



Improvement of Land Act 1864

1864 CHAPTER 114

Execution of Improvements

And with regard to the Execution of any Improvements, be it enacted as follows:

30 Detailed Specifications to be delivered in advance.

Before the Commencement of any Improvements sanctioned in manner aforesaid the Landowner shall deliver to the Commissioners a detailed Specification thereof, and in the Case of Buildings, and also in any other Case where the same shall be required by the Commissioners, a detailed Plan or Drawing: Provided that when it is not intended to complete the Improvements within One Year from the Date of the provisional or other sanctioning Order, the Specification and Plan or Drawing first delivered may comprise so much only as it is intended to complete within One Year from the said Date, so, however, that for the Works of each successive Year such Specification and Plan or Drawing as aforesaid be always delivered in advance.

31 And approved before Execution of Works.

The Specifications and Plans or Drawings aforesaid shall be examined and, if necessary, the Spot visited by an Assistant Commissioner, or an Engineer or Surveyor, who shall report whether in his Judgment the Improvements as proposed to be effected will be effected in a substantial and durable Manner, and, in the Case of Farm Buildings, whether the same, or the Improvements thereof or Additions thereto, will be suitable to the Locality ; and no Improvement shall be commenced or proceeded with until the Specifications and Plans or Drawings aforesaid shall have been approved by the Commissioners; but nothing herein contained shall render necessary the Redelivery, Reexamination, or Reapproval of any detailed Specifications, Plans, or Drawings which may have been delivered in connexion with the Application for the Commissioners' Sanction to the general Scheme of the Improvements, and may have been approved in connexion with that Sanction.

32 Adjoining Lands, or Easements over them, may be sold for Purpose of Improvements, and Conveniences over adjoining Lands for the Execution of Improvements contracted for.

All Persons interested in any Lands adjoining or near to the Land improved or proposed to be improved, and being, as to Lands in *England* or *Ireland* by the Provisions of " The Lands Clauses Consolidation Act, 1845," and as to Lands in *Scotland* by the Provisions of " The Lands Clauses Consolidation (*Scotland*) Act, 1845," enabled to sell and dispose of such Lands so adjoining or near, or any Estate or Interest therein, may, for the Purpose of any Improvements authorized by this Act, sell and convey or grant to the Landowner whose Land has been or is proposed to be improved such Lands so adjoining or near, or any Part thereof, or any Easement, Authority, or Right in, through, over, or affecting the same, and any such Land, Easement, Authority, or Right so sold and conveyed or granted shall thereupon become appurtenant to or pertinent of the Lands improved or proposed so to be, and with reference to the Improvements whereof the same was purchased and shall be held upon and subject to the same Uses, Trusts, Charges, and Incidents; and all such Persons as aforesaid may also make any Agreement with the Landowner, or with any Person or Company that shall have contracted for the actual Execution of the Improvements, or their respective Agents, with reference to entering on, cutting through or into, or prejudicially affecting such Lands so adjoining or near; and every such Sale, Conveyance, Grant, and Agreement shall be valid and effectual accordingly, and the Price or Consideration shall be settled by Two Surveyors or a Surveyor to be appointed by them in manner provided by the Ninth Section of " The Lands Clauses Consolidation Act, 1845," or, as the Case may be, by the Ninth Section of " The Lands Clauses Consolidation (*Scotland*) Act, 1845," and shall be deposited as directed by the same respective Sections, and thenceforth become subject to the Provisions of the same respective Acts.

