



## CHAPTER 2.

An Act to establish Commissioners to maintain sea embankments and a land drainage system on certain lands in the county borough of Southport and in the parishes of North Meols Scarisbrick Tarleton and Burscough in the county of Lancaster and to transfer certain lands and works to and to confer powers on such Commissioners and for other purposes.

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[7th August 1924.]

**W**HEREAS—

(A) Charles Scarisbrick (hereinafter called “the Testator”) late of Scarisbrick Hall in the county of Lancaster died on the sixth day of May one thousand eight hundred and sixty having by his will dated the twenty-eighth day of February one thousand eight hundred and fifty-seven and a codicil thereto dated the eleventh day of October one thousand eight hundred and fifty-nine which were duly proved in Her Majesty’s Court of Probate and are hereinafter collectively called “the Testator’s will” devised certain estates in the county of Lancaster to the uses and upon the trusts therein mentioned :

(B) The whole of the lands in the county borough of Southport and the parishes of North Meols Scarisbrick Tarleton and Burscough in the county of Lancaster which are delineated and coloured pink blue green brown and

A.D. 1924. yellow on the plan A mentioned in the section of this Act of which the marginal note is "Interpretation" form part of the lands so devised by the Testator or which were subsequently conveyed to the uses of the Testator's will :

(c) Various partitions have from time to time been made of portions of the lands so subject to the Testator's will among the parties entitled to the undivided shares therein all of which partitions have been carried out under the direction of the Chancery Division of the High Court of Justice in pursuance of the Scarisbrick Estate Act 1877 and other portions still remain unpartitioned and are still vested in the trustees of the Testator's will :

(d) The lands delineated on the said plan A and thereon coloured pink blue and green respectively comprise lands which have been so partitioned the present titles to which respectively are stated in the recitals E F and I following :

(E) The said lands delineated and coloured pink on the said plan A now stand limited to the use of Charles Ewald Scarisbrick (hereinafter called "Ewald Scarisbrick") in fee simple subject only to a rentcharge thereon payable to his mother Rosalie Georgina Cicely Barrett Lennard Scarisbrick widow during her life secured by a term of three hundred years now vested in John Cyril Bouverie Luxmoore and Robert Carr Dodds as trustees :

(F) Under or by virtue of an indenture (hereinafter called "the Talbot Scarisbrick Settlement") dated the twenty-first day of December one thousand nine hundred and seventeen and made between Sir Charles Scarisbrick Knight since deceased of the first part Sir Tom Talbot Leyland Scarisbrick Baronet (hereinafter called "Sir Talbot Scarisbrick") of the second part Everard Talbot Scarisbrick (hereinafter called "Everard Scarisbrick") of the third part Dame Josephine Ethel Scarisbrick of the fourth part Robert Edwin Smalley and Thomas Phillips of the fifth part John Edward Reid-Cuddon and William Crossman Spencer of the sixth part the said John Edward Reid-Cuddon and John James Cockshott of the seventh part the said John James Cockshott and Thomas Phillips of the eighth part the said Robert Edwin Smalley Thomas Phillips and John James Cockshott of the ninth

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part the said Robert Edwin Smalley Thomas Phillips and John Edward Reid-Cuddon of the tenth part and George Cockshott of the eleventh part and the Scarisbrick Settlement Act 1918 the lands delineated on the said plan A and thereon coloured blue (except such parts (if any) thereof as are situate in the county borough of Southport as constituted on the twenty-first day of December one thousand nine hundred and seventeen) now stand limited to uses enabling Sir Talbot Scarisbrick to exercise the powers of a tenant for life in possession thereof and subject thereto to uses securing payment to or for the benefit of Everard Scarisbrick of a certain yearly rentcharge and subject thereto to the use of the said Robert Edwin Smalley Thomas Phillips and John Edward Reid-Cuddon during the life of Sir Talbot Scarisbrick upon a discretionary trust for his benefit with remainder to uses enabling Everard Scarisbrick (the present only child of Sir Talbot Scarisbrick) to exercise the power of a tenant for life in possession and subject thereto to the use that Dame Josephine Ethel Scarisbrick if surviving Sir Talbot Scarisbrick shall receive a certain yearly rentcharge for her life and subject thereto to the use of the said Robert Edwin Smalley Thomas Phillips and John Edward Reid-Cuddon during the life of Everard Scarisbrick upon a discretionary trust for his benefit with remainder to the use of the first and other sons of Everard Scarisbrick successively in tail male with remainder to the use of the same sons successively in tail general with remainder to the use of the first and other daughters of Everard Scarisbrick successively in tail general with remainder to the use of the younger sons of Sir Talbot Scarisbrick successively in tail male with remainder to the use of the same sons successively in tail general with remainder to the use of the first and other daughters of Sir Talbot Scarisbrick successively in tail general with remainder to such uses upon such trusts and in such manner as the survivor of Sir Talbot Scarisbrick and Everard Scarisbrick shall by will appoint and in default of such appointment to the use of Everard Scarisbrick in fee simple and such parts (if any) of the said lands coloured blue as are situate in the county borough of Southport as constituted on the said twenty-first day of December one thousand nine hundred and seventeen stand limited to the use of the said Robert Edwin Smalley Thomas Phillips and John

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(G) The said Robert Edwin Smalley Thomas Phillips and John Edward Reid-Cuddon are the present trustees of the Talbot Scarisbrick Settlement for the purposes of the Settled Land Acts 1882 to 1890 :

(H) Everard Scarisbrick married Nadine Celeste Sybil Williamson on the eighteenth day of November one thousand nine hundred and nineteen but there has not yet been any issue of such marriage :

(I) Under an indenture (hereinafter called "the Naylor Leyland Settlement") dated the fifteenth day of June one thousand nine hundred and twelve and made between Sir Albert Edward Herbert Naylor Leyland Baronet (hereinafter called "Sir Edward Naylor Leyland") of the one part and Christopher John Leyland and Percy Alfred Leyland Laming of the other part the lands delineated on the said plan A and thereon coloured green now stand limited (subject to two rentcharges respectively payable to Dame Jane Willson Naylor Leyland widow (mother of Sir Edward Naylor Leyland) during her life by virtue of an indenture dated the third day of September one thousand eight hundred and eighty-nine and a deed poll dated the twenty-eighth day of April one thousand eight hundred and ninety-nine) to the use that the said Dame Jane Willson Naylor Leyland shall during her life receive thereout an additional yearly sum therein mentioned and also if living at the marriage of Sir Edward

