



ANNO DECIMO SEXTO & DECIMO SEPTIMO

VICTORIÆ REGINÆ.

Cap. cliv.

An Act for incorporating the Lands Improvement Company, and to afford Facilities for the Improvement of Land by enabling the Company to issue transferable Mortgage Debentures.

[4th August 1853.]

WHEREAS the Improvement, Conversion, and Reclamation of Lands, by draining, irrigation, warping, embanking, inclosing, the making of Roads, the Erection of Farm Buildings, trenching, clearing, and planting, for the Purpose of Shelter and otherwise, will materially benefit Agriculture, and be of great public Advantage: And whereas *Frederick Twynam, Richard Griffiths Welford, Hewitt Davis, William Richmond, Edward Parker Shute, Arthur Goodrich, and Frederick West* are willing, with others, to undertake and assist in the Execution of such Improvements, and it is expedient to incorporate them as a Company, with such Powers and Authorities as are by this Act granted, and that such Provisions for facilitating the Execution of such Improvements in *England and Wales* and in *Scotland*, and for carrying into effect the Purposes of the said Company, as are herein-after contained, should be made; but these Objects cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted;

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and

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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 :

Short Title. I. In citing this Act for any Purpose whatsoever it shall be sufficient to use the Expression "The Lands Improvement Company's Act, 1853."

Certain Provisions of 8 & 9 Vict. cc. 16. 18. and 19. incorporated with this Act. II. "The Companies Clauses Consolidation Act, 1845," and the Provisions of "The Lands Clauses Consolidation Act, 1845," and of "The Lands Clauses Consolidation (*Scotland*) Act, 1845," so far as the same apply to the Purchase or taking of Lands by voluntary Agreement, shall apply to and be incorporated with this Act; and the Word "Owner" in the Two last-mentioned Acts respectively shall, in applying the Provisions of those Acts to this Act, be read as denoting "Landowner" as used in this Act; and the Expression "the Promoters of the Undertaking," used in those Acts, shall, in applying the aforesaid Provisions in respect of such Purchase or taking of Lands, be read as denoting the Company hereby incorporated.

Certain Provisions of 10 & 11 Vict. c. 17. incorporated with this Act. III. The several Provisions of "The Waterworks Clauses Act, 1847," "with respect to the Construction of the Waterworks," and "with respect to the Construction of Works for the Accommodation of Lands adjoining the Waterworks," and "with respect to Mines," and "with respect to the breaking up of Streets for the Purpose of laying Pipes," shall be incorporated with this Act, and shall apply to such Improvements and Works accordingly; and the Expression "the Undertakers," in that Act, shall, in applying such Provisions to this Act, be read as denoting the Company hereby incorporated.

Interpretation of Terms in this Act. IV. In the Construction of this Act the following Words and Expressions, unless there be something in the Subject or Context repugnant to such Construction, shall have the following Meanings assigned to them respectively; that is to say,
The Expression "the Company" shall denote the Company hereby incorporated:

The Expression "the Inclosure Commissioners" shall denote the Inclosure Commissioners for *England* and *Wales* :

The Expression "the Board of Trade" shall denote the Lords of the Committee of Her Majesty's Privy Council for the Consideration of all Matters of Trade and Plantations :

The Word "Landowner" 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 Lands (except any Tenant for Life or Lives or for years holding under a Lease or Agreement for a

Lease

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Lease on which a Rent of not less than Two Thirds of the clear yearly Value of the Premises comprised therein shall have been reserved, and except any Tenant for Years whatsoever holding under a Lease or Agreement for a Lease for a Term not renewable, of which Twenty-five Years at least shall not be unexpired at the Time of making any Contract with the Company for Improvement, as herein-after mentioned, and that without regard to the real Amount of Interest of such Person; and in every Case in which any Lands shall have been leased or agreed to be leased to any Person for Life or Lives, or for Years, by any Lease or Agreement for a Lease on which a Rent less than Two Thirds of the clear yearly Value of the Premises comprised therein shall have been reserved, or of which the unexpired Term shall be at least Twenty-five Years from the Time of making any such Contract as aforesaid, or which is renewable at the Option of the Lessee, the Person who shall for the Time being be in the actual Receipt of the Rent reserved upon such Lease or Agreement for a Lease shall, jointly with the Person who shall be liable to the Payment of such Rent, be deemed, for the Purposes of this Act, to be the Owner of such Lands; and as to Lands in *Scotland*, the Word "Landowner" shall denote or include every Fiar, Life Renter, 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, fatuous or furious Person, and every Trustee, which Persons respectively shall be in the actual Possession of the Land, or in the Receipt of the Rents payable on the Tacks, Leases, or Tenancies of the Tenants in the actual Possession thereof:

The Word "Person" shall denote and include any Body Corporate, whether aggregate or sole, and whether lay, ecclesiastical, or collegiate, as well as an Individual:

The Improvements which may be made under the Provisions of this 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. Irrigation and warping of Land:
3. Embanking of Land from the Sea or Tidal Waters or Rivers in a permanent Manner:
4. Inclosing any Land, or improving Drains, Streams, or Water-courses of the Land, under the Inclosure Commissioners:
5. Reclamation of Land lying waste:
6. Making Farm Roads, to the Extent of One Half of the Outlay for such Roads:
7. Clearing Lands:
8. Erection of Farmhouses and other Buildings required for
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Farm Purposes, to the Extent of Three Fourths of the Outlay for such Farmhouses and other Buildings :

9. Planting, for Shelter, to the Extent of One Half of the Outlay for such planting.

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

In effecting any Improvements by this Act authorized, it shall be lawful to erect any Engines, Machinery, Engine Houses, Mills, Kilns, Sheds, Yards, Shafts, Tanks and Reservoirs, Pipes, Conduits, and Watercourses for Irrigation, Tramroads and other Ways, Bridges, Weirs, Sluices, Floodgates, and Hatches.

Incorporation of Company.

V. The several Persons herein-before named, and all other Persons who have subscribed or shall subscribe any Portion of the Capital of the Company, and their respective Successors, Executors, Administrators, and Assigns, shall be united into a Company for carrying this Act into execution, and for such Purposes shall be a Body Corporate, by the Name of "The Lands Improvement Company," and by such Name shall have perpetual Succession and a Common Seal, and may sue and be sued, and may purchase, take, hold, sell, and dispose of Lands, Real and Personal Property, and other Effects; provided that the Company shall not at any One and the same Time hold any Quantity of Land beyond Fifty Acres; but such Restrictions shall not operate by way of Condition or otherwise so as to prejudice any Purchaser or other Person claiming under or through the Company.

Power to purchase Lands.

VI. The Company may also, and in addition to any other Land held by them, from Time to Time purchase any Land by Agreement with the Owner thereof, not being a Person under Disability, and being entitled to sell such Land absolutely in his own Right, independently of the Powers conferred by this Act, and may improve and resell the same to any Person, so as the total Quantity of Land so purchased as last aforesaid held by the Company at any One and the same Time do not exceed Five hundred Acres.

Limit of the Amount to be spent in building on Land purchased by the Company.

VII. The Company shall not expend in building on any Land purchased by the Company any greater Sum than One hundred Pounds for every Acre so purchased as last aforesaid, without the Licence of the Inclosure Commissioners under their Hands and Seal, which Licence the said Commissioners are hereby empowered to grant, on such Terms and Conditions as they may think fit, but not with any Provision for the Revocation or other Determination of such Licence; provided that such Restriction on Expenditure in building shall not operate by way of Condition or otherwise so as to prejudice any Purchaser or other Person claiming under or through the Company.

