



Defence Act 1860

1860 CHAPTER 112

Determination of Amount of Compensation otherwise than by Agreement

XII How Compensation to be settled in case of Neglect to treat.

If for Fourteen Days after the Service of any such Notice as aforesaid any Party on whom the same is served fail to state the Particulars of his Claim in respect of any Lands to which such Notice relates, or to treat with the said Secretary of State as to the Amount of Compensation to be paid to such Party or which he is empowered to agree upon,

Or if the said Secretary of State and such Party do not within such Fourteen Days agree as to the Amount of such Compensation,

Such Amount shall be settled by a Jury in like Manner as if the same were Compensation for Lands surveyed and marked out under the Act of the Session holden in the Fifth and Sixth Years of Her Majesty, Chapter Ninety-Four, herein-after referred to as " The Defence Act, 1842," as amended by the Act of the Session holden in the Eighteenth and Nineteenth Years of Her Majesty, Chapter One hundred and seventeen.

XIII Provision where Compensation claimed is under 200l.

Provided always, That if the Compensation claimed do not exceed Two hundred Pounds, the same shall be settled by Two Justices, in manner following; that is to say, it shall be lawful for any Justice, upon the Application of either Party, to summon the other Party to appear before Two Justices at a Time and Place to be named in the Summons, and upon the Appearance of the Parties, or, in the Absence of either of them, upon Proof of due Service of the Summons, it shall be lawful for such Justices to determine such Amount, and for that Purpose to examine the Claimant and the Witnesses of the Parties upon Oath.

XIV Compensation to absent Parties to be settled by a Surveyor to be appointed by Two Justices.

Where by reason of Absence from the United Kingdom any Party is prevented from treating, or cannot after diligent Inquiry be found, the Amount of such Compensation shall be determined by Valuation in manner following; that is to say, the said Secretary of State shall make Application to Two Justices and upon Proof satisfactory to them that any such Party is by reason of Absence from the Kingdom prevented from treating, or cannot after diligent Inquiry be found, such Justices shall, by Writing under their Hands, nominate a competent Surveyor for determining the Amount of such Compensation as aforesaid, and such Surveyor shall determine the same accordingly, and shall annex to his Valuation a Declaration in Writing subscribed by him of the Correctness thereof.

XV Surveyor acting corruptly to be guilty of a Misdemeanor.

If any Surveyor wilfully and corruptly make any incorrect or false Valuation, or wilfully and corruptly act in the Matter hereof, he shall be guilty of a Misdemeanor.

XVI Valuation to be preserved and produced on Demand.

The said Nomination shall be annexed to the Valuation to be made by such Surveyor, and shall be preserved together therewith by the said Secretary of State, who shall at all Times produce the said Valuation and other Documents, on Demand, to all Parties interested in the Lands comprised therein.

XVII Damage may be ascertained when Works done.

Where any Damage has been sustained by reason of any Works authorized by this Act in or upon Lands required to be kept free from Buildings and other Obstructions, in respect of which Works Compensation has not been agreed upon, awarded, or otherwise ascertained prospectively, Compensation shall be paid in respect thereof when the Works have been done, such Compensation to be determined in like Manner as other Compensation under this Act, or as near thereto as Circumstances admit.

XVIII In estimating Damage from Works regard to be had to Advantages derived.

In determining the Amount of Compensation in respect of Damage sustained By reason of any such Works, regard shall be had to any Increase in the Extent of Land capable of being brought under Cultivation by Removal of Banks, Fences, Hedges, and Ditches, and to any improved Drainage and other Advantages derived from any such Works.

XIX Where any Agreement in restraint of Building exists, regard to be had thereto in estimating Compensation.

Where any Covenant or Agreement has been entered into with the principal Officers of Her Majesty's Ordnance or with the said Secretary of State in restraint of the Right to build on any Lands, and such Covenant or Agreement is legally or equitably binding on the Owner of the Lands, regard shall be had in ascertaining the Amount of Compensation to be paid under this Act for or in respect of such Lands (whether the

same are required to be taken absolutely or are required to be kept free from Buildings) to the existing Restriction arising out of such Covenant or Agreement,