



CHAPTER X.

An Act to repeal and re-enact with amendments an Act A.D. 1912.
relating to the embankment and drainage of certain low
lands in the townships of Everton Scaftworth Gringley-
on-the-Hill Misterton and Walkeringham in the county
of Nottingham and to make further and better provision
in respect thereof. [25th June 1912.]

WHEREAS by the Everton &c. Drainage Act 1860 (herein-
after called "the Act of 1860") a Commissioner and five
committeemen were appointed to provide for the drainage of
certain low lands in the townships of Everton Scaftworth
Gringley-on-the-Hill Misterton and Walkeringham in the county
of Nottingham:

And whereas such lands are assessed and charged in pur-
suance of the determination made by the Commissioner under
the authority of that Act:

And whereas by the Act of 1860 no provision is made for
the construction of new works by means of borrowed money
but the money required therefor has under the Act of 1860 to
be raised by means of a rate upon the existing owners of lands
within the drainage area thus throwing upon them the whole
expense of works which benefit not them alone but future
generations of owners after them:

And whereas certain new works have recently been or are
in course of being constructed to cost the several sums set out
in the First Schedule to this Act and it is expedient that the
Commissioner should have power to borrow the necessary money
for payment of the cost of such new works and other new
works from time to time required and also for providing the
the costs and expenses of and incidental to obtaining this Act:

A.D. 1912.

And whereas in the Act of 1860 power is given to the Commissioner to cause to be kept maintained and repaired all then present or future outring and division drains forming the boundaries of and separating the lands of the respective owners of lands within the said townships to such width and depth as the said Commissioner shall from time to time order and direct and also from time to time and at all times thereafter to cause such drains to be well and effectually scoured and cleansed from weeds and other obstructions and also stocks or inlets to be placed in and through the banks of such drains when such shall be needful for the better issuing and conveying away the waters therefrom and it is essential in the interests of the general drainage of the lands within the drainage area that the aforesaid powers of the Commissioner should be extended to all the other drains of such owners :

And whereas the Commissioner appointed under the Act of 1860 holds office for five years and the five committeemen appointed (one for each of the said townships of Everton Scaftworth Gringley-on-the-Hill Misterton and Walkeringham) to represent the owners of land within the drainage area hold office for five years and it is expedient to alter the term of office of the said Commissioner and committeemen and the manner of their election as by this Act provided :

And whereas it is expedient that further and better powers should be given to the Commissioner for the recovery of rates assessed and charged upon the owners of lands within the drainage area :

And whereas it is expedient that power should be obtained for warping the whole or any part of the lands within the drainage area :

And whereas other powers and provisions of the Act of 1860 are in some respects defective and inconvenient and it is expedient to consolidate and amend the provisions of that Act :

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

May it therefore please Your Majesty that it may be enacted and be it enacted by the King'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) :—

PART I.

A.D. 1912.

INTRODUCTORY.

1. This Act may be cited as the *Everton &c. Drainage Act 1912.* Short title.

2. This Act is divided into Parts as follows:—

Act divided
into Parts.

Part I.—Introductory.

Part II.—Appointment and general powers of
Commissioner and committeemen.

Part III.—Proceedings.

Part IV.—Drainage.

Part V.—Warping.

Part VI.—Financial.

Part VII.—Judicial Proceedings.

Part VIII.—Transitory Provisions.

Part IX.—General.

3. This Act shall come into operation on the first day of January one thousand nine hundred and thirteen which date is in this Act referred to as “the commencement of this Act.” Commence-
ment of Act.

4. The provisions of sections 8 60 62 and 63 of the Commissioners Clauses Act 1847 are except where expressly varied by this Act incorporated with and form part of this Act and the provisions of those sections shall be read and construed as if the expression “Commissioner” included the committeemen as defined by this Act. Sections 8
60 62 and 63
of Commis-
sioners
Clauses Act
1847 incor-
porated.

5. In this Act unless the context otherwise requires the following expressions have the meanings hereby assigned to them (that is to say):— Interpreta-
tion.

“Commissioner” means the Commissioner for the time being appointed or elected as the case may be under this Act;

“Determination” means the determination provided to be made by the Commissioner under this Act and includes the plan or plans annexed to or accompanying the same;

“Drainage area” means the lands set out in the determina-
tion;

“Committeeman” means a committeeman for the time being appointed or elected under this Act;

A.D. 1912.

“New works” means new or additional buildings engines boilers or machinery bridges drains sewers banks or other works required for completing improving and preserving the embankment and drainage of lands within the drainage area or the removal or renewal of the present machinery or any part thereof or of the present steam engines boilers or any or either of them or the substitution or provision of other machinery or engines therefor;

“Rate” means and includes all rates which the Commissioner is authorised to assess and charge under this Act;

“Owner” means the person who for the time being is entitled to receive the rack rent of any land lying within the drainage area and assessed and charged with the payment of the rate either on his own account or as mortgagee or other incumbrancer in possession or as trustee guardian or committee for any other person or who would be entitled to receive the same if such land were let at a rack rent including under the term “rack rent” any rent which is not less than two-thirds of the net annual value of the land out of which the rent issues;

“Act of 1860” means the *Everton &c. Drainage Act 1860.*

Repeal of
*Everton &c.
Drainage
Act 1860.*

6. From and after the commencement of this Act the Act of 1860 shall be repealed.

PART II.

APPOINTMENT AND GENERAL POWERS OF COMMISSIONER AND COMMITTEEMEN.

Commis-
sioner to
carry Act
into effect.

7. This Act shall be carried into effect by a Commissioner appointed or elected as provided by this Act and such Commissioner shall be called “the *Everton Drainage Commissioner*” and in such name may sue and be sued in relation to all matters connected with this Act.

Appointment
of Commis-
sioner.

8. Henry Augustus Brundell of Doncaster in the county of York shall be the first Commissioner and shall hold office unless previously removed therefrom by death resignation incapacity refusal to act or otherwise in pursuance of the provisions of

A.D. 1912.

this Act until the election or appointment of his successor and if the office of Commissioner shall become vacant from any cause other than effluxion of time another Commissioner shall be elected in his stead in manner herein provided and shall hold office for the residue of the term for which his predecessor would have held office had no such vacancy occurred and so toties quoties whenever the case shall happen and the successor to such Commissioner to be elected in manner herein provided shall in like manner be entitled upon his election to hold office until the appointment or election of his successor and shall then retire but any Commissioner so retiring shall if otherwise qualified be eligible for re-election.

9. Upon the commencement of this Act all lands buildings engines boilers bridges public drains banks (subject to the right of pasturage of such banks by the owners or occupiers of the lands on which such banks stand) and all other works and appliances connected with the embankment and drainage of the lands within the drainage area and all moneys securities for money deeds books writings maps plans and personal estate belonging incidental or relating to the said embankment and drainage shall vest in or belong to the Commissioner under this Act and the right of management and control thereof shall devolve upon and be exercised by such Commissioner or the committeemen according to the directions rules and regulations in this Act provided.

Property and works vested in Commissioner.

10. The Commissioner may subject to the provisions of the section of this Act of which the marginal note is "Provision of future new works" enter into contracts and make orders and give directions for the embanking draining and improving the lands within the drainage area and subject to the provisions of the section of this Act of which the marginal note is "Appointment and removal of clerk receiver and treasurer" may also appoint such clerk receiver treasurer manager and other officers (except auditor) and servants as the Commissioner shall from time to time think needful for the superintendence management and conducting of the works of embankment and drainage and collecting the rate and each such clerk receiver treasurer manager officer and servant shall hold office until removed by the Commissioner and the Commissioner shall allow such reasonable annual or other salary or wages to each such clerk receiver treasurer manager officer and servant to be paid out of the said rate as he shall think proper and from time to time remove

General powers of Commissioner.

A.D. 1912. —
displace and appoint another or others in the place or places of such clerk receiver treasurer manager officer or servant as shall be removed (except auditor) as often as he shall see occasion.

Commis-
sioner may
resign.

11. The Commissioner may at any time resign his office on giving six months' notice in writing to the committeemen of his intention so to do.

What shall
be deemed
a refusal to
act.

12. If any Commissioner shall neglect to make and subscribe the declaration contained in the section of this Act of which the marginal note is "Commissioner committeemen and manager to make declaration" in the case of the first Commissioner within fourteen days from the commencement of this Act and in the case of any subsequent Commissioner within one month after his appointment or election or having made the said declaration shall not appoint a time and place and attend in the months of April and October in every year as provided in the section of this Act of which the marginal note is "Commissioner to attend in April and October" or shall not appoint and attend a meeting at the request of a majority of the committeemen as provided in the section of this Act of which the marginal note is "Meetings between Commissioner and committeemen" unless prevented by illness or other unavoidable cause such Commissioner shall be deemed to have refused to act and shall cease to be a Commissioner.

Commis-
sioner not to
be concerned
in contracts.

13.—(1) If the Commissioner shall be concerned or participate in any manner in any contract or in the profit thereof or of any works to be done under the authority of this Act such Commissioner shall (subject to the proviso hereinafter contained) thenceforth cease to be a Commissioner and his office shall thereupon become vacant.

(2) Provided that the owners at a meeting to be called in manner provided by the section of this Act of which the marginal note is "Meetings of owners" may authorise the Commissioner to be concerned or participate in any such contract or in the profit thereof or of any work to be done under the authority of this Act and thereupon subsection (1) of this section or any rule of law or equity to the contrary shall not apply.

Removal of
Commis-
sioner.

14.—(1) The committeemen at any time may terminate the tenure of office of a Commissioner by giving him six months' notice in writing to that effect and upon the expiration of such notice the office of such Commissioner shall be deemed to have become vacant. The said notice shall either be served personally

upon the Commissioner or be sent to him through the post to his last known place of abode. A.D. 1912.

(2) The justices of the peace assembled at any quarter sessions for the county of Nottingham upon the complaint of a majority of the committeemen may remove any Commissioner under this Act sufficient cause for such removal having been in the judgment of such justices shown to them and upon the tenure of office of such Commissioner being determined under this section a new Commissioner shall be elected as is herein provided for the election of a Commissioner on a vacancy. Provided that the justices shall not proceed to hear or decide any complaint against a Commissioner as aforesaid unless it be proved to them that twenty-one days' notice of the intention to make such complaint stating the grounds thereof has been previously given to the Commissioner complained of.

15.—(1) Upon a day between the first and eighth days of October in the year one thousand nine hundred and fourteen and upon a day between the first and eighth days of October in every second year thereafter a meeting of owners shall be held in manner provided by the section of this Act of which the marginal note is "Meetings of owners" and at such meeting the owners present or represented thereat may elect a Commissioner in the place of the last Commissioner (such last-named Commissioner being eligible for re-election). And if from any cause whatever no election of a Commissioner shall be made in manner aforesaid then any three or more owners may call a meeting of committeemen by notice in writing under their hands specifying the purpose for which such meeting is to be held and served personally upon each committeeman or left or delivered to him at his last known place of abode forty-eight hours at least before the time of such meeting and at such meeting the committeemen or a majority of them shall appoint a Commissioner.

Appoint-
ment of suc-
cessor to
Commis-
sioner.

(2) Upon a day within two months after the day on which any Commissioner shall die resign refuse or become incapable to act or be removed from his office or on which the office of the Commissioner shall become vacant otherwise than by effluxion of time a meeting of owners shall be called and held in manner aforesaid and at such meeting the owners may elect a Commissioner in the place of the Commissioner so dying resigning refusing or becoming incapable to act or being removed

A.D. 1912.

or vacating his office otherwise than by effluxion of time And if from any cause whatever no election of a Commissioner shall be made in manner aforesaid then a Commissioner shall be appointed by the committeemen at a meeting to be called and held in the same manner as is above provided in the case of the election of the successor to a Commissioner whose term of office has expired by effluxion of time.

Remuneration of Commissioner.

16. The Commissioner shall be paid the sum of three guineas for each day he shall travel or be engaged in any business relating to the execution of this Act in addition to any travelling or other expenses incurred by him Provided that the owners may at any time and from time to time at a meeting of such owners authorise the payment to the Commissioner of—

- (a) A sum to be determined by such owners at such meeting and to be paid annually by way of salary in place of remuneration at the said daily rate:
- (b) Any sum or sums in addition to the said remuneration or salary for work done by the Commissioner.