VIII. The

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- VIII. The First Ordinary Meeting of the Company shall be held within Twelve Months next after the passing of this Act. First Ordinary Meeting.
- IX. Ten Shareholders at least holding in the aggregate not less than One hundred Shares may require the Directors to call an Extraordinary Meeting. Requisition for Extraordinary Meeting.
- X. The Quorum for every General Meeting shall be Ten Shareholders holding in the aggregate not less than One hundred Shares. Quorum for General Meeting.
- XI. Any General Meeting may remove from his Office any Director and any Auditor for Misconduct, Negligence, or other Cause deemed by such Meeting sufficient, but so that a qualified Shareholder be at the same Meeting appointed to fill his Place; and the Shareholder so appointed shall continue in Office as a Director or Auditor so long only as the Person in whose Place he is appointed would have been entitled to continue had he remained in Office. General Meeting may remove Directors and Auditors.
- XII. The Qualification of a Director shall be his holding in his own Right not less than Fifty Shares; and the Number of the Directors shall not exceed Twelve, provided that the Number of Directors may from Time to Time be reduced to any Number not less than Six. Qualification and Number of Directors.
- XIII. That *Robert Westley Hall Dare, John Folliott Powell, Thomas Robert Brook Cartwright, Frederick Loftus Dashwood, Frederick Twynam, Allen Davis, William Napier, and Arthur Goderich* shall be the First Directors of the Company, and shall continue in Office from the passing of this Act until the First Ordinary Meeting of the Company, at which Meeting Directors shall be chosen and appointed by the Shareholders. First Directors.
- XIV. The Directors shall appoint and discharge all the Officers of the Company except the Auditors, and shall from Time to Time determine their respective Remuneration, Duties, and Regulations. Directors to appoint Officers.
- XV. The Quorum of a Meeting of Directors shall be Three. Quorum of Meeting of Directors.
- XVI. Any Committee appointed by the Directors shall consist of not less than Three Directors, and the Quorum of every Committee shall be Two. Committee of Directors.
- XVII. The Qualification of an Auditor shall be his holding in his own Right not less than Twenty Shares. Qualification of Auditors.

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Days for
balancing
Books.

XVIII. The Books of the Company shall be balanced on the Thirtieth Day of *June* and the Thirty-first Day of *December* in every Year.

Capital.

XIX. The Capital of the Company shall consist of One hundred thousand Pounds in Ten thousand Shares of Ten Pounds each.

Company
may raise
additional
Capital by
Creation of
new Shares.

XX. The Company may from Time to Time, with the Consent of Three Fourths of the Votes of the Shareholders present, in Person or by Proxy, at any General Meeting of the Company, convened with Notice of the Purpose, create any further Capital not exceeding, together with the Capital then existing, Three hundred thousand Pounds in the whole, by the Creation and Issue of new Shares of such Denomination, and on such Terms and Conditions, and at such Time and Times respectively as may be determined by such Meeting, or as such Meeting by such Vote may authorize the Directors to determine; provided that no such new Shares shall bear or be entitled to any Privilege or Preference over the then existing Shares.

Calls.

XXI. No Call upon the Shares shall exceed Two Pounds on each Share, nor shall be made at less than an Interval of Two Months from the last preceding Call, and no more than Three Fourths of the total Amount of any Share shall be called thereon in any One Year.

Payment of
Dividends
out of any
reserved
Fund.

XXII. The Directors may from Time to Time, before apportioning the net Profits available for Dividend, if they shall so think fit, deduct and set apart any Sum or Sums for creating a Reserve or Contingency Fund, not exceeding in the whole Thirty thousand Pounds, and may apply and use any Portion of such Reserve Fund as Capital of the Company, instead of creating new Capital of like Amount; provided that no greater Amount in the whole of such Reserve than Ten thousand Pounds shall be applied as Capital without the Consent of the Proprietors at a General Meeting.

Receipts of
Guardian of
Infants and
Committees
of Lunatics.

XXIII. When any Money is payable to any Shareholder, being a Minor, or Idiot, Lunatic, furious or fatuous Person, the Receipt of the Guardian, Tutor, or Curator of such Minor, or of the Committee or Curator of such Idiot, Lunatic, or furious or fatuous Person, shall be a sufficient Discharge to the Company for such Money.

Provision for
some Cases
of Bank-
ruptcy or
Insolvency.

XXIV. If any Person against whom the Company shall have any Claim or Demand shall become subject, either voluntarily or involuntarily, to the Operation of any Act relating to Bankrupts or Insolvent Debtors in *England*, or Sequestration or Cessio bonorum in *Scotland*, the Secretary may, in all Proceedings against the Estate of such Person, represent the Company, and act in their Behalf in all respects.

XXV. The

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XXV. 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 "The *London Gazette*," and such daily Morning Newspaper published in *London* as the Directors from Time to Time shall direct, and where any such Advertisement relates to Land in *Scotland* shall also be the *Edinburgh Gazette* and some Newspaper circulating in the District in which the Land to be affected is situate.

Newspapers
for Adver-
tisements.

XXVI. The Company may from Time to Time make Advances for the executing or aiding the Execution of Improvements of Lands on such Securities upon or affecting Lands, or the Rents and Profits of Lands, or on such Securities being partly Securities upon or affecting Lands or the Rents and Profits of Lands, and partly Assurances on Lives or Survivorships, and with such Provisions for the Repayment of such Advances, either in gross, or by way of Annuity or other periodical Payment, as the Directors may think fit.

Company
may ad-
vance Money
for effecting
Improvements
of
Lands.

XXVII. The Company may from Time to Time contract with any Commissioners of Sewers, Local Board of Health, Corporation, Trustees, or other Body, having under any Act Authority to make Contracts for any Improvements or Works, for the Execution by the Company of any such Improvements or Works, and may execute the same accordingly.

Company
may con-
tract with
public
Bodies for
executing
Works.

XXVIII. All the Provisions of the Act of the Ninth and Tenth Years of the Reign of Her present Majesty, 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 of any and every other Act for the Time being in force relating to the Inclosure Commissioners, so far as the same concern or are auxiliary to the Proceedings and Inquiries of the said Commissioners under the Authority of such Acts or any of them, and the Authentication of Instruments, shall, except as in this Act otherwise provided, extend and be applicable to their Proceedings and Inquiries and the Authentication of Instruments under this Act.

Certain Pro-
visions of
the General
Acts relating
to the In-
closure
Commis-
sioners to
extend to
Proceedings
under this
Act.

XXIX. Every Assistant Inclosure Commissioner acting by the Authority and in the Execution of this Act, may receive Declarations and Statements, and examine upon Declaration all such Persons as may attend before him in the Matter, Inquiry, or Proceeding under the Authority of this Act.

Assistant
Commis-
sioner may
take Decla-
ration and
examine
Witnesses.

XXX. Any Landowner may, by a Power of Attorney given in Writing under his Hand, appoint any Person to be an Agent to act for him for the Purposes of this Act, and all Things which by

Attornies
may be
appointed
by Persons
interested.
this

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this Act shall or may be done by or with relation to any such Landowner may be done by or with relation to the Agent so duly authorized by such Landowner, and every such Agent shall have full Power, in the Name and on behalf of his Principal, to act in all respects for the Purposes of this Act, and every Person shall be bound by the Acts of any such Agent, according to the Authority committed to him, as fully as if the Principal of such Agent had so acted; and the Power of Attorney under which the Agent acts, or a Copy thereof, authenticated by the Signature of a Witness, shall be deposited in the Office of the Commissioners; and any such Power of Attorney shall be in the Form in Schedule (A.) to this Act annexed, or to the like Effect.

Inclosure Commissioners to frame Forms of Applications, &c.

XXXI. The Inclosure Commissioners may from Time to Time frame or sanction, and, at the Expense of the Company, cause to be printed and circulated, as the Commissioners see Occasion, Forms indicating the Particulars of the Information to be furnished to the Commissioners for the Purposes of this Act by Landowners or by the Company, and such other Forms as the said Commissioners deem expedient for facilitating any Proceedings under this Act.

