



CHAPTER xxxvi.

An Act for the more effectual Drainage of Lands in the County of Somerset, and for other purposes. [11th June 1877.] A.D. 1877.

WHEREAS the drainage of divers lands situated in the several valleys of the rivers Parrett, Ile, Yeo, Brue, Axe, Cary, and Tone, all in the county of Somerset, is defective, and in consequence thereof the value of the aforesaid lands is much diminished :

And whereas it would be of public benefit, as well as of great advantage to the owners and occupiers of such lands, if provision were made for the more effectual drainage of such lands, and if the same were placed under the authority of Commissioners and district boards, and if the Commissioners and district boards were authorised to execute works and levy drainage rates, and raise moneys, and exercise other powers usually vested in commissioners of sewers :

And whereas it is expedient that the undertaking, together with all the rights and liabilities of the Company of Proprietors of the Parrett Navigation and Canal, should be vested in the commissioners to be constituted under the powers of this Act :

And whereas it is expedient that the Acts relating to the management of the River Tone should be altered and amended as hereinafter provided :

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

May it therefore please Your Majesty that it may be enacted ; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows ; that is to say,

1. This Act may for all purposes be cited as 'the Somersetshire Drainage Act, 1877.' Short title.

A.D. 1877.

Interpreta-
tion of terms.

2. The following words and expressions shall have the several meanings hereby assigned to them, unless there is something in the subject or context repugnant to such construction :

The expression "the Navigation and Canal Company" shall mean the Company of Proprietors of the Parrett Navigation and Canal :

The word "person" shall include a corporation, whether aggregate or sole :

The word "lands" shall extend to messuages, lands, tenements, and hereditaments or heritages of any tenure :

The word "owner," except where used with reference to the purchase of lands under the powers of this Act and of the Acts incorporated therewith, shall include—

(1.) Any person who is or would be, if the land were let to a tenant, in receipt of the rents (other than rents, seck quitrents, or fee-farm rents) and profits of any land, or if there be more than one subsisting lease, agreement for lease, or tenancy, then the person in receipt of the rent (other than rents, seck quitrents, or fee-farm rents) reserved by or payable in respect of the superior lease, agreement, or tenancy ;

(2.) Any corporation, aggregate or sole, or any trustees for charities, and any commissioners or trustees for ecclesiastical, collegiate, or other public purposes, who would be owners within the meaning of this Act if they were entitled to receive the rents and profits of any lands for their own benefit :

The expression "court of quarter sessions" shall mean the court of general quarter sessions or any court of general sessions held in and for the county of Somerset :

The expression "jurisdiction of the Commissioners" shall extend to and include the jurisdiction of the district boards :

The term "existing drainage boards" shall mean the commissioners appointed under an Act of the 11th of Geo. IV. c. 52., intituled "An Act for draining, flooding, and improving certain low lands and grounds within the several parishes of Othery, Middlezoy, and Westonzoyland, in the county of Somerset," and also the several elective drainage boards formed under the second part of the Land Drainage Act, 1861, and which said commissioners and elective drainage boards are more particularly described in Schedule D. to this Act annexed :

The expression "limits of this Act" shall include the lands contained in the parishes, townships, and other places comprised in Schedule A. to this Act :

The term "district boards" shall extend to and include as well the existing drainage boards as herein-before defined as the district boards to be constituted under the powers of this Act: The expression "drainage works" shall include all works which the Commissioners or district boards have power to execute or acquire authority over under the provisions of this Act.

A.D. 1877.

3. The Commissioners Clauses Act, 1847, shall be, except so far as the same is expressly varied by this Act, incorporated with this Act; and in the construction of this Act and the said incorporated Act, this Act and any order made by the Commissioners shall together constitute the special Act, and the expression the Commissioners in the said incorporated Act shall apply as well to the district boards or members of district boards, as the case may be, as to the Commissioners incorporated by this Act.

Incorporation of the Commissioners Clauses Act, 1847.

4. Section 17 of "The Railways Clauses Consolidation Act, 1845," and sections 13, 18, and 19 of "The Railways Clauses Act, 1863," are incorporated with and form part of this Act, and any works whatsoever which the Commissioners may commence, construct, alter, extend, or repair for any of the purposes of this Act below high-water mark of the sea, or of any navigable river so far up the same as the tide flows and re-flows, shall be deemed to be works, and the Commissioners shall be deemed to be a company for all the purposes of the incorporated sections of those Acts.

Incorporation of portions of Railways Clauses Acts, 1845 and 1863.

5. The several words and expressions to which by the Acts wholly or in part incorporated with this Act meanings are assigned have in this Act the same respective meanings, unless excluded by the subject or context, or expressly varied by this Act.

Same meanings to words in incorporated Acts as in this Act.

PART I.—CONSTITUTION OF COMMISSIONERS AND DISTRICT BOARDS.

6. The Commissioners shall be called the Somersetshire Drainage Commissioners, and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands, easements, and other property for the purposes, but subject to the restrictions, of this Act, and to put this Act into execution.

Somersetshire Drainage Commissioners constituted.

7. The following persons shall be the first Commissioners; (that is to say,) the Most Honourable the Marquis of Bath, the Honourable Edwin Berkeley Portman, Sir Alexander Acland Hood, Baronet, William Adair Bruce, Thomas Baker, William Barrett, Herbert Butler Batten, Edwin Brown, Thomas Palfrey Broadmead, James Bucknill Broadmead, William Blake, John Carver, Richard Thomas

Names of the first Commissioners.

A.D. 1877. Combe, John Dobin, Francis Meade Eastment, Thomas Ffooks, Arthur John Goodford, John Robert Phelps Goodden, Ralph Neville Grenville, Victor Grant Hickley, Richard Holman, William House, Richard King Meade King, Alfred Lovibond, Marmaduke Ling, Thomas Mullins, Robert Neville, John Oliver, Henry Parsons, Henry Acland Fownes Luttrell, Henry Stuckey, William Masters Porter, William Pinney, Robert Samson, Rood Pittard, Thomas Harris Roach, Henry Smith Sparke, Vincent Stuckey, Edwin Cely Trevilian, George Warry, George Deedes Warry, and the persons who shall be from time to time until the final constitution of the Commissioners, as provided under the powers of this Act, chairmen of the existing drainage boards.

Power to fill up vacancies amongst the first Commissioners.

8. The first Commissioners may from time to time by order under their seal appoint any persons to act as Commissioners under the provisions of this Act to fill up vacancies which may occur among the first Commissioners by reason of the death, resignation, or disqualification of any such first Commissioner; and in case of the vacancy being occasioned by any of the first Commissioners having neglected for the space of six months after his appointment to make and subscribe the declaration required by the Commissioners Clauses Act, 1847, or by reason of any such first Commissioners having been for six months in succession absent from all meetings of the Commissioners, or not having acted in the execution of this Act, then it shall be lawful for the first Commissioners, if they think fit, to re-appoint such person to be a first Commissioner, and all the provisions of this Act with regard to first Commissioners thereby appointed shall apply as fully and effectually to any person appointed to fill such vacancy as aforesaid as if the appointment had been made by this Act.

Jurisdiction of the Commissioners, how to be ascertained.

9. The limits of the jurisdiction of the Commissioners by this Act incorporated shall include such of the lands in the several parishes or places contained in Schedule A. to this Act annexed as the Commissioners shall from time to time by order declare to be within their jurisdiction, whether such lands or any of them shall or shall not be already included within the jurisdiction of any body of Commissioners or any drainage board elected under the provisions of any Act of Parliament, and shall also extend to such parts of the rivers Parrett, Ile, Yeo, Brue, Axe, Cary, and Tone as flow through or past the several parishes or places contained in the said Schedule A., and to those portions of the rivers aforesaid which flow through or past any of the lands which may from time to time in manner hereby directed be declared to be within the jurisdiction of the Commissioners by this Act incorporated.

A.D. 1877.

10. The first Commissioners shall within three years of the passing of this Act, or within such extended period as shall from time to time be allowed by order of the Inclosure Commissioners, make a first order declaring the limits of their jurisdiction, and shall within the same period, or within such extended period as aforesaid, by the same or a subsequent order or orders, divide into so many districts as to them may seem expedient with reference to the effectual discharge of the duties imposed upon them by this Act the whole or any part of the lands comprised within the limits of their jurisdiction, and shall in manner herein-after prescribed place each such district under the management of a district board to be constituted as herein-after mentioned: Provided always, that nothing in this Act contained shall authorise the Commissioners without the consent of the existing drainage boards to alter the limits of jurisdiction of such boards, or to place any of the lands now subject to their jurisdiction under the management of any other district board, but that existing drainage boards shall, except so far as any order of the Commissioners made with their consent expressed in writing may vary the same, continue to have the same jurisdiction as prior to the passing of this Act.

Power to divide lands under the jurisdiction of the Commissioners into districts.

11. The Commissioners may from time to time make such alterations, either by extension or by diminution, in the limits of their jurisdiction, and also in the boundaries or number of the districts, and in the constitution of the district boards, and in the number of their members, and of the Commissioners to be elected by the said district boards, as they may think fit; and every such order made by the Commissioners shall be in substitution for any previous order as to all matters to which the substituted order shall relate or extend.

Power to make alterations in districts, &c.

12. The first Commissioners shall in the order declaring the limits of their jurisdiction, and constituting the respective areas into separate drainage districts, or by a subsequent order or orders, direct the election of district boards for each such district on a day to be named in such order, and fix the name of each such district board, the number and qualifications of the members of such district boards, and the number of the Commissioners to be elected by each such district board, with such alterations (if any) in any of the above subjects as they may think fit; notice of such order shall be published in the "London Gazette," and in some other newspaper circulating in the district to which it relates, and copies thereof shall be served in such manner and upon such persons as the Commissioners may direct, and such order shall from a day to be named therein, and until varied, and except so far as the same

First Commissioners to direct the election of district boards, subject to appeal.

A.D. 1877. may be varied by any subsequent order, have the same effect as if such order had been contained in this Act: Provided nevertheless, that no order shall be made either under this section or sections 10 or 11 affecting any of the existing drainage boards without the written consent of the board affected by such order, save for the purpose of ordering the election and fixing the number of Commissioners to be elected by each of such existing drainage boards, or any purpose incidental to such election: Provided also, that any person aggrieved by any order of the Commissioners made in respect of any of the matters contained in sections 9, 10, 11, and 12 may appeal to the court of quarter sessions in manner hereinafter mentioned, and the said court shall have power to quash any order in whole or in part, or make any alteration or amendment in the same, as to them shall seem just.

Evidence of constitution of districts.

13. The making of an order shall be conclusive evidence that all the requirements of this Act in respect of proceedings required to be taken previously to the making of such order have been complied with, and a written or printed copy of the order purporting to have the seal of the Commissioners affixed to it shall be *prima facie* evidence of the making of such order.

Prescribing election of district boards.

14. On the day or days named in the order for the election of the first district boards, or if no day be named then on the first Thursday of the month next but one after that in the course of which such order is made, the electors of each district shall proceed to the election of a board for such district.

District boards to be corporations.

15. The several district boards when formed shall severally be bodies corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands, easements, and other property for the purposes, but subject to the restrictions, of this Act: Provided always, that none of the powers of executing works conferred upon such district boards shall be exercised by them before the final constitution of the Commissioners under this Act.

Rules to be observed with respect to electors of district boards.

16. The following rules shall be observed with respect to the electors of district boards to be constituted under the powers of this Act:

- (1.) The electors for members of a district board for any district shall be the owners and also the occupiers of all lands comprised in the district who shall have paid all rates, if any, made under the powers of this Act, and which may have been due and payable by them on any day not less than three months prior to the time of the election, and the

owner of any land being also the occupier of such land shall be entitled to vote both as such owner and also as occupier; provided that if the owner be bound as trustee to pay over a sum exceeding one half of the gross rents and profits to some one other person for his own benefit, then such last-mentioned person shall be the elector in place of the owner: A.D. 1877.

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

If the property in respect of which he is entitled to vote be rated upon a rateable value of less than fifty pounds, he shall have one vote;

If such rateable value amount to fifty pounds and be less than one hundred pounds, he shall have two votes;

If it amount to one hundred pounds and be less than one hundred and fifty pounds, he shall have three votes;

If it amount to one hundred and fifty pounds and be less than two hundred pounds, he shall have four votes;

If it amount to two hundred pounds and be less than two hundred and fifty pounds, he shall have five votes;

If it amount to two hundred and fifty pounds and be less than five hundred pounds, he shall have six votes;

If it amount to five hundred pounds and be less than one thousand pounds, he shall have eight votes;

If it amount to or exceed one thousand pounds, he shall have ten votes;

Such rateable value shall be that at which the respective lands are for the time being assessed to the poors rate.

17. Where any owner or occupier as herein-before defined, or any person entitled to vote as herein provided, is a minor or of unsound mind, or a married woman, the guardian, committee, or husband, as the case may be, of such owner or occupier shall be the owner or occupier within the meaning of this Act, subject to this proviso, that a married woman entitled for her separate use shall for the purposes of this Act be treated as if she were not married. Trustees to be deemed owners in certain cases.

18. Where a corporation aggregate, or any commissioners, proprietors, or other undertakers, are owners or occupiers of any land, Provision as to ownership by corporations.

