CHAPTER clxviii.

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An Act to authorise the construction of an Embankment in Morecambe Bay, in the county of Lancaster; and for other purposes. [30th July 1874.]

WHEREAS there are in Morecambe Bay, within the townships of Warton with Lindeth, and within or adjoining the townships of Carnforth, Bolton-le-Sands, and Slyne with Hest, in the county palatine of Lancaster, divers tracts of lands, sands, and foreshore, which are either under water or subject to be covered by the tidal water, and in their present state are incapable of cultivation, and are now unproductive:

And whereas Herbert John Walduck, of Mount Heaton, Heaton Mersey, claims to be seised thereof or entitled thereto, subject to the provisions of this Act, and, with respect to so much thereof as lies within the township of Warton with Lindeth, as grantee of the vicar and churchwardens of that township by virtue of the provisions of an Act passed in the fifty-first year of the reign of King George the Third, intituled "An Act for inclosing and "embanking lands within the townships of Warton with Lindeth "and Silverdale, in the county of Lancaster," and herein-after referred to as "the Act of 1811:"

And whereas the reclamation of a part of the tracts of land, sands, and foreshore herein-before mentioned, and the construction for that purpose of the embankment and works by this Act authorised, will be of local and public advantage:

And whereas the said Herbert John Walduck is willing, at his own expense, to execute the works and undertake the reclamation of the land, sands, and foreshore aforesaid:

And whereas a plan describing the said tracts of land, sands, and foreshore, and other lands, sands, and foreshore adjoining the same, and the line and situation of embankments and other works proposed to be executed for reclaiming the whole of the same, and a section describing the levels of such works, together with a book of

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reference to such plan, containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the lands in or through or by which the said proposed embankment and works were intended to be made or pass, have been deposited with the clerk of the peace for the county palatine of Lancaster, and such plan, section, and book of reference are in this Act referred to as the deposited plan, section, and book of reference:

And whereas the objects of this Act cannot be effected without the authority of Parliament:

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; (namely,)

Short title.

1. This Act may be cited for all purposes as "The Bolton-le-Sands and Warton Reclamation Act, 1874."

Provisions of certain general Acts incorporated.

2. "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869," (except the provisions with respect to the purchase and taking of lands otherwise than by agreement, and with respect to the entry upon lands by the promoter of the undertaking,) and the sections thirteen, eighteen, and nineteen of "The Railways Clauses Act, 1863," are, except where expressly varied by or inconsistent with the provisions of this Act, incorporated with this Act; and the said sections thirteen, eighteen, and nineteen of the said Railways Clauses Act, 1863, shall be read and have effect as if the words "the Undertaker" were used therein in place of the word "Company."

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith shall have the same respective meanings (except where otherwise provided by this Act), unless there be something in the subject or context repugnant to such construction; and the following words and expressions shall have in this Act the meanings hereby assigned to them respectively, unless there be something in the subject or context repugnant to or inconsistent with such construction; (that is to say,)

The expression "the Undertaker" in this Act shall extend to and mean the person or persons for the time being authorised to execute the purposes of this Act:

The expression "undertaking" shall mean the embankment, works, and conveniences authorised by this Act:

The words "lands and sands" shall, except where otherwise expressly stated in this Act, mean and include as well the site

of the embankment, works, and conveniences by this Act authorised, as all the land, sands, and foreshore which are contained within the area bounded by the dotted lines shown in the amended plan, herein-after referred to and marked thereon as the "limits of deviation," and the high-water mark of ordinary spring tides, as shown upon the same plan, on the landward side of the said embankment.

Undertaker empowered to inclose lands, &c.

4. The said Herbert John Walduck, his heirs and assigns, shall be and they are hereby declared to be the "Undertaker" for executing the purposes of this Act; and the Undertaker shall be and is hereby authorised and empowered, subject to the provisions of this Act, to embank, reclaim from the sea, inclose, improve, drain, and convert to agricultural and other purposes the said lands and sands, and may for that purpose make and maintain an embankment or embankments, and all other necessary works and conveniences connected therewith, upon the lands and sands delineated on the deposited plan and described in the deposited book of reference, in the amended lines delineated upon an amended plan deposited in the Parliament Office of the House of Lords, and identified by the signature of the Right Honourable the Earl of Devon, and a duplicate of which plan, also signed by the said Earl, shall be deposited with the clerk of the peace for the said county palatine of Lancaster on or before the thirtieth day of July one thousand eight hundred and seventy-four, and according to the levels shown on the deposited sections, (and may enter upon, take, and use such of the said lands and sands as shall be necessary for such purposes); and for the purposes of this Act the Undertaker, his agents and workmen, may, subject to the provisions of this Act, make, alter, and maintain good and sufficient walls, banks, and fences, and also such waterways, tunnels, engines, sluices, roads, ways, drains, culverts, bridges, and other works, in or upon, through or over, the said lands and sands, and divert or turn the course of any river, stream, creek, drain, or water which does or shall flow in, through, over, or upon the said lands and sands, and may embank such rivers, streams, creeks, drains, or waters, and use and employ the waters, in such manner as to the Undertaker shall seem fit and proper.

