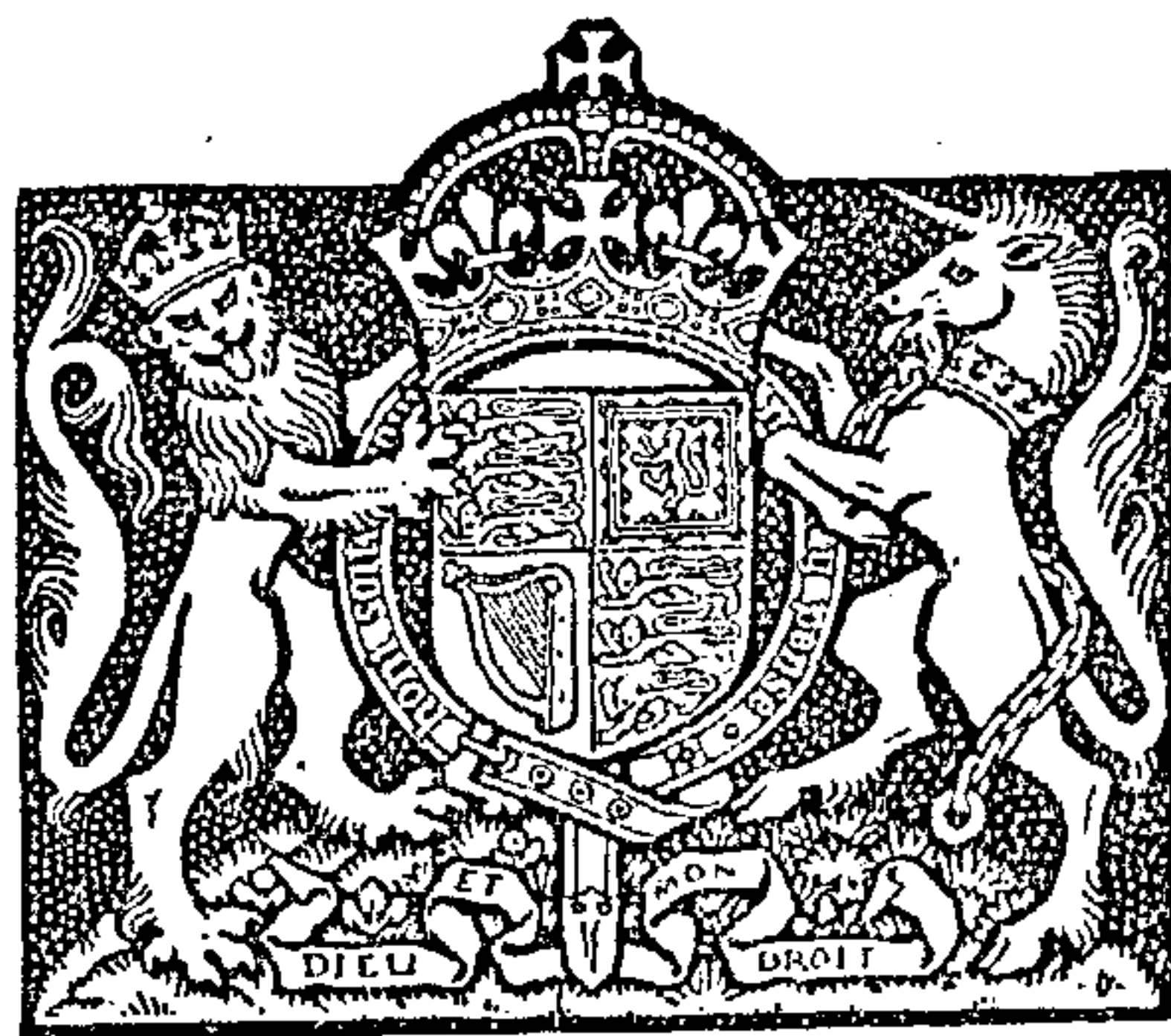


[26 GEO. 5. & *Land Drainage* [Ch. lxxxvii.]
1 EDW. 8.] (*Witham and Steeping Rivers*)
Provisional Order Confirmation Act, 1936.



CHAPTER lxxxvii.