Power for Landowners to contract with Company for the Improvement of the Land.

XXXII. Any Landowner may enter into a Provisional Contract with the Company for the Execution by the Company of any of the said Improvements on any Land in which he is interested; and the Money or Contract Sum for which the Company shall agree to execute such Improvements may, with such Assent of the Inclosure Commissioners as herein-after provided, be charged as an Improvement Loan on such Land, in the Manner by this Act provided for charging Land with Loans for Improvement by the Company; or any Landowner may enter into a like Provisional Contract with the Company for the Execution by such Landowner, under the Superintendence of the Company, of any of the said Improvements on Lands in which he is interested, by means of Money to be advanced by the Company to the Landowner; and any such Sum of Money so advanced by the Company shall, together with such Commission as shall be approved of by the Inclosure Commissioners, be in like Manner charged as an Improvement Loan on such Lands; and any Landowner may enter into any Provisional Contract with the Company for the Improvement by the Company of the Land in which he is interested, or any Part thereof, and for the Execution by the Company of such Works as may be thought proper for such Improvement, and may from Time to Time enter into any Contract with the Company with reference to such Improvement, or any additional or other Improvement, and the Works thought proper for such additional or other Improvement; and such Landowner and the Company, or other the Parties in Contract, may from

Time

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Time to Time, prior to the Order of the Commissioners sanctioning any such Improvement, alter or rescind any such Provisional Contract.

XXXIII. Any Two or more Landowners, with the Consent of the Inclosure Commissioners, may join in entering into any such Provisional Contract as aforesaid with the Company for the Improvement of the Lands of such Landowners respectively; and the Sum expended in the Improvement executed under any such joint Contract, or the Charge to be made in respect thereof, shall be apportioned so that a separate and distinct Sum or Charge may become charged upon the Land of each Landowner in the Manner herein-after specified; provided that in the Case of any such joint Contract the Improvement so contracted for shall be executed by the Company, and not by the Landowners so contracting, or any of them.

Landowners may join in Contracts with Company.

XXXIV. The Company may contract with and take a Charge or other Security from any Landowner, being the absolute Owner of Land not subject to any Incumbrance, without any Advertisement or Assent thereto by the Commissioners; but in such Case the Company shall not issue any Mortgage Debenture founded upon such Contract, Charge, or Security.

In case of Contracts, &c., Advertisements or Assent of Inclosure Commissioners not required.

XXXV. When any Landowner has entered into a Provisional Contract with the Company for Improvements by the Company upon any Land in which he is interested, such Landowner or the Company, or the Landowner and Company jointly, may make Application to the Inclosure Commissioners to sanction the proposed Improvements; and such Application shall contain such Particulars of the Land proposed to be improved, the proposed Manner of effecting such Improvements, the estimated Expense of effecting the same, the annual Value of such Land, and the estimated Increase of the Value of such Land to be produced by such Improvements, as may enable the Commissioners to judge of the Expediency of investigating or further proceeding upon such Application; and every such Application shall specify the Estate or Interest of or claimed by the Landowner in the Land to which such Application relates.

Landowner or Company may make Application to the Inclosure Commissioners to sanction proposed Improvements.

XXXVI. The Inclosure Commissioners may require Security, by Bond or otherwise, in such Form as they may think fit, by the Landowner or the Company respectively, or by the Landowner and the Company jointly, making such Application, for the Payment to the said Commissioners of such Sum as the said Commissioners shall, according to the Provisions of this Act, order to be paid in respect of the Investigation on any such Application; and (if they shall

Inclosure Commissioners may require Security for Expenses of Investigation.

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issue a Provisional Order) of the Expenses of inspecting and ascertaining the due Execution of the Works; and unless the Commissioners shall issue a Provisional Order such Payment shall be made by such Landowner or by the Company, and shall not be a Charge on the Land to which such Application relates.

Inspection of Lands to be made by an Assistant Commissioner or Engineer, who shall report his Opinion on the same.

XXXVII. If the Commissioners think fit to entertain the Application, they may cause the Land, and the Plan, Estimate, and Specification of the proposed Improvements, 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 report that the proposed Improvements 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, 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 for Shelter the Requirements as to increased annual Value shall not apply to the Outlay to be made upon or in respect of such planting only.

Inclosure Commissioners, if satisfied, to sanction by Order the proposed Improvement.

XXXVIII. If the 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 this Act in respect of the Expenses of the Improvements applied for a provident and beneficial Outlay, the Commissioners, by Order under their Hands and Seal, shall sanction the proposed Improvements, or such Part thereof as they 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 the Commissioners think fit, the Terms and Conditions on which the proposed Improvements, or the Part thereof sanctioned by them, should 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

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such Absolute Contract may be carried into effect accordingly; provided that, in case any such Alteration or Modification shall be made by the Commissioners in the Provisional Contract, or the Terms and Conditions thereof, as aforesaid, the Commissioners may, if they shall so think fit, require that the Consent of the Landowner contracting shall be given to such Alteration or Modification, to be evidenced by an Indorsement in 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.

XXXIX. Before making Application to the Inclosure Commissioners for their Sanction to an Improvement which, in the Judgment of the Commissioners, would interfere with any navigable River, Canal, or Waterworks respectively vested in or under the Management or Control of any Commissioners, Trustees, Company, or other Body, or the Banks or other Works or Conveniences thereof, or would occasion the Flow or Discharge into such River, Canal, or Waterworks of any Drainage or other Matter, the Company shall give Notice in Writing of the intended Application to such last-mentioned Commissioners, Trustees, Company, or other Body; and in case such Commissioners, Trustees, Company, or other Body shall, within One Month after the Receipt of such Notice, signify in Writing to the Inclosure Commissioners their Dissent from such Application, and state the Nature of their Interest in or Authority over such River, Canal, Watercourse, or Waterworks, the Inclosure Commissioners shall certify such Dissent to the Landowner by whom the Application was made, and also to the Company, and shall not sanction the Improvement 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 this Act provided, authorizing the Inclosure Commissioners to sanction the Improvement.

Notice of Application to be given to Canal or other Companies.

XL. When any Landowner has entered into a Provisional Contract with the Company for the Improvement of any Land, and the Sanction of the Inclosure Commissioners to the proposed Improvements, or any Part thereof, has been obtained, such Landowner and the Company, or other the Persons contracting, may from Time to Time thereafter make Application to the Commissioners to sanction, with respect to such Land or any Part thereof, any further or additional Improvements; and the Commissioners may, if they think fit, and after such further Inquiries (if any) as they think fit, sanction such proposed additional Improvements, or any Part thereof, as in the Case of an original Application for the Sanction of the Commissioners to a proposed Improvement, and subject to the same Conditions and Regulations as are hereby required in the Case of the original Improvement so previously sanctioned.

Application to the Inclosure Commissioners to sanction additional Improvements.

XLI. When

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Inclosure Commissioners to make Provisional Order.

XLI. 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 (B.) 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 as to all Parties interested and for all Purposes whatsoever.

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

XLII. The Inclosure Commissioners shall not make such Provisional Order until Notice has been given of the Application for the same by Advertisement published in Two successive Weeks in some Newspaper circulating in the County or District in which the Land proposed to be improved lies, and Two Months have elapsed from the Publication of the Second of such Advertisements, nor until Notice has been given in Writing, where such Lands are situate in *England* or *Wales*, and to all Persons interested in such Lands, in remainder or reversion, or as Mortgagees, who by reasonable Inquiry shall be known by the Company to be so interested, and where the Lands are situate in *Scotland*, to the nearest Heir or Heirs of Entail not exceeding Three, and to Mortgagees and Holders of other Heritable Securities, in which Notices respectively shall be particularly 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 shall be spread; and in case any Person having any Estate in or Charge on such Land within such Two Months signify in Writing to the Commissioners his Dissent from such Application, stating therein the Nature of his Estate or Charge, if any, in or 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 this Act provided, authorizing the Commissioners to make such Provisional Order.

