



ANNO DECIMO OCTAVO & DECIMO NONO

VICTORIÆ REGINÆ.

Cap. lxxxiv.

An Act to alter and amend “The Lands Improvement Company’s Act, 1853.” [26th *June* 1855.]

WHEREAS by “The Lands Improvement Company’s Act, 1853,” the Lands Improvement Company were incorporated for the Purpose of undertaking and assisting the Improvement, Conversion, and Reclamation of Land, and Provisions were made for facilitating the Execution of such Improvements, and for carrying into effect the Purposes of the Company: And whereas it is expedient that the Provisions of the said recited Act should be in some respects altered and amended: 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 of the Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

I. This Act and the recited Act shall be read together as One Act.

This and
recited Act
to be as One.
Short Title.

II. This Act may be cited for all Purposes as “The Lands Improvement Company’s Amendment Act, 1855.”

III. So much of the Fourth Section of the recited Act as relates to the Interpretation of the Word “Landowner” shall be and the same is hereby repealed; and the Word “Landowner” in this and the

Interpreta-
tion of the
Term “Land-
owner.”

[*Local.*]

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recited

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recited Act shall, as to Lands in *England* or *Wales*, denote the Person who shall be in the actual Possession or Receipt of the Rents or Profits of any Land, whether of Freehold, Copyhold, Customary, or other Tenure, except where such Person shall be a Tenant for Life or Lives holding under a Lease for Life or Lives not renewable; or shall be a Tenant for Years holding under a Lease or an Agreement for a Lease for a Term of Years not renewable, whereof less than Twenty-five Years shall be unexpired at the Time of making any Contract with the Company for Improvements under this or the recited Act, and that without regard to the real Amount of the Interest of any Person so excepted, and in the Case where the Person in the actual Possession or Receipt of the Rents or Profits of any Land shall fall within the above Exception, then the Person who for the Time being shall be in the actual Receipt of the Rent payable by the Person so excepted, unless he shall also fall within the above Exceptions, shall, jointly with the Person who shall be liable to the Payment thereof, be deemed for the Purposes of this and the recited Act to be the Owner of such Lands; and as to Lands in *Scotland*, the Word "Landowner" shall denote and include every Fiar, Liferenter, Heir of Entail, Husband of a married Woman seised in her own Right, Tutor, Curator, and other Guardian for any Infant, Minor, Lunatic, or Idiot, furious or fatuous Person, and every Trustee, which Persons respectively shall be in the actual Possession of the Land, or in receipt of the Rents payable on the Tacks, Leases, or Tenancies of the Tenants in the actual Possession thereof.

Improve-
ments.

IV. So much of the Fourth Section of the recited Act as specifies the Improvements which may be made under the Provisions thereof shall be and the same is hereby repealed; and the Improvements which may be made under the Provisions of this or the recited Act shall be in respect of One or more of the following Matters; (that is to say,)

1. The Drainage of any Lands by any such Means as the Inclosure Commissioners shall approve:
2. The Irrigation and Warping of Land:
3. The embanking of Land from the Sea or tidal Waters, or from Lakes, Rivers, or Streams, in a permanent Manner:
4. The inclosing any Land, or improving Drains, Streams, or Water-courses of the Land, under the Inclosure Commissioners:
5. The Reclamation of any Land lying waste:
6. The making of permanent Farm Roads:
7. The clearing of Lands:
8. The Erection of Farmhouses and other Buildings required for Farm Purposes, and the Improvements of and Additions to Farmhouses and other Buildings for Farm Purposes already erected, to the Extent of Three Fourths of the Outlay, so as such Improvements or Additions be of a permanent Nature:

