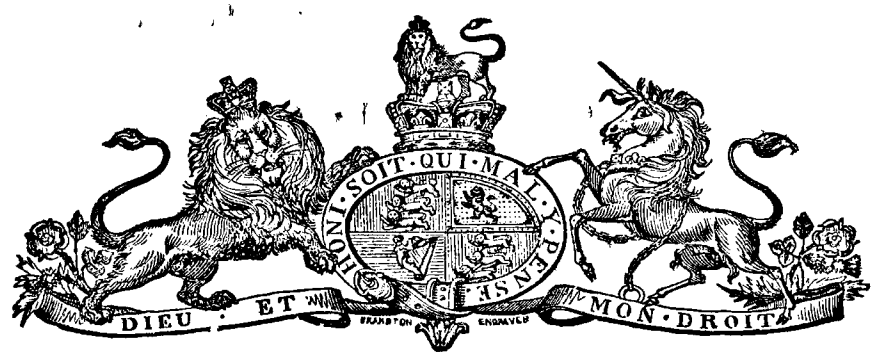


ANNO TERTIO & QUARTO

VICTORIÆ REGINÆ.

****

CAP. LV.

An Act to enable the Owners of Settled Estates to defray the Expence of draining the same by way of Mortgage. [4th *August* 1840.]

WHEREAS much of the Land in *England* and *Ireland* would be rendered permanently more productive by improved Draining, and nevertheless, by reason of the great Expence thereof, Proprietors having a limited Interest in such Land are often unable to execute such Draining: And whereas it is expedient, as well for the more abundant Production of Food as for the increased Employment of Farming Labourers, and the extended Investment of Capital in the permanent Improvement of the Soil, that such Proprietors should be relieved from this Disability, due Regard being had to the Interests of those entitled in Remainder: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act it shall and may be lawful for any Tenant for Life, or for a Term determinable on his or her Life, under any Will, Settlement, or other like Disposition, entitled in Possession at Law or in Equity to any Lands in *England* or *Ireland*, (or the Guardian or Guardians of any Infant, on the Behalf of such Infant so entitled as aforesaid,) to apply by Petition to Her Majesty's Court of Chancery or Exchequer in

Tenants for Life may apply to Court of Chancery for Leave to make Improvements.

in *England* or *Ireland* for Leave to make any permanent Improvements in the Lands to which he or she shall be so entitled, or any Part thereof, by draining the same with Tiles, Stones, or other durable Materials in a permanent Manner; and in every such Petition shall be specified the Improvements proposed to be made, and the estimated Cost thereof, and of all Matters incidental thereto; and every such Petition shall be referred to a Master of the said Court of Chancery, or to a Master, or in *Ireland* to the Chief or Second Remembrancer of the Court of Exchequer, to inquire into and ascertain the Propriety of such Improvements being effected; and such Master or Chief or Second Remembrancer shall and he is hereby required to call for such Plans and Estimates and Specifications in relation to the said proposed Improvements as he shall think fit; and the Master or Remembrancer shall make his Report respecting such Proposal; and the Court to which any such Application shall be made shall make such Order upon such Petition and Report as such Court shall think fit.

Copy of Petition to be served on Parties interested.

II. Provided always, and be it enacted, That a Copy of every such Petition shall be served Twenty-one Days at the least before the hearing thereof upon the Person or Persons beneficially entitled at Law or in Equity to the first vested Estate of Freehold of Inheritance in Remainder after the Estate of the Tenant for Life, but if any of such Persons shall be of unsound Mind, or under the Age of Twenty-one Years, or under any other legal Disability, or beyond the Limits of the United Kingdom of *Great Britain* and *Ireland*, then a Copy of such Petition shall be served, on his, her, or their Behalf, upon such Person or Persons respectively as the said Court of Chancery or Court of Exchequer to which the said Petition shall be preferred shall appoint for that Purpose; and every Person upon whom a Copy of any such Petition shall be so served shall be at liberty to attend before the Master or Remembrancer to whom such Petition shall be referred, and to consent or object to the Proposal contained in such Petition; and any Person appearing before the Master or Remembrancer on any such Petition may also appear before the Master or Remembrancer, previously to his signing any such Certificate as after mentioned, for the Purpose of producing any Objection to the Mode in which any such Improvements as after mentioned may have been executed; and all the Costs attending any such Application, and of the Party so served, shall be paid by the Party making such Application as aforesaid.