33 Works necessary to be made on adjoining Lands for Execution of Improvements may be made under certain Acts.

Whenever the Commissioners shall think that it may be expedient, in order to obtain or improve an Outfall for draining or warping any Lands under this Act, or otherwise with a view to the Improvement of any Lands under this Act, to enter and execute any Works upon any Land adjoining or near to the Land proposed to be improved, where, by reason of the Objection or Disability of any Owner, Lessee, or Occupier of such Land, such Works could not be otherwise executed, Proceedings may be taken, if the said Lands shall lie in *England*, either under the Provisions of the Act of the Tenth and Eleventh Years of the Reign of Her present Majesty, Chapter Thirty-eight, intituled *An Act to facilitate the Drainage of Lands in England and Wales*, or under those of the Third Part of the Land Drainage Act, 1861, and, if in *Scotland*, under the Provisions of the Act of the Tenth and Eleventh Years of the Reign of Her present Majesty, Chapter One hundred and thirteen, intituled *An Act to facilitate the Drainage of Lands in Scotland*, but as though in such Act the Inclosure Commissioners for *England* and *Wales* had everywhere been named in place of the Sheriff; and if such Proceedings shall have been taken before the Sanction of the Improvements in question by the Commissioners under this Act, the Commissioners may, by their Order sanctioning such Improvements, declare the Works in respect of which they shall have been taken to be expedient, and such Works shall then be deemed to have been authorized by the Commissioners or by the Sheriff, as the Case may be, and the Provisions of the said respective Acts shall apply to them accordingly.

34 Provisional Order to protect from Impeachment of Waste, and to authorize getting Materials from Land, &c.

Every Provisional or Modifying Order shall be a full Authority to the Landowner or successive Landowners and their Representatives in the respective Cases herein-before dennd, and to all Persons employed by or under Contract with him or them respectively, to enter upon the Lands to be improved, and any adjoining or neighbouring Lands acquired or authorized to be entered under either of the Two last preceding Sections, and to execute in and on the same, without Impeachment of Waste by any Remainderman or Reversioner, all the Improvements sanctioned by the same Order according to the Specifications and Plans or Drawings approved by the Commissioners, and to do, execute, and use all such Acts, Works, and Conveniences as may be proper for making, maintaining, and using such Improvements; and for the Purpose of effecting any Improvement under this or the recited Acts it shall be lawful to get and work Freestone, Limestone, Clay, Sand, and any other Mineral or Substance out of the Land to be improved for charged, and to make Tramroads and other Ways, and to burn and make Bricks, Tiles, and other Things to be used in effecting such Improvements, and also for the same Purpose to cut down and use any Timber or Trees not planted or serving for Shelter or Ornament.

35 Saving Rights of the Crown.

Nothing in this Act contained shall authorize any Person to purchase, take, use, or interfere with, or the Commissioners to make any Order with respect to any Land, Soil, or Water, or any Right in respect thereof, belonging to Her Majesty in right of Her Crown, without the previous Consent in Writing of the Commissioners for the Time being of Her Majesty's Woods, Forests, and Land Revenues, or, if the Property should be under the Management or Control of Her Majesty's Commissioners of Works and Public Buildings, without the Consent in Writing of such last-mentioned Commissioners, which Consent the said respective Commissioners are hereby authorized to give; and nothing in this Act contained shall divert, alter, or affect any of the Rights, Powers, or Estates vested in Her Majesty in right of Her Crown.

36 Saving Rights of the Commissioners of Her Majesty's Works, &c.

Nothing in this Act contained shall authorize any Person to purchase, take, use, or interfere with, or the Commissioners to make any Order with respect to any Land, Soil, or Water, or any Right in respect thereof, the Management or Control of which may be vested in the Commissioners of Her Majesty's Works and Public Buildings on behalf of or in trust for Her Majesty or the Public, without the Consent in Writing of the last-mentioned Commissioners, which they are hereby authorized to give.