9. The

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9. The planting for Shelter, or for periodical Cuttings which will increase the permanent Value of the Land, and shall be approved by the Inclosure Commissioners :
10. The constructing or erecting of any Engine-houses, Water-wheels, Mills, Kilns, Shafts, Wells, Tanks, Reservoirs, Dams, Leads, Pipes, Conduits, Watercourses, Bridges, Weirs, Sluices, Floodgates, and Hatches, which will and shall increase the Value of any Lands for Agricultural or Farming Purposes, and will and shall be approved by the Inclosure Commissioners :
11. The erecting of any Engines or Machinery of a permanent Nature which will and shall be approved of by the Inclosure Commissioners, so as the same be erected in connexion with and in the effecting of any Drainage Works or Improvements in Drainage by this Act authorized :
12. The Construction or Improvement of Jetties or Landing Places on the Sea Coast, or on the Banks of navigable Rivers or Lakes in the Highlands and Islands of *Scotland* for the Transport of Cattle, Sheep, and other Agricultural Stock and Produce, provided that the Inclosure Commissioners shall be satisfied that such Works will add to the permanent Value of the adjoining Lands to an Extent proportioned to the Expense thereof :

For the Purpose of effecting any Improvement under this or the recited Act, 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 or 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 and Trees not planted or serving for Shelter or Ornament.

V. The Word "Works" shall include such Works as in the Judgment of the Inclosure Commissioners may be necessary for carrying into effect any such Improvement. Works.

VI. The Qualification of a Director shall be the holding in his own Right of not less than One hundred Shares. Qualification of Directors.

VII. All Matters and Things in the recited Act directed or permitted to be done by the Secretary may be done by the Managing Director, or such other Officer of the Company as the Directors shall authorize and appoint. Other Officers may do all Things directed to be done by Secretary.

VIII. The Twenty-fifth Section of the recited Act shall be and the same is hereby repealed ; and the Newspapers in which Advertisements relating to the Affairs of the Company shall be inserted shall, except as by this Act otherwise specially provided, be such Daily Morning Newspapers for Advertisements.

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Morning Newspaper published in *London* as the Directors from Time to Time shall direct, and where any such Advertisement relates to *Scotland* shall also be such Newspaper published in *Scotland* as the Directors shall from Time to Time determine.

Section 37
of recited
Act re-
pealed.

Inclosure
Commission-
ers may
cause Land,
Plan, &c. to
be inspected
by an As-
sistant Com-
missioner or
an Engineer,
who shall
report
thereon.

IX. The Thirty-seventh Section of the recited Act shall be and the same is hereby repealed ; and if the Inclosure Commissioners think fit to entertain the Application made to them, they may cause the Land, and the Plan, Estimate, and Specification of the proposed Improvement, to be inspected and examined by an Assistant Commissioner or an Engineer, who shall report his Opinion thereon, and on the Statements contained in the Application, and if he shall report that the proposed Improvement will effect a permanent Increase of the yearly Value of the Land which will exceed the yearly Amount proposed to be charged thereon under this Act in respect of the Improvements applied for, and that the Improvements as proposed to be effected under the Plan and Specification will be effected in a substantial and durable Manner, and as to Farm Buildings shall also report that the same, or the Improvement of or Additions to the same, will be suitable to the Locality where they are to be erected, he shall annex to his Report the Plan, Estimate, and Specification, or a Duplicate thereof ; and the Commissioners may, by themselves, or any Assistant Commissioner or Engineer, make such other Inquiries in relation to any such Application as they think fit : Provided, that as respects planting the Requirements as to increased annual Value shall not apply to the Outlay to be made upon or in respect of such planting only : Provided also, that when such Improvements, or such a Proportion thereof as that the Outlay thereon will be equal to at least One Third Part of the total Outlay, are not intended to be executed within Two Years from the Time of the making of the Provisional Order by the Commissioners, it shall be competent to the Commissioners to permit that the Plan and Specification to be prepared by the Landowner may, as to such Improvements as are not intended to be executed within the said Period of Two Years, be in such general Form as they shall be willing to accept ; and such general Plan and Specification shall be annexed to such Report, in the same Manner as the detailed Plan as to the Improvement (if any) to be made within Two Years ; and it shall be sufficient if at any Time before the Commencement thereof a further and detailed Plan and Specification of the Improvements to be made in any Year after the first Two Years be delivered to the Commissioners, and so in like Manner, if the Landowner shall so think fit, in each successive Year ; and every Plan and Specification so from Time to Time delivered shall be inspected, examined, reported on, and approved by such Assistant Commissioner or Engineer ; and such detailed Plans and Specifications, or Duplicates thereof, shall be respectively annexed to such further Reports respectively ; but until such Delivery of such detailed Plans and Specifications respectively, and such Approval thereof, no Provisional Order
made