An Act to confirm a Provisional Order made by the Minister of Agriculture and Fisheries relating to a Scheme submitted by the Witham and Steeping Rivers Catchment Board under section four (1) (b) of the Land Drainage Act 1930. A.D. 1936.

[31st July 1936.]

WHEREAS the Minister of Agriculture and Fisheries has made an Order confirming with modifications a Scheme submitted to him by the Witham and Steeping Rivers Catchment Board under section four (1) (b) of the Land Drainage Act 1930: 20 & 21
Geo. 5. c. 44.

And whereas such Order being opposed is provisional only and has no effect until confirmed by Parliament:

Be it therefore 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:—

1. The Order which as amended is set out in the schedule hereto is hereby confirmed. Confirmation of Order in schedule.

2. This Act may be cited as the Land Drainage (Witham and Steeping Rivers) Provisional Order Confirmation Act 1936. Short title.

A.D. 1936.

SCHEDULE.

LAND DRAINAGE ACT 1930.

WITHAM AND STEEPING RIVERS CATCHMENT
BOARD.

ORDER.

1. The Minister of Agriculture and Fisheries (in this Order called the Minister) in exercise of the powers conferred upon him by the Land Drainage Act 1930 and of every other power in that behalf hereby confirms the Witham and Steeping Rivers Catchment Board (Reorganisation of Districts) Scheme No. 8 1935 submitted to him by the Witham and Steeping Rivers Catchment Board (in this Order called the Catchment Board) under section 4 (1) (b) of the said Act a copy of which Scheme is annexed hereto with the following modification (which has been incorporated therein) (that is to say):—

The insertion after subparagraph (2) of the operative part of paragraph 8 of the following proviso:—“Provided that the
“Catchment Board shall not require any Internal Drainage
“Board to make any contribution in respect of the said two
“annuities or either of them unless any part of the district of
“such Internal Drainage Board comprises land which immedi-
“ately before the said first day of October nineteen hundred
“and thirty-one was liable to be rated or taxed therefor.”

2. The expenses of the Minister in connection with the making and confirmation of this Order shall be borne by the Catchment Board and shall be part of the administrative expenses of the Catchment Board.

[26 GEO. 5. & *Land Drainage* [Ch. lxxxvii.]
1 EDW. 8.] (*Witham and Steeping Rivers*)
Provisional Order Confirmation Act, 1936.

LAND DRAINAGE ACT 1930.

A.D. 1936.

THE WITHAM AND STEEPING RIVERS
CATCHMENT BOARD.

SCHEME.

1. This Scheme (which includes the schedules hereto) may be cited as the Witham and Steeping Rivers Catchment Board (Reorganisation of Districts) Scheme No. 8 1935.

2. The Interpretation Act 1889 shall apply to the interpretation of this Scheme as it applies to the interpretation of an Act of Parliament. 52 & 53 Vict. c. 63.

3. In this Scheme unless the context otherwise requires—

(a) "The Catchment Board" means the Witham and Steeping Rivers Catchment Board as constituted by the Witham and Steeping Rivers Catchment Board Constitution Order of 1930 (Statutory Rules and Orders 1930 No. 1127);

(b) "The Catchment Board's Transfer Order of 1931" means the Witham and Steeping Rivers Catchment Board Transfer Order of 1931 dated October twenty-second nineteen hundred and thirty-one confirmed by the Minister of Agriculture and Fisheries under the Land Drainage Act 1930 (Statutory Rules and Orders 1931 No. 962);

(c) "Existing" means existing immediately before the day on which this Scheme comes into operation;

(d) "The Witham and Steeping Rivers Catchment Area" and "the main river" mean respectively the catchment area and the main river as determined and defined on the map of the Witham and Steeping Rivers Catchment Area sealed by the Minister of Agriculture and Fisheries on the thirty-first day of December nineteen hundred and thirty as varied by the said Minister on the twenty-fifth day of July nineteen hundred and thirty-one;

(e) "The Witham Acts and Orders" means the Acts and Orders referred to in the Second Schedule hereto;

(f) "The General Commissioners" means the General Commissioners appointed (and as such a drainage board for the purposes of the Land Drainage Act 1930) to exercise jurisdiction over the drainage by the

[Ch. lxxxvii.] *Land Drainage* [26 GEO. 5. &
(*Witham and Steeping Rivers*) 1 EDW. 8.]
Provisional Order Confirmation Act, 1936.

