisors.

26. The revisors shall retain the name of any person or the number of votes so objected to if the objection be not established to their satisfaction, and shall insert the name of any person shown to their satisfaction to be entitled to have his name inserted therein, and shall retain the name of every person to whom and every number of votes to which an objection is not made, and shall strike out the name of every person shown to their satisfaction to be dead or not to be entitled to have his name therein, and shall correct the number of votes inaccurately attributed therein to any person, on such inaccuracy being shown to their satisfaction.

Revisors correct the lists.

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Revisors to sign lists.

27. The decision of the revisors, or the majority of them, shall be final and conclusive, and the revisors shall forthwith after every revision sign their names at the foot of each list revised, and if any revisor shall refuse to sign or wilfully make default in signing any list he shall be liable to a penalty not exceeding fifty pounds.

Production to revisors of books, &c.

28. For the revision of the lists the Commissioners shall produce to the revisors such of the books and accounts of the Commissioners as are proper and sufficient to enable the revisors to revise the lists, and shall afford to them all reasonable and proper facilities in that behalf.

Evidence of revised lists.

29. Every list purporting to be a list revised according to this Act, and to be signed as by this Act provided, shall, without proof of any matter other than the signatures thereto, be *primâ facie* evidence of the same being a list revised according to this Act, and of all the provisions of this Act in any way relating to the revised list having been duly complied with.

Duration of revised lists.

30. Every revised list shall be in force until the revision of the then next list, and the persons whose names appear on any revised list from time to time in force shall be the persons entitled to vote in the election of Commissioners, and shall at every such election be respectively entitled to such a number of votes as appears by such list.

Revised lists to be printed and published.

31. Every revised list shall forthwith after the revision thereof be printed and published by the Commissioners, and every person whose name appears therein shall be entitled to a copy thereof on paying for every copy such a sum not exceeding sixpence as the Commissioners think reasonable.

Meetings for election of Commissioners by coalowners, shipowners, and importers and exporters.

32. On the third Wednesday in September one thousand eight hundred and seventy-seven, and on the third Wednesday in September of every subsequent third year, the coalowners and the shipowners, and the importers and exporters respectively, shall meet for the election of Commissioners, and at every such meeting the coalowners shall elect seven Commissioners, the shipowners shall elect five Commissioners, and the importers and exporters shall elect one Commissioner. Every such meeting shall be held at such convenient place in Sunderland as the Commissioners from time to time appoint, and between the hours of ten in the forenoon and four in the afternoon, and the Commissioners shall give not less than four nor more than ten days public notice specifying the time and place thereof.

33. At every meeting of the coalowners and of the shipowners, and of the importers and exporters respectively, a person appointed by the meeting shall preside as chairman, and shall receive the votes and act in all other respects as chairman of the meeting, and the only business to be transacted or discussed at any such meeting shall be the election of Commissioners.

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Procedure at the meetings.

34. The persons to be from time to time elected by the coalowners and by the shipowners, and by the importers and exporters respectively, shall be elected by a majority of the votes of the persons present personally or by proxy, and entitled to vote at the meeting for the election, and the votes shall be given in writing under the hands of the voters: Provided that in every case of an equality of votes the chairman of the meeting shall, when requisite to decide the election, have an additional or casting vote.

Election to be by majority of votes.

35. On the third Wednesday in September one thousand eight hundred and seventy-seven, and on the third Wednesday in September of every subsequent third year, seven of the Commissioners elected by the coalowners, and five of the Commissioners elected by the shipowners, and one of the Commissioners elected by the importers and exporters, shall retire from office, and at the first meeting of the Commissioners after the third Wednesday in September one thousand eight hundred and seventy-seven, and on the third Wednesday in September of every subsequent third year, three of the Commissioners elected as landowners by the Commissioners shall retire from office, and the vacancies occasioned by every such retirement shall be supplied by the election of Commissioners as by this Act and the Wear Navigation and Sunderland Dock Act, 1863, is provided.

Triennial retirement of Commissioners.

36. With respect to the Commissioners elected by the coalowners and by the shipowners, and the Commissioners elected as landowners by the Commissioners, and the Commissioners elected by the importers and exporters respectively, their respective rotation for retirement from office shall be regulated by and according to the rotation lists in force immediately before the passing of this Act.

Rotation of Commissioners.