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Naylor Leyland a further annual sum during the remainder of the joint lives of herself and Sir Edward Naylor Leyland and subject thereto to the use of Sir Edward Naylor Leyland during his life and after his death if the said Dame Jane Willson Naylor Leyland shall be living to the use that she should receive a further yearly rentcharge during the remainder of her life and subject thereto to the use of the first and other sons of Sir Edward Naylor Leyland successively in tail male with remainder to the use of George Vyvyan Naylor Leyland (brother of Sir Edward Naylor Leyland) during his life with remainder to the use of the first and other sons of the said George Vyvyan Naylor Leyland successively in tail male with remainder to the use that the person who would for the time being if the said Dame Jane Willson Naylor Leyland were dead be entitled to the possession or receipt of the rents and profits of the premises under the limitations thereafter contained or would if of full age be so entitled shall if such person be any issue of Sir Edward Naylor Leyland or the said George Vyvyan Naylor Leyland but not otherwise be entitled to and receive an annual rentcharge of two thousand pounds during the remainder as to each such person of the joint lives of such person and the said Dame Jane Willson Naylor Leyland and subject thereto to the use of the said Dame Jane Willson Naylor Leyland during her life with remainder to the use of the first and other sons of Sir Edward Naylor Leyland successively in tail with remainder to the use of the first and other daughters of Sir Edward Naylor Leyland successively in tail with remainder to the use of the first and other sons of the said George Vyvyan Naylor Leyland successively in tail with remainder to the use of the first and other daughters of the said George Vyvyan Naylor Leyland successively in tail with remainder to such uses and upon such trusts as Sir Edward Naylor Leyland shall by deed or will appoint and subject thereto to the use of Sir Edward Naylor Leyland in fee simple The Naylor Leyland Settlement conferred on Sir Edward Naylor Leyland and the said George Vyvyan Naylor Leyland certain powers of jointuring and charging portions :

(J) The said Percy Alfred Leyland Laming and the Right Honourable George Viscount Cave are the present trustees of the Naylor Leyland Settlement for the purposes of the Settled Land Acts 1882 to 1890 :

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(K) Sir Edward Naylor Leyland married Marguerite Hélène de Belabre on the tenth day of April one thousand nine hundred and twenty-three and there has been issue of such marriage a son who was born on the fifth day of March one thousand nine hundred and twenty-four :

(L) The said George Vyvyan Naylor Leyland died a bachelor :

(M) The said lands delineated and coloured brown and yellow on the said plan A and certain other properties which are more particularly described in the Third Schedule to this Act still remain vested in the trustees of the Testator's will but the beneficial interests therein are as follows namely One equal undivided third part thereof belongs to Ewald Scarisbrick absolutely subject to the said rentcharge so payable to his said mother as aforesaid and one other equal undivided third part thereof is included in the Talbot Scarisbrick Settlement and the remaining one equal undivided third part thereof is included in the Naylor Leyland Settlement The said land coloured yellow on the said plan A is unenclosed marsh lands and foreshore :

(N) The expression " the Scarisbrick Estate Trustees " as used in this Act means the trustees or trustee for the time being of the Testator's will :

(O) Sir Francis Robert Anderton Knight and John Ernle Money are the present Scarisbrick Estate Trustees :

(P) The lands delineated on the said plan A and thereon coloured pink blue green and brown (all of which lands are in this Act included in the expression " the protected lands ") are protected from the sea and from land-water flooding by means of certain sea embankments and an extensive system of land drainage works which were originally constructed by the Testator or his predecessors in title and have since been extended and improved by the Scarisbrick Estate Trustees such drainage works mainly consisting of certain water-courses known as the Old Sluice the Back Drain Drummersdale Brook Sandy Brook and Fine Jane's Brook with the feeders banks and subsidiary works thereof and certain culverts and outfalls at Crossens in the county of Lancaster and a pumping station there which is worked by powerful and expensive machinery

and two channels respectively known as the "Crossens Channel" leading from the Cylinder Bridges to the estuary of the River Ribble and Hundred End Gutter leading to the estuary and the maintenance of the said sea embankments and of the said system of land drainage works is essential for the protection of the protected lands whether the same be used for agricultural or other purposes : A.D. 1924.

(Q) The position of the said sea embankments brooks watercourses sluices culverts outfalls pumping station (including the land held therewith) and channels is shown coloured red on the signed plan B mentioned in the section of this Act of which the marginal note is " Interpretation " :

(R) The said " Crossens Channel " was partly dredged pursuant to the provisions of an indenture (in this Act called " the Landowners' Drainage Committee Agreement ") dated the seventeenth day of July one thousand nine hundred and twelve and made between the Right Honourable Edward George Villiers Earl of Derby of the first part the Right Honourable John Baron Lilford of the second part the said Sir Francis Robert Anderton Knight and John Ernle Money in their capacity of Scarisbrick Estate Trustees of the third part Marie Andre Leon Alvar de Biaudos Marquis de Casteja of the fourth part and William Worth Deane of the fifth part :

(S) On the occasion of divers of the partitions which have from time to time been made as aforesaid of portions of the lands comprised in the Testator's will provision was made that for the protection of the lands from time to time conveyed in severalty on such partitions the said drainage system should continue to be carried on by the Scarisbrick Estate Trustees and that the costs thereof should be borne by the lands remaining unpartitioned in exoneration of the lands so partitioned :

(T) In lieu of the said sea embankments and land drainage system continuing to be maintained and carried on by the Scarisbrick Estate Trustees at the cost of the lands remaining unpartitioned it is expedient that Commissioners should be constituted as by this Act provided to maintain and carry on the same with the rights obligations and liabilities by this Act conferred and imposed :