A.D. 1877.

such corporation, commissioners, proprietors, or undertakers respectively shall be deemed to be one owner or occupier for the purposes of this Act, and shall appoint a deputy to vote and also to express their assent or dissent under the powers of this Act, and such deputy or any agent whom they may desire to qualify to be a Commissioner under the powers of this Act shall be appointed in the case of a college either under the common seal or under the hands of the head or senior bursar or treasurer of such college, and in the case of any other corporation under their common seal, and in any other case under the hands of three commissioners, proprietors, or other undertakers professing to act for the whole.

Provision as to joint owners.

19. Where several persons are owners of land as joint tenants, coparceners, or tenants in common, they shall in respect of such land be accounted as one owner, but the concurrence of two thirds of such owners shall be necessary to and shall bind the whole.

Rules and regulations applicable to district boards.

20. Subject to any provisions to the contrary in this Act, the rules and regulations made by sections 68 and 70 of the Land Drainage Act, 1861, and the schedule thereto, with respect to boards constituted under the provisions of that Act, and as to the qualification and mode of electing members of such district boards, and as to the proceedings of such boards, shall, so far as the same are applicable, apply to the district boards to be appointed under this Act, and to the qualification and election of members thereof, and to the proceedings of such boards, in the same manner as if such rules and regulations were contained in this Act, and for this purpose such sections shall be read as if the words "the order constituting the district" had been contained therein instead of the words "the provisional order," as the case may be, except that such order constituting the district shall not name any persons as members of the first board, but such board shall be elected at the time and in manner directed by such order in pursuance of the provisions of this Act.

Commissioners to appoint returning officer to conduct first election of district boards.

21. The first Commissioners shall appoint a returning officer to conduct the first election of each district board.

In case electors do not appoint members of district boards, Commissioners may do so.

22. In case the electors in any district constituted under the powers of this Act fail to proceed to the election of members of the district board for such district, or fail to elect the full number of members assigned to the district board of such district by any such order of the Commissioners as aforesaid, it shall be lawful for the Commissioners from time to time to appoint so many persons duly qualified to act within such district to be members of the district board as with any persons duly elected by the electors of such district will make up the full number of members of such district board,

A.D. 1877.

or if the electors have elected no persons to be members, then the Commissioners shall appoint all the members of such district board, who shall have all the powers, rights, and privileges, and be subject to all the duties, which the members of such district boards would have had and been subject to if duly elected by the electors of such district.

23. The members of each district board constituted under the provisions of this Act shall at their first meeting, and every existing drainage board shall at their first meeting after receipt of the order of the Commissioners, elect so many persons to be Commissioners as shall by the order of the Commissioners be prescribed, and each district board shall when any Commissioner elected by such district board dies, resigns, or otherwise ceases to be such Commissioner, elect a person to be a Commissioner in the place of such Commissioner so dying, resigning, or otherwise ceasing to be such Commissioner.

District boards to elect Commissioners.

24. In case any district board fail to proceed to the election of Commissioners to represent such district board, or fail to elect the full number of Commissioners to represent such district board, it shall be lawful for the court of quarter sessions, upon the application of any person interested, to appoint so many persons duly qualified as herein-after provided to be Commissioners representing any such district board as with the number duly elected by such district board will make up the full number of Commissioners which should have been elected by such district board, or if such district board has elected no Commissioners, then it shall be lawful for the said court of quarter sessions, upon application as aforesaid, to appoint the full number of such Commissioners, who shall have all the powers, rights, and privileges, and be subject to all the duties, which any Commissioners would have had and been subject to if duly elected by such district board.

In case district boards do not elect Commissioners, court of quarter sessions may do so.

25. The Commissioners to be elected by the district boards shall come into office on the first day of the month next ensuing that in which the full number of Commissioners ordered to be elected by the district boards constituted under this Act and by the existing drainage boards shall have been completed, and upon such Commissioners so coming into office the powers, rights, privileges, and duties of the first Commissioners shall cease and be transferred to the new Commissioners, who shall thenceforth, subject to the provisions herein-after contained for retirement by rotation, and to the other restrictions contained in this Act, be the Commissioners for carrying this Act into execution, and upon their so coming into office the

On election of new Commissioners, first Commissioners to go out of office.

A.D. 1877. Commissioners shall for all the purposes of this Act be deemed to be finally constituted.

Rotation and day of retirement of Commissioners.

26. One third of the Commissioners first elected by the district boards as aforesaid shall go out of office on the first Thursday of October next but one after such election, one other third of them on the first Thursday of October next but two after such election, and the remaining third on the first Thursday of October next but three after such election, and the first elected Commissioners shall determine amongst themselves which of them shall constitute the one third to go out of office in each of such years; and all Commissioners elected to supply any vacancy occasioned by any Commissioner going out of office by the expiration of his term of office shall go out of office on the first Thursday of October in the third year next following the year of his election, and every Commissioner elected to supply any other vacancy shall go out of office when the term of office of the Commissioner in whose place he is elected would have expired by effluxion of time.

Qualification of Commissioners.

27. The qualification of a Commissioner to be elected under the provisions of this Act shall be, firstly, that he shall be the owner of not less than forty acres of land within the jurisdiction of the Commissioners, or, secondly, the heir apparent of the owner of an estate of not less than forty acres in extent within the said jurisdiction, or, thirdly, the agent of an owner of an estate of not less than three hundred acres within the said jurisdiction, such agent acting under a written appointment; provided that if the owner be bound as trustee to pay over a sum exceeding one half of the gross rents and profits to some one other person for his own benefit, then such last-mentioned person shall be deemed an owner for the purposes of this section.

Provision as to auditor.

28. No qualification shall be necessary for the appointment of an auditor, nor shall any declaration be required of such auditor, notwithstanding anything in the Commissioners Clauses Act contained.

Office of Commissioners.

29. The principal office of the Commissioners shall be at Bridgewater; the first meeting of the Commissioners shall be held at some convenient place within the town of Bridgewater, and their future meetings shall be held at such place or places as the Commissioners may determine.

All books, documents, &c. to vest in Commissioners.

30. From and after the date of the Commissioners coming into office as provided in section 25, all copies of Acts of Parliament, and all books, papers, documents, awards, writings, accounts, and other proceedings of or in anywise relating to the lands placed under the

jurisdiction of the Commissioners and district boards, and which have hitherto been in the custody and possession of any commissioners of sewers or drainage board, shall vest in and become the property of the Commissioners.

A.D. 1877.

31. In all cases where any rivers, streams, watercourses, bridges, hatches, floodgates, or any other drainage works in the several parishes or parts of parishes to which this Act shall apply or may hereafter be made to apply, shall be subject to the jurisdiction of the Commissioners of Sewers for the county of Somerset or any Commissioners appointed under the first part of the Land Drainage Act, 1861, or by virtue of any Act or Acts for the inclosure, exchange, and improvement of land, or by any award, custom, or sewers law, all such Commissioners being herein-after in this clause called the first-named Commissioners, all the rights, powers, privileges, duties, and liabilities of such first-named Commissioners shall devolve upon the Commissioners and district boards constituted under the powers of this Act, or the existing drainage boards, as the case may be, and all powers hitherto exerciseable by the first-named Commissioners shall cease upon the final constitution of the Commissioners: Provided always, that no such transfer shall affect the validity of any mortgages of the rates leviabie by the first-named Commissioners, but all moneys secured by such mortgages shall, so far as they were charged upon rates leviabie in the several parishes to which this Act shall apply or shall hereafter be made to apply, be recoverable as fully and effectually as they would have been recoverable if this Act had not passed, and for this purpose the Commissioners or district boards, as the case may be, shall have the same powers of raising and shall be bound to raise the amount payable on the security of such rates in the same manner as the first-named Commissioners would have raised the same if this Act had not passed: Provided also, that no action at law or suit in equity, appeal, or other legal proceeding, shall abate by reason of such transfer of jurisdiction, but may be carried on in the same manner in all respects as though this Act had not passed.

Transfer of the jurisdiction of the Commissioners of Sewers for the county of Somerset to Commissioners under this Act.

PART II.—WORKS.

32. The powers of the Commissioners and of the district boards acting within their respective jurisdictions shall extend to the following acts:

Powers of Commissioners and district boards to execute general drainage works.

- (1.) To cleansing, scouring, repairing, or otherwise maintaining in a due state of efficiency all rivers, streams, ditches, rhines, watercourses, sluices, weirs, or other outfalls for water, and all bridges, walls, floodgates, hatches, sea walls, em-

A.D. 1877.

bankments, or other defences against water, herein-after referred to under the expression "maintenance of existing works":

- (2.) To enlarging, deepening, widening, straightening, embanking, or otherwise altering or improving any rivers, streams, ditches, rhines, watercourses, sluices, weirs, or other outfalls for water, or any bridges, walls, floodgates, hatches, sea walls, embankments, or other defences against water, and to removing or altering milldams, sluices, weirs, shoals, or other obstructions to rivers, watercourses, channels, or outfalls for water, or raising, widening, or otherwise altering any existing wall, embankment, or other defence against water, herein-after referred to under the expression "improvement of existing works":
- (3.) To making any new watercourse or new outfall for water, or erecting any new defence against water, and to erecting any machinery or doing any other act not herein-before referred to required for the drainage, necessary supply of water for cattle, warping or irrigation of the area comprised within the limits of their jurisdiction, herein-after referred to under the expression the "construction of new works":

Provided,—

- (1.) That no person shall by virtue of this Act be compelled to execute at his own expense any works which he would not have been compelled to execute if this Act had not been passed:
- (2.) That full compensation shall be made for all injury sustained by reason of the exercise by the Commissioners and the district boards respectively of the above powers, such compensation, if any, to be ascertained as soon as conveniently may be after the completion of the works, and in case of difference, by an arbitrator, who shall have all the powers of arbitrators appointed under the Lands Clauses Consolidation Act, 1845, with regard to lands taken or injuriously affected by the execution of works authorised by the special Act:
- (3.) That any works which under the powers of this Act may be constructed, laid down, or executed, crossing or otherwise interfering with any railway, station, bridges, navigation, canal, docks, or works at any time belonging to or worked by the Great Western Railway Company or other railway company, may, at the election of such company, be executed by the company at the expense of the Com-

missioners, or if such works are executed by the Commissioners, they shall be executed under the superintendence and to the reasonable satisfaction of such company's engineer:

A.D. 1877.

(4.) That the exercise of the foregoing powers shall be subject to the restrictions herein-after contained.

33. The Commissioners or district boards shall not do or execute any of the works which they are herein-before authorised to do or execute in, through, or upon lands of any person otherwise than by agreement with the owner thereof until they have served a notice in manner herein-after provided on every owner or reputed owner, lessee or reputed lessee, and occupier of such lands, defining in each case the particular lands proposed to be affected by such work, and describing shortly the nature of the work proposed to be done and executed in, through, or upon such lands, and requiring an answer within fifteen days from the date of such notice, stating whether the person so served assents to or dissents from such work being done or executed, and informing such person that if he dissents therefrom he can apply to the Inclosure Commissioners to restrain the execution of such works, on a day to be named in such notice, and such notice shall be served—

Notice of works to be given to owners when not done by agreement.

By delivering the same personally on the person required to be served, or if such person is absent abroad, to his agent; or

By leaving the same at the usual or last-known place of abode of such person as aforesaid; or

By forwarding the same by post in a prepaid letter addressed to the usual or last-known place of abode of such person.

34. Any owner, lessee, or occupier may upon the day named in such notice appear by himself, his counsel, attorney, or agent, before the Inclosure Commissioners, and apply for an order restraining the Commissioners or district boards respectively from proceeding with the proposed works, or any part thereof; and the Inclosure Commissioners shall hear any objections which such person may raise thereto, and shall also hear the Commissioners or district board respectively in relation thereto, and shall make such order as they may think right with regard to any such proposed works.

Owners may object before the Inclosure Commissioners.

35. If upon the day named in such notice no owner, lessee, or occupier shall appear to object before the Inclosure Commissioners, or if upon the hearing of any objections the Inclosure Commissioners shall decide to make no order restraining the execution of such works, it shall be lawful for the Commissioners or district boards respectively forthwith to enter upon the lands affected by

Works may be proceeded with subject to any order.

A.D. 1877. — the proposed works, and to do or execute the same: Provided always, that the Commissioners or district boards respectively shall be bound by any order, which may be made by the Inclosure Commissioners with regard to the proposed works or the terms and conditions upon which the same or any part thereof may be done or executed, and they shall only do or execute the same in accordance therewith and subject thereto.

Works of arterial drainage to be exclusively done by Commissioners.

36. The Commissioners shall for the purposes of this Act have the exclusive right of executing under the provisions of this Act any works affecting such parts of the bed, soil, or banks of the rivers Parrett, Ile, Yeo, Brue, Axe, Cary, and Tone as are within the jurisdiction of the Commissioners, whether such interference be for the purpose of the maintenance or improvement of existing works or for the construction of new works, and also shall have the exclusive right of constructing, maintaining, and repairing all works necessary or proper for providing for the arterial drainage of the valleys of the said rivers respectively, and also shall have the exclusive rights, subject as herein-after provided, of constructing, maintaining, and repairing all sea walls, banks, and other defences against the sea, notwithstanding that such works affecting the soil and beds of the said rivers, and such works of arterial drainage, and such sea walls, banks, and other defences against the sea, may be situated within the jurisdiction of the district boards or any of them: Provided always, that this provision shall not extend or be construed to extend to release or discharge any person or persons from any liability to which such person or persons was or were before the passing of this Act subject by reason of tenure, frontage, prescription, custom, covenant, or otherwise.

