



Defence Act 1860

1860 CHAPTER 112

Subsequent Compensation for Interests omitted to be purchased

XXXVI Provision as to Interests omitted to be purchased.

If at any Time after the said Secretary of State has entered upon any Lands vested in him under this Act, any Party appear to be entitled to any Estate, Right, or Interest in or Charge affecting such Lands which through Mistake and Inadvertence has been omitted to be purchased or compensated for the said Secretary of State shall, nevertheless remain in the undisturbed Possession of such Lands, and shall be deemed to have an indefeasible Title thereto; but shall pay Compensation for any such Estate, Right, Interest, or Charge, which but for this Enactment might be recovered or enforced, and also pay to such Party, or to any other Party who may establish a Right thereto, full Compensation for the Mesne Profits or Interest which would have accrued to such Parties respectively in respect thereof during the Interval between the Entry of the said Secretary of State thereon and the Time of the Payment of such Compensation by the said Secretary of State so far as such Mesne Profits or Interest may be recoverable at Law or in Equity :

Such Compensation shall be agreed on or awarded and paid in like Manner as the same would have been agreed on or awarded and paid in case the said Secretary of State had purchased or compensated for such Estate, Right, Interest, or Charge before his entering upon such Lands, or as near thereto as Circumstances will admit.

XXXVII How Value of such Lands to be estimated.

In estimating the Compensation to be given for any such Estate, Right, Interest, or Charge affecting any Lands, or for any Mesne Profits or Interest, the Jury or Justices, as the Case may be, shall assess the same according to the Value of the Lands at the Time the same were entered upon by the said Secretary of State and without regard to any Improvements or Works made by him.

Status: This is the original version (as it was originally enacted).

XXXVI Secretary of State to pay the Costs of Litigation as to such Lands.

In addition to the said Compensation, the said Secretary of State shall, when the Right to any such Estate, Right, Interest, or Charge has been disputed by him and determined in favour of the Party claiming the same, pay the full Costs and Expenses of any Proceedings at Law or in Equity for the Determination or Recovery of the same to the Parties with whom any such Litigation in respect thereof has taken place, and such Costs and Expenses shall, in case the same be disputed, be settled by the proper Officer of the Court in which such Litigation took place.