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(U) It is expedient that the said sea embankments and land drainage system and the lands forming the sites thereof (including the land held therewith) should be vested in the Commissioners :

(V) It is expedient that such provisions should be made as are in this Act contained for divesting the Scarisbrick Estate Trustees of the said lands delineated and coloured brown and yellow on the said plan A and of the properties described in the Third Schedule to this Act other than the investments and the sum of six hundred and fifty-seven pounds sixteen shillings and fivepence therein referred to and of vesting the same as to one third part thereof in Ewald Scarisbrick as to another third part in the trustees of the Talbot Scarisbrick Settlement and as to the remaining third part in the trustees of the Naylor Leyland Settlement :

(W) It is expedient that such other provisions should be made as are in this Act contained :

(X) The purposes aforesaid cannot be effected without the authority of Parliament :

Therefore Your Majesty's most dutiful and loyal subjects Ewald Scarisbrick Sir Talbot Scarisbrick Everard Scarisbrick and Sir Edward Naylor Leyland do hereby beseech Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

PART I.

INTRODUCTORY.

Short title.

1. This Act may be cited for all purposes as the Scarisbrick Estate Drainage Act 1924.

Act divided into Parts.

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

Part I.—Introductory.

Part II.—Incorporation nomination election and general powers of Commissioners.

Part III.—Provisions relating to the Scarisbrick Estate.



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3. This Act (save as otherwise provided by this section) shall come into operation on the second day of February one thousand nine hundred and twenty-five which date is in this Act referred to as "the commencement of this Act" but the provisions of this Act relating to the nomination of Commissioners and the powers of the nominated Commissioners to hold meetings shall have effect as from the date of the passing of this Act.

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Commence-  
ment of Act.

4. The provisions of the Commissioners Clauses Act 1847 except sections 6 17 to 37 40 42 45 48 52 54 57 65 66 84 86 87 92 and 100 with the omission of the word "monthly" where that word first and secondly appears in section 43 with the omission in section 47 of the words "within the limits of the special Act" and with the substitution in section 90 of the words "upon payment" of such reasonable fee as the Commissioners may "from time to time determine" for the words "without fee" and the Lands Clauses Acts (except the provisions thereof with respect to the purchase and taking of lands otherwise than by agreement and except sections 136 to 152 of the Lands Clauses Consolidation Act 1845) are hereby except where expressly varied by this Act incorporated with and form part of this Act.

Incorpora-  
tion of Acts.

5. In this Act unless there be something in the subject or context repugnant to such construction the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings and except where by this Act otherwise provided or where the context otherwise requires—

Interpreta-  
tion.

The expression "the Commissioners" means the Commissioners for the time being nominated or elected under this Act;

The expression "the protected lands" means the area situated in the county borough of Southport and the parishes of North Meols Scarisbrick Tarleton and Burscough in the county of Lancaster delineated and coloured pink blue green and brown on the plan A excluding the embankments and drainage system;

The expressions "the plan A" and "the plan B" mean respectively the plan marked "A" and the plan marked "B" signed by the Right

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Honourable the Earl of Donoughmore the Chairman of the Committee of the House of Lords to whom the Bill for this Act was referred of each of which plans one copy has been deposited in the Parliament Office of the House of Lords one copy has been deposited in the Private Bill Office of the House of Commons and one copy is intended to be deposited as soon as possible after the commencement of this Act at the office of the Commissioners;

The expression "the embankments and drainage system" means the embankments sluices drains brooks channels culverts outfalls pumping station (including the land held therewith) machinery and other works whereby the protection of the protected lands against the sea and the land drainage of the protected lands is now maintained and carried on which embankments and drainage system so far as capable of delineation are more particularly delineated on the plan B and thereon coloured red and where the context so admits shall include the embankments and drainage system as the same shall for the time being exist in accordance with the provisions of this Act;

The expression "the unpartitioned properties" means the lands delineated and coloured brown and yellow on the plan A and the properties described in the Third Schedule to this Act;

The expression "owner" means the person (including a mortgagee or other incumbrancer in possession) for the time being beneficially entitled to receive the rack rent of any land forming part of the protected lands or who would be so entitled if the land were let at a rack rent including under the term "rack rent" any rent which is not less than two-thirds of the net annual value of the land in respect of which the rent is payable or if the person so entitled be a minor or of unsound mind the trustee guardian committee or receiver in lunacy for such person;

The expression "rate" means and includes all or any rates which the Commissioners are authorised to assess and charge under this Act.

PART II.

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INCORPORATION NOMINATION ELECTION AND GENERAL POWERS OF COMMISSIONERS.

6.—(1) For the purposes of this Act Commissioners shall be constituted and incorporated by the name of the “*Scarisbrick Estate Drainage Commissioners*” and by that name shall be a body corporate with perpetual succession and a common seal and with power to hold and dispose of lands or any interest in or over the same and other property for the purposes of this Act.

Incorporation of Commissioners.

(2) The number of the Commissioners shall be six but no proceeding of the Commissioners shall be invalidated or be illegal in consequence only of a less number of Commissioners than six having been nominated or elected or of there being any vacancy in the number of Commissioners at the time of such proceeding.

7.—(1) Until there shall be at least twenty owners of different portions of the protected lands each entitled to one or more votes there shall be no elected Commissioners but the Commissioners shall be as follows namely:—

Nominated Commissioners.

- (A) Two Commissioners nominated by Ewald Scarisbrick during his life and after his death by his executors or administrators;
- (B) Two Commissioners nominated by Sir Talbot Scarisbrick during his life and after his death by Everard Scarisbrick during his life and after his death by the trustees or trustee for the time being for the purposes of the Settled Land Acts 1882 to 1890 of the Talbot Scarisbrick Settlement or if there shall be no such trustees or trustee then by the executors or administrators of Everard Scarisbrick;
- (C) Two Commissioners nominated by Sir Edward Naylor Leyland during his life and after his death by the trustees or trustee for the time being for the purposes of the said Settled Land Acts of the Naylor Leyland Settlement or if there shall be no such trustees or trustee then by the executors or administrators of Sir Edward Naylor Leyland.