Commissioners may divert rivers under their jurisdiction, with certain exceptions.

37. The Commissioners from time to time, for the purposes of this Act, and subject as in this Act provided, may divert into any new or improved channel or cut, or otherwise directly or derivatively, the waters of any part of the rivers Parrett, Ile, Yeo, Brue, Axe, Cary, and Tone, or of the tributaries of the said rivers within the limits of this Act, and upon the completion of any such cut or channel as may be substituted for any part of the rivers aforesaid which may be diverted all the powers of the Commissioners with reference to such diverted parts of the rivers aforesaid shall be transferred to such cuts or channels: Provided always, that nothing in this Act contained shall authorise the Commissioners to interfere with, diminish, or affect the supply of water which the Great Western Railway Company now obtain from the River Tone for the Bridgewater and Taunton Canal and the Bridgewater Docks, or for other purposes, and the Commissioners shall not in any way

interfere with or injuriously affect any lock, half lock, dam, or other work belonging to the Great Western Railway Company and constructed or used for the purpose of or with reference to the obtaining a supply of water from the said River Tone.

A.D. 1877.

38. The district boards shall have the exclusive right of carrying out any works within their respective jurisdictions which are not by this Act directed to be exclusively carried out by the Commissioners, but any improvements of existing works or construction of new works which in the opinion of the Commissioners would injuriously affect the arterial drainage of the lands under the jurisdiction of the Commissioners shall only be carried out with the consent of the Commissioners in each case had and obtained, and the district board proposing to execute any improvement of existing works or construction of new works shall two months before commencing the same cause sufficient plans and sections thereof to be left with the clerk to the Commissioners; provided always that the consent of the Commissioners shall not be unreasonably withheld.

District boards to execute all other works.

39. Notwithstanding anything in this Act contained, the Commissioners shall have full and free liberty to delegate to the district boards any of the powers hereby exclusively reserved to the Commissioners, and the Commissioners shall also be at liberty, with the consent of the district boards, to execute any of the works power to carry out which is hereby exclusively reserved to such district boards, and in the discharge of any such powers or the execution of any such works the Commissioners and district boards respectively shall be considered as acting within their respective jurisdictions.

Commissioners may delegate powers to district boards, and vice versâ.

40. In case it appear to the Commissioners that any drainage work within the district of any existing drainage board or of any board to be constituted under this Act, whether vested in such district board by order of the Commissioners or otherwise, or constructed by such district board or otherwise, is properly an arterial drainage work, or may be made use of and ought to be considered as such, it shall be lawful for the Commissioners by an order under their seal to declare the same to be an arterial drainage work, and upon making compensation to the parties interested in manner herein-before provided with regard to compensation for injury, and subject to such right of appeal as is herein-after given, the same shall thereupon vest in and be under the sole management, control, and jurisdiction of the Commissioners.

Commissioners may declare cuts, &c. made by district boards to be works of arterial drainage.

41. In case any difference of opinion shall arise between the Commissioners and any district board or any person as to whether any works proposed or executed are works of arterial drainage within the meaning of this Act, or in case any dispute shall arise between

Differences as to arterial drainage works to be referred to arbitration.

A.D. 1877. — the Commissioners and any district board as to their respective jurisdictions, or as to any works done or proposed to be done, or any rate levied or proposed to be levied by them respectively under the provisions of this Act, the same shall be referred to an arbitrator.

Provisions as to maintenance and repairs of works affecting the railway or works of the Great Western Company or other railway company.

42. The Commissioners and district boards respectively from time to time, in maintaining, repairing, or altering any work, river, stream, ditch, rhine, watercourse, sluice, weir, or drainage work under their jurisdiction under, over, or by the side of any railway, navigation, canal, dock, or other work of the Great Western Railway Company, or other railway company, shall maintain, repair, or alter the same to the reasonable satisfaction of the engineer of the Great Western Railway Company or such other railway company, as the case may be, for the time being; and if and whenever the Commissioners or district boards, as the case may be, fail to do so, the Great Western Railway Company or such other railway company, as the case may be, may make or do in and upon as well the lands of the Commissioners as their own lands all such works and things as the Great Western Railway Company or such other railway company, as the case may be, reasonably think requisite in that behalf, and the sum from time to time reasonably expended in that behalf shall be repaid to them by the Commissioners or district boards, as the case may be, and in default of payment the amount may be recovered, with full costs, by the Great Western Railway Company or such other railway company, as the case may be, from the Commissioners or district boards, as the case may be, in any court of competent jurisdiction: Provided always, that the Commissioners or the district boards, as the case may be, on the one hand, and the Great Western Railway Company or such other railway company, on the other hand, may from time to time enter into and carry into effect agreements for the maintenance, repair, or alteration of any such work, river, stream, or drainage work herein-before provided for and affecting the property of the said Great Western Railway Company, or such other railway company, by the Great Western Railway Company, or such other railway company, at the expense of the Commissioners or district boards, as the case may be.

Restrictions as to obstructions.

43. The Commissioners and district boards respectively shall not be entitled to remove, alter, or otherwise interfere with any milldam, sluice, weir, or other like obstruction whereby the level of the water is raised for any milling or other purpose of profit so as to injuriously affect the supply of water otherwise than with the consent of the owner of such milldam, sluice, weir, or other like obstruction, until the following things have been done; that is to say,

(1.) Their right to do so has been determined in manner hereinafter mentioned:

(2.) The amount payable as compensation to all parties entitled for the injury which may be caused by such removal, alteration, or interference has been ascertained. A.D. 1877.

44. For the purpose of determining the right of the Commissioners or district boards respectively to remove, alter, or otherwise interfere with any such milldam, sluice, weir, or other like obstruction, there shall be decided, if the owners consent, by two or more justices assembled in petty sessions, but if they do not consent, by arbitration, the questions following; that is to say, Questions as to right to remove any obstructions.

- (1.) Whether the proposed removal, alteration, or interference is necessary for the effectual drainage of land within the jurisdiction of the Commissioners or district boards, or for carrying out the other powers of this Act:
- (2.) Whether the proposed removal, alteration, or interference will cause any injury to the owner:
- (3.) Whether any injury that may be caused by the removal, alteration, or interference is or is not of a nature to admit of being fully compensated by money.

45. The consequence of any such decision shall be as follows; that is to say, Consequences of determination of question.

- (1.) If the decision is that such removal, alteration, or interference is not necessary for the effectual drainage of the lands, or for carrying out the other powers of this Act, by the Commissioners or district boards respectively, they shall not be entitled to make the same:
- (2.) If the decision is that such removal, alteration, or interference is necessary for the purposes aforesaid, or some of them, but that the injury to be caused thereby is not of a nature to be fully compensated by money, the Commissioners or district boards respectively shall not be entitled to make the same:
- (3.) If the decision is that such removal, alteration, or interference is necessary, and that any injury that may be caused thereby can be fully compensated by money, the Commissioners or district boards respectively shall be at liberty to make the same, making compensation as hereinafter mentioned.

46. Where the decision is that the Commissioners or district boards are entitled to remove, alter, or interfere with any such milldam, sluice, weir, or other like obstruction, they shall, subject as aforesaid, take the same steps with respect to compensating the parties interested as are required to be taken by the Lands Clauses Consolidation Acts by purchasers in cases where they are authorised Amount of compensation, how ascertained.

A.D. 1877.

by the special Act to purchase or take lands otherwise than by agreement.

Power to Commissioners to purchase lands, easements, &c.

47. It shall be lawful for the Commissioners and district boards respectively, for the purposes of this Act, to purchase, or to take on lease for such time as they may think fit, any land or any right or easement in or over any land, or in, over, or arising out of or otherwise connected with any river, stream, or watercourse within their respective jurisdictions which they may deem necessary or expedient for the execution of the powers of this Act: Provided always, that the Commissioners and district boards respectively shall not be entitled to purchase or take compulsorily any land or any such right or easement as aforesaid except in pursuance of a provisional order confirmed by Parliament as herein-after provided.

Provisions of 8 & 9 Vict. c. 18., 23 & 24 Vict. c. 106., and 32 & 33 Vict. c. 18., incorporated with this Act.

48. For the purpose of enabling the Commissioners and district boards respectively to obtain any land or any right or easement in or over any land, or in, over, arising out of, or otherwise connected with any river, stream, or watercourse which they respectively may require for the purposes of this Act, the Lands Clauses Consolidation Act, 1845 (except the sections 16 and 17, with reference to the capital to be subscribed, the provisions of that Act with respect to the entry upon lands, the limit of time for the compulsory purchase of lands, the manner of serving notices, the recovery of forfeitures, penalties, and costs, and the access to the special Act), and also the Lands Clauses Consolidation Acts Amendment Act, 1860, and the Lands Clauses Consolidation Acts Amendment Act, 1869, shall, subject to the provisions herein contained, be incorporated with this Act, and the provisions of the said Acts so incorporated with this Act which would be applicable in the case of a purchase of any land shall be applicable in the case of the purchase of any such right or easement as aforesaid, and for the purposes of this Act the expression "the promoters of the undertaking," whenever used in the said incorporated Acts, shall mean the Commissioners or the district board acting under the provisions of the said incorporated Acts and this Act, or either of them, as the case may be.

Restrictions as to purchase of lands.

49. Provided always, that the provisions of the said incorporated Acts "with respect to the purchase and taking of lands "otherwise than by agreement" shall not be incorporated with this Act, save for the purpose of enabling the Commissioners or district boards to purchase any milldam, sluice, weir, or other like obstruction, or any interest therein, where it shall have been decided in pursuance of the powers of this Act that the Commissioners or district boards respectively are entitled to do so, and for the purpose of enabling the Commissioners and district boards to purchase com-

pulsorily lands, or any right or easement in or over any land, or in, over, or arising out of or otherwise connected with any river, stream, or watercourse, in pursuance of a provisional order to be confirmed by Act of Parliament in manner herein-after mentioned.

A.D. 1877.

50. In any case where a district board shall be desirous of taking land compulsorily for the purpose of carrying out any of the works authorised by this Act, they shall certify the same to the Commissioners, and if the Commissioners are satisfied of the necessity of such powers, and that the works proposed to be executed are proper and well designed for effecting their object, the Commissioners shall be at liberty, at the cost of such district board, to apply for the sanction of Parliament in manner herein-after mentioned, and in any case where the Commissioners shall be desirous of taking land compulsorily for the purpose of carrying out any of the works authorised by this Act, they shall be at liberty to apply in like manner for the sanction of Parliament.

Commissioners may apply for provisional order.

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

Publication of notices.

(1.) Publish once at least in the "London Gazette," and once at least in each of three consecutive weeks in the months of October and November, or either of them, in some newspaper circulating within the limits of the jurisdiction of the Commissioners, an advertisement describing shortly the nature of the undertaking in respect of which the land is proposed to be taken, naming a place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of land that they require:

(2.) Serve a notice in manner herein-after mentioned on every owner or reputed owner, lessee or reputed lessee, and occupier of such lands, defining in each case the particular lands intended to be taken, and requiring an answer stating whether the person so served assents, dissents, or is neuter in respect of taking such lands, such notice to be served—

By delivery of the same personally on the person required to be served, or if such person be absent abroad, on his agent; or

By leaving the same at the usual or last-known place of abode of such person as aforesaid; or

By forwarding the same by post in a prepaid letter addressed to the usual or last-known place of abode of such person.

A.D. 1877.

Petition to
Inclosure
Commis-
sioners.

52. Upon compliance with the provisions herein-before contained with respect to advertisements and notices, the Commissioners may present a petition to the Inclosure Commissioners; the petition shall state the land intended to be taken, and the purposes for which it is required; it shall pray that the Commissioners may with reference to such land be allowed to put in force the powers of the said Lands Clauses Consolidation Acts, or some of them, in relation to the purchase and taking of land otherwise than by agreement, and such prayer shall be supported by such evidence as the Inclosure Commissioners require.

Inquiries by
Inclosure
Commis-
sioners.

53. Upon the receipt of such petition, and upon proof to their satisfaction of the proper advertisements having been published and notices served, the Inclosure Commissioners shall take such petition into their consideration, and they may either dismiss the same, or they may, if they think fit, send an inspector to the district in which the land is situated for the purpose of making inquiry as to the propriety of assenting to the prayer of such petition.

Notice of
inquiries.

54. Before commencing his inquiry, the inspector shall give such notice as the Inclosure Commissioners direct of his intention to make the same, and of a time and place at which he will be prepared to hear all persons desirous of being heard before him on the subject-matter of such inquiry.

Provisional
order by In-
closure Com-
missioners to
be confirmed
by Parlia-
ment.

55. Upon the completion of such inquiry, the Inclosure Commissioners may by provisional order empower the Commissioners to put in force, with reference to the land mentioned or referred to in such order, the powers of the Lands Clauses Consolidation Acts with respect to the purchase and taking of land otherwise than by agreement, and it shall be the duty of the Inclosure Commissioners, so soon as conveniently may be, to take all proper steps for the confirmation of such provisional order by Act of Parliament, and when so confirmed it shall be deemed to be a Public General Act, and shall take effect accordingly, but previous to such confirmation it shall not be of any validity whatever, and for the purposes of such confirmation the Inclosure Commissioners may schedule such provisional order with any other provisional orders for the confirmation of which they are by Act of Parliament entitled to apply, and on such terms as to the costs, charges, and expenses of such confirmation as they may think right.

