

ANNO VICESIMO QUARTO & VICESIMO QUINTO

VICTORIÆ REGINÆ.

****

CAP. CXXXIII.

An Act to amend the Law relating to the Drainage of Land for Agricultural Purposes.

[6th *August* 1861.]

WHEREAS it is expedient to amend the Law relating to the Drainage of Land for Agricultural Purposes: 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:

Preliminary.

1. This Act may be cited for all Purposes as "The Land Drainage Act, 1861." **Short Title.**

2. This Act, in so far as the same relates to Commissions of Sewers shall include any Commission of Sewers granted by Her Majesty, and for the Time being in force, whether such Commission is or is not granted in pursuance of this Act, or has or has not been granted previously to this Act, and in so far as the same relates to Commissioners of Sewers shall include Commissioners acting under any such Commission as aforesaid, but it shall not extend to *Scotland* or *Ireland*, or to any Part of the Metropolis as defined by the Act passed in the Session holden in the Eighteenth and Nineteenth Years of the Reign of Her present Majesty, **Act to apply to England only.**

Majesty, Chapter One hundred and twenty, intituled *An Act for the better Local Management of the Metropolis.*

Definition of Terms.

3. "Watercourse" shall include all Rivers, Streams, Drains, Sewers, and Passages through which Water flows:

"Person" shall include any Body of Persons, corporate or unincorporate, unless there is something in the Context inconsistent therewith:

"Owner," as used throughout this Act, except where it is otherwise defined in the Provisions relating to Rating, shall have the same Meaning as it has in "The Lands Clauses Consolidation Act, 1845."

PART I.

Commissions of Sewers.

Assignment of New Limits.

Commissions of Sewers may be issued for new Areas on Recommendation of Inclosure Commissioners.

4. It shall be lawful for Her Majesty, upon the Recommendation of the Inclosure Commissioners, to be obtained on such Application and subject to such Conditions as are herein-after mentioned, to direct Commissions of Sewers into all Parts of *England*, inland as well as maritime, and to assign as the Limits for the Jurisdiction of such Commissions any Areas that may be thought most expedient, having regard to the Levels and other Facilities for Drainage within such Areas, with Power for Her Majesty to include within the Limits of any Commission of Sewers any Area to which a Commission of Sewers may not hitherto have been assigned, or any Area either wholly or partially within the Limits of an existing Commission of Sewers; subject to this Proviso, that no Alteration shall be made affecting the Jurisdiction of any Commissioners of Sewers without the Consent of a Special Meeting of such Commissioners.

Recommendation of Inclosure Commissioners to be obtained on Petition of Proprietors, after Investigation by an Inspector.

5. The following Proceedings shall be taken for the Purpose of obtaining the Recommendation of the Inclosure Commissioners to the Grant of a Commission of Sewers:

(1.) A Petition shall be presented to the Inclosure Commissioners, stating the proposed Boundaries of the Area to be comprised within the Limits of the Commission, by Reference to a Map, or in such other Manner as the Commissioners think expedient, and signed by the Proprietors of One Tenth Part of the Land within such Boundaries:

(2.) The Petition shall be supported by such Evidence as the Inclosure Commissioners require; but the Matter thereof shall not be entertained until the Petitioners have given such Security as the Inclosure Commissioners may require for the Payment

Payment of Costs in the event of the Petition being unsuccessful:

(3.) Upon the Receipt of such Petition the Inclosure Commissioners may, if they think fit, send an Inspector to the Place, for the Purpose of making Inquiries as to the Genuineness of the Petition, and as to the Propriety of the proposed Boundaries, and as to the Number of Proprietors assenting to or dissenting from the Prayer of the Petition:

(4.) Before commencing such Inquiry the Inspector shall give such Notice as the Inclosure Commissioners direct of his Intention to make the same, and of a Time and Place at which he will be prepared to hear all Proprietors desirous of being heard before him on the Subject of such Inquiry, and of a further Time, being not less than Fourteen Days, within which all Proprietors intending to dissent from the Prayer of the Petition must express such Dissent:

(5.) The Inclosure Commissioners shall dismiss the Petition if the Proprietors of One Third Part of the Land within the proposed Boundaries express their Dissent from the Prayer thereof, in Writing addressed to the Inclosure Commissioners, and sent to their Office in *London* within such Time as aforesaid; but if no such Dissent be expressed, and if the Commissioners, after hearing the Report of their Inspector, approve of the proposed Boundaries, either with or without Modification, One of Her Majesty's Principal Secretaries of State shall convey an Intimation of such Approval to Her Majesty; and a Commission of Sewers for the Area as proposed by the Petitioners, or as modified by the Inclosure Commissioners, shall thereupon be issued.

Definition of Proprietors.

6. The following Persons shall be deemed to be Proprietors for the Purposes of this Act; that is to say,

(1.) Any Person entitled for his own Benefit, at Law or in Equity, for an Estate in Fee, to the Possession or Receipt of the Rents and Profits of any Freehold or Copyhold Land, whether such Land is or not subject to Incumbrances:

(2.) Any Person absolutely entitled in possession, at Law or in Equity, for his own Benefit, to a beneficial Lease of Land of which not less than Twenty-five Years are unexpired, whether such Land is or not subject to Incumbrances; but no Lease shall be deemed to be a beneficial Lease, within the Meaning of this Act, if the Rent reserved thereon exceeds One Third Part of the full annual Value of the Land demised by such Lease:

(3.) Any

(3.) Any Person entitled under any existing or future Settlement, at Law or in Equity, for his own Benefit, and for the Term of his own Life, or the Life of any other Person, to the Possession or Receipt of the Rents and Profits of Land of any Tenure, whether subject or not to Incumbrances, in which the Estate for the Time being subject to the Trusts of the Settlement is an Estate for Lives or Years renewable for ever, or is an Estate renewable for a Term of not less than Sixty Years, or is an Estate for a Term of Years of which not less than Sixty are unexpired, or is a greater Estate than any of the foregoing Estates:

(4.) The Word "Settlement," as herein used, shall include any Act of Parliament, Will, Deed, or other Assurance whereby particular Estates or particular Interests in Land are created, with Remainders or Interests expectant thereon:

(5.) Any Body Corporate, any Corporation Sole, any Trustees for Charities, and any Commissioners or Trustees for Ecclesiastical, Collegiate, or other public Purposes, entitled at Law or in Equity, in the Case of Freehold Estates or Copyhold Estates in Fee, and in the Case of Leasehold Estates to a Lease for an unexpired Term of not less than Sixty Years.

Trustees to be deemed Proprietors in certain Cases.

7. Where any Proprietor as herein-before defined is a Minor, or of unsound Mind, or a married Woman, the Guardian, Committee, or Husband, as the Case may be, of such Proprietor, shall be the Proprietor within the Meaning of this Act; subject to this Proviso, that a married Woman entitled for her separate Use, and not restrained from Anticipation, shall, for the Purposes of this Act, be treated as if she were not married.

Provision as to Proprietorship by Corporations and Companies.

8. Where a Corporation Aggregate, a Joint Stock or other Company, or any Body of Proprietors or Undertakers, is Proprietor of any Land, such Corporation, Company, Body of Proprietors or Undertakers respectively, shall be deemed to be One Proprietor for the Purpose of giving an Assent or Dissent under this Act, and may express their Assent or Dissent in Writing under their Common Seal in the Case of a Corporation, and in any other Case under the Hands of Three Directors or other Persons in the Direction or Management of the Company or Concern; but no Member of such Corporation, nor Proprietor or Person interested in such Company or Concern, shall be entitled to Dissent individually as a Proprietor in respect of such Land.

Provision as to Joint Proprietors.

9. Where several Persons are Proprietors of Land as Joint Tenants, Coparceners, or Tenants in Common in undivided Moieties, they

they shall in respect of such Land be accounted as One Proprietor, but the Concurrence of the Proprietors of Two Third Parts of such Land shall be deemed to be the Concurrence of the whole.

Provision in case of no Proprietor.

10. When any Portion of Land comprised within the Boundaries referred to in any such Petition as is herein-before mentioned appears to have no Proprietor within the Meaning of this Act, or the Proprietor cannot be found, the Land so circumstanced shall be altogether excluded in any Computation that may be made of the Proportion borne by the dissenting Proprietors of any Area of Land as herein-before provided to the aggregate Number of the Proprietors of such Land.

Powers of Inspector.

