

ANNO DECIMO

VICTORIÆ REGINÆ.

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CAP. XI.

An Act to explain and amend the Act authorizing the Advance of Money for the Improvement of Land by Drainage in *Great Britain*.

[30th *March* 1847.]

WHEREAS an Act was passed in the last Session of Parliament, intituled *An Act to authorize the Advance of Public Money, to a limited Amount, to promote the Improvement of Land in* Great Britain *and* Ireland *by Works of Drainage*: And whereas it is expedient that the said Act should be explained and amended: 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, That the Expences herein-after mentioned shall be deemed to be and may be included among the Expences of Works of Drainage, in respect of which Advances may be made under the Provisions of the said Act; (that is to say,)

9 & 10 Vict. c. 101.

Certain Expences deemed to be included as Expenees of Works of Drainage.

The Expence of making or improving and securing from or for the Benefit of the Land proposed to be improved by Drainage an Outfall through other Land, or such Part, as the Commissioners may think reasonable, of the Expence of making or improving and securing such Outfall, for the Benefit of the

Land in respect of which the Advance may be applied for, and of other Land:

The Expence of making open Drains and Watercourses, including such open Drains and Watercourses as may need frequent Repair, where reasonable Security for their Maintenance shall appear to the Commissioners to be afforded by the Interests or Liabilities of the Tenants and Occupiers of the Land:

And the Expence of fencing, trenching, and clearing the Surface of Land to be drained for the Purpose of converting the same from Waste or Pasture into Arable or Tillage Land, where such fencing, trenching, and clearing respectively shall appear to the Commissioners to be necessary to secure and render productive the proposed Improvement by Drainage:

Provided that it shall appear to the Commissioners that in all the Cases aforesaid the Works will effect an Improvement in the yearly Value of the Land, which will exceed the utmost yearly Amount which can be charged thereon under the said Act in respect of the Advance applied for.

Plans, &c. may be dispensed with in certain Cases.

II. And be it enacted, That where by the said Act the Plan, Estimate, and Specification of the proposed Drainage is required to be inspected or examined by and to be annexed to the Report of the Assistant Commissioner, or Surveyor or Engineer, it shall be sufficient for the Assistant Commissioner, or Surveyor or Engineer, unless the Commissioners shall otherwise direct, to inquire into and to embody in his Report such Particulars of the Land proposed to be drained, and of the proposed or any other Manner of effecting the Drainage thereof, and of the estimated Expences of such Drainage, as shall appear to him necessary and sufficient to enable the Commissioners to judge of the Expediency of an Advance in respect of the proposed Works; and where in the Provisional Certificate, or in any subsequent Proceedings, Reference is by the said Act required to be made to the Plan and Specification annexed to such Report, Reference may be made thereto, or to the said Report, as Circumstances may require; and it shall be lawful for the Commissioners to certify their Opinion that an Advance should be made in respect of any Works, notwithstanding any Deviation therein from the proposed Manner of effecting the Drainage, if such Deviation shall appear to the Commissioners to be expedient, and productive of Improvement as permanent and of as great yearly Amount as the Manner at first proposed.

Applicants for Advances may withdraw or reduce the Amount of their Applications.

III. And be it enacted, That all Parties who shall have made Applications for Advances under the said Act may at any Time, before Provisional Certificates shall have been issued thereon respectively, by Writing, addressed to the Commissioners, withdraw or reduce the Amount of the Advances for which their several Applications are made; and the Commissioners may deal with any Application for such reduced Advance in the same Manner in all respects as if the Advance for which such Application is made had been originally limited to the Amount to which the same shall be so reduced.

IV. Pro-

Applicants may substitute Applications (in respect of other Lands) for the Applications withdrawn or reduced in Amount.

