



Improvement of Land Act 1864

1864 CHAPTER 114

Upholding Improvements

And with regard to the upholding Improvements under this Act, be it enacted as follows :

72 Improvements to be upheld, and Condition thereof certified if required.

So long as any Land shall continue charged with any Charge hereunder, the Person for the Time being bound to make the periodical Payments of such Charge shall uphold the Improvements and Works in respect of which such Charge is made, and shall keep clear and open the Outfalls and Watercourses of all the Drains (if any), and shall, if required either by the Commissioners or by any Person who shall for the Time being be interested in such Charge under any Assignment or Mortgage thereof, once in every Year certify to the Commissioners the State of such Improvements and Works, and of such Outfalls and Watercourses (if any) ; and if such Person shall not so keen and uphold such Improvements and Works, and such Outfalls and Watercourses (if any), or shall fell, or cause or knowingly permit to be felled, except in proper thinning, any Trees planted under the Authority of this Act as an Improvement, he shall be liable to an Action on the Case, in the Nature of an Action of Waste, for the Damage thereby occasioned, at the Suit of any Person entitled to any Estate in remainder or reversion in such Lands.

73 Power to enter on neighbouring Lands for Repair of Works, making Compensation.

Every Person for the Time being bound to make the periodical Payments of any Charge may from Time to Time, by himself, his Engineers, Surveyors, Agents, Servants, and Workmen, enter upon any Lands in, through, or upon which any of the Works have been executed, to ascertain the Condition of the Works, and to maintain and repair the same, nevertheless paying to the Person for the Time being enabled by this Act to sell or grant any Easement in such Lands, in case the Parties differ about the same, such Compensation as shall be determined by Two Justices or the Sheriff, as provided by the " Lands Clauses Consolidation Act, 1845," or the " Lands Clauses Consolidation (*Scotland*) Act, 1845," for Settlement by Justices and Sheriffs respectively of Questions of disputed Compensation : Provided that as to any Lands

adjoining or near the Land improved, to which the Provisions of the Acts of the Tenth and Eleventh Years of the Reign of Her present Majesty, Chapters Thirty-eight and One hundred and thirteen, and those of the Third Part of The Land Drainage Act, 1861, are herein-before respectively made applicable, the Powers of Entry upon such Lands for any of the Purposes aforesaid shall be subject to and be regulated by the Provisions of those Acts respectively.

74 Farmhouses, &c. to be insured ; Power to insure in case of Default.

When any Farmhouses, Farm Buildings, or Works susceptible of Damage by Fire shall have been erected, improved, or added to under this Act, then, so long as any Land shall continue charged under this Act in respect thereof, the Person for the Time being bound to make the yearly or other periodical Payments of such Charge shall insure and keep insured against Damage by Fire all such Farmhouses, Farm Buildings, and Works in an Amount equal to the principal Amount originally secured by such Charge at the least; and such Person shall once in every Year certify to the Commissioners the Fact of such Insurance, and the Particulars thereof, and that the Premium and Duty for such Insurance for the Year then current have been duly paid; and if such Person shall not insure or keep insured such Farmhouses, Farm Buildings, and Works, or shall not duly certify the Matters aforesaid, it shall be lawful for the Person entitled to the Charge for the Time being, with the Assent of the Commissioners, to insure against Damage by Fire the said Farmhouses, Farm Buildings, and Works in an Amount not exceeding the principal Amount originally secured by such Charge, and either in the Name of the Person by whom such Default shall have been made, or in the Name of the Landowner mentioned in the Absolute Order, and thereafter to keep the same insured during the Continuance of the, said Charge; and the Person for the Time being bound to make the periodical Payments of such Charge shall from Time to Time, on the Day on which the next Payment shall become due on the said Charge, repay to the Person for the Time being entitled to the said Charge any Sums so paid by him for Premium and Duty on such Insurance; and in default of such Payment, the Amount of such Premium and Duty, with Interest thereon at the Rate of Five Pounds *per Centum per Annum* from the Time of such Default, may be recovered by the last-mentioned Person by the same Means and in the like Manner as if the same had been payable as Part of the said Charge.

75 Inclosure Commissioners may compel Maintenance of Improvements.

If it shall be represented to the Commissioners that the Person for the Time being bound to make periodical Payments of any Charge created under this or any other existing Act authorizing the Advance of Money for the Improvement of Land has neglected to uphold and maintain the Improvements in respect of which the Charge was executed, or any of them, the Commissioners may, upon Security being given for such an Amount as they may consider necessary to cover any Expenses that may be incurred by them, cause an Inspection of the Works to be made by an Assistant Commissioner, Engineer, or Surveyor.

After such Inspection, if the Commissioners are satisfied that the Improvements have not been upheld and maintained, they shall cause Notice to be given to the Person bound to make the said periodical Payments requiring him to execute the Works necessary to uphold and maintain the same within Three Calendar Months from the Time of giving such

If such Works shall not be executed to the Satisfaction of the Commissioners within such Three Months, they may cause such Works as in their Judgment shall be necessary to uphold and maintain such Improvements to be executed by a Person appointed by them.

The Costs thereof, including the Expenses of the Assistant Commissioner, Engineer, or Surveyor, shall be repaid by the Person bound to make the said periodical Payments to the Person entitled to the Charge, on Request, and in default thereof the Amount so certified may be recovered, with all Expenses incidental to the Recovery thereof, in the Name of the Person for the Time being entitled to the Charge, by the same Means and in the like Manner as if the same had been payable as Part of the said Charge.

76 Inclosure Commissioners may give Relief from Maintenance of Improvements.

If it shall be represented to the Commissioners that it is not expedient or necessary that any Works for the Cost of which there shall be a subsisting Charge, or any Part of such Works, should be upheld or maintained, the Commissioners may, on having deposited with them a Sum, to be fixed by them, to cover all Expenses, cause the said Works to be inspected by an Assistant Commissioner, Engineer, or

If after such Inspection and Notice to the Parties who were served with Notice of the Application to charge the Land or their Representatives, and such other Persons, if any, as the Commissioners may direct, the Commissioners shall find and certify that it is not expedient or necessary that the Works or any of them should be upheld or maintained, thereupon the Person for the Time being bound to make the said periodical Payment shall be relieved from all Liability in respect of the Maintenance of the Works referred to in the Commissioners Certificate.

77 Admiralty may remove Works abandoned or fallen into Decay.

If any Embankment or Work constructed under the Powers of this Act in, under, over, through, or across any tidal Water or navigable River, or if any Portion of any Embankment or Work which affects or may affect any such Water or River, or the Access thereto, shall be abandoned, or suffered to fall into Disuse or Decay, it shall be lawful for the Admiralty or the Board of Trade, as the Case may require, to abate and remove the same, or such Part or Parts thereof as he or they may at any Time or Times deem fit and proper, and to restore the Site thereof to its former Condition, at the Cost and Charge of the Landowner, the Amount of which Cost and Charge shall be a Debt due from the Landowner to the Crown, and be recovered accordingly, with Costs of Suit.