Basis of remuneration of Commissioner.

17. The Commissioner shall not be required to occupy more than eight hours from the twenty-fifth day of March to the twenty-ninth day of September inclusive and six hours between the twenty-ninth day of September and the twenty-fifth day of March in any one day in travelling or attending to the execution of this Act and if such Commissioner shall be engaged for a longer period than the hours above specified in any one day he shall be paid and allowed a further sum proportionate to such extra attendance.

Power of Commissioner to apply to Parliament.

18. The Commissioner may with the consent of a majority in value of owners such consent to be signified at a meeting of owners to be called and held as provided by the section of this Act of which the marginal note is "Meetings of owners" promote or oppose Provisional Orders and Bills in Parliament and take parliamentary proceedings and enter into and make the necessary preparatory arrangements therefor in matters which in the opinion of the Commissioner are connected with the purposes of this Act.

Power of Commissioner to acquire land.

19. The Commissioner may with the consent of a majority in value of owners such consent to be signified at a meeting of

owners to be called and held as provided by the section of this Act of which the marginal note is "Meetings of owners"— A.D. 1912.

(a) Acquire purchase take on lease or exchange (by agreement but not otherwise) and hold in addition to the lands by this Act vested in him from time to time for the purposes of any of his powers and duties under this Act any lands (not exceeding fifty acres) or any easements or rights over or in land but nothing in this Act shall exempt the Commissioner from any indictment action or other proceeding for nuisance in the event of any nuisance being caused or permitted by him upon any lands so acquired purchased taken on lease or taken in exchange:

(b) Sell lease let exchange or otherwise dispose of in such manner and for such consideration and purposes and on such terms and conditions as he may think fit and in case of sale either in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands or any interest in any lands for the time being belonging to him and not required for the purposes of any of his powers or duties and may sell and exchange and dispose of any rents reserved on the sale exchange lease or disposition of such lands and may make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition and on any exchange may give or take any money for equality of exchange.

20.—(1) The Commissioner shall have full power to manage any land and to manage alter and enlarge any buildings for the time being vested in him.

Power of Commissioner to deal with land &c.

(2) The Commissioner shall have full power to let on yearly tenancy any lands or any easements or rights over or in lands for the time being belonging to him on such terms and conditions as he may think fit.

21. The several persons hereinafter named shall be committeemen for the representation of the owners of lands within the drainage area according to the townships or parts of townships comprised therein that is to say William Harland Metcalfe of Everton aforesaid clerk in holy orders for the

Appointment of committeemen.

A.D. 1912. township of Everton Thomas Dyson Ownsworth of Silkstone Common near Barnsley in the county of York estate agent for the township of Scaftworth Edwin Smith of Gringley-on-the-Hill aforesaid farmer for the township of Gringley-on-the-Hill William James Hodson of Fountain Hill Misterton aforesaid farmer for the township of Misterton and Henry Cross of Gringley-on-the-Hill aforesaid farmer for the township of Walkeringham and such committeemen shall exercise the powers and perform the duties by this Act conferred or imposed upon them and such committeemen shall hold their respective offices unless previously removed therefrom by death resignation or incapacity to act until the election or appointment of their successors and if the office of any committeeman shall become vacant from any cause other than effluxion of time another committeeman shall be elected in his stead in manner herein provided and shall hold office for the residue of the term for which his predecessor would have held office had no such vacancy occurred and so toties quoties whenever the case shall happen and the successor to such committeeman to be elected in manner herein provided shall in like manner be entitled upon his election to hold office until the appointment or election of his successor and shall then retire but any committeeman so retiring shall if otherwise qualified be eligible for re-election.

Appoint-
ment of suc-
cessors to
committee-
men.

22. Upon a day between the first and sixteenth days of October in the year one thousand nine hundred and fourteen and upon a day between the first and sixteenth days of October in every second year thereafter and upon a day within twenty-one days after the day on which any committeeman shall die or resign or refuse to act or become incapable of acting as a committeeman or be removed from his office a meeting of owners of the lands within the parish or township or part thereof represented by the committeeman so retiring by effluxion of time dying resigning refusing or becoming incapable to act or being removed from his office shall be called and held in such parish or township and at such meeting such owners present or represented at such meeting may elect a committeeman in the place of the committeeman so retiring dying resigning refusing to act or becoming incapable to act or being removed from office as aforesaid the retiring committeeman being eligible for re-election as aforesaid and in case at any such meeting for the election of a committeeman no election shall be made by such owners the Commissioner at any time

after such meeting may appoint some person to be a committeeman in the place or stead of the committeeman so retiring dying resigning refusing or becoming incapable to act or being removed from office as aforesaid.

A.D. 1912.

23. The Commissioner shall pay to each committeeman all reasonable disbursements and expenses which such committeeman shall pay or to which such committeeman shall be put in the execution of his duties under this Act.

Payment of expenses of committeemen.

24. Any owner may vote either personally or by proxy in the appointment of himself as a committeeman.

Owner may vote in his own election as committeeman.

25. The justices of the peace assembled at any quarter sessions for the county of Nottingham upon the complaint of a majority of the committeemen may remove any committeeman for the same reasons and in the same manner as is provided in respect of a Commissioner in the section of this Act of which the marginal note is "Removal of Commissioner" and such section shall apply to a committeeman as nearly as may be in the same manner as the same applies to a Commissioner.

Removal of committeeman.

PART III.

PROCEEDINGS.

26. The Commissioner and committeemen or a majority of the latter shall hold their first meeting at the Crown Inn at Bawtry in the county of York or some other convenient place in the townships of Everton Scaftworth Gringley-on-the-Hill Misterton and Walkeringham on the third Monday next after the commencement of this Act or on some other day within fourteen days thereof at any hour between eleven o'clock in the forenoon and four o'clock in the afternoon.

First meeting of Commissioner and committeemen.

27.—(1) The Commissioner shall in each year attend at such place or places as he may appoint either at Bawtry or within one of the several townships of Everton Scaftworth Gringley-on-the-Hill Misterton and Walkeringham on a day in the month of April and on a day in the month of October in each year notice of such attendance being given by advertisement seven days and by notice in writing to each owner ten days at least before such attendances and repeat or continue such attendances from day to day as long as he shall think necessary and on the said attendance in the month of April in each year shall audit and settle the receiver's or treasurer's account draw out a true statement in writing containing an

Commissioner to attend in April and October.

A.D. 1912. account of all sums by him received and expended or due to him under this Act for the preceding year up to and including the time of such attendance and make and levy a rate for the ensuing year and shall on the said attendance in the month of October in each year produce the said account with the vouchers for the same which shall be audited by the auditor under this Act such account to be audited in the presence of the owners (if any) present and after the said account shall be allowed by the auditor the same shall be binding upon all parties.

(2) The Commissioner shall also on the said attendances in the months of April and October and on such other days in each year as he shall think necessary to attend hear and determine complaints receive claims for and settle questions of compensation and make orders for the management of the works of embankment and drainage.

(3) The Commissioner shall also as often in each year as he shall think necessary view the works of embankment and drainage and at any time make orders for the management thereof and for any other purpose under this Act.

Committeemen may act in emergency.

28. Where owing to the death resignation or removal of the Commissioner there is a vacancy in the office of Commissioner or when in case of emergency the immediate attendance of the Commissioner is required and cannot be secured the committeemen or a majority of them may until a Commissioner be appointed or elected or until the Commissioner shall attend as the case may be act in the execution of this Act and may in the place of such Commissioner give directions for preserving the lands within the drainage area and may otherwise carry into effect the provisions of this Act including those relating to the making and levying of any rate or rates which the Commissioner is authorised to make and levy and all acts so performed and directions given by them or a majority of them shall be as valid as if the same had been performed or given by the Commissioner.

Meetings between Commissioner and committeemen.

29. For the purpose of conferring upon the execution of this Act the committeemen shall if required by the Commissioner meet him at any time and place that he shall by notice in writing to each of them appoint and the committeemen or a majority of them may at any time by notice in writing under their hands request the Commissioner to appoint a day and time to meet the said committeemen and on receiving such notice from the said committeemen the Commissioner shall by notice

in writing to each of the said committeemen appoint a meeting of himself and the said committeemen to be held not later than ten days from the time of receiving such notice from the said committeemen.

A.D. 1912.

30. Any two committeemen may at any time call a meeting of the committeemen to be held at Bawtry or at some other convenient place within the townships of Everton Scaftworth Gringley-on-the-Hill Misterton and Walkeringham by notice in writing under the hands of such two committeemen served personally upon each committeeman or left at or delivered by post to him at his last known place of abode forty-eight hours at least before the time of holding such meeting.

Meetings of committeemen.

31. All the orders and proceedings of the Commissioner or committeemen at any meeting or attendance to be held in pursuance of this Act shall be entered in a book to be provided for that purpose and shall be signed by the Commissioner or a majority of the committeemen present at such meeting and being so signed shall be deemed to be originals and all such books shall be deposited with and kept by the clerk to the Commissioner and may be read as evidence in all cases of appeals suits actions and other proceedings touching anything done in relation to this Act.

Proceedings of Commissioner and committeemen to be recorded.

32. Notwithstanding any of the provisions of this Act the appointment and removal of and the salary to be paid to the clerk receiver and treasurer shall be subject to the consent and approval of the owners to be testified by resolution to be passed at a meeting of such owners to be called for that purpose.

Appointment and removal of clerk receiver and treasurer.

33. The committeemen or a majority of them at their first meeting to be held as provided by the section of this Act of which the marginal note is "First meeting of Commissioner and committeemen" shall appoint an auditor to audit the accounts of the Commissioner and at any meeting of committeemen thereafter may appoint or revoke the appointment of or remove such auditor and appoint another auditor in his stead Out of the rate there shall be paid to the auditor for the time being the sum of two guineas per annum.

Appointment of auditor.

34. No person shall be capable of acting as a Commissioner committeeman or manager (as the case may be) under this Act except in administering the declaration hereinafter mentioned until he shall have made and signed (if a Commissioner before

Commissioner committeemen and manager to make declaration.

A.D. 1912. one of the committeemen and if a committeeman or manager before the Commissioner or a committeeman) a declaration to the effect following:—

“I *A.B.* do solemnly declare that I will faithfully and impartially according to the best of my skill and judgment execute all the powers and authorities reposed in me as (a Commissioner or committeeman or manager as the case may be) by virtue of the *Everton &c. Drainage Act 1912.*”

Security to be taken from officers entrusted with money.

35. Any person whether receiver treasurer manager or other officer entrusted under this Act with the custody or control of moneys by virtue of his office who shall not have given security under the Act of 1860 shall before he shall enter upon such office give to the Commissioner (to the extent such Commissioner shall think necessary) security for the faithful discharge of such office And the Commissioner may (if he shall think fit) take out and accept a policy of any fidelity or other insurance company guaranteeing the fidelity of such receiver treasurer manager or other officer and pay the premium or premiums in respect of such policy as part of the expenditure incurred in the execution of this Act.

Officers to account.

36. Every officer appointed by the Commissioner under and for the purposes of this Act shall when required by the Commissioner deliver to him or any person appointed by him for that purpose a true and perfect account in writing under his hand of all moneys received by him under this Act and how to whom and for what purpose such moneys have been disposed of and shall deliver up the vouchers and receipts for such payments and every such officer shall if required so to do pay to the Commissioner or to any person appointed by him to receive the same all moneys which shall appear to be owing from him upon the balance of such account.

Accounts to be kept.

37. The Commissioner shall cause books to be kept and true entries to be made therein of all money received and paid by him and of the persons from and to whom and the purposes for which such money is received or paid.

Meetings of owners.

38. Meetings of owners required to be held for any specific purpose set forth in this Act shall (unless otherwise directed by this Act) be called by the clerk to the Commissioner (or if there be no clerk then by the Commissioner) who shall give ten days' previous notice of such meeting to each owner and also seven

days' notice by advertisement setting forth the purpose of such meeting and the time and place at which such meeting shall be held Such meetings shall be held either at Bawtry in the county of York or at some place within one of the townships of Everton Scaftworth Gringley-on-the-Hill Misterton and Walkeringham.