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(2) Any vacancy occurring in the number of any of the three classes of nominated Commissioners by death retirement removal or otherwise may be filled up under the power of nomination applicable to such class under the provisions of the last preceding subsection and it shall be no objection to any nominated Commissioner that he may himself be his nominator or one of his nominators.

(3) If the person or persons for the time being entitled to nominate Commissioners of any of the said three classes shall have failed to nominate such Commissioners or either of them or if the persons so nominated or either of them shall have failed to accept office by making the declaration prescribed by section 12 (Declaration to be made by Commissioners before acting) of the Commissioners Clauses Act 1847 in the case of the first Commissioners to be nominated under this Act by the second day of February one thousand nine hundred and twenty-five or in the case of any vacancy subsequently occurring within three months after the occurrence of such vacancy then in either such event the power of such first mentioned person or persons to nominate such first Commissioners or either of them or to fill such vacancy shall cease and shall be exercised jointly by the persons for the time being entitled to nominate Commissioners of the other two classes.

(4) The person or persons for the time being entitled to nominate Commissioners of any of the said three classes may from time to time and at any time remove from office any Commissioner of that class by whomsoever nominated and nominate any other person to be a Commissioner in his place but every Commissioner so removed shall notwithstanding such removal continue to hold office until the person nominated to be Commissioner in his place shall have accepted office by making the declaration prescribed by section 12 (Declaration to be made by Commissioners before acting) of the Commissioners Clauses Act 1847.

(5) Every nomination and removal of Commissioners under this section shall be in writing under the hand or hands of the person or persons exercising such right of nomination or removal and shall as soon as practicable be deposited at the office of the Commissioners.

(6) When and so soon as the first election of Commissioners shall have been completed under the next following section hereof all Commissioners for the time being holding office by virtue of any nomination under this section shall ipso facto vacate office except so far as they or any of them may have been elected Commissioners under the next following section hereof and thenceforth there shall be no nominated Commissioners. A.D. 1924.

8.—(1) The first election of Commissioners shall be held on the first day of January (or if such first day of January occurs on a Sunday then on the first Monday in January) next after there shall be at least twenty owners of different portions of the protected lands each entitled to one or more votes Provided that until such first election of Commissioners shall have been actually completed the provisions of this Act as to nominated Commissioners shall continue to apply. Election and term of office of Commissioners.

(2) The electors entitled to vote at any election shall be the persons (other than the Commissioners in their corporate capacity) who were on the first day of December immediately preceding such election the owners of the protected lands Provided that where a mortgagee has under the statutory power or otherwise appointed a receiver of the rents and profits of the land of an owner such mortgagee shall so long as the receiver acts be entitled to vote in the place of the owner in respect of the land to which the receivership extends in like manner as if the mortgagee were in possession of the land.

(3) Any elector or any person nominated in writing by him or any lessee or tenant of not less than fifty acres of land or any lessee or tenant of any buildings or premises of a rateable value of not less than one hundred pounds forming part of the protected lands shall be qualified for election as a Commissioner :

Provided that notwithstanding anything contained in the Commissioners Clauses Act 1847 a person qualified for election as an elected Commissioner shall not by reason only of his ceasing to have the qualification necessary for election as prescribed by this subsection be disqualified from continuing to act as Commissioner during the remainder of his term of office.

(4) The elected Commissioners shall vacate their offices on the first day of January next after the expiration

A.D. 1924. — of three years from the day hereby fixed for the first election and on the same day in each succeeding third year. Provided that if the election of Commissioners to be held in any such year as aforesaid shall not be completed before the day fixed for such vacation of office the existing Commissioners shall continue in office until such election shall have been completed.

(5) The second election and subsequent triennial elections shall (subject to the provisions in the First Schedule to this Act) be held on the first day of January in the election year or if that day occurs on a Sunday then on the first Monday in January in any such year.

Votes at elections.

9.—(1) Every elector shall at any election at which he is entitled to vote be entitled to give votes to as many candidates as there are vacancies to be filled at such election according to the following scale (that is to say);—

If the quantity of land of which he is an owner is fifty acres or less in extent or if the aggregate rateable value of the lands buildings or premises of which he is the owner is one hundred pounds or less one such vote :

If the quantity of such land exceeds fifty acres in extent one such vote in respect of each complete fifty acres of such land and in respect of any quantity of such land in excess of the greatest complete multiple of fifty acres or if the aggregate rateable value of the lands buildings or premises of such owner exceeds one hundred pounds one such vote in respect of each complete amount of one hundred pounds of such rateable value and in respect of any amount of such rateable value in excess of the greatest complete multiple of one hundred pounds :

Provided that each elector shall be entitled to the greatest number of votes to which he is entitled either in respect of acreage or of rateable value.

(2) The elections shall be conducted in the manner provided in the rules set forth in the First Schedule to this Act.

(3) Every Commissioner going out of office shall (subject to his remaining qualified) be eligible for re-election.

**10.** All votes at any election of Commissioners may be given either personally or by proxy and every proxy shall be appointed under the hand of the appointer but shall not be entitled to vote unless the instrument appointing him is in the case of the first election of the Commissioners produced to the returning officer at the meeting for the purpose of such election and in the case of any subsequent election deposited at the office of the Commissioners at least seven clear days before the date of the election at which such proxy proposes to vote.

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Proxies.

**11.** Where a corporation aggregate (other than the Commissioners) a joint stock or other company or any body of proprietors undertakers commissioners or trustees or any guardian trustee committee or receiver for any other person are or is owner of any land within the protected lands or where two or more persons are owners of any such land as joint tenants co-parceners or tenants in common in undivided shares such owner or owners may from time to time in writing nominate some one person who shall be deemed to be the owner of such land on his or their behalf for the purposes of this Act and in the case of any corporate body such nomination shall be made under their corporate seal and in the case of persons who are joint tenants co-parceners or tenants in common in undivided shares the nominee shall be one of such persons such nomination to be deposited at the office of the Commissioners seven clear days before the date of the election of the Commissioners or of the meeting at which it is intended that such nominee shall exercise the right of voting.