Consent of Patron and Ordinary to be had in case of Glebe Land.

XLIII. When the Land to which the Application for a Provisional Order relates is Land held in right of any Church, Chapel, or other Ecclesiastical Benefice, the Commissioners shall not proceed thereon unless and until the Bishop of the Diocese (or in *Scotland* the Presbytery of the Bounds) and the Patron of such Benefice consent to such Application, and signify such Consent by Writing under their Hands respectively to the Commissioners.

XLIV. If

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XLIV. If and when any Dissent to any such Application to the Inclosure Commissioners for their Sanction of proposed Improvements shall have been notified in Writing to the said Commissioners, either by a Party interested in the Lands proposed to be improved, (not being Lands held in right of any Church, Chapel, or ohter Ecclesiastical Benefice,) or by the Commissioners, Trustees, Company, or other Body interested in any River, Canal, Watercourse, or Waterworks which would or might be interfered with as herein-before mentioned, the Landowner desiring such Improvements and the Company, or either of them, may apply to the High Court of Chancery where such Lands are situate in *England* or *Wales*, or to the Court of Session where such Lands are situate in *Scotland*, for an Order of such Court authorizing the Inclosure Commissioners to entertain and proceed upon the Application for such proposed Improvements, notwithstanding such Dissent; and such Application shall be made, as to Lands in *England* or *Wales*, to the Master of the Rolls, or any One of the Vice-Chancellors sitting at Chambers, by Summons calling on the Party dissenting and on the Inclosure Commissioners to show Cause why such Order should not be made, and as to Lands in *Scotland* shall be made to either Division of the Court of Session in Time of Session, or to the Lord Ordinary sitting on Bills in Time of Vacation, by summary Petition; and the Court or single Judge, as the Case may be, to whom such Application shall be made, shall hear and determine such Application, and for that Purpose shall have Power to make or direct to be made all such Inquiries, and receive and entertain all such Statements and Evidence, on Oath or by Affidavit, as such Court or Judge may consider necessary or desirable, or as may be produced before them or him; and if, upon a Review and Consideration of all the Circumstances, such Court or Judge shall be of opinion that the Inclosure Commissioners should entertain and proceed upon such Application, an Order shall be made authorizing and requiring them to proceed thereon, and to deal with the same according to the Provisions of this Act authorizing them in that Behalf, notwithstanding such Dissent as aforesaid; provided that if at any Time after Notification of such Dissent, and before any such Order shall have been applied for and made as aforesaid, such Dissent shall be withdrawn by a like Notification in Writing, it shall not be necessary to make or proceed with such Application or to obtain such Order.

In case of Dissent, Application may be made to the Court of Chancery.

XLV. On any such Application, Service may be made on the Company and the Inclosure Commissioners, whether within or out of the Jurisdiction of the Court, in like Manner as is herein provided as to the Service of Summonses, Notices, and Process generally; and where any Party dissenting shall be out of the Jurisdiction of the Court, it shall be lawful for the Court or Judge to order Service to

Where Party out of the Jurisdiction.

[Local.]

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be made in such Manner as such Court or Judge may think fit; and upon Proof to the Satisfaction of such Court or Judge that such Party has had actual Notice, within a reasonable Time, of such intended Application, it shall be lawful for such Court or Judge thereupon to hear and determine such Application; and the Costs of and attending every such Application shall be in the Discretion of the Court or Judge who shall hear the same, and such Court or Judge may make such Order thereon as shall be thought fit, and in particular may order that the same or any Part thereof, to be settled by such Court or Judge or to be taxed according to the Course of the Court, shall be deemed to be Part of the Expenses of or incident to the proposed Improvements, and may be added thereto accordingly.

Empower-
ing Guard-
ians and
others to
act, &c.

XLVI. All Husbands, Guardians, Tutors, Curators, Factors appointed by the Courts in *Scotland*, and Committees on behalf of married Women, Infants, Minors, Lunatics, Idiots, furious or fatuous Persons, and all Feoffees and Trustees, Executors and Administrators, shall respectively have the same Rights and Powers of making Applications and signifying Dissents, and taking other Proceedings under this Act, as such married Women, Infants, Minors, Lunatics, and Idiots, furious and fatuous Persons respectively would have if free from Disability, or as such Feoffees or Trustees, Executors and Administrators respectively would have if the Estates, Charges, or Interests of which they are such Feoffees or Trustees, or which are vested in them as such Executors or Administrators, were vested in them in their own Right; but any such Guardian, Tutor, Curator, Factor, Committee, Feoffee, Trustee, Executor, or Administrator shall not be in anywise compelled or obliged to signify a Dissent to any Application under this Act, or be in anywise responsible for the Consequences of such Application, or of any Charge made in pursuance thereof.

Inclosure
Commis-
sioners to
cause Works
to be in-
spected.

XLVII. The Inclosure Commissioners shall, if and as they see Occasion, cause the Works to which any Provisional Order relates to be inspected by a Commissioner or Assistant Commissioner, or an Engineer, to ascertain the due Execution of such Works according to the Contract made between the Landowner and the Company.

Expenses of
Improve-
ment may
be charged
on the In-
heritance of
Lands im-
proved, with
the Appro-
val of the

XLVIII. 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 have been properly executed, the Commissioners shall execute a Charge under their Hands and Seal upon the Inheritance or Fee of the Lands so improved, or some sufficient Part thereof, for the Amount by the Contract agreed to be charged on the Land to be improved, or a proportional Part of such

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such Amount, as the Case may be, to be paid, with Interest, to the Company; and every such Charge shall be by way of Annuity or other periodical Payment extending over a Term of Years to be fixed by the Commissioners, and to commence from the Time when the Works 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 Charge shall be made according to the Form in the Schedule (C.) to the 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 other Copy thereof, authenticated by their Seal, shall be Evidence of the Contents and Purport of the original Charge.

Commissioners, according to the Form in Sched. (C.)

XLIX. If the Landowner is desirous that the Inheritance or Fee of the Lands to be improved should be charged with the Expenses of and incident to the Contracts, the Commissioners, on the Application of such Landowner or of the Company, may ascertain the Amount of the Costs, Charges, and Expenses properly incurred preparatory to, for, in relation to, and consequent on the Contract and the Application to the Commissioners, and charge the Inheritance or Fee of such Lands, or of some sufficient Part thereof, in or by such Charge specified, with the Amount of such Costs, Charges, and Expenses, and of the settled or taxed Costs, if any, which the Court or Judge shall have ordered as aforesaid, to be deemed and taken to be Part of the Expenses of and incident to the Application for Improvements, or with such Part thereof as the Commissioners think fit, by including such Amount in the Charge made for Improvements.

Inclosure Commissioners may declare that the Inheritance of Lands improved is charged with Expense of Contracts.

L. Provided, That the total Amount of the Monies to be charged on the Lands improved under the Provisions of this Act shall in all Cases be less than the Amount by which in the Opinion of the Commissioners the Inheritance or Fee of the Lands improved is or will be durably benefited by the Execution of the Improvements.

Total Charge not to exceed Value of the durable Improvements.

LI. When the Inheritance or Fee of any Land is in pursuance of this Act charged with any Money, the Company shall be entitled to, and shall have from the Time from which such Rentcharge shall commence and take effect, a Charge upon such Lands for the Money ascertained and approved by the Commissioners as aforesaid, with such Interest as contracted for, not exceeding Five Pounds *per*

Company to have a Charge on the Lands for the Principal Money charged, and Interest.

