



Improvement of Land Act 1864

1864 CHAPTER 114

Subscription to Railways

And with regard to charging Lands with Money subscribed for the Construction of Railways, be it enacted as follows :

78 Conditions for Application to Commissioners.

In case any Landowner shall be desirous of subscribing for any Shares or Stock in the Capital, whether original or additional, of a Company having Power to construct a Railway or navigable Canal, or any Branch or Extension Railway or, navigable Canal, or any Deviation of a Line of Railway or a navigable Canal already sanctioned, the Works for which such Subscription is to be made being unfinished, or in any additional Capital to be raised for the Completion of any such Railway, Canal, Branch, Extension, or Deviation, the same being upon or near to and which will improve or benefit the Lands of such Landowner, and who shall be desirous that such Amount, or any Part thereof, may be charged upon the Lands so to be improved, it shall be lawful for him to apply to the Commissioners for that Purpose within the Time limited by the Railway or Canal Company's Act or Acts for the Construction of the Works in question.

79 Commissioners Proceedings on Application.

If the Commissioners shall think fit to entertain such Application, they shall cause all such Inquiries to be made, and take all such other Steps, as shall seem to them expedient for obtaining Information as to the Circumstances ; and all the Provisions of the Thirteenth, Fourteenth, Fifteenth, Seventeenth, Eighteenth, Twentieth, Twenty-first, Twenty-second, Twenty-third, Twenty-fifth, and Fifty-first Sections of this Act shall apply to the Case as though an Improvement were to be made of the Lands proposed to be charged.

80 Provisional Order sanctioning Charge.

If the Commissioners shall be satisfied that the Railway or Canal, when constructed and open for Traffic, will effect a permanent Increase of the yearly Value of the Lands exceeding the yearly Amount proposed to be charged thereon, they shall execute and

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deliver to the Landowner a Provisional Order, under their Seal and the Hands of Two of them, expressing their Sanction of the Charge proposed ; and such Order shall be made as near to the Form set forth in the Schedule (A.) to this Act as the Circumstances will permit, and shall, with the Right to a Charge thereby created, be assignable by Endorsement, either absolutely or by way of Security, to any Company or Person that may agree to advance, by paying the same to the Railway or Canal Company, the Amount authorized to be charged, and Notice of such Assignment shall be given to the Commissioners, and shall be registered by them.

81 Companies empowered to lend.

Every Company empowered by Act of Parliament to lend Money for the Improvement of Land is hereby empowered to advance, by paying the same to the Railway or Canal Company any Money authorized to be charged in manner aforesaid.

82 Commissioners Absolute Order and its Conditions.

When the Railway or Canal shall have been completed and opened throughout for public Traffic, and as many Shares in the Capital of the Railway or Canal Company subscribed for or held as aforesaid by the Landowner as shall be equal in nominal Amount to the Money authorized to be charged shall have been fully paid up, and the Certificates for such Shares shall have been deposited by the Landowner with the Commissioners, the Commissioners shall, by an Absolute Order under their Hands and Seal, execute to the Landowner or his Assignees a Charge upon the Inheritance or Fee of the Lands in question of the Amount authorized as aforesaid to be charged, and may, if the Landowner shall so desire, include, with the Principal-Money so charged, the Costs, Charges, and Expenses of the Application and Orders, and of any Advance which may have been made to him of the Amount authorized to be charged, and such settled or taxed Costs and Interest as mentioned in the Fiftieth Section hereof, subject nevertheless to the Proviso in the same Section contained.

83 Form and Effect of Absolute Order.

Such Absolute Order shall be made in the Form in the Schedule (B.) to this Act annexed, or as near thereto as the Circumstances will permit, and all the Provisions of this Act relating to Absolute Orders, whether in respect of the Form or Effect of such Charges or Orders or otherwise, except only the Provisions for the Apportionment and Release of such Charges, shall apply to Absolute Orders under the last preceding Section as far as the Circumstances admit.

84 Notice thereof to be entered in Register of Shareholders.

The Landowner shall forthwith give Notice to the Railway or Canal Company of the Execution of such Absolute Order, and of the Deposit of such Certificates with the Commissioners, and thereupon the Company shall make an Entry or Memorial in their Register of Shareholders with respect to such Shares of the Fact of such Absolute Order having been executed.

85 Person liable to pay Charge to be entitled for the Time being to the Shares.

From the Time of such Notice, and during the whole Term of the Charge created by such Absolute Order, the Person who for the Time being shall be bound to make the

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periodical Payments of such Charge shall be entitled to the said Shares, and if the same shall not at the Time being be registered in his Name, the Person registered as the Holder thereof shall, as between himself and the Person so entitled, hold them in trust for such last-mentioned Person.

86 And to have them stand in his own Name.

The Person so for the Time being entitled may at any Time require the Person registered as the Holder of the said Shares, or his Representatives, to transfer to him the said Shares, and such Transfer shall thereupon be made accordingly, but at the Expense in all respects of the Transferee; and upon the Production of such Transfer duly stamped, and of a Certificate by the Commissioners under their Hands and Seal that the Transferee is the Person at the Time being bound to make the periodical Payments of the said Charge, the Railway or Canal Company shall register such Transfer.