As to joint owners &c.

**12.** No elector shall be entitled to vote at an election of Commissioners unless he shall have paid all money due from him to the Commissioners on account of any rate authorised to be levied by this Act and which shall have been duly demanded.

Electors may not vote if rates unpaid.

**13.** Any casual vacancy occurring in consequence of the death resignation or disqualification of an elected Commissioner shall be filled up by election held or made on a date fixed by the remaining Commissioners as soon as practicable after the occurrence of the vacancy in the manner provided by this Act in the case of the triennial elections of Commissioners and the Commissioner so elected shall hold office for the remainder of the period for

Casual vacancies.

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Provided that nothing in this Act shall require an election to be held to fill a casual vacancy which occurs amongst the elected Commissioners within six months before the date fixed for the termination of the period of office of the said Commissioners and the vacancy shall be filled at the next triennial election.

Meetings  
and pro-  
cedure.

14.—(1) The first Commissioners nominated under the provisions of this Act shall hold their first meeting on or before the second day of February one thousand nine hundred and twenty-five on a date and at a time and place to be fixed by the persons entitled to nominate such Commissioners. Provided that the nominated Commissioners shall not at any meeting held prior to the commencement of this Act exercise any of the powers conferred upon them by this Act other than the powers of administering and taking the declaration and of appointing a chairman officers and servants.

(2) The Commissioners shall during the first week in March after the commencement of this Act and at least once (on such date as they may from time to time appoint) in each subsequent year hold a meeting for the transaction of general business.

(3) The Commissioners may in addition to such yearly meetings hold other meetings for the transaction of general or special business on such dates as they may from time to time appoint.

(4) The person who shall act as returning officer at the first election of the Commissioners shall fix the date hour and place of the first meeting of the elected Commissioners and shall give to each Commissioner elected at that election notice of such meeting and the clerk or chairman of the Commissioners shall give to each Commissioner notice of every other meeting of the Commissioners and every such notice shall state the place date and hour appointed for the meeting.

(5) All acts of the Commissioners or of any committee of the Commissioners or of any person acting as a Commissioner shall notwithstanding that it may be afterwards discovered that any person for the time being acting as a Commissioner was disqualified or otherwise disentitled to act as a Commissioner be as valid as if any



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such person had been duly qualified and entitled to act as a Commissioner. A.D. 1924.

(6) All meetings of the Commissioners shall (subject as aforesaid) be held at such place or places as the Commissioners may from time to time appoint.

(7) An extraordinary meeting shall be summoned by the clerk of the Commissioners when a requisition for that purpose is addressed to him in writing by the chairman of the Commissioners or by any three Commissioners.

At least seven days' notice of any extraordinary meeting shall be given except in a case of emergency certified as such by the chairman or by any three Commissioners.

(8) At all meetings of the Commissioners three Commissioners shall constitute a quorum.

**15.**—(1) The Commissioners shall at their first meeting or at an adjournment thereof and may thereafter as occasion requires appoint a chairman (who shall subject to the provisions of this Act continue chairman for such period not exceeding three years as may be determined by the Commissioners at the time of his appointment) and such officers and servants as they think requisite. The Commissioners may pay their officers and servants such reasonable remuneration as they deem expedient and every such officer or servant shall be removable by the Commissioners at their pleasure. Chairman  
and officers.

(2) The Commissioners shall in each year appoint some person as auditor to audit their accounts for that year and may pay the auditor such reasonable remuneration as they deem expedient and every auditor so appointed shall for the year that he is appointed and notwithstanding that a different person may be appointed each year be deemed to be the permanent auditor within the meaning of the Commissioners Clauses Act 1847.

(3) If at any meeting of the Commissioners the chairman be not present one of the Commissioners present at such meeting shall be elected chairman of such meeting by a majority of the votes of the Commissioners present at such meeting.

**16.**—(1) The powers of the Commissioners under this Act shall include the right to do all or any of the following things:— Powers and  
duties of  
Commis-  
sioners.

(A) To make or cause to be made from time to time surveys of the lands works and hereditaments

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- forming any part of the protected lands and the embankments and drainage system ;
- (B) To continue in or upon pass or repass with or without horses or vehicles or on foot on or along such lands for all or any of the purposes of this Act without hindrance from any person whomsoever and without being deemed trespassers for so doing making always reasonable compensation to the owners and occupiers of any such lands for any damage thereby sustained and such compensation may be ascertained and recovered in any court of competent jurisdiction ;
- (c) To maintain reconstruct renew extend enlarge alter and repair the embankments and drainage system as now existing and to keep the several channels drains and watercourses dredged and clear from weeds or other obstructions and to keep in repair the bridges over the same and to construct and maintain all such other and additional or substituted works as they may from time to time think necessary or proper to protect and preserve the protected lands against the sea or land-water Provided that if any owner shall object to any alteration enlargement or diversion of any of the brooks sluices drains dykes or culverts for the time being included in the drainage system or any of the works connected therewith such alteration enlargement or diversion shall not be made without the consent of the Minister of Agriculture and Fisheries ;
- (D) To require and compel the owners or occupiers of any part or parts of the protected lands which are or may be intersected by dykes drains or culverts which though not forming part of the drainage system do eventually discharge therein to maintain and keep such dykes drains and culverts clear and free from weeds or obstructions in any way endangering the safety or utility thereof and in case any of such owners or occupiers shall neglect so to maintain and keep any such dykes drains or culverts the Commissioners may give notice addressed to the person in default requiring

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him to make good such default within a reasonable time specified on the notice and in the case of non-compliance with the requirements of any such notice they may themselves execute and do all such works and things as may be necessary and may recover from the person so in default all expenses reasonably incurred by them in so doing in any court of competent jurisdiction;