Rights of way over lands.

5. The Undertaker, for the purposes and subject to the provisions of this Act, may stop up and discontinue and extinguish all rights of way, if any, over, and appropriate to the purposes of the undertaking all roads, ways, and footpaths, if any, in, upon, and over the said lands and sands, or any of them, or he may divert and alter the lines and levels of any such roads, ways, and footpaths.

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Power to vary, extinguish, &c. rights and privileges (if any).

6. For the purposes and subject to the provisions of this Act the Undertaker may vary, extinguish, exclude, or modify, upon or over the said lands and sands, all or any of the rights and privileges (if any) following; that is to say, all rights of foreshore or frontage, and all ferry, wharfage, and quay rights, rights of anchoring and beaching, and other rights, powers, privileges, franchises, and jurisdictions which will impede or interfere or are inconsistent with the objects and purposes of this Act, or any of them.

Undertaker to set out roads in continuation of existing roads.

7. The Undertaker shall, at his own expense, set out upon the said lands and sands such convenient roads in continuation of the existing roads, and in substitution for any existing rights of way which at the time of the passing of this Act extend to and over the said lands and sands, as shall be necessary for affording access to and from the sea and other places to all persons entitled to the user of such last-mentioned existing roads, and shall in the meantime and until the said new roads shall have been set out permit the persons so entitled as aforesaid to pass and repass to and from the sea and other places over and upon the said lands and sands between such points as the Undertaker shall direct; and if any difference shall arise between the Undertaker and any of the persons so entitled as aforesaid, respecting the sufficiency, either as to position or number or dimensions, of the roads to be set out under the provisions herein-before contained, or as to the points at or between which such temporary access as aforesaid should be allowed, the same shall be referred to two justices, whose decision shall be binding on all parties: Provided always, that no objection to any such road or point of temporary access shall be valid, unless the same shall be notified in writing to the Undertaker within fourteen days from the setting out of any such road, or from the date of an advertisement to be from time to time inserted by the Undertaker in the Lancaster Guardian, or some other weekly or daily paper circulating in the district, stating the points between which such temporary access as aforesaid is to be allowed.

Undertaker to set out road in lieu of existing right of way.

8. The Undertaker shall, simultaneously with the construction of the said embankment, or within six months from the completion thereof, set out upon the lands and sands, and along the easterly side of the said embankment, a proper and sufficient road, with convenient access to the sands at the northerly end, and to the main land at the southerly end thereof, in lieu of and in substitution for so much of the existing cart-road or right of way leading from Hest Bank to Grange-over-Sands, as is situate upon the said lands and sands; and immediately upon the setting out of the said road

all rights, whether public or otherwise, over the said cart-road or right of way shall cease and determine.

Limits of deviation.

9. In the construction of the works by this Act authorised the Undertaker may, subject to the provisions of this Act, make lateral deviations from the lines of such works, within the limits of lateral deviation shown on the amended plan, and may make vertical deviations from the levels of the works delineated on the deposited section to any extent not exceeding five feet upwards and five feet downwards: Provided that no such such deviation shall be made in such manner as to diminish the navigable space of any public navigable tidal river without the previous consent in writing of the Board of Trade, or otherwise, with respect to any public navigable river, than in such manner as is expressly authorised by the Board of Trade under the hand of one of the secretaries or assistant secretaries of the said Board.

Errors in plans, &c. may be corrected by two justices, who shall certify the same.

10. If any omission, mis-statement, or erroneous description shall be made of any works or lands, or of the owners, lessees, or occupiers of any lands, delineated on the deposited plan or described or referred to in the deposited book of reference, the Undertaker may apply to two justices for the correction thereof; and if it shall be proved to them that such omission, mis-statement, or erroneous description arose from mistake or inadvertence, they shall certify the same accordingly; and such certificate shall be lodged with the clerk of the peace for the county palatine of Lancaster with the other documents to which the same relate, who shall keep the same with the said plan and book of reference, and the same shall be amended or held to be amended in accordance with such certificate.

The Undertaker not to injure the drainage of adjoining lands.

11. Nothing in this Act shall authorise the Undertaker to injure or obstruct the drainage of the lands adjoining the said works without providing other and equally efficient drainage, and maintaining the same where the works for such drainage pass over or through any part of the said lands and sands; and all the sections of "The Railways Clauses Consolidation Act, 1845," with respect to works for the accommodation of lands adjoining the railway, shall, so far as the same are applicable, be incorporated with this Act, and shall for the purposes of this Act be construed as if the word "Undertaker" had been used therein instead of the word "Company," and as if the words "embankment and reclamation" had been used therein instead of the word "railway."