37. In every case of an extraordinary vacancy in the office of Commissioner elected by the Sunderland Corporation, or Commissioner appointed by the proprietors of the North Dock, the Commissioners shall, within one month after they have notice of such vacancy, give notice thereof as regards the Sunderland Corporation to the town clerk of the borough, and as regards the proprietors of the North Dock to their secretary or other principal officer.

Notice to Sunderland Corporation and proprietors of North Dock of extraordinary vacancies in commission.

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Meetings of coalowners, shipowners, and importers and exporters for supply of extraordinary vacancies in commission.

Notices to owners and occupiers for removal of impediments, &c.

Removal of impediments, &c. on refusal of permission for works.

Power for Commissioners to remove impediments, rebuild quays, &c., and recover expenses.

38. In every case of any extraordinary vacancy happening after the thirty-first day of December one thousand eight hundred and seventy-four in the office of Commissioner elected by the coalowners or the shipowners, or the importers and exporters, the Commissioners shall convene a special meeting of the proper body for the election by them of a Commissioner or Commissioners to supply the vacancy : Provided always, that it shall not be imperative on the Commissioners to convene any such meeting to be held in any month other than the month of January or July.

39. Under section forty-two of the Wear Act, 1830, notice may be given, if and when the Commissioners think fit, to owners and occupiers of lands in or in connexion with which any impediments, annoyances, or obstructions in the river Wear or in the port and haven of Sunderland are from time to time done, committed, or permitted, as well as to the persons doing, committing, or permitting the same, or in lieu of those persons or any of them, and in case the respective impediments, annoyances, and obstructions are not remedied or removed, then the respective persons to whom notice is given under the authority of this section shall be liable to the like forfeitures as under section forty-two of the Wear Act, 1830, owners and occupiers are liable to in case of quays, staiths, and wharfs not duly built, repaired, or amended, and for the purposes of this enactment the powers of the committee of survey conferred by the forty-first section of the Wear Act, 1830, shall extend to the said port and haven of Sunderland.

40. Where on an application by an owner or occupier under section ninety-nine of the Wear Navigation and Sunderland Dock Act, 1859, the Commissioners withhold permission for the proposed works, and the applicant does not appeal against their determination, or on appeal fails to obtain permission for the proposed works, then if the proposed works or any of them are made or erected by any person the same shall be deemed to be impediments, annoyances, and obstructions within section forty-two of the Wear Act, 1830, as amended and extended by this Act, as if the same had been comprised in such a report as in that section mentioned.

41. Where under section forty-two of the Wear Act, 1830, as amended and extended by this Act, any person becomes liable to any forfeiture, the Commissioners (whether they have proceeded for recovery of a forfeiture or not) may, if they think fit, remedy or remove the impediment, annoyance, or obstruction, or rebuild, repair, and amend the quay, staith, or wharf in relation to which the forfeiture is incurred (as the case may be), and for that purpose

may, by their engineers, agents, servants, and workmen, enter and continue on the lands on or in connexion with which the impediment, annoyance, or obstruction is done, committed, or permitted, or on the quay, staith, or wharf, and the lands on or in connexion with which the same exists, as often and as long as they think necessary, and they may recover, by proceedings in any court of competent jurisdiction, from all or any of the persons liable to forfeitures as aforesaid, all expenses incurred by the Commissioners in or in relation to the execution of the powers of this section, with full costs.

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42. Where an owner of lands is under any of the Commissioners Acts or this Act made liable to any forfeiture, expenses, or costs in respect of any such impediment, annoyance, obstruction, quay, staith, or wharf as aforesaid, then, if the liability thereto has been incurred by him through the act, permission, or default of any occupier or tenant of the lands of such owner, he may recover from that occupier or tenant, his executors or administrators, by proceedings in any court of competent jurisdiction, the amount of the forfeitures, expenses, and costs paid or incurred by such owner in or in relation to the remedying or removing by him or by the Commissioners of the impediment, annoyance, or obstruction, or the rebuilding, repairing, or amending of the quay, staith, or wharf, as the case may be.

Remedy for owner against occupier.

43. Nothing in this Act shall extend to make any person liable to any forfeiture or liability in respect of any impediment, annoyance, or obstruction done, committed, or permitted, or any quay, staith, or wharf not duly rebuilt, repaired, or amended, before the passing of this Act, to which he would not have been liable if this Act had not been passed.

Saving for past acts, &c.

44. Nothing in this Act shall extend to relieve any person doing, committing, or permitting any impediment, annoyance, or obstruction, or not duly rebuilding, repairing, or amending any quay, staith, or wharf, from any forfeiture or liability to which he would have been liable if this Act had not been passed.

