## CHAPTER cxcv.

An Act for making better provision for the Drainage of Lands on the north and south sides of the River Don in the West Riding of the county of York; and for other purposes. A.D. 1873.

[21st July 1873.]

WHEREAS in 1827, in the session of Parliament of the seventh and eighth years of the reign of King George the Fourth, an Act (chapter ninety-four, Local and Personal,) was passed for the draining, embanking, and protecting of low lands on the north side of the River Don below Doncaster, in the west riding of the county of York (which Act is in this Act called the Dun Drainage Act of 1827): 7 & 8 G. 4. c. xciv.

And whereas the preamble of the Dun Drainage Act of 1827 showed that there were in the parishes, townships, hamlets, or places in the preamble named (which are the same as those named in the first schedule to this Act) on the north side of the Don low lands containing eight thousand acres or thereabouts, which were before the passing of that Act subject to be overflowed and injured by the floods of the Don and by the waters of drains leading from the adjoining and other high lands into the Don, and that the persons therein named, and others, were then owners or proprietors of those low lands, and that it would be highly advantageous to them and to all parties interested therein if the same were effectually drained, embanked, and protected from the floods of the Don, and if provision were made for the future sustentation of the works:

And whereas the same Act proceeded (section one) to appoint the person therein named to be the Commissioner for executing the necessary works, and for carrying the powers of that Act into effect, and (section four) to provide for the election of successors to him:

And whereas the same Act further enacted (among other things) to the effect following; (namely,)

That the Commissioner should from time to time, until the intended embankment and works were perfected, assess by an equal acre rate not exceeding ten pounds per acre the lands of

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the said proprietors with such sums as he should from time to time find necessary for defraying the expenses of that Act (section fourteen):

That the Commissioner should make such sufficient bank or banks of such dimensions and forms, and in such courses and directions, as in his judgment should be requisite for the preservation of the said low lands, the embankment to commence at a weir in the Don called Sandall Weir, and to extend along the north side of the Don and as near to the course thereof as the Commissioner might think proper, and to terminate near to a place called Plum Tree Hill near Bramwith Woodhouse, where it should be made to join a bank called the Dutch Bank (section twenty-three):

That the Commissioner should (as soon as might be after the works were completed, and he had ascertained by survey or otherwise the lands to be assessed under that Act,) finally assess the said lands within the parishes, townships, hamlets, or places therein in that behalf named of each of the said proprietors with his proportion of the whole expense attending the works to that time, and in proportion as the lands might be benefited (section fifty-five):

That the Commissioner should (as soon as might be after the works were completed, the same being directed to be completed within five years from the passing of that Act, unless prevented by any specific cause, and all the assessments had been paid,) draw up an award directing by whom and in what manner the works should thereafter be maintained, and should include in the award all such regulations as were by that Act required to be established, to which award should be annexed a schedule describing the lands liable to be assessed under that Act, to whom the same belonged, and in what proportion the assessment was to be borne and paid, with a map thereof, and the schedule should be a rule and precedent or proportion for all future taxations to be made on the said lands for maintaining the works (section fifty-seven):

And whereas under the Dun Drainage Act of 1827 an embankment was made as thereby provided on the north side of the Don, with numerous subsidiary embankments, drains, sluices, and works:

And whereas on or about the 24th day of April 1839, the then Commissioner under the Dun Drainage Act of 1827 made his award dated that day (which is in this Act called the Dun drainage award), with a map of the lands therein comprised (which is in this Act called the Dun drainage award map), and in his award the Commissioner (among other things) sets out divers embankments to protect the lands therein comprised from being overflowed and injured by

the floods of the Don and by the waters of the drains which lead from the adjoining and other high lands into the Don, and further sets out divers drains, sluices, cloughs, tunnels, bridges, and other works, and directs that the same be maintained by a person or persons to be elected as therein mentioned, but at the expense of the several owners of such of the lands in the parishes, townships, or places therein named (being the same as those named in the preamble of the Dun Drainage Act of 1827 and in the first schedule to this Act) as are situate on the north side of the Don, and are described in the schedule to the award, and in the proportions stated in that schedule:

And whereas the works executed under the Dun Drainage Act of 1827 are insufficient for their intended purpose, and are not adapted to the present condition of the lands which they were designed to benefit, and neither the Dun Drainage Act of 1827 nor the award thereunder provides for the extension or improvement of works made under that Act:

And whereas it is expedient that an improved system of drainage be established for the district comprised in the award, and that other lands in the neighbourhood of that district be brought within the operation of the same system:

And whereas it is expedient that the execution, maintenance, and management of that improved system be intrusted to a body of Commissioners to be constituted and empowered for the purpose:

And whereas the objects aforesaid cannot be attained without the authority of Parliament:

And whereas plans and sections describing the lines, situations, and levels of intended new drainage and other works, and a book of reference to those plans containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of lands in the line of those works or within the limits of deviation as defined on the plans describing those lands, have been deposited with the clerk of the peace for the west riding of the county of York (which are in this Act referred to as the deposited plans, sections, and book of reference):

And whereas a map has been prepared in duplicate for the purposes of this Act, showing part of the west riding of the county of York, distinguishing the Dun drainage district, and the same has been signed in duplicate by the Right Honourable Lord Hanmer, the chairman of the Committee of the House of Lords to which the Bill for this Act was referred, and that map is in this Act called the Dun drainage district map, and the Dun drainage district is further described for convenience, but not so as to affect that map, in the third schedule to this Act:

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May it therefore please Your Majesty that it may be enacted; 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; (that is to say,)

Short title.

**1.** This Act may be cited as the Dun Drainage Act, 1873.

Provisions of general Acts herein named incorporated.

**2.** The following enactments, as far as they are applicable for the purposes of and are not varied by or inconsistent with this Act, are hereby incorporated with and shall be part of this Act; (namely,)

The Lands Clauses Consolidation Acts, 1845, 1860, and 1869 (in this Act called the Lands Clauses Acts):

The Commissioners Clauses Act, 1847, except the parts thereof described in the second schedule to this Act.

Interpretation of terms.

**3.** In this Act,—

"The Commissioners" means the Dun Drainage Commissioners constituted by this Act:

"The district" means the district of the Commissioners, (that is to say,) the Dun drainage district:

"Person" includes corporation aggregate or sole.

In this Act and in any enactment incorporated with this Act the term "court of competent jurisdiction" shall have effect as if the debt or demand with respect to which it is used was a common simple contract debt, and not a debt or demand created by statute, and the term "superior court" shall be taken to include any court of competent jurisdiction.

Effect of schedules.

**4.** The schedules to this Act shall be deemed part of this Act.

Description of Dun drainage district.

**5.** Subject to the provisions of this Act, this Act shall extend and apply to the district shown on the Dun drainage district map and therein distinguished as the Dun drainage district, and nothing in this Act shall authorise the doing of anything beyond the Dun drainage district, or in any manner extend the operation of this Act beyond that district.

Incorporation of Commissioners.

**6.** There shall be a body of Commissioners for executing this Act, which Commissioners and their successors shall be and are hereby incorporated for that purpose by the name of the Dun Drainage Commissioners, and by that name shall be one body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes but subject to the restrictions of this Act.

Number and classes of Commissioners.

**7.** The full number of the Commissioners shall be twelve (namely), eleven Commissioners nominated in this Act or elected as in this Act provided, and the mayor of the borough of Doncaster for the time being by virtue of his office.

First Commissioners.

**8.** The following eleven persons are hereby nominated the first Commissioners for executing this Act: Frederick Bacon Frank, Philip Bryan Davies Cooke, George John Yarburgh, George Anne, George Bryan Cooke Yarborough, Robert Crawshaw Workman, Charles Sabine Augustus Thellusson, Arthur Joseph Smith, Frederick William Fisher, John Heptinstall, Sir William Ridley Charles Cooke, Baronet.

First meeting of Commissioners.

**9.** The Commissioners shall hold their first meeting at the Guildhall in Doncaster at twelve o'clock on the last Tuesday in August one thousand eight hundred and seventy-three, and a meeting of the Commissioners and electors shall be held at the same hour on the last Tuesday in October one thousand eight hundred and seventy-three, and at such last-mentioned meeting the electors present personally or by proxy may either continue in office the said Commissioners or any number of them, or may elect a new body of Commissioners, or Commissioners to supply the place of those not continued in office (the Commissioners appointed by this Act being eligible as members of such new body), and on the same day in every subsequent year a meeting of the Commissioners and electors shall be held for the purposes of such election, and one third of such Commissioners shall go out of office and their places be filled in the manner and according to the regulations of the Commissioners Clauses Act, 1847.

Sub-Commissioner to be appointed and to make an award.