11. Any Inspector sent by the Inclosure Commissioners in pursuance of this Act may, by Summons under his Hand, require to appear before him any Persons whomsoever, and examine them upon Oath or otherwise touching any Matter relating to the Purposes of the Inquiry, and he may by any such Summons require any Parochial Officer, or any Officer of or acting under any Corporation, Guardians, or Directors of the Poor, and any Commissioner, Trustee, Officer, or Person acting under any Local Act of Parliament in force within the District to which any such Inquiry may relate, to produce before him any Surveys, Plans, Sections, Rate Books, or other like Documents which may by reason of their Office be in their Custody or Control, touching any Matter relating to the Purposes of such Inquiry; and such Inspector may examine, inspect, or take Copies of any such Books, Surveys, Plans, Sections, and Documents, or any of them, or Part thereof; and whosoever wilfully disobeys any such Summons, or prevents any such Inspector from examining, inspecting, or taking Copies as last aforesaid, or refuses to answer any Question put to him by such Inspector, for the Purposes of the said Inquiry, shall be liable to a Penalty not exceeding Five Pounds, to be recovered in a summary Manner; but no Person shall be required to attend in obedience to any Summons unless the reasonable Charges of his Attendance have been paid or tendered to him.

Expenses incurred in obtaining the Issue of a Commission of Sewers under this Act.

12. All Costs, Charges, and Expenses incurred by the Petitioners or the Inclosure Commissioners in obtaining the Issue of a Commission of Sewers in pursuance of this Act shall be a Charge on the Rates leviable by the Commissioners of Sewers acting under such Commission, but if no Commission is issued all such Costs, Charges, and Expenses as aforesaid shall be defrayed by the Petitioners.

13. The

Drainage of Land.

Evidence of Issue of Commission.

13. The Issue of a Commission of Sewers for any Area shall be conclusive Evidence that all the Requirements of this Act in respect of the Issue of such Commission have been complied with.

Duration of Commission.

Duration of Commissions of Sewers.

14. A Commission of Sewers once issued shall be deemed to continue until such Time as it may be superseded by Her Majesty; and Her Majesty may from Time to Time, by Writing under Her Sign Manual, fill up any Vacancies that may arise in the Body of Commissioners assigned by any Commission of Sewers.

Quorum.

Quorum of Commissioners.

15. Three Commissioners shall constitute a Quorum at any Meeting or Court of Commissioners of Sewers, except in Cases where Improvements in existing Works, or the Construction of new Works, as herein-after defined, are in question, in which Case the Quorum now required by Law shall be necessary.

General Powers of Commissioners.

Declaration of Powers of Commissioners.

16. The Powers of Commissioners of Sewers acting within their Jurisdiction shall extend to the following Acts:

(1.) To cleansing, repairing, or otherwise maintaining in a due State of Efficiency any existing Watercourse or Outfall for Water, or any existing Wall or other Defence against Water, herein-after referred to under the Expression "Maintenance of existing Works:"

(2.) To deepening, widening, straightening, or otherwise improving any existing Watercourse or Outfall for Water, or removing Mill Dams, Weirs, or other Obstructions to Watercourses or Outfalls for Water, or raising, widening, or otherwise altering any existing Wall or other Defence against Water, herein-after referred to under the Expression "Improvement of existing Works:"

(3.) To making any new Watercourse or new Outfall for Water, or erecting any new Defence against Water, to erecting any Machinery or doing any other Act not herein-before referred to, required for the Drainage, necessary Supply of Water for Cattle, Warping or Irrigation of the Area comprised within the Limits of their Jurisdiction, herein-after referred to under the Expression "the Construction of new Works:"

Provided,

(1.) That no Person shall by virtue of this Act be compelled to execute at his own Expense any Works which he would not have been compelled to execute if this Act had not passed:

(2.) That no Work shall be deemed to be a new Work that is in substitution for an old one, in Cases where such old Work

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is so much out of repair or so inefficient as to make it expedient to construct a new Work in place thereof:

(3.) That full Compensation shall be made for all Injury sustained by any Person by reason of the Exercise by the Commissioners of the above Powers:

(4.) That the Exercise of the foregoing Powers shall be subject to the Restrictions herein-after mentioned.

Restrictions as to Obstructions.

17. The Commissioners shall not be entitled to remove or otherwise interfere with any Mill Dam, Weir, or other like Obstruction, whereby the Level of the Water is raised for any milling or other Purpose of Profit, so as to injuriously affect the Supply of Water, otherwise than with the Consent of the Owner of such Mill Dam, Weir, or other like Obstruction, until the following Things have been done; that is to say,

(1.) Their Right to do so has been determined in manner herein-after mentioned:

(2.) Compensation has been made to all Parties entitled for the Injury which may be caused by such Removal or Interference.

Questions as to Right to remove any Obstructions.

18. For the Purpose of determining the Right of the Commissioners to remove or otherwise interfere with any such Dam, Weir, or other like Obstruction, there shall be decided, if the Owner consent, by Two or more Justices assembled in Petty Sessions, but if he do not consent, by Arbitration, the Questions following; that is to say,

(1.) Whether the proposed Removal or Interference is necessary for the effectual Drainage of Land within the Jurisdiction of the Commissioners:

(2.) Whether the proposed Removal or Interference will cause any Injury to the Owner:

(3.) Whether any Injury that may be caused by the Removal or Interference is or is not of a Nature to admit of being fully compensated for by Money.

Consequences of Determination of Question.

19. The Consequence of any such Decision shall be as follows; that is to say,

(1.) If the Decision is that such Removal or Interference is not necessary for the effectual Drainage of the Lands by the Commissioners, the Commissioners shall not be entitled to make the same:

(2.) If the Decision is that such Removal or Interference is necessary for the Purpose aforesaid, but that the Injury to be caused thereby is not of a Nature to be fully compensated for by Money, the Commissioners shall not be entitled to make the same:

(3.) If

(3.) If the Decision is that such Removal or Interference is necessary, and that any Injury that may be caused can be fully compensated by Money, the Commissioners shall be at liberty to make the same, upon making Compensation as herein-after mentioned.

Amount of Compensation how ascertained.

20. Where the Decision is that the Commissioners are entitled to remove or interfere with any such Mill Dam, Weir, or other Obstruction, the Commissioners shall take the same Steps with respect to compensating the Parties interested as are required to be taken by the said Lands Clauses Consolidation Act by Purchasers in Cases where they are authorized to purchase or take Lands by Special Act.

Restrictions as to Purchase of Land.

21. The Commissioners shall not by virtue of this Act purchase any Land for new Works, otherwise than by Agreement with the Owner thereof, until they have obtained the Sanction of Parliament in manner herein-after mentioned.

Publication of Notices.

22. The Commissioners, before applying for the Sanction of Parliament, shall do as follows; that is to say,

(1.) Publish once at the least in the *London Gazette* and once at least in each of Three consecutive Weeks in some Newspaper circulating within the Limits of their Commission an Advertisement describing shortly the Nature of the Undertaking in respect of which the Land is proposed to be taken, naming a Place where a Plan of the proposed Undertaking may be seen at all reasonable Hours, and stating the Quantity of Land that they require:

(2.) Serve a Notice in manner herein-after mentioned on every Owner or reputed Owner, Lessee or reputed Lessee, and Occupier of such Lands, defining in each Case the particular Lands intended to be taken, and requiring an Answer stating whether the Person so served assents, dissents, or is neuter in respect of taking such Lands; such Notice to be served

By Delivery of the same personally on the Party required to be served, or if such Party is absent abroad to his Agent; or

By leaving the same at the usual or last known Place of Abode of such Party as aforesaid; or

By forwarding the same by Post in a prepaid Letter addressed to the usual or last known Place of Abode of such Party.

Petition to Inclosure Commissioners.

23. Upon Compliance with the Provisions herein-before contained with respect to Advertisements and Notices, the Commissioners may present a Petition to the Inclosure Commissioners. The Petition shall

shall state the Land intended to be taken, and the Purposes for which it is required. It shall pray that the Commissioners may, with reference to such Land, be allowed to put in force the Powers of the said Lands Clauses Consolidation Act in relation to the compulsory taking of Land, and such Prayer shall be supported by such Evidence as the Inclosure Commissioners require.

Inquiries by Inclosure Commissioners.

24. Upon the Receipt of such Petition, and upon Proof to their Satisfaction of the proper Advertisements having been published and Notices served, the Inclosure Commissioners shall take such Petition into their Consideration, and they may either dismiss the same, or they may, if they think fit, send an Inspector to the District in which the Land is situate, for the Purpose of making Inquiry as to the Propriety of assenting to the Prayer of such Petition.

Notice of Inquiries.

25. Before commencing his Inquiry the Inspector shall give such Notice as the Inclosure Commissioners direct of his Intention to make the same, and of a Time and Place at which he will be prepared to hear all Persons desirous of being heard before him on the Subject Matter of such Inquiry.

Provisional Order by Inclosure Commissioners to be confirmed by Parliament.

26. Upon the Completion of such Inquiry the Inclosure Commissioners may, by Provisional Order, empower the Commissioners to put in force with reference to the Land mentioned or referred to in such Order the Powers of the said Lands Clauses Consolidation Act in relation to the compulsory taking of Land; and it shall be the Duty of the Inclosure Commissioners as soon as conveniently may be to take all proper Steps for the Confirmation of such Provisional Order by Act of Parliament, and when so confirmed it shall be deemed to be a Public General Act of Parliament, and to take effect accordingly; but previous to such Confirmation it shall not be of any Validity whatever.