Works below high-water mark to be

12. Previously to commencing any works below high-water mark for the purposes of the undertaking, the Undertaker shall deposit

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executed according to plans, &c. approved of by the Board of Trade.

at the Board of Trade plans, sections, and working drawings of each and every of such works, for the approval of the said Board, such approval to be signified in writing under the hand of one of the secretaries or assistant secretaries of the Board; and such works shall be constructed only on such lines, and in such direction, and to such extent, and in such manner as shall be so approved of by the Board; and when any such work shall have been commenced or constructed, it shall not be lawful for the Undertaker at any time to alter or extend the same without obtaining, previously to making any such alteration or extension, the like consent or approval; and if any such works shall be commenced or completed, or be altered, extended, or constructed, contrary to the provisions of this Act, it shall be lawful for the said Board to abate, alter, and remove the same, and to restore the site thereof to its former condition, at the cost and charge of the Undertaker; and the amount thereof shall be a debt due from the Undertaker to the Crown, and be recoverable accordingly, with costs of suit, or may be recovered, with costs, as a penalty is or may be recoverable from the Undertaker.

No alteration to be made in the channel of the river Keer, unless approved of by Board of Trade, and Chancellor, &c. of Duchy of Lancaster.

13. No alteration in the course of the channel of the river Keer shall be made, except what may be previously approved of and sanctioned by the Board of Trade, and also by the Chancellor and Council for the time being of the Duchy of Lancaster; and every such approval and sanction by the said Board is to be signified in writing under the hand of one of the secretaries or assistant secretaries of the said Board, and every such approval by the said Chancellor and Council is to be signified in writing under the hand of the clerk for the time being of the said Council.

Limiting time for completion of works.

14. The powers of the Undertaker for constructing and completing the works hereby authorised shall, after the expiration of ten years from the passing of this Act, cease and determine.

Embankment, &c. to be maintained.

15. The Undertaker shall maintain and keep in an efficient state of repair the embankment and works hereby authorised to be constructed, or which may from time to time be essential for protecting the said lands and sands, or any part thereof, from inundation, including all such roads, drains, sluices, and culverts as may be made by him under the provisions of this Act.

Authorising dealings with property of the Duchy of Lancaster.

16. And whereas it is expedient that this Act should contain such provisions relative to lands, foreshore, hereditaments, estates, rights, and interests belonging to the Queen's most Excellent Majesty in right of her Duchy of Lancaster (in the rest of this

section called "the Duchy"), as are herein-after contained: Be it therefore enacted, that—

As to the sale of lands.

1. With respect to any lands, foreshore, and hereditaments belonging to Her Majesty in right of the Duchy which may be required for the purposes of this Act, the following provisions shall (but subject and without prejudice to any lease or tenancy which at the time of any agreement authorised by this section may be subsisting in the said last-mentioned lands) have effect; that is to say, the Chancellor and Council for the time being (herein-after called "the Chancellor and Council") of the Duchy may agree with the Undertaker for the absolute sale in fee simple of all or any of the said last-mentioned lands, or any part thereof, in consideration of any such gross sum of money payable by the Undertaker, and upon such terms and conditions in all respects as shall be settled between the Chancellor and Council and the Undertaker; and in case the same lands, foreshore, or hereditaments shall be subject jointly with any other lands to any lease or tenancy for a life or lives, or a term of years unexpired, the Chancellor and Council may agree as well with the Undertaker as also with the lessee or tenant for the apportionment for the rent payable in respect of the lands, foreshore, or hereditaments comprised in such lease or tenancy between the lands agreed to be sold and such other lands; and upon payment of such (if any) agreed gross sum the Chancellor and Council may grant and assure the same lands, and the fee simple and inheritance thereof, to the Undertaker, his heirs and assigns, for the purposes of this Act, and (if the same lands, foreshore, or hereditaments shall be subject jointly with any other lands, foreshore, or hereditaments to any such lease or tenancy as aforesaid) may apportion or concur with all other necessary parties in apportioning the rent payable in respect of the lands, foreshore, or hereditaments comprised in such lease or tenancy between the lands, foreshore, or hereditaments so granted and assured, and such other lands, foreshore, or hereditaments.

As to the conveyance of waste lands.

2. With respect to any lands, being waste or common lands, the right to the soil whereof belongs to Her Majesty in right of the Duchy (subject to rights of common or other rights or easements), which may be required for the purposes of this Act, the following provisions shall have effect; that is to say,

The Chancellor and Council may agree with the Undertaker for the absolute sale in fee simple of the estate, right, and interest of Her Majesty in the soil of all or any of the same lands, and for the absolute extinguishment of any

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commonable or other rights to which Her Majesty in right of the Duchy may be entitled in the same lands (other than and besides her said right in the soil of such lands), in consideration of such gross sum of money payable by the Undertaker, and upon such terms and conditions in all respects as shall be settled between the Chancellor and Council and the Undertaker:

And upon payment of such (if any) agreed gross sum as last aforesaid the Chancellor and Council may grant and assure such last-mentioned estate, right, and interest to the Undertaker, his heirs and assigns, for the purposes of this Act:

Provided that the lands so granted and assured as last aforesaid shall remain subject to all the commonable and other rights (except those of Her Majesty, her heirs and successors,) which immediately before such grant and assurance affected the same, until such rights shall have ceased and become extinguished by the payment or deposit of the compensation for the same in manner provided by this Act, or by "The Lands Clauses Consolidation Acts, 1845, 1860, and 1869."