Any other meetings of owners not specifically required to be held under or by virtue of this Act may be called by the Commissioner at such times and places and in such manner as he shall think fit.

At all meetings of owners a chairman shall in the first instance be appointed.

All orders directions and decisions of owners at such meetings shall be by resolution to be carried by a majority in value of such owners present in person or by proxy and in case of an equality of votes the chairman shall have a casting vote.

39. No owner shall be entitled to vote at any meeting unless he shall have paid all moneys due from him to the Commissioner whether on account of drainage rate damages penalties or on any other account whatsoever.

Owners not to vote if moneys due to Commissioner not paid.

40. All votes of owners at any meeting may be given either personally or by proxy and every proxy shall be appointed under the hand of the appointor but shall not be entitled to vote unless the instrument appointing him was deposited at the office of the clerk to the Commissioner at least twenty-four hours before the hour at which such meeting is appointed to be held and at which such proxy proposes to vote.

Owners may vote by proxy.

41. The chapter clerk of York Minster as receiver of rents of the lands within the drainage area belonging to the dean and chapter of York may vote for any purpose under this Act for and on behalf of the said dean and chapter and the clerk to the trustees for the time being of the estate of Thomas Magnus deceased and the clerk to the governors for the time being of Faith Clerkson's Exhibition Foundation may vote for any purpose under this Act for and on behalf of the trustees of Thomas Magnus deceased and the governors of Faith Clerkson's Exhibition Foundation respectively.

Voting by dean and chapter of York and trustees of Magnus and Clerkson.

42. Where a corporation aggregate a joint stock or other company or any body of proprietors undertakers commissioners or trustees or any guardian trustee or committee (of the estate)

Voting by joint owners &c.

A.D. 1912. of a lunatic or idiot are or is the owner of any land within the drainage area or where two or more persons are owners of any such land as joint tenants co-parceners or tenants in common in undivided shares such owner or owners may from time to time in writing nominate some one person who shall be deemed to be the owner of such land on his or their behalf for the purposes of this Act and in the case of any corporate body such nomination shall be made under their corporate seal and in the case of persons who are joint tenants co-parceners or tenants in common in undivided shares the nominee shall be one of such persons such nomination to be deposited at the office of the clerk to the Commissioner three clear days before the date of the election of a Commissioner or of any meeting at which it is intended that such nominee shall exercise the right of voting Provided that if and so long as any person is nominated as aforesaid to exercise the right of voting on behalf of any person any power elsewhere conferred by this Act on any specified person to exercise the right of voting for and on behalf of such person shall be suspended.

PART IV.

DRAINAGE.

Power for
Commiss-
sioner to
enter private
lands.

43. The Commissioner and any person authorised by him in that behalf at all reasonable times may enter upon the lands within the drainage area and—

- (1) Inspect any of the drains or ditches on the said lands :
- (2) View survey and admeasure the said lands take such levels thereon as the Commissioner shall think proper and execute and carry out thereon any works of embankment and drainage :
- (3) Continue in or upon or pass or repass with or without horses or vehicles or on foot on or along such lands for all or any of the purposes of this Act without hindrance from any person whomsoever and without being deemed a trespasser for so doing making always reasonable compensation to the owners and occupiers for any damage they may sustain by the making of such surveys or levels the executing and carrying out of such works or the entering or continuing upon such lands such compensation to be ascertained and recovered in the manner provided by this Act for the recovery of damages.

44. The Commissioner in addition to and not by way of limitation of his powers under the sections of this Act of which the marginal notes are "Power for Commissioner to enter private lands" "Power for Commissioner to make banks &c." may by agreement with the owners and lessees and occupiers of any lands within the drainage area—

A.D. 1912.
Power for Commissioner to deposit on or take materials from private lands.

(A) Unload or deposit on such lands any ballast sand stones rubbish filth ashes refuse or any other substance which may have been removed by him from any river bed drain dyke embankment foreland or elsewhere:

(B) Enter upon and use such lands and take therefrom and use such earth rubble ground or material near to or adjoining the drains banks bridges or other works for the time being vested in the Commissioner as shall be necessary for the making strengthening and maintaining thereof respectively.

45. The Commissioner may do or cause to be done the following things (namely):—

Power for Commissioner to make banks &c.

(1) Heighten fill up change remove make alter divert extend deepen enlarge support and maintain all such present and future banks cuts drains dams bridges sewers ditches tunnels outlets steam or other engines boilers and machinery sluices cloughs or other works in through or upon any of the lands within the drainage area and in through or upon any of the lands lying between a certain point on which Brownsome Sluice heretofore stood and the River Bycarsdike or between the said point and the River Trent above the said River Bycarsdike within the parish of Misterton aforesaid as shall from time to time be considered or thought necessary convenient or proper for the purpose of more effectually embanking draining preserving and improving the lands within the drainage area so as the main or mother drain shall not be changed without the consent of the owner or owners of the lands for the time being through which the same shall upon such change be proposed to be made:

(2) Appropriate take over and use as drains for the drainage of lands within the drainage area or any part thereof

A.D. 1912.

without payment of any compensation to the owners thereof any drains within the drainage area and thereupon such drains shall be vested in the Commissioner and shall be cleansed repaired and maintained by him:

- (3) For the purpose of intercepting diverting and taking away the water which might or otherwise would discharge itself into the low lands of the drainage area from or out of or by means of the Chesterfield Canal or any drain brook or rivulet near thereto or communicating therewith from the adjacent high lands within the said respective parishes or townships of Everton Gringley-on-the-Hill Misterton and Walkeringham make heighten fill up change renew alter divert support and maintain all such present and future banks cuts drains dams bridges sewers ditches tunnels outlets steam or other engines boilers and machinery cloughs or other works in through or upon any lands within the said respective parishes or townships of Everton Gringley-on-the-Hill Misterton and Walkeringham between the place called Drakeholes or Drakehole in the parish of Everton and Stockwith Bridge in the said parish of Misterton as shall from time to time be necessary:
- (4) Make such orders and give such directions for carrying on effecting and preserving the said works or any of them as the Commissioner shall think proper:
- (5) For the purpose of keeping the barrier bank of the said embankment and drainage near the Rivers Idle and Bycarsdike in repair the Commissioner may from time to time take earth and other materials from such place or places within the said several parishes or townships as he or they shall think proper.

Power for
Commissioner to
take in water
in dry seasons.

46. The Commissioner may order and appoint any tunnels or sluices to be laid in or through any of the outward banks on the south side of the Rivers Idle and Bycarsdike or either of them or in or through any of the cuts drains sewers or ditches now made or hereafter to be made by virtue of this Act in near or adjoining to any of the lands within the drainage area and may erect staunches in the said cuts drains sewers or ditches or any of them for the taking in and

A.D. 1912.

retaining of water out of the said Rivers Idle and Bycarsdike or either of them and may take and convey such water into the lands of any of the owners of such lands for the watering of cattle in dry seasons or maintenance of drains therein as partition fences or for other conveniences so that the same shall be subject to the control or regulations and direction of the Commissioner and be liable to be stopped up removed or taken away by him or his order whenever he shall deem such tunnels or staunches or any of them to be unnecessary or in any way prejudicial to the general drainage of the lands or any of them within the drainage area.

47.—(1) Every owner or occupier of any of the lands within the drainage area shall at all times hereafter keep maintain and repair all the present and future drains and ditches on or separating such lands from the lands of any other owner or occupier (except such drains and ditches as are to be cleansed repaired and maintained by the Commissioner under the section of this Act of which the marginal note is “Commissioner to keep in repair all drains vested in him”) to such width and depth as the Commissioner shall from time to time direct.

Power for Commissioner to compel private drains to be repaired and kept as he shall direct.

(2) Every owner or occupier of any of the lands within the drainage area shall also at all times hereafter cause the drains and ditches on such lands (except as aforesaid) to be well and effectually scoured and cleansed from weeds and other obstructions and also outlets and inlets to be placed in and through the banks directed to be raised when the same shall be needful for the better discharge and conveying away of the waters therefrom.

(3) If any owner or occupier shall refuse or neglect to make or when made to keep such ditches or drains of such dimensions as shall from time to time be directed by the Commissioner or to scour and cleanse the same from weeds and other obstructions or to place such outlets and inlets as aforesaid after ten days' notice in writing under the hand of the Commissioner to him given or left at his last or usual place of abode requesting him to so make scour or cleanse such ditches or drains then the Commissioner may cause the same to be done and executed and may recover the money expended in doing and executing the same from such owner or occupier.

48. The Commissioner may by agreement with the owner of any lands within the drainage area construct repair renew

Power for Commissioner to

A.D. 1912.
undertake
drainage of
lands in
drainage
area.

and manage in through under or across such lands such drains and works of drainage as shall be required for the proper drainage of such lands on such terms as may be agreed upon between the Commissioner and such owner.

Power for
Commis-
sioner to des-
troy vermin.

49. The Commissioner may destroy all such rabbits moles and other vermin as shall be found in and about the lands and banks within the drainage area and for that purpose may employ such person or persons at such wages and salary as he shall think proper and any person or persons so employed and holding the written authority of the Commissioner may at all reasonable hours enter into and upon the said lands and banks or any or either of them for that purpose.

Commis-
sioner may
remove ob-
structions at
expense of
person caus-
ing them.

50. If any person shall cause any impediment or obstruction in any cut drain or other work within the drainage area and shall for the space of ten days refuse or neglect to remove the same in such manner as the Commissioner shall direct after being required so to do by notice in writing signed by the Commissioner and given to him the Commissioner may remove or cause to be removed any such impediment or obstruction and recover the costs and expenses of so doing from such person.

Power for
Commis-
sioner to
execute
works and
recover ex-
penses.

51. If any person shall—

- (A) Make erect build plant maintain or continue any building hedge stile gate or fence or other erection upon any of the banks of the drains or watercourses vested in or belonging to the Commissioner;
- (B) Allow any tree or hedge to grow upon the said banks so as to hinder or impede the cleansing of any such drains or watercourses or so as to endanger the security or stability of the said banks or other the property of the Commissioner;
- (C) Unload or cast out any ballast sand stone chalk rubbish filth gravel or ashes or any other gross substance whatsoever into any of the drains or watercourses within the drainage area so as to impede the proper flow of water along the drain or watercourse;
- (D) Injure the said banks or property by breaking digging ploughing or reducing the same or otherwise;

(E) By any other act or omission endanger the security or utility of the said banks drains watercourses or property or diminish the waterway in such drains or watercourses or impede the drainage thereof or the passing of water along the same;

A.D. 1912.

and shall not remove any such building hedge stile gate fence or other erection tree ballast sand stone chalk rubbish filth gravel ashes or other gross substance as aforesaid or make good any such injury as aforesaid or abate or remedy any such act or omission as aforesaid for the space of twenty-one days next after notice in writing so to do shall have been given to him or left at his usual place of abode every such person shall be liable to a penalty not exceeding five pounds and the Commissioner may (without prejudice to any proceedings or other remedy available to him under the other provisions of this Act) execute all such works and do all such acts and things as he may deem necessary or expedient in the circumstances of the case and recover from such person the charges and expenses incurred by him in so doing.

52. From and after the commencement of this Act the Commissioner shall cleanse repair and maintain the drains specified in the Third Schedule to this Act and shown upon the plan marked "A" signed in triplicate by the Right Honourable the Earl of Donoughmore the Chairman of the Committee of the House of Lords to whom the Bill for this Act was referred one copy of which plan has been deposited in the Parliament Office of the House of Lords one copy in the Private Bill Office of the House of Commons and one copy is intended to be deposited within one month after the commencement of this Act at the office of the clerk to the Commissioner and all other drains hereafter vested in the Commissioner under the provisions of this Act and such other drains sewers and ditches as the Commissioner may decide shall be cleansed repaired and maintained by him and the Commissioner shall from time to time mark and specify on the plan accompanying the determination so far as is practicable all drains sewers and ditches to be cleansed repaired and maintained by him.

Commissioner to keep in repair all drains vested in him.

53. When it shall be found necessary for carrying this Act into execution to fill up any ditch which at the time being is used as a fence the Commissioner shall order and direct posts and rails or other sufficient fences to be made in place of such ditch so filled up in such manner that the owners or occupiers

Fences to be made by Commissioner where ditches filled up.