Expenses of obtaining Provisional Order.

27. All Costs, Charges, and Expenses incurred by the Inclosure Commissioners in relation to the obtaining any such Act as aforesaid shall be paid by the Commissioners out of the Rates leviable by them in pursuance of this Act, and applicable to the Works with a view to which the Provisional Order was obtained.

Provisions of 8 & 9 Vict. c. 18. and 23 & 24 Vict. c. 106. incorporated with this Act.

28. Subject to the Restrictions herein contained, the Commissioners may purchase such Lands or Easements relating to Lands as they may require for the Purposes of this Act; and "The Lands Clauses Consolidation Act, 1845," and the Act amending the same, passed in the Session of the Twenty-third

and Twenty-fourth Years of the Reign of Her present Majesty, Chapter One hundred and six, shall be incorporated with this Part of this Act, with the Exceptions and subject to the Conditions herein-after contained; that is to say,

(1.) There shall not be incorporated with this Part of this Act the Sections and Provisions of "The Lands Clauses Consolidation Act, 1845," herein-after mentioned; that is to say, Section Sixteen, whereby it is provided that the Capital is to be subscribed before the compulsory Powers are to be put in force; Section Seventeen, whereby it is provided that the Certificate of the Justices should be Evidence that the Capital has been subscribed; the Provisions relating to the Entry upon Lands by the Promoters of the Undertaking, contained in Sections Eighty-four to Ninety-one, both inclusive; Section One hundred and twenty-three, whereby a Limit of Time for the compulsory Purchase of Land is imposed; the Provisions relating to the Manner of serving Notices; and the Provisions relating to Access to the Special Act:

(2.) In the Construction of this Part of this Act and the said incorporated Acts this Part of this Act shall be deemed to be the Special Act, and the Commissioners shall be deemed to be the Promoters of the Undertaking, and the Word "Land" or "Lands" shall include any Easement in or out of Lands.

Notice to be given of certain Works.

29. Previously to commencing any Improvements in existing Works, or any new Works where such Improvements or new Works involve an Expenditure of more than One thousand Pounds, the Commissioners shall cause Plans of the proposed Work and an Estimate of the Expense thereof, and of the Area within which a Rate will be required to be levied to meet such Expense, to be made, together with a List of the Names and Addresses of the Persons reputed to be Proprietors of the Land within such last-mentioned Area, with the Addition of the Number of Acres of which each Person is reputed to be the Proprietor, and shall publish their Intention to execute such Works Two Months before commencing the same, in manner following; that is to say,

By inserting in some Newspaper circulating within the Limits of their Commission, once in every Week during such Period of Two Months, a Notice explaining briefly the Nature of the Work, the Amount of Expense to be incurred, and the Area of Land within which a Rate is proposed to be levied for meeting such Expense, describing such Area by Reference to a deposited Plan, or by Boundaries, or in such other Manner

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as the Commissioners may think best calculated to give Information of their Intention, and stating a Place within the Limits of their Commission at which the Plan and Estimate of the Works and the List of reputed Proprietors may be inspected at all reasonable Hours:

By placing a Copy of such Notice for Three successive *Sundays* on the Church Door of the principal Church or some One of the Churches of the Parish or Parishes in which such Works are to be done, or, in the Case of any Extra-parochial Place, of some Parish immediately adjoining thereto.

Correction of List of Proprietors.

30. Any Person interested may, at any Time before the Expiration of such Two Months as aforesaid, apply to the Commissioners to correct the List of reputed Proprietors by inserting or expunging the Name of any Person or by altering the Number of Acres appropriated by such List to any Proprietor, and the Commissioners shall hear any Application so made, and shall amend the List accordingly, and the Decision of the Commissioners in respect of such List shall be final; and at the Expiration of the Period of Two Months, or of such further Period as the Commissioners may fix for the Purpose of hearing any Application made within such Period of Two Months, the List as settled by the Commissioners shall be conclusive Evidence of Proprietorship for the Purpose of ascertaining the Proportion of dissenting Proprietors as herein-after mentioned.

Dissent of Proprietors of One Half of Area conclusive against new Works.

31. If within such Period of Two Months the Proprietors of One Half of the Area of Land within which a Rate is according to the Notice proposed to be levied declare in Writing to the Commissioners, by Notice left at their Office, that they are unwilling that such Work should be executed, the Commissioners shall take no further Steps therein; but if no such Declaration of Dissent is made, the Commissioners may at the Expiration of such Period of Two Months commence the proposed Work, and repay out of the Rates to be levied by them within the Area all Expenses incurred, not exceeding the Estimate published in the Notice.

Provision in case of no Proprietor.

32. If the Commissioners are unable to discover the Proprietor of any Lands they shall give Notice to that Effect in the List of reputed Proprietors made by them, and such Land shall, in the event of no Proprietor proving his Title to have his Name inserted in the List before the Period herein-before named for the Completion of the List, be altogether excluded in any Computation that may be made of the Proportion borne by the dissenting Proprietors of any Area of Land as herein-before provided to the aggregate Number of the Proprietors of such Land.

33. Com-

Jury may be dispensed with under certain Conditions.

33. Commissioners of Sewers, acting within their Jurisdiction, may, without the Presentment of a Jury, make any Order in respect of the Execution of any Work, the levying of any Rate, or doing any Act which they might but for this Section have made with such Presentment; subject to this Proviso, that any Person aggrieved by any such Order made by the Commissioners without the Presentment of a Jury may appeal therefrom in manner herein-after mentioned.

Liabilities by reason of Tenure.

Power to commute Liabilities to repair by reason of Tenure.

34. The Commissioners may, with the Consent of the Inclosure Commissioners, testified in Writing under their Common Seal, commute, for such Sums of Money as they think expedient, the Obligation imposed on any Person, by reason of Tenure, Custom, Prescription, or otherwise, to repair any Walls, maintain any Sewer, or do any other Work within their Jurisdiction.

Nature of Commutation.

35. Any Commutation so made may be by way of gross or annual Charge on the Lands of the Person in respect of which the original Obligation arose; and any Charge so created shall be recoverable by the Commissioners in the same Manner in which Tithe Rentcharge is recoverable, and shall have Priority over all Incumbrances created or to be created by any Proprietor of the Lands on which the same is charged.

Deposit of Record of Commutation.

36. The Record of any such Charge as aforesaid shall be deposited in the Office of the Clerk of the Peace of the County in which the District or the greater Part of the District within the Jurisdiction of the Commissioners is situate; and such Record, or any certified Copy thereof, shall be receivable in Evidence in all legal Proceedings.

Saving of existing Liabilities to repair.

37. Subject to the Provisions herein-before contained as to Commutation of Liability, the Liability of any Person whomsoever to defray or contribute towards the Expense of making, completing, altering, amending, or maintaining any Sewer or Drain, or any Walls or Works for protecting the Land against the Force or Encroachments of the Sea or of any River, or doing any other Work within the Jurisdiction of the Commissioners, shall continue, and the same may be enforced as if this Act had not passed, and the Rates to be levied under this Act shall be made only for Purposes to which such Liability does not extend.

Rating

Rating Powers.

Regulations as to Rating.

38. The following Regulations shall be observed with respect to Rates leviable by Commissioners of Sewers; that is to say,

First—As to the Purposes of the Rate:

Rates may be levied by Commissioners of Sewers for defraying all Costs, Charges, and Expenses incurred or to be incurred by them under the Authority of any Act of Parliament, Law, or Custom:

Second—As to the Incidence of the Rates:

(1.) A Rate levied by the Commissioners for the Purposes of defraying the Expense of any Improvements in existing Works or any new Works, where such Improvements or new Works involve an Expenditure of more than One thousand Pounds, shall be deemed to be a Special Rate, and shall be deemed to be a Tax on the Owners of Property, but, except such Special Rate, Rates leviable by the Commissioners shall be payable by the same Persons, in respect of the same Property, and in the same Manner as they are now by Law payable:

(2.) Where the Owner of any Land makes default in paying the Amount of any Rate due from him, such Amount may be levied upon and Payment thereof enforced against the Occupier of such Land, and his Goods and Chattels, in like Manner as if the same were a Rate due from such Occupier, with this Limitation, that no Occupier shall be liable to pay on account of any Owner any Sum exceeding the Rent due or that may accrue due to such Owner during the Period of his Occupancy; and subject to this Proviso, that any Occupier may, in the Absence of any Agreement to the contrary, deduct the Sum so paid by him from any Rent due or to accrue due to such Owner; and the Receipt of the Commissioners for any Rate paid by the Occupier under the Circumstances mentioned in this Section shall, to the Extent of the Monies therein expressed to be paid, be a Discharge as against such Owner of an equivalent Amount of Rent:

(3.) "Owner of Land" for the Purposes of this Section shall mean the Person for the Time being entitled to receive the Rackrent of the Land in respect of which the Rate is made on his own Account, or who would be entitled to receive the same if such Land were let at a Rackrent, including under the Term "Rackrent" any Rent which is not less than Two Thirds of the net annual Value of the Land out of which the Rent issues:

Third—As to the Assessment of the Rate:

(4.) Whenever the Name of any Owner or Occupier liable to be rated to the Sewers Rate is not known to the Commissioners, it shall be sufficient to assess and designate him in the Rate as "the Owner or Occupier," as the Case may be, of the Land in respect of which the Assessment is made, without further Description:

Subject as aforesaid, and without the Presentment of a Jury, but with such Right of Appeal as herein-after mentioned, Sewers Rates may be assessed, levied, and enforced in the same Manner in which they have heretofore been assessed, levied, and enforced; but nothing in this Section contained shall affect any Agreement between Landlord and Tenant.