IV. Provided always, and be it enacted, That any Party who shall withdraw an Application or reduce the Amount of the Advance for which his Application may have been made, under the Provision herein-before contained, may at the Time of such Withdrawal or Reduction substitute for the Application so withdrawn an Application for an Advance for the Drainage of any of his Lands not comprised in his previous Application; and if the Advance applied for by such substituted Application do not exceed the Advance for which the Application so withdrawn may have been made, or (in the Case of such Reduction as aforesaid) do not exceed the Amount withdrawn by Reduction from the Advance for which the previous Application may have been made, the Commissioners may, in dealing with such substituted Application, give the same the Benefit (if any) in respect of Priority to which they might have deemed it entitled if it had been made at the same Time, and instead, in whole or in part, of the previous Application: Provided always, that every such substituted Application shall, in respect to the Notice required to be given by Advertisement, and all Inquiries and Proceedings to be had thereupon, except as aforesaid, be dealt with as an original Application.

Where separate Applications have been made by the same Owner for several Advances, the same may be consolidated.

V. And be it enacted, That where separate Applications shall have been made by the same Owner for several Advances for the Drainage of several Lands, or where successive Applications shall have been made for an Advance, and a further Advance for Works of Drainage on the same Lands, it shall be lawful for the Commissioners (with the Consent of the Owner for the Time being of such Lands or Land) by their Provisional Certificate, or by any other Writing under their Seal, to declare such several Applications to be consolidated and treated as One Application, and thenceforth the Proceedings and the Provisional Certificate, and the Certificates respectively which shall be had and issued upon such consolidated Application, shall be had, framed, and issued respectively in the same Manner, and shall have the same Force and Effect in all respects, as if the aggregate Amount of the Advances applied for by the several Applications had been applied for, and in the Case of several Lands and Works as if such several Lands and Works had been all mentioned and included in One Application: Provided always, that where such separate Applications as aforesaid shall have been made for Advances for the Drainage of several Lands, such Applications shall not be consolidated without the like Notice by Advertisement of the proposed Consolidation as by the said recited Act is required in respect of an Application for an Advance; and where such Notice by Advertisement shall be given, any Person who would have been authorized to dissent from an Application for an aggregate Advance in respect of the Lands comprised in such several Applications may dissent from such proposed Consolidation, and the Provisions of the said recited Act in relation to Dissents shall be applicable to Dissents from a proposed Consolidation.

Advances may be made on account in certain Cases.

VI. And be it enacted, That where a Provisional Certificate has been or shall have been issued under the said Act, it shall be lawful for the Commissioners, whether a Declaration shall or shall not have been inserted in the Provisional Certificate for this Purpose, to certify to

to the Commissioners of the Treasury that an Advance on account should be made in respect of any Part of the proposed Works which shall have been actually executed, not exceeding in Amount the whole of the Sum then actually expended thereon, in case it shall be shown to the Satisfaction of the Commissioners that the Part so executed will, independently of the Part remaining unexecuted, be durable and effectual, and produce an Improvement in the yearly Value of the Land exceeding the Amount of the yearly Charge which can be made under the said Act in respect of such Advance.

Time for Completion of Works.

VII. And be it enacted, That no Provisional Certificate shall be issued under the said Act unless it shall be shown to the Satisfaction of the Commissioners, or Security be given to their Satisfaction by the Party applying for the Advance, that the Works for which the Advance is to be made may be completed within Five Years from the Date of the Certificate; and the Commissioners shall annex to every Provisional Certificate to be issued under the Authority of the said Act a Provision that all Works in respect of which they shall certify their Opinion that an Advance should be made shall be completed within Five Years as aforesaid, and no Provisional Certificate shall be issued upon any Application or Applications by the same Owner for any larger Sum than Ten thousand Pounds: Provided always, that in case it shall be shown to the Satisfaction of the Commissioners, or Security be given to their Satisfaction by the Party applying for the Advance, that the Works for which the Advance is to be made may be completed within Three Years from the Date of the Certificate, and that it shall also appear to the Satisfaction of the Commissioners that such Works are to be executed within any District in *Scotland* in which Distress prevails, and that such Works may be executed by the Labour of the Inhabitants of such District, it shall and may be lawful for the said Commissioners in such Case, on the Application of any Owner, and with the Sanction of the Commissioners of Her Majesty's Treasury, to issue a Provisional Certificate or Provisional Certificates for such larger Sum or Sums as they in their Discretion shall see fit, subject to a Provision to be annexed to such last-mentioned Certificate that such Works shall be completed within the said Period of Three Years.