Expenses of
obtaining
provisional
order.

56. All costs, charges, and expenses incurred by the Inclosure Commissioners in relation to the confirmation by Parliament of any such order as aforesaid shall be paid by the Commissioners or

district boards respectively out of the rates leviable by them in pursuance of this Act and applicable to the works with a view to which such order was obtained. A.D. 1877.

57. When any improvement of existing works or construction of new works is undertaken by the Commissioners or district boards for the benefit of any district generally, or of any part of a district, and so partly for the benefit of the lands in or through which the work is executed, then if any damage or injury shall be done by any of the works of the Commissioners or district boards respectively to the lands so benefited, and any claim for compensation in respect of damage or injury shall be made, the benefit so accruing to those lands may be taken into account in satisfaction wholly or in part of such damage or injury. Proportionate compensation where lands benefited.

58. All lands, rights, easements, or privileges from time to time acquired by the Commissioners under this Act, including so much of the bank, bed, and soil of the rivers affected under the provisions of this Act, or any of their tributaries, as may no longer form part of such banks, bed, or soil by reason of any works to be executed by or at the expense of the Commissioners, are by this Act vested in them for the purposes of this Act, and if at any time the Commissioners or district boards shall be desirous of selling such lands, all the duties and obligations imposed on the undertakers by the Lands Clauses Consolidation Acts, or any of them, with respect to the sale of superfluous lands, so far as they are applicable thereto, shall attach to the Commissioners or district boards respectively. As to the sale of superfluous lands.

PART III.—EXISTING LIABILITIES.

59. It shall be the duty of the Commissioners, as soon as conveniently may be after their final constitution, to proceed to ascertain, fix, determine, and commute as herein-after provided the liabilities (whether within the jurisdiction of the existing drainage boards or the boards to be constituted under this Act) then existing of all owners, whether by themselves or their tenants, to cleanse, repair, maintain, build, or renew any rivers, watercourses, drains, sewers, ditches, banks, ditches, bridges, sea walls, walls, sluices, gates, hatches, or other outfalls for water, and defences against flooding, whether by reason of tenure, custom, prescription, or otherwise, and to enter the same in a register to be provided and kept for that purpose in manner and form according to Schedule C. to this Act annexed, and herein-after called the register of liabilities, which said register shall be kept at the offices of the Commissioners, and shall be open to the inspection of all owners, lessees, and occupiers. Liabilities to be ascertained, registered, and commuted.

A.D. 1877. owning or holding lands within the jurisdiction of the Commissioners at all reasonable times.

Notices to be served on persons deemed to be liable, and liabilities to be determined and commuted.

60. For the purpose of so ascertaining, fixing, determining, and commuting the liabilities aforesaid, the following proceedings shall be observed :

A notice in form according to Schedule B. shall be served upon all owners of land who by themselves or their tenants are deemed by the Commissioners to be under any liability to do any of the works aforesaid, stating that on a day to be named therein, not being less than twenty-eight days from the service of such notice, the Commissioners will take into consideration with a view to ascertaining, fixing, determining, and commuting the liability to which such person or persons is or are then liable, and stating that unless sufficient cause be shown to the contrary the Commissioners will proceed to order that such person or persons be placed upon the register of liabilities in respect of the liability specified in the notice aforesaid, and their liabilities commuted for such annual payment by way of rentcharge as in the opinion of the Commissioners may fairly represent the probable average annual cost (taking one year with another) of executing and maintaining the respective works in a due state of efficiency, and on the day named in the notice aforesaid the Commissioners shall, if necessary, proceed to take evidence with a view to ascertaining, fixing, determining, and commuting the liability of any such person or persons, and in case no sufficient cause to the contrary be then shown, shall place such person or persons upon the register of liabilities in respect of the work or works so specified in the notice aforesaid : Provided always, that any person or persons aggrieved by any such order made by the Commissioners may appeal to the court of quarter sessions in manner herein-after mentioned.

Where persons liable cannot be ascertained, Commissioners or district boards may execute works.

61. In cases where the Commissioners are unable either from want of evidence or other sufficient cause to ascertain the person or persons liable to execute any specific work, it shall be lawful for the Commissioners or district boards, as the case may be, to execute the work themselves and to defray the costs out of any moneys in their hands which would have been applicable to such a purpose if there had been no person liable to execute such work by reason of tenure, custom, prescription, or otherwise : Provided always, that no such work shall be executed by the Commissioners or district boards until the Commissioners have certified under the hand of their clerk such inability as aforesaid.

Commissioners may order works

62. In all cases where it would be necessary for the Commissioners and district boards respectively to exercise the powers

conferred upon them by the last preceding section, if in the judgment of the Commissioners it would be unfair, either owing to the large proportion of the work which would have to be borne out of the general funds of such Commissioners or district boards respectively under such last-mentioned section, compared with that which would have to be ascertained, fixed, determined, and commuted under the 59th and 60th sections of this Act, or from any other cause to ascertain, fix, determine, and commute such last-mentioned liabilities, it shall be lawful for the Commissioners (but as to all works not required for purposes of arterial drainage which would have to be executed within the area of any district board by such last-mentioned board, then only at the request and at the cost of such district board) to order that all liabilities to build, repair, maintain, or renew any drainage works by reason of tenure, custom, prescription, or otherwise within that area shall from a date to be named in the notice herein-after mentioned cease and determine, and thereupon such drainage works shall from the date mentioned in such notice be executed by the Commissioners and district boards respectively, and the cost thereof defrayed in like manner as if there were no persons liable to execute such works: Provided that before the Commissioners shall order any drainage works to become a general charge under the powers of this section they shall publish for three successive weeks in some newspaper circulating within or near the area proposed to be affected by such order a notice giving a general description of the drainage works which it is proposed to make a general charge as aforesaid, and also naming a day upon which all owners, tenants, and occupiers of land may be heard before the Commissioners; and if upon the day named in such notice no objection shall be made, or if made be overruled by the Commissioners, then it shall be lawful for the Commissioners to make the order aforesaid, naming in such order the day on which all the liabilities aforesaid shall cease and determine: Provided also, that any person aggrieved by any order of the Commissioners in this behalf may appeal to the court of quarter sessions in manner herein-after mentioned, who shall have power to quash any order in whole or in part, or make any alteration or amendment in the same, as shall seem just.

A.D. 1877.
 hitherto re-
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 to become
 a general
 charge.

63. Any commutation made under the provisions of this Act shall be charged as an annual rentcharge on the lands in respect of which the obligation existed at the time of the commutation, and any charge so created shall be recoverable by the Commissioners in the same manner in which tithe rentcharge is recoverable, and shall have priority over all incumbrances created or to be created by any proprietor of the lands on which the same is charged.

Nature of
 commuta-
 tion.

A.D. 1877.

The record of commutation to be entered upon the register.

64. The record of any such charge as aforesaid shall be entered upon the register of liabilities herein-before referred to, and a certified copy thereof (if demanded) be given to all persons whose liabilities have been so commuted as aforesaid, and shall be signed by the clerk to the Commissioners and shall be receivable in evidence in all legal proceedings.

Saving of existing liabilities to repair.

65. Subject to the provisions herein-before contained as to commutation of liability, the liability of any person whomsoever to defray or contribute towards the expense of making, completing, altering, amending, or maintaining any sewer or drain, or any walls or works for protecting the land against the force of the sea, or any river or flood, or doing any other works within the jurisdiction of the Commissioners or district boards respectively, shall continue and the same may be enforced as if this Act had not passed, and the rates to be levied under this Act shall be made only for purposes to which such liability does not extend.

PART IV.—MAINTENANCE OF DRAINS BY OCCUPIERS AND REMOVAL OF OBSTRUCTIONS.

Works of interior drainage to be kept open by occupiers of land;

66. The several occupiers of land within the jurisdiction of the Commissioners shall at all times well and sufficiently cleanse, scour, repair, and maintain the several watercourses, drains, sewers, ditches, banks, droves, and all other works of drainage which convey water from the lands of any other occupier to or towards the works of the Commissioners, and being within and immediately adjoining their respective lands; and it shall be competent for the Commissioners or district boards respectively to determine what are such drainage works for the purposes of this and the following section, and to declare the respective liabilities of any such occupiers in all cases where they have not been previously fixed or declared by Act of Parliament or an award made in pursuance of an Act, and their decision shall be final.

or by Commissioners or district boards in default of occupiers.

67. If and whenever any such occupier for seven days after notice in writing from the Commissioners or district board respectively within whose jurisdiction the said lands are situate fails to do such cleansing, scouring, repairing, and maintaining as aforesaid, he shall for every such failure forfeit and pay any sum not exceeding five pounds, and the Commissioners or district boards respectively may execute the work so omitted to be done, and all charges and expenses attending the same shall be repaid to the Commissioners or district board respectively by the occupier in default, and the amount thereof may be recovered in the same manner as herein-after provided for the recovery of rates in arrear.

68. When any new drain, cut, or watercourse made by the Commissioners or district boards is completed so as to admit free and full passage of water through the same for purposes of drainage, but no sooner, all rights of drainage through the old channel for which the new drain, cut, or watercourse is substituted shall, if the Commissioners or district boards respectively so direct, wholly cease.

A.D. 1877.

When new drains completed, rights of drainage through old channels to cease.

69. The Commissioners or district boards respectively acting within their respective jurisdictions, subject to such conditions as are herein-before contained with reference to the improvement of existing works or to the construction of new works, shall have full power and authority to remove or cause to be removed all impediments and obstructions whatsoever the removal of which is not otherwise by this Act provided for from time to time in such parts of the rivers Parrett, Ile, Yeo, Brue, Axe, Cary, and Tone, or their tributaries, as are within the limits of this Act, or in any watercourses, cuts, drains, sewers, or other works connected therewith, or which may interfere with the discharge of the waters of the said rivers or their tributaries, or with the due and proper action of such watercourses, cuts, drains, sewers, or other works.

Commissioners, &c. may remove obstructions.

70. In case any person shall wilfully cause or continue any such impediment or obstruction as aforesaid, and shall for the space of seven days refuse or neglect to remove the same in such manner as the Commissioners or district boards shall direct, after being lawfully required so to do by notice in writing or print, or partly in writing and partly in print, from the Commissioners or district boards respectively within whose district such impediment or obstruction is situate, every such person so neglecting or refusing shall for every such offence, in addition to the cost of removing any such impediment or obstruction, forfeit and pay any sum not exceeding five pounds, and the amount thereof, together with all charges and expenses caused by such refusal or neglect as aforesaid, may be recovered in the same manner as is herein-after provided for the recovery of rates in arrear.

Penalty on persons refusing or neglecting to remove obstructions.

71. It shall be lawful for the Commissioners or district boards respectively, and also for any person who shall or may be employed by them for the purpose, at all reasonable times to enter into and upon, and to continue in and upon, to view, survey, and admeasure, the lands within the limits of this Act, and to take such levels as the Commissioners or district boards respectively shall think proper, without let, hindrance, or molestation from any person whomsoever, and without being deemed trespassers for so doing.

Power to enter lands to make surveys.

A.D. 1877.

Powers for Commissioners to enter into arrangements with other commissioners.

72. The Commissioners or district boards may, with the consent of any commissioners of sewers from time to time having jurisdiction within any adjoining area, do and execute in such adjoining area any works that the Commissioners or district boards might do and execute within their own jurisdiction, upon such terms as to payment or otherwise as may be agreed upon between the Commissioners or district boards and such commissioners of sewers, and any sums agreed to be paid by any such commissioners of sewers in pursuance of this section shall be payable out of the rates leviable by such commissioners of sewers in the same manner as if the expenses had been incurred by them within their own area, and the commissioners or district boards shall have the same power of levying rates within their own jurisdiction for all such works as they would have had if such works had been executed within such jurisdiction, and the powers hereby given to the Commissioners or district boards in relation to another body of commissioners may be exercised by them in relation to any drainage board constituted under the Land Drainage Act, 1861, or under any Local Act, or by any such drainage board, or by any body of commissioners, or by any board constituted under any Local Act in relation to the Commissioners or district boards respectively.

PART V.—RATING POWERS.

First Commissioners to ascertain expenses of obtaining Act.

73. As soon as convenient after the passing of this Act, the first Commissioners shall ascertain the costs, charges, and expenses of, relative, and incidental to the preparing, applying for, obtaining, and passing of this Act, and shall make an estimate of the expenses incurred or to be incurred by them in fixing the limits of their jurisdiction and the boundaries of the district boards, and other matters incidental thereto, and also of levying the first rate hereinafter directed to be levied by them, and all other costs, charges, and expenses incurred or to be incurred by them in the execution of this Act.

First Commissioners to levy a rate to defray costs of Act.