37 Saving Rights of Duchy of Cornwall.

Nothing in this Act contained shall authorize any Person to take, use, enter upon, or interfere with any Land, Soil, or Water, or any Rights in respect thereof, belonging to the Sovereign for the Time being in right of the Duchy of *Cornwall*, without the Consent in Writing of some Two or more of the regular Officers of the said Duchy, or of such other Persons as may be duly authorized under the Provisions of "The Duchy of *Cornwall* Management Act, 1863," Section Thirty-nine, to exercise all or any of the Rights, Powers, Privileges, and Authorities by the said Act made exerciseable or otherwise for the Time being exerciseable in relation to the said Duchy, or belonging to the Duke of *Cornwall* for the Time being, without the Consent of such Duke,

testified in Writing under the Seal of the Duchy of *Cornwall*, first had and obtained for that Purpose, or to take away, diminish, alter, prejudice, or affect any Property, Rights, Profits, Privileges, Powers, or Authorities vested in or enjoyed by the Duke of *Cornwall* for the Time being, or in or by the Sovereign for the Time being in right of the Duchy of *Cornwall*.

38 Saving Rights of Duchy of Lancaster.

Nothing in this Act contained shall authorize any Person to purchase, take, use, or interfere with any Lands, Soil, or Water, or any Right in respect thereof, belonging to Her Majesty, Her Heirs or Successors, in right of the Duchy of *Lancaster*, without the previous Consent in Writing of the Chancellor of the said Duchy of *Lancaster*, which Consent such Chancellor is hereby authorized to give, or to take away, lessen, prejudice, or alter any of the Rights, Privileges, Powers, or Authorities vested in or enjoyed by Her Majesty, Her Heirs or Successors, in right of the said Duchy of *Lancaster*.

39 Saving Rights of the Admiralty, and of the Board of Trade.

Nothing in this Act contained shall authorize any Person to purchase, take, use, or interfere with any Land, Soil, or Water, or any Right in respect thereof, or to take away, lessen, prejudice, or alter any of the Rights, Privileges, Powers, or Authorities vested in or enjoyed by the Lord High Admiral, or the Commissioners for the Time being for executing the Office of Lord High Admiral (hereinafter designated the Admiralty), or vested in or enjoyed by the Lords of the Committee of Her Majesty's Privy Council for Trade and Foreign Plantations (herein-after designated the Board of Trade), without the previous Consent of the Admiralty signified in Writing under the Hand of the Secretary of the Admiralty (which Consent the Admiralty are hereby authorized to give), or, as the Case may be without the previous Consent of the Board of Trade signified in Writing under the Hand of One of the Secretaries of the said Board.

40 Plans to be deposited with Admiralty before commencing Works below High-water Mark.

With respect to any Harbour, Port, Bay, Estuary, or navigable River, or Part thereof, comprised in any Notice from Time to Time given by the Admiralty under Section Nine of " The Harbours Transfer Act, 1862," previously to commencing any Work below High-water Mark there shall be deposited at the Admiralty Office Plans, Specifications, and Working Drawings thereof for the Approval of the Admiralty, such Approval to be signified in Writing under the Hand of the Secretary of the Admiralty and with respect to all other Parts where the Tide flows, previously to commencing any Work below High-water Mark there shall be deposited at the Office of the Board of Trade Plans, Specifications, and Working Drawings thereof for the Approval of the Board of Trade, such Approval to be signified in Writing under the Hand of One of the Secretaries of the said Board, and any such Work shall be constructed only in accordance with such respective Approval ; and when any such Work shall have been commenced or constructed, it shall not be lawful at any Time to alter or extend the same without obtaining, previously to making any such Alteration or Extension, the like respective Consent and Approval; and if any such Work shall be commenced or completed, or be altered, extended, or constructed, contrary to the Provisions of this Act, it shall be lawful for the Admiralty or the Board of Trade, as the Case may require, to abate, alter, and remove the same, and to restore the Site thereof to its former

Condition, at the Cost and Charge of the Person or Company that executed the said Work, the Amount of which Cost and Charge shall be a Debt due from such Person or Company to the Crown, and be recoverable accordingly, with Costs of Suit.