Centum

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Centum per Annum, or if there be not any Contract as to the Interest thereon, at the Rate of Five Pounds *per Centum per Annum*; and such Lands shall thenceforth be and continue liable to the Payment of such Charge, and such Charge shall have Priority over every other then existing and future Charge and Incumbrance whatsoever upon or affecting such Lands, except Quit Rents, Chief Rents, Feu Duties, Ground Annuals, and other Charges incident to Tenure, and Tithe Commutation Rentcharges and Teinds, and any Charges created or to be created under any Act authorizing advances of Public Money for Drainage, respectively, if any; 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 Act shall have Priority over the Mortgage or other Incumbrance only to the Extent of a due Proportion of such Charge, to be ascertained and apportioned by the Commissioners.

Charge not to preclude Trustees from investing Money in Purchase or on Mortgage of Land charged.

LII. Any Charge on Land made by virtue of this Act shall not be deemed such an Incumbrance as shall preclude a Trustee of Money held in Trust, and with Power to be invested in the Purchase of Land or on Mortgage, from investing the same in a Purchase of or upon a Mortgage of such Land so charged, unless the Terms of such Trust or Power expressly provide that the Land to be so purchased or taken in Mortgage be not subject to any prior Charge.

Commissioners Approval to be absolute Evidence of the Validity of Charges.

LIII. The Execution by the Commissioners of any Charge on Lands in pursuance of this Act shall be, both at Law and in Equity, conclusive Evidence, to all Intents and Purposes, of the Contract to which such Charge relates having been duly entered into by the proper Parties, and of all Acts and Proceedings by this Act directed with reference to or consequent on such Contract having been duly had and done, and of such Charge having been duly made and executed, and being a valid Charge under this Act on the Inheritance of the Lands appearing to be subject thereto.

Registry of Grants of Rentcharges on Lands in Middlesex, Yorkshire, and Scotland.

LIV. Every Absolute Order of the Inclosure Commissioners, whereby a Rentcharge is executed on Land in *Middlesex* or *Yorkshire*, in pursuance of this Act, shall be registered in the same Manner respectively as if such Charge were made by Deed by the absolute Owner of such Lands, without the Aid of this Act; and all Grants of Rentcharges on Lands in *Scotland* shall be registered in the General or Particular Register of Sasines; provided that such Rentcharges shall in all Cases have Priority as herein-before declared, any Law or Usage to the contrary notwithstanding.

Proprietor of entailed

LV. No Proprietor of an entailed Estate in *Scotland* shall be held to have contravened the Conditions of the Entail by reason of having
availed

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availed himself of the Provisions of this Act; and no Rentcharge imposed or created on any entailed Lands in *Scotland* under the Authority of this Act shall be made use of as a Ground for adjudging, selling, or evicting such Lands or any Part thereof, contrary to the Provisions and Conditions of the Entail, but every such Rentcharge shall be a good and effectual Charge upon and against such entailed Lands to every other Effect, and upon and against the Rents and Profits thereof.

Estate in Scotland may avail himself of Benefit of Act, and Rentcharge under Act to be a Charge thereon.

LVI. The Company may, with the Approval of the Inclosure Commissioners, to be signified by an Indorsement 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 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 (D.) 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 Four Fifths of 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 Indorsement, under Hand only, in the Form set forth in the said Schedule (D.), 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

The Company may, with Approval of the Inclosure Commissioners, issue Mortgage Debentures, payable to Bearer, founded on each separate Charge.

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Transfer of a Mortgage respectively, and as regards the Holders shall be deemed to be and shall have the Incidents of Personal Property.

In case of Nonpayment of Debentures, a Receiver may be appointed.

LVII. If the Company shall omit to make any Payment of Principal or Interest when due upon any Mortgage Debenture, the Payee or Holder of such Debentures shall be entitled to recover the Sum so due from the Company by Action at Law, or in the Case of Debentures applicable to Charges on Land in *England* or *Wales* may apply to the High Court of Chancery in the Matter of this Act, by a Summons at Chambers of the Master of the Rolls or any One of the Vice-Chancellors, for the Appointment of a Receiver by the said Court, and in the Case of Debentures applicable to Charges on Land in *Scotland* may apply to either Division of the Court of Session, or in Time of Vacation to the Lord Ordinary on Bills, for the Appointment of a Judicial Factor, for receiving and collecting all the Payments then due or thereafter to accrue due on the Charge or Charges appropriated as aforesaid as the Fund for Payment of the Series of Mortgage Debentures of which any Debenture omitted to be paid as aforesaid may form Part; and such Summons, or Notice of such Petition, as the Case may be, shall be served on the Company, and thereon such Judge, or the Court of Session, or Lord Ordinary, as the Case may be, if he or they shall think fit, shall appoint some proper Person to be such Receiver or Judicial Factor, according to the Course of the Court, and such Receiver or Factor shall have the like Powers and Authorities to receive and recover the accruing Payment of such Charge or Charges as are by this Act given to the Company, and the Receiver or Factor so appointed shall apply the Money to be received in respect of such Charge or Charges in Satisfaction of the Arrears then due on the said Series of Debentures, and shall pay over the Surplus, if any, after Payment of Costs, Charges, and Expenses, to the Company; provided that after Notice of such Nonpayment by the Company shall have been given to the Landowner liable to any Charge appropriated as aforesaid, such Landowner shall not, in case such Receiver or Factor shall be appointed, make any further Payment to the Company, and thereupon the Powers of the Company in respect of such Charge shall cease so long as the Appointment and Powers of such Receiver or Factor shall continue.

Payments in arrear to bear Interest.

LVIII. 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 Four 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.

LIX. The

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LIX. The Company may assign any Charge not appropriated for the Payment of a Series of Mortgage Debentures issued by the Company by Deed under the Common Seal of the Company, and under the Hands of Three of the Directors of the Company, and duly stamped, and wherein the Consideration is truly stated; and such Assignment may be according to the Form in the Schedule (E.) to this Act annexed, or to the like Effect; and all Assignments made in such Form, or as near thereto as the Circumstances of the Case will admit, shall be effectual to vest, both at Law and in Equity, the Charge thereby assigned, and all the Powers, Authorities, Rights, and Remedies of the Company with reference to such Charge, in the Assignee, his Successors, Executors, Administrators, and Assigns respectively.

Form and Effect of Assignments by the Company of Charges.

LX. Every Charge on Land by virtue of this Act may be recovered by the Company, or the Person for the Time being entitled to the same, by the same Means and in like Manner in all respects as a Rentcharge in lieu of Tithes, if charged on the same Land under the Act of the Seventh Year of King *William* the Fourth, for the Commutation of Tithes in *England* and *Wales*, would be recoverable, and as if such Charge, by virtue of this Charge, were a Rentcharge in lieu of Tithes made payable to the Company or such Person under that Act, and as regards Charges on Lands in *Scotland* the same shall be recoverable by the Company, or by the Person for the Time being entitled to the same, by the same Means and in the like Manner in all respects as any Feu Duties or Rent or Annual Rent or other Payment out of the same Lands would be recoverable.

Charges recoverable as Rentcharges in lieu of Tithes.

LXI. The Company shall cause their Secretary to keep Registers of all Contracts made by Landowners with the Company, and of the Provisional Orders and Absolute Orders for charging on the Inheritance of Lands, specifying the Lands comprised in each Contract and Order, and of the Debentures founded on any Charge or Series of Charges, and of Assignments by the Company of such Charges; and such Registers respectively may be perused at all reasonable Times by any Shareholders of the Company, or by any Debenture Holder, or by any Person interested in the Lands charged, or in any Charge, without Fee or Reward; and any such Person may take a Copy or Extract of so much of such Register as relates to the Subject Matter in which he is interested.

Registers of Charges, Debentures, &c. to be kept by the Company.

LXII. All the Provisions of the Act of the 8th and 9th Years of Her present Majesty, c. 118., for facilitating the Inclosure of Commons, or any Act amending or extending the same, concerning or auxiliary to the Proceedings and Inquiries of the Inclosure Commissioners and Assistant Commissioners respectively, under the

Provisions of General Inclosure Act, 8 & 9 Vict. c. 118. to extend to

Authority

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Proceedings
under this
Act.