74. When and so soon as the first Commissioners shall have ascertained the amount of such costs, charges, and expenses, and made such estimate as aforesaid, and notwithstanding that the limits of the jurisdiction of the Commissioners to be appointed under this Act may not have been declared under the provisions of section 10, the first Commissioners shall ascertain all lands within the limits of this Act which were at the date of the passing of this Act under the jurisdiction of the Commissioners of Sewers for the county of Somerset or commissioners appointed under the first part of the Land Drainage Act, 1861, and all other lands which will in

their opinion derive benefit from the exercise of all or any of the powers contained in this Act, and the approximate acreage thereof, and the names of the owners and occupiers thereof, and they shall levy by an equal acreage rate upon all such lands all such costs, charges, and expenses, including the amount of such estimated expenses as aforesaid, and the order directing the levying of such rate, herein-after called the first rate, shall also direct payment of the sums thereby levied to the clerk of the Commissioners on or before a certain day to be named therein, and all moneys received by such first rate shall be applied by the Commissioners in payment of such costs, charges, and expenses as aforesaid: Provided always, that in consideration of the improvements already effected by the existing drainage boards, it shall not be lawful for the Commissioners to levy a rate upon the owners and occupiers of lands lying within the jurisdiction of those boards in respect of the costs, charges, and expenses of, relative, and incidental to the preparing, applying for, obtaining, and passing of this Act.

A.D. 1877.

75. Copies of the said first rate shall be deposited at the office of the Commissioners, and notice thereof given by advertisement in three successive weeks in some newspaper published and circulated in that part of the county of Somerset wherein any of the lands so rated are situated, stating that the said rate has been so deposited for the inspection of owners and occupiers, and calling upon all persons affected thereby to state their objections thereto, if any, within one calendar month from the publication in the said newspaper of such notice; and a copy of such notice shall also be sent by post in a prepaid letter the first week in which it is published to the secretary of any railway, dock, or navigation company liable to such rate, at the principal office of such company.

Notice of the first rate to be given.

76. If any person think himself aggrieved by the first rate, he may at any time within one calendar month after the publication of the said notice of the deposit of such first rate give notice of his objection to the first Commissioners, but no such objection shall be entertained unless notice in writing of such objection, stating the nature and ground thereof, be given to the said first Commissioners within such month as aforesaid, and the said first Commissioners, on such day as they shall appoint for hearing such objection, after due notice thereof to such objector, shall hear and determine the same, and the decision of the said first Commissioners shall be final.

Objection to first rate and appeal.

77. After hearing and determining any objection under the last preceding section against such first rate, or if there be no such objection within the time prescribed by such notice as is required

After hearing objections, Commissioners to

A.D. 1877.
finally ap-
prove rate.

by this Act, then at the expiration of such time the first Commissioners shall finally approve the said first rate, with such modifications or alterations, if any, as they may think right, but no such modification or alteration shall in any way affect the rating of any person thereby rated, except so far as it may be affected by diminishing the amount of or cancelling the rating of any objector: Provided always, that the said first Commissioners may alter such rating in such manner as they think right, giving notice thereof by advertisement or otherwise in like manner as if such altered rate were a new rate, and all proceedings shall and may be had thereon as if such altered rate were a new rate.

Rate to be
filed when
settled.

78. The first rate when so finally settled as aforesaid shall be fairly written or engrossed and sealed by the first Commissioners, and signed by their clerk, and shall be deposited with and kept by the clerk for the inspection of all persons interested therein, and shall be admissible in evidence in all legal proceedings, and the production of such first rate shall be conclusive evidence that all the requirements of this Act in respect of such first rate have been duly complied with.

Commis-
sioners may
make a sup-
plementary
rate.

79. The first Commissioners or the Commissioners to be appointed under this Act may from time to time make an amended or supplementary estimate or estimates of the costs, charges, and expenses incurred or to be incurred as set out in section 73 of this Act, and shall raise all costs, charges, and expenses contained in such supplementary estimate or estimates in the same manner and by the same means and proceedings as the costs, charges, and expenses embodied in the first estimate.

The first rate levied by the first Commissioners, or any supplementary rate which may be levied by them or by the Commissioners to be appointed under this Act, for the purpose of defraying the costs, charges, and expenses mentioned in section 73, and any rate levied by them for the purpose of defraying any deficiency which may have arisen in respect of the costs, charges, and expenses intended to be provided for out of the first rate, shall be deemed to be a special rate, and shall be a tax payable by the owners of lands.

Regulations
as to rating.

80. The following regulations shall be observed with respect to rates (other than the first rate or rates made to supplement the first rate, except as is herein-after mentioned) leviable by the Commissioners and district boards; that is to say, first, as to the purposes of the rate: rates may be levied by the Commissioners and district boards for defraying all costs, charges, and expenses incurred or to be incurred by them under the authority of this Act or of any

other Act of Parliament, or of any award, law, or custom; second, as to the incidence of the rates: A.D. 1877.

(1.) A rate leviable by the Commissioners or by the district boards to be constituted under the powers of this Act, for the purposes of defraying the expense of any improvements in existing works or the construction of any new works, shall be deemed to be a special rate, and shall be a tax on the owners of lands, but except such special rate, all rates (other than the first rate or rates made to supplement the first rate) leviable by the Commissioners and such district boards shall be deemed to be general rates, and shall be a tax on the occupiers of lands:

(2.) Where the owner of any land makes default in paying the amount of any rate (including the first rate or rates made to supplement the first rate) payable by him, such amount may be levied upon and payment thereof enforced against the occupier of such land and his goods and chattels in like manner as if the same were a rate payable in the first instance by such occupier, with this limitation; that no occupier shall be liable to pay on account of any owner any sum exceeding the rent due or that may accrue due to such owner during the period of his occupancy, and subject to this proviso, that any occupier and any person other than the owner may in the absence of any agreement to the contrary deduct the sum so paid by him from any rent due in respect of the land, and that any person from whose rent such deduction shall have been made may deduct the amount thereof from any rent payable by him in respect of such land, and the receipts of the Commissioners or district boards for any rate paid by the occupier under the circumstances mentioned in this section shall, to the extent of the moneys therein expressed to be paid, be a discharge as against such owner of an equivalent amount of rent.

81. It shall not be lawful for the Commissioners or district boards to rate any railway, dock, canal, or navigation, or any land in the occupation of any railway, dock, canal, or navigation company, and the works, buildings, conveniences, and appurtenances used or connected therewith, at a higher amount than they may respectively from time to time and for the same purpose rate so much of the land immediately adjoining such railway, dock, canal, or navigation as may be situate within the jurisdiction of the Commissioners and district boards respectively; and in case any of the

As to rating
of railways,
docks, &c.

A.D. 1877. — lands immediately adjoining shall be rated at different amounts, then the mean amount at which all the said adjoining lands within a distance of four hundred yards on each side of the railway, dock, canal, or navigation, as the case may be, shall be so rated shall be the amount at which such railway, dock, canal, or navigation company shall be rated in respect of lands in their occupation.

Lessee to pay a percentage upon the amount of special rate.

82. Where any owner of any lands shall have paid any special rate other than the first rate, or any rate supplemental thereto, and at the time of his becoming liable for the same the lands or any part of the lands in respect of which such special rate shall have been made shall have been demised or agreed to be demised, either by him or any predecessor in title, either for life or lives, or any term dependent on a life or lives, one of which shall be still in being at the time of the payment of such rate, or for any term of years certain, whereof more than two years shall be still unexpired at the date of the payment of such special rate, the lessee holding under such demise or agreement shall, notwithstanding any covenants or conditions therein, pay to the owner of such lands interest at the rate of five per centum per annum on the amount of such special rate in respect of the lands held by such lessee from the day on which such special rate is payable for the term of thirty years, if his tenancy shall so long continue under the said demise or agreement, or if his said tenancy shall not so long continue, then to the end thereof; and such interest shall be deemed to be added to the rent and liable to the same incidents and be payable at the times at which the rent is payable under the demise or agreement, and be recoverable by distress in the same manner as rent in arrear.

Sub-lessee to pay a percentage upon special rate to his lessee.

83. Where any lessee as last aforesaid, or his predecessor in title in the term thereof, shall have in accordance with the terms of his lease sublet the whole or any part of the lands in respect of which he shall be charged with interest as aforesaid for any term whereof two years shall be unexpired on the day on which such special rate is payable, the sub-lessee holding under such lessee shall, notwithstanding any covenants or conditions in his lease, pay to the lessee yearly so much of the interest as the lessee shall have paid in respect of the lands sublet from the date of the first payment by the lessee of such interest for the term of thirty years, if the sub-tenancy shall so long continue, and if it shall not so long continue, then to the end of the said sub-tenancy; and such interest shall be deemed to be added to the rent and liable to the same incidents and be payable at the times at which the rent is payable under the sub-lease, and be recoverable by distress in the same manner as rent in arrear.

84. Whenever the name of any owner or occupier liable to be rated to any rate is not known to the Commissioners or district board after due inquiry, it shall be sufficient to designate him in any rate as the owner or occupier, as the case may be, of the land in respect of which such rate is made, without further description.

A.D. 1877.
When name of owner or occupier unknown.

85. Where any lands rated under this Act are unoccupied at the time of making a rate, the owner thereof shall pay the amount of the rate thereof.

Owners of unoccupied lands to pay.

86. The Commissioners may, in their discretion, either cause a separate special rate to be made in respect of any work of arterial drainage, or they may ascertain and assess in gross the amount which ought to be charged on each of the district boards affected by such work of arterial drainage in respect thereof, having regard to the annual value of the lands benefited and to the benefit derived by such lands from the construction of such works.

Commissioners may levy rates in respect of arterial drainage either separately or in gross.

87. It shall not be lawful for the Commissioners to rate any of the lands under the jurisdiction of existing drainage boards, saving for the purposes of constructing, maintaining, repairing, or renewing any existing or future arterial drainage works, or for the general purposes of the Commissioners to be appointed under the provisions of this Act: Provided always, that in rating the aforesaid lands, and also all lands which at the time of the passing of this Act may be included within the jurisdiction of the King's Sedgemoor Drainage Commissioners for the purposes of arterial drainage works, the Commissioners shall take into account any works which may have been already executed by the said existing drainage boards and Commissioners respectively, and which in the judgment of the Commissioners may be serviceable for the purposes of arterial drainage.

Existing drainage boards not to be rated except for arterial drainage.

88. If the Commissioners elect to demand a sum in gross of the district boards, or any of them, under the provisions of section 86, the said Commissioners shall issue precepts under their seal requiring payment of the amount charged against such district board to such person as they may by such precept order, within such time as may be therein limited, and every such precept for any sum so demanded of such district board may specify, subject to appeal on the part of such district board, or of any person affected thereby, the part of such district upon which such sum is to be levied.

Payment of sum in gross, how to be obtained.

89. All sums which any district board may be required to pay by such precept as aforesaid shall be paid within such time as may be therein mentioned, and shall be raised in like manner as if a rate

District boards to raise rates to pay precepts.

A.D. 1877. for the execution of works of the same or a similar character within the area of the district board were required to be raised by such district board : Provided always (so far as the existing drainage boards are concerned), that if the sum required to be paid by such existing drainage board should form part of a larger sum expended or to be expended in the improvement of existing works or the construction of new works amounting to more than one thousand pounds, such last-mentioned district board shall raise the same by a rate upon the owners of land in the same manner as if such work had been entirely situate and such expenditure of one thousand pounds incurred within the area of such existing drainage board.

Commissioners making a separate special rate shall make it upon same persons, &c. as district board would have.

90. If the Commissioners, under the powers of section 86, elect to make a separate special rate, they shall only make and levy such rate upon the same persons upon whom and in the same proportions as the district boards would have power to make and levy a rate under the provisions of the last preceding section, and of the other powers of this Act, if such district board had been called upon by a precept of the Commissioners to pay a sum in gross under the provisions of section 88, and the Commissioners shall have power of enforcing payment of the same against the owner or occupier, as the case may be, of all lands so rated by distraining in manner hereinafter provided upon any goods or chattels belonging to such person.

Ancient tenement need not be mentioned in either column of rate book.

91. In making rates by this Act or any other Act, law, or custom authorised to be made upon lands which have been inclosed under and by virtue of Acts of Parliament and awards made in pursuance thereof, it shall not be necessary for the Commissioners or district boards to insert in either column of the rate book the name of the ancient tenement or right of common in respect of which the allotment of the inclosed land was made, but it shall be sufficient to make the rate upon such allotment notwithstanding any provisions to the contrary contained in any Act of Parliament or award or by custom.

Rates to be recovered by summons and distress.

92. For the purpose of better collecting and recovering the fines and penalties imposed by the Commissioners and district boards, and also the rates duly made on any lands lying within the jurisdiction of the Commissioners or district boards, and any rentcharge under this Act, it shall and may be lawful for any one Commissioner or member of a drainage board acting within their respective jurisdictions, upon complaint that any person liable to the payment of any such fine, penalty, rate, or annual rentcharge hath not paid the same, but has refused or neglected to do so, to issue his summons to such person to appear at a time and place to be therein specified before any three Commissioners or three members of a district board

acting within their respective jurisdictions to show cause why such person refuses or neglects to pay the said sum or sums, and upon the appearance of such person at the time and place appointed as aforesaid, or otherwise upon proof on oath or affirmation to the said Commissioners or members of a district board that such summons was served on the person to whom it was so directed, by delivering the same to him personally, or by leaving the same with some person for him at his last place of abode, and of the refusal or neglect of such person to pay the same respectively, it shall be lawful for three Commissioners or three members of a district board, as the case may be, to issue their warrant to levy the said sum or sums, and also the costs and expenses incurred in obtaining such warrant (to be specified therein) and in executing the same, by distress and sale of the goods and chattels of such person.

A.D. 1877.