As to the sale and working of mines.

3. With respect to any mines, minerals, and quarries to which Her Majesty in right of the Duchy is entitled (either in possession or subject to any lease or tenancy) in, under, or upon any lands required for the purposes of this Act, the following provisions (but subject and without prejudice to any lease or tenancy which at the time of any agreement authorised by this section may be subsisting of the same mines, minerals, or quarries,) shall have effect; (that is to say,)

The Chancellor and Council, either before or after the execution of the works authorised by this Act, or any part thereof, may agree with the Undertaker for the absolute sale of all or any of the said mines, minerals, and quarries, for such price or consideration in money, and upon such terms and conditions in all respects, as shall be settled between the Chancellor and Council and the Undertaker; and upon payment of such agreed price or consideration as last aforesaid in manner herein-after provided the Chancellor and Council may grant and assure such last-mentioned mines, minerals, and quarries unto the Undertaker, his heirs and assigns, for the purposes of this Act. The Chancellor and Council may also enter into an agreement with the Undertaker concerning

the working by Her Majesty, her heirs, successors, and assigns, of all or any of the said mines, minerals, or quarries, whether being in, under, or upon any lands taken by the Undertaker under the powers of this Act:

Provided that nothing contained in this Act shall extend or operate to prevent or hinder Her Majesty, her heirs, successors, or assigns, or her or their lessees, from working (subject and without prejudice only to any such agreement as last aforesaid), as well before as after the execution of the works authorised by this Act, any such mines, minerals, or quarries, whether being in, under, upon, or in the neighbourhood of any lands taken by the Undertaker under the powers of this Act, in the same manner and to the same extent as Her Majesty, her heirs, successors, or assigns, might have done if this Act had not been passed; nor shall anything in this Act contained extend or operate to make Her Majesty, her heirs, successors, or assigns, in any way liable for any damage or injury which may be done to or on the works authorised by this Act by any such working, or to leave adjacent or subjacent support to such works, unless and except only to such extent as the Chancellor and Council shall, by some writing under the hand of the clerk for the time being of the said Council, have expressly agreed in writing with the Undertaker that the Duchy shall become so liable:

Provided also, that it shall not be lawful for the Undertaker, his heirs or assigns, by reason of any aforesaid grant or assurance of mines, minerals, or quarries, to work, get, or use any of the same, except so far as may be necessary in executing the works authorised by this Act.

As to the application of purchase moneys.

4. With respect to any gross sum of money which under this section shall become payable in consideration of any sale or release thereby authorised, the following provisions shall have effect; that is to say,

Each such sum shall be paid into the hands of the receiver general of the revenues of the Duchy, or of his deputy or deputies, and a receipt shall be given by him or them for the same;

And such sum shall be applicable and dealt with, to all intents and purposes, as if it were the purchase money of lands sold by the Chancellor and Council under the authority of "The Duchy of Lancaster Lands Act, 1855;"

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and the Chancellor and Council shall, for the purposes of this Act, have and be entitled to the benefit of all such powers and provisions in reference to moneys invested in Bank annuities under this present section, as, under "The Duchy of Lancaster Lands Act, 1855," they are entitled to concerning moneys invested in Bank annuities under that Act.

As to the enrolment of deeds.

5. Any lands, foreshore, hereditaments, estate, right, or interest conveyed or assured or released by the Chancellor and Council by virtue of any of the foregoing provisions of this section shall be so conveyed, assured, or released in the name of Her Majesty, her heirs or successors, in right of the Duchy, and by deed or writing under the seal of the Duchy; and every such deed or writing shall be enrolled in the Court of the Duchy of Lancaster within six calendar months from the date thereof:

Provided that nothing herein contained shall prejudice or affect the respective rights of Her Majesty and the Undertaker under any agreement or conveyance that may have been entered into between the Chancellor and Council of the said Duchy and the Undertaker prior to the passing of this Act.

As to future accretions.

17. If any land not required for the purposes of this Act, and not being land already purchased by the Undertaker, shall, at any time after the execution of any works under the authority of this Act, become raised in height or reclaimed, or by any other means cease to be subject to the flow and re-flow of the ordinary tides, or to be permanently covered with water (and that whether gradually or imperceptibly, or otherwise), the Undertaker shall not, by virtue of the ownership of any lands which he is by virtue of this Act empowered to take or acquire, or of any lands already purchased by him, have any estate, right, or interest in or to the land so raised in height or reclaimed, or ceasing to be so subject or to be so covered as aforesaid, by reason that such raising, reclamation, or cesser has been gradual or imperceptible, or has been wholly or partially caused either by the works by this Act authorised or otherwise.

For protection of Richard Thomas Gillow.

