ANNO VICESIMO TERTIO & VICESIMO QUARTO

VICTORIÆ REGINÆ.

Cap. clxx.

An Act to alter and amend "The *Scottish* Drainage and Improvement Company's Act, 1856."

[23d *July* 1860.]

WHEREAS by "The *Scottish* Drainage and Improvement Company's Act, 1856," the Company were incorporated for the Purpose of undertaking and assisting the Improvement and Reclamation of Land, making Roads, and erecting Farm Buildings, and other Purposes; 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 Alterations and Amendments should be made in some of the Provisions of the said recited Act; but the same 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 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: 19 & 20 Vict. c. lxx.

I. The recited Act and this Act shall be read together as One Act. Recited Act and this to be as One.

The Scottish Drainage and Improvement Company's Amendment Act, 1860.

Short Title.

II. This Act may be cited for all Purposes as "The *Scottish* Drainage and Improvement Company's Amendment Act, 1860," and the recited Act and this Act may be cited together for all Purposes as "The *Scottish* Drainage and Improvement Company's Acts."

Interpretation of the Word "Landowner."

III. The Definition of the Word "Landowner" in the Third Section of the recited Act shall be and is hereby repealed; and in the Construction of the recited Act and this Act the Word "Landowner" shall denote or include every Person being a Fiar, Life-renter, Heir of Entail, Heir Apparent, or Disponee, or having a limited but not less than a Life Interest in the Land, and the Husband, Tutor, Curator, or other Guardian or Trustee of any such Person, and every Trustee having or acting for or representing a Person having a like Interest in the Land, 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.

Sect. 4. of recited Act repealed, and Improvements authorized to be made.

IV. The Fourth Section of the recited Act shall be and is hereby repealed; and the Improvements which may be made under the Provisions of the recited Act or this Act, with the Approval of the Inclosure Commissioners, as herein-after mentioned, shall be in respect of One or more of the following Matters:

First, the Drainage of Lands;

Second, the Irrigation and Warping of Land;

Third, the embanking of Land from the Sea or tidal Waters, or from Lakes, Rivers, or Streams, in a permanent Manner;

Fourth, the inclosing and dividing of Land, and the making and straightening of Marches, by Walls, Hedges, and Dikes, and by Iron Wire or other Fences, or otherwise;

Fifth, the improving of Drains, Streams, or Watercourses of Land;

Sixth, the Reclamation of Land;

Seventh, the making of permanent Farm Roads and permanent Tramways and Railways for agricultural or farming Purposes;

Eighth, the clearing of Land;

Ninth, the Erection of Farmhouses and other Buildings required for Farm Purposes, and the Improvement of and Additions to Farmhouses, and other Buildings for Farm Purposes already erected, so as such Improvement or Additions be of a permanent Nature;

Tenth, the planting for Shelter or for any beneficial Purpose, which will increase the permanent Value of the Land;

Eleventh, the Construction or Erection of any Engine Houses, Waterwheels, Saw and other Mills, Kilns, Shafts, Wells, Tanks, Reservoirs, Dams, Leads, Pipes, Conduits, Watercourses, Bridges, Weirs, Sluices, Floodgates, and Hatches, which will increase the Value of any Land

for

for agricultural and farming Purposes, and so as such Operations shall be of a permanent Nature;

Twelfth, the Erection of any Engines or Machinery of a permanent Nature in connexion with and in the effecting of any Works or Improvements in Drainage or Irrigation by the recited Act or this Act authorized;

Thirteenth, the Construction or Improvement of Jetties or Landing Places on the Seacoast, or on the Banks of navigable Rivers or Lakes, for the Transport of Cattle, Sheep, or other agricultural Stock and Produce, and of Lime and Manure, and other Articles and Things for agricultural and farming Purposes; provided such Works shall, in the Opinion of the Inclosure Commissioners, add to the permanent Value of the adjoining Lands to an Extent proportioned to the Expense thereof.

Not necessary that Improvements by Landowner be under Superintendence of the Company.

V. It shall not be necessary, under the Thirty-third Section of the recited Act, where any Improvements are to be executed by a Landowner by means of Money to be advanced by the Company to such Landowner as therein mentioned, that the Execution of the Improvements by such Landowner shall be under the Superintendence of the Company.

