



Land Clauses Consolidation Act 1845

1845 CHAPTER 18

Entry on Lands

And with respect to the Entry upon Lands by the Promoters of the Undertaking, be it enacted as follows :

LXXXI Payment of Price to be made previous to Entry, except to survey, &c.

The Promoters of the Undertaking shall not, except by-Consent of the Owners and Occupiers, enter upon any Lands which shall be required to be purchased or permanently used for the Purposes and under the Powers of this or the special Act, until they shall either have paid to every Party having any Interest in such Lands, or deposited in the Bank, in the Manner herein mentioned, the Purchase Money or Compensation agreed or awarded to be paid to such Parties respectively for their respective Interests therein : Provided always, that for the Purpose merely of surveying and taking Levels of such Lands, and of probing or boring to ascertain the Nature of the Soil, and of setting out the Line of the Works, it shall be lawful for the Promoters of the Undertaking, after giving not less than Three nor more than Fourteen Days Notice to the Owners or Occupiers thereof, to enter upon such Lands without previous Consent, making Compensation for any Damage thereby occasioned to the Owners or Occupiers thereof.

LXXXV Promoters to be allowed to enter on Lands before Purchase, on making Deposit by way of Security, and giving Bond.

Provided also, That if the Promoters of the Undertaking shall be desirous of entering upon and using any such Lands before an Agreement shall have been come to or an Award made or Verdict given for the Purchase Money or Compensation to be paid by them in respect of such Lands, it shall be lawful for the Promoters of the Undertaking to deposit in the Bank by way of Security, as hereinafter mentioned, either the Amount of Purchase Money or Compensation claimed by any Party interested in or entitled to sell and convey such Lands, and who shall not consent to such Entry, or such a Sum as shall, by a Surveyor appointed by Two Justices in the Manner herein-before provided in the Case of Parties who cannot be found, be determined to be the Value of such Lands, or of the Interest therein which such Party is entitled to or enabled to

sell and convey, and also to give to such Party a Bond, under the Common Seal of the Promoters if they be a Corporation, or if they be not a Corporation under the Hands and Seals of the said Promoters or any Two of them, with Two sufficient Sureties, to be approved of by Two Justices, in case the Parties differ, in a penal Sum equal to the Sum so to be deposited, conditioned for Payment to such Party, or for Deposit in the Bank for the Benefit of the Parties interested in such Lands, as the Case may require, under the Provisions herein contained, of all such Purchase Money or Compensation as may in manner herein-before provided be determined to be payable by the Promoters of the Undertaking in respect of the Lands so entered upon, together with Interest thereon, at the Rate of Five Pounds per Centum per Annum, from the Time of entering on such Lands, until such Purchase Money or Compensation shall be paid to such Party, or deposited in the Bank for the Benefit of the Parties interested in such Lands, under the Provisions herein contained; and upon such Deposit by way of Security being made as aforesaid, and such Bond being delivered or tendered to such non-consenting Party as aforesaid, it shall be lawful for the Promoters of the Undertaking to enter upon and use such Lands, without having first paid or deposited the Purchase Money or Compensation in other Cases required to be paid or deposited by them before entering upon any Lands to be taken by them under the Provisions of this or the special Act.

LXXXVI Upon Deposit being made Cashier to give Receipt.

The Money so to be deposited as last aforesaid shall be paid into the Bank in the Name and with the Privity of the Accountant General of the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, to be placed to his Account there to the Credit of the Parties interested in or entitled to sell and convey the Lands so to be entered upon, and who shall not have consented to such Entry, subject to the Control and Disposition of the said Court; and upon such Deposit being made the Cashier of the Bank shall give to the Promoters of the Undertaking, or to the Party paying in such Money by their Direction, a Receipt for such Money, specifying therein for what Purpose and to whose Credit the same shall have been paid in.

LXXXVII Deposit to remain as a Security, and to be applied under the Direction of the Court.

The Money so deposited as last aforesaid shall remain in the Bank, by way of Security to the Parties whose Lands shall so have been entered upon for the Performance of the Conditions of the Bond to be given by the Promoters of the Undertaking, as hereinbefore mentioned, and the same may, on the Application by Petition of the Promoters of the Undertaking, be ordered to be invested in Bank Annuities or Government Securities, and accumulated; and upon the Condition of such Bond being fully performed it shall be lawful for the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, upon a like Application, to order the Money so deposited, or the Funds in which the same shall have been invested, together with the Accumulation thereof, to be repaid or transferred to the Promoters of the Undertaking, or if such Condition shall not be fully performed, it shall be lawful for the said Court to order the same to be applied in such Manner as it shall think fit for the Benefit of the Parties for whose Security the same shall so have been deposited.