18. And whereas the flood and drainage and other waters through or from the estates and property of Richard Thomas Gillow, of Leighton Hall, in the parish of Warton, in the county of Lancaster, flow or are conveyed into a channel called Quicksand Pool, and are carried away upon or over certain portions of the

lands and sands, and it is expedient that the following provisions should be made with respect thereto:

(A.) The Undertaker shall construct and maintain upon the lands and sands all requisite and necessary drains, channels, culverts, sluices, and other works for carrying off the said flood and drainage and other waters; and the said Richard Thomas Gillow, his heirs and assigns, and sequels in title, shall be for ever entitled to the use of and free access to all the said works for the purposes aforesaid, and shall be entitled to make, form, and maintain such drains into and junctions with the drains, channels, culverts, and works of the Undertaker as shall be necessary for carrying off the said flood and drainage and other waters:

(B.) If by reason of or the failure of any acts, works, operations, or proceedings of, or of any neglect or omission by or on the part of the Undertaker or his contractors, or his or their agents, servants, or workmen, the drainage of any of the lands of the said Richard Thomas Gillow, his heirs or assigns, or sequels in title, or if any flood or other waters which pass through or from any of the same lands, shall be interfered with, obstructed, or impeded, whether during the execution or after the completion of such works, the Undertaker shall forthwith make good any damage or injury that the said Richard Thomas Gillow, his heirs and assigns, or sequels in title, may sustain by reason thereof, and remove and remedy any such interference, obstruction, or impediment, and make full compensation to the said Richard Thomas Gillow, his heirs or assigns, or sequels in title, for any such damage or injury as aforesaid; but in case of emergency happening (and of which emergency he or they shall be the sole judge or judges) the said Richard Thomas Gillow, his heirs or assigns, or sequels in title, may himself or themselves make good such damage or injury, and do and execute such necessary acts and works as he or they may think fit for remedying any flooding, obstruction, or impediment, but in all things at the expense of the Undertaker, and may recover from the Undertaker all such compensation and expenditure, with full costs:

(C.) If any difference or dispute shall arise between the said Richard Thomas Gillow, or his heirs or assigns, or sequels in title, and the Undertaker, with reference to any of the matters or things herein-before provided, the same shall be determined by two justices in the manner provided by "The Railway Clauses Consolidation Act, 1845," in case of difference

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emergency), the same shall be determined by two justices in the manner provided by the "Railways Clauses Consolidation Act, 1845," in case of difference as to accommodation works; and the provisions of the said Act relating thereto, so far as the same are applicable, shall be read and construed as if the word "Undertaker" had been used therein instead of the word "Company," and as if the word "undertaking" had been used therein instead of the word "railway."

For protection of landowners of Silverdale.

23. If the lands of any of the landowners of Silverdale shall be injuriously affected by reason of the works of the Undertaker authorised by this Act, and constructed or commenced within the boundaries of the space to be reclaimed under the powers of this Act, such landowner or his successors in title shall be entitled to compensation, and such compensation shall be ascertained in manner provided by the sixty-eighth section of "The Lands Clauses Consolidation Act, 1845;" provided, that no such landowner shall be entitled to any such compensation unless he shall have sent in his claim in writing to the Undertaker within two years from the time at which the damage in respect of which he claims shall have arisen.

Offensive trades not to be carried on on part of reclaimed lands.

24. No noxious or offensive trade, or any trade which shall be a nuisance to the neighbourhood, shall be carried on upon so much of the lands proposed to be reclaimed under the powers of this Act as are situate on the northerly side of a line drawn from Ing's Point in a south-westerly direction to the limits of deviation.

Protection of rights of Her Majesty in right of the Duchy of Lancaster, and the lords of Slyne, Warton, and Carnforth, and the Ecclesiastical Commissioners.

25. Nothing in this Act or in the deposited plan shall prejudice any estate, right, interest, or privilege of Her Majesty, her heirs or successors, in right of the Duchy, or of the lords for the time being of the manors of Slyne with Hest, Carnforth, and Warton, respectively, or of their heirs and assigns respectively, or of the Ecclesiastical Commissioners for England, or their assigns, as lords of the manor of Bolton-le-Sands, in or in respect of any mines, metals, or minerals in or under any of the lands and sands mentioned in this Act, or the mining, quarrying, or otherwise working and removing the same, or the entering upon any land for that purpose, or in respect of sporting over any of the said lands and sands; and any such estate, right, interest, or privilege shall remain unaffected by this Act, notwithstanding any reclamation, inclosure, or appropriation of the said lands and sands, or any of them; and the said lords of the manors of Slyne with Hest, Carnforth, and Bolton-le-Sands respectively, and their respective heirs and assigns, shall be entitled to such share, not being less than one twenty-fifth nor more than one sixteenth part,

of the reclaimed lands lying within their respective manors, as may be assigned to them by a commissioner, to be appointed as herein-after mentioned by the Inclosure Commissioners upon application made in writing by them, or either of them, or their respective heirs or assigns, within ten years after the passing of this Act.

Lands to be assigned to frontagers.