Proviso in Sect. 34 of recited Act repealed.

Proceedings in Cases of joint Contract.

VI. The Proviso at the End of Section Thirty-four of the said recited Act shall be and is hereby repealed, and instead thereof it is hereby provided, that in the Case of any such joint Contract as in that Section mentioned, or in the event of any Landowner applying for the straightening of Marches or making March Fences, the Improvement shall not be executed by the Landowners, or any of them, but either by the Company or by such Contractor as may be arranged or agreed between the Company and the said Landowners; and for straightening Marches or constructing March Fences any One or more of the Proprietors interested may apply for the Execution of such Works by the Company or by a Contractor, subject to the Approval of the Inclosure Commissioners.

Sects. 39, 42, 43, and 44 of recited Act repealed.

VII. And for amending the Provisions of the recited Act as to Applications to the Inclosure Commissioners by or in behalf of Landowners, and as to Provisional Orders, the Sections Thirty-nine, Forty-two, Forty-three, and Forty-four thereof shall be and are hereby repealed, except as to anything already done under the Provisions thereof respectively.

Inclosure Commissioners if satisfied to sanction by Order the proposed Improvements.

VIII. If the Inclosure Commissioners shall be of opinion that the proposed Improvements, or any Part thereof, would effect such a permanent Increase of the yearly Value of the Lands proposed to be improved, or any Part thereof, as will render the Amount proposed to be charged thereon under the recited Act or this Act, in respect of the Expenses of the Improvements applied for, a provident and beneficial Outlay, they, by Order under

under their Hands and Seal, shall sanction the proposed Improvements, or such Part thereof as they shall think expedient, and shall set forth, either expressly or by Reference to the provisional Contract with the Company for the Execution of the proposed Improvements and the Report thereon, or either of them, or otherwise as they shall think fit, the Terms and Conditions on which the proposed Improvements, or the Part thereof sanctioned by them, are to be executed, and they shall have Power to make such Alterations in or Modification of the provisional Contract, or the proposed Mode of Execution, or the Terms and Conditions generally, as they shall think expedient; and after such Sanction is so given, the provisional Contract, subject to and in accordance with the Terms and Conditions of such Sanction or as modified thereby, shall become an absolute Contract, and shall from the Date of such Order be binding on the Landowner and the Company; and any such absolute Contract may be carried into effect accordingly: Provided that in case any such Alteration or Modification shall be made by the Inclosure Commissioners in the provisional Contract, or the Terms and Conditions thereof as aforesaid, they may, if they shall so think fit, require that the Assent of the Landowner contracting shall be given to such Alteration or Modification, to be evidenced by an Indorsement on the Order for sanctioning such Contract; and that in case of such Requirement by them the Contract shall not be absolute and binding until such Assent shall have been so given.

Inclosure Commissioners to make Provisional Order.

IX. When the Sanction of the Inclosure Commissioners shall be given to any such proposed Improvements, they shall, upon the Application of the Landowner or the Company, before the Commencement of the Works, execute under their Hands and Seal, and deliver to the Company, an Order in the Form in the Schedule to this Act annexed, or as near thereto as the Circumstances will admit, and such Order shall be called a Provisional Order, and such Provisional Order shall be conclusive Proof of such Contract and Sanction to all Parties interested and for all Purposes whatsoever.

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

X. Before any such Provisional Order as aforesaid shall be made by the Inclosure Commisioners, Notice shall be given of the Application for the same by Advertisement, inserted in Two successive Weeks in some Newspaper or Newspapers published in *Scotland* or elsewhere, as the Commissioners may direct, and by a Notice written or printed, given 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 One Month

Month shall have elapsed from the Publication of the Second of such Advertisements, and the Service of such Notices, if any, respectively; and in case any Person having any Right in or Charge or Security on such Land shall within such One Month signify in Writing to the Inclosure Commissioners his Dissent from such Application, stating therein the Nature of his Interest 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 Court of Session in manner by the recited Act provided, authorizing the Inclosure Commissioners to make such Provisional Order.

Consent of Presbytery and Patron to be had in case of Church Land.