A.D. 1912. of the adjacent grounds may not suffer any damage by the filling up of such ditch.

Bridges to be made over drains where passage to land obstructed.

54. If by the making of any drain ditch or other work in pursuance of this Act the passage of any person to or from his lands with cattle or carriages will be obstructed the Commissioner before or immediately after such work shall be completed shall cause all necessary bridges or other works to be made for the convenient passage of the occupiers of such lands to and from the same with their cattle and carriages and shall defray the expense of making such bridges or other works out of the rate.

Indemnity to owners from injury by breach in banks or from inundation.

55. If at any time any breach by inundation or otherwise shall happen in any bank existing at the commencement of this Act or in any bank which may thereafter be made under the powers of this Act for preserving the lands within the drainage area from inundation and the Commissioner or committeemen shall not immediately cause the same to be repaired the owner of land thereto adjoining or liable to be damaged thereby forthwith may stop and repair such breach and the charges and expenses of so doing shall be paid by the Commissioner to the owner out of the rate and in case the same shall not be paid such charges and expenses may be recovered by the owner in manner provided by this Act.

Provision of future new works.

56.—(1) If after the commencement of this Act any new works shall be thought necessary by the Commissioner or by any committeeman or by any three or more of the owners of any lands within the drainage area for completing improving or preserving the embankment and drainage of the lands within the drainage area the Commissioner or such committeeman or such owners or their respective agents shall give notice thereof in writing to the clerk to the Commissioner whereupon a meeting of the owners of the lands within the drainage area shall be called by the clerk within fourteen days and be held within twenty-four days from the receipt by him of such notice and at such meeting or at any adjournment thereof the expediency of executing the proposed or any other new works shall be considered and determined.

(2) If the majority in value of the owners present or represented at such meeting or at any adjournment thereof shall think fit to authorise the Commissioner to execute such new works then the Commissioner shall execute the same accordingly.

(3) If the majority in value of the owners present or represented at such meeting or at any adjournment thereof shall not think fit to authorise the Commissioner without further inquiry to execute such new works or any other new works but shall be of opinion that the proposed new works or any other new works are necessary or will be of advantage to the said lands and grounds then such owners shall forthwith proceed by the votes of the majority in value of such owners present or represented at such meeting to appoint and shall appoint some competent engineer or other person who shall within four months next after such appointment report to the Commissioner as to whether the proposed new works or any other new works are expedient and necessary and proper to be carried into execution having regard to the state situation and circumstances of the general drainage of the lands within the drainage area and also as to whether all or any and what particular part of the lands within the drainage area will receive benefit or advantage therefrom and in what proportion all or any and which of the owners of such lands shall and ought to contribute to the expense thereof.

(4) In case such engineer or other person as aforesaid shall report to the Commissioner that such proposed new works or any part thereof or any other new works are necessary and proper to be carried into execution then a meeting shall be held by the Commissioner of the owners of the lands described in the report as lands that will receive benefit or advantage from the execution of the new works recommended by the report and at such meeting the majority in value of such owners present or represented at such meeting shall determine whether the new works recommended in the report wholly or in part or with such alterations as may be determined at such meeting shall be carried into execution and shall fix the amount to be expended in executing and carrying out the same and in case it shall be determined to carry the same into execution then the Commissioner shall execute the new works so determined on.

57. If any person shall within the drainage area--

- (A) Cut or dig any turves or sods or make any trenches or hollow places near any banks which are already made or shall be made by the Commissioner so as to endanger the security or stability of such banks or cause any injury thereto;

Certain offences in relation to banks.

A.D. 1912.

- (B) Make any dyke ditch or grip near any such banks as aforesaid so as to endanger the stability or security thereof or cause any injury thereto ;
- (c) Make construct or excavate any watering place or place of access for cattle to drink in any drain belonging to or used by the Commissioner ; or
- (D) Fodder any cattle or stock upon or wilfully or negligently suffer cattle stock or swine to stray or feed upon or to root up the soil of or otherwise damage the bank of any drain so as to cause injury to or the choking up or obstruction of any drain belonging to or used by the Commissioner ;

such person shall be liable to a fine not exceeding five pounds and if any act contravening the provisions of this section results in injury to or the choking up or obstruction of any drain belonging to or used by the Commissioner the Commissioner may require the owner or occupier of the land on which such act is committed to repair or remove the injury choking up or obstruction and if such requisition is not complied with the Commissioner may himself execute the works necessary for complying with the same and the expenses attending such works shall be reimbursed to the Commissioner by the owner or occupier in default.

Penalty on persons abstracting or obstructing water in drains.

58. Every person who commits any of the following offences (that is to say) :—

- (1) Every person who sets or places any fishing net eel trap eel leap or other device or thing in any drain dyke ditch cut stream or watercourse maintained by the Commissioner so as to impede the flow of water in such drain dyke ditch cut stream or watercourse ;
- (2) Every person who without the previous consent in writing of the Commissioner shall let any water from without the drainage area into any of the drains within the drainage area ;
- (3) Every person who shall discharge within or without the drainage area any sewage or filthy water into any of the drains within the drainage area ;

shall be liable to a penalty not exceeding five pounds for every such offence.

59. The owners of lands on the north side of the Mother Drain lying between Haxey Gate and Misterton Soss within the parish of Misterton aforesaid and their tenants servants and labourers may at all times hereafter with the consent of the Commissioner pass and repass over and upon the barrier bank between Haxey Gate and Misterton Soss aforesaid either with or without horses beasts or vehicles or on foot to and from their said lands.

A.D. 1912.
Right of way from Haxey Gate and Misterton Soss.

60. Nothing in this Act contained shall extend or be construed to extend to empower the Commissioner or the committeemen or any of them to remove take away or stop up the existing sluices at or near a place called Toft Hill in the parish of Everton but the same shall there remain and continue and be from time to time kept in a proper state and used at all reasonable times to answer all the purposes of inlets for taking in as heretofore water out of the River Idle and staunches shall be erected and maintained in the cuts drains sewers or ditches or in such of them as may be necessary to retain sufficient water within the drainage area for the watering of cattle in dry seasons or for other conveniences subject to the control regulations and directions of the Commissioner or subject to the provisions of this Act in his absence of the committeemen or a majority of such committeemen.

Sluices at Toft Hill not to be removed.

61. Nothing in this Act contained shall extend or be construed to extend nor shall any of the powers hereby given to the Commissioner be exercised or made use of by him so as in any respect to impede obstruct prejudice injure or damage any of the present embankments drains or works of drainage belonging to or made for the use of the participants of the level of Hatfield Chase in the counties of York Lincoln and Nottingham on the north side of the Rivers Idle and Bycarsdike or any of them and nothing in this Act contained shall extend or be construed to extend nor shall any of the powers hereby given to the Commissioner be exercised or made use of by him so as in any respect to impede obstruct prejudice injure or damage the present navigation of the said Rivers Idle and Bycarsdike or either of them nor in any respect to injure or damage the proprietors for the time being of the said navigation :

Commissioner not to injure Hatfield Chase drainage or navigation of Idle or Bycarsdike.

And in order to preserve the water of sufficient height at all times hereafter for the purposes of navigation the Commis-

A.D. 1912.

sioner shall maintain and support the triple sluice at Misterton Soss and the draw doors or pointing doors to landward to the height of not less than four feet six inches at the north-west or upper end of Misterton Soss and likewise at the north-west or upper end of all and every additional sluices which may hereafter be made near to the said Soss and shall have the control over and management of the same and for that purpose he is hereby authorised and empowered to make such order or orders regulation or regulations respecting the said draw doors as he shall think proper and shall cause such order or orders regulation or regulations to be printed on some place or board near to the said triple sluice and within sight from the said draw doors and if any person or persons shall act contrary to such order or orders regulation or regulations or any of them he or they shall for each offence be liable to a penalty of forty shillings.

Regulating height of bank on south side of Idle and Bycarsdike.

62. Nothing in this Act contained shall extend or be construed to extend to authorise or empower the Commissioner or any person employed by him to make or cause to be made any bank on the south side of the Rivers Idle and Bycarsdike at a less distance from the present bank erected by or belonging to the said participants of the level of Hatfield Chase on the north side of the said rivers than the present barrier bank and main drain of the said embankment and drainage under this Act extending from Misterton Soss to Scaftworth Hollings and the top of every such bank already made or as shall at any time hereafter be made on the south side of the said Rivers Idle and Bycarsdike between the said Soss and a place called Cornley Nook (save and except the bank between the said Soss and Misterton present outfall sluice belonging to the said participants) shall be made and for ever kept at the least twelve inches lower than the top of a coping stone formerly at the north end of the upper wing wall of the east side of the said Soss the height of such stone to be considered the same as was entered and recorded in the book of records of the late commissioners of sewers for the said level of Hatfield Chase and parts adjacent and now distinguished by a mark (thus ⊖) cut in the stone above the centre arch at the upper or west end of the triple sluice.

For protection of Great Northern.

63. For the protection of the Great Northern and Great Eastern Joint Committee (in this section called "the joint

committee") the following provisions shall apply and have effect:—

A.D. 1912.

and Great
Eastern
Joint Com-
mittee.

(1) Neither the Commissioner nor the committeemen shall enter upon or execute any new works over on under or affecting any railway works or property of the joint committee except with the consent of the joint committee and upon terms and conditions to be previously approved by them:

(2) Any existing works over on under or affecting any railway works or property of the joint committee which may be vested in the Commissioner by virtue of this Act shall be maintained by and at the expense of the Commissioner to the reasonable satisfaction of the joint committee and in the event of the Commissioner failing to so maintain such works the joint committee may maintain the same and the Commissioner shall repay the joint committee on demand all costs reasonably incurred by the joint committee in such maintenance. Any difference arising between the Commissioner and the joint committee under this subsection shall be determined by an engineer to be appointed unless otherwise agreed by the President of the Institution of Civil Engineers on the application of either party after notice to the other:

(3) The joint committee shall not be assessed or charged in respect of their lands in any parish to any rate which may be levied assessed or charged under the powers or for the purposes of this Act to an amount per acre exceeding the average amount per acre to which the owners of agricultural lands in the same parish shall be assessed or charged:

(4) Save as aforesaid nothing in this Act or the Act of 1860 shall apply to the joint committee or their railway works or property or affect the exercise by the joint committee of their statutory powers.

64. Nothing contained in this Act shall apply to the Great Northern Railway Company or their property or affect the exercise of their statutory powers.

Saving for
Great
Northern
Railway
Company.

65. For the protection of the county council of the administrative county of Nottingham and other road authorities (in this section called "the road authorities") the following

For protec-
tion of road
authorities.

A.D. 1912. provisions shall unless otherwise agreed in writing between the road authorities and the Commissioner apply and have effect (that is to say) :—

Notwithstanding anything contained in this Act the Commissioner and persons authorised by him shall not in the exercise of the powers of Parts IV. and V. of this Act execute any works or do any act or thing in upon over or so as to affect any road bridge or other property for the time being vested in the road authorities or one of them without the consent in writing of such road authority first being obtained Provided always that nothing in this section contained shall prevent the Commissioner from executing any works or doing any act or thing for the purpose of maintaining any works at present existing without first obtaining the consent of the road authorities.

PART V.

WARPING.

Power for Commissioner to warp.

66. The Commissioner may with consent of the owners at a meeting of owners specially convened for the purpose of obtaining such consent from time to time warp all or any part of the lands within the drainage area.

Definition of low lands.

67. In this Part of this Act the expression "low lands" means the lands which the Commissioner may warp by virtue of the powers in that behalf conferred upon him by this Part of this Act.

Commissioner may enter on low lands for purpose of warping.

68. Subject to the provisions of this Part of this Act the Commissioner may without being liable to make any compensation enter on and hold the low lands for the purpose of draining warping and improving the same and for the same purpose the Commissioner may apart from any restrictions contained in any other Part of this Act with the consent of the owners at a meeting of the owners specially convened for the purpose of obtaining their consent and with the consent of the owner of any of the low lands and any other lands near or adjoining to the low lands and suitable for advancing the improvement of the low lands purchase and hold such low lands and other lands or any part thereof.

Notice of intention to enter on low lands.