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made by the Commissioner shall be of any Force or Effect in sanctioning the Improvement as to which no detailed Plan or Specification shall have been delivered.

X. After the passing of this Act, every Provisional Order to be made by the Inclosure Commissioners under the Forty-first Section of the recited Act shall be in the Form in the Schedule A. to this Act annexed, or as near thereto as the Circumstances will admit, instead of in the Form in the Schedule B. to that Act annexed.

Provisional Orders to be according to the Form in Schedule A.

XI. The Forty-second Section of the recited Act shall be and the same is hereby repealed; and before any such Provisional Order as aforesaid shall be made by the Inclosure Commissioners Notice shall be given of the Application for the same, as well by Advertisement inserted in Two successive Weeks in some Newspaper published in the County in which the Land to be improved lies, or in some County adjoining thereto, as by a Notice in Writing given, where such Lands are situate in *England* or *Wales*, to every Person entitled to any Estate in such Land or any Part thereof in reversion or remainder, up to and inclusive of the Person entitled to the first vested Estate of Inheritance therein, and to the Person or Persons entitled to any Mortgage upon such Land or any Part thereof, who by reasonable Inquiry shall be known to be so interested, and given, where such Lands are situate in *Scotland*, to the nearest Heir or Heirs of Entail not exceeding Three, and to the Holders of every Heritable Security on such Lands appearing upon the Records, and in such Advertisements and Notices respectively shall be stated the maximum Amount which it is proposed to apply to such Improvements, and the greatest and least Term over which it is proposed that the Rentcharge should be spread; and the Inclosure Commissioners shall not make such Provisional Order until Two Months shall have elapsed from the Publication of the Second of such Advertisements, and the Service of such Notices respectively; and in case any Person having any Estate in or Charge or Security on such Land shall within such Two Months signify in Writing to the Commissioners his Dissent from such Application, stating therein the Nature of his Estate in or Charge or Security on such Land, the Commissioners shall certify under their Hands and Seal such Dissent to the Landowner by whom the Application was made, and also to the Company, and shall not make such Provisional Order, unless or until such Dissent be withdrawn, or an Order be made by the High Court of Chancery in *England*, or by the Court of Session in *Scotland*, in manner by the recited Act provided, authorizing the Commissioners to make such Provisional Order.

Provisional Order not to be made until Notice of Application has been given by Advertisement.

XII. The Forty-eighth Section of the recited Act shall be and the same is hereby repealed; and instead thereof be it enacted, That

Expenses of Improvement may

[*Local.*]

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when

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be charged on the Inheritance of Lands improved, with the Approval of the Commissioners, according to the Form in Schedule.