**10.** The said Commissioners shall, within twelve months after the passing of this Act, nominate and appoint a competent person, being a land valuer, to act as a sub-Commissioner, who shall have power, subject to the approval of the Commissioners, to obtain such professional assistance as he shall think necessary, and who shall view the several lands intended to be taxed under this Act, and ascertain the state of drainage of the said lands, and fix the proportion in which the said lands shall be assessed towards the works and maintenance rates authorised by this Act, graduated according to the different degrees of benefit which in his judgment the said lands will derive from the said works, and he shall have power, if he shall so think fit, to exempt entirely any lands which in his opinion will derive no benefit from the said works, and such sub-Commissioner shall, within one year after his appointment, make an award embodying his decision on the matters aforesaid, and such award shall be executed in duplicate, and one part thereof shall be deposited with the clerk of the peace for the borough of Doncaster, and shall

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be open to the inspection of any person rated or liable to be rated under the powers of this Act, and any such person shall be entitled to take a copy of the same; and the Commissioners may, if they think fit, after an interval of four years from the date of such award and of any subsequent award, again nominate and appoint a sub-Commissioner in manner aforesaid, and each such newly-appointed sub-Commissioner shall review the previous award and make any alteration or modification thereof, as he in his judgment may consider necessary, and each of such subsequent awards shall be respectively executed within twelve months of the appointment of the sub-Commissioner required to make the same, and shall be in duplicate and deposited as aforesaid: Provided that if any sub-Commissioner appointed under this section shall die or decline to act or become incapable of acting before he shall have made such award as aforesaid, the Commissioners shall, so often as the same shall happen, appoint another sub-Commissioner in his place.

Qualification of Commissioners.

**11.** The qualification of a Commissioner to be elected shall be as follows; (namely,) he shall be either,—

(*a.*) The proprietor of fifty acres or upwards of land in the district; or,

(*b.*) The heir apparent of such a proprietor; or,

(*c.*) The agent of such a proprietor.

Qualification of electors.

**12.** The qualification and votes of electors of Commissioners shall be as follows; (namely,)

(*a.*) Every proprietor of land in the district shall be an elector and shall have one vote; and,

(*b.*) Every proprietor of upwards of fifty acres of land in the district shall have an additional vote for each complete quantity of fifty acres beyond the first fifty acres.

Who to be deemed proprietors, &c.

**13.** For the purposes of this Act,—

(1.) Those persons shall be deemed proprietors who would be proprietors for the purposes of the Land Drainage Act, 1861, and the sections of that Act enumerated in the fourth schedule to this Act are, as far as the same are applicable for the purposes of this Act, hereby extended and applied to those purposes:

(2.) The person next in succession under any settlement (as defined in the Land Drainage Act, 1861), or otherwise next presumptively entitled to become a proprietor, shall be deemed an heir apparent:

(3.) A person shall be deemed an agent who is appointed by a proprietor to act on his behalf under this Act, the appointment being in writing under the hand or (in case of a corporation) the common seal of the proprietor.

Rules as to elections in schedule.

**14.** The rules set forth in Part I. of the fifth schedule to this Act shall apply to elections of Commissioners.

Elector may be represented at meeting by his agent.

**15.** At any meeting of the Commissioners and electors any elector may be represented at such meeting by his agent duly appointed by him in writing in that behalf.

Assessor to chairman at elections.

**16.** There shall be an assessor to the chairman of each meeting for election of Commissioners, who shall be a competent and impartial person, to be from time to time appointed by the Commissioners, and to be removable by them and to be remunerated by them as they think fit.

Decision on questions as to qualification of electors, &c.

**17.** If at any election any question arises respecting the right of any person to vote thereat or respecting the qualification of any person to be a Commissioner, the same shall be determined by the assessor at the meeting, subject to an appeal, provided notice of appeal be given at such meeting, such appeal to be on written statements by the parties concerned to the recorder of Doncaster for the time being, whose decision thereon, after such hearing (if any) of the parties and the production of such evidence as he thinks fit, shall be final and binding, and the recorder of Doncaster shall be remunerated in respect of appeals under this Act by fees fixed by the Commissioners.

Error, failure, &c. in elections not to vitiate acts.

**18.** Any act of the Commissioners shall not be invalidated or be illegal by reason of there being any vacancy among the Commissioners, or by reason of any irregularity in the election of any Commissioner, or in the making of any list of electors; or by reason of any failure or omission on any occasion to elect any Commissioner, or by reason of any other irregularity, failure, or omission in or about any election, or any matter preliminary or incidental thereto.

Supply of casual vacancies.

**19.** If any Commissioner dies or resigns, or becomes disqualified or goes out of office otherwise than by reason of effluxion of time, the remaining Commissioners may, if they think fit, elect in his place some other qualified person to be a Commissioner, and the person so elected shall continue in office as long only as the person in whose place he is elected would have been entitled to continue in office.

Regulations in schedule.

**20.** The regulations set forth in Part II. of the fifth schedule to this Act respecting the Commissioners and the conduct of their business shall have effect.

Clerk and engineer of Commissioners.

**21.** The Commissioners shall from time to time appoint a fit person to be their clerk and another fit person to be their engineer, and may at any time at pleasure remove any person so appointed and appoint another fit person in his place, and the first clerk of the Commissioners shall be William Edwood Shirley, and the first

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engineer of the Commissioners shall be Benjamin Shaw Brundell, each of whom shall hold office as if he were appointed by the Commissioners.

Appointment of auditor.

**22.** An auditor of the accounts of the Commissioners (not being a Commissioner) shall be appointed from time to time by the recorder of Doncaster by writing under his hand, the first of such appointments to be made within six months after the passing of this Act, and subsequent appointments to be made thenceforth from time to time annually in the month of October, or on the occurrence of vacancies by death, resignation, or otherwise, between the annual periods of appointment, and so much of section 92 of the Commissioners Clauses Act, 1847, as relates to remuneration and expenses, and sections 93 and 94 of that Act (relating to audit), shall apply to and in the case of the auditor so appointed.

Power to make cuts and embankments.

**23.** Subject to the provisions of this Act, the Commissioners may make the following works; (namely,)

(1.) A cut or channel (cut No. 1) commencing near the junction of the Bentley and Arksey Commons drain with the Norwood drain, proceeding north-easterly to Thorp Marsh, and thence north-westerly to and into the Don, and terminating near the junction of the Smallholme and Tilts drain with the Don:

(2.) A cut or channel (cut No. 2) in continuation of cut No. 1, commencing near the north-westerly corner of a field in the township of Thorpe in Balne, numbered 203 on the Dun drainage award map, proceeding through Trumfleet Marsh and Barnby Dun Rands to and into the Don, and terminating three hundred and thirty yards or thereabouts south-west of Kirk Bramwith Bridge:

(3.) A cut or channel (cut No. 3) commencing on the south-east side of Flashley Carr Lane, and terminating by a junction with cut No. 2, near the north-east corner of a field numbered 187 on the Dun drainage award map:

(4.) A cut or channel (cut No. 4) commencing in the parish of Kirk Bramwith near the north-west corner of a field called Church Town Common, proceeding to and into the Don, and terminating near the point where the Taining drain now empties itself into the Don:

(5.) A cut or channel (cut No. 5) commencing near the northerly corner of a field in the township of Moss numbered 568 on the Dun drainage award map, proceeding along the south-west side of and parallel to the Barrier Bank, and terminating by a junction with cut No. 4 in the parish of

Hatfield, 30 yards or thereabouts east of where cut No. 4 passes under the Plumtree Hill Road:

(6.) An embankment (embankment No. 1) in the parish of Doncaster on the south side of the Don, commencing in the township of Balby with Hexthorpe, proceeding north-westerly towards the Don, thence north-easterly parallel to the Don and the new cut of the Don Navigation to a point at which the new cut joins the River Cheswold, thence south-easterly to and into the embankment of the Great Northern Railway at or near the point where that railway crosses the Cheswold:

(7.) An embankment (embankment No. 2) in the township of Doncaster, surrounding that part of Crimpsall which is bounded on the south and west by the Don, on the north by the Cheswold, and on the east by the new cut of the Don Navigation:

(8.) An embankment or wall (embankment No. 3) in the township of Doncaster, commencing on the north side of the new cut of the Don Navigation at the bridge which carries the Great North Road over that cut, proceeding south-westerly along the towing-path of the new cut, thence north-westerly along the north-east side of and parallel to the Cheswold, thence north-easterly parallel to the Don to and terminating at Doncaster Mill Bridge:

(9.) An embankment (embankment No. 4) across the north-west end of the Cheswold, connecting embankment No. 2 and embankment No. 3:

(10.) An embankment (embankment No. 5) in the parish of Sprotborough, on the east side of the cut or channel in Newton Ings by this Act authorised:

(11.) An embankment or wall (embankment No. 6) in the township of Doncaster on the south side of the Don, commencing at Doncaster Mill Bridge and proceeding north-easterly parallel to the Don to and terminating at the embankment of the Great Northern Railway:

(12.) An embankment (embankment No. 7) on the north side of the Don in the parish of Sprotborough, commencing at the east corner of Engine Wood, proceeding easterly and afterwards northerly parallel to the Don to and terminating at a clough at the north end of Hexthorpe Reach.