Saving for liabilities under other Acts.

45. The Commissioners may use locomotive engines on any of their railways or tramways, and may take such tolls and charges in respect thereof, and for haulage and other special services rendered by the Commissioners, as they think reasonable, and all the rights, powers, and remedies of the Commissioners under any of their existing Acts for the recovery of any tolls, rates, or charges authorised by those Acts or any of them shall extend and apply to the tolls, rates, and charges by this Act authorised.

Locomotive tolls and charges for special services.

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Com-
mis-
sioners may
act as jus-
tices.

46. Justices of the peace being also Commissioners may, if acting in petty sessions or at quarter sessions, notwithstanding their being such Commissioners, exercise the jurisdiction vested in them as such justices.

Saving for
rights of
Commis-
sioners.

47. Nothing in this Act shall take away, abridge, or prejudicially affect any right, power, or remedy which the Commissioners would have had or might have enjoyed or exercised at common law or by statute or otherwise if this Act had not been passed.

Saving rights
of the Crown.

48. Nothing contained in this Act shall authorise the Commissioners to take, use, or in any manner interfere with any land, soil, tenements, or hereditaments, or any rights of whatsoever nature, belonging to or enjoyed or exerciseable by the Queen's most Excellent Majesty in right of her Crown, and under the management of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of them, without the previous consent in writing of the same Commissioners, or one of them, on behalf of Her Majesty first had and obtained for that purpose (which consent such Commissioners are hereby respectively authorised to give); and, as incidental to any such consent as aforesaid, the Commissioners may enter into any agreement with the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of them, who respectively may, with the approval of the Commissioners of Her Majesty's Treasury, join in every such agreement; and the said Commissioners of Her Majesty's Woods, Forests, and Land Revenues, with the like approval, and the Commissioners may respectively execute all necessary conveyances, leases, licenses, or other deeds of or relating to any land, hereditaments, or rights belonging to Her Majesty in right of her Crown, and under the management of the Commissioners of Woods, and every agreement so entered into as aforesaid shall be performed by the same Commissioners of Woods and Commissioners respectively; and nothing in the said Act or Acts contained shall divest, take away, prejudice, diminish, or alter any estate, right, privilege, power, or authority now or from time to time vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

Expenses of
Act.

49. The costs, charges, and expenses preliminary to and of and incidental to the preparing of and applying for and the obtaining and passing of this Act shall be paid by the Commissioners.

SCHEDULE referred to in the foregoing Act.

AN AGREEMENT, made the twenty-second day of April one thousand eight hundred and seventy-four, between the owners of the railway made or maintained under "The Londonderry Railway (Seaham to Sunderland) Act, 1863," (in this agreement referred to as the Londonderry Railway,) by Ralph Park Philipson, of the town and county of Newcastle-upon-Tyne, their agent lawfully thereunto authorised, of the one part, and the River Wear Commissioners (in this agreement called the Commissioners), of the other part; to which agreement is annexed a plan signed by Matthew Waister on behalf of the owners of the Londonderry Railway, and by Henry Hay Wake on behalf of the Commissioners (which plan is in this agreement referred to as the plan).

In consideration of the mutual benefits to accrue under this agreement, the owners of the Londonderry Railway, for themselves and for those owners for the time being, and the Commissioners, for themselves and their successors, hereby mutually agree as follows; (that is to say,)

1. The owners of the Londonderry Railway shall grant and convey to the Commissioners absolutely the land coloured green on the plan (which land is in this agreement referred to as the green land).

2. The Commissioners shall not lay down any rails on the green land within three feet six inches of the western boundary thereof.

3. The Commissioners shall have the right to carry a double line of rails on the level across the Londonderry Railway, and across the land lying between it and the Durham and Sunderland branch of the railways of the North-eastern Railway Company, and may make that level crossing over the Londonderry Railway either at the point shown in that behalf on the plans deposited for the Commissioners Bill now pending in Parliament (in this agreement referred to as the Commissioners Bill) or at any point not more than three hundred yards southward thereof, as the owners of the Londonderry Railway and the Commissioners agree.

4. If at any time any difference arises between the owners of the Londonderry Railway and the Commissioners respecting the cabins, signals, and approaches for the level crossing aforesaid, or the byelaws to be observed by the owners of the Londonderry Railway and the Commissioners in relation to the working thereof, the same shall be determined by an arbitrator appointed by the Board of Trade on the application of either party, but at the costs in all respects of the Commissioners.