LXXXVII The Company may pay the Deposit Money into the Bank by way of Security during the Time that the Office of the Accountant General is closed.

If at any Time the Company be unable, by reason of the closing of the Office of the Accountant General of the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, to obtain his Authority in respect of the Payment of any Sum of Money so authorized to be deposited in the Bank by way of Security as aforesaid, it shall be lawful for the Company to pay into the Bank to the Credit of such Party or Matter as the Case may require (subject nevertheless to being dealt with as herein-after provided, and not otherwise,) such Sum of Money as the Promoters of the Undertaking shall, by some Writing signed by their Secretary or Solicitors for the Time being, addressed to the Governor and Company of the Bank in that Behalf, request, and upon any such Payment being made the Cashier of the Bank shall give a Certificate thereof; and in every such Case, within Ten Days after the re-opening of the said Accountant General's Office, the Solicitor for the Promoters of the Undertaking shall there bespeak the Direction for the Payment of such Sum into the Name of the Accountant General, and upon Production of such Direction at the Bank of *England* the Money so previously paid in shall be placed to the Credit of the said Accountant General accordingly, and the Receipt for the said Payment be given to the Party making the same in the usual Way for the Purpose of being filed at the Report Office.

LXXXIX Penalty on the Promoters of the Undertaking entering upon Lands without Consent before Payment of the Purchase Money.

If the Promoters of the Undertaking or any of their Contractors shall, except as aforesaid, wilfully enter upon and take possession of any Lands which shall be required to be purchased or permanently used for the Purposes of the special Act, without such Consent as aforesaid, or without having made such Payment for the Benefit of the Parties interested in the Lands, or such Deposit by way of Security as aforesaid, the Promoters of the Undertaking shall forfeit to the Party in possession of such Lands the Sum of Ten Pounds, over and above the Amount of any Damage done to such Lands by reason of such Entry and taking possession as aforesaid, such Penalty and Damage respectively to be recovered before Two Justices; and if the Promoters of the Undertaking or their Contractors shall, after Conviction in such Penalty as aforesaid, continue in unlawful Possession of any such Lands, the Promoters of the Undertaking shall be liable to forfeit the Sum of Twenty-five Pounds for every Day they or their Contractors shall so remain in possession as aforesaid, such Penalty to be recoverable by the Party in possession of such Lands, with Costs, by Action in any of the Superior Courts : Provided always, that nothing herein contained shall be held to subject the Promoters of the Undertaking to the Payment of any such Penalties as aforesaid, if they shall bond fide and without Collusion have paid the Compensation agreed or awarded to be paid in respect of the said Lands to any Person whom the Promoters of the Undertaking may have reasonably believed to be entitled thereto, or shall have deposited the same in the Bank for the Benefit of the Parties interested in the Lands, or made such Deposit by way of Security in respect thereof as herein-before mentioned, although such Person may not have been legally entitled thereto.

XC Decision of Justices not conclusive as to the Right of the Promoters.

On the Trial of any Action for any such Penalty as aforesaid the Decision of the Justices under the Provision herein-before contained shall -not be held conclusive as to the Right of Entry on any such Lands by the Promoters of the Undertaking.

XCI Proceedings in case of Refusal to deliver Possession of Lands.

If in any Case in which, according to the Provisions of this or the special Act, or any Act incorporated therewith, the Promoters of the Undertaking are authorized, to enter upon and take possession of any Lands required for the Purposes of the Undertaking, the Owner or Occupier of any such Lands or any other Person refuse to give up the Possession thereof, or hinder the Promoters of the Undertaking from entering upon or taking possession of the same, it shall be lawful for the Promoters of the Undertaking to issue their Warrant to the Sheriff to deliver Possession of the same to the Person appointed in such Warrant to receive the same, and upon the Receipt of such Warrant the Sheriff shall deliver Possession of any such Lands accordingly, and the Costs accruing by reason of the issuing and Execution of such Warrant, to be settled by the Sheriff, shall be paid by the Person refusing to give Possession, and the Amount of such Costs shall be deducted and retained by the Promoters of the Undertaking from the Compensation, if any, then payable by them to such Party, or if no such Compensation be payable to such Party, or if the same be less than the Amount of such Costs, then such Costs, or the Excess thereof beyond such Compensation, if not paid on Demand, shall be levied by Distress, and upon Application to any Justice for that Purpose he shall issue his Warrant accordingly.

XCII Parties not to be required to sell Part of a House.

And be it enacted, That no Party shall at any Time be required to sell or convey to the Promoters of the Undertaking a Part only of any House or other Building or Manufactory, if such Party be willing and able to sell and convey the whole thereof.