Authority of such Act or Acts, and the Authentication of Instruments, shall, except as by this Act otherwise provided, extend and be applicable to their respective Proceedings, and the Authentication of Instruments under this Act, as if the Powers by this Act vested in the Commissioners and Assistant Commissioners respectively were Powers vested in them respectively by such Act or Acts; and all Notices by such Act or Acts or this Act directed or authorized to be given by the Commissioners or any Assistant Commissioner or Engineer may be given by the Secretary of the Commissioners, or any Person authorized in that Behalf by the Commissioners; provided that nothing in this Act contained shall authorize the Commissioners or any Assistant Commissioner or Engineer to administer an Oath.

Parties in-
terested in
neighbour-
ing Lands
may sell or
grant Ease-
ments
therein.

LXIII. All Persons interested in any Lands adjoining or near to the Land improved or proposed to be improved, and being by the Provisions of the Lands Clauses Consolidation Act, 1845, or, as the Case may be, of the Lands Clauses Consolidation (*Scotland*) Act, 1845, enabled to sell and dispose of such Lands so adjoining or near, or any Estate or Interest therein, may, for the Purposes of the Improvements authorized by this Act, sell and convey or grant the same or any Part thereof, or any Easement, Authority, or Right in, through, over, or affecting such Lands so adjoining or near, to the Landowner whose Land is or is proposed to be improved, and any such Land, Easement, Authority, or Right so sold and conveyed or granted shall thereupon become and thenceforth be held with or as appurtenant to or pertinent of the Lands improved or proposed so to be, and with reference to the Improvements whereof the same was purchased, and also may make any Agreement with the Company or the other Party to the Contract for such Improvement, or their respective Agents, with reference to entering on, cutting through or into, or prejudicially affecting such Lands so adjoining or near, and every such Sale, Conveyance, Grant, and Agreement shall be valid and effectual accordingly, and the Price or Consideration shall be settled by Two able practical Surveyors, or a Surveyor to be appointed by them, in manner provided by the Ninth Section of the Lands Clauses Consolidation Act, 1845, or, as the Case may be, by the Ninth Section of the Lands Clauses Consolidation (*Scotland*) Act, 1845.

Company
may, for
executing
Improve-
ments, enter
on Lands to
be improved.

LXIV. Subject to the Provisions and for the Purposes of this Act, the Company, and their Engineers, Surveyors, Contractors, Servants, Workmen, and Agents, may enter upon the Lands to be improved, and any Lands so adjoining or near, as to which any such Agreement shall have been made as aforesaid, and, with the Sanction of the Commissioners, but not otherwise, may execute in and upon the same all the Improvements contracted for, and do, execute, and use all such
Acts,

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Acts, Works, and Conveniences as are proper for making, maintaining, and using such Improvements.

LXV. And with respect to any Lands in *England* and *Wales* to be improved under the Provisions of this Act by Drainage or Warping, as to which it shall be necessary, or, in the Judgment of the Inclosure Commissioners, expedient, in order to the obtaining or improving the Outfall, for such Purposes or otherwise to enter and execute any Works upon any Land adjoining or near to the Land proposed to be improved, where, by reason of the Objection or Disability of any Owner, Lessee, or Occupier of such Land, such Works could not be executed, the Works so to be executed shall be deemed to be Works to be executed under the Provisions of the Act of the Tenth and Eleventh Years of the Reign of Her present Majesty, Chapter Thirty-eight, intituled *An Act to facilitate the Drainage of Lands in England and Wales*, and the Provisions of such Act shall apply to the Works to be so executed; provided that the Acts therein required or authorized to be done by the Person interested in the Lands to be so drained or improved may be done either by such Person, or by the Company instead of such Person: And with respect to Lands in *Scotland* to be improved under the Provisions of this Act by Drainage or Warping, as to which it shall be necessary, or, in the Judgment of the Commissioners, expedient, in order to the obtaining or improving the Outfall, for such Purposes or otherwise to enter and execute any Works upon any Land adjoining or near to the Land proposed to be improved, where, by reason of the Objection or Disability of any Owner, Lessee, or Occupier of such Land such Works could not be executed, the Works so to be executed shall be deemed to be Works to be executed under the Provisions of the Act of the Tenth and Eleventh Years of the Reign of Her present Majesty, Chapter One hundred and thirteen, intituled *An Act to facilitate the Drainage of Lands in Scotland*, and the Provisions of such Act shall apply to the Works to be so executed; provided that the Acts therein required or authorized to be done by the Person interested in the Lands so to be drained or improved may be done either by such Person, or by the Company instead of such Person.

Where necessary for the Execution of Works, to enter upon adjoining Lands, such Works may be deemed Works under either 10 & 11 Vict. c. 38. or 10 & 11 Vict. c. 113.

LXVI. The Company may, in the Execution of the Improvements, make such Alterations and Deviations of and from the original Plans for the same as by the Inclosure Commissioners shall be thought proper; provided that if such Alteration or Deviation be made in or affect the Lands of any Person not being a Party to the Contract, such Alteration or Deviation be with the Consent of some Person by this Act enabled to sell and convey such Land or grant Easements therein.

Company may deviate from original Plans, but not in adjacent Lands without Consent.

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LXVII. Every

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Tenants for Life to keep down Rent-charges.

LXVII. Every Landowner on whose Land a Charge shall have been made under this Act, and every succeeding Tenant for Life, Tenant in Tail, and other Person having a limited Interest in the Land so charged, shall, as between such Person and the Persons in remainder or reversion, be bound to pay the yearly or other periodical Payments of such Charge which become payable during the Continuance of his Interest, and in case he be in the actual Occupation of or entitled to an apportioned Part of the Rents and Profits of such Land up to the Time of the Termination of his Interest, shall also be bound to pay an apportioned Part of the yearly Rent or other periodical Payment of such Charge which becomes due next after the Termination of his Interest proportioned to the Time which elapsed between the Day for the previous Payment and the Day of such Termination; provided that any such Person entitled in remainder or reversion, and becoming entitled in possession, shall not be liable to pay any Arrears of the Charge remaining unpaid at the Time of his Estate or Interest in remainder or reversion becoming an Estate or Interest in possession, exceeding the Amount of Two Years Payment of such Charge; provided also, that the Amount paid by such Person in respect of such Arrears, and any Costs occasioned by Nonpayment thereof, shall be a Debt from the Person who in the first instance ought to have paid the same, or from his Estate, to the Person who paid the same, and shall be recoverable accordingly.

Improvements to be maintained.

LXVIII. So long as any Land shall continue charged with any such Charge, the Person for the Time being bound to pay the yearly or other periodical Payments of such Charge shall be bound to uphold the Improvements and Works on account of which the Land is charged therewith, and to keep clear and open the Outfalls and Watercourses of all the Drains, if any, and to insure against Damage by Fire all such Improvements, if any, as are susceptible of Damage by Fire; and such Person shall, if required, once in every Year, certify to the Commissioners the State of such Improvements and Works, and of such Drains and Outfalls, if any; and in default of so keeping and upholding such Improvements and Works, and such Drains and Outfalls, if any, or if such Person shall fell or cause or knowingly permit to be felled, except in proper thinning, any Trees planted under the Authority of this Act as an Improvement, such Person shall be liable to an Action on the Case in the Nature of an Action of Waste for the Damage thereby occasioned, at the Suit of any Person entitled to any Estate in remainder or reversion in such Lands; provided that such yearly Certificate may be made by the Company, instead of by such Person, in any Case in which the Company contract with the Landowner to make the same.