A.D. 1936.

River Witham and tributaries and main drains within the six districts referred to in the Witham Acts and Orders or some of them;

- (g) "The Witham Outfall Board" means the Board constituted under the River Witham Outfall Improvement Act 1880 (43 & 44 Vict. c. cliii) and as such a drainage board for the purposes of the Land Drainage Act 1930;
- (h) "The Lincolnshire Commissioners of Sewers" means His Majesty's Commissioners of Sewers for the county of Lincoln city of Lincoln and county of the said city and part of the county of Nottingham and "the Lincoln Grantham Newark Brigg Boston and Spilsby Courts of Sewers" means the bodies of such commissioners usually sitting at Lincoln Grantham Newark Brigg Boston and Spilsby, respectively;
- (i) "The Commissioners of Sewers for Nottinghamshire" means His Majesty's Commissioners of Sewers for the county of Nottingham and the limits and confines thereof;
- (j) "The Navigation Company" means the Company of Proprietors of the Witham Navigation incorporated under the Act of 1812 (52 Geo. III. c. cviii) mentioned in the Second Schedule hereto;
- (k) "The Railway Company" means the London and North Eastern Railway Company.

4. This Scheme shall come into operation on a day to be appointed by the Minister of Agriculture and Fisheries and such day is hereinafter referred to as "the appointed day."

5. On the appointed day the General Commissioners whose rights powers duties liabilities and obligations over or in respect of the main river were transferred to the Catchment Board under the provisions of the Catchment Board's Transfer Order of 1931 and whose jurisdiction over and in respect of the six districts referred to in the Witham Acts and Orders or some of them was abrogated by one or more of the Catchment Board's Reorganisation Schemes set out in the First Schedule hereto shall cease to exist and be dissolved.

6. On the appointed day the Witham Outfall Board whose rights powers duties liabilities and obligations were transferred to the Catchment Board under the provisions of the Catchment Board's Transfer Order of 1931 shall cease to exist and be dissolved.

[26 GEO. 5. & *Land Drainage* [Ch. lxxxvii.]
I EDW. 8.] (*Witham and Steeping Rivers*)
Provisional Order Confirmation Act, 1936.

7. As from the appointed day the existing rights powers duties and obligations and jurisdiction of the Lincolnshire Commissioners of Sewers and the Commissioners of Sewers for Nottinghamshire and of the Lincoln Grantham Newark Brigg Boston and Spilsby Courts of Sewers respectively shall so far as they are exerciseable within or relate to the Witham and Steeping Rivers Catchment Area be abrogated and cease to have effect.

A.D. 1936.

8. Whereas—

- (1) Under section 26 of the Act of 1812 (52 Geo. III. c. cviii) mentioned in the Second Schedule hereto the General Commissioners became liable to pay to the Navigation Company two annuities of one thousand four hundred pounds each payable by two equal payments on the sixth day of January and the sixth day of July in each year:
- (2) The rates and taxes arising under the Act of 1762 (2 Geo. III. c. 32) mentioned in the said Second Schedule are charged with the payment of one of such annuities and the rates and taxes imposed by the said Act of 1812 are charged with the payment of the other of such annuities :
- (3) Under and by virtue of section 131 of the Great Northern Railway Act 1846 and a lease dated the twenty-second day of January eighteen hundred and fifty the said annuities are payable to the Railway Company as successors to the Great Northern Railway Company during the continuance of such lease which was granted for the term of nine hundred and ninety-nine years from the twenty-sixth day of June eighteen hundred and forty-six :
- (4) By the Catchment Board's Transfer Order of 1931 the liability of the General Commissioners to pay such annuities was as from the first day of October nineteen hundred and thirty-one transferred to the Catchment Board :

Now therefore the liability of the General Commissioners to pay such annuities having been transferred to the Catchment Board by the Catchment Board's Transfer Order of 1931 as from the first day of October nineteen hundred and thirty-one the said annuities as from that date shall be deemed—

- (1) to have ceased to be charged on the aforesaid rates and taxes; and
- (2) to have become part of the expenses of the Catchment Board under the Land Drainage Act 1930 and to

[Ch. lxxxvii.] *Land Drainage* [26 GEO. 5. &
 (*Witham and Steeping Rivers*) 1 EDW. 8.]
 Provisional Order Confirmation Act, 1936.