Form of Certificates, and their Effect.

VIII. And be it enacted, That Certificates and Provisional Certificates under the said Act may respectively be made in such Form as the Commissioners shall think fit; and every such Certificate and Provisional Certificate respectively, when sealed with the Seal of the Commissioners, shall for all Purposes be conclusive Evidence that all the Applications and Acts whatsoever which ought to have been made and done previously to the issuing thereof have been made and done by the Persons authorized to make and do the same, and that an Advance may be issued by virtue of such Certificate, and that the Land shall become charged in respect of such Advance; and no such Certificate or Provisional Certificate shall be impeached by reason of any Omission or Mistake therein.

Provisional Certificate may be assigned.

IX. And be it enacted, That any Owner of Land to whom a Provisional Certificate shall have been issued under the said Act, or

any subsequent Owner of such Land, may assign such Provisional Certificate, by way of Security, to any Person who may have advanced or may agree to advance Monies for the Execution of the Works therein mentioned, and such Assignment may be made by an Endorsement on the Provisional Certificate in the Form set forth in the Schedule to this Act; and such Assignee shall be entitled to claim and receive, upon and in respect of such Provisional Certificate, such Advances as the Owner by whom the Assignment shall have been made might have claimed and received in case such Assignment had not been made, subject nevertheless to the Right of the Owner as against such Assignee to an Account of the Advances so received, or of so much thereof as shall not be owing on his Security; and, subject to the Rights of Assignees as aforesaid, each Advance shall be made to the Owner by whom the Works in respect of which an Advance may be made shall appear to the Commissioners to have been executed, and who shall have been named in the Certificate accordingly, or to the legal personal Representative of such Owner; and where an aggregate Advance shall be made in respect of Works which shall have been in part executed by an Owner whose Ownership shall have ceased, and in part by a subsequent Owner, the Advance shall be apportioned by the Commissioners between the Owners in such Manner as by the Report of a Surveyor or Assistant Commissioner, or otherwise, shall appear to the Commissioners to be reasonable, having regard to the Sums expended by the successive Owners, and such successive Owners may be named in the Certificate accordingly.

As to the Words "Owner of Lands."

X. And be it declared and enacted, That the Words "Owner of Lands" shall, as to Lands in *Scotland*, include any Corporation.

This Act to be deemed Part of the recited Act.

XI. And be it enacted, That this Act and the recited Act shall be construed together as One Act, and the Provisions herein contained shall be deemed to extend to all Proceedings and Matters already taken and done in the same Manner as if such Provisions had been originally inserted in the said recited Act.

Act may be amended, &c.

XII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

SCHEDULE to which this Act refers.

Form of Assignment of Provisional Certificate.

I *A. B.* of in consideration of the Sum of Pounds paid to me [*or* of the Advances which may be made to me] by *C. D.*, do hereby assign to the said *C. D.* the within written Provisional Certificate, and all my Right and Interest in and to the Advances which may be made in virtue thereof, to the Intent that the said *C. D.*, his Executors, Administrators, or Assigns, may claim and receive such Advances, and may thereout retain the said Sum of with Interest for the same at per Centum per Annum [*or* such Sums as may be advanced to me by the said *C. D.* as aforesaid, with Interest at per Centum per Annum from the Time of the respective Advances thereof].

In witness whereof I have hereunto set my Hand, this Day of 18 .

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