Power to execute works for straightening Don, im-

**24.** Subject to the provisions of this Act, the Commissioners are hereby empowered to execute the following works; (namely,)

(1.) To straighten and shorten the course of the Don in Newton Ings in the parish of Sprotborough by making a cut or

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proving embankments, &c.

channel there (cut No. 6) of the length of 400 feet or thereabouts, commencing at a point 530 yards or thereabouts measured from Newton Ferry easterly along the Don, and terminating by a junction with the Don at a point 700 yards or thereabouts from the Don Foundry measured south-westerly along the Don:

(2.) To straighten and shorten the course of the Don in Long Sandall Ings and Grumble Hurst in the parishes or townships of Kirk Sandall and Bentley with Arksey, by making a cut or channel there (cut No. 7) of the length of 360 yards or thereabouts, commencing 970 yards or thereabouts from where the South Yorkshire Railway crosses the Don at Long Sandall, measured in a northerly direction along the Don, and terminating in the parish or township of Bentley with Arksey 630 yards or thereabouts from Waite House Sluice measured southerly along the Don:

(3.) To make, raise, and strengthen an embankment or wall (embankment No. 8) in the parish of Sprotborough on the north side of the Don, commencing at the Newton Gate Ferry House and passing thence north-easterly parallel to the Don and along the north side of cut No. 6, and thence north-easterly parallel to the Don to and terminating at Doncaster Mill Bridge:

(4.) To raise and strengthen the wall and embankment in the township of Bentley with Arksey on the north side of the Don, commencing at Doncaster Mill Bridge and being along the north side of the Don up to the point where such embankment joins the embankment of the Great Northern Railway:

(5.) To raise and strengthen the embankment along the north side of the flood drain in the parish and township of Bentley with Arksey, commencing at the Great Northern Railway and terminating near Sandall Weir:

(6.) To raise, strengthen, vary, and divert the existing embankments on the south side of the flood drain and Don, commencing at the Great Northern Railway in the parish of Doncaster at the point where that railway crosses the flood drain, and terminating in the parish of Thorne opposite to Sour Lane Sluice:

(7.) To raise, strengthen, vary, and divert the existing embankments on the north side of the Don which extend from Sandall Weir to Sour Lane Sluice.

Power to alter bridges, &c.

**25.** Subject to the provisions of this Act, the Commissioners are hereby empowered to execute also the following works; (namely,)

(1.) To enlarge the span of the Old Lock Bridge in the township of Doncaster near to Doncaster Mill Bridge, and to take down and rebuild the whole or part of the Old Lock Bridge, and to construct shuttles or sluice doors in the weir immediately below Doncaster Mill Bridge:

(2.) To enlarge and otherwise improve the southern arch of Doncaster Mill Bridge, and to take down and rebuild that arch or other part of the bridge, and to construct shuttles or sluice doors in the weir immediately below it:

(3.) To alter the bridge over the Don situate in the parish of Barnby-upon-Don between Barnby-upon-Don Bridge and Bramwith Bridge, so as to give greater water way and head way under the first-mentioned bridge:

(4.) To enlarge and otherwise improve the arches of Stainforth Bridge, and to take down and rebuild those arches or other part of that bridge.

Power to erect pumping engines.

**26.** Subject to the provisions of this Act, the Commisioners may from time to time erect pumping engines at the following places; (namely,)

(*a.*) In the several fields in the parish of Barnby-upon-Don numbered 186 and 203 on the Dun drainage award map;

(*b.*) In a field in the parish of Fishlake lying between Fishlake Road and the Don, and being in the occupation of John Cass;

and may from time to time alter, widen, deepen, and embank the main outlet drains leading to those engines.

Power to execute general works.

**27.** Subject to the provisions of this Act, the Commissioners are hereby empowered to execute from time to time also the following works; (namely,)

(1.) To cleanse, scour, and otherwise improve and remove obstructions and shoals in and from the channel and bed of that part of the Don in the Dun drainage district which lies between the township of Hexthorpe and the parish of Sprotborough and Sour Lane Sluice, in the parishes of Fishlake and Thorne, except any portion thereof which forms part of the River Dun Navigation above Doncaster Mill:

(2.) To make on lands in the Dun drainage district all pumping stations, engines, culverts, ditches, drains, pipes, sluices, floodgates, weirs, dams, walls, banks, towing-paths, approaches, and other works and conveniences necessary or proper for maintaining and improving the drainage of the

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district, and for preventing the flooding of lands therein, and for the other objects of this Act:

(3.) To alter or divert temporarily or permanently the turnpike and other public roads described in the deposited plans and book of reference, but in case of a permanent alteration or diversion subject to the provisions respecting alterations or diversions in any general Act relating to turnpike roads or highways for the time being in force.

Observance of deposited plans.

**28.** Subject to the provisions of this Act, the Commissioners, in making the works authorised by this Act, shall make the same in the lines and according to the levels shown on the deposited plans and sections, as far as the same are shown thereon, but they may deviate laterally to any extent within the limits of deviation shown on those plans, and vertically to any extent not exceeding five feet, and they shall not make any variation, extension, or enlargement of any cut for drainage being more than eleven feet wide at the bottom thereof, unless the same is shown on the deposited plans and sections.

Embankment to be made at expense of Sir J.W. Copley, Baronet.

**29.** Notwithstanding anything in this Act, the Commissioners shall not make the embankment No. 7 except at the request and expense of Sir Joseph William Copley, Baronet, his heirs or successors in estate, nor shall they, without his or their consent, interfere with or impede the navigable part of the River Cheswold.

Period for completion of works.

**30.** If any work shown on the deposited plans and sections is not completed within seven years from the passing of this Act, then at the end of that time the powers of the Commissioners for executing the same under this Act shall cease.

Power to take lands referenced.

**31.** Subject to the provisions of this Act, the Commissioners may from time to time enter on, take, and use all or any part of the lands described in the deposited plans and book of reference.

Corrections of errors, omissions, &c.

**32.** If any omission, mis-statement, or erroneous description is found to have been made of land, or of an owner, lessee, or occupier of land described or intended to be described in the deposited plans or book of reference, the Commissioners may apply to two justices for the correction thereof, after giving ten days notice to the owner of the land, and if it appears to the justices that the same arose from mistake, they shall certify accordingly, stating the particulars, and their certificate shall be deposited with and shall be kept with and shall be part of the deposited plans or book of reference, and the same shall thereupon be deemed to be corrected according to the certificate, and the Commissioners may enter on, take, hold, and use the land accordingly.

Houses of labouring classes.

**33.** The Commissioners shall, not less than eight weeks before they take in any parish fifteen houses or more occupied either wholly or partially by persons belonging to the labouring classes as tenants or lodgers, make known their intention to take the same by placards, handbills, or other general notice placed in public view on or within a reasonable distance from such houses, and they shall not take any such houses until they have obtained the certificate of a justice that it has been proved to his satisfaction that they have so made known their intention.

Period for compulsory purchase of lands.

**34.** The powers of the Commissioners for compulsory purchase of lands shall not be exercised after the expiration of five years from the passing of this Act.

Power to purchase land by agreement.

**35.** The Commissioners may from time to time purchase by agreement any lands, and may hold the same, so that the lands held by them under this section do not exceed in the whole at one time five acres.

Power to agree for easements.

**36.** Persons empowered by the Lands Clauses Acts or otherwise to sell and convey or release lands may, but as regards persons so empowered by the Lands Clauses Acts only, subject to the provisions of those Acts and of this Act, grant to the Commissioners, and the Commissioners may take and hold, any easement, term, right, or privilege required for the purposes of this Act in, over, or affecting lands, for a gross sum or at a yearly rent or otherwise, and the provisions of the Lands Clauses Act with respect to lands and rent-charges, as far as the same are applicable in this behalf, shall extend and apply to such lands, grants, easements, terms, rights, and privileges as aforesaid.

Power for Commissioners to hold, sell, or let lands.

**37.** Notwithstanding anything in this Act, the Commissioners may at any time and from time to time sell, lease, or otherwise dispose of any lands acquired by them under this Act, or any part thereof, absolutely or for such terms of years or other interests, at or for such rents or other considerations, and subject to such covenants, conditions, and stipulations, or on such other terms as they think expedient, and in the meantime the same shall remain vested in them unconditionally.

Property in works to vest in Commissioners.