XI. When the Land to which the Application for a Provisional Order relates, or any Part of such Land, is Land held in right of any Church, Chapel, or other Ecclesiastical Benefice, the Inclosure Commissioners shall not make any Provisional Order as to such Land, or so much thereof as is so held, unless and until the Presbytery of the Bounds and the Patron of such Benefice shall signify to the Inclosure Commissioners by Writing under their Hands their Consent respectively to such Application.

Charge in arrear to bear Interest.

XII. In case any Charge payable to the Company under the recited Act or this Act shall be in arrear, and if at the Expiration of Six Calendar Months from the Time of it becoming payable there shall not be upon the Land charged sufficient to answer and satisfy the said Arrears, and Interest thereon for the said Period of Six Calendar Months, together with the Costs and Charges of Recovery of such Arrears and Interest, then, notwithstanding the Fifty-ninth Section of the recited Act, the Arrears of such Charge shall continue to bear Interest at the Rate of Five Pounds *per Centum per Annum* until Payment or Satisfaction thereof; and such Interest may be recovered in the same Manner as the Sum in arrear.

Farmhouses, &c. to be insured.

XIII. When any Farmhouses, Farm Buildings, or Works susceptible of Damage by Fire shall have been erected, improved, or added to under this or the recited Act wholly or in part with Money borrowed from the Company, then so long as any Land shall continue charged under this or the recited Act in respect thereof the Person for the Time being bound to make the yearly or other periodical Payments of such Charge shall insure and keep insured against Damage by Fire all such Farmhouses, Farm Buildings, and Works in an Amount equal to the Principal Amount originally secured by such Charge at the least, and such Person shall, if required, once in every Year certify to the Company the Fact of such Insurance and the Particulars thereof, and that the Premium

and Duty for such Insurance for the Year then current have been duly paid; and if such Persons shall not insure or keep insured such Farmhouses, Farm Buildings, and Works, or shall not duly certify such Matters upon Request, it shall be lawful for the Company, with the Assent of the Inclosure Commissioners, to insure against Damage by Fire the said Farmhouses, Farm Buildings, and Works in an Amount not exceeding the Principal Amount originally secured by such Charge, and in the Name either of the Person by whom such Default shall have been made, or in the Name of the Landowner mentioned in the absolute Order, and thereafter to keep the same insured during the Continuance of the said Charge, and to pay for such Insurance such Premium as they may think reasonable; and the Person for the Time being bound to pay the yearly or other periodical Payments of such Charge shall from Time to Time, on the Day on which the next Payment shall become due on the said Charge, repay to the Company any Sums so paid by them for Premium and Duty upon such Insurance; and in default of such Payment the Amount of such Premium and Duty, with Interest thereon at the Rate of Five Pounds *per Centum per Annum* from the Time of such Default, may be recovered by the Company by the same Means and in the like Manner as if the same had been payable as Part of the said Charge.

Power to Company to insure in case of Default.

Company, if required, to certify to Commissioners State of Improvements, &c.

XIV. The Company shall, if required by the Commissioners, certify to them once in every Year the State of the Improvements and Works upon all or any of the Lands for the Time being charged, and of the Outfalls and Watercourses of the Drains (if any) therein, and also as to all or any Farmhouses, Farm Buildings, and Improvements which the Persons liable to make the yearly or other periodical Payments of the Charge are bound to insure and keep insured as aforesaid, whether the same or any of them have been so insured, and the Particulars of such Insurances respectively, and whether or not the Premiums and Duty for such Insurance for the Year then current have been duly paid.

The Company not exempt from Provisions of future General Acts.

XV. 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.

Extent of Act.

XVI. This Act shall not extend to *England* or *Ireland*.

Expenses of Act.

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

SCHE-

The Scottish Drainage and Improvement Company's Amendment Act, 1860.

SCHEDULE to which the foregoing Act refers.

PROVISIONAL ORDER.

(*Proper Heading.*)

THE Inclosure Commissioners for England and Wales, in pursuance of the Powers and Provisions of the Scottish Drainage and Improvement Company's Act 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 Scottish Drainage and Improvement Company [*or as varied by the Schedule to this Order*], upon the Terms and Conditions that such Improvements respectively be executed by the said Company [*or otherwise, 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 Fee of such Lands should be charged with the Monies contracted to be paid for the Execution of the said Improvement 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 .

SCHEDULE OF LANDS PROVISIONALLY CHARGED.

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

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