A.D. 1936.

constitute a charge on the present and future moneys funds and revenues of the Catchment Board including all contributions to be made to the Catchment Board under the Land Drainage Act 1930 :

Provided that the Catchment Board shall not require any Internal Drainage Board to make any contribution in respect of the said two annuities or either of them unless any part of the district of such Internal Drainage Board comprises land which immediately before the said first day of October nineteen hundred and thirty-one was liable to be rated or taxed therefor.

The Catchment Board the Navigation Company and the Railway Company shall immediately after the appointed day execute a deed in the form set forth in the Third Schedule hereto and such deed shall be binding in all respects on the parties thereto and on the property therein comprised.

THE FIRST SCHEDULE.

THE CATCHMENT BOARD'S REORGANISATION SCHEMES UNDER SECTION 4 (1) (b) OF THE LAND DRAINAGE ACT 1930.

Scheme.	Date confirmed by the Minister of Agriculture and Fisheries.	Title and Number in Statutory Rules and Orders.
The Witham and Steeping Rivers Catchment Board (Reorganisation of Internal Drainage Districts) Scheme.	February 28th 1933	The Witham and Steeping Rivers Catchment Board (Upper Witham Internal Drainage District) Order 1933. Statutory Rules and Orders 1933 No. 218.
Do.	January 8th 1934	The Witham and Steeping Rivers Catchment Board (Witham First District Internal Drainage District) Order 1933. Statutory Rules and Orders 1934 No. 31.
Do.	January 8th 1934	The Witham and Steeping Rivers Catchment Board (Witham Third District Internal Drainage District) Order 1933. Statutory Rules and Orders 1934 No. 32.
Do.	April 25th 1934	The Witham and Steeping Rivers Catchment Board (Witham Fifth District Internal Drainage District) Order 1934. Statutory Rules and Orders 1934 No. 469.

A.D. 1936.

[26 GEO. 5. & 1 EDW. 8.]

Land Drainage

[Ch. lxxxvii.]

(Witham and Steeping Rivers)

Provisional Order Confirmation Act, 1936.

[Ch. lxxxvii.] *Land Drainage* [26 GEO. 5. &
(Witham and Steeping Rivers) 1 EDW. 8.]
Provisional Order Confirmation Act, 1936.

A.D. 1936.

Scheme.	Date confirmed by the Minister of Agriculture and Fisheries.	Title and Number in Statutory Rules and Orders.
The Witham and Steeping Rivers Catchment Board (Reorganisation of Internal Drainage Districts) Scheme— <i>cont.</i>	November 29th 1934.	The Witham and Steeping Rivers Catchment Board (Witham Fourth District Internal Drainage District) Order 1934. Statutory Rules and Orders 1934 No. 1370.
Do.	March 18th 1935	The Witham and Steeping Rivers Catchment Board (the Black Sluice Internal Drainage District) Order 1935. Statutory Rules and Orders 1935 No. 300.
Do.	November 8th 1934	The Witham and Steeping Rivers Catchment Board (Skegness District Internal Drainage District) Order 1934. Statutory Rules and Orders 1934 No. 1266.

[26 GEO. 5. & *Land Drainage* [Ch. lxxxvii.]
 1 EDW. 8.] (*Witham and Steeping Rivers*)
Provisional Order Confirmation Act, 1936.

THE SECOND SCHEDULE.

A.D. 1936.

THE WITHAM ACTS AND ORDERS.