26. And whereas on the deposited plan the "shore" is marked by a line therein described as the "high-water mark ordinary spring tides," and the owners of the lands abutting on the said shore in the townships of Slyne with Hest, Bolton-le-Sands, and Carnforth respectively claim to be entitled to portions of the said lands and sands as being their respective lands, although now subject to be overflowed by the sea: Therefore, as full satisfaction and compensation in respect of such claims, and of all other claims by such owners to compensation for the extinguishment of their rights of foreshore or frontage, there shall be assigned to such owners respectively, in proportion to the extent of their respective frontages, so much of the reclaimed lands and sands as immediately adjoins their respective lands abutting as aforesaid, and as lies within a line drawn parallel with the shore line at a distance of one hundred and fifty yards seawards from the shore line; and, subject to the provisions hereinafter contained in this section, the lands so adjoining as aforesaid shall vest in the same persons, for the same estates, and to the same uses, and on the same trusts (if any) as the respective lands to which they adjoin as aforesaid, but subject nevertheless to the temporary use or occupation thereof by the Undertaker for the purposes of the construction of the works authorised by this Act, and subject to the provisions of the last preceding section with respect to mines, metals, minerals, and sporting. In case, by reason of any alteration of the channel of the river Keer under the powers given by this Act, or of the making of any embankment for retaining or diverting the water of the said river Keer, or the tidal or drainage water passing through the channel thereof, any portion of land to be assigned as aforesaid is encroached upon, or in case the right of any person (other than such owner of the adjoining land as aforesaid) to any such portion or part thereof is established, some other equivalent portion of the reclaimed lands shall be assigned in lieu of the land which is so encroached upon, or to which such right is established; and such other equivalent portion shall be ascertained, in case of dispute, by a commissioner, to be appointed as herein-after mentioned by the Inclosure Commissioners on the application of any such owner as aforesaid. Any dispute as to the boundaries of any lands assigned under this section shall be determined by a commissioner to be appointed as aforesaid: Provided always, that nothing in this section

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contained shall be deemed or construed to be an admission by or on behalf of Her Majesty, in right of the Duchy, of the existence of any rights in respect of which any reclaimed lands or sands are to be assigned under this section.

Inclosure Commissioners to appoint a commissioner.

27. The Inclosure Commissioners for England from time to time shall, upon the application of the Undertaker, or of the person or persons herein-before in this Act specially mentioned, or in the case of any person or persons within the townships of Bolton-le-Sands, Slyne with Hest, or Carnforth claiming to be entitled to the enjoyment of any rights, easements, or privileges in or upon any portion of the said lands and sands within those townships respectively, other than those in this Act specially provided for, then, upon the application of the Undertaker, or of any person or persons so claiming as last aforesaid, appoint some competent person to be a commissioner for the purposes in that behalf mentioned in this Act.

Commissioner to award compensation.

28. The commissioner shall, subject to the provisions of this Act, and upon the application of the Undertaker or of any person or persons claiming as aforesaid, proceed to inquire into and determine whether the person or persons so claiming is or are entitled to any, and, if any, what rights, interests, easements, or privileges in or over the said lands and sands, or any part thereof, and to award and adjudge, in the case of any person or persons whom he finds to be so entitled, such compensation to be paid by the Undertaker as to the commissioner shall seem reasonable in satisfaction of his or their claim.

Commissioner to appoint a committee to receive compensation.

29. In the event of any such compensation as aforesaid being awarded or adjudged to any persons in respect of any common rights, it shall be lawful for the commissioner to appoint a committee not exceeding five in number of such persons; and it shall be lawful for such committee to receive the compensation so awarded to be paid, and the receipt of such committee, or any two of them, for such compensation, shall be an effectual discharge to the Undertaker; and such compensation, when received, shall be apportioned by the committee among the several persons interested therein according to their respective interests, but the Undertaker shall not be bound to see whether or not the persons so appointed are persons entitled as aforesaid, nor to see to the apportionment or to the application of any such compensation, nor shall he be liable for the misapplication or nonapplication thereof.

Compensation not to be awarded unless notice given.

30. Except as in this Act specially provided, no person or persons shall be entitled to compensation in respect of any rights, easements, or privileges claimed by him or them in, upon, or over

any of the said lands and sands who shall have failed to send in to the Undertaker a notice in writing, setting forth the nature and extent of the rights, easements, or privileges claimed, within two years from the passing of this Act: Provided, that nothing herein contained shall prejudice or affect the rights of any of the persons mentioned in sections twenty-five and twenty-six of this Act, nor shall anything herein contained entitle any of such persons to any compensation other than that for which provision is made by the said sections twenty-five and twenty-six of this Act.

Inclosure Commissioners to supply vacancies.

31. If and whenever the Commissioner to be appointed under the provisions of this Act, or any Commissioner hereafter to be appointed by virtue of this section, shall die, or go to reside in foreign parts, or neglect, refuse, or become incapable to act in the execution of the duties by this Act imposed on him, it shall be lawful for the said Inclosure Commissioners, and they are hereby authorised and directed, from time to time to nominate and appoint such other competent person, not being interested in the premises, as to them shall seem proper, in the stead of the Commissioner so dying or going to reside in foreign parts, or neglecting, refusing, or becoming incapable to act as aforesaid; and every Commissioner so nominated and appointed shall, from and immediately after his appointment, and the making by him of the declaration herein-after prescribed in that behalf, have the same or the like powers and authorities in all respects as if he had been originally named and appointed a Commissioner.