when a Provisional Order for charging any Lands to be improved has been made, and the Commissioners are satisfied that the Works of Improvement contracted to be executed, or some Part of such Works, have been properly executed, the Commissioners shall execute a Charge under their Hands and Seal upon the Inheritance or Fee of the Lands improved, or to be improved, or some sufficient Part thereof, for the whole Amount by the Contract agreed to be charged on the Land to be improved, if all the Works contracted for are so executed, or a proportional Part of such Amount if Part only of such Works are executed, as the Case may be, to be paid, with Interest, to the Company; and every such Charge shall be by way of periodical Payment, extending over a Term of Years to be fixed by the Commissioners, and to commence from the Time when the Works in respect of which the same was granted shall have been executed to the Satisfaction of the said Commissioners, such Term not to be less than Fourteen Years nor to exceed Twenty-five Years, and such periodical Payment shall be and shall be expressed to be, as to Part thereof, a Repayment of a proportionate Part of the Money so lent according to the Length of such Term, and as to the Remainder thereof a Payment of Interest upon such Loan, and such Charge shall be made according to the Form in the Schedule B. to this Act annexed, or as near thereto as the Circumstances of the Case will admit, and shall be duly stamped for denoting Payment of the proper *ad valorem* Stamp Duty which would be payable on a Mortgage for securing the like Amount as the Principal Money thereby charged, and shall be called an Absolute Order; and a Copy of every such Charge shall be authenticated by the Seal of the Commissioners, and shall be kept by them; and such Copy, and any Copy thereof authenticated by their Seal, shall be Evidence of the Contents and Purport of the original Charge: Provided always, that nothing in this Section contained shall be held to imply that the periodical Payments charged and payable under the recited Act were not respectively, as to Part thereof, a Repayment of a proportionate Part of the Money so lent, according to the Length of such Term, and as to the Remainder thereof a Payment of Interest on such Loan, which the same are respectively hereby declared to be.

Extension and Application of Sects. 49. to 55. of recited Act to this Act.

XIII. The Sections Forty-nine to Fifty-five, both inclusive, of the recited Act, shall extend and apply to the Charges to be executed under this Act, in the like Manner and with the same Effect and Operation in all respects as to those authorized by the said recited Act.

Where Part only of the Land charged is subject to a Mortgage, the Charge shall have

XIV. The Proviso at the End of the Fifty-first Section of the recited Act shall be and the same is hereby repealed; and instead thereof it is hereby provided, that in case a Part only of the Land charged is subject to a Mortgage or other Incumbrance, the Charge created under the Authority of this or the recited Act shall have
Priority

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Priority over the Mortgage or other Incumbrance only to the Extent of a due Proportion of such Charge, when and so soon as the same shall be ascertained, under and pursuant to the Seventieth Section of the recited Act.

Priority only for a limited Amount.

XV. The Fifty-sixth Section of the recited Act shall be and the same is hereby repealed; and instead thereof be it enacted, That the Company may, with the Approval of the Inclosure Commissioners, to be signified by an Endorsement under their Hands and Seal upon the Charges to be affected thereby, indicating that such Charges respectively had been appropriated as herein-after mentioned, appropriate or set apart any Charge or Charges payable to the Company under this or the recited Act as the Fund for the Payment of a Series of Mortgage Debentures to be founded upon and secured by such appropriated Charge or Charges; and every such Appropriation shall be distinguished by a particular Number, and the Charge and Charges comprised therein shall be duly registered by the Company, and a Duplicate Copy of such Registry shall be delivered to the Inclosure Commissioners; and when any such Appropriation has been made the Company may, with the Approval of the Inclosure Commissioners, issue a Series of Mortgage Debentures founded on each Appropriation of Charges, and according to the Form set forth in the Schedule C. to this Act annexed, or as near thereto as Circumstances will admit, and every Series of Mortgage Debentures shall be numbered in Arithmetical Progression, beginning with No. 1., and each Debenture shall have its proper Number written thereon, and shall be made payable by the Company on a Day and at a Place to be stated thereon, with Interest half-yearly in the meantime after the Rate to be specified on such Debenture; and each Series of Debentures shall be so divided and arranged that no greater Sum shall be payable in any One Year in respect of the whole Series, for Principal Money and Interest together, than the Amount payable by the Landowner or Landowners during the same Year in respect of the appropriated Charge or Charges on which such Series of Debentures is founded; and every Sum payable on any Mortgage Debenture issued by the Company shall be made payable at least Fourteen Days next before the Time at which the Charge or Charges appropriated to the Payment of such Debentures are to be paid by the Landowner or Landowners; and such Debentures may be assigned by Endorsement, under Hand only, in the Form set forth in the said Schedule C., or as near thereto as Circumstances will admit; and every such Debenture and Assignment shall be subject to the same Stamp Duty as a Mortgage and Transfer of a Mortgage respectively, and, as regards the Holder thereof, shall be deemed to be Personalty: Provided always, that it shall not be lawful for the Company to issue any such Mortgage Debentures unless and until they shall have shown to the Satisfaction of the Board of Trade that