- (E) To construct and execute all such works including dredging as may be necessary or proper to maintain the existing Crossens Channel and Hundred End Gutter shown on the plan B where the same pass over the foreshore and marshland now belonging to the Scarisbrick Estate so as to afford a free and uninterrupted flow for the water from the drainage system for the time being into the sea and to divert such channel or channels and make any new channel or channels across such foreshore and marshland to provide access for such water to the sea with full power and right to enter upon take and use any part of the said foreshore and marshland for such purpose paying due compensation therefor to the owners and occupiers for the time being for any damage thereby sustained and such compensation may be ascertained and recovered in any court of competent jurisdiction;
- (F) To require the owner or any occupier of any land within the protected lands adjoining any watercourse or drain within the protected lands to remove any bridge belonging to or repairable by him which shall be in such a condition as to injuriously affect any such watercourse or drain or the flow of water therein and to fence any portions of the works watercourses or drains on or abutting on his said land vested in or used by the Commissioners so as to prevent cattle from getting into the same or from treading down the banks thereof and in the event of any such owner or occupier failing to comply with any such requirement the Commissioners may themselves execute the works necessary for complying with the same and the

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reasonable expenses attending such works shall be reimbursed to the Commissioners by such owner or occupier and may be recovered in any court of competent jurisdiction. Provided that if the Minister of Agriculture and Fisheries on the application of the owner or occupier of any land certify that in his opinion any fencing which such owner or occupier is required by the Commissioners to execute is unnecessary the requirement of the Commissioners as to such fencing shall not be binding upon such owner or occupier;

- (G) To enter upon the fields numbered 1009 1840 and 1841 on the plan A and to take therefrom clay and upon part of the Old Sea Bank at Crossens shown on the plan A or any other bank substituted therefor and to take therefrom sand and other material for any of the works or things authorised to be done by the Commissioners under this Act;
- (H) To prevent flooding trespass encroachment unauthorised diversion of water or any other act or thing where any damage or injury may be or be likely to be caused to the sea embankments and drainage system including the said Crossens Channel the said Hundred End Gutter or any channel or channels substituted therefor;
- (I) To dispose of the materials of any works which may be taken down or removed or rendered unnecessary by any of the works executed by the Commissioners.

(2) The Commissioners shall as from the commencement of this Act be bound at the cost of the rates (but subject as hereinafter provided) to duly maintain the embankments and drainage system (whether as existing at the commencement of or effected under the powers conferred by this Act) which or the site whereof may be vested in them by virtue of this Act:

Provided that if and when an Order of the Minister of Agriculture and Fisheries shall have been obtained declaring that by reason of the erection or construction of new embankments channels drains dykes water-courses culverts or other works and of sufficient provision having been made for the maintenance thereof any

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embankments channels drains dykes watercourses culverts or other works for the time being forming part of the embankments and drainage works are no longer required the Commissioners shall cease to be bound to maintain the same or to levy rates for that purpose under this Act. A.D. 1924.  
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17. As from the commencement of this Act there shall be transferred to the Commissioners:—

Transfer to Commissioners of certain powers and obligations.

(1) All obligations contractual or otherwise heretofore entered into by the Scarisbrick Estate Trustees for the time being or any of their predecessors in title and all their rights powers and interests with regard to the drainage of any lands:

(2) All the rights powers and interests of and all obligations imposed upon the Scarisbrick Estate Trustees under or by virtue of—

(A) an agreement dated the sixth day of January one thousand eight hundred and eighty and made between the local board for the district of Birkdale of the one part and Thomas Part Philip Henry Chambres and Charles Thomas Part (the then Scarisbrick Estate Trustees) of the other part;

(B) an indenture dated the twenty-first day of June one thousand nine hundred and twenty-two and made between the present Scarisbrick Estate Trustees of the one part and the corporation of Southport of the other part;

(C) the Landowners' Drainage Committee Agreement;

(D) an indenture dated the second day of January one thousand eight hundred and sixty-five and made between Dame Anne Scarisbrick and Eliza Margaret Marchioness de Casteja of the first part Leon Remy de Biaudos Marquis de Casteja of the second part and William Hawkshead Talbot and Thomas Part of the third part;

(3) All rights powers and interests given or reserved to the Scarisbrick Estate Trustees by the Ribble Navigation and Preston Dock Act 1883 and in particular by section 71 thereof and by the

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Ribble Navigation Act 1896 and in particular by section 16 thereof and by the Southport Improvement Act 1885 and in particular by section 25 thereof and by the Southport Corporation Act 1913 and in particular by sections 42 and 48 thereof :

- (4) All rights powers and interests relating to the drainage of any lands given or reserved to the Scarisbrick Estate Trustees by the indentures or any of them under which portions of the lands subject to the Testator's will have been heretofore partitioned.

Rating powers.

**18.**—(1) For the purpose of defraying any expenses incurred by them in the execution of their powers and the performance of their duties under this Act the Commissioners shall from time to time as occasion may require make by writing under their common seal and levy an acreage rate or rates to be called " the Scarisbrick drainage rates " on the protected lands.

(2) Every rate made and levied under the provisions of this Act shall be of equal amount per acre on the lands assessed thereto.

(3) Any person deeming himself aggrieved by any rate made under the provisions of this Act may appeal therefrom to the next court of quarter sessions subject to the conditions and regulations prescribed by section 269 of the Public Health Act 1875.

Form of assessment.

**19.** Any assessment made under the provisions of this Act shall be in the form specified in the Second Schedule to this Act or to the like effect.

Public notice of assessment of rates to be given.

**20.** Public notice of the time and place appointed for the payment of any rates by this Act authorised to be charged by the Commissioners shall be given by advertising the same at least twenty-one days before the time appointed for payment thereof in some newspaper circulating in the county borough of Southport.

Orders for rates.

**21.** The order for every rate made under the powers of this Act shall be entered in a book to be provided for that purpose and shall be sealed by the Commissioners and shall be open to the inspection of all persons rated or liable to be rated under this Act without fee or reward and every such rate shall be paid to such persons and

at such times and places as the Commissioners shall order or direct. A.D. 1924.

**22.** The Commissioners may make any such rate as aforesaid prospectively in order to raise money to pay charges and expenses to be incurred thereafter or retrospectively in order to raise money to pay charges and expenses already incurred. Rates may be retrospective or prospective.