93. Where no sufficient distress for levying the fines, penalties, rates, rentcharges, costs, and expenses can be found on the lands rated and charged with the same, then those lands shall remain a security for payment thereof, and all goods and chattels from time to time thereafter found thereon may be distrained, dealt with, and sold as by this Act provided with respect to the original distress, until all arrears of the fines, penalties, rates, rentcharges, costs, and expenses, and the expenses of every further distress, and all other costs and charges incurred by reason of the nonpayment of the rate, are fully paid and satisfied.

Lands to remain liable if insufficient distress.

94. Where any rate or any annual rentcharge under this Act is not paid within twenty-eight days after it becomes payable, the Commissioners and district boards respectively may recover the rate and all penalties for nonpayment thereof by action or other proceeding in any court of competent jurisdiction against the person or any of the persons liable to pay the same.

Rates, &c. may be recovered by action.

95. Where any owner of land liable to pay any special rate under this Act is entitled only for life or for any estate tail or is a trustee, it shall be lawful for him, and he is hereby empowered, in manner herein-after expressed, to charge the amount of such rate on all or any of the lands subject to the special rate, and in which he has such limited or other interest as aforesaid, so as to bind the freehold and inheritance thereof, and the tenants in remainder and reversion thereof; provided that such charge shall not be for any sum less than one hundred pounds, nor for any part of a rate, which part may be raised for the purpose of paying off any mortgage debt secured upon such rate or the interest thereof, and that such charge shall be effected in such manner as that the principal thereof, together with the interest thereon, shall be paid off and discharged

Power to limited owner to charge inheritance.

A.D. 1877.

by an equal yearly payment commencing from the date of the borrowing of such amount and extending over a period of not more than twenty-five years; and in case any such owner of land as aforesaid shall be a lunatic, idiot, or infant, it shall be lawful for the committee of the estate of such lunatic, or idiot, or infant to exercise the foregoing powers as fully and effectually as such lunatic, idiot, or infant might have done but for such disability. Any owner of land or other person authorised and desiring to make such charge shall make application to the Inclosure Commissioners, stating such particulars as to the land to be charged, the interest of the owner or other person therein, the amount of the rate and the amount desired to be raised, and the term for which the loan is to be contracted, as the Inclosure Commissioners shall require, and the Inclosure Commissioners may thereupon issue their order authorising the said charge, and the amount when raised shall be paid to the Commissioners or district board respectively, who shall give a receipt for the same; and any charge contracted under and in compliance with such order shall be a first charge on the freehold and inheritance of the said lands.

Overseers to allow inspection of poor rates.

96. For the purpose of making any rate under this Act, any person appointed by the Commissioners or by any district boards may inspect, take copies of, or make extracts from any rate for the relief of the poor or assessments or valuation lists of the parishes or unions within the district; and if any officer having the custody of any rate book, assessment, or valuation list refuses to permit any such inspection, or the taking of any such copy or extract, he shall for each offence incur a penalty not exceeding five pounds, to be recovered in a summary manner.

Drainage companies may lend money.

97. Any company incorporated by Act of Parliament or by royal charter, for the purpose of lending money for the drainage or improvement of lands, may advance any money authorised to be borrowed for the purpose of carrying out the powers of this Act or of paying a gross sum by way of commutation of rates or composition for such obligation as aforesaid.

Mortgage of rates.

98. The Commissioners or district boards respectively may, for the purposes of defraying the costs, charges, and expenses preliminary to and of and incidental to the preparing, applying for, obtaining, and passing this Act, or incurred or to be incurred by them under the authority of this Act, or of any other Act of Parliament, law, or custom, borrow and take up at interest on the credit of the rates authorised to be made and levied by them respectively any sums of money necessary for defraying such costs, charges, and expenses; and for the purpose of securing the repayment of any

sums of money so borrowed, together with such interest as aforesaid, the Commissioners or district boards respectively may mortgage and assign over to the persons by or on behalf of whom such sums are advanced such rates or any of them, but the exercise of the above power shall be subject to the following regulations :

- (1.) The borrowing such money shall be sanctioned by an order of the Inclosure Commissioners, which shall be conclusive evidence of the right of the Commissioners or district board to borrow such money, and the receipt under the common seal of the Commissioners or district board shall be a good discharge to the person by or on behalf of whom such sums are advanced :
- (2.) Any money so borrowed may by agreement with the mortgagee be paid off by equal annual instalments of principal and interest, and such borrowing may be for such time, not exceeding thirty years, as the Commissioners or district board, with the sanction of the Inclosure Commissioners, determine in each case :

And in cases where the Commissioners or district boards borrow any money for the purpose of defraying expenses in respect of which they have determined a part only of the district within their jurisdiction to be liable, it shall be the duty of the Commissioners or district boards respectively, as between the ratepayers of the district, to repay the money so borrowed, with interest thereon, out of rates to be levied on such part of the district only.

99. All moneys from time to time borrowed by the Commissioners or district boards respectively shall be applied,—

Application of money borrowed.

First. In repaying the cost of all the matters mentioned in section 73 ;

Secondly. In and about the execution of such of the works by this Act authorised as the Commissioners or district boards think fit ;

Thirdly. In paying off money borrowed by such Commissioners or district boards respectively under the powers of this Act.

100. All moneys received by way of rentcharge under section 63 shall be carried to the general revenue account of the Commissioners or district boards respectively, as may be determined by the Commissioners.

How moneys received by way of composition to be applied.

101. All rates (except special rates), penalties, rents, and other sums whatsoever from time to time received by the Commissioners and district boards, not being moneys borrowed by them, shall be

Application of general revenue.

A.D. 1877.

carried to the general revenue account of the Commissioners and district boards respectively, and shall be applied as follows :

First. In paying the general expenses of management incurred by the Commissioners (including the reasonable travelling expenses of the Commissioners) and district boards respectively ;

Secondly. In paying interest from time to time payable on the principal sums secured by mortgage otherwise than on the security of special rates made under this Act ;

Thirdly. In providing any sinking fund, or in otherwise paying off the principal sums, or any part thereof, secured by such mortgages ;

Fourthly. In making, maintaining, and improving such of the drainage works as are not provided for out of any special rate ;

Fifthly. In generally carrying this Act into execution.

As to commutation of special rates and the application thereof.

102. All special rates received from time to time by the Commissioners and district boards respectively shall be carried to a special account of the Commissioners or district boards respectively, and shall be applied as follows :

First. In defraying the expenses of making any such special rate, and in paying such portion of the general expenses of management as the Commissioners or district boards may think equitable ;

Secondly. In paying the interest from time to time payable on the principal sums secured by mortgage of such special rate under this Act ;

Thirdly. In providing any sinking fund, or in otherwise paying off the principal sums, or any part thereof, secured by such last-named mortgages ;

Fourthly. In making, maintaining, and improving any drainage works (including the payment of compensation) for the making, maintaining, and improving of which such special rate may have been levied ; and

Fifthly. In otherwise carrying the powers of this Act in relation to such last-named works into execution.

Arrears may be enforced by appointment of a receiver.

103. The mortgagees may enforce the payment of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver, and the amount to authorise a requisition for a receiver in respect of arrears of principal shall be one thousand pounds.

Receiver may levy rates if Com-

104. If the Commissioners or district boards at any time while any money remains due on any mortgage under this Act fail, for

twenty-eight days next after being thereunto requested by notice in writing from any receiver appointed by the mortgagees as hereinbefore provided, to exercise all or any of the powers of the Commissioners or district boards for making and levying rates, so as to provide for the payment of, and pay the principal money or interest payable on the mortgage or any part thereof respectively, then and in every such case the receiver, for the purpose of obtaining payment of the interest or repayment of the principal moneys so payable, shall have and may exercise, with respect to the rates so mortgaged, and as far as is requisite, the like powers, rights, and remedies for making and levying rates upon the lands liable to be rated, and collecting, receiving, and enforcing the rates so made and levied, as are by this Act given to the Commissioners and district boards respectively for those purposes, and those powers, rights, and remedies respectively, and all other powers and discretions of the Commissioners and district boards respectively incidental or accessory thereto, may be exercised accordingly in the name of the Commissioners and district boards respectively; provided that it shall not be necessary for any such exercise of powers, rights, or remedies to use the common seal of the Commissioners, or to hold any meeting of the Commissioners or district boards respectively.

A.D. 1877.

missioners
or district
boards neg-
lect.

APPEAL.

105. Where any order, precept, requisition, or rate, other than the first rate, has been made by the Commissioners or district boards, or either of them, in pursuance of the powers of this Act, any person aggrieved by such order, precept, requisition, or rate may appeal to the court of quarter sessions against such order, precept, requisition, or rate, and the court may confirm, cancel, annul, or alter the same accordingly, but no such appeal shall be entertained unless it is made at the quarter sessions which shall be held next after the expiration of twenty-eight days from the service of notice of such order, precept, requisition, or rate, nor unless fourteen clear days notice in writing of such appeal previously to the quarter sessions, stating the nature and grounds thereof, is served on the Commissioners or district boards respectively against whose order, precept, requisition, or rate such appeal is brought.

Appeal to
quarter ses-
sions.

106. If at any time after such notice of appeal has been given it appears to the court of quarter sessions that the matter in question in such appeal consists wholly or in part of matters of mere account, or of engineering or other scientific questions which cannot be satisfactorily tried by the court, it shall be lawful for such court to order that such matters, either wholly or in part, be

Power to
refer case to
arbitration.

A.D. 1877. referred to the arbitration of one or more persons to be appointed specially for such purpose by the court, and the award made on such arbitration shall be enforceable by the same process as the order of the court of quarter sessions.

Rate may be levied pending appeal.

107. Notwithstanding that any person may have given such notice of appeal as aforesaid against any rate made by the Commissioners or district boards, or either of them, it shall be lawful for such Commissioners or district boards respectively to recover the amount of any rate at which any person may have been rated by any of the means herein-before provided for the recovery of rates in arrear: Provided always, that in case the court of quarter sessions, or any arbitrator appointed in manner herein-before provided, shall upon the hearing such appeal order the rate to be cancelled, annulled, or altered, it shall be lawful for such court or arbitrator to order that such rate or any part of it shall not be levied, and thereupon all such powers of recovering rates in arrear shall cease as regards such rate or such part of it as may be ordered not to be paid, or it shall be lawful for such court or arbitrator to order that the amount of such rate or any part of it, if the same has been already paid by any person, shall be repaid to him by the Commissioners or district boards respectively, and the same may thereupon be recovered by such person from the Commissioners or district boards in a summary manner; but if such court or arbitrator shall make no such order, and so far as any such order shall not extend, any such rate shall be deemed a good rate, and no sum of money, except as herein-before provided, paid by any person in respect of such rate shall be recoverable from the Commissioners or district boards, or any or either of them.

17 & 18 Vict. c. 125. incorporated.

108. The provisions of "The Common Law Procedure Act, 1854," relating to compulsory references, shall be deemed to extend to arbitrators directed by the court of quarter sessions, and the word "court" in the said Act shall be deemed to include the court of quarter sessions.

PART VI.—PENALTIES AND LEGAL PROCEEDINGS.

Recovery of penalties.

11 & 12 Vict. c. 43.

109. All penalties and sums of money directed to be recovered in a summary manner shall be recovered before two justices in manner directed by the Act passed in the session holden in the eleventh and twelfth years of the reign of Her present Majesty, chapter 43, intituled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders," and of any Act amending the same.

A.D. 1877.

110. All costs, charges, and expenses incurred by the Commissioners and district boards in instituting or defending any legal proceedings instituted or defended by them may be defrayed out of the rates leviable by them.

Costs of legal proceedings on part of Commissioners.

111. If any party has committed any irregularity, trespass, or other wrongful proceedings in the execution of this Act, or by virtue of any power or authority thereby given, and if before action brought in respect thereof such party makes tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action; and if no such tender has been made, it shall be lawful for the defendant, by leave of the court where such action is pending, at any time before issue joined, to pay into court such sum of money as he thinks fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

Tender of amends.

112. The enforcement of all penalties under this Act, or by-laws from time to time in force under the provisions of this Act, shall, as regards offences committed within the jurisdiction of the district boards, rest with the district board within whose jurisdiction such offence is committed or alleged to be committed, and such penalties shall be awarded and paid to such district board, and applied by them to the general purposes of such district board; and as regards all offences committed beyond the jurisdiction of the district boards, the enforcement of such penalties shall rest with the Commissioners, and such last-named penalties shall be awarded and paid to the Commissioners, and applied by them to the general purposes of the Commissioners.

Penalties, by whom to be enforced.

113. Where any notice is required to be given by the Commissioners or district boards, such notice shall in all cases be sufficiently executed if signed by the clerk to the Commissioners, or the clerk to any district board, or by any two Commissioners, or two members of a district board, and every notice purporting to be signed in such manner shall be receivable in evidence before all legal tribunals and in all legal proceedings without any further proof.

Execution of notices.

114. Except where a special mode of service is provided by this Act or any Act incorporated therewith, all notices, orders, or any other documents required or authorised to be served under this Act upon any elector, or upon any owner, lessee, or occupier of lands, may be served by delivering the same to or at the residence of the person to whom they are respectively addressed, or where addressed to the owner, lessee, or occupier of premises, by delivering the same, or a true copy thereof, to some person on the premises, or if there

Service of notices.

A.D. 1877.

is no person on the premises who can be so served, by fixing the same on some conspicuous part of the premises; they may also be served by post by a prepaid letter, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the notice, order, or other document was properly addressed and put in the post.

Notices to corporations and colleges, how to be served.