**38.** The right and property of and in all works, implements, materials, goods, and things made, provided, or had, and now held by any person under the powers and for the purposes of the "Dun Drainage Act of 1827" and the Dun drainage award, or either of them, and of and in all works, implements, materials, goods, and things made, provided, or had by the Commissioners under the powers and for the purposes of this Act, are hereby vested in the Commissioners.

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Duty of Commissioners to maintain works under Act of 1827.

**39.** The Commissioners shall maintain the works made under the Dun Drainage Act of 1827 and the Dun drainage award, or either of them, as far as the same are necessary or proper for the effectual execution of the purposes of this Act.

Commissioners to maintain and improve works.

**40.** The Commissioners shall, as far as they from time to time think necessary or proper for the benefit of lands in the Dun drainage district, maintain the works made under this Act, and may from time to time improve such works, and may also improve any works made under the Dun Drainage Act of 1827 and the Dun drainage award, or either of them.

Duty of owners to maintain works.

**41.** All rates and sums of money due at the passing of this Act, under the Dun drainage award, whether then payable or not, may be recovered by the Commissioners in like manner as if this Act had not been passed, and shall be applicable and be applied by the Commissioners as the same would have been applicable if this Act had not been passed; and nothing in this Act shall relieve any person or body from any obligation in respect of the cleansing, maintenance, or execution of any drain, watercourse, sluice, bank, or work, or transfer the same to the Commissioners, but every such obligation shall remain as if this Act had not been passed.

Deposit of map.

**42.** The Commissioners shall, within one month after the passing of this Act, deposit one duplicate of the Dun drainage district map with the clerk of the peace for the west riding of the county of York, and the same shall be kept with and shall be part of the deposited plans, and the other duplicate thereof with the clerk of the peace for the borough of Doncaster, who shall keep the same under and according to the enactments applicable to the deposited plans.

No rates to be levied under Act of 1827.

**43.** From and after the passing of this Act, the power to levy rates under the Dun Drainage Act of 1827 and the award made in pursuance of that Act shall cease and determine.

Works and maintenance rates.

**44.** The "works" and "maintenance" rates respectively to be levied under the powers of this Act shall be adjusted and charged upon the lands in the Dun drainage district in accordance with the award for the time being in force of the sub-Commissioner to be made as herein-before provided.

Drainage works rate.

**45.** Subject to the provisions of this Act, the Commissioners shall have power from time to time, as and when they think fit, to levy and assess upon all lands within the Dun drainage district such rate or rates as they shall consider requisite for providing funds to be applied in constructing the works authorised and executing the powers incidental to the construction of works conferred upon them by this Act, or in repaying any moneys borrowed by them under the

powers of this Act for such purposes, and such rate shall be distinguished by the designation "Dun drainage works rate."

Maintenance rate.

**46.** Subject to the provisions of this Act, the Commissioners shall have power from time to time, as and when they shall think fit, to levy and assess upon all lands within the Dun drainage district such a rate or rates as they shall consider requisite for the purpose of defraying the expense of repairing, upholding, and maintaining the works constructed under the powers of this Act or of the Act of 1827 and the award under that Act, and in executing the powers of this Act other than powers of constructing works, and also for the purpose of paying the interest due or becoming due upon any moneys borrowed by them under the powers of this Act, and any such rate shall be distinguished by the designation "Dun drainage maintenance rate:" Provided that no moneys received by the Commissioners in respect of any such rate shall be applied to the construction of new works.

Equal acre rate.

**47.** The Commissioners may from time to time, before the works shown on the deposited plans are completed, assess and levy the Dun drainage works and maintenance rates respectively equally upon all lands in the Dun drainage district according to the annual rateable value (ascertained by assessment to the poor rate), but in that case they shall afterwards, by repayment or remission wholly or in part, for the future or otherwise, as they think fit, readjust the amount of the said rates so that the same shall ultimately fall on the lands in the district according to the degree of benefit as aforesaid and not otherwise: Provided that the Commissioners shall not have power to levy rates upon any agricultural land for the Dun drainage works rate to an amount exceeding in the aggregate of all such works rates the sum of 6*l.* on each acre of such land (including any farmsteads, farm cottages, or other buildings used for farming purposes, erected or being upon such land), nor shall the Commissioners in any one year levy rates for any purpose on such agricultural lands exceeding in the aggregate 2*l.* per acre.

Limitation of amount expended.

**48.** Notwithstanding anything in this Act, the amount expended by the Commissioners out of money borrowed and the Dun drainage works rate in the construction of works and purchasing and acquiring lands, and interests therein, shall not exceed in the aggregate the sum of sixty-four thousand pounds.

Dun drainage rate.

**49.** Subject to the provisions of this Act, the Commissioners shall, once or oftener in a year, or as and when they think fit, assess on the owners of lands in the Dun drainage district in respect of those lands such sums for the Dun drainage rate as the Commissioners from time to time think requisite.

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Rate prospective or retrospective.

**50.** The Commissioners may at any time assess the Dun drainage rate prospectively for future expenses, or retrospectively for past expenses, or partly prospectively and partly retrospectively.

Owner to pay, and in default occupier to deduct rate from rent.

**51.** Each owner of land in the Dun drainage district shall pay the Dun drainage rate assessed on him in respect thereof, and in default of payment by the owner the occupier thereof shall pay the same (which default shall be presumed on payment of the rate being demanded of the occupier by the Commissioners and the occupier paying the rate), and may deduct the amount paid by him for the same out of the rent payable by him, and he shall be discharged from so much money as the rate paid by him amounts to, as if the same were actually paid to the person entitled to receive the rent payable by him, save that an occupier being lessee under a beneficial lease for lives or under a lease or agreement for a lease, of the term whereof at the time appointed by the Commissioners for the payment of the rate five years or more are unexpired, shall not be entitled to so deduct.

Who to be deemed owner.

**52.** For the purposes of the Dun drainage rate the owner of land shall be taken to be the person who is or would be for the time being entitled to receive the rackrent thereof, including a lessee under a beneficial lease for lives or under a lease or agreement for a lease, of the term whereof at the time appointed by the Commissioners for the payment of the rate four years or more are unexpired.

Appeal to Quarter Sessions in respect of assessment to rate.

**53.** If any owner or occupier of land thinks himself aggrieved by any assessment of land to the Dun drainage rate, or by anything included in or omitted from the assessment, he may appeal to the next Court of Quarter Sessions for the west riding of the county of York, holden not less than one month after the day whereon notice of the assessment is served on him, subject and according to the following provisions :—

(1.) Within fourteen days after the last-mentioned day, and fourteen clear days at least before the sessions aforesaid, the appellant shall give to the Commissioners notice in writing of his appeal and of the matter and ground thereof:

(2.) The Court of Quarter Sessions, on proof of such notice, shall in a summary way hear and determine the appeal, or else shall (if they think fit) adjourn the hearing thereof to a subsequent session:

(3.) The Court, by their order on the appeal, may affirm the assessment or may amend it, and may make such further or other order respecting the matter of the appeal as seems just, and may, if necessary, issue process for enforcing their

judgment, and the order of the Court on the appeal shall be final and conclusive on all parties:

(4.) The Court on the appeal shall have the power of awarding costs to be paid by or to any party and of compelling payment thereof.

Recovery of rate.

**54.** The Commissioners may recover any money payable to them for the Dun drainage rate, with costs, by proceedings in any court of competent jurisdiction or by distress, and for facilitating recovery thereof by distress the following provisions shall have effect; (namely,)

(1.) Where any person ordered by a justice to pay the rate fails for twenty-one days to pay it, a justice may issue his warrant of distress, and the bailiff or other person to whom the warrant is addressed shall distrain any goods or chattels of the defaulter being on the land in respect whereof the rate is payable:

(2.) The distress may be impounded, sold, replevied, and dealt with as in case of distress for rent in arrear on a lease for years:

(3.) The surplus (if any) arising from any such sale (after payment of the rate and the expenses of the distress and sale), with the unsold goods and chattels (if any), shall be returned on demand to the person whose goods and chattels are distrained.

Remedy by letting of land for recovery of rate.

**55.** For facilitating recovery of the Dun drainage rate by demise of land, the following provisions shall have effect; (namely,)

(1.) Where the rate is unpaid for twelve months after the time when it ought to be paid, and sufficient distress is not found on the land in respect whereof it is payable, the Commissioners may, after giving ten days notice to the owner of their intention in this behalf, let such part of the land as they think sufficient to any fit person for any term not exceeding three years, at the best yearly rent that can be reasonably had, and may appoint a person to deliver to the lessee possession of the land let, and he shall deliver possession thereof accordingly, and the Commissioners may distrain for any rent so reserved, and enforce the covenants of the lease as if they were entitled to the immediate reversion of the land let:

(2.) Notice of the intention to let, and of the time and place of the letting, with a short description of the lands to be let, shall, twenty-one days at least before the day appointed for the letting, be posted by the Commissioners on some conspicuous place on or near the land:

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(3.) The Commissioners shall apply the rent received by them under any such letting in or towards payment of the rate and expenses unpaid, rendering the surplus (if any) on demand to the person entitled thereto.