Overseers to allow Inspection of Poor Rates.

39. For the Purpose of assessing the Sewers Rate, any Person appointed by the Commissioners may inspect, take Copies of, or make Extracts from any Rate for the Relief of the Poor within the District; and if any Officer having the Custody of such last-mentioned Rate refuses to permit any such Inspection, or the taking of any such Copies or Extracts, he shall for each Offence incur a Penalty not exceeding Five Pounds, to be recovered in a summary Manner.

Mortgage of Rates.

Mortgage of Rates.

40. The Commissioners may, for the Purposes of defraying any Costs, Charges, and Expenses incurred or to be incurred by them under the Authority of any Act of Parliament, Law, or Custom, borrow and take up at Interest on the Credit of the Rates authorized to be levied by them any Sums of Money necessary for defraying such Costs, Charges, and Expenses; and for the Purpose of securing the Repayment of any Sums of Money so borrowed, together with such Interest as aforesaid, the Commissioners may mortgage and assign over to the Persons by or on behalf of whom such Sums are advanced the Rates or any of them; but the Exercise of the above Power shall be subject to the following Regulations:

(1.) The borrowing such Money shall be sanctioned by an Order of the Inclosure Commissioners:

(2.) Any Money so borrowed may, by Agreement with the Mortgagee, be paid off by equal annual Instalments of Principal and Interest, and such borrowing may be for such Time, not exceeding Thirty Years, as the Commissioners, with the Sanction of the Inclosure Commissioners, determine in each Case:

And in Cases where the Commissioners borrow any Money for the Purpose of defraying Expenses in respect of which they have determined

determined a Part only of the District within their Jurisdiction to be liable, it shall be the Duty of the Commissioners, as between the Ratepayers of the District, to repay the Money so borrowed, with Interest thereon, out of Rates to be levied on such Part of the District only.

Certain Clauses of 10 & 11 Vict. c. 16. incorporated.

41. The Clauses of the Commissioners Clauses Act, 1847, with respect to Mortgages to be created by the Commissioners, shall form Part of and be incorporated with this Part of this Act, and any Mortgagee or Assignee may enforce Payment of his Principal and Interest by Appointment of a Receiver.

Legal Proceedings.

Notices by Commissioners how to be signed.

42. Where any Notice is required to be given by the Commissioners such Notice shall in all Cases be sufficiently executed if signed by the Clerk to the Commissioners; and every Notice purporting to be signed by such Clerk shall be receivable in Evidence before all legal Tribunals, and in all legal Proceedings, without any other Proof.

Notices to be binding on Assigns.

43. All Notices served by the Commissioners on any Proprietor or Owner shall, if due Service thereof has been made, be binding on all Persons claiming by, from, or under such Proprietor or Owner, to the same Extent as if such Notice had been served on such last-mentioned Persons respectively.

Notices on Owners to be served personally, or left at their Places of Abode.

44. Except where a special Mode of Service is provided by this Act, all Notices required to be served by the Commissioners upon any Proprietor or Owner of Lands shall either be served personally on such Parties, or be left at their last usual Place of Abode, if any such can after diligent Inquiry be found, but in case any such Parties are absent from the United Kingdom, and their last usual Place of Abode cannot be found after diligent Inquiry, such Notices shall be left with the Occupier of such Lands, or if there be no such Occupier, shall be affixed upon some conspicuous Part of such Lands.

Notices to Corporations to be left at their principal Office.

45. If any Proprietor or Owner on whom Notice is to be served is a Corporation Aggregate, or Joint Stock or other Company or Body of Proprietors or Undertakers, such Notice shall be left at the principal Office of such Corporation, Company, or Body, or if no such Office can after diligent Inquiry be found, shall be served on some Agent, if any, of such Corporation, Company, or Body, but if no such Officer or Agent can be found it shall be left with the Occupier of the Lands, or if there be no such Occupier shall be affixed on some conspicuous Part of such Lands.

46. Except

Service of Notices on Occupiers.

46. Except where a special Mode of Service is provided by this Act, all Notices required to be served by the Commissioners upon the Occupier of any Land shall either be served personally on him or be left at his last usual Place of Abode, if any such can after diligent Inquiry be found, and in case he is absent from the United Kingdom, and his last usual Place of Abode cannot be found after diligent Inquiry, it shall be affixed on some conspicuous Part of such Premises.

Appeal to Quarter Sessions.

47. Where any Order, Requisition, or Rate has been made by the Commissioners, or any Act done by them, without the Presentment of a Jury in pursuance of the Powers of this Act, any Person aggrieved by such Order, Requisition, or Rate may appeal to the Court of Quarter Sessions against any such Order, Requisition, Rate, or Act, and the Court may confirm, annul, or modify the same accordingly; but no such Appeal shall be entertained unless it is made within Four Months next after the making of such Order or Requisition, or the making such Rate, or the doing of such Act, nor unless Ten Days Notice in Writing of such Appeal, previously to the Quarter Sessions, stating the Nature and Grounds thereof, is served on the Commissioners, nor unless the Appellant, within Four Days after the Service of such Notice, enter into Recognizances with Two sufficient Sureties, before a Justice of the Peace, conditioned duly to prosecute such Appeal, and to abide the Order of the Court thereon.

Power to refer Case to Arbitration.

48. If at any Time after such Notice of Appeal has been given and such Recognizance has been entered into as aforesaid it appears to the Court of Quarter Sessions, on the Application of either Party, that the Matter in question in such Appeal consists wholly or in part of Matters of mere Account, or of Engineering or other Scientific Questions, which cannot be satisfactorily tried by the Court, it shall be lawful for such Court to order that such Matters, either wholly or in part, be referred to the Arbitration of One or more Persons, to be appointed by the Parties, or, in case of Disagreement, by the Court; and the Award made on such Arbitration shall be enforceable by the same Process as the Order of the Court of Quarter Sessions.

17 & 18 Vict. c. 125. incorporated.

49. The Provisions of "The Common Law Procedure Act, 1854," relating to compulsory References, shall be deemed to extend to Arbitrations directed by the Court of Quarter Sessions; and the Word "Court" in the said Act shall be deemed to include the Court of Quarter Sessions.

Decision of Questions by Justices or Arbitration.

50. Where any Questions are declared by this Part of this Act to be determinable, at the Option of the Owner, by Justices or by Arbitration,

Arbitration, the Owner shall be deemed to have declared his Assent to the Determination thereof by Justices, unless he require the Commissioners to refer the same to Arbitration, by Notice under his Hand, served on the Commissioners within Ten Days after he has received Notice from them of their Intention to have such Questions determined; and where the Justices have Cognizance of the Case, the same Proceedings shall be had as are required under "The Lands Clauses Consolidation Act, 1854," in case of a Question of disputed Compensation authorized to be settled by Two Justices; and where such Questions are referred to Arbitration, the same Proceedings shall be had as required by the said Act where any Question of disputed Compensation authorized to be settled by Arbitration has arisen; subject to this Proviso, that the Costs of such Arbitration shall be in the Discretion of the Arbitrators.

Recovery of Penalties.

51. All Penalties and Sums of Money directed to be recovered in a summary Manner shall be recovered before Two Justices in manner directed by the Act passed in the Session holden in the Eleventh and Twelfth Years of the Reign of Her present Majesty, Chapter Forty-three, intituled *An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within* England *and* Wales, *with respect to Summary Convictions and Orders*, and of any Act amending the same.

Costs of legal Proceedings on Part of Commissioners.

52. All Costs, Charges, and Expenses incurred by the Commissioners in instituting or defending any legal Proceedings instituted or defended by them in their Character of Commissioners may be defrayed out of the Rates leviable by them, and no Commissioner shall be personally liable in respect of any such Costs, Charges, or Expenses.