Commissioner may appoint a clerk.

32. It shall be lawful for the said Commissioner from time to time, with the consent of the Inclosure Commissioners, to appoint some fit and proper person to be clerk to the said Commissioner, at such salary as he may think reasonable, and as the said Commissioners may allow, to assist the said Commissioner in the execution of the powers and duties given to or imposed upon him by this Act, and to remove such clerk from time to time, and appoint another in his room, with the like consent, as the said Commissioner shall deem proper.

Power to summon witnesses.

33. It shall be lawful for the said Commissioner under his hand to summon any person as a witness whose evidence the said Commissioner shall deem necessary or important in reference to the several matters and things to be decided, fixed, and determined by him as herein mentioned, also to tender and allow a reasonable sum to such witness for his loss of time, costs, and charges; and in case any such witness shall, after such tender as aforesaid, refuse or

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neglect, without a reasonable excuse, to attend and give evidence pursuant to such summons, or attend and refuse to be examined upon declaration (which declaration the said Commissioner is hereby empowered to take and administer), then and in either of the said cases, and as often as the same shall happen, every such person shall forfeit and pay any sum not exceeding five pounds, to be recovered in like manner as any penalty recoverable under this Act.

Commissioner to sign declaration before acting.

34. Provided always, that no person shall act as a Commissioner in the execution of this Act, except for the purpose of signing and giving notice of the first sitting of the said Commission, until he shall have made and signed the declaration following; (that is to say,)

'I *A. B.* do solemnly and sincerely declare, that I will faithfully, 'impartially, and honestly, according to the best of my skill and 'ability, execute and perform the several trusts, powers, and autho- 'rities vested and reposed in me as a Commissioner by virtue of '"The Bolton-le-Sands and Warton Reclamation Act, 1874," accord- 'ing to equity and good conscience, and without partiality, fear, 'favour or affection, prejudice or malice, to any person whomsoever.'

Which declaration it shall be lawful for any justice of the peace of the county palatine of Lancaster acting within his jurisdiction to take and receive; and such justice is hereby required to take and receive the same, and if any Commissioner shall corruptly make such declaration, or, having made such declaration, shall wilfully act contrary thereto, he shall be guilty of a misdemeanor.

Commissioner may award costs.

35. The Commissioner may make such orders as to the payment of the whole or any part of the costs and expenses of any inquiry by him (including his own remuneration and that of his clerk, according to a scale to be fixed from time to time by the Inclosure Commissioners,) as he thinks just; and any order or award of the Commissioner may, on the application of any person interested therein, be made a rule of any superior court of law.

Commissioner to require security for costs.

36. It shall be lawful for the Commissioner, prior to entering upon any inquiry under the provisions of this Act, other than an inquiry relating to the rights or interests of any person or persons for whose protection special provision is made in this Act, to require and take from the person or persons prosecuting any such inquiry, and such person or persons shall (if required so to do) give to the Commissioner, security for costs, in such form as the Commissioner shall in his discretion think fit.

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Upon payment of awarded compensation all estates to be barred.

37. Upon payment or legal tender of any money payable to any person or persons under any award of the Commissioner, or (in the case of persons under disability or incapacity) upon payment of any such money into the Bank of England, or to trustees, or to the parties entitled to the rents and profits of the lands in respect of which any money shall be awarded, as the case may be, in manner prescribed with respect to purchase money or compensation payable to parties under disability by the Lands Clauses Consolidation Act, 1845, or any statutory modification or amendment thereof, or (if no notices shall have been sent in within the period and in the manner prescribed by the thirtieth section of this Act, and with respect to such person or persons as shall have failed to send in such notice as and within the period aforesaid,) upon the expiration of the period limited by the thirtieth section of this Act, all the estates, rights, titles, claims, or easements whatsoever (save such as are in this Act otherwise specially provided for) in, to, upon, or over the said lands and sands, other than those of the Undertaker, shall be absolutely barred and determined.

Saving rights of Duchy of Lancaster from Commissioner's jurisdiction except by consent.

38. No determination, award, or proceeding of a Commissioner under the provisions of this Act shall directly or indirectly prejudice or affect any estate, right, or interest of Her Majesty, her heirs or successors, in right of her Duchy of Lancaster, unless such determination, award, or proceeding has been made with the previous consent of the Chancellor and Council for the time being of the said Duchy first had and obtained, which consent the said Chancellor and Council are hereby authorised to give, and may be signified in writing under the hand of the clerk for the time being of the said Council; and no decision of the Commissioner shall be used in evidence in any proceedings in any court of law or equity, or other judicature, against Her Majesty, her heirs or successors, in right of her said Duchy, unless such decision shall have been made with such consent as aforesaid.

Upon completion of embankment, &c., Undertaker to be entitled absolutely to the inclosed lands.

39. Upon payment to the Chancellor and Council of Her Majesty's Duchy of Lancaster of any money payable by the Undertaker in manner herein-before prescribed, in respect of Her Majesty's rights and interests in the said lands and sands, or any part thereof, and after such conveyance thereof as aforesaid, all and singular the said lands and sands, together with all the yearly and other profits thereof, shall, subject to the provisions of this Act, be vested in and become the property of the Undertaker, his heirs and assigns.