Protection of Manchester, Sheffield, and Lincolnshire Railway Company.

**56.** For protection of the rights and interests of the Manchester, Sheffield, and Lincolnshire Railway Company (in this section called the railway company), as lessees of the South Yorkshire Railway and River Dun Company's undertaking, the following provisions shall have effect; (namely,)

(1.) Notwithstanding anything in this Act, the Commissioners shall not alter in any respect the water level of the River Dun Navigation:

(2.) Any shuttle or sluice-door made by the Commissioners in either of the weirs immediately below Doncaster Mill bridges shall be so used as to operate only on the flood waters passing under those bridges, and so that the water in the Dun Navigation shall never by the use thereof be lowered below the navigation level there existing at the passing of this Act, (that is to say,) the level of 127 feet above the datum line shown on the deposited sections:

(3.) The embankment No. 4 shall not be made except with the previous consent of the railway company in writing under their common seal:

(4.) Neither the undertaking of the South Yorkshire Railway and River Dun Company, nor the same company as owners thereof, nor the Manchester, Sheffield, and Lincolnshire Railway Company as lessees thereof, shall in respect of the said undertaking, or any part thereof, be liable to be assessed to the Dun drainage rate otherwise than on the same principle as owners of adjoining lands are or may be assessed to such rate.

River Dun Navigation and Stainforth and Keadby Canal, and the present owners or lessees thereof respectively, not to be affected.

**57.** Nothing in this Act contained shall extend or be construed to extend so as to prejudice or affect or to repeal or alter any of the powers, authorities, rights, and privileges granted to the proprietors of the navigation of the River Dun, or the company of proprietors of the Stainforth and Keadby Canal Navigation, or to the South Yorkshire Railway and River Dun Navigation Company, or the Manchester, Sheffield, and Lincolnshire Railway Company, in and by any Act or Acts of Parliament passed relating to the said navigation, canal, and railways respectively, or in any respect to impede, obstruct, prejudice, affect, injure, or damage the said navigation, canal, and railways, or any or either of them respectively, or any of the cuts or canals, banks, culverts, drains, and works belonging thereto, or now or heretofore used or enjoyed therewith.

For protection of corporation of level of Hatfield Chase.

**58.** For protection of the drainage works and district of the corporation of the level of Hatfield Chase, the Commissioners shall make and at all times maintain the banks on the north and south sides of the River Dun between Sandall Weir and Sour Lane Sluice of such relative level compared with each other as to ensure that the banks on the south side shall in every part be six inches higher than the parallel part of the banks on the north side, and the top or upper surface of the south bank shall be four feet in width, and the same bank shall be of adequate slope and inclination to maintain the same with proper strength and safety, and the said Commissioners shall for ever hereafter maintain the bank called the Dawburn Bank and the bank extending therefrom to the River Dun at Bramwith at not less than the present height, and the Commissioners shall cleanse and remove all deposits or obstructions in the bed and on the sides of and maintain that part of the River Dun which lies between Stainforth Bridge and Sour Lane Sluice in its full depth and width, so as to ensure a clear channel for the waters of the said river.

For protection of the Great Northern and West Riding and Grimsby railways.

**59.** For the protection of the Great Northern Railway and of the West Riding and Grimsby Railway, be it enacted as follows:

(1.) Nothing contained in this Act shall authorise the Commissioners to enter upon or interfere with or to execute any works in connexion with the Great Northern Railway or the West Riding and Grimsby Railway until they shall have submitted to the Great Northern Railway Company with respect to their railway, or to the "West Riding Railway Committee" (appointed by virtue of the West Riding and Grimsby Railway (Transfer) Act, 1866) with respect to the railway under the management of that committee, plans, sections, and specifications of the said works respectively, and until they shall have obtained the approval in writing of the said plans and sections by the engineer of the Great Northern Railway Company or of the West Riding Railway Committee, as the case may be: Provided that if such engineer shall not, within one month after the said documents have been submitted to him, express his approval or disapproval thereof, the Commissioners may proceed in the execution of the said works:

(2.) All works of the Commissioners in connexion with the said railways shall be executed and maintained under the superintendence and to the reasonable satisfaction of the engineer of the said railways respectively:

(3.) If by reason of the construction or maintenance of the works authorised by this Act the Great Northern Railway

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or the West Riding and Grimsby Railway shall be in any way impaired or the traffic thereon impeded, the Commissioners shall compensate the said Great Northern Railway Company or the West Riding Railway Committee, as the case may be, for any loss or expense occasioned thereby, and the Commissioners shall also save harmless and indemnify the said company and committee from all damages and expenses to which they may severally be rendered liable by any interference with or delay of their traffic:

(4.) Any difference which may arise between the Commissioners on the one hand, and the Great Northern Railway Company and the West Riding Railway Committee, or either of them, on the other hand, concerning any matters arising out of these provisions, shall be referred to the arbitration of an engineer to be agreed upon between the parties, or if they cannot agree, then to the arbitration of an engineer to be appointed by the Board of Trade on the application of either party; and the provisions of "The Railways Clauses Consolidation Act, 1845," with respect to the settlement of disputes by arbitration, shall apply, so far as they are applicable, to every such arbitration:

(5.) Neither of the said railways shall, nor shall the Great Northern Railway Company as owners of the Great Northern Railway, nor the same company and the Manchester, Sheffield, and Lincolnshire Railway Company, as joint owners of the West Riding and Grimsby Railway, in respect of the said railways respectively, be liable to be assessed to the Dun drainage rate, otherwise than on the same principle as owners of adjoining lands are or may be assessed to such rate.

Embankment above railway bridge at Doncaster.

**60.** Subject to the provisions of this Act, the Commissioners shall, within five years after the passing of this Act, make and for ever maintain all the embankments shown upon the deposited plans and sections upon the margin of the rivers Don and Cheswold and the new cut respectively above the bridges whereby the Great Northern Railway passes over the River Don, the new cut, and the Cheswold respectively of such height and strength as, not being less than those shown upon the deposited plans, shall, in the opinion of an engineer to be appointed by the Board of Trade on the application of the Commissioners or of the corporation of Doncaster, be sufficient at all times to confine the waters within the channel of the river, and if at any time or times thereafter such embankments shall be found to be insufficient, then of such further height and

strength as shall by any engineer to be agreed upon or appointed by the Board of Trade on such application as aforesaid be deemed necessary for such purpose: Provided that if and when the Commissioners shall raise any of such embankments on the one side, or any part of the one side of the said rivers and cut respectively, they shall raise the embankment on the opposite side to (as nearly as may be) an equal height and corresponding extent: Provided that the Commissioners shall not be liable to make any compensation for any damages which may arise from the insufficiency of any banks so constructed and maintained as aforesaid.

Regulation of shuttles and height of the weirs.

**61.** The shuttles or sluice-doors to be fixed in the weirs below the Mill Bridge and the Old Lock Bridge at Doncaster, as proposed in sub-sections one and two of section twenty-five of this Act, shall not be opened for the passage of flood waters until the water running over the weirs is of a depth of eighteen inches, and shall be restored or closed whenever the water drops to the said height of eighteen inches, and the present height of the said weirs shall not be lowered.

River Cheswold not to be interfered with.

**62.** Nothing in this Act shall empower the Commissioners to interfere with or in any manner impede the navigation of that part of the River Cheswold which runs between the new cut and the River Dun above the Mill Bridge at Doncaster, except with the consent of the corporation of Doncaster under their common seal.

Saving rights to compensation in respect of lands of corporation of Doncaster.

**63.** Nothing herein contained shall prejudice the rights of the corporation of Doncaster to demand and receive full compensation under the provisions of the "Lands Clauses Consolidation Acts" for any lands belonging to the corporation which may be taken or injuriously affected by the works constructed under the powers of this Act.

Commissioners to erect and maintain a clough or shuttle on lands in Crimpsall.

**64.** For the benefit of that part of the Dun drainage district called Crimpsall, and lying between the new cut of the Dun Navigation and the River Don, the Commissioners shall, on lands of which Margaret Elizabeth Trafford Southwell is the owner or reputed owner, and in such situation as she or her engineer may select (in addition to the necessary opening or openings for drainage purposes), construct and for ever hereafter maintain a good and sufficient clough or shuttle three feet in diameter, with a suitable door for the admission of flood waters for the purposes of irrigation, and a similar self-acting clough or shuttle for the subsequent escape of the irrigating waters: Provided that such cloughs or shuttles shall not be used so as to irrigate or flood the lands or property of any other person without the consent in writing of such person having been first obtained.

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As to water supply to Kirkhouse Green Farm.