LXIX. If

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LXIX. If any Tenant or Occupier at a Rent join in the Application for an Improvement, or by Writing under his Hand signify to the Commissioner, or to any Assistant Commissioner or Engineer, his Consent to become charged with the Charge or an apportioned Part thereof, as herein-after mentioned, such Tenant or Occupier shall during his Tenancy or Occupation be liable to pay the Charge or an apportioned Part thereof, as herein-after mentioned; and in case the Application be made for a Charge in respect of the Improvement as well of other Land as of the Land included in such Tenancy or Occupation, the Commissioners may, upon such Concurrence or Consent of such Tenant or Occupier in the Absolute Order declare what Portion of the whole Charge payable in respect of the Improvement shall be payable by such Tenant or Occupier during his Tenancy or Occupancy in respect of the probable Improvement of the Land included in his Tenancy or Occupation; but, except as aforesaid, every Tenant or Occupier who pays such Charge shall be entitled to deduct the Amount thereof from the Rent payable by him to the Landowner, and shall be allowed the same in account with him.

Tenant may deduct Rent-charge, except where he has agreed to pay the same.

LXX. If it be at any Time represented to the Commissioners that the Land charged under this Act is occupied in separate Farms or other Holdings, or has become the Property of separate Owners, or that the Owner thereof is entitled thereto under separate Titles, or for distinct and separate Interests, or is desirous to sell or dispose of a Part of such Land, or that Part only of such Land is subject to any Mortgage or other Incumbrance, or that for any other Reason it would be desirable that such Charge should be apportioned, the Commissioners may, with the Consent of the Landowner and of the Company or other the Party for the Time being entitled to the Charge, or the Husband, Guardian, Tutor, Curator, Committee, or Trustee of such Party, if a married Woman, Infant, Lunatic, or Idiot, furious or fatuous Persons, and of such other Parties (if any) as the Commissioners think right, by Order under the Seal of the Commissioners apportion such Charge so that a separate and distinct Charge may become charged on each separate Farm or Holding, or on the Land of each Landholder, or on the Land held under each separate Title, or for each distinct and separate Interest, or on the Part or each Part which the Landowner is desirous to sell or dispose of, or on the Part subject to such Mortgage or other Incumbrance, and the Part intended to be retained by him, or on other separate Parts of the Lands, but so that any Charge charged under such Apportionment shall not be less than Twenty Shillings; and every such apportioned Charge shall be recoverable in the Manner as if the same had been originally charged under this Act on the Land on which the same is charged by such Order, and shall

Rentcharges may be apportioned.

for

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for other the Purposes of this Act be deemed an original Charge on such Land; and after any such Apportionment the Land charged with an apportioned Part of the original Charge shall not be liable to any other Part of the original Charge; provided that in any Case in which the Person entitled to any such Mortgage or other Incumbrance shall satisfy the Commissioners that he would be prejudiced unless such Apportionment were made, the Commissioners may, if they think right, make such Apportionment without any such Consent.

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

LXXI. The Company, and any Person for the Time being entitled in possession to any Lands improved under this Act may respectively, from Time to Time, after the making of the Improvements, by themselves, their Engineers, Surveyors, Agents, Servants, and Workmen, enter upon any Lands in, through, and upon which any of the Works are executed, to ascertain the Condition of the Works, and to maintain and repair the same, nevertheless paying to the Person for the Time being enabled by this Act to sell or grant any Easement in such Lands, in case the Parties differ about the same, such Compensation as shall be determined by Two Justices or the Sheriff, as provided by the "Lands Clauses Consolidation Act, 1845," and the "Lands Clauses Consolidation (*Scotland*) Act, 1845," for Settlement by Justices and Sheriffs respectively of Questions of disputed Compensation; provided that as to any Land adjoining or near the Land improved to which the Provisions of the Acts of the Tenth and Eleventh Years of the Reign of Her present Majesty, Chapters Thirty-eight and One hundred and thirteen, are hereinbefore expressly made applicable, the Powers of Entry upon such Lands for any of the Purposes aforesaid shall be subject to and be regulated by the Provisions of those Acts respectively.

Contracts and Agreements with Company not to be prejudiced.

LXXII. After any Person has under this Act entered into any Contract or Agreement with the Company, such Contract or Agreement shall not be in any way prejudicially affected by any subsequent Change of the Ownership of or Interest in any Land to which such Contract or Agreement relates.

Service of Summonses on Inclosure Commissioners.

LXXIII. Any Summons or Notice, or any Proceeding, at Law or in Equity, requiring to be served upon the Inclosure Commissioners, may be served by the same being left at or transmitted through the Post directed to the principal Office or One of the principal Offices of the Commissioners.

Punishment of Persons giving false Evidence.

LXXIV. If any Person, under the Provisions of this Act, shall wilfully give false Evidence or shall make or subscribe a false Statement or Declaration for the Purposes of this Act, such Person so offending

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offending shall, in *England*, be deemed guilty of a Misdemeanour, and in *Scotland* of a Crime and Offence, and shall be punished accordingly.

LXXV. Nothing in this Act contained shall authorize the Company to purchase, take, use, or interfere with any Land, Soil, or Water, or any Right in respect thereof, belonging to Her Majesty in right of Her Crown, without the previous Consent in Writing of the Commissioners for the Time being of Her Majesty's Woods, Forests, and Land Revenues, or, if the Property shall be under the Management or Control of Her Majesty's Works and Public Buildings, without the Consent in Writing of such last-mentioned Commissioners, and which Consent such Commissioners or any One of them respectively are or is hereby authorized to give, or to take away, lessen, prejudice, or alter any of the Rights, Privileges, Powers, or Authorities vested in or enjoyed by Her Majesty, Her Heirs or Successors.

Saving the
Rights of
the Crown.

LXXVI. Nothing in this Act contained shall authorize the Company to purchase, take, use, or interfere with any Lands, Soil, or Water, or any Right in respect thereof, belonging to Her Majesty in right of the Duchy of *Cornwall*, without the previous Consent in Writing of Two or more of the principal Officers of the said Duchy, and which Consent such principal Officers or any Two of them are hereby authorized to give, or belonging to the Duke of *Cornwall* for the Time being, without the previous Consent of such Duke testified in Writing under the Privy Seal of such Duke, or to take away, lessen, prejudice, or alter any of the Rights, Privileges, Powers, or Authorities vested in or enjoyed by Her Majesty, Her Heirs or Successors, in right of the said Duchy, or in or by the Duke of *Cornwall* for the Time being.

Saving the
Rights of
the Duchy
of Cornwall.

LXXVII. Nothing in this Act contained shall authorize the Company to purchase, take, use, or interfere with any Lands, Soil, or Water, or any Right in respect thereof, belonging to Her Majesty in right of the Duchy of *Lancaster*, without the previous Consent in Writing of the Chancellor of the said Duchy of *Lancaster*, which Consent such Chancellor is hereby authorized to give, or to take away, lessen, prejudice, or alter any of the Rights, Privileges, Powers, or Authorities vested in or enjoyed by Her Majesty, Her Heirs or Successors, in right of Her said Duchy of *Lancaster*.

Saving the
Rights of
the Duchy
of Lancas-
ter.

LXXVIII. Nothing in the Act contained shall authorize the Company to purchase, take, use, or interfere with any Land, Soil, or Water, or any Right in respect thereof, or to take away, lessen, prejudice, or alter any of the Rights, Privileges, Powers, or Authorities

Saving the
Rights of
Admiralty.

[Local.]

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vested

The Lands Improvement Company's Act, 1853.

vested in or enjoyed by the Lord High Admiral, or the Commissioners for the Time being for executing the Office of Lord High Admiral, without the previous Consent of the Lord High Admiral, or of the same Commissioners or any Two of them, signified in Writing under the Hand of the Secretary of the Admiralty, and which Consent the Lord High Admiral, or the same Commissioners or any Two of them, are hereby authorized to give.

Consent of the Admiralty and the Commissioners of Woods, &c. requisite for Works affecting tidal and navigable Waters.