Tender of Amends.

Tender of Amends.

53. If any Party has committed any Irregularity, Trespass, or other wrongful Proceeding in the Execution of this Act or any Act relating to Commissioners of Sewers, or by virtue of any Power or Authority thereby given, and if before Action brought in respect thereof such Party makes Tender of sufficient Amends to the Party injured, such last-mentioned Party shall not recover in any such Action; and if no such Tender has been made it shall be lawful for the Defendant, by Leave of the Court where such Action is pending, at any Time before Issue joined, to pay into Court such Sum of Money as he thinks fit, and thereupon such Proceedings shall be had as in other Cases where Defendants are allowed to pay Money into Court.

Saving Clauses and Miscellaneous.

Saving Rights of Canal Owners and Wharfingers.

54. Nothing in this Act shall authorize the Commissioners or any Drainage Board or Owner—

(1.) To interfere with any Sewers or other Works already or hereafter made and used for the Purpose of draining, preserving, irrigating, or improving Land under any Local or Private Act of Parliament, so as to injuriously affect the same;

(2.) To interfere with any River, Canal, Dock, Harbour, Lock, Reservoir, or Basin, or the Supply of Water to any River, Canal, Dock, Harbour, Lock, Reservoir, or Basin, so as to injuriously affect the Navigation on such River, Canal, Dock, Harbour, Lock, Reservoir, or Basin, or the Use or Maintenance thereof, or to interfere with any Towing-path so as to interrupt the Traffic thereof, in Cases where any Corporation, Company, Undertakers, Commissioners, Conservators, Trustees, or Individuals are by virtue of any Act of Parliament entitled to navigate on or use such River, Canal, Dock, Harbour, Lock, Reservoir, or Basin, or in respect of the Navigation on or Use of which River, Canal, Dock, Harbour, Lock, Reservoir, or Basin any Corporation, Company, Undertakers, Commissioners, Conservators, and Trustees, or Individuals are entitled by virtue of any Act of Parliament to the Receipt of any Tolls or other Dues;

(3.) To interfere with the Works or Supply of Water of any Body or Persons, corporate or unincorporate, supplying Water to any Town or Place, so as to injuriously affect the same;

(4.) To execute any Works in, through, or under any Wharves, Quays, Docks, Harbours, or Basins, belonging to the Proprietor or Proprietors of any Inland Navigation constituted by Act of Parliament, or for the Use of which they are entitled by virtue of any Act of Parliament to demand any Tolls or Dues;

Without the Consent of such Corporation, Company, Undertakers, Commissioners, Conservators, Trustees, or Individuals as are hereinbefore in that Behalf respectively mentioned, such Consent to be expressed in Writing, in the Case of Individuals under their Hands, in the Case of a Corporation under their Common Seal, and in the Case of a Company, Undertakers, Commissioners, Conservators, or Trustees, under the Hand of their Clerk or other duly authorized Officer or Agent.

55. Nothing

Commissioners not to divert Rivers so as to injure Harbours.

55. Nothing in this Act shall authorize the Commissioners to divert any River in such Manner as to injure or to diminish the Supply of Water to any Harbour without the Consent of the Conservators or other Authority having the Management of such Harbour.

Power for Canal Commissioners to alter Sewers.

56. Any Corporation, Company, Undertakers, Commissioners, Conservators, Trustees, or Individuals authorized by virtue of any Act of Parliament to navigate on or use any River, Canal, Dock, Harbour, or Basin, or to demand any Tolls or Dues in respect of the Navigation on such River or Canal, or the Use of such Dock, Harbour, or Basin, may, at their own Expense, and on substituting other Sewers, Drains, Culverts, and Pipes equally effectual and certified as such by the Surveyor of the Commissioners or Drainage Board, take up, divert, or alter the Level of Sewers, Drains, Culverts, or Pipes constructed by the Commissioners or Drainage Board and passing under or interfering with or with the Improvement or Alteration of such River, Canal, Dock, Harbour, or Basin, or the Towing-path of such River, Canal, Dock, Harbour, or Basin, and do all such Matters and Things as may be necessary for carrying into effect such taking up, Diversion, or Alteration.

Exemptions under Local Acts preserved.

57. Nothing in this Act shall be construed to make liable to the Control of the Commissioners any River, Canal, or Inland Navigation, or the Cuts, Reservoirs, Feeders, or other Works belonging thereto, in Cases where such River, Canal, or Inland Navigation is now under the Provisions of any Local or Private Act of Parliament exempt from such Control.

Penalty for draining into Sewers without Consent of Commissioners.

58. No Person shall, without the Consent of the Commissioners, cause any filthy or unwholesome Water or Washings of Manufactories or Mines, or other foul or poisonous Liquid, to flow into any Watercourse within the Jurisdiction of the Commissioners of Sewers; and any Person offending against this Enactment shall incur a Penalty not exceeding Five Pounds, and a further Penalty of Forty Shillings for every Day during which the Offence is continued; but this Section shall not apply to any Person having a legal Right to cause such Water, Washing, or Liquid as aforesaid to flow into any existing Watercourse.

Powers of Commissioners of Sewers and Drainage Boards to

59. Commissioners of Sewers having Jurisdiction within any Area may, with the Consent of the Commissioners of Sewers having Jurisdiction within any adjoining Area, do and execute in such adjoining Area any Works that such first-mentioned Commissioners might

enter into Arrangement.

might do and execute within their own Area, upon such Terms as t Payment or otherwise as may be agreed upon between the said Bodies of Commissioners; and any Sums agreed to be paid by any Body of Commissioners, in pursuance of this Section, shall be payable out of the Rates leviable by such Commissioners, in the same Manner as if the Expenses had been incurred within their own Area; and the Powers hereby given to one Body of Commissioners in relation to another Body of Commissioners may be exercised by them in relation to any Drainage Board constituted under this Act, or by any such Drainage Board in relation to any other Drainage Board.

Powers of Act cumulative.

60. All Powers given by this Part of this Act shall be deemed to be in addition to and not in derogation of any other Powers conferred on Commissioners of Sewers by Act of Parliament, Law, or Custom; and Commissioners of Sewers may exercise such other Powers in the same Manner as if this Act had not passed; and notwithstanding anything in this Act contained, Commissions of Sewers may be issued by Her Majesty in manner in which the same have been issued previously to the passing of this Act.

Not to affect Contracts between Landlord and Tenant.

61. Nothing in this Act shall alter, interfere with, or affect any Lease, Contract, or Agreement that may have been entered into between Landlord and Tenant before the passing of this Act.

Provision in case of Alteration of Local Boundaries.

62. Where in exercise of any Powers given by this Act any Watercourse forming a Boundary Line between Two or more Counties, Hundreds, Parishes, or other Areas defined by Law, is straightened, widened, or otherwise altered so as to affect its Character as a Boundary Line, the Commissioners, Board, Persons, or Person under whose Authority such Alteration is made shall forthwith report the same to the Inclosure Commissioners, and the Inclosure Commissioners, if satisfied that a new Boundary Line may be adopted with Convenience, shall, by Notice to be published in the *London Gazette* and in such other Manner as they may direct, declare that the Watercourse, as altered, shall either wholly or partially be substituted for the former Boundary Line, and the Limits of the Areas of which the Watercourse, when unaltered, was the Boundary shall be deemed to be varied accordingly; but if the Inclosure Commissioners are of opinion that a new Boundary cannot wholly or partially be adopted with Convenience, they shall require the Commissioners, Board, Persons, or Person under whose Authority the Alteration in the Watercouse was made to set out a Boundary upon the Line of the Watercourse as it existed before its Alteration, or in a new Course in lieu thereof, in such Manner as the Inclosure Commissioners approve; and

and a Copy of the *London Gazette* containing the Advertisement in respect of any Alteration of Boundary made in pursuance of this Section shall be admitted as Evidence in all Courts of Justice of the Fact of such Alteration having been made.

PART II.

Elective Drainage Districts.

Constitution of Elective Drainage Districts.

63. Any Persons or Body of Persons, corporate or unincorporate, being Proprietors of not less than One Tenth Part in Acreage of any Bog, Moor, or other Area of Land that requires a combined System of Drainage, Warping, or Irrigation, may, with the Consent of the Inclosure Commissioners, and subject to the Confirmation of Parliament as herein-after mentioned, constitute such Bog, Moor, or other Area a separate Drainage District; subject to this Proviso, that no Place within the Limits of any Commission of Sewers, or of any Borough, or of any District under the Management of a Local Board of Health, or of Improvement Commissioners, shall form a separate Drainage District or any Part thereof, without the Consent of the Commissioners of Sewers, Council, Local Board of Health, or Improvement Commissioners having Jurisdiction in such Place.

Mode of constituting Elective Drainage District.