69. Before the Commissioner shall enter on any of the low lands for the purpose of warping the same he shall give at least nine months' notice in writing of his intention so to enter

to the owners and occupiers of such lands by delivering such notice personally to or by leaving the same at the last known place of abode of such owner and occupier and at the expiration of the said notice the Commissioner may without being liable to make any compensation enter upon such of the low lands as are mentioned in such notice and hold the same and construct thereon banks sluices gates drains and goits and do all things necessary for the warping and draining thereof Provided always that except as to the sites of the main warping inlets which must be occupied by the Commissioner so long as such inlets shall be used for warping more distant lands the Commissioner shall not keep possession of any particular lands for the purpose of warping the same for a longer period than shall be necessary to construct embankments and overflow the same with tidal waters and under no circumstances for more than five years after his first entry thereon but at the completion of the regular course of such warping or in the case of unforeseen impediments at the expiration of the said period of five years at the utmost and upon the conditions set out in this Part of this Act the said lands shall be restored to the owner thereof.

70. Subject to the provisions and for the purposes of this Part of this Act the Commissioner may set out and make in the low lands or any of them such temporary inlets codge banks bridges and other temporary warping works and also all such permanent drains ditches watercourses tunnels banks and bridges of such size extent and form and in such situation as he shall deem necessary and enlarge and cleanse or alter the course of and improve any of the present drains ditches streams or watercourses banks and bridges in through over and adjoining the low lands or any of them and in through over and adjoining or by the side of any of the public roads or ways Provided that in respect of land subject to any rights of common the Commissioner shall exercise all or any of the powers of this section subject to the consent of and to such conditions as may be imposed by the Board of Agriculture and Fisheries.

Commis-
sioner may
construct
drains and
other works
for purpose
of warping.

71. Subject to the provisions of and for the purposes of this Part of this Act the Commissioner may stop up alter or divert any of the roads or highways or any drains sewers watercourses or ditches which may be in under through or over the low lands or any of them and instead thereof in such case the Commissioner shall set out other roads and highways as

Commis-
sioner may
stop up and
alter roads.

A.D. 1912. convenient to the public and the owners of the low lands
 Provided that if any road or highway so proposed to be
 stopped up or diverted shall be a public highway the same
 shall not be stopped up or diverted except with the consent and
 under the order in writing of two justices of the peace for the
 county of Nottingham made after notice of the intention to stop
 up or divert the same shall for four successive weeks have been
 affixed at each end of such public highway and on the church
 doors of the parish in which such highway may be situate
 Provided also that any person aggrieved by any order of justices
 authorising the stopping up or diverting of any such highway
 may appeal to the justices of the peace in quarter sessions
 assembled in manner provided by the Highway Act 1835
 Provided also that the Commissioner shall make full compen-
 sation to all parties interested in respect of any private rights
 of way stopped up or diverted under the powers of this Act
 and such compensation shall be settled in manner provided by
 the Lands Clauses Acts with reference to the taking of lands
 otherwise than by agreement Provided further that in any case
 where any public highway so stopped up or diverted can
 conveniently be restored after the completion of such warping
 any two such justices may if they think fit order the same to
 be restored and the same shall thereupon be restored with all
 convenient despatch by the Commissioner.

Duration of
 Commis-
 sioner's
 power to
 warp.

72. Subject to the provisions of the section of this Act of
 which the marginal note is "Notice of intention to enter on
 low lands" the powers of the Commissioner for the warping of
 the low lands shall continue for fifty years and the Commissioner
 shall warp all such lands so as to cause as little expense and
 delay as may be to the Commissioner and to the owners of such
 lands Provided always that the Commissioner may at the
 request of the owners of four-fifths in extent of the low lands
 instead of completely warping each portion thereof on which
 he shall have entered warp by half the usual thickness of deposit
 in the first instance the whole of the low lands and subsequently
 recommence and complete the warping through the full usual
 thickness of deposit or adopt any other plan which may be
 agreed on between the Commissioner and the owners of the
 whole or of four-fifths in extent of the low lands but in the
 event of the Commissioner in the first instance only warping
 the low lands to half or any other proportion of the usual
 thickness of deposit he shall complete the warping of such lands

in their respective order and rotation to the said usual thickness of deposit. A.D. 1912.

73. If any difference shall arise between the Commissioner and the owners of any of the low lands concerning the order in which their lands are to be warped the said owners or any of them by notice in writing may require the Commissioner to refer the difference to arbitration so far as may be in manner prescribed by the Lands Clauses Consolidation Act 1845 and for the purposes of such reference such owners shall be deemed one party and the Commissioner shall be deemed the other party and the arbitrators shall within fourteen days after their appointment give notice by advertisement of the time of the meeting of such arbitrators and every person interested in the matter in dispute may attend before the said arbitrators or the umpire concerning his interest in the matter in dispute Provided always that if the said arbitrators shall not at their first meeting nominate an umpire such umpire shall be nominated by the President of the Institution of Civil Engineers and the costs of and incident to any such arbitration shall be paid as the award of the said arbitrators or umpire may direct.

Differences
as to order of
warping.

74. When the Commissioner shall in pursuance of the provisions of this Act enter on any of the low lands for the purpose of warping the same the owner of such land shall pay to the Commissioner the sum of ten pounds ten shillings for every acre of land so entered upon and a proportionate sum for every quantity less than one acre and when the said warping is completed such owner shall before possession of the land so warped is delivered up to him and after the expiration of six months' notice to him that the possession of the said land will be delivered up to him pay to the Commissioner a further sum of ten pounds ten shillings an acre with such proportionately smaller sum in addition as aforesaid Provided always that in calculating the second payment of ten pounds ten shillings there shall not be taken into account the space occupied by any external embankment made by the Commissioner which may be upon such land at the time that the same is delivered up as aforesaid but the land occupied by such external embankment shall be exempt from the said second payment Provided also that in case a greater proportion of embankments drains or inlets shall be placed upon the lands of the owner of any of the low lands than shall be placed upon the lands of the other

Price to be
paid to Com-
missioner for
warping.

A.D. 1912.

owners included in the same warping or in case the low lands or any part thereof shall be warped by two separate floodings as aforesaid so as to render the continuance of the external embankments drains or inlets necessary or in case such warping shall be completed in one flooding and the owners of any plot of land so embanked or of three-fourths in value of the lands forming such plot shall desire the external embankments drains or inlets to be preserved and of such desire shall give notice in writing under their hands to the Commissioner the Commissioner shall thereupon as between the owners of the whole of such plot and the owners of the particular portions thereof upon which such external embankments drains or inlets shall stand estimate the value of the land occupied by such external embankments drains and inlets and apportion the same upon the remaining lands of such plot by an equal acre rate and such acre rate shall be paid by such owners to the Commissioner in addition to the other payments in this section provided and shall by the Commissioner be paid by the owners of the lands forming the site of such external embankments drains or inlets and the several powers in this Part of this Act contained for the recovery and for charging by way of mortgage of the said sums of ten pounds ten shillings per acre shall extend to the last mentioned acre rate.

Difference as to adequacy of warping.

75. If any difference shall arise between the Commissioner and the owner of any of the low lands as to the adequacy of the warping of his lands and the consequent right of the Commissioner to receive the said second payment of ten pounds ten shillings an acre such difference shall be determined by arbitration as far as may be in manner prescribed by the Lands Clauses Consolidation Act 1845 and the arbitrators or umpire in making the award and in determining the adequacy of the warping shall have regard to the usual method of warping in the neighbouring districts and to the condition of the lands so warped. Provided, that until the award shall be made the Commissioner shall hold the land in question and enjoy the profits thereof (if any) giving credit for the same to the owner thereof and the owner thereof shall not be required to make the said second payment of ten pounds ten shillings an acre. Provided also that the owner shall give notice in writing to the Commissioner of his dissatisfaction with the warping of his land and also of his intention to withhold the said second payment at least three months before [the expiration of the

notice by the Commissioner of intention to deliver up such lands to such owner. A.D. 1912.

76. The Commissioner may while warping any of the low lands agree with the owner of or any person interested in any lands near or adjacent to such low lands for the use by the Commissioner or such owners of any drains or works at the time belonging to or thereafter to be made by such owners or the Commissioner as the case may be or for the making repairing and maintaining by the Commissioner or such owners of any banks catch-water drains or other works of drainage or embankment which the Commissioner or such owners may think necessary or expedient for draining embanking or preserving the low lands or the lands of such owners or for warping of the low lands.

Commis-
sioner may
agree to
drain lands
to be warped.

77. All low lands warped shall remain liable for and be a security to the Commissioner for the sums chargeable by the Commissioner in respect of such warping and the Commissioner may hold and keep possession and let and demise the same and receive the rents thereof until such sums shall be fully paid and discharged together with interest upon such part of the said sums as shall for the time being remain unpaid after the rate of five pounds per centum per annum such interest to commence with respect to each particular part of such lands as regards the first payment on the day when the Commissioner shall have entered thereon and as regards the second payment at such time as that one twelvemonth's interest shall be due upon such sum on the first day of September of the year in which the first crop shall be grown on the improved land and upon payment of the sums so due with interest as aforesaid the Commissioner shall deliver up such lands to the owner thereof and assign to the said owner any lease affecting the same Provided that no lease shall be granted of such lands for any longer period than seven years and that the same shall be let at the full improved value Provided also that the said low lands warped shall alone be liable to the payment of the said sums with interest as aforesaid due in respect thereof and that the owners or occupiers thereof respectively shall not be personally or in respect of any other property liable to such payments Provided also that the Commissioner shall (on request in writing made to the clerk to the Commissioner by the party or parties requiring the same) render in writing at least once in each year a full and true account of all rents

Commis-
sioner may
hold lands
warped till
charges for
warping are
paid.

A.D. 1912. received by him and of all sums for warping and interest due to him and of all other matters in respect of all low lands belonging to the party or parties requiring such account of which the Commissioner shall keep possession under the powers of this section.

Commis-
sioner may
raise money
on security of
warped
lands.

78. In every case in which any sum owing to the Commissioner for warping any of the low lands shall not be paid but remain a charge on the same the Commissioner may after giving six months' notice in writing to the owners of such lands to pay the sum so owing as aforesaid issue a mortgage for the amount of the sum so unpaid at any rate of interest not exceeding five per centum per annum specifying the lands upon which such sums are chargeable and such mortgage duly stamped shall entitle the holder thereof to exercise the powers conferred upon the Commissioner by the section of this Act of which the marginal note is "Commissioner may hold lands warped till charges for warping are paid" for taking possession of and demising such lands and receiving the rents thereof until the sums so charged shall be fully paid. Provided that every such mortgage shall be authenticated by the signature of the owner or person for the time being entitled to the rents of such lands or in case of his refusal or absence by some justice of the peace for the county of Nottingham which signature such justice is authorised to give after summons to such owner or person served on the last known occupier of such lands and such owner person or occupier failing to show due cause against the same but the validity of such mortgages shall after the signature of such justice not be affected by any error or neglect in such summons or service as aforesaid.

Owners of
low lands
empowered
to raise
money
thereon.

79. Every owner and every trustee of any of the low lands to be warped whether ecclesiastical or lay or tenant for life or in tail and also the guardian or committee of any owner of such lands who may be an infant or lunatic and the attorneys of any such owner who may be beyond the seas by writing under their hands and seals from time to time may charge the said lands so to be warped with such sum or sums of money as will fully defray their respective shares and proportions of the charges and expenses incident to and attending such improvement and for securing the repayment of such sum or sums of money with interest may by indenture or other deed under his her or their hand and seal or hands and seals and attested by two or more credible witnesses grant convey mortgage lease or

A.D. 1912.

demise such lands as aforesaid either in fee simple or for any term or number of years or otherwise unto or in trust for such person or persons as shall advance and lend such money so that every such grant conveyance mortgage demise or security shall be made with a proviso or condition to cease and be void or with an express trust to be assigned surrendered or reconveyed when such sum or sums of money thereby to be secured with the interest thereof shall be fully paid and satisfied and shall also contain a covenant to pay and keep down the interest of the thereby secured money during the life of the mortgagor in possession and also a covenant for the repayment within the space of twenty-five years of the principal sum secured by the said deed by instalments to be fixed in the said deed and that no person afterwards becoming possessed of any such lands or grounds shall be liable to any further or larger arrear of interest than for one year preceding the time that the title to such possession shall have commenced and that every grant conveyance mortgage lease or demise so to be made shall be good valid and effectual in law for the purposes thereby intended notwithstanding the want of legal title in the said tenants for life or in tail or other person or persons as aforesaid any law usage settlement will trust use remainder or limitation to the contrary notwithstanding.