41 Landowner to pay Expenses of Survey ordered by Admiralty.

If at any Time or Times it shall be deemed expedient by the Admiralty or the Board of Trade, as the Case may require, to order a local Survey and Examination of any Embankment or Work proposed to be constructed under the Powers of this Act in, over, or affecting any tidal or navigable Water or River, or of the intended Site thereof, the Landowner shall defray the Costs of every such local Survey and Examination, and the Amount thereof shall be a Debt due to Her Majesty from the Landowner, and if not paid upon Demand may be recovered as a Debt due to the Crown, with the Costs of Suit, or may be recovered, with Costs, as a Penalty is or may be recoverable from the Landowner.

42 Saving Rights of Her Majesty's Principal Secretary of State for War.

Nothing in this Act contained shall authorize any Person to purchase, take, use, or interfere with any Land, Soil, or Water, or any Right in respect thereof, or to take away, lessen, prejudice, or alter any of the Rights, Privileges, Powers, or Authorities, vested in or enjoyed by Her Majesty's Principal Secretary of State for the War Department for the Time being, without the previous Consent of the same Principal Secretary signified in Writing under his Hand, which Consent the said Principal Secretary for the Time being is hereby authorized to give.

43 Rights of Commissioners of Sewers saved.

Nothing in this Act contained shall take away, lessen, prejudice, or alter any of the Rights, Privileges, Powers, or Authorities vested in or to be discharged by any Commissioners of Sewers appointed by any Commission under the Great Seal or under the Seal of the Duchy of *Lancaster*, or in or by any other lawful Commission of Sewers, or the Commissioners appointed under any Local or Private Acts of Parliament for Sewers or Drainage ; nor shall any Work be done which in any way interferes with any Sewers, Drains, or Watercourses under the Control of any Commissioners of Sewers; and no new Sewers, Drains, Watercourses, or Works of Drainage shall be made or done under the Powers of this Act within the District and Jurisdiction of any such Commissioners, unless the same be previously approved by those Commissioners; and all such Works shall be carried on and completed under the Direction and Control of the same Commissioners and their Officers; and all Sewers, Drains, Watercourses, and Works of Drainage made under this Act within the District and Jurisdiction of any Commissioners of Sewers shall be and remain subject in all respects to the Jurisdiction of those Commissioners; and whenever any Works under this Act would intersect or interfere with any Sewer, Drain, or Watercourse under the Control of any such Commissioners, the Person or Company executing the same shall, before any such Works be made, construct such proper Sewers or Works of Drainage, and also comply with such Orders and Regulations, as those Commissioners shall require or make to guard against Injury to the Drainage of the District.

44 Works connected with Thames to be executed under Direction of Conservators of Thames.

All Works executed under the Authority of this Act in or connected with the River *Thames*, or the Towing-path thereof, within the Jurisdiction of the Conservators of the River *Thames*, shall, in addition to the Approval of such Works by the Admiralty, so far as herein-before made necessary, be executed according to a Plan to be approved of by such Conservators, and to be deposited at their Office; and such Works shall be executed and performed to the Satisfaction of the Engineer for the Time being of such Conservators; and nothing herein contained shall extend to prejudice or derogate from the Estates, Rights, Interests, Liberties, Privileges, or Franchises of the Conservators of the River *Thames*, or to prohibit, defeat, alter, or diminish any Power, Authority, or Jurisdiction which at the Time of the passing of this Act the said Conservators did or might lawfully claim, use, or exercise.

45 . Metropolitan Board of Works, &c. protected.