64. The following Proceedings shall be taken for the Purpose of obtaining the Sanction of the Inclosure Commissioners:

(1.) A Petition shall be presented to them, stating the proposed Boundaries of the District, by Reference to a Map, or in such other Manner as the Inclosure Commissioners think expedient: It shall be signed by such Proprietors as aforesaid, and be supported by such Evidence as the Inclosure Commissioners require:

(2.) Upon the Receipt of such Petition, the Inclosure Commissioners shall send an Inspector to the District, for the Purpose of making Inquiries as to the Propriety of constituting the proposed District, and as to the Assent of the Proprietors thereto:

(3.) The Inspector shall proceed to the District, and shall ascertain the Opinion of the Proprietors in respect to the Constitution of the District:

(4.) The Inspector shall report the Result of his Inquiries to the Inclosure Commissioners, and they may, if satisfied with the Propriety of constituting the District, and that the Proprietors

of Two Third Parts of such Bog, Moor, or other Area are in favour thereof, make a Provisional Order declaring the Area in such Order mentioned to be a Drainage District:

(5.) Notice of the Provisional Order shall be published in the *London Gazette* and in some other Newspaper circulating in the District to which it relates, and Copies thereof shall be served in such Manner and upon such Persons as the Inclosure Commissioners may require:

(6.) Upon the Receipt of the Report of the Inspector the Inclosure Commissioners may, by Provisional Order under their Seal, constitute the Area mentioned in the Petition, with such Alterations of Boundaries, if any, as they think fit, a separate Drainage District; and it shall be the Duty of the Inclosure Commissioners, as soon as conveniently may be, to take all proper Steps for the Confirmation of such Provisional Order by Act of Parliament, and when so confirmed it shall be deemed to be a Public General Act of Parliament, and take effect accordingly; but previous to such Confirmation it shall not be of any Validity whatever:

(7.) No Petition for constituting an Elective Drainage District under this Act shall be entertained until the Petitioners have given such Security for Costs as the Inclosure Commissioners require; and in the event of a Drainage District not being constituted in pursuance of a Petition, the Petitioners shall pay all Costs, Charges, and Expenses, including the Expense incurred by the Inclosure Commissioners and their Inspector; but in the event of the Drainage District being constituted, such Costs, Charges, and Expenses shall be a First Charge on the Rates leviable in the District in pursuance of this Act.

Evidence of Constitution of District.

65. The making of a Provisional Order shall be conclusive Evidence that all the Requirements of this Act in respect of Proceedings required to be taken previously to the making of such Provisional Order have been complied with.

Drainage Boards.

Constitution of Drainage Boards.

66. The Superintendence of Matters relating to Drainage within a Drainage District shall be vested in a Board herein-after called a Drainage Board, and such Board shall be a Body Corporate, with perpetual Succession and a Common Seal, having a Capacity to hold Lands for all the Purposes of their Constitution.

Powers of Drainage Board.

67. All Powers by this Act or by any other Act of Parliament, Law, or Custom vested in or exerciseable by Commissioners of Sewers within

within the Limits of their Jurisdiction may, upon the Constitution of a Drainage District, be exercised by the Drainage Board of such District within its Limits; and all Powers hitherto exerciseable by Commissioners of Sewers within such District shall cease; subject to this Proviso, that any Person aggrieved by any Order, Requisition, or Rate made by the Drainage Board, or any Act done by them, may appeal therefrom in the same Manner in which he is by this Act authorized to appeal against any Order, Requisition, or Rate made by the Commissioners or any Act done by them.

Regulations as to Drainage Boards.

68. Subject to any Provisions to the contrary that may be made by the Provisional Order constituting the District, the following Regulations shall be made with respect to Drainage Boards:

(1.) The Members of the First Drainage Board shall be named in the Provisional Order, and such Order shall fix the Number of which the Board is to consist, the Mode of summoning the First Meeting of the Board, the Qualification of subsequent Members of the Board, and the Time at which the First Members of the Board are to vacate their Offices, such Time not being later than the End of the Month of *September* in the Year following that in which the Provisional Order is confirmed by Parliament:

(2.) The Members of every Board succeeding the First Board shall vacate their Offices on the First *Thursday* in *September* in each succeeding Year, or on such other Day in *September* as may be prescribed by the Board:

(3.) The Offices of vacating Members shall be filled up by an equal Number of qualified Persons to be elected as hereinafter mentioned:

(4.) Every Member of a Drainage Board going out of Office shall be re-eligible, and if at any Time when an Election of Members ought to take place the Places of any retiring Members are not filled up the retiring Members whose Places are not filled up shall continue in Office until the succeeding Year:

(5.) Any casual Vacancy occurring in the Board may be filled up by the Board; but any Person so chosen shall retain his Office so long only as the vacating Member would have retained the same if no Vacancy had occurred:

(6.) During any Vacancy in the Board the continuing Members shall act as if such Vacancy had not occurred:

(7.) If a Member of a Drainage Board is adjudged bankrupt, or applies to take the Benefit of any Act for the Relief or Protection of Insolvent Debtors, or compounds with his Creditors,

Creditors, such Person shall cease to be a Member of the Board, and his Office shall thereupon be vacant:

(8.) Any Person who acts as Member of a Drainage Board without being duly qualified, or after he has become disqualified, shall incur a Penalty not exceeding Fifty Pounds; and in any Proceeding for the Recovery of such Penalty the Burden of proving Qualification shall be upon the Person against whom such Proceeding is taken:

(9.) All Acts done by any Meeting of a Drainage Board or of any Committee of a Drainage Board, or by any Person acting as a Member of a Drainage Board, shall, notwithstanding it may be afterwards discovered that there was some Defect in the Appointment of any such Board or Persons acting as aforesaid, or that they or any of them were or was disqualified, be as valid as if every such Person had been duly appointed and was qualified to be a Member.

Rules to be observed with respect to Electors of Drainage Board.

69. Subject to any Provisions to the contrary that may be made by the Provisional Order constituting the District, the following Rules shall be observed with respect to the Electors of Drainage Boards:

(1.) The Electors for Members of a Drainage Board for any District shall be the Persons who have during the Year immediately preceding such Election been rated to the Sewers Rate of the District, and have paid all Sewers Rates due from them at the Time of their Election:

(2.) Each Elector shall vote according to the following Scale; that is to say,

If the Property in respect of which he is entitled to vote be rated upon a rateable Value of less than Fifty Pounds he shall have One Vote;

If such rateable Value amount to Fifty Pounds and be less than One hundred Pounds he shall have Two Votes;

If it amount to One hundred Pounds and be less than One hundred and fifty Pounds he shall have Three Votes;

If it amount to One hundred and fifty Pounds and be less than Two hundred Pounds he shall have Four Votes;

If it amount to Two hundred Pounds and be less than Two hundred and fifty Pounds he shall have Five Votes;

If it amount to Two hundred and fifty Pounds he shall have Six Votes;

If it amount to Five hundred Pounds and be less than One thousand Pounds he shall have Eight Votes;

If it amount to or exceed One thousand Pounds he shall have Ten Votes.

70. Subject

70. Subject to any Provisions to the contrary that may be made by the Provisional Order constituting the District, the Mode of electing Members of Drainage Boards, and the Proceedings of Drainage Boards, shall be conducted in manner directed by the Schedule annexed hereto.

Mode of Election of Drainage Boards, and Proceedings hereof.

71. The Provisions of the Commissioners Clauses Act, 1847, with respect to—

(1.) The Contracts to be entered into and Deeds to be executed by the Commissioners;

(2.) The Liabilities of the Commissioners, and to legal Proceedings by or against the Commissioners;

(3.) The Appointment and Accountability of Officers of the Commissioners;

(4.) The Accounts to be kept by the Commissioners;

(5.) The giving Notices and Orders,

shall be incorporated with this Part of this Act; and in the Construction of this Part of this Act and the said incorporated Provisions, Part Two of this Act, and the Act of Parliament confirming the Provisional Order, shall together constitute "the Special Act."

Certain Provisions of 10 & 11 Vict. c. 16. incorporated.

PART III.

Power of Private Owners to procure Outfalls.

72. Any Person interested in Land, who is desirous to drain the same, and in order thereto deems it necessary that new Drains should be opened through Lands belonging to another Owner, or that existing Drains in Lands belonging to another Owner should be cleansed, widened, straightened, or otherwise improved, may apply to such Owner, who is herein-after referred to as the adjoining Owner, for Leave to make such Drains or Improvements in Drains through or on the Lands of such Owner.

Application for Outfall to adjoining Owner.

73. Any such Application as aforesaid shall be by Notice in Writing, under the Hand of the Applicant, and shall be served on the Owner, and also on the Occupier, if the Owner be not the Occupier, in manner in which Notices are required to be served on Owners and Occupiers under the First Part of this Act. The Notice shall state the Nature of such Drains or Improvements in Drains, be accompanied by a Map, on which the Length, Width, and Depth of the proposed Drains or Improvements in Drains shall be delineated, and shall further state the Compensation, if any, which the Applicant proposes to pay.