**65.** Frederick Marsdin or other the owner or reputed owners for the time being of Kirkhouse Green Farm shall be at liberty, so far as the Commissioners can authorise him or them, at any time after the passing of this Act, to lay down pipes from any of the Commissioners drains or cuts to the said farm for the purpose of obtaining a better water supply: Provided that the said pipes and any works connected therewith, so far as they shall interfere with the works of the Commissioners, shall be placed and executed to the satisfaction of their engineer, and so as not to injure or impair the efficiency of the said works.

Power to borrow.

**66.** The Commissioners may from time to time borrow at interest on the security of the Dun drainage rate such sums of money as they from time to time think requisite for the execution of this Act, not exceeding in the whole forty thousand pounds, and may mortgage the Dun drainage rate to secure the repayment of the money so borrowed with interest accordingly.

Form of mortgage.

**67.** Every mortgage made by the Commissioners shall be by deed under their common seal, duly stamped and truly stating the consideration.

Receiver for mortgagees.

**68.** The Commissioners may from time to time, by deed under their common seal, appoint or authorise the appointment of a receiver of the Dun drainage rate on behalf of or by any mortgagee thereof, on such terms as the Commissioners and the mortgagee from time to time agree.

Power for receiver to levy drainage rate.

**69.** If at any time the Commissioners fail to exercise or discharge all or any of their powers and duties for assessing, collecting, and enforcing payment of the Dun drainage rate so as to provide for payment of and to fully pay the interest and principal money payable on any mortgage, then any receiver appointed on behalf of or by the mortgagee or by the Court of Chancery shall have and may in the name of the Commissioners (but without being obliged to use their common seal) exercise with respect to the Dun drainage rate the like powers, rights, and remedies for assessing, collecting, and enforcing payment of the same as are by this Act given to the Commissioners.

Accounts open to mortgagees.

**70.** The books of account of the Commissioners shall be open at all reasonable time to the inspection of the mortgagees of the Commissioners, with liberty to take extracts therefrom without payment.

Power to borrow from Public Works Loan Commissioners.

**71.** The Commissioners may borrow of the Public Works Loan Commissioners, and those Commissioners may lend to them, such sum of money as the Public Works Loan Commissioners think fit, for the

purposes of and on any security authorised by this Act, and without requiring any further or other security. A.D. 1873.

Payment off of mortgages by instalments of sinking fund.

**72.** The Commissioners shall pay off any money borrowed by them on mortgage either by instalments or by means of a sinking fund appropriated for that purpose, and with the accumulations thereof (if any) from time to time applied for that purpose, as follows; (that is to say,) as regards any money borrowed before the expiration of ten years from the passing of this Act, within thirty years after the expiration of those ten years, and as regards any money borrowed after the expiration of those ten years, within thirty years after the same is borrowed.

Power to re-borrow.

**73.** If the Commissioners at any time pay off otherwise than by instalments or by means of a sinking fund any money borrowed by them on mortgage, they may from time to time re-borrow the same, or any less amount, on mortgage, subject and according to the provisions of this Act relating to borrowing on mortgage.

Protection of lenders from inquiry.

**74.** Any person lending money to the Commissioners shall not be bound or entitled to inquire as to the observance by them of any provision of this Act, or be bound to see to the application or be answerable for any loss or non-application of such money or of any part thereof.

Application of capital.

**75.** All money received by the Commissioners from borrowing, or as consideration for lands sold, or being otherwise in the nature of capital, shall be carried to their capital account, and shall be applied by them in the manner and in the order following, and not otherwise; (namely,)

(1.) In paying the costs, charges, and expenses preliminary to and of and incidental to the preparing of and applying for and the obtaining and passing of this Act, and attending the borrowing of money:

(2.) In executing works and purchasing and acquiring lands and interests therein:

(3.) In carrying into effect other the purposes of this Act, except maintenance of works and other purposes properly chargeable against revenue.

Application of revenue.

**76.** All money received by the Commissioners, not being money received from borrowing or as consideration for lands sold, and not being otherwise in the nature of capital, shall be carried to their revenue account, and shall be applied by them in the manner and in the order following, and not otherwise; (namely,)

(1.) In paying their necessary and proper establishment and working expenses and the expenses of maintenance of their works:

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(2.) In paying the interest, instalments, and sums from time to time accruing due and payable under their mortgages, and in providing any sinking fund required for payment off of money borrowed on mortgage:

(3.) In executing works and otherwise carrying into effect the purposes of this Act.

Power to make byelaws.

**77.** The Commissioners may from time to time make byelaws for any purpose specified in this Act, and for all or any of the following purposes; (namely,)

For prohibiting persons from injuring any of the works of the Commissioners, or creating any nuisance at or near the same;

For prohibiting persons from trespassing on any lands or works of the Commissioners;

For prohibiting persons from injuring, defacing, or removing notices, placards, and bills put up by the Commissioners, and the posts, railings, and fences connected with the works of the Commissioners;

and may at any time by byelaw repeal or alter any byelaw made by them; and with respect to the making of byelaws and other matters connected therewith, the following provisions shall have effect; (namely,)

(1.) Byelaws may impose reasonable penalties for offences against the same, not exceeding forty shillings for each offence, so that all byelaws be so framed as to allow of part only of the maximum penalty being in any case ordered to be paid:

(2.) Byelaws shall not have effect until they are allowed by the justices for the west riding of the county of York at quarter sessions, and the justices shall inquire into and, if they think fit, hear evidence upon any byelaws tendered to them for allowance, and allow or disallow the same as they think fit:

(3.) Byelaws shall not be allowed unless notice of intention to apply for the allowance thereof has been given by advertisement one month at least before the application for allowance is made:

(4.) Any person desiring to object to any byelaws, on giving to the Commissioners notice of the nature of his objection not less than ten days before the hearing of the application for allowance, may, by himself or his counsel, attorney, or agent, be heard thereon:

(5.) For one month at least before the hearing of the application a copy of the proposed byelaws shall be kept at the prin-

cipal office of the Commissioners, and all persons may at all reasonable times inspect the copy so kept without payment, and the clerk to the Commissioners shall furnish every person applying for the same with a copy thereof, or of any part thereof, on payment of sixpence for every one hundred words copied:

(6.) All byelaws, when allowed, shall be printed, and the clerk to the Commissioners shall deliver a printed copy thereof to every person applying for the same on payment of such reasonable price as the Commissioners from time to time direct, not exceeding sixpence for each copy:

(7.) A printed copy, signed by the clerk to the Commissioners, purporting to be under the common seal of the Commissioners and to be allowed at quarter sessions, shall be evidence of the existence and due making and allowance of such byelaws, without proof of the signature of the clerk or other thing.

Works for protection and accommodation of lands.

**78.** The Commissioners shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of land intersected or otherwise interfered with by the construction of any cuts, drains, embankments, and other works authorised by this Act; namely, such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the said cuts, drains, and embankments as shall be necessary for the purpose of making good any interruptions caused by the works of the Commissioners to the use of the lands through or upon which the said works shall be made, and such accommodation works shall be made forthwith after the making of such cuts, drains, and embankments.

Differences to be determined by justices.

**79.** If any difference arises respecting the kind or number of any such accommodation works, or the dimensions or sufficiency thereof, or respecting the maintaining thereof, the same shall be determined by two justices as and in manner provided by the "Railways Clauses Consolidation Act, 1845," and such justices shall also appoint the time within which such works shall be commenced and executed and repaired by the Commissioners.

Provision in case of failure to commence works, &c.

**80.** If for fourteen days next after the time appointed by such justices for the commencement of any such works, the Commissioners shall fail to commence the same, or having commenced shall fail to proceed diligently to execute the same in a sufficient manner, or shall fail to repair and maintain the same either within the time appointed or in an efficient manner, then it shall be lawful for the party grieved by such failure himself to execute such works or repairs, and the

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reasonable expenses thereof shall be repaid by the Commissioners to the party by whom the same shall so have been executed, and if there be any dispute about such expenses, the same shall be settled by two justices as aforesaid: Provided always, that no such owner or occupier or other person shall obstruct or injure any of the works authorised by this Act for a longer time nor use them in any other manner than is unavoidably necessary for the execution or repair of such accommodation works.

Application of part of Land Drainage Act.

**81.** The Commissioners shall have and may exercise for and in the Dun drainage district all the powers of commissioners of sewers under section 16 of "The Land Drainage Act, 1861," subject to the provisions and restrictions in that section contained or referred to, and subject to the further restriction that the Commissioners shall not execute or cause any such removal or other interference as is described in section 17 of that Act, except with the consent of the owner, lessee, and occupier of the work or obstruction removed or interfered with.

Provisions respecting scouring of dykes, &c.