Date.	Reference and/or Title.
1762	2 Geo. III. c. 32.
1801	41 Geo. III. c. cxxxv.
1803	43 Geo. III. c. cxviii.
1812	52 Geo. III. c. cviii.
1818	58 Geo. III. c. lx.
1826	7 Geo. IV. c. ii.
1829	10 Geo. IV. c. cxxiii.
1839	2 Vict. c. xxxiv.
1846	9 & 10 Vict. c. lxxi. (<i>The Great Northern Railway Act 1846</i>).
1865	28 Vict. c. cxxiv.
1867	30 & 31 Vict. c. cxxxviii.
1880	43 & 44 Vict. c. cliii. (<i>The River Witham Outfall Improvement Act 1880</i>).
1881	44 & 45 Vict. c. xc. (<i>The Witham Drainage Act 1881</i>).
1885	48 & 49 Vict. c. clv. (<i>The River Witham Outfall Improvement (Extension of Time) Act 1885</i>).
1885	48 & 49 Vict. c. clviii. (<i>The Witham Drainage (Steeping River) Act 1885</i>).
1887	50 & 51 Vict. c. civ. (<i>The Witham Drainage (Hobhole Sluice) Act 1887</i>).
1920	The Witham Drainage General Commissioners Drainage Order 1920.
1921	The River Witham (First Third and Fifth Districts) Drainage Order 1921.
1921	The Witham Drainage General Commissioners Order 1921 (Sanctioning Loan re Kyme Eau).
1927	The River Witham (Fourth District) Drainage Order 1927.
<p>And/or any other Acts or Orders relating to the drainage of the River Witham and the Steeping River and affecting the area of the Board.</p>	

A.D. 1936.

THE THIRD SCHEDULE.

THE DEED OF COVENANT AND CHARGE REFERRED TO
IN CLAUSE 8 OF THE SCHEME.

THIS DEED OF COVENANT AND CHARGE made the
day of 193 between the
WITHAM AND STEEPING RIVERS CATCHMENT BOARD
(hereinafter called "The Catchment Board") of
the first part THE COMPANY OF PROPRIETORS OF
THE WITHAM NAVIGATION (hereinafter called "The
Navigation Company") of the second part and
THE LONDON AND NORTH EASTERN RAILWAY COM-
PANY (hereinafter called "The Railway Company")
of the third part.

WHEREAS :

(1) By an Act (hereinafter referred to as "the Act of 1762") passed in the second year of the reign of King George the Third chapter 32 intituled "An Act for draining and preserving
" certain low lands called the Fens lying on both sides of the
" River Witham in the County of Lincoln and for restoring
" and maintaining the navigation of the said River from the
" High Bridge in the City of Lincoln through the Borough of
" Boston to the sea " the low lands and grounds therein described were divided into six districts called the First Second Third Fourth Fifth and Sixth Districts and General Commissioners for the purposes of drainage (hereinafter called "the General Commissioners") were constituted and were empowered to tax and charge all the low lands and grounds within such districts with yearly rates and taxes and to borrow money on the security of such rates and taxes either by way of annuity or on mortgage and to execute divers works And by the same Act provision was also made concerning the Navigation of the said River Witham and Commissioners for Navigation were constituted :

(2) Under the Act of 1762 the General Commissioners taxed and charged the said lands and grounds to the extent thereby authorised and borrowed at interest on mortgage of such rates and taxes the sum of £53,650 :

(3) By another Act (hereinafter referred to as "the Act of 1812") passed in the fifty-second year of King George the Third chapter cviii for (among other things) rendering the Act of 1762 more effectual the powers of the said Commissioners for Navigation were repealed and their property was transferred to

[26 GEO. 5. & *Land Drainage* [Ch. lxxxvii.]
1 EDW. 8.] (*Witham and Steeping Rivers*)
Provisional Order Confirmation Act, 1936.

the Navigation Company which was thereby incorporated and authorised and required to execute make and maintain divers works of drainage and navigation and other works therein particularised : A.D. 1936.

(4) By the Act of 1812 the lands within the First Third and Fifth Districts charged at the passing of that Act with the rates and taxes laid on the lands within such Districts respectively under the Act of 1762 were divided into four classes and were thereby respectively charged with the several yearly rates and taxes therein prescribed over and above the rates and taxes charged thereon respectively by virtue of the Act of 1762 :

(5) By Section 26 of the Act of 1812 (after recitals showing that the Navigation Company had proposed to apply the sum therein mentioned towards the execution of works by the Act of 1812 directed and that the General Commissioners in consideration thereof had agreed to secure to the Navigation Company the payment of the clear yearly sum of £1,400 out of the rates and taxes imposed by the Act of 1762 for interest on such expenditure and that in consideration of the further works by the Act of 1812 also directed to be executed by the Navigation Company the General Commissioners had further agreed that the like clear yearly sum of £1,400 should be secured to be paid to the Navigation Company out of the rates and taxes imposed by the Act of 1812 on the First Third and Fifth Districts) the rates and taxes arising under the Act of 1762 were charged with the payment to the Navigation Company of the clear annual sum of £1,400 and the rates and taxes imposed by the Act of 1812 on the First Third and Fifth Districts were likewise charged with payment to the Navigation Company of the like clear annual sum of £1,400 each of such sums of £1,400 to be paid by two equal payments on the 6th day of January and the 6th day of July in every year :