Mode of making Application.

74. The

Assent of adjoining Owner.

74. The adjoining Owner may, by Deed under his Hand and Seal, assent to such Application, upon such Terms and on Payment of such Compensation as he may require, and any Assent so given shall be binding on all Parties having any Estate or Interest in the Land, subject to the following Provisions:

1stly. That any Arrangement entered into by any adjoining Owner under any Disability or Incapacity, or not having Power to assent to such Application, except under the Provisions of this Act, shall not be valid unless the same is approved by Two Surveyors, one of whom is to be nominated by the Applicant, and the other by the adjoining Owner; and each of such Surveyors, if they approve of the Arrangement, shall annex to the Document containing the same a Declaration to that Effect, subscribed by them:

2ndly. That any Compensation to be paid by the Applicant to the adjoining Owner in Cases where such Owner is under any Disability or Incapacity, or has not Power to assent to such Application, except under the Provisions of this Act, shall be applied in manner in which the Compensation coming to Parties having limited Interests, or prevented from treating, and not making Title, is applicable, under "The Lands Clauses Consolidation Act, 1845:"

3rdly. That any Occupier or Person other than the Owner interested in the Lands shall be entitled to Compensation for any Injury he may sustain by the making of the proposed Drains or Improvements in Drains, so that the Claim therefor be made within Twelve Months after Completion of such Drains or Improvements in Drains, the Amount of such Compensation to be determined, in case of Dispute, in the Manner in which disputed Compensation for Land is required to be determined by the said "Lands Clauses Consolidation Act, 1845."

Record of Assent of adjoining Owner.

75. The Applicant shall forward to the Clerk of the Peace of the County, Riding, or Division of the County wherein the Land is situate the Deed containing the Assent of the adjoining Owner to the proposed Drains or Improvements in Drains, who shall keep the same in his Office as a Record of the Proceedings between the Parties.

Dissent of adjoining Owner.

76. The adjoining Owner shall be deemed to have dissented from the Application made to him if he fail to express his Assent thereto within One Month after the Service of the Notice of Application on him; and in the event of such Dissent there shall be decided, by Two or more Justices in Petty Sessions assembled, unless the adjoining Owner

70. Subject to any Provisions to the contrary that may be made by the Provisional Order constituting the District, the Mode of electing Members of Drainage Boards, and the Proceedings of Drainage Boards, shall be conducted in manner directed by the Schedule annexed hereto.

Mode of Election of Drainage Boards, and Proceedings hereof.

71. The Provisions of the Commissioners Clauses Act, 1847, with respect to—

(1.) The Contracts to be entered into and Deeds to be executed by the Commissioners;

(2.) The Liabilities of the Commissioners, and to legal Proceedings by or against the Commissioners;

(3.) The Appointment and Accountability of Officers of the Commissioners;

(4.) The Accounts to be kept by the Commissioners;

(5.) The giving Notices and Orders,

shall be incorporated with this Part of this Act; and in the Construction of this Part of this Act and the said incorporated Provisions, Part Two of this Act, and the Act of Parliament confirming the Provisional Order, shall together constitute "the Special Act."

Certain Provisions of 10 & 11 Vict. c. 16. incorporated.

PART III.

Power of Private Owners to procure Outfalls.

72. Any Person interested in Land, who is desirous to drain the same, and in order thereto deems it necessary that new Drains should be opened through Lands belonging to another Owner, or that existing Drains in Lands belonging to another Owner should be cleansed, widened, straightened, or otherwise improved, may apply to such Owner, who is herein-after referred to as the adjoining Owner, for Leave to make such Drains or Improvements in Drains through or on the Lands of such Owner.

Application for Outfall to adjoining Owner.

73. Any such Application as aforesaid shall be by Notice in Writing, under the Hand of the Applicant, and shall be served on the Owner, and also on the Occupier, if the Owner be not the Occupier, in manner in which Notices are required to be served on Owners and Occupiers under the First Part of this Act. The Notice shall state the Nature of such Drains or Improvements in Drains, be accompanied by a Map, on which the Length, Width, and Depth of the proposed Drains or Improvements in Drains shall be delineated, and shall further state the Compensation, if any, which the Applicant proposes to pay.

Mode of making Application.

74. The

Assent of adjoining Owner.

74. The adjoining Owner may, by Deed under his Hand and Seal, assent to such Application, upon such Terms and on Payment of such Compensation as he may require, and any Assent so given shall be binding on all Parties having any Estate or Interest in the Land, subject to the following Provisions:

1stly. That any Arrangement entered into by any adjoining Owner under any Disability or Incapacity, or not having Power to assent to such Application, except under the Provisions of this Act, shall not be valid unless the same is approved by Two Surveyors, one of whom is to be nominated by the Applicant, and the other by the adjoining Owner; and each of such Surveyors, if they approve of the Arrangement, shall annex to the Document containing the same a Declaration to that Effect, subscribed by them:

2ndly. That any Compensation to be paid by the Applicant to the adjoining Owner in Cases where such Owner is under any Disability or Incapacity, or has not Power to assent to such Application, except under the Provisions of this Act, shall be applied in manner in which the Compensation coming to Parties having limited Interests, or prevented from treating, and not making Title, is applicable, under "The Lands Clauses Consolidation Act, 1845:"

3rdly. That any Occupier or Person other than the Owner interested in the Lands shall be entitled to Compensation for any Injury he may sustain by the making of the proposed Drains or Improvements in Drains, so that the Claim therefor be made within Twelve Months after Completion of such Drains or Improvements in Drains, the Amount of such Compensation to be determined, in case of Dispute, in the Manner in which disputed Compensation for Land is required to be determined by the said "Lands Clauses Consolidation Act, 1845."

Record of Assent of adjoining Owner.

75. The Applicant shall forward to the Clerk of the Peace of the County, Riding, or Division of the County wherein the Land is situate the Deed containing the Assent of the adjoining Owner to the proposed Drains or Improvements in Drains, who shall keep the same in his Office as a Record of the Proceedings between the Parties.

Dissent of adjoining Owner.

76. The adjoining Owner shall be deemed to have dissented from the Application made to him if he fail to express his Assent thereto within One Month after the Service of the Notice of Application on him; and in the event of such Dissent there shall be decided, by Two or more Justices in Petty Sessions assembled, unless the adjoining Owner

Owner require the same within such Period of One Month to be decided by Arbitration, the Questions following; that is to say,

(1.) Whether the proposed Drains or Improvements in Drains will cause any Injury to the adjoining Owner, or to the Occupier or other Person interested in the Lands:

(2.) Whether any Injury that may be caused is or is not of a Nature to admit of being fully compensated for by Money:

And the Provisions of the First Part of this Act relating to the Decision of the Questions therein mentioned shall apply to the Decision of the Questions mentioned in this Section.

Result of Decision.

The Result of any such Decision shall be as follows; that is to say,

(1.) If the Decision is that no Injury will be caused to the adjoining Owner, to the Occupier, or other Parties interested in the Lands, the Applicant may proceed forthwith to make the proposed Drains or Improvements in Drains:

(2.) If the Decision is that Injury will be caused to the adjoining Owner, Occupier, or other Parties interested in the Lands, but that such Injury is of a Nature to admit of being fully compensated by Money, the Justices or Arbitrators shall proceed to assess such Compensation, and to apportion the same amongst the Parties in their Judgment entitled thereto; and on Payment of the Sum so assessed the Applicant may proceed to make the proposed Drains or Improvements in Drains:

(3.) If the Decision is that Injury will be caused to the adjoining Owner, Occupier, or other Parties interested in the Lands, and that such Injury is not of a Nature to admit of being fully compensated by Money, the Applicant shall not be entitled to make the proposed Drains or Improvements in Drains.

Application of Compensation in case of Owners under Disability.

77. Where the Compensation assessed by the Justices or Arbitrators under the last preceding Section is payable to any Owner or other Person who is under any Disability or Incapacity, or is not entitled to receive the same for his own Benefit, such Compensation shall be applied in the Manner in which the Compensation coming to Parties having limited Interests or prevented from treating and not making Title is applicable under "The Lands Clauses Consolidation Act, 1845."

Duty of Arbitrators.

78. The Justices or Arbitrators, as the Case may be, in the event of their approving of a Scheme of Drainage as proposed by the Applicant or as modified by themselves, shall cause a Map thereof to

to be prepared, and shall certify under their Hands the Correctness of such Map; and it shall be the Duty of the Applicant to forward the same to the Clerk of the Peace of the County, Riding, or Division of the County wherein the Land is situate, who shall keep the same in his Office as a Record of the Proceedings between the Parties.

Power of Applicant to clear Drains.