115. If any elector, owner, lessee, or occupier on whom notice is to be served is a corporation aggregate, commissioners, joint stock or other company, or body of proprietors, such notice shall be left at or sent by post to the principal office of such corporation, commissioners, company, or body, or if no such office can after diligent inquiry be found, shall be served on some officer or agent (if any) of such corporation, commissioners, company, or body, but if no such officer or agent can be found, it shall be left with the occupier of the lands, or if there be no such occupier, shall be affixed on some conspicuous part of such lands. In the case of any college, such notice shall be served on the head or bursar or treasurer of such college.

Publication of rates.

116. All rates (except the first rate, or any rate or rates supplementary thereto) made by the Commissioners or district boards shall be published by affixing a notice to the doors of the churches in each parish wherein any of the lands rated are situated, stating that the said rate has been made by the Commissioners or district boards, as the case may be, and is deposited at the office of the Commissioners or district boards for the inspection of all owners, lessees, or occupiers owning or occupying any of the lands rated or assessed. The said notice shall be affixed immediately after the making and signing of the rates, and shall be deemed to be a sufficient publication of the same.

PART VII.—VESTING OF THE PARRETT NAVIGATION.

Defining undertaking of Navigation and Canal Company.

117. The undertaking of the Navigation and Canal Company, to which the provisions of this part of the Act apply, comprises the River Parrett, extending from its junction with the River Tone at Stanmoor Bridge to its termination at Westport, in the parish of Barrington, and all the several canals and cuts authorised by the several Acts relating to the Navigation and Canal Company, or such portions thereof as have been constructed, together with all reservoirs, aqueducts, towing-paths, walls, works, bridges, houses, and other buildings, and all the lands which they have or shall have

acquired, or which are or shall be otherwise vested in them, and all other property, whether real, personal, or mixed, of the Navigation and Canal Company.

A.D. 1877.

118. Subject to the provisions of this Act, and as from the first day of July 1878, herein-after called the vesting period, all the said undertaking, together with all the estate, right, title, and interest of the Navigation and Canal Company in and to the same, and all their rights, privileges, easements, powers, liabilities, and authorities incident to or affecting the same, shall be vested in the Commissioners, and shall be held, possessed, enjoyed, used, exercised, executed, and performed by the Commissioners in the same manner and to the same extent (where not expressly varied by this Act) as they respectively were or could or might have been held, possessed, enjoyed, used, exercised, executed, or performed by the Navigation and Canal Company.

Undertaking
vested in
Commis-
sioners.

119. All contracts, conveyances, and all mortgages, if any, made or entered into before the vesting period to, with, or in favour of, or by or on behalf of, the Navigation and Canal Company shall from and after the vesting period be and remain as valid and effectual in favour of or against and with reference to the Commissioners as if the Commissioners had been originally authorised to make, enter into, or accept the same respectively, and had accordingly been a party to and executed the same, or had been respectively named or referred to therein instead of the Navigation and Canal Company.

Contracts,
conveyances,
&c. made in
favour of
company to
enure for the
benefit of or
against the
Commis-
sioners.

120. No action, suit, or proceeding whatsoever commenced either by or against the Navigation and Canal Company previously to the time when the said navigation and canal and premises shall become vested in the Commissioners in respect of the same navigation and canal and premises, or any part thereof, shall abate or be discontinued or prejudicially affected by virtue or in consequence of the provisions of this Act, but on the contrary the same shall continue and take effect as well in favour of as against the Commissioners in the same manner in all respects as the same would have continued and taken effect in favour of and against the Navigation and Canal Company if this Act had not been passed.

Actions not
to abate.

121. Notwithstanding anything in the Acts of Parliament relating to the Navigation and Canal Company contained, it shall be lawful for the Commissioners from time to time, from and after the vesting period (if they shall think fit), to use and apply the said undertaking, or any part thereof, in connexion with or for the purpose of the drainage of lands within their jurisdiction, and for other the purposes of this Act, and from time to time to abandon the

Undertaking
may be
abandoned
as a naviga-
tion and
canal and
used for pur-
poses of
drainage.

A.D. 1877. maintenance and user as and for the purposes of a navigation or canal of all or any part of the said undertaking, and upon their so abandoning the maintenance and user of the said undertaking, or any part thereof, all the powers in the Acts of Parliament relating to the Navigation and Canal Company enabling and requiring them to maintain and use the said undertaking as a navigation or canal, and empowering them to take, demand, and receive tolls, rates, and duties for the use thereof, shall, so far as that part of the undertaking which may have been abandoned as a navigation or canal is concerned, be repealed, and the Commissioners shall thenceforward be entitled to hold possession of the said undertaking, or such part thereof as aforesaid, for the purpose of or in connexion with the drainage of lands within their jurisdiction, and for all other the purposes of this Act, in the same manner and to the same extent as they would have been entitled to take and hold possession thereof if such purposes had been mentioned in the Acts relating to the said navigation and canal.

PART VIII.—BYELAWS.

Byelaws.

122. The Commissioners may from time to time make byelaws for all or any of the following purposes; (that is to say,)

For regulating the user of all drains and other works vested in them and the district boards, or to be constructed under the powers of this Act, and the times of opening and closing the sluices, hatches, and other similar works, whether for the purpose of carrying off the flood waters or for irrigation, warping, or otherwise;

For regulating the time and manner of cleansing, under the powers of this Act, the rivers, streams, watercourses, and drains, and the prevention and removal of obstructions therein, and the persons by whom such cleansing is to be performed;

For preserving the lands and works belonging to or under the control of the Commissioners or district boards from injury or obstruction, and for making all necessary repairs and amendments thereof;

For the general management of the property and works belonging to or under the control of the Commissioners or district boards;

and they may restrict the operation of any byelaw to any particular district.

Penalty for breach of byelaws.

123. The Commissioners may by their byelaws impose such reasonable penalties on all persons offending against the byelaws as they may think fit, not exceeding the sum of five pounds for any one offence.

124. All byelaws made under the provisions of this Act shall be so framed as to allow the justice or court before whom any fine or penalty imposed thereby may be sought to be recovered to order a part only of such fine or penalty to be paid, if such justice or court shall think fit.

A.D. 1877.

Fines or penalties may be mitigated.

125. The byelaws for these purposes shall not come into operation until they are allowed by the Inclosure Commissioners, and the Inclosure Commissioners, on the application of the Commissioners, may inquire into any byelaws tendered for the purpose, and allow or disallow the same, as they shall think right.

Byelaws not in force till allowed.

126. No such byelaw shall be so allowed unless notice of the intention of the Commissioners to apply for the allowance thereof be given in a newspaper published in the county of Somerset one month at least before the hearing of the application for the allowance thereof, and any person interested may, by himself, his counsel, attorney, or agent, be heard thereon.

Notice of intention to apply for allowance of byelaws.

127. For one month at least before any such application for allowance a copy of the proposed byelaws shall be kept at the principal offices of the Commissioners and the district boards respectively, and all persons may at all reasonable times inspect such copy without charge, and the Commissioners shall furnish any person who applies for the same with a copy thereof, or of any part thereof, on payment of sixpence for every one hundred words.

Copy of proposed byelaws to be open for inspection.

128. The byelaws when allowed shall be printed, and the clerks to the Commissioners and district boards respectively shall deliver a printed copy thereof, upon the payment of the sum of one shilling, to every person interested therein who shall apply for the same, and a copy thereof shall be printed and placed on boards and put up in some conspicuous part of the principal offices of the Commissioners and district boards, and the boards, with the byelaws thereon, shall from time to time be renewed by the Commissioners and district boards as occasion requires, and such byelaws so put up in the principal offices of the Commissioners and district boards shall at all reasonable times be open to the inspection of all persons without charge.

Publication of byelaws.

129. All byelaws made and allowed according to this Act, when so published and put up, shall be binding upon and be observed by all persons, and shall justify all persons acting thereunder.

Byelaws to be binding on all parties.

130. The production of a written or printed copy of the byelaws, purporting to be authenticated by the official seal of the Inclosure Commissioners, shall in all cases be evidence of the due making and existence of the same.

Proof of making and existence of byelaws.

A.D. 1877.
Proof of
publication
of byelaws.

131. For proof of the publication of any such byelaws, it shall be sufficient, in absence of proof to the contrary, to prove that a board containing a copy thereof was put up and continued as required by this Act, without producing the same board, and in case of any such board being afterwards displaced or damaged, that it was replaced or restored as soon as conveniently might be.

PART IX.—MISCELLANEOUS.

Commis-
sioners to
make orders
for control-
ling district
boards.

132. The Commissioners shall from time to time, in order to secure the efficient working and maintenance of the arterial drainage works under their jurisdiction, make such general or special order as they may deem right for the guidance, direction, and control of the district boards, or any of them, as to the levels, construction, alteration, maintenance, and cleansing of the drainage works under the jurisdiction of such district boards, or any of them, and for securing the proper connexion and inter-communication of the drainage works of the different districts, and their communication with the arterial drainage works of the Commissioners, and generally for the guidance, direction, and control of the district boards in the exercise of their powers and duties, and all such orders shall be binding on such district boards; and if any district board shall consider itself aggrieved by any such order, it shall be at liberty to appeal to the Inclosure Commissioners, who may cancel or vary such order or make such substituted order as they may think fit.

Saving
rights of
canal owners,
wharfingers,
&c.

133. Nothing in this Act shall authorise the Commissioners or district boards, or any of them, except so far as is hereby expressly provided,—

- (1.) To interfere with any sewers or other works already made and used for the purpose of draining, preserving, irrigating, or improving land, so as to injuriously affect the same;
- (2.) To interfere with any river, canal, lock, reservoir, or basin, or the supply of water to any river, canal, lock, reservoir, or basin, so as to injuriously affect the navigation on such river, canal, lock, reservoir, or basin, or the use or maintenance thereof, or to interfere with any towing-path so as to interrupt the traffic thereof in cases where any corporation, company, or individuals are by virtue of any Act of Parliament entitled to navigate on or use such river, canal, lock, reservoir, or basin, or in respect of the navigation on or use of which river, canal, lock, reservoir, or basin any corporation, company, or individuals are entitled by virtue of any Act of Parliament to the receipt of any tolls or other dues;

(3.) To interfere with the works or supply of water of any body or persons, corporate or not corporate, supplying water to any town or place, or with the supply of water to any railway or railway station, so as to injuriously affect the same;

(4.) To execute any works in, through, or under any wharves, quays, or basins belonging to the proprietor or proprietors of any inland navigation constituted by Act of Parliament, or for the use of which they are entitled by virtue of any Act of Parliament to demand any tolls or dues;

without the consent of such corporation, company, proprietors, or individuals as are herein-before in that behalf respectively mentioned, such consent to be expressed in writing, in the case of individuals under their hands, in the case of a corporation or company under their common seal: Provided always, that in case of the refusal by such corporation, company, proprietors, or individuals of their consent, it shall be lawful for the Commissioners or district boards respectively to appeal to the Board of Trade, who shall hear both parties by their counsel, attorney, or agent, and shall make such order as they may think right with regard to the subject-matter of such appeal; and in case such order shall permit any such interference or the execution of any such works as aforesaid, it shall be lawful for the Commissioners or district board respectively to carry out such proposed works, but subject to any terms and conditions and in such way only as may be directed by such order and in accordance therewith.

134. No person shall without the consent of the Commissioners or district boards open any new drain or other work into any of the drainage works of the Commissioners or district boards, and no person shall cause any filthy or unwholesome water or washings of manufactories or mines, or other foul or poisonous liquid, to flow into any watercourse within the jurisdiction of the Commissioners or district boards, and any person offending against this enactment shall incur a penalty not exceeding five pounds, and a further penalty of forty shillings for every day during which the offence is continued; but this section shall not apply to any person having a legal right to cause such water, washing, or liquid as aforesaid to flow into any existing river, stream, or watercourse.

Penalty for draining into sewers or fouling watercourses.

135. The Inclosure Commissioners shall be at liberty from time to time to appoint a person to act as their inspector or deputy for the purpose of holding any inquiry, considering any application for the consent of the Inclosure Commissioners, or hearing any appeal, or in any other way carrying into execution the duties imposed by this Act upon the Inclosure Commissioners, and may

Inclosure Commissioners may appoint deputy.

A.D. 1877. delegate to such inspector, deputy, or other person all or any of the powers of the Inclosure Commissioners.

Appoint-
ment of
arbitrator.

136. The court of quarter sessions shall at the Michaelmas general quarter sessions to be held next after the passing of this Act, upon application by any person interested, and at every succeeding Michaelmas general quarter sessions upon like application, appoint a competent person as arbitrator to serve for the year commencing the first January next following such quarter sessions; and in case such person shall decline to act, or in case of his death, resignation, or incapacity, the court of quarter sessions may at the next general quarter sessions to be held next after such declining to act, death, resignation, or other incapacity, upon the like application appoint some other competent person as arbitrator, and such arbitrator shall be the person to determine all questions by this Act directed to be determined by arbitration.

Powers of
inspector
and deputy.