**23.** In determining the acreage of the lands in the occupation of any person for the purposes of this Act any lands in one occupation of less extent than one rood shall be deemed to be one rood and a fraction of a rood beyond a rood or an integral number of roods shall be deemed a rood. Determination of acreage of lands.

**24.** The Commissioners may from time to time amend any rate made in pursuance of this Act by inserting therein the name of any person claiming and entitled to have his name inserted or by inserting the name of any person who ought to have been assessed or by striking out the name of any person who ought not to have been assessed or by raising or reducing the sum at which any person has been assessed if it appears to the Commissioners that he has been under-rated or over-rated or by making any other alteration which will make the rate conformable to the provisions of this Act and no such amendment shall be held to avoid the rate. Provided that an amended rate shall not be payable by any person the amount of whose rate is increased by the amendment or whose name is thereby newly inserted until seven days after notice of the amendment has been given to him. Rates may be amended.

**25.** The production of the books purporting to contain any rate or assessment made under this Act (if such rate or assessment bear the seal of the Commissioners of which no proof other than the production of the book shall be necessary) shall without any other evidence whatever be received as prima facie evidence of the making and validity of the rates and assessments mentioned therein. Evidence of rates.

**26.** Where the name of any owner or occupier liable to pay any rate under this Act is not known to the Commissioners it shall be sufficient to assess and designate him in notices and other documents as "the owner" or "the occupier" of the lands in respect of which he is rated or assessed without further description. Description of owner or occupier.

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Tenants and  
occupiers to  
pay rates  
and to de-  
duct them  
from rents.

**27.** Subject as hereinafter provided every tenant or occupier of any lands buildings or premises assessed or rated with or liable to any rate by this Act authorised is hereby required to pay all and every sum or sums of money as shall be from time to time assessed rated or charged on or for or in respect of such lands buildings or premises in his tenancy or occupation in respect of any such rate and shall be entitled to deduct from any rent at any time payable by him to the owner of such lands buildings or premises the amount so paid by him in respect of such rates :

Provided that—

- (A) No greater sum shall be recovered at any one time from any tenant or occupier (who is not at the same time the owner) than the amount of rent owing by him or which shall have accrued due from him subsequent to the service of a notice upon him to pay the rate but no tenant or occupier shall be entitled to the benefit of this proviso unless he shall on demand by the clerk or other person appointed by the Commissioners produce to him the receipt for the last payment of rent made by such tenant or occupier or if he shall not have paid any rent give true and full information to such clerk or other person as to the rent at which he holds and the times at which the same becomes payable and the amount of rent (if any) owing by him ;
- (B) Nothing in this section contained shall prejudicially affect any existing tenancy or agreement (whether verbal or in writing) or be deemed to alter the incidence of burdens as between landlord and tenant under any such existing tenancy or agreement or operate to prevent or interfere with effect being given to any other provisions with respect to the payment of such sum or sums of money as aforesaid which may be contained in any future tenancy lease or agreement between the parties thereto ;
- (c) If by reason of no rent being due or payable or for any other reason a tenant or occupier



is not liable to pay the rate then and in every such case the rate shall be demanded from and paid by the owner; A.D. 1924.  
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(D) If the Commissioners in any special case consider that having regard to the cost or delay which would be involved in recovering a rate from a tenant or occupier it is expedient that the rate should be paid directly by the owner they may demand and recover payment from him as if he were the occupier.

**28.** Notice of every rate imposed by the Commissioners under this Act shall be given as soon as may be to every person liable to the rate and every such notice shall state the period for which the rate is to be levied the total amount payable and the time at which (not being less than twenty-one days from the date of the order imposing the rate) and the persons to whom payment is to be made. Such notice shall also contain a statement to the effect that every tenant or occupier liable to the rate may deduct the amount paid in respect thereof from his rent. Demand note.

**29.** When any lands buildings or premises in respect of which the occupier if such lands buildings or premises were occupied would be liable to pay any rate under the provisions of this Act shall be unoccupied at the time of making such rate the Commissioners may demand and recover the amount of such rate from the owner of such unoccupied lands buildings or premises and every such owner shall pay the amount of such rate. Owners of unoccupied property to pay rate.

**30.** All rates under this Act may be enforced by the same remedies as if the same were district rates levied under the powers of the Public Health Act 1875 and as if the Commissioners were a local authority within the meaning of that Act or at the option of the Commissioners by an action in any court of competent jurisdiction. Recovery of rate.

**31.**—(1) The Commissioners may if they think fit enter into any agreement or arrangement with an owner for the payment of rates payable by his tenants and as one of the terms of any such agreement or arrangement may allow him a commission not exceeding in any case ten per centum of the amount of the rate and may allow discounts or rebates not exceeding the like amount. Special agreements and discount.

A.D. 1924. to any person liable to pay any rate made under the powers of this Act in consideration of prompt payment of such rate. Provided that all commissions discounts or rebates shall be of equal amount under like circumstances.

(2) Where under any such agreement or arrangement the owner has become liable to pay any rate the Commissioners shall have as against such owner for the recovery of such rate the like remedies as they would have had against the occupier if no such agreement or arrangement had been made.

Lands may be let or sold for payment of rates.

**32.**—(1) If any rate by this Act authorised to be made shall be unpaid for the space of twelve months next after a judgment or order of the court for the payment thereof and the Commissioners are unable to recover the same by distress under the powers by this Act conferred then and in every such case the Commissioners may for the purpose of raising and levying the amount of such rate after giving not less than twenty-eight days' previous notice in writing of their intention to the owner tenant or occupier of the lands buildings or premises assessed to the rate who is in default enter into possession of and let by public auction to the best bidder so much of the said assessed lands buildings or premises as they shall judge sufficient for such period (not exceeding the interest of the person in default) at such rent and upon such terms and conditions as to them shall seem meet and the Commissioners shall apply the net rents arising therefrom in payment and discharge of all such rates as aforesaid and the costs charges and expenses of advertising and letting the lands buildings or premises as aforesaid and shall pay the balance (if any) to the reversioner owner or other person entitled to the same.