LXXIX. No Person acting under or by virtue of this Act shall make, extend, or alter on the Shore of the Sea, or of any Creek, Bay, or Arm of the Sea, or in, under, or over any tidal or navigable Water, any Work, without the previous Consent of the Lord High Admiral, or of the Commissioners for the Time being for executing the Office of Lord High Admiral, or of any Two of them, signified in Writing under the Hand of the Secretary of the Admiralty, and the previous Consent in Writing of the Commissioners for the Time being of Her Majesty's Woods, Forests, and Land Revenues, or any One of them, and which respective Consents such Officers respectively are hereby authorized to give, and then only according to such Plan and under such Restrictions and Regulations as the Lord High Admiral, or the Commissioners for the Time being for executing the Office of Lord High Admiral, or any Two of them, and the Commissioners for the Time being of Her Majesty's Woods, Forests, and Land Revenues, or any One them, approve, such Approvals respectively being signified as aforesaid; and if any such Work be completed or commenced contrary to the Provisions of this Act, the Lord High Admiral, or the Commissioners for the Time being for executing the Office of the Lord High Admiral, or the Commissioners for the Time being of Her Majesty's Woods, Forests, and Land Revenues, at his or their Discretion, may abate and remove the same, and restore the Site thereof to its former Condition, at the Cost of the Company; and nothing in this Act contained shall authorize any Person acting or pretending to act under this Act to make any Work injurious to the Navigation of any navigable River or Canal: Provided nevertheless, that the Consent and Approval of the Commissioners for the Time being of Her Majesty's Woods, Forests, and Land Revenues shall not be required to the Execution of any Work, where the Shore of the Sea, or of any Creek, Bay, or Arm of the Sea, or the Bed or Shores of any tidal or navigable Water in, upon, or over which it is intended to construct such Work, are vested in Her Majesty in right of Her Duchy of *Lancaster*, or are Parcel of the Possessions of the Duchy of *Cornwall*.

Saving the Rights of the Commissioners of Sewers.

LXXX. Nothing in this Act contained shall take away, lessen, prejudice, or alter any of the Rights, Duties, Privileges, Powers, or Authorities vested in or to be discharged by any Commissioner of Sewers appointed by any Commission under the Great Seal or
unde_r

The Lands Improvement Company's Act, 1853.

under the Seal of the Duchy of *Lancaster*, or in or by any other lawful Commissioner of Sewers, or the Commissioners appointed under any Local or Private Act of Parliament for Sewers or Drainage.

LXXXI. All Works to be executed or placed under the Authority of this Act in or connected with the River *Thames* within the Jurisdiction of the Corporation of *London* shall be constructed according to a Plan to be approved by the Mayor, Aldermen, and Commons of the City of *London*, in Common Council assembled, and to be deposited at the Office of the Town Clerk of the City of *London*, and such Works shall be executed and performed to the Satisfaction of the Engineer for the Time being employed in the *Thames* Navigation.

Works in the *Thames* within the Jurisdiction of the Corporation of *London* to be approved by them.

LXXXII. Notwithstanding this Act, or anything contained in it, or in any Act incorporated therewith, any Work shall not be done which in any way interferes with any Sewers, Drains, or Watercourses under the Control of the Metropolitan or any other Commissioners of Sewers, and no new Sewers, Drains, or Watercourses, or Works of Drainage, shall be made or done, under the Powers of this Act, within the District and Jurisdiction of the said Commissioners, unless the same be previously approved by those Commissioners, and the same shall be carried on and completed under the Direction and Control of those Commissioners and their Officers, and all Sewers, Drains, Watercourses, and Works of Drainage made under this Act within the District and Jurisdiction of any Commissioners of Sewers shall be and remain subject in all respects to the Jurisdiction of those Commissioners; and whenever any Works of the Company would intersect or interfere with any Sewer, Drain, or Watercourse under the Control of those Commissioners, the Company shall, before any such Works be made, construct such proper Sewers or Works of Drainage, and also comply with such Orders and Regulations, as those Commissioners of Sewers make to guard against Injury to the Drainage of the District; and this Act, or anything therein contained, shall not take away, lessen, prejudice, or affect any of the Rights, Powers, Jurisdictions, or Authorities of those Commissioners.

Saving Rights of Metropolitan and other Commissioners of Sewers.

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

Extent of Act.

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

Expenses of Act.

The

The Lands Improvement Company's Act, 1853.

The SCHEDULES to which the foregoing Act refers.

N. B.—*Every Form used in the Matter of the same Improvement is to have the like Heading; such Heading, except when otherwise directed, being as follows, or to the like Effect:—“Lands Improvement Company,”* County of _____ and Parish of _____ and No. _____ [*giving the Number by which the Contract and Improvement Loan Charge are denoted in the Company's Registers, and giving also a Short Title to the Improvement, including the Owner's Name or Description*]. *For Example:—County of Hertford, Parish of Dale, No. 67, Robert Johnston's Drainage Improvement.*

SCHEDULE (A.)

Form of Power of Attorney.

[*Proper Heading.*]

I A. B. of _____ in pursuance of the “Lands Improvement Company's Act, 1853,” do hereby appoint C. D. of, &c., to be my Attorney for all the Purposes of such Act.

As witness my Hand, this _____ Day of _____

SCHEDULE (B.)

Provisional Order.

[*Proper Heading.*]

The Inclosure Commissioners for England and Wales, in pursuance of the Power and Provisions of the “Lands Improvement Company's Act, 1853,” 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,

The Lands Improvement Company's Act, 1853.

Hands and Seal affixed hereto), do assign and covenant to pay unto [A. B], his Executors, Administrators, or Assigns, the Sum of £ [the Principal Sum payable on the Debenture] to be paid by the said Company at _____ on the _____ Day of _____ 18____, with Interest in the meantime at the Rate of £ _____ per Centum per Annum, payable half-yearly on the _____ Day of _____ and the _____ Day of _____ in each Year; the First half-yearly Payment of Interest to be made on the _____ Day of _____

Witness the Common Seal of the Company and the Hands of Three of the Directors of the Company.

Seal of the (L. s.) Company.
 A. B. }
 C. D. } Directors.
 E. F. }

Approved by the Inclosure Commissioners for England and Wales as the Mortgage Debenture, No. [] of the Improvement Loan Charges Nos. [] issued pursuant to the "Lands Improvement Company's Act, 1853."

Dated this _____ Day of _____ 18____ } Seal.

Form of Assignment of Debenture.

I A. B. of _____ &c., hereby assign unto C. D. of _____ &c., his Executors, Administrators, and Assigns, the within-written Debenture, and all my Interest therein.

(Signed) A. B.

SCHEDULE (E.)

Assignment by the Company of a Charge.

[Proper Heading.]

The Lands Improvement Committee, in pursuance of the "Lands Improvement Company's Act, 1853," hereby, in consideration of [state the Consideration], assign to A. B. of, &c., his Executors, Administrators, and Assigns, the Charge of the Sum of £ _____ and Interest at the Rate of, &c. [or "the Charge of," &c., as the Case may be], which by virtue of the Improvement Loan Charge, No. [] [or the Mortgage, No. _____] approved by the Inclosure Commissioners for England and Wales, dated, &c., is an absolute

The Lands Improvement Company's Act, 1853.

Charge on the Inheritance of the Lands mentioned in the Schedule hereto, and all the Powers, Authorities, Rights, and Remedies of the Company with reference to such Charge [*Here add such Clauses and Provisions, if any, as are agreed on between the Company and A.B.*]

As witness the Common Seal of the Company and the Hands of Three of the Directors of the Company, this Day of .

(L. S.)

L. M. }

N. O. }

P. Q. }

Three of the Directors.

Schedule of the Lands charged.

Name &c. of Lands.	Landowner.	Occupier.	Parish.	County.

LONDON:

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