87 Rights and Duties of Persons registered for the Time being in respect of the Shares.

With the Exception of such Transfers as may from Time to Time be made for the Purpose of transferring the Shares to the Person so for the Time being entitled thereto, the said Shares shall not under any Circumstances be transferred or disposed of by the registered Holder, whether he be the Person for the Time being entitled thereto or not, during the Term of the said Charge ; but during the Term of such Charge the registered Holder for the Time being of the said Shares shall have all the other Rights and Powers of a Shareholder in the Railway or Canal Company in respect of the said Shares; and the Railway or Canal Company shall not be bound to see to the Application of any Dividend received by such registered Holder, but as between himself and the Person or Persons for the Time being entitled to such Shares he shall hold any Dividend which may be received by him in trust for the Person who, at the Time when such Dividend became payable, was the Person entitled to the said Shares.

88 Entire Shares to belong to Parties in proportion to their Payments, and to be released to them from Time to Time.

Whenever any Person or those whom he legally represents as their Executor or Administrator shall have been bound to make, and shall have made, such and so many periodical Payments of the Charge as to repay thereby Principal Money which, in proportion to the whole Amount of Principal Money charged and the whole Number of the said Shares, shall correspond to any integral Number of Shares, with or without a Fraction over, it shall be lawful for the Commissioners, on the Application of such Person, made either during the Term of the Charge or within Two Years after its Expiration, to certify that Fact under their Hands and Seal, and by the same Certificate to appropriate to such Person certain specified Shares to such integral Number, and to deliver to him the corresponding Share Certificates ; and upon the Production to the Railway or Canal Company of such Certificate by the Commissioners and Share Certificates, it shall be lawful for such Person, if he shall not already be the registered Holder, to require such Shares to be transferred to him, and the Railway or Canal Company shall make an Entry or Memorial on their Register of Shareholders of such Shares being freed from the Provisions of this Act, or of the Term of the Charge having expired, as the Case may be, and such Shares shall thenceforward be held and transferred in the same Manner as any other Shares in the same Company, but if the

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Term of the Charge shall not have expired the Three last preceding Sections of this Act shall still apply to the Residue of the Shares to which the same Charge shall relate.

89 Shares not claimed within Two Years from Expiration of Term to belong to Person bound to make last Payment of Charge.

The Shares composing the said Residue shall at the End of Two Years after the Expiration of the Term of the Charge belong to the Person who shall have been bound to make the last periodical Payment of the Charge, or to his Executors or Administrators, on such Payment being made; and the Commissioners shall deliver to him or them the corresponding Share Certificates, and certify the Title to the Shares under their Hands and Seal in accordance with the above Provision ; and upon the Production to the Railway or Canal Company of the Share Certificates and such Certificate by the Commissioners, such Person as aforesaid, or his Executors or Administrators, shall have the said Shares transferred to him or them, so far as he or they shall not be already the registered Holder or Holders thereof; and the Railway or Canal Company shall make an Entry or Memorial on their Register of Shareholders of the Term of the Charge having expired, and thenceforward the said Shares shall be held and transferred in the same Manner as any other Shares in the same Company.

90 Inclosure Commissioners to cause a Table of Fees to be prepared and submitted to Treasury for Approval.

And whereas it is expedient that a Table or Tables of Fees proper to be taken by the Inclosure Commissioners in respect of Documents issuing out of their Office by virtue of the Provisions of this Act should be prepared: Be it enacted, That it shall and may be lawful for the said Inclosure Commissioners to prepare or cause to be prepared a Table or Tables of Fees, specifying what Fees are proper to be demanded and taken in the Office of the said Inclosure Commissioners in respect of any Forms, Orders, or Documents prepared in or issued from such Office by virtue of the Provisions of this Act; and such Table or Tables shall be laid before the Commissioners of Her Majesty's Treasury, who shall have Power to revise and settle the same, and from Time to Time to alter or amend the same, as they may deem necessary and proper, and the said Table or Tables of Fees, so revised, settled, altered, or amended, from Time to Time to approve and allow ; and the said Inclosure Commissioners are required, so soon and as often as each Table or Tables of Fees shall have been approved and allowed, to cause the same to be inserted and published in the *London Gazette*, and from and after such Publication, such Fees may be legally demanded, and may be received and recovered, by any Person appointed by the said Inclosure Commissioners to receive or recover the same.

91 Officers to render Account of Fees received to the Treasury.

The said Inclosure Commissioners shall cause the Fees received by them under the Authority of this Act to be duly and regularly entered in One or more Books to be kept for that Purpose, distinguishing the Fees received under their several Heads, and shall render a true and faithful Account thereof to the Commissioners of Her Majesty's Treasury at such Times, and in such Form of Account, and with such Particulars of Receipt or otherwise, and accompanied by such Vouchers, as the said Commissioners of Her Majesty's Treasury shall from Time to Time require; and the said Inclosure Commissioners shall from Time to Time, when required so to do by the said Commissioners of Her Majesty's Treasury, cause the Amount of such Fees to be

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paid into the Receipt of the Exchequer to the Credit of the Consolidated Fund of the United Kingdom of *Great Britain and Ireland*.