79. After Drains have been opened or Improvements in Drains made, in pursuance of Part Three of this Act, it shall be lawful for the Applicant, his Heirs and Assigns, for ever thereafter, from Time to Time as it becomes necessary, to enter upon the Lands through which such Drains have been opened or Improvements made, for the Purpose of clearing out, scouring, and otherwise maintaining the same in a due State of Efficiency, and if such Drains or Improvements in Drains are not kept so cleared out, scoured, and maintained in a due State of Efficiency, the Owner or Occupier for the Time being of the Lands through or on which such Drains or Improvements in Drains are made may clear out, scour, and otherwise maintain the same in a due State of Efficiency, and recover the Expenses incurred in such clearing out, scouring, or Maintenance, in a summary Manner, from the Applicant, his Heirs or Assigns.

Power of adjoining Owner to divert Drains.

80. The Owner for the Time being of the Land through or in which any Drain may be opened, or Improvements in Drains made, in pursuance of Part Three of this Act, may fill up, divert, or otherwise deal with such Drains or Improvements in Drains, on Condition of first making and laying down in lieu thereof Drains equally efficient; and any Dispute as to the Efficiency of Drains so laid down shall be decided by Two or more Justices assembled in Petty Sessions.

Penalty for obstructing or injuring Drains.

81. Any Person who wilfully obstructs any Person making any Drains or Improvements in Drains in pursuance of Part Three of this Act, and any Person who wilfully dams up, obstructs, or in any way injures any Drains or Improvements in Drains so opened or made, shall for each Offence incur a Penalty not exceeding Ten Pounds, to be recovered in a summary Manner.

Costs of Application.

82. All Costs, Charges, and Expenses reasonably incurred by the adjoining Owner in respect of any Application made in pursuance of this Part of this Act shall be defrayed by the Applicant.

Provision in case of Change of natural Outfall.

83. Where any Person is desirous, in pursuance of this Part of this Act, of constructing any Drain by means whereof any Brook, River, or other natural Watercourse will be diverted from its ordinary Channel into any other Brook, River, or natural Watercourse, he shall cause a Copy of the Notice hereby required to be served on the adjoining

adjoining Owner to be published by Advertisement once at least in each of Three successive Weeks in some local Newspaper circulating in the District in which the Drain proposed to be constructed is situate, and to be served in manner in which Notices are required to be served under the First Part of this Act (where no special Mode of Service is prescribed) on all Owners of Land abutting upon the Brook, River, or other natural Watercourse into which the Diversion is made, and situate within Four Miles of the Point of Junction, and shall deposit a Copy of the Map hereby required to accompany the Notice served on the adjoining Owner with the Clerk of the Peace of the County, Riding, or Division of a County wherein the proposed Drain is situate; and it shall be lawful for any Person being the Owner of Land capable of being injured by the proposed Drain, within Eight Weeks after the First Notice of the proposed Drain appears in the Newspaper, to serve Notice that he apprehends Injury from such Drain on the Person proposing to make the same, and thereupon such Owner shall be deemed to have dissented, and shall be entitled to the same Rights and Privileges under this Part of this Act as if he were the adjoining Owner.

SCHEDULE referred to in the foregoing Act.

PART I.

Rules as to Election of Members of Drainage Boards.

The Chairman of the Board of the previous Year, or some Person appointed by him, shall be the Returning Officer.

If at any Time, from any Default of such Chairman as aforesaid, or from any Reason, there is no Returning Officer, or such Returning Officer is unwilling or unable to act, the Inclosure Commissioners may, on the Application of any Member of the Board, appoint a Returning Officer.

The Election of new Members shall take place on the First Thursday, or on such other Day as may be appointed by the Board,

in September in every Year, excepting the Year in which the Provisional Order is confirmed by Parliament.

On every Occasion of the Election of new Members of the Board the Returning Officer shall convene a Meeting of the Electors for the Purpose of such Election, and shall give Notice of such Meeting, and of the Time and Place at which it is to be held—

By Advertisement in some One or more of the Newspapers circulating in the District;

By causing a Copy of such Notice to be affixed to the outer Door of the principal Office of the Board.

The Returning Officer shall preside and regulate the Proceedings at such Meeting.

At any such Meeting as aforesaid any Person or Persons may, if he or they consent thereto, be nominated by any Elector, and seconded by any other Elector, as a Member or Members of the Board.

If more Candidates are proposed than the Number to be elected, a Poll may be demanded, and shall be taken in manner herein-after mentioned, but if not, or if no Poll is demanded, a Declaration by the Returning Officer that the Candidates are elected Members of the Board shall be Evidence of the Fact.

When a Poll is demanded the Returning Officer shall direct the same be taken at such Place or Places within the District on such Day not exceeding One clear Day from the Day appointed for the Election as he may determine.

Votes may be given either personally or by Proxy; a Proxy shall be appointed under the Hand of the Appointor, but he shall not be entitled to vote unless the Instrument appointing him was deposited at the Office of the Board Seven Days before the Day of Election at which such Proxy proposes to vote; but no Person shall be appointed a Proxy unless he is a qualified Elector:

The Poll shall be opened at Nine o'Clock of the Forenoon of the appointed Day, and shall close at Four o'Clock in the Afternoon of the same Day, except in the Case of Disturbance when the closing of the same may be fixed to take place at such Time as the Returning Officer directs.

The Poll at any Place of Voting may be closed at any Time before Four of the Clock if One Hour has elapsed during which no Vote has been tendered at such Place of Voting.

The Returning Officer shall cause to be entered in the Polling Books the Name and Address of every Voter and the Manner in which he votes.

At the Close of the Poll the Returning Officer shall sum up the Votes, and as soon as possible publish the Names of the Candidates elected as herein mentioned—

(1.) By Advertisement in some One or more Newspaper or Newspapers circulating in the District;

(2.) By affixing a List of such Candidates to the outer Door of the principal Office of the Board.

Whenever any Day hereby appointed for any Purpose happens to be a Sunday, the Business so appointed to be done shall take place on the Monday following.

PART II.

Rules as to Proceedings of Drainage Boards.

1. A Drainage Board shall meet together for the Despatch of Business, and shall from Time to Time make such Regulations with respect to the Summoning, Notice, Place, Management, and Adjournment of such Meetings, and generally with respect to the Transaction and Management of Business, as they think fit, subject to the following Condition:—That

(*a.*) No Business shall be transacted at any Meeting unless at least Three Members are present at the Commencement and Close of such Business.

(*b.*) No Order involving an Expenditure of more than One hundred Pounds shall be made by the Board unless at the least One Month's previous Notice, specifying the Work to be undertaken or the other Matter to which such Order relates, and naming a Day on which a Meeting of the Board is to be held for considering the Matter to be ordered, has been sent by Circular to each Member of the Board:

(*c.*) All Questions shall be decided by a Majority of Votes of the Members present:

(*d.*) The Names of the Members present, as well as of those voting upon each Question, shall be recorded.

2. The Board shall, at their First Meeting, and afterwards from Time to Time at their First Meeting after each Annual Election, appoint One of their Number to be Chairman for the Year following such Choice.

3. If any casual Vacancy occurs in the Office of Chairman, the Board shall, as soon as they conveniently can after the Occurrence of such Vacancy, choose some Member of their Number to fill such Vacancy; and every such Chairman so elected as last aforesaid shall continue in Office so long only as the Person in whose Place he may be

be so elected would have been entitled to continue if such Vacancy had not happened.

4. If at any Meeting the Chairman is not present at the Time appointed for holding the same, the Members present shall choose some One of their Number to be Chairman of such Meeting:

5. In case of an Equality of Votes at any Meeting, the Chairman for the Time being of such Meeting shall have a Second or Casting Vote.

6. The Board may delegate any of their Powers to Committees, consisting of such Member or Members of their Body as they think fit. Any Committee so formed shall, in the Exercise of the Powers delegated, conform to any Regulations that may be imposed on them by the Board.

7. A Committee may elect a Chairman of their Meetings. If no such Chairman is elected, or if he is not present at the Time appointed for holding the same, the Members present shall choose One of their Number to be Chairman of such Meeting.

8. A Committee may meet and adjourn as they think proper. Questions at any Meeting shall be determined by a Majority of Votes of the Members present; and in case of an equal Division of Votes, the Chairman shall have a Second or Casting Vote:

9. The Board shall cause Minutes to be made, in Books provided for that Purpose,—

(1.) Of all the Appointments of Officers made by the Board;

(2.) Of the Names of the Members present at each Meeting of the Board, and Committees of the Board;

(3.) Of all Orders made by the Board, and Committees of the Board; and,

(4.) Of all Resolutions and Proceedings of Meetings of the Board, and of Committees of the Board.

And any such Minutes as aforesaid, if signed by any Person purporting to be the Chairman of any Meeting of the Board, or Committee of the Board, shall be receivable in Evidence, without any further Proof.

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