[Ch. cxxxix.] *The Wear Navigation and Sunderland Dock Act, 1874.* [37 & 38 VICT.]

A.D. 1874.

5. All expenses of the level crossing aforesaid, and of working, watching, and maintaining the same, and the necessary signals connected therewith, shall be borne solely by the Commissioners.

6. The Commissioners shall grant and convey to the owners of the Londonderry Railway absolutely the land coloured purple on the plan (in this agreement referred to as the purple land).

7. The Commissioners shall, with all reasonable despatch, construct and complete a spout (in this agreement called Spout No. 31) at the north quay, on the west side of the junction entrance of the Hendon Dock, and the owners of the Londonderry Railway shall have the exclusive use of that spout for the shipment of coal conveyed on that railway, as long as the quantity of coal brought down the said Londonderry Railway for shipment at the said docks renders the use of the said spout reasonably requisite for such shipment.

8. The Commissioners shall, as far as their own land extends, construct all necessary and proper lines of rails (herein-after called the approaches) for connecting the Spout No. 31 with the Londonderry Railway, and the said owners shall connect their said railway with the said approaches.

9. The owners of the Londonderry Railway shall, in respect of their use of Spout No. 31, pay to the Commissioners the same dues and charges as they for the time being pay in respect of the shipment in the Commissioners South Hudson Dock of coal carried on the Londonderry Railway.

10. If at any time the owners of the Londonderry Railway require additional shipping facilities in the Commissioners Hendon Dock, they shall have all necessary and convenient powers for the use of the railway or railways to be formed by the said Commissioners upon their own land, so as to join the Londonderry Railway with the railways of the Commissioners authorised by the Bill; and if at any time any difference arises between the owners of the Londonderry Railway and the Commissioners respecting the reasonable requirements in that behalf of the owners, the same shall be referred to and determined by the Board of Trade on the application of either party.

11. In case the owners of the Londonderry Railway exercise the powers in the last foregoing article of this agreement mentioned, they shall pay to the Commissioners for the accommodation afforded and services rendered on the railways of the Commissioners, and at the drops and spouts used in connexion therewith, such rates, dues, and charges as are for the time being paid by the said owners for the like accommodation and services rendered in respect of Drop No. 31, with such additional rates and charges (if any) in respect of leackage over or use of the said intended railways as the Board of Trade shall determine.

12. "The Railway Companies Arbitration Act, 1859," shall apply to every arbitration under this agreement, and this agreement shall be deemed a reference to arbitration under that Act, and that Act shall have effect in relation thereto as if the owners of the Londonderry Railway and the Commissioners were two railway companies.

13. The applications to the Board of Trade made by the Commissioners and the owners of the Londonderry Railway respectively for a revision of the orders of the Board of Trade mentioned in and confirmed by section 146 of "The Wear Navigation and Sunderland Dock Act, 1859," and now pending before the said Board, shall on the execution of this agreement be not further proceeded with.

[37 & 38 VICT.] *The Wear Navigation and Sunderland Dock Act, 1874.* [Ch. cxxxix.]

A.D. 1874.

14. The owners of the Londonderry Railway shall withdraw their opposition to the Commissioners Bill, and will assist the passing thereof.

15. The Commissioners shall, on the twenty-third day of November next, pay to the owners of the Londonderry Railway the sum of six thousand pounds, which sum shall be paid and accepted in full satisfaction and discharge of all rights and claims to compensation of and by the owners of the Londonderry Railway in respect of the green land and of the works authorised by the Commissioners Bill. The said sum of six thousand pounds shall be paid by the bond of the Commissioners, repayable at five years from the said date, and bearing interest at four pounds ten shillings per centum per annum in the meantime, payable half-yearly.

16. This agreement shall, if the parties desire and Parliament permit, be confirmed by the Commissioners Bill, and it is made subject to such alterations (if any) as Parliament think fit to make therein by the Commissioners Bill.

17. Nothing herein contained shall alter or affect the powers vested in the Board of Trade under the Commissioners Acts or any of them.

Witness to the signature of the said }
Ralph P. Philipson,

R. P. PHILIPSON.

R. W. COOPER,
Clerk to Messrs. R. P. & H. Philipson,
Solicitors,
Newcastle-on-Tyne.

Witness to the signature of Mr. }
James Laing,

RALPH SIMEY,
Solicitor,
Sunderland.

JAMES LAING,
Chairman, River Wear Commissioners,
22nd April 1874.

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