**82.** The Commissioners shall have the following powers with respect to any dyke in the Dun drainage district; (namely,)

(1.) From time to time to cause the same, at the expense of the owner thereof, to be scoured, cleansed, opened, or repaired in a sufficient manner, at the discretion of the Commissioners;

(2.) Where any way has been made over any dyke without a sufficient tunnel, to cause the way to be taken up and the dyke to be made of a further width and depth, not being less than the width and depth of the dyke in which the tunnel is placed, with a sufficient tunnel therein, at the discretion of the Commissioners and at the expense of the owner;

And if any person, after any such dyke or tunnel has been so scoured, cleansed, opened, or repaired as aforesaid by the Commissioners, fills, stops up, or obstructs the same, or causes or procures the same to be filled, stopped up, or obstructed, or suffers the same to be for the space of fourteen days filled, stopped up, or obstructed, he shall be guilty of an offence against this Act, and shall for every such offence be liable to a penalty not exceeding ten pounds.

Penalty on owners, &c. neglecting to scour out drains.

**83.** If the owner or occupier of any land within the Dun drainage district to which any drain, watercourse, division-dyke, or other dyke belongs, neglects or refuses sufficiently to scour, cleanse, open, or repair the same, or to maintain the same at a sufficient depth for the conveyance of the water, after ten days notice

in writing given to him from time to time for that purpose by or on behalf of the Commissioners, specifying the depth that such dyke shall be, of which depth the Commissioners are hereby authorised to specify and set out in the notice, at their discretion, every such person shall be guilty of an offence against this Act, and shall for every such neglect or refusal be liable to a penalty not exceeding forty shillings for every rod in respect of which he so neglects or refuses.

Penalty on persons obstructing drains, &c.

**84.** If any person does any of the following things; (namely,)

(1.) Dams up or obstructs, by erecting fences, planting willows, or otherwise, any bank, drain, sluice, tunnel, bridge, or work made or maintained under this Act, or any foreland, or the foreshore of the Don;

(2.) Wilfully obstructs the Commissioners or any their officer or servant acting in the execution of this Act in making or repairing any work under this Act;

he shall be guilty of an offence against this Act, and shall for every such offence be liable to a penalty not exceeding ten pounds.

Penalty on driving carts or foddering cattle on banks.

**85.** The Commissioners shall, at their own expense, effectually fence off all new embankments, and maintain the same so as to protect the banks from injury until they have become well consolidated; and if any person, at any time within seven years from the passing of this Act, depastures, fodders, or drives, or causes to be depastured, foddered, or driven, any cattle or stock upon any such bank, except with the consent of the Commissioners, or if any person shall at any time hereafter drive any cart, waggon, or carriage on any such bank, he shall be guilty of an offence against this Act, and shall for every such offence be liable to a penalty not exceeding ten pounds; but nothing in this Act shall prevent (except during the execution of the works) any person from exercising any right of way or passage, with horses, carts, or carriages, or without, in, on, or over any embankment raised under the Dun Drainage Act of 1827 or this Act, as fully as the same has been enjoyed before the passing of this Act.

Proceedings for summary convictions and appeals.

**86.** Proceedings with a view to the conviction of offenders and the recovery of penalties under this Act, or under any byelaw of the Commissioners, or to the recovery of any money or expenses authorised to be recovered by the Commissioners, or to any order to be made or warrant to be issued by justices or a justice under this Act or any such byelaw, shall be taken according to the provisions of the Act of the session of the eleventh and twelfth years of Her Majesty's reign (chapter 43), "to facilitate the per-

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" formance of the duties of justices of the peace out of sessions " within England and Wales with respect to summary convictions " and orders," and section 110 of the Act of the session of the twenty-fourth and twenty-fifth years of Her Majesty's reign (chapter 96), " to consolidate and amend the statute law of England " and Ireland relating to larceny and other similar offences," shall authorise and apply to appeals in respect of such convictions and orders.

Summonses and warrants.

**87.** With respect to summonses and warrants under this Act, and proceedings thereon, the following provisions shall have effect; (namely,)

(1.) Any summons or warrant issued for any purpose of this Act may contain in the body thereof, or in a schedule thereto, several names and several sums:

(2.) Any justice who issues a warrant of distress for any purpose of this Act may order that the costs of and incidental to the recovery of the money to be levied, be paid by the person liable to pay that money, and the costs shall be ascertained by the justice and be included in the warrant:

(3.) A distress levied under this Act shall not be unlawful, nor shall the person making it be deemed a trespasser, on account of any defect or want of form in the warrant, or in any other proceeding relative to the distress, nor shall any such person be deemed a trespasser as from the beginning on account of any subsequent irregularity, but any person aggrieved by any defect, want of form, or irregularity may recover, by proceedings in any court of competent jurisdiction, full satisfaction for the special damage.

Application of penalties.

**88.** All penalties under this Act or under any byelaw of the Commissioners shall be awarded and paid to the Commissioners.

Judges, &c. not disqualified.

**89.** A judge of any court or a justice shall not be disqualified from acting in the execution of this Act by reason of his being liable to the Dun drainage rate or other charge under this Act.

Form and service, &c. of notices.

**90.** Any instrument (including a notice, order, resolution, declaration, requisition, consent, approval, disapproval, demand, or other document) made, given, delivered, or served under this Act or any byelaw by the Commissioners, may be either in print or in writing (including lithograph), or partly in print and partly in writing (including lithograph), and shall be sufficiently authenticated by the name of their clerk being affixed thereto in print or writing, or by a stamp on their behalf, and it shall be sufficient, in all cases where any such instrument is required to be given to or served on the owner or occupier of any property, to address it to such

owner or occupier by his description as owner or occupier (as the case may be) of the property in respect whereof it is given or served (the same being named or generally described), without further name or description of the owner or occupier, and any such instrument may be addressed to owners or occupiers of any number of parcels of land collectively, and when so addressed may be served on more owners or occupiers than one (so that separate copies be served on the respective owners and occupiers of the several parcels or properties concerned), and any such instrument may be served on any owner, occupier, or other person either personally or by sending the same through the post in a registered letter addressed to him by name at his last known place of abode or business in England, or by delivery thereof to some inmate at his last known or usual place of abode or business in England, or in case of an occupier to any inmate or resident in or on the land or building in respect of which it is given or served, or if the same is unoccupied and the place of abode of the person to be served is, after diligent inquiry, unknown, it shall be sufficient to affix it or a copy thereof on some conspicuous part of the land or building.

Exclusion of Hatfield Chase and Went districts.

**91.** Nothing in this Act shall authorise the Commissioners to assess or levy any rate on any land in the Went drainage district, or on any land comprised in the award of the sub-Commissioners acting under the Level of Hatfield Chase Act, 1862.

# The SCHEDULES to which the foregoing Act refers.

## THE FIRST SCHEDULE.

PARISHES, TOWNSHIPS, HAMLETS, OR PLACES NAMED IN PREAMBLE OF DUN DRAINAGE ACT OF 1827 AND IN DUN DRAINAGE AWARD.

Bentley.
Arksey.
Langthwaite.
Tilts.
Adwick-le-Street.
Owston.
Burghwallis.
Haywood.
Sutton.
Campsall.
Thorpe-in-Balne.
Barnby-upon-Don.
Kirk Sandall.
Trumfleet.
Kirk Bramwith.
Moss.
Stainforth.
Fishlake.

## THE SECOND SCHEDULE.

PARTS OF COMMISSIONERS CLAUSES ACT EXCEPTED FROM INCORPORATION.

(1.) With respect to the qualification of Commissioners.

(2.) Section fifty-four. (Commissioners to provide daily attendance at their office to receive notices, &c.)

(3.) With respect to the mortgages to be executed by the Commissioners.

(4.) Sections ninety-six, ninety-seven, and ninety-eight, relating to the making of byelaws.

(5.) Section one hundred and four, as far as it relates to the mode of recovery of damages and penalties.