80. All low lands purchased by the Commissioner for the purpose of warping shall be resold by him within five years after the same shall have been completely warped and all other land and hereditaments vested in the Commissioner by the authority of this Part of this Act shall be sold by him within fifty-five years after the commencement of this Act unless by reason of some defect of title alleged on the part of the purchaser or by reason of any rescinding or abandonment of any contract for the sale thereof or by reason of any breach of contract or any action or other legal proceeding relating thereto or on any other account the completion of such sale shall be unavoidably impeded in which case such sale shall take place within twelve calendar months next after such impediment shall be removed.

Sale by
Commis-
sioner of
lands
warped.

81. No purchaser from the Commissioner after the expiration of the said space of five years or fifty-five years respectively shall be bound to inquire into the occasion of the delay incurred in making any such sale or shall be liable to have his title to the hereditaments so purchased impeached defeated or anywise

Purchasers
not bound to
inquire into
delays in
sales or liable
to have their
titles affected
thereby.

A.D. 1912. affected by any such delay for whatever cause any more than if such sale had been made to him and completed within such space of five years or of fifty-five years respectively.

Power for
Commis-
sioner to sell
lands.

82. The Commissioner may with consent of the owners at a meeting of owners specially convened for the purpose of obtaining such consent at such times and in such portions and in such manner as to such owners shall appear expedient (but within the period aforesaid) and either by public auction or private contract sell and absolutely dispose of all lands to be vested in the Commissioner under the authority of this Part of this Act and by deed in such form *mutatis mutandis* as in the said Lands Clauses Consolidation Act 1845 directed or prescribed with regard to the conveyance of superfluous lands or in such other form as the Commissioner shall order or direct convey and assure the said lands or such part or parts thereof as shall from time to time be sold unto the purchaser thereof and his heirs or as he shall direct and the receipts of the Commissioner for the purchase moneys or for any part thereof shall be a sufficient release and discharge to the purchaser for so much money as in such receipt shall be acknowledged to be received and until such sale shall be made as aforesaid the Commissioner from time to time may at his own discretion let set and demise the same lands for any term which the Commissioner may have therein unto such persons and for such yearly and other rents and subject to such provisions and restrictions and in such manner as to the Commissioner shall seem fit.

Penalty on
persons ob-
structing
works.

83. If any person shall throw or wilfully place any rubbish or other material so as to obstruct the free passage of the watercourses roads ways and other works constructed under the authority of this Part of this Act or shall wilfully obstruct or prevent any person in the lawful execution of this Part of this Act he shall be liable on conviction to a penalty not exceeding five pounds for every such offence in addition to the amount of any actual damage which may be thereby sustained by the Commissioner.

PART VI.

FINANCIAL.

Commis-
sioner to
make a new
determina-
tion.

84. The Commissioner shall at the first meeting to be held on the third Monday after the commencement of this Act or as soon thereafter as conveniently may be examine and take into consideration the determination made under the Act of

1860 and any change of ownership of any lands thereby assessed and charged and shall make and sign in duplicate a new draft determination in writing in such form and with such modifications of the determination made under the Act of 1860 as he shall think fit containing the names of the present owners of the lands assessed and charged under the determination made under the Act of 1860 and such new draft determination shall also by numbers refer to a plan signed in duplicate by the Commissioner and shall state the amount of the rate to which the owners of such lands shall be assessed and charged under this Act. A.D. 1912.

85. One copy of the draft determination of the Commissioner signed by him in duplicate with one copy of the plan signed by him in duplicate shall when made be deposited at the White Hart Inn or in some other convenient place in Gringley-on-the-Hill and when the same shall have been so deposited notice thereof shall be given by advertisement and by notice in writing to each of the owners that the draft determination and plan have been so deposited for the inspection of the owners of the lands mentioned therein and that the Commissioner will attend at the place of deposit at a time to be named in such notice not less than ten and not exceeding twenty-one days from the date of such notice to hear and determine objections (if any) thereto and if on the day of hearing such objections there shall be any matter in the said draft determination and plan which in the judgment of the Commissioner shall require alteration the said Commissioner shall make such alteration accordingly and the draft determination and plan when so altered shall be the determination within the meaning and for the purposes of this Act. Appeal
against Com-
missioner's
determina-
tion.

86. The draft determination of the Commissioner shall after the day of the hearing of objections thereto as amended by the Commissioner be engrossed on parchment in duplicate and shall be signed by the Commissioner in duplicate and the plan to which the same refers shall be signed by the Commissioner in duplicate and one such determination and one such plan shall be deposited with the clerk of the peace for the county of Nottingham and shall be filed with the records of the said county and when so deposited shall be binding on all the owners named therein and the other determination and plan signed in duplicate by the Commissioner shall be deposited with and kept by the clerk to the Commissioner with the proceedings Commis-
sioner's de-
termination
to be filed.

A.D. 1912. relating to the said embankment and drainage and shall be binding on all the owners named therein and all persons shall have liberty to inspect the determination and the plan or either of them and to take copies thereof upon paying to the clerk of the peace for the said county or the clerk to the Commissioner as the case may be for every inspection the sum of two shillings and sixpence and for every certified copy not exceeding seventy-two words the sum of sixpence and so in proportion for any greater number of words and the said determination or a copy thereof or any extract therefrom duly certified by the clerk of the peace for the said county or by the clerk to the Commissioner as the case may be to be a true copy shall be admitted as evidence in all courts of law whatsoever and by all judges justices and others and a copy of so much of the said determination and plan as relates to lands in the townships of Everton and Scaftworth signed by the Commissioner with a print of this Act shall be deposited in the chest of the parish church of Everton aforesaid and a copy of so much of the said determination and plan as relates to lands within the respective townships of Gringley-on-the-Hill Misterton and Walkeringham shall be deposited with a print of this Act in each case in the chests of the respective parish churches of the said several townships.

New determination to be basis of rates.

87. The determination of the Commissioner and the plan to which the same refers when deposited as provided by the section of this Act of which the marginal note is "Commissioner's determination to be filed" shall thereupon take effect and be thereafter the basis of all rates levied by the Commissioner under the powers of this Act except the rate to be levied in respect of new works.

Determination of 1860 to be continued till new determination takes effect.

88. The determination made under the Act of 1860 shall continue in full force and effect until the determination provided to be made by the section of this Act of which the marginal note is "Commissioner's determination to be filed" has effect and shall thereafter cease to be operative.

Commissioner may levy rate.

89.—(1) The Commissioner shall in the month of April in every year assess and charge upon each owner of the lands specified in the determination in the proportions therein prescribed a rate of such amount as he may think necessary for carrying this Act into execution not exceeding in the whole the total amount set forth in the determination and shall fix the day

for payment of such rate and shall give notice by advertisement of such day for payment. A.D. 1912.

(2) After the completion of the determination, the Commissioner may forthwith in addition to the rate referred to in the immediately preceding subsection of this section assess and charge upon each owner of the lands specified in the determination in the proportions therein prescribed a rate of such amount as he may think necessary for paying—

(A) The whole or so much as he thinks fit of the costs charges and expenses of and incidental to the applying for obtaining and passing of this Act:

(B) The whole or so much as he thinks fit of the sums of money set out in the First Schedule to this Act.

(3) Where under the provisions of the section of this Act of which the marginal note is "Provision of future new works" the Commissioner executes any new works for the benefit or advantage of any particular owner or class of owners or any number of owners as distinguished from the general body of owners of lands within the drainage area the Commissioner shall without restriction by any limits contained in the determination and in the proportions specified in the report of the competent engineer or other person referred to in the said section assess and charge upon such particular owner or class of owners or number of owners aforesaid a rate of such amount as he may think necessary for payment of the expenses of the execution of such new works or the sums payable in respect of interest on or the repayment of all money borrowed for that purpose.

90. In case the rate authorised by the section of this Act of which the marginal note is "Commissioner may levy rate" shall in any year in the opinion of the Commissioner be insufficient for the purposes of this Act the Commissioner may in addition thereto with the consent of the committeemen or any three or more of them (such consent to be specified in writing under their hands) in that year further assess and charge upon the owners of the lands specified in the determination in the proportion set forth therein such additional rate as he may think necessary not exceeding one-half the total amount set forth in the determination and fix the day for payment thereof and if the rate and such additional rate shall in any year in the opinion of the Commissioner be insufficient for the

Rate if insufficient may be increased by consent.

A.D. 1912. purposes of this Act a meeting of owners shall be called and held in manner provided by the section of this Act of which the marginal note is "Meetings of owners" and the owners present or represented at such meeting or the majority in value of such owners may authorise the Commissioner to levy a further additional rate of such amount as the owners at such meeting shall fix and upon the authority of such meeting expressed in writing under the hand of the chairman the Commissioner may assess and charge such further additional rate upon the owners of the lands specified in the determination in the proportion set forth therein and fix the day for payment thereof.

Rate to be levied sufficient to meet obligations in respect of borrowed money.

91. The Commissioner without being subject to any of the limitations in the sections of this Act of which the marginal notes are respectively "Commissioner may levy rate" "Rate if insufficient may be increased by consent" shall assess and charge in every year upon the owners of the lands specified in the determination in the proportions therein specified a rate sufficient to meet all sums payable in that year in respect of interest on or the redemption or repayment of all money borrowed by the Commissioner and then outstanding.

Evidence of rate.

92. The production of the book purporting to contain any rate made under this Act (if such rate bear the signature of the Commissioner of which no proof other than the production of the book shall be necessary) shall without any other evidence be received as *prima facie* evidence of the making and validity of the rate mentioned therein.

Application of rate and revenue.

93.—(1) All money arising from the rate shall be applied as follows:—

Firstly In payment of the Commissioner's allowance the salaries of officers and other expenses attending the execution of this Act and in carrying on and effecting the embanking and draining of the lands within the drainage area and maintaining the same and the works either already done or to be done under this Act:

Secondly In payment of the interest on all borrowed money:

Thirdly In repayment of or in providing for the repayment of borrowed money:

Fourthly And the Commissioner shall carry any surplus revenue to the credit of the rate for the next ensuing year.

(2) All money arising from the rate authorised by this Act to be levied on any particular owner or class of owners or number of owners as distinguished from the general body of owners of lands within the drainage area in respect of the construction of new works under the section of this Act of which the marginal note is "Provision of future new works" shall be applied as follows:—

A.D. 1912.

Firstly In payment of the interest on money borrowed for that purpose:

Secondly In repayment of or providing for the repayment of such borrowed money:

Thirdly In payment of the cost of constructing such new works.

94. Except in the case of the sale or letting of lands under the provisions of the section of this Act of which the marginal note is "Powers for recovery of rate"—

Application of proceeds of sale of land.

(A) All capital moneys received by the Commissioner on any sale disposition or exchange of lands and all fines and premiums received by him on the grant or renewal of any lease shall be applied in or towards the repayment of any moneys borrowed by the Commissioner for purposes in connection with which he holds or held such lands and for the time being owing and if there shall be no such moneys owing such proceeds of sale disposition or exchange fines and premiums shall be applied by the Commissioner to such purposes as he may think fit (being in all cases purposes to which capital moneys are properly applicable) in connection with the performance of such of his powers and duties as relate to the purposes in connection with which he holds or held such lands:

(B) All rents annual payments or money received by the Commissioner on revenue account from or in respect of the sale or letting of lands shall be applied in or towards the payment of interest on moneys borrowed by the Commissioner for purposes in connection with which he holds or held such lands and for the time being owing and if there shall be no such moneys owing then in such manner and to such purposes as the Commissioner may think fit (being in all cases purposes to which such moneys received on revenue

A.D. 1912.

account are properly applicable) in connection with the performance of such of his powers and duties as relate to the purposes in connection with which he holds or held such lands.

Tenants to pay rate and deduct it from rent.