Where any of the intended Works to be done under or by virtue of this Act shall or may pass over, under, or by the Side of, or so as prejudicially to interfere with, any Sewer, Drain, Watercourse, Defence, or Work under the Jurisdiction or Control of the Metropolitan Board of Works, or of any Vestry or District Board constituted under the "Metropolis Local Management Act, 1855," or any Sewers or Works to be made or executed by any such Board or Vestry, or shall or may in any way prejudicially affect the Sewerage or Drainage of the Districts under the Control of any such Board or Vestry, the Person or Company executing such Works shall not commence the same until he or they shall have given to the said Metropolitan or District Board or Vestry, as the Case may be, Fourteen Days previous Notice in Writing of his or their Intention to commence them, by leaving such Notice at the principal Office of such Board or Vestry, as the Case may be, for the Time being, with a Plan and Section showing the Course and Inclination of the intended Works, and other necessary Particulars relating thereto, and until such Board or Vestry respectively shall have signified their Approval of the same, unless such Board or Vestry, as the Case may be, do not signify their Approval, Disapproval, or other Directions within Fourteen Days after Service of the said Plan, Sections, and Particulars as aforesaid; and such Person or Company shall comply with and conform to all Directions and Regulations of the respective Board or Vestry in the Execution of the said Works, and shall provide any new, altered, or substituted Works in such Manner as such Board or Vestry may deem necessary for the proper Protection of the Sewers and Works herein-before referred to, and for preventing Injury or Impediment thereto by or by reason of the said intended Works or any Part thereof, and shall save harmless the said Metropolitan or District Board or Vestry respectively against all and every Expense to be occasioned thereby; and all such Works as may be so required shall be done by or under the Direction, Superintendence, and Control of the Engineer or other Officer or Officers of the said Metropolitan or District Board or Vestry, as the Case may be, at the Costs, Charges, and Expenses in all respects of the Landowner; and when any new, altered, or substituted Works as aforesaid, or any Works of Defence connected therewith, shall be completed under the Provisions of this Act, the same shall thereafter be as fully and completely under the Direction, Jurisdiction, and Control of the said Boards and Vestry respectively as any Sewers or Works now are or hereafter may be; and nothing in this Act shall extend to prejudice, diminish, alter, or take away any of the Rights, Powers, or Authorities vested or to be vested in the said Boards and Vestries, or any of them, or their Successors,' but all such Rights, Powers, and Authorities shall be as valid and effectual as if this' Act had not been passed.

46 Water Companies and Commissioners protected.

Nothing in this Act contained shall authorize any Person to take, otherwise than by Agreement, any Land of any Waterworks Company or Waterworks Commissioners, or to alter or interfere with any Works or Property of any such Company or Commissioners, without their previous Consent in Writing, or to authorize any Person to foul or otherwise injuriously interfere with or affect any Stream or Supply of Water which any Waterworks Company or Waterworks Commissioners are authorized to use for the Purposes of their Undertaking.

47 Rivers, Canals, &c. protected.

All Works executed under the Authority of this Act in or connected with any River, Canal, or Inland Navigation, or the Banks or Towing-paths or Works thereof, vested in or under the Jurisdiction or Management of any Corporation, Conservators, Trustees, Commissioners, Undertakers, or Individuals, or in respect of the Navigation whereon or the Use whereof any such Corporation, Conservators, Trustees, Commissioners, Undertakers, or Individuals are entitled by virtue of any Act of Parliament to the Receipt of any Tolls or other Dues, shall be executed according to a Plan to be approved by such Corporation, Conservators, Trustees, Commissioners, Undertakers, or Individuals, and to be deposited at their Office, and such Works shall be executed, maintained, and performed to the reasonable Satisfaction of the Engineer for the Time being of such Corporation, Conservators, Trustees, Commissioners, Undertakers, or Individuals; and nothing in this Act contained shall prejudice or derogate from the Estates, Powers, Rights, Interests, Liberties, Privileges, or Franchises of such Corporation, Conservators, Trustees, Commissioners, Undertakers, or Individuals, or prohibit, defeat, alter, or diminish any Right, Power, Authority, or Jurisdiction which, at the Time of the passing of this Act, such Corporation, Conservators, Trustees, Commissioners, Undertakers, or Individuals did or might lawfully claim, use, or exercise.

48 Commissioners may inspect Works.

The Commissioners shall, if and as they see Occasion, cause any Improvements in progress under this Act to be inspected by a Commissioner or Assistant Commissioner, or an Engineer or Surveyor, to ascertain the due Execution thereof.