137. The arbitrator appointed by the court of quarter sessions, or the Commissioners, or any inspector, deputy, or other person appointed by the Inclosure Commissioners in pursuance of this Act, may, by summons under his or their hand, require to appear before him or them any persons whomsoever, and examine them upon oath or otherwise touching any matter relating to the purposes of the inquiry, and he or they may by any such summons require any parochial officer or any officer of or acting under any corporation, guardians, or directors of the poor, and any commissioner, trustee, officer, or person acting under any Local Act of Parliament in force within the district to which any such inquiry may relate, to produce before him or them any surveys, plans, sections, rate books, assessments, or valuation lists, or other like documents, which may by reason of their office be in their custody or control touching any matter relating to the purposes of such inquiry, and such arbitrator, commissioners, inspector, deputy, or other person may examine, inspect, or take copies of any such surveys, plans, sections, books, assessments, valuation lists, and documents, or any of them; and whosoever wilfully disobeys any such summons, or prevents any such inspector from examining, inspecting, or taking copies as last aforesaid, or refuses to answer any question put to him by such arbitrator, Commissioners, inspector, deputy, or other persons, shall be liable to a penalty not exceeding five pounds, to be recovered in a summary manner, but no person shall be required to attend in obedience to any summons unless the reasonable charges of his attendance have been paid or tendered to him.

Inclosure
Commis-
sioners may

138. It shall be lawful for the Inclosure Commissioners, or any inspector, deputy, or other person so appointed, to conduct any

inquiry, and also for any judge, arbitrator, justices, or jury before whom any proceedings may be had under the provisions of this Act, to make any order with regard to the subject-matter of such proceeding, and also as to the costs of such proceeding and incidental thereto, as they may think right; and any order so made shall be binding as well upon any person party to such proceeding as upon the Commissioners and district boards, and any sum of money ordered to be paid by any such order may be recovered by the person to whom such sum is ordered to be paid in any court of competent jurisdiction.

A.D. 1877.
make all
necessary
orders.

139. Wherever any owner is seised or possessed of lands which have been rated or are liable to be rated under the powers of this Act upon any trust, whether express or implied, and whether such trust be or be not in part for his own benefit as well as for the benefit of any other person, and any moneys, stocks, funds, or securities for moneys are vested in the same owner or the same trustee for any owner upon the same or the like trusts, it shall be lawful for such owner or such trustee to raise out of such stocks, funds, or securities, or by the appropriation to such purpose of any interest, profit, or dividend arising therefrom, a sufficient sum for the purpose of paying any special rates, and to pay and apply the same accordingly; and all payments and applications of money or of the proceeds of the sale of such stocks, funds, or securities so made as aforesaid shall be valid and binding on all persons interested under the trusts, whether express or implied, or the will or settlement under or by which such moneys, stocks, funds, or securities for money may be held in trust or settled as aforesaid: Provided always, that if any such owner or trustee shall sell any such stocks, funds, or securities under the powers of this section, he shall replace the amount so sold by a sinking fund to extend over a period of not more than twenty-five years, and shall from time to time cause such sinking fund to be invested in the purchase of Exchequer bills or other Government securities until the same shall be of sufficient amount to replace such stocks, funds, or securities sold as aforesaid.

Trustees
may apply
trust funds
in payment
of rates.

140. All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred on commissioners of sewers by Act of Parliament, law, or custom, and the Commissioners or district boards (who shall for this purpose be deemed to be commissioners of sewers) may exercise such powers, except so far as the same are by this Act, or by any order which may be issued under the powers of this Act, expressly altered, varied,

Powers of
Act cumu-
lative.

A.D. 1877.

limited, or taken away, in the same manner as if this Act had not been passed.

For protection of clerk to Commissioners of Sewers for county of Somerset.

141. If by reason of the operation of this Act the clerk to the Commissioners of Sewers for the county of Somerset shall be deprived of his office, or his salary or emoluments decreased, the amount of compensation, if any, to be paid the said clerk by the Commissioners under this Act in respect of such loss of office or diminution of salary shall, failing agreement, on the application in writing of the said clerk to the said Commissioners, be settled by two justices of the peace for the county of Somerset, one of such justices being nominated by the said clerk, and the other of such justices by the Commissioners, and should such justices fail to agree as to the amount, if any, of such compensation, such amount shall be determined by an umpire to be nominated by them, and the award of such justices or such umpire, as the case may be, shall be final and conclusive as between the said clerk and the Commissioners.

Saving rights of local boards of health, &c.

142. The powers by this Act granted to the Commissioners and district boards shall not deprive the local boards of health or improvement commissioners of any borough, town, or place situate either wholly or in part within the limits of this Act of any right or power vested in them for the drainage of the district under their control: Provided always, that nothing in this Act contained shall prevent the Commissioners or district boards from or interfere with their executing the works by this Act authorised.

Conservators of River Tone not to resume possession of the River Tone navigation.

143. Notwithstanding anything contained in an Act of the 2nd year of the reign of King William the Fourth, intituled "An Act to explain and amend two Acts of the fifty-first year of His late Majesty King George the Third and the fifth year of His late Majesty King George the Fourth, relative to the Bridgewater and Taunton Canal Navigation," the Conservators of the River Tone shall not at any time or under any circumstances be entitled to resume possession of the River Tone navigation, or of any part thereof, within the jurisdiction of the Commissioners, and the 16th section of the said Act is hereby repealed to that extent.

Saving rights of the Crown in the fore-shore.

144. Nothing contained in this Act shall authorise the Commissioners or district boards to take, use, or in any manner interfere with any portion of the shore or bed of the sea, or of any river, channel, creek, bay, or estuary, or any right in respect thereof, belonging to the Queen's most Excellent Majesty in right of Her Crown, and under the management of the Board of Trade, without the previous consent in writing of the Board of Trade on behalf of

Her Majesty (which consent the Board of Trade may give), neither shall anything in this Act contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

A.D. 1877.

145. Except as herein expressly provided, nothing in this Act contained shall extend or be construed to extend to diminish, prejudice, or derogate from the estates, rights, interests, liberties, privileges, or franchises of the Conservators of the River Tone or of the owners for the time being of the Bridgewater and Taunton Canal Navigation, or to prohibit, defeat, alter, or diminish any power, authority, or jurisdiction which at the time of the passing of this Act the said conservators or owners of the Bridgewater and Taunton Canal Navigation might lawfully claim, use, or exercise.

Saving rights of Tone Conservators and owners of Bridgewater and Taunton Canal.

146. Except as herein-before provided, nothing in this Act contained shall extend or be construed to extend to take away, alter, abridge, infringe, lessen, or interfere with any of the powers, rights, privileges, or jurisdictions of the mayor, aldermen, and burgesses of the borough of Bridgewater which are not prejudicial to the drainage of the lands within the limits of this Act and to the other works authorised by this Act.

Saving rights of Corporation of Bridgewater.

147. Except only as is by this Act expressly provided, nothing in this Act contained shall take away, lessen, prejudice, or alter any of the estates, rights, interests, powers, privileges, or authorities of the Great Western Railway Company.

Saving rights of the Great Western Railway Company.

148. Nothing contained in this Act shall extend to authorise the Commissioners or district boards to take, use, enter upon, or interfere with any land, soil, or water, or any rights in respect thereof, belonging to Her Majesty, her heirs or successors, in right of the Duchy of Cornwall without the consent in writing of some two or more of such of the regular officers of the said duchy, or of such other persons as may be duly authorised under the provisions of "The Duchy of Cornwall Management Act, 1863," sec. 39, to exercise all or any of the rights, powers, privileges, and authorities by the said Act made exerciseable, or otherwise for the time being exerciseable in relation to the said duchy, or belonging to the Duke of Cornwall for the time being, without the consent of such Duke, testified in writing under the seal of the Duchy of Cornwall, first had and obtained for that purpose, or to take away, diminish, alter, prejudice, or affect any property, rights, profits, privileges, powers, or authorities vested in or enjoyed by Her Majesty, her heirs or

Saving the rights of the Duchy of Cornwall.

A.D. 1877.

successors, in right of the Duchy of Cornwall, or in or by the Duke of Cornwall for the time being.

General
saving.

149. Saving always to the Queen's most Excellent Majesty, her heirs and successors, and to all other persons, bodies politic, collegiate, and corporate, local boards of health, and improvement commissioners, and their heirs, successors, executors, administrators, or assigns, all such estates, rights, and interests not prejudicial to the drainage of the lands within the limits of this Act, and to the other works authorised by this Act, as they had or enjoyed before the passing of this Act, or could or might have or enjoy if this Act were not passed.

SCHEDULE A.

Axbridge.	Drayton.
Ashcott.	Ditchat.
Ashill.	Durston.
Aller.	Durleigh.
Ashington.	Donyatt.
Badgworth.	Edington.
Berrow.	Earnshill.
Biddisham.	Fivehead.
Bleadon.	Fiddington.
Brean.	Glastonbury (St. Benedict).
Brent (East).	Glastonbury (St. John).
Brent (South).	Greinton.
Burnham.	Goathurst.
Bawdrip.	Hatch Beauchamp.
Bridgwater.	Huntspill.
Broadway.	Huish Episcopi.
Babcary.	Haselbury Plucknett.
Barrington.	High Ham.
Barton St. David.	Ilminster.
Barrow (South).	Ilton.
Barrow (North).	Isle Abbots.
Baltonsborough.	Isle Brewers.
Buckland St. Mary.	Ilchester.
Butleigh.	Kingsbury Episcopi.
Beerocombe.	Kingsdon.
Chapel Allerton.	Lympsham.
Cannington.	Lyng.
Cheddar.	Lilstock.
Cattcott.	Langport.
Chedzoy.	Loxton.
Christon.	Long Sutton.
Chilton Super Polden.	Lydford (West).
Chilton Trinity.	Lydford (East).
Cossington.	Lymington.
Compton Dundon.	Lympsham.
Curry Mallett.	Mark.
Curry Rivell.	Martock.
Creech St. Michael.	Middlezoy.
Charlton Mackerel.	Moorlinch.
Chinnock (East).	Muchelney.
Chinnock (West).	Marston Magna.
Chinnock (Middle).	Meare.
Chiselborough.	Mudford.
Compton Bishop.	Nyland and Batcombe (extra-paro-
Charlton Adam.	chial).
Chilton Cantelo.	North Petherton.
Chilthorne Domer.	North Curry.
Camel (West).	North Wootton.

A.D. 1877.

SCHEDULE A.—*continued.*

Northover.	South Petherton.
Norton under Hamdon.	Somerton.
Othery.	Stockland Bristol.
Otterhampton.	Stoke under Hampdon.
Pawlett.	Shepton Beauchamp.
Pennard (East).	Swell.
Pennard (West).	Thorn Falcon.
Puriton.	Tintinhull.
Puddimore.	Uphill.
Pitney.	Weare.
Puckington.	Weathill.
Queen Camel.	Wedmore.
Rodney Stoke.	Wells (liberty of St. Andrew).
Ruishton.	Wells (in-parish of St. Cuthbert).
Shipham.	Wells (out-parish of St. Cuthbert).
St. Michael Church.	Westonzoyland.
Shapwick.	West Monkton.
Stawell.	West Hatch.
Sock Dennis.	Wembdon.
Sutton Mallett.	Westbury.
Stocklinch Magdalen.	Whitelackington.
South Bradon.	Wookey.
Street.	Woolavington.
Stoke St. Gregory.	Walton.
Stogursey or Stoke Courcy.	West Pennard.
Stocklinch Ottersey.	Yeovilton.

SCHEDULE B.

SOMERSETSHIRE DRAINAGE COMMISSION.

Notice is hereby given that the Somersetshire Drainage Commissioners will on the _____ day of _____ 18____ take into consideration, with a view to ascertaining, fixing, and determining the person or persons who may be at the date above mentioned liable to cleanse, repair, maintain, build, or renew the following works, that is to say (*here state the nature of the work*), situate in the parish of _____ (*here describe the work by metes and bounds*), when all persons interested in the aforesaid works are invited, if they shall think fit, to attend at the office of the said Commissioners (*or at such other place as may be appointed*); and notice is also given that in default of sufficient cause to the contrary being then shown, the person or persons who may then or at some adjournment be found by the said Commissioners to be liable as aforesaid will be placed upon the register of liabilities in respect of the aforesaid work, and their liabilities commuted for an annual rentcharge in lieu of the aforesaid liabilities.

To be signed by the clerk to the Commissioners.

Dated the _____ day of _____ 18____.

A.D. 1877.

SCHEDULE C.

1.	2.	3.	4.	5.	6.	7.	8.
Parish of	Drainage Work for which the Person or Persons is or are liable.	Origin of Liability, if known.	Person or Persons ordered to be placed on the Register.	Amount to be paid by way of Rentcharge.	Lands upon which Rentcharge is fixed by reference to Numbers on Commissioners Map.	Date from which the Commutation becomes payable.	Remarks.

SCHEDULE D.

Name of District and Constitution of Governing Body.	Authority under which District is formed.	Date of confirming Act (if any).
1. Othery Middlezoy and Weston-zoyland District (governed by Commissioners).	Act of Parliament 11 Geo. IV. c. 3. (Local and Personal).	
2. Currymoor District (elective board).	Land Drainage Act, 1861.	27 Vict. c. 14. (Public), 13 May 1864.
3. Stanmoor District (elective board).	Do. do. do.	Do. do. do.
4. Chedzoy District (elective board)	Do. do. do.	28 Vict. c. 23. (Public), 9 May 1865.
5. Northmoor District (elective board).	Do. do. do.	30 Vict. c. 22. (Public), 31 May 1867.
6. Aller Moor District (elective board).	Do. do. do.	31 & 32 Vict. c. 83. (Local and Personal), 13 July 1868.