95. The Commissioner may recover from the tenant or occupier of any lands in the drainage area the rate assessed and charged on such lands to an amount not exceeding one year's accruing rent and such tenant or occupier may deduct the rate or the amount thereof so paid out of his rent then due or accruing due to the owner and every tenant or occupier who shall make such payment shall be discharged by the owner in respect of an amount of rent equal to the amount of such payment.

Powers for recovery of rate.

96. The rate may be enforced by the same remedies as if the same were a district rate levied under the powers of the Public Health Act 1875 and as if the Commissioner were a local authority within the meaning of that Act or at the option of the Commissioner by an action in any court of competent jurisdiction.

Trustees of Magnus and Clerkson estates to apply rents towards payment of rate.

97. The trustees for the time being of the estates of Thomas Magnus deceased and of Faith Clerkson deceased or either of them and any other trustees or persons acting in a fiduciary capacity in respect of any lands within the drainage area may apply any part of the rents and profits arising from such estates in or towards the payment of the rate.

Power to borrow.

98.—(1) The Commissioner may with the consent of the owners at a meeting of owners specially convened for the purpose of obtaining such consent borrow on mortgage of the rate and if he so think fit upon mortgage of any lands or other property of the Commissioner—

(A) For the payment of the several sums of money set out in the First Schedule to this Act such sum or sums as shall be required for that purpose :

(B) For the payment of the costs charges and expenses of and incidental to the preparing for obtaining and passing of this Act such sum or sums as shall be required for that purpose :

(C) For the payment of the costs charges and expenses of and incidental to the promotion of or opposition to Bills in Parliament Provisional Orders and other

parliamentary proceedings and of the arrangements and proceedings preparatory thereto such sum or sums of money as shall be required for that purpose :

- (D) For the payment of the cost of constructing from time to time all or any of the works constructed for the general benefit and advantage of all the owners of lands within the drainage area under the section of this Act of which the marginal note is "Provision of future new works" such sum or sums of money as shall be required for that purpose :
- (E) For the payment of the cost of acquiring any lands required for the purposes of the embanking or draining of the lands within the drainage area such sum or sums of money as shall be required for that purpose.

(2) The Commissioner may borrow on mortgage of the rate by this Act authorised to be levied upon any particular owner or class of owners or any number of owners as distinguished from the general body of owners within the drainage area in respect of the construction of new works under the section of this Act of which the marginal note is "Provision of future new works" for the benefit or advantage of any such particular owner or class of owners or number of owners as aforesaid all or any part of such sum or sums of money as shall be required for that purpose.

99. The Commissioner may reborrow for the purpose of paying off any moneys borrowed or reborrowed under this Act which have not been repaid and are intended to be forthwith repaid or in respect of any moneys which have been repaid by the temporary application of funds at the disposal of the Commissioner within twelve months before the reborrowing and which at the time of the repayment it was intended to reborrow Provided that the Commissioner shall not have power to reborrow in respect of any moneys repaid by instalments or annual payments or discharged by means of a sinking fund or out of moneys derived from the sale of land under the section of this Act of which the marginal note is "Application of proceeds of sale of land" or out of any capital moneys properly applicable to the purpose of such repayment other than moneys borrowed for that purpose Provided also that any principal moneys reborrowed shall be deemed to form the same loan as the money for the repayment of which the reborrowing has been made and shall be repaid

Power to reborrow.

A.D. 1912. on or before the expiration of the period within which the original loan would have been repayable.

Loans to be repaid within fifty years.

100. All moneys borrowed by the Commissioner under the authority of this Act shall be paid off within fifty years from the date or respective dates of borrowing the same. Provided that all moneys borrowed by the Commissioner for paying the costs charges and expenses of this Act shall be paid off within five years from the passing of this Act.

Mode of payment off of loans.

101. The Commissioner shall pay off all moneys borrowed by him under the powers of this Act by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund and the payment of the first instalment or of the first payment to the sinking fund shall be made within twelve months if by yearly repayments or within six months if by half-yearly repayments from the time of borrowing the sum in respect of which the payment is made.

Application of money borrowed.

102. All moneys borrowed by the Commissioner under the provisions of this Act shall be applied to the purpose for which the same are authorised to be borrowed and to no other purpose.

Form of mortgage.

103. Every mortgage of the rate authorised to be made under the provisions of this Act shall be by deed duly stamped in which the consideration shall be truly stated and every such deed shall be executed by the Commissioner and may be according to the form in the Second Schedule to this Act or to the like effect and the respective mortgagees shall be entitled one with another to their respective proportions of the rate comprised in such mortgages according to the respective sums in such mortgages mentioned to be advanced by such mortgagees and to be repaid the sums so advanced with interest without any preference one above another by reason of the priority of advancing such moneys or of the dates of any such mortgages.

Register of mortgages to be kept and to be open to inspection.

104. A register of mortgages shall be kept by the clerk to the Commissioner and within fourteen days after the date of any mortgage an entry of the number and date thereof and of the names of the parties thereto with their proper addresses shall be made in the register and every such register may be perused at all reasonable times by any person interested in any such mortgage without fee or reward.

105. Any person entitled to any such mortgage may transfer his right and interest therein to any other person and every such transfer shall be by deed duly stamped wherein the consideration shall be truly stated and every such transfer may be according to the form in the Second Schedule to this Act or to the like effect.

A.D. 1912.
Transfers of mortgages.

106. Within thirty days after the date of every such transfer if executed within the United Kingdom or otherwise within thirty days of the arrival thereof in the United Kingdom it shall be produced to the clerk to the Commissioner and thereupon such clerk shall cause an entry thereof to be made in the same manner as in the case of the original mortgage and for such entry the clerk may demand a sum not exceeding five shillings and after such entry every such transfer shall entitle the transferee his executors administrators or assigns to the full benefit of the original mortgage and the principal and interest thereby secured and such transferee may in like manner assign or transfer the same again toties quoties and it shall not be in the power of any person except the person to whom the same shall have been last transferred his executors administrators or assigns to make void release or discharge the mortgage or assignation so transferred or any money thereby secured.

Register of transfers to be kept.

107. Any mortgagee of the rate may enforce the payment of arrears of interest or of principal and interest by the appointment of a receiver provided that such payment is six months in arrear. The amount of arrears of principal due to such mortgagee or in the case of a joint application by two or more mortgagees to such mortgagees collectively to authorise the appointment of a receiver shall not be less than five hundred pounds in the whole.

Mortgagees may appoint receiver.

108. If at any time the Commissioner neglect or refuse to exercise all or any of the powers conferred upon him by this Act for levying the rate so as to provide for the payment of the principal moneys or interest due on any mortgage of the rate or any part thereof according to the terms of such mortgage the mortgagees of the rate or any of them their executors administrators and assigns respectively for the purpose of securing the payment of interest or the repayment of principal moneys due on any such mortgage (as the case may require) may exercise (so far as regards the rate included in their respective mortgages) the powers rights and remedies for assessing and

Mortgagees may levy rate if Commissioner neglects to do so.

A.D. 1912. charging the rate upon the lands within the drainage area and for collecting receiving and enforcing the rate so assessed and charged as are by this Act conferred on the Commissioner.

Protection of lenders from inquiry:

109. A person lending money to the Commissioner shall not be bound or entitled to see or inquire as to the observance by the Commissioner of any of the provisions of this Act or be bound to see to the application or be answerable for any loss mis-application or non-application of the money lent or of any part thereof.

Commissioner not bound to regard trusts.

110. The Commissioner shall not be bound to see to the execution of any trust whether express or implied or constructive to which any loan or security for loan given by him under the authority of this Act may be subject but the receipt of the person in whose name any loan or security for loan stands in the register of mortgages shall from time to time be a sufficient discharge to the Commissioner in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not the Commissioner has had express or implied notice of any such trust or of any charge or incumbrance upon or transfer of such loan or security or any part thereof or interest thereon not entered on his register and the Commissioner shall not be bound to see to the application of the money paid on any such receipt or be answerable or accountable for any loss mis-application or non-application of any such money.

PART VII.

JUDICIAL PROCEEDINGS.

Recovery of penalties &c.

111. All penalties forfeitures charges and expenses imposed or recoverable under this Act may (unless otherwise in this Act expressly provided) be recovered summarily before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts Provided that costs charges or expenses except such as are recoverable along with a penalty shall not be recovered as penalties but may be recovered summarily as civil debts.

Application of penalties &c.

112. All penalties and forfeitures which under the provisions of this Act shall become payable by any person on the prosecution of the Commissioner shall be awarded and paid over to the Commissioner and shall be by him applied for such of the purposes of this Act as he may think fit.

113. Proceedings for the recovery of any demand made under the authority of this Act whether provision is or is not made for the recovery in any specified court or manner may be taken in the county court having otherwise jurisdiction in the matter provided that the demand does not exceed the amount recoverable in that court in a personal action.

A.D. 1912.
Recovery of other demands.

114. Any person deeming himself aggrieved by any conviction or order by a court of summary jurisdiction under any provision of this Act may appeal to the next practicable court of quarter sessions under and according to the provisions of the Summary Jurisdiction Acts.

Appeal to quarter sessions.

PART VIII.

TRANSITORY PROVISIONS.

115. All debts of the Commissioner under the Act of 1860 shall be paid by the Commissioner out of the rate or so far as the Commissioner is authorised by this Act so to do out of money borrowed under this Act or out of the moneys by this Act transferred to and vested in him and all such debts shall be recoverable from him in like manner as from the Commissioner under the Act of 1860 if this Act had not been passed.

Debts of Commissioner under Act of 1860 to be paid.

116. No action suit prosecution or other proceeding whatsoever commenced under the Act of 1860 shall abate cease or be discontinued or prejudicially affected by this Act but the same shall continue and take effect both in favour of and against the party or parties affected thereby and in the same manner in all respects as the same would have continued and taken effect if this Act had not been passed and for the intents and purposes of this section the Commissioner appointed by this Act or his successor for the time being shall represent the Commissioner under the Act of 1860 and all persons who before the commencement of this Act shall have committed any offence or incurred any penalty or forfeiture under the provisions of the Act of 1860 may be sued and prosecuted for such offences by the party complaining or for the recovery of such penalties and forfeitures in such and the like manner as they might have been sued and prosecuted if this Act had not been passed.

Actions and prosecutions not to abate.

117. All contracts bonds assurances engagements acts and proceedings entered into made done or transacted by or with the Commissioner acting under the Act of 1860 previous to the commencement of this Act and all forfeitures penalties and

Subsisting contracts may be enforced.

A.D. 1912. other obligations thereby imposed, or incurred in relation to the exercise or execution by them of the several powers authorities and provisions of that Act shall upon and from the commencement of this Act be binding on and be enforced by and against and be incumbent on the Commissioner acting in execution of this Act and all persons interested therein as fully as they would have been binding or enforceable by and against and incumbent on the Commissioner under the Act of 1860 or on any other persons if this Act had not been passed and the several rates made previous to the commencement of this Act may be levied and recoverable by the Commissioner under this Act in the same way and with the same powers as they might have been levied and recovered by the Commissioner under the Act of 1860 in case this Act had not passed and when received shall be by him applied to the purposes of this Act.

Persons who have acted under Act of 1860 to account for moneys and deliver up books.

118. All persons who have acted under the Act of 1860 who shall on the commencement of this Act have in their custody power or possession any money collected by virtue of the Act of 1860 or any books deeds papers writings or effects relating to the embankment and drainage of the lands within the drainage area shall pay and deliver up the same to the Commissioner or to the person whom he shall appoint to receive the same and in every case of neglect or refusal the person so neglecting or refusing shall be liable to a penalty not exceeding fifty pounds and shall also be liable to any action the Commissioner may commence for the recovery of the money books deeds papers writings or effects so refused or neglected to be paid or delivered up as aforesaid.

Old books &c. to be evidence.

119. All determinations and orders made by the Commissioner under the Act of 1860 (or by the Commissioners under the Acts recited therein) and all registers and books of proceedings of the Commissioner under the Act of 1860 (or of the Commissioners under the Acts recited therein) kept according to the directions of such Acts and made evidence thereby or which might have been received as evidence at the time of the commencement of this Act shall be admitted in evidence in all courts and by all judges justices and others.