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Saving rights of the Duchy of Lancaster.

40. Nothing contained in this Act shall extend or operate to authorise the Undertaker to take, use, enter upon, permanently or temporarily, or in any manner interfere with any land, foreshore, soil, water, or hereditaments, or any manorial rights, or any other rights, of whatsoever description, belonging to Her Majesty, her heirs or successors, in right of her Duchy of Lancaster, and not already sold to the Undertaker, without the consent in writing of the Chancellor for the time being of the said Duchy first had and obtained (which consent the said Chancellor is hereby authorised to give), or take away, prejudice, alter, or diminish any estate, right, privilege, power, or authority vested in or enjoyed or exerciseable by Her Majesty, her heirs or successors, in right of her said Duchy.

Saving rights of the Crown in the foreshore.

41. Nothing contained in this Act shall authorise the Undertaker to take, use, or in any manner interfere with any portion of the shore or bed of the sea, or of any river, channel, creek, bay, or estuary, or any right in respect thereof, belonging to the Queen's most Excellent Majesty in right of her Crown, and under the management of the Board of Trade, without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade may give); neither shall anything in this Act contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

Saving rights of the Crown.

42. Nothing contained in this Act, or to be done under the authority thereof, shall in any manner affect the title (if any) to any of the subjects, or any rights, powers, or authorities (if any) mentioned in or reserved by sections twenty-one and twenty-two of "The Crown Lands Act, 1866," and belonging to or exerciseable on behalf of Her Majesty, her heirs or successors, in right of the Crown.

Not to damage the line of the Lancaster and Carlisle Railway of the London and North western Railway Company.

43. If by reason of or the failure of any acts, works, operations, or proceedings of, or of any neglect or omission by or on the part of the Undertaker or his contractors, or his or their agents, servants, or workmen, the Lancaster and Carlisle Railway, or its works, or any the lands or property belonging to the Lancaster and Carlisle Railway Company whose undertaking is leased to the London and North-western Railway Company, or any lands or property belonging to or occupied by the London and North-western Railway Company, shall be damaged or injured, or the drainage thereof interfered with or obstructed, or the traffic on

that railway impeded, whether during the execution or after the completion of such works, the Undertaker shall forthwith make good any such damage or injury, and remove and remedy any such interference, obstruction, or impediment, and make full compensation to the London and North-western Railway Company for any such damage or injury as they may sustain by reason of any such works, operations, proceedings, failure, neglect, or omission; but in case of emergency happening, and of which emergency the London and North-western Railway Company shall be the sole judges, they may themselves make good any such damage or injury, and do and execute such necessary acts and works as they may think fit for remedying any such damage, obstruction, or impediment, but in all things at the expense of the Undertaker, and may recover from the Undertaker all such compensation and expenditure, with full costs: Provided that any disputes or differences which may arise between that Company and the Undertaker with reference to any of the matters or things herein-before provided for, save as to the question of emergency, shall be referred to arbitration in manner provided by "The Railway Companies Arbitration Act, 1859," for the settlement of differences between railway companies; and the clauses and enactments of the last-mentioned Act shall, so far as the same are applicable, be read and have effect as if the matters and things herein-before provided for had been specially mentioned and provided for, and the Undertaker and the undertaking specially named and referred to therein, and as if the words "his hand and seal" had been used in addition to the words "their common seal."

Provision for the protection of the Furness Railway Company.

44. Notwithstanding anything in this Act contained, it shall not be lawful for the Undertaker, or any person acting under or in execution of this Act, to take, enter upon, occupy, or use, either permanently or temporarily, or to acquire any right, title, or interest to or in any of the works, lands, or property of the Furness Railway Company, or in any manner to alter or interfere with the railways or works of that company, without the previous consent of that company in writing under their common seal; and nothing in this Act contained shall take away, lessen, prejudice, alter, or affect any of the estates, rights, interests, powers, privileges, or authorities of the Furness Railway Company.

Saving rights of lords of manors, &c.

45. Nothing in this Act contained shall extend to prejudice, diminish, alter, or take away any of the rights, privileges, powers, or authorities vested in or enjoyed by the lord or lords of any

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manor adjoining or contiguous to any part or parts of the lands and sands hereby authorised to be embanked and reclaimed as aforesaid, except so far as the same may be barred or extinguished by this Act, or by any act, deed, matter, or thing to be made, done, or executed in pursuance of this Act.

Saving rights conferred by Act of 1811.

46. Nothing in this Act contained, except as herein otherwise expressly provided, shall extend, vary, alter, limit, prejudice, or extinguish any of the provisions of the Act of 1811.

Provisions of 1 Vict. cap. 83. to apply to amended plan.

47. All the provisions of the 1 Victoria, cap. 83. shall apply to the amended plan herein-before referred to.

Expenses of Act.

48. All the costs, charges, and expenses of and incident to the applying for, obtaining, and passing of this Act, or preparatory thereto, shall be paid by the Undertaker.

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