Tenants for Life may make Improvements.

III. And be it enacted, That if it shall appear to the Satisfaction of such Master or Remembrancer, on the Report of One or more Surveyors to be appointed or approved of by the said Master or Remembrancer, that it will be for the Benefit of such Lands that they should be so drained, and such Report shall be confirmed by the said Court, then it shall be lawful for the Tenant for Life, or such Guardian or Guardians as aforesaid, who shall have presented such Petition, to make and execute such Improvements accordingly.

After Improvements have been

IV. And be it enacted, That in every Case where the said Court of Chancery or Exchequer shall have made an Order sanctioning the

Execution

Execution of any such Improvements of any Lands, and such Improvements or any Part thereof shall have been made accordingly, it shall be lawful for the Master or Remembrancer whose Report shall be so confirmed by the said Court, by a Certificate under his Hand to be filed in the said Court, on having Satisfaction that the Money had been properly expended, to authorize any such Person so entitled as aforesaid, or the Executors or Administrators of such Person, or such Guardian or Guardians of such Infant as aforesaid, by Deed in Writing, to charge all or any Part of the Lands so drained as aforesaid, or any other Lands subject to the like Uses or Trusts as the Lands so drained, with the Payment to any Person or Persons willing to advance the same of the Amount of the Money which may have been so expended, and so from Time to Time as any Money shall be so expended, together with Interest thereon after any Rate not exceeding Five Pounds *per Centum per Annum* from the Time of making the Charge, but so nevertheless that in any such Charge it shall be provided that the Principal Sum charged shall be paid off by equal yearly Instalments, such Instalments not to be less than Twelve nor more than Eighteen, the Number of such Instalments to be determined and recommended by the said Master or Remembrancer in his Report, and such Number of the said Instalments to be diminished or increased at the Discretion of the said Master, according to the greater or less Improvement shown to have been made by such Draining; and for the Purpose of securing such Monies to be so charged it shall be lawful for the Person making such Charge to demise the Hereditaments to be charged for any Term or Number of Years, by reason whereof the Rents and Profits of the said Hereditaments shall be applicable to the Payment of the said Monies so to be charged as aforesaid, but so as such Term be made to cease on the Payment of the Monies charged: Provided nevertheless, that such Person making such Charge, and every succeeding Tenant for Life, or Tenant for Term of Years determinable on his or her Life, shall be bound to keep down the Interest and Instalments to be charged, or any Rent-charge to be charged as after mentioned; and the Lands charged shall not (except as against any Tenant for Life or other Person liable to pay such Instalments and Interest or keep down such Rent-charge) be liable to pay more than Six Months of any Interest, and One Half of any Instalment, or pay more than Half a Year's Rent-charge, which is hereby directed to be kept down as aforesaid: Provided nevertheless, that if any Person shall be willing to advance to any Person hereby authorized to make such Charge as aforesaid the Amount he or she may be so authorized to charge in consideration of a Rent-charge for a Term of not less than Twelve nor more than Eighteen Years, then such Person so authorized to charge, instead of charging the said Hereditaments with such Instalments and Interest as aforesaid, may charge the same with a Rent-charge for any such Period as aforesaid, so as that the said Master or Remembrancer shall in his said Report approve of the Substitution of a Rent-charge, and of the Amount to be charged, and shall ascertain and determine the Number of Years for which the same shall be granted (such Number of Years to be ascertained in the same Manner as is before directed with respect to the ascertaining the Amount of

made, Court to ascertain what Money has been properly expended, and to order it to be charged.

of such Instalments as aforesaid): Provided also, that no Person shall be entitled to make any such Charge as aforesaid unless it shall be stated in the Report of such Master or Remembrancer that it hath been made to appear to him by the Report of such Surveyor that the annual Value of the Lands so drained is increased by such Draining to an Amount equal to Seven Pounds *per Centum* at least on the Sum to be charged.

Act may be altered this Session.

V. And be it enacted, That this Act may be amended or repealed by any Act to be passed during the present Session of Parliament.

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE, Printers to the Queen's most Excellent Majesty. 1840.