The Company may, with the Approval of the Inclosure Commissioners, issue Mortgage Debentures.

the

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the Sum of One hundred thousand Pounds in the Capital Stock of the Company has been *bonâ fide* subscribed for, and the Board of Trade shall have certified the same; and provided also, that if at any Time thereafter the Board of Trade shall think it desirable that a further Sum of Twenty-five thousand Pounds of the authorized Capital Stock of the Company should be subscribed for, and shall give Notice thereof to the Company, then, unless such further Sum of Twenty-five thousand Pounds beyond the said Sum of One hundred thousand Pounds shall have been already *bonâ fide* subscribed for, it shall not thereafter be lawful for the Company to issue any such Mortgage Debentures until they shall in like Manner have shown to the Satisfaction of the Board of Trade that such further Sum of Twenty-five thousand Pounds has been *bonâ fide* subscribed for, and a similar Certificate shall have been given in respect thereof.

Power to
borrow on
Mortgage
or Bond.

XVI. The Company may from Time to Time borrow on Mortgage of the future Calls on the Shareholders, or on the Security of any Part of their Property, or on Bond, any Sum not exceeding One Third of the Capital for the Time being paid up.

If Amount
received by
Receiver or
Factor be
insufficient,
he may re-
cover the
Surplus from
the Com-
pany.

XVII. In case a Receiver or Factor shall have been appointed under the Fifty-seventh Section of the recited Act, and the Money received by him shall not be sufficient to satisfy the Arrears then due on the said Series of Debentures, and the Costs, Charges, and Expenses, such Receiver or Factor may and shall demand and recover the same from the Company as a Debt due to him from them in an Action or Suit brought in his own Name, and shall apply the Money so received and recovered by him in the same Manner as the Money received by him in respect of such Charge or Charges.

Interest not
recoverable
for more
than Six
Months
Arrear of
Charge.

XVIII. If any Charge payable under this Act to the Company shall be in arrear, the same shall not bear Interest for a longer Period than Six Months, but Interest at Five Pounds *per Centum per Annum* in respect of such Arrear for any Period not exceeding Six Months may be recovered in the same Manner as the Sum in arrear.

Service of
Notices.

XIX. In all Cases in which it shall be necessary, under the Provisions of this or the recited Act, to serve any Notice upon any Person, it shall be sufficient to send such Notice in a registered Post Letter directed to such Person at his then or last known Place of Residence or of Business, unless the Letter containing such Notice shall be returned from the Post Office as undelivered; and if such Person shall not have any Place of Residence or of Business within *Great Britain* or *Ireland*, or if the Place of Business or of Residence of any such Person cannot with due Diligence be ascertained, then such Notice may be served upon such other Person, as the Represen-
tative

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tative of such Person, or be given in such other Manner as the Commissioners shall in such Case direct or approve.

XX. If at any Time or Times it shall be deemed expedient by the Lord High Admiral of the United Kingdom, or the Commissioners for executing the Office of Lord High Admiral, 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 Costs of Suit, or may be recovered with Costs as a Penalty is or may be recoverable from the Landowner.

Expenses of Survey ordered by Admiralty to be defrayed by Landowner.