Officers under Act of 1860 to hold situations till removed.

120. The clerk receiver treasurer manager and all other officers (except the Commissioner) and servants appointed under the Act of 1860 shall hold their respective offices and employments together with their respective salaries gratuities and allowances for the same until subject to the provisions of the

section of this Act of which the marginal note is "Appointment and removal of clerk receiver and treasurer" they respectively shall be removed therefrom by the Commissioner authority being hereby given to him for that purpose and each such clerk receiver treasurer manager officer and servant shall while he continues in office have the same powers and be subject to the like liabilities pains and penalties and power of removal and to the like rules and regulations as if he had been appointed by virtue of this Act. A.D. 1912.

PART IX.

GENERAL.

121. In the exercise of the powers in relation to the execution of works given him under this Act the Commissioner shall cause as little detriment and do as little damage as may be and save as in this Act otherwise expressly provided shall make full compensation to all persons interested for all damage sustained by them in consequence of the exercise of such powers and the amount of such compensation in case of difference shall be decided in the manner provided in this Act for the recovery of damages. Compensation for damage.

122. Where and so long as the owner of any land within the drainage area is an infant a lunatic or idiot or is otherwise not sui juris the guardian or trustee or (in case of a lunatic or idiot) the committee of the estate of such owner or (where there is more than one guardian or trustee or committee of the estate of such owner) some one person nominated by such guardians trustees or committees (who may be one of such guardians trustees or committees) shall be deemed to be the owner of such land for the purposes of this Act. As to owners not sui juris.

123. Where the name of any owner or occupier of lands within the drainage area is not known to the Commissioner it shall be sufficient to designate such owner or occupier in all plans and documents of every kind as "the owner" or "the occupier" of such lands. Description of owner or occupier.

124. Notices orders summonses and any other documents required or authorised to be served under this Act by the Commissioner may be served by post or by delivering the same to or at the residence of the person to whom they are respectively addressed or where addressed to the owner or occupier of premises by delivering the same or a true copy Service of notices &c.

A.D. 1912. thereof to some person on the premises or if there is no person on the premises who can be so served by fixing the same on some conspicuous part of the premises.

Notices by advertisement.

125. All notices by this Act directed to be given by advertisement shall be given by or in the name of the clerk to the Commissioner or other person authorised to give the same by advertisement and shall be inserted in a newspaper usually circulated in the county of Nottingham and a copy of such notice shall be affixed to the church doors or notice boards there provided of Everton Gringley-on-the-Hill Misterton and Walkeringham and in some place in Scaftworth where public notices are usually posted.

Liability of other persons to scour out drains not to be affected.

126. Except as by this Act expressly provided nothing in this Act contained shall extend or be construed to extend to affect or alter the liability of or the obligation on any body or bodies politic or corporate or any commissioners or on any other persons to scour out the drains and watercourses within the drainage area or any of them or to repair or do any of the banks sluices or other works hereby directed or authorised to be repaired or done or to fix the same upon the Commissioner or upon the owners or occupiers of lands hereby directed to be rated assessed and charged or any of them but such liability shall remain as if this Act had not been passed.

Costs of Act.

127. The costs charges and expenses of and incidental to the applying for obtaining and passing of this Act shall be paid by the Commissioner and may be paid out of the rate or out of money to be borrowed for that purpose under the provisions of this Act or partly in the one manner and partly in the other as the Commissioner may think fit.

The SCHEDULES referred to in the foregoing Act. A.D. 1912.

THE FIRST SCHEDULE.

For payments to the following persons and in respect of the following matters:—

		£	s.	d.
Fred Clayphan of Owston Ferry in the county of Lincoln contractor under an agreement dated 8th July 1911 between the said Fred Clayphan and Henry Augustus Brundell of Doncaster in the county of York civil engineer the Commissioner acting under the Act of 1860 - - the sum of	2,020	0	0	
Ditto extra work not included in contract	400	0	0	
Marshall Sons & Co. Ltd. Gainsborough	147	3	6	
W. H. Massey engineer's fees - -	15	15	0	
H. A. Brundell Commissioner's fees - -	110	0	0	
R. Réad & Co. Ordnance maps - -	2	14	0	
The Butterley Co. Ltd. - - - -	152	4	5	
Compensation to owners - - - -	450	0	0	
H. Thredgold special work - - - -	25	0	0	
Sundry general expenditure - - - -	100	0	0	
	£3,422	16	11	

THE SECOND SCHEDULE.

FORM OF MORTGAGE.

By virtue of the Everton &c. Drainage Act 1912 I the Everton Drainage Commissioner appointed in pursuance of the said Act in consideration of the sum of _____ paid to the said Commissioner by A.B. of _____ for the purposes of the said Act do grant and assign unto the said A.B. his executors administrators and assigns such proportion of the rate levied under the said Act as the said sum of _____ doth or shall bear to the whole sum which is or shall be borrowed upon the credit of the said rate to hold to the said A.B. his executors administrators and assigns from this day until the said sum of _____ with interest at _____ per centum per annum for the same shall be fully paid and satisfied.

A.D. 1912. [In case of repayment by equal [half] yearly instalments of principal or of principal and interest combined *add*—

And it is hereby declared that the said principal sum of £ shall be paid by equal [half] yearly instalments of principal [that the said principal sum of £ with the interest thereon shall be paid by equal [half] yearly instalments of principal and interest combined] of £ each whereof the first shall be paid on the day of and a like instalment on every subsequent day of and day of until the said instalments shall have been paid And that every such payment shall be made at].

In witness whereof I have hereunto set my hand and seal this day of one thousand nine hundred and

FORM OF TRANSFER OF MORTGAGE.

I A.B. of in consideration of the sum of paid to me by C.D. of do hereby transfer to the said C.D. his executors administrators and assigns a certain mortgage number made by the Everton Drainage Commissioner to bearing date the day of for securing the sum of and interest [or if such transfer be by endorsement the within security] and all my right estate and interest in and to the money thereby secured and in and to the rate In witness whereof I have hereunto set my hand and seal this day of one thousand nine hundred and

THE THIRD SCHEDULE.

DRAINS TO BE CLEANSED REPAIRED AND MAINTAINED BY COMMISSIONER.

1. The Mother Drain commencing at the south-west corner next the Bawtry Road of a close of land Number 55 on the plan accompanying the Commissioner's determination made under the Act of 1860 and running in a northerly direction terminating at the north-west corner of a close Number 52 on the said plan and again commencing near the south-west corner of a close Number 95 on the said plan and running in an easterly direction nearly parallel with the Rivers Idle and Bycarsdike the whole length of the drainage area through Misterton Soss and discharging itself into the River Trent at West Stockwith.

2. Scaftworth Parish Drain commencing at the south-west corner of a close of land Number 50 on the said plan and running in a north-easterly direction until it joins the Mother Drain at the north-east corner of Number 107 on the said plan.

3. The Delve Drain commencing at the north-west corner of a close of land Number 222 on the said plan and running in an easterly direction parallel with the River Idle and discharging itself into the Mother Drain on the east side of a close Number 243 on the said plan.

4. Black Bank Drain commencing at the south-east corner of a close Number 351 on the said plan and running in a northerly direction terminating at the north-east corner of a close Number 258 on the said plan.

5. Everton Parish Drain running the whole length of the south sides of two closes Numbers 265 and 395 on the said plan.

6. Walker Drain commencing at the south-west corner of a close Number 165 on the said plan and running in an easterly direction until it joins the Black Bank Drain at the south-east corner of a close Number 272 on the said plan.

7. Roe Drain commencing at or near the south-west corner of a close Number 305 on the said plan and running in an easterly direction until it joins the Black Bank Drain at the south-east corner of a close Number 302 on the said plan.

8. Hurst Hill Drain commencing at the south-west corner of a close Number 328 on the said plan and running in an easterly direction until it joins the Black Bank Drain at the south-east corner of a close Number 308 on the said plan.

9. Magnus Drain commencing at the south-east corner of a close Number 377 on the said plan and running in a northerly direction until it joins the Mother Drain at the north-east corner of Number 403 on the said plan.

10. Lawns Drain commencing at the south-west corner of a close or plantation Number 484 on the said plan and running in an easterly direction until it joins the Carr Road West Drain at the south-east corner of a close Number 476 on the said plan.

11. Taylor Drain commencing at Magnus Bank at the south-west corner of a close Number 461 on the said plan and running in an eastwardly direction across the Gringley Carr Road until it joins the Misterton Middle Drain at the south-east corner of a close Number 528 on the said plan.

12. Portland Drain commencing at the Magnus Bank at the south-west corner of a close Number 436 on the said plan and running in an eastwardly direction across the Gringley Carr Road until it joins

A.D. 1912. the Gringley and Misterton Boundary Drain at the south-east corner of a close Number 585 on the said plan and again commencing at its junction with the Gringley and Misterton Boundary Drain at the south-west corner of Number 685 on the said plan and running in an eastwardly direction along the north side of Cattle Road and ending at its junction with Misterton Middle Drain at the south-east corner of Number 647 on the said plan.

13. Carr Road West Drain commencing on the east side of a close Number 491 on the said plan and running in a northerly direction along the west side of Gringley Carr Road until it joins the Mother Drain at the north-east corner of a close Number 419 on the said plan.

14. Carr Road East Drain commencing on the west side of a close Number 548 on the said plan and running in a northerly direction along the east side of Gringley Carr Road until it joins the Taylor Drain at the north-west corner of Number 554 on the said plan and again commencing at the north-west corner of a close Number 593 on the said plan and running in a northerly direction until it joins the Mother Drain on the north-west side of a close Number 601 on the said plan.

15. Wooden Beck Drain commencing at the south-west corner of a close Number 517 on the said plan and running along the west side of the said close until it joins the Cornley Drain at its junction with the Ings Drain at the north-west corner of the said close Number 517 on the said plan.

16. Ings Drain commencing on the east side of the Ings Road and running in an eastwardly direction along the south side of Cow Dale Lane until it joins the Cornley Drain at its junction with the Wooden Beck Drain.

17. Duke's Drain commencing at the north-west corner of a close Number 501 on the said plan and running in an eastwardly direction until it joins the Cornley Drain at the south-east corner of a close Number 717 on the said plan.

18. Gringley and Misterton Boundary Drain commencing at its junction with the Misterton Middle Drain at the north-east corner of Number 528 on the said plan and running in a westwardly direction along the south sides of Numbers 698 694 693 689 and 688 and then proceeding in a northwardly direction until it joins the Mother Drain at the north-east corner of Number 609 on the said plan.

19. Donovan Drain commencing at the north-west corner of Number 690 on the said plan and running in an easterly direction along the south side of Cattle Road and joining the Misterton Middle Drain at the north-east corner of Number 701 on the said plan.

20. Cross Drain commencing at the western extremity of the Cornley Road and running in a southwardly direction to the south-west corner

of Number 675 on the said plan and thence in an eastwardly direction and terminating at its junction with the Misterton Middle Drain at the south-east corner of Number 644 on the said plan.

A.D. 1912.

21. Misterton Middle Drain commencing at the south-east corner of Number 528 on the said plan and running in a northwardly direction until it joins the Mother Drain at the north-west corner of Number 848 on the said plan.

22. Cornley Drain commencing at the north-west corner of Number 517 on the said plan at its junction with the Ings Drain and the Wooden Beck Drain and running in a northwardly direction and joining the Mother Drain at the north-east corner of Number 857 on the said plan.

23. Carr Ings Drain commencing at its junction with the Misterton Middle Drain at the south-west corner of Number 706 and running in an eastwardly direction under the Cornley Road and through the tunnel (where it is known as the Tunnel Drain) and ending at its junction with the Mother Drain at the north end of Number 938 on the said plan.

24. Cattle Road Drain commencing at the south-west corner of Number 756 on the said plan and running across the Cattle Road in a northerly direction until it joins the Carr Ings Drain at the north-west corner of Number 762 on the said plan.

25. Honey Hole Drain commencing at the north-west corner of Number 836 on the said plan and joining the Carr Ings Drain at the south-west corner of Number 833 on the said plan.

26. Horse Close Drain commencing at the south-west corner of Number 778 on the said plan and running in a northerly direction and joining the Carr Ings Drain at the north-west corner of Number 777 on the said plan.

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