## THE THIRD SCHEDULE.

### The Dun Drainage District.

The Dun drainage district comprises—

(A.) The lands comprised in the Dun drainage award, and shown on the Dun drainage award map, the same being also shown on the Dun drainage district map, and being thereon distinguished by a brown edging; and

(B.) The lands lying within the outer boundary of the lands (A.), but not liable to be rated under the Dun drainage award, the same being shown on the Dun drainage district map, and being thereon distinguished by a pink edging; and

(C.) The following lands lying outside the lands (A.) and (B.), the same being shown on the Dun drainage district map, and being thereon distinguished by a green edging; (that is to say,)

1. The lands being in and abutting on Hexthorpe Ings in the parish of Doncaster, on the south side of the River Don, and being between the River Don and an imaginary line drawn in a north-easterly direction from a point at or near the south-east corner of a field belonging or reputed to belong to Margaret Elizabeth Trafford Southwell and occupied by Joshua Beetham, to a point on Thief Lane one hundred and fifty yards to the north-west of the junction of that lane with Hexthorpe Lane.
2. The lands being part of Crimpsall in the parish of Doncaster, and situate on the south side of the new cut of the river Dun Navigation, and between that navigation and the embankment of the Great Northern Railway which extends from the last-named point to the River Cheswold.
3. The lands in the parish of Doncaster called the Marsh and Marsh Gate, bounded on the north-west by the River Don, on the north-east by the Mill Dyke or Old River Don, on the south and east by the said new cut, and on the south-west by the River Cheswold.
4. The lands in the parish of Doncaster being part of Crimpsall, bounded on the north and west by the River Don, on the north-east by the Cheswold, on the south by the Don, and on the south-east by the said new cut.
5. The lands in the parishes of Sprotborough and Arksey, bounded on the south and east by that part of the River Don which extends from Newton Gate Ferry to the Great Northern Railway bridge over that river, and on the north and west by an imaginary line commencing at a point eighty yards north-west of Newton Gate Ferry House, and drawn in a north-easterly direction to the Black Pond, thence in a northerly direction to the Anchorage Farm, and to a point on the Great North Road one hundred and fifty yards from Lady Pit's Bridge measured in a north-westerly direction along that road, thence in a north-easterly direction, and afterwards in an easterly direction to the Doncaster and Selby turnpike road, at a point in that road where the Bentley Bank joins that road, thence in a southerly direction along the boundary of lands (A.) to and terminating at the Don at the point where the Great Northern Railway crosses that river.

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6. The lands in the parish of Arksey, situate between lands (A.) and an imaginary line commencing at Bentley Mill, at a point fifty yards south-west of the Mill Dyke, and continuing parallel to and fifty yards south-west of the same dyke, to and terminating at a point fifty yards south-west of the sluice which supplies Sandall Nooking Drain with water from the Adwick Mill Dyke.

7. The lands in the parish of Adwick-le-Street lying on the south-west side of the Adwick Mill Dyke, and extending from the last-mentioned point to the Skellow Shuttle at the junction of the Mill Dyke with the Old Ea Beck, such lands being fifty yards in width parallel with the said Mill Dyke.

8. The lands in the parishes of Owston and Adwick-le-Street, called Skellow Ings, Humber Head Ings, and Size Ing, and abutting upon one or both of certain drains or watercourses called Humber Head Dyke and Old Ea Beck.

9. The lands in the parishes of Owston, Burghwallis, and Campsall known as Sutton Common, and the lands adjoining and situate between lands (A.) and an imaginary line commencing at the point where the Stockbridge drain crosses the Doncaster and Selby turnpike road, passing thence in a northerly direction on the east side of and abutting upon the same turnpike road, and afterwards in a north-westerly and westerly direction on the north side of Burghwallis Common Lane up to the Abbess Dyke, thence in a northerly and north-easterly direction along and on the south side of Folly Lane to a point on the Sutton Road one hundred and ten yards from Sutton Inn measured in a south-easterly direction along that road, thence in a north-easterly direction through old inclosures adjoining Sutton Common, and thence in a northerly direction along the western boundary of Sutton Common to and terminating at the Sutton and Askern township boundary at the north-west corner of that common.

10. The lands in the parish of Campsall, being Moss Common and lands adjoining and situate between lands (A.) and an imaginary line commencing at a point in Hayworth Lane one hundred and ninety yards measured in a westerly direction from the west corner of Copley Spring Wood, passing thence in a northerly direction to the Moss and Askern Road, thence in an easterly direction along that road to Little Moss Lane, thence in a north-easterly direction along that lane to the township boundary between Moss and Fenwick, thence in an easterly and north-easterly direction along that township boundary to and terminating at the point where that boundary abuts upon lands (A.) near Ell Wood.

11. The lands in the parishes of Campsall and Fishlake at and near Fenwick Grange, situate between lands (A.) and an imaginary line commencing at a point on the boundary of lands (A.) four hundred and forty yards east of Ell Wood, passing thence in a north-easterly direction to a point in West Lane ninety yards south of West End Farm, thence in a southerly and south-easterly direction along West Lane to a point on the Barrier Bank ninety yards south of Hell Wicket.

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12. The lands in the parish of Fishlake bounded on the north by the Barrier Bank extending from Plumtree Hill to the Fishlake Road near to the Taining Bridge, and by the road leading from Taining Bridge to Fishlake Church, and by the Barrier Bank down to Hangsman Hill Ferry, on the south and east by that part of the River Don which extends from Stainforth Bridge to Hangsman Hill Ferry, and on the west by the Stainforth and Fishlake and Plumtree Hill Roads.

13. The lands known as Trumfleet Marsh and Trumfleet Ings in the parish of Kirk Sandall, bounded on the south by the River Don, and on the remaining sides by lands (A.)

14. The lands in the parishes of Kirk Sandall, Barnby-upon-Don, Kirk Bramwith, Hatfield, and Fishlake, situate on the south side of the River Don, and lying between the River Don and the River Dun Navigation, and extending from Sandall Weir to the boundary of the parishes of Hatfield and Thorne.

## THE FOURTH SCHEDULE.

### Sections of Land Drainage Act, 1861, referred to.

(1.) Section 6. (Definition of proprietors.)
(2.) Section 7. (Trustees to be deemed proprietors in certain cases.)
(3.) Section 8. (Provisions as to proprietorship by corporations and companies.)
(4.) Section 9. (Provisions as to joint proprietors.)

## THE FIFTH SCHEDULE.

### Part I.

*Rules for Elections of Commissioners.*

1. Before each election the Commissioners shall make a list of the electors, showing the number of votes to which each elector is entitled, and for twenty-one days at least before the election shall keep the list at their principal office open for inspection by persons interested.

2. A person other than an outgoing Commissioner shall not be eligible at any election unless three days at least before the day of election he has been proposed by an elector and seconded by another elector by a joint writing under their hands delivered at or sent by a registered letter to the principal office of the Commissioners.

3. At an election an elector may give the vote or the whole number of votes which he has to as many candidates as there are Commissioners to be elected, or to any one or more of those candidates, but an elector shall not be entitled to cumulate votes on any candidate or candidates.

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4. The election shall be made by the majority of the votes of the electors present personally or by proxy at the meeting.

5. If ten electors are not present in person or by proxy within one hour after the time appointed for the meeting, the election shall not be proceeded with on that day, and if for that or any other reason the election is not made on that day, the meeting shall stand adjourned to the first Tuesday in the next following month, and shall then be held at such hour and place as the Commissioners appoint.

6. If on the last-mentioned day ten electors are not present in person or by proxy within one hour after the time appointed for the meeting, the election shall not be proceeded with, and if for that or any other reason the election is not made on that day, the Commissioners of the last preceding period of three years shall continue in office as if they had been elected for another period of three years.

7. The appointment of a proxy shall be made by an instrument in writing under the hand or common seal of the appointor attested by one witness at least.

8. No one but an elector or a person qualified to be a Commissioner shall be capable of being a proxy.

9. An instrument appointing a proxy shall not be used at any election unless it has been deposited at the principal office of the Commissioners not later than noon of the day next before the day appointed for that election, and shall not be valid except for the election next after the date of its execution.

10. The chairman of the Commissioners, or in his absence a Commissioner elected by the meeting, or in the absence of all the Commissioners, an elector appointed by the meeting, shall be chairman of the meeting, and be the returning officer, but shall not be thereby made ineligible.

11. If at any election there is an equality of votes for two or more candidates to fill one vacancy, the election shall be determined by lots drawn by the returning officer at the meeting.

12. The returning officer shall, according to the best of his judgment and ability, make under his hand a return to the Commissioners of the persons elected, and every person so returned shall, subject to the provisions of this Act, be deemed duly elected.

13. Subject to the provisions of this Act, elections, and proceedings preliminary thereto and consequent thereon (including inspection of lists of electors, and the form and mode of appointment of proxies), shall be regulated by byelaws of the Commissioners.

14. Expenses incurred in the making of lists of electors and by the returning officer, or otherwise, by or on behalf of the Commissioners in relation to elections, shall be paid by the Commissioners.

## Part II.

### *Regulations respecting Commissioners and their business.*

1. The quorum of the Commissioners shall be four.

2. The principal office of the Commissioners shall be such office in the borough of Doncaster as the Commissioners from time to time appoint.

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3. The Commissioners shall require their clerk, or some person authorised by them in this behalf, to attend at their principal office on such days and at such hours as they from time to time think fit.

4. The Commissioners need not hold monthly meetings, but they shall hold meetings for the transaction of business at such times and places as they from time to time appoint, notice thereof being given to the Commissioners individually by advertisement, circular, or otherwise, as the Commissioners from time to time direct.

5. The newspapers for advertisements shall be a newspaper published in the west riding of the county of York, and a newspaper published in the borough of Doncaster.

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