XXI. 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 Access thereto shall be abandoned or suffered to fall into Disuse or Decay, it shall be lawful for the Lord High Admiral or the Commissioners for executing the Office of Lord High Admiral 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, and the Amount thereof shall be a Debt due from the Landowner to the Crown, and be recoverable accordingly, with Costs of Suit.

Works abandoned or suffered to fall into Decay may be removed by the Admiralty.

XXII. This Act, or anything therein contained, shall not exempt the Company or their Undertaking from the Provisions of any General Act relating to this Act, or to Improvements specified in the Fourth Section of this Act, or any of them, which may pass in the present or any future Session of Parliament.

Company and their Undertaking to be subject to Provisions of future General Acts.

XXIII. This Act shall not extend to *Ireland*.

Extent of Act.

XXIV. The Expenses of preparing and passing this Act, and preparatory and incident thereto, shall be paid by the Company.

Expenses of Act.

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SCHEDULES to which the foregoing Act refers.

SCHEDULE (A.)

PROVISIONAL ORDER.

Proper
Heading:

The Inclosure Commissioners for England and Wales, in pursuance of the Powers and Provisions of the “Lands Improvement Company’s Act, 1853,” and the “Lands Improvement Company’s Amendment Act, 1855,” in this Behalf, do by this Order under their Hands and Seal sanction the proposed Improvements mentioned or specified in the Schedule to a Provisional Contract, dated, &c., and entered into by *A.B.* of, &c., with the Lands Improvement Company, (*or as varied by the Schedule to this Order,*) upon the Terms and Conditions that such Improvements respectively be executed by or under the Superintendence of the said Lands Improvement Company, as the Case may be, in the Manner mentioned or specified in the said Schedule, and at an Expense not exceeding the Sum of

and do hereby declare and provisionally order that it is right and proper, and for the Benefit of the Parties interested in the Lands mentioned in the Schedule hereto, that the Inheritance or Fee of such Lands should be charged with the Monies contracted to be paid for the Execution of the said Improvements, Expenses preparatory or in relation thereto and consequent thereon, together with the Costs, Charges, and Expenses preparatory or in relation to and consequent on such Contract; and that the same should to the whole Amount of such respective Monies (*or should to any Amount not exceeding as the Case may be*) be charged in the Manner following; that is to say, [*here express how the Amount is to be repaid, with Interest*].

In witness whereof they have hereunto affixed their Hands and Seal, this Day of in the Year of our Lord One thousand eight hundred and fifty .

SCHEDULE OF LANDS PROVISIONALLY CHARGED.

Name, &c. of Lands.	Landowner.	Occupier.	Parish.	County.	Total Acreage.	Total Rental.

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SCHEDULE (B.)

Lands Improvement Company.

Count of
Parish of
No.

Improvement Loan Charge.

[Here insert Name of Landowner] of [here insert Address]
Loan of Pounds for the Improvement of
In the Parish of
In the Count of

The Inclosure Commissioners for England and Wales, in pursuance of the Lands Improvement Company's Act, 1853, and of the Lands Improvement Company's Amendment Act, 1855, do by this Absolute Order under their Hands and Seal charge the Inheritance or Fee of the Lands mentioned in the Schedule annexed hereto with the Payment to the Lands Improvement Company, their Successors and Assigns, of the yearly Sum of Pounds Shillings, and

pence, payable half-yearly on the
Day of and the Day of
in every Year, for the Term of
Years, and being a proportionate Repayment, according to the Table annexed, of the Capital Sum of Pounds, with Interest at per Centum per Annum, the first half-yearly Payment to be made on the Day of
Dated this Day of One thousand eight hundred and

SCHEDULE OF LANDS CHARGED.

Name, &c. of Lands.	Landowner.	Occupier.	Parish.	County.	Total Acreage.	Total Rental.

TABLE.

Half-yearly Payments.	Proportionate Repayments of the Loan.	Interest at £ per Cent. per Annum.

SCHE-