(6) It was by Section 26 of the Act of 1812 further provided that the Navigation Company should have such and the like powers and authorities right and interest in over upon and to the rates and taxes imposed by the Act of 1762 for recovering and enforcing payment of the first mentioned yearly sum of £1,400 charged thereon by the Act of 1812 as the several persons by whom the several sums of money making up the said sum of £53,650 borrowed upon the credit of the said rates and taxes could pursue or take under the authority of the same Act for recovering and enforcing payment of the annual interest payable in respect of such sums of £53,650 and that in case of any default in payment of the secondly mentioned yearly sum of £1,400 thereby charged upon the rates and taxes imposed on the said First Third and Fifth Districts the Navigation Company should have the like powers and authorities to assess raise and recover the same by entry on the lands respectively charged therewith as the

[Ch. lxxxvii.] *Land Drainage* [26 GEO. 5. &
(*Witham and Steeping Rivers*) 1 EDW. 8.]
Provisional Order Confirmation Act, 1936.

A.D. 1936. General Commissioners were entitled to take or pursue if such last mentioned rates and taxes were in arrear and unpaid and that the Navigation Company might continue in the receipt of such rates and taxes until all arrears of the said secondly mentioned sum of £1,400 together with the reasonable costs charges and expenses attending such entry and receipt should be fully paid and satisfied :

(7) By the Great Northern Railway Act 1846 (9 & 10 Vict. c. lxxi) (hereinafter referred to as "the Act of 1846") the Great Northern Railway Company were incorporated and were empowered to make a main line of railway from King's Cross to York together with the branch railways in the Act of 1846 more particularly described :

(8) By Section 131 of the Act of 1846 (after recitals showing the incorporation of the Navigation Company and the Acts relating thereto and declaring that the Railway thereby authorised was intended to traverse portions of the banks of the River Witham and that it was expedient that the works of drainage and navigation made in pursuance of the said Acts should be maintained and secured) it was enacted to the effect following (that is to say) :—

- (a) That the Navigation Company should immediately after the passing of the Act of 1846 grant to the Great Northern Railway Company and that Company should accept a lease for nine hundred and ninety-nine years of all the estate and interest of the Navigation Company in the River Witham and in the navigation thereof from the Grand Sluice in the Borough of Boston to the High Bridge in the City of Lincoln with all the locks dues and tolls thereto belonging and so much of the banks of the River and all such hereditaments as the Navigation Company were entitled to ;
- (b) That the Great Northern Railway Company should from the passing of that Act during the continuance of the lease be entitled to receive for their own benefit the said two several annuities of £1,400 each then paid by the General Commissioners to the Navigation Company ;
- (c) That the Great Northern Railway Company should take upon themselves for the same period and become liable to the same works of navigation and drainage of or appertaining to the said River Witham from the said High Bridge to the said Grand Sluice and the same burden of repairing and upholding works of every description to which the Navigation Company were or might have become liable and should save harmless

and keep indemnified the Navigation Company and the General Commissioners from and against the same and all loss and expenses which they respectively might sustain on account of any default on the part of the Great Northern Railway Company in performing the said works or any of them : A.D. 1936.

(9) By Section 135 of the Act of 1846 it was enacted that from and after the passing of such Act and during the continuance of the said lease all powers provisions and authorities vested in the Navigation Company in relation to the works of drainage and navigation and other works mentioned in the Acts recited in the Act of 1846 and in relation to rates tolls and duties and the application thereof and such other powers provisions and authorities of such recited Acts vested in the Navigation Company as should be necessary for the purposes of the Act of 1846 should be vested in and applicable to the Great Northern Railway Company :

(10) By an indenture of lease (hereinafter referred to as "the said lease") dated the 22nd day of January 1850 and made in pursuance of the Act of 1846 and made between the Navigation Company of the one part and the Great Northern Railway Company of the other part all the estate and interest of the Navigation Company in the said River Witham and in the navigation thereof from the Grand Sluice in the Borough of Boston to the High Bridge in the City of Lincoln with all locks dues and tolls thereunto belonging and so much of the banks of the said River and all such houses and other hereditaments as the Navigation Company were in any manner entitled to with all erections buildings ways paths passages easements waters watercourses commodities and appurtenances belonging to the said navigation and premises and all powers and authorities relating thereto and the said two several annuities of £1,400 each payable by the General Commissioners as aforesaid and all such powers and remedies for enforcing payment thereof as the Navigation Company then had or had immediately before the passing of the Act of 1846 were demised by the Navigation Company to the Great Northern Railway Company from the 26th day of June 1846 for the term of nine hundred and ninety-nine years subject to the payment of the rent thereby reserved and the covenants on the part of the lessees and conditions therein contained :

(11) The premises comprised in the said lease have become absolutely vested in the Railway Company as successors to the Great Northern Railway Company for all the residue of the term thereby granted subject to the rent reserved by and the covenants and conditions contained in the said lease :

[Ch. lxxxvii.] *Land Drainage* [26 GEO. 5. &
(*Witham and Steeping Rivers*) 1 EDW. 8.]
Provisional Order Confirmation Act, 1936.

A.D. 1936.

(12) The Catchment Board was constituted by the Witham and Steeping Rivers Catchment Board Constitution Order of 1930 :

(13) By virtue of the Witham and Steeping Rivers Catchment Board Transfer Order of 1931 confirmed by the Minister of Agriculture and Fisheries on the 22nd day of October 1931 the existing liability of the General Commissioners to pay the said two several annuities of £1,400 each was as from the 1st day of October 1931 transferred to the Catchment Board :

(14) By the Witham and Steeping Rivers Catchment Board (Reorganisation of Districts) Scheme No. 8 of 1935 which was confirmed by the Minister of Agriculture and Fisheries by Order dated the sixth day of April 1936 and which Order was confirmed by the Land Drainage (Witham and Steeping Rivers) Provisional Order Confirmation Act 1936 (26 Geo. 5 and 1 Edw. 8. c. lxxxvii) it was provided that the Catchment Board the Navigation Company and the Railway Company should immediately after the appointed day therein referred to execute a deed therein referred to being these presents.

Now this Deed witnesseth and it is hereby covenanted and declared as follows :—

1. The Catchment Board hereby covenants with the Railway Company that the Catchment Board will during the continuance of the said lease pay to the Railway Company the said two annuities of £1,400 each by equal half-yearly payments on the sixth day of January and the sixth day of July in each year.

2. The Catchment Board hereby covenants with the Navigation Company that the Catchment Board will after the determination of the said lease pay to the Navigation Company the said two annuities in manner aforesaid.

3. The said annuities shall cease to be charged on the rates and taxes on which they are respectively charged under or by virtue of section 26 of the Act of 1812.

4. The Catchment Board as beneficial owner hereby charges with the payment of the said annuities in manner aforesaid all its present and future moneys funds and revenues including all contributions to be made to the Catchment Board under the Land Drainage Act 1930.

5. If the Catchment Board shall make default for a period of twenty-one days in the payment of any part of the said annuities the security hereby created shall immediately become enforceable The powers conferred on mortgagees by the Law of Property Act 1925 shall apply to this security and shall be exerciseable immediately upon such default as aforesaid by the

[26 GEO. 5. & *Land Drainage* [Ch. lxxxvii.]
1 EDW. 8.] (*Witham and Steeping Rivers*)
Provisional Order Confirmation Act, 1936.

Railway Company if such default shall take place during the continuance of the said lease or by the Navigation Company if such default shall take place after the determination of such lease. A.D. 1936.

IN WITNESS whereof the Catchment Board the Navigation Company and the Railway Company have caused their Common Seals to be respectively hereto affixed the day and year first before written.

The Common Seal of the Witham and Steeping Rivers Catchment Board was affixed hereto in the presence of

.....
Chairman.

.....
Clerk.

The Common Seal of the Company of Proprietors of the Witham Navigation was hereunto affixed in the presence of

.....
Chairman.

.....
One of the Joint Clerks of the Company.

The Common Seal of the London and North Eastern Railway Company was affixed hereto in the presence of

.....
Secretary.

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