(2) If any owner occupier or tenant in default neglect or refuse to deliver up possession of the said assessed lands buildings or premises or such part thereof as the Commissioners shall judge sufficient as aforesaid possession thereof whatever may be the value or rent of such lands buildings or premises may be obtained by or on behalf of the Commissioners under the Small Tenements Recovery Act 1838 as in the cases therein provided for as nearly as the circumstances will permit and as if the Commissioners were the landlord.

(3) If any rate by this Act authorised to be made shall be unpaid for the space of three years next after a judgment or order of the court for the payment thereof and the Commissioners are unable to recover the same by distress under the powers by this Act conferred then and in every such case the Commissioners (after giving not less than twenty-eight days' previous notice in writing to the owner tenant or occupier of the lands buildings or premises assessed to the rate who is in default) may sell by public auction such estate or interest as is hereinafter mentioned in so much of the said assessed lands buildings or premises as the Commissioners shall judge sufficient to raise such rate and the costs charges and expenses of advertising and selling the same and shall apply the net proceeds of sale in payment of such rates costs charges and expenses as aforesaid and shall pay the balance (if any) to the former owner or other person entitled thereto The Commissioners may by writing under their common seal convey and assure the said lands buildings or premises (for such estate or interest as the person in default would have had power to convey) to any person who shall become the purchaser thereof his heirs and assigns or to such uses or upon such trusts as he may direct and such writing or conveyance shall be as good and effectual in law to all intents and purposes whatsoever as if the person in default had executed the same. A.D. 1924.

(4) The lands buildings or premises so let or sold as aforesaid shall be and remain subject to the payment of all such rates as shall be theretofore laid and assessed thereon and become due for the same by virtue of this Act and to all such other rates as the same were subject to previous to such letting or sale (except the rates for the recovery of which the same shall be let or sold as aforesaid).

(5) In all cases where any lands buildings or premises shall be let by the Commissioners under the powers of this section for raising any rates due for the same the reversion expectant on any such lease shall (subject to the payment of the said rates and all expenses incurred by the Commissioners or their collectors receivers or agents in and about the letting of the same and in and about the recovery of such rates which expenses the Commissioners or their collectors receivers or agents are

A.D. 1924. hereby authorised and required to deduct and retain out of the rents arising and received from or in respect of such lands buildings or premises as if the reversion were vested in the Commissioners) remain vested in the owner of the said lands buildings and premises and other the parties (if any) interested therein in like manner as if the same had been let by him or them.

Compulsory redemption of rates in certain cases.

**33.**—(1) Whenever the area of land owned by any person and liable to be rated under the provisions of this Act amounts to one acre or less in extent the Commissioners may by notice in writing addressed to such person at his last known place of abode require him within three months of the date of such notice to redeem the liability of such land to be rated by payment to the Commissioners of a sum equal to twenty-five times the amount of the annual rate to which such land would be liable on the basis of the average rate levied by the Commissioners during the preceding five years or if such notice be given within five years from the commencement of this Act during the period between the commencement of this Act and the date of such notice.

(2) Every such person shall pay such sum calculated as aforesaid to the Commissioners within the period named in such notice and in default thereof the Commissioners shall have as against such person for the recovery of such sum the like remedies as they have against an occupier of any lands liable to be rated under the provisions of this Act for the recovery of any rate.

(3) On receipt of such sum the Commissioners shall issue to such person a certificate under their hand and seal setting forth the receipt of such sum and the purpose for which the same was required and thereupon such land shall be for ever thereafter freed and discharged from all liability to be rated under the provisions of this Act.

(4) Any sums received by the Commissioners under this section shall be deemed to be capital moneys and shall be applied in accordance with the provisions of the section of this Act of which the marginal note is "Application of proceeds of sale &c."

Commis- sioners may borrow. **34.** The Commissioners may borrow on mortgage on the rates such sums of money as they may from time to time require for the purposes of this Act Provided

that the aggregate amount of moneys borrowed upon mortgage for the said purposes and not paid off or for the repayment of which provision has not been made under the section of this Act of which the marginal note is "Mode of payment off of borrowed money" shall not at any one time exceed the sum of ten thousand pounds. A.D. 1924.

**35.** The Commissioners may (except as hereinafter provided) re-borrow for the purpose of paying off any money borrowed or re-borrowed under this Act which has not been repaid and is intended to be forthwith repaid or in respect of any money which has been repaid by the temporary application of the funds at the disposal of the Commissioners within twelve months before the re-borrowing and which at the time of the repayment it was intended to re-borrow. Provided that any money re-borrowed shall be deemed to form the same loan as the money for the repayment of which the re-borrowing has been made and shall be repaid on or before the expiration of the period within which the original loan would have been repayable. Power to re-borrow.

**36.** All money borrowed by the Commissioners under the authority of this Act shall be paid off within thirty years from the date or respective dates of borrowing the same unless the High Court shall by order made on the application of the Commissioners before the loan is effected authorise the same to be paid off after the expiration of a longer period. As to repayment of borrowed money.

**37.**—(1) The Commissioners shall pay off all money borrowed by them on mortgage under the powers of this Act by equal yearly or half yearly instalments of principal or of principal and interest combined or by means of a sinking fund or partly by one of those methods and partly by another or others of them such payments to commence within twelve months after the date of borrowing the sum in respect of which the payments shall require to be made. Mode of payment off of borrowed money.

(2) In case the Commissioners decide to repay any sum by means of a sinking fund they shall each year throughout the period prescribed for the repayment thereof pay to such fund an amount which if continued throughout the prescribed period would be sufficient without accumulations to repay that sum within the prescribed period.

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(3) The Commissioners may from time to time invest any moneys in the sinking fund in any securities in which trustees are for the time being by law authorised to invest and the dividends income and annual proceeds thereof may be applied towards paying the yearly amounts required to be paid to the sinking fund by the preceding subsection of this section.

Appoint-  
ment of  
receiver.

**38.**—(1) Any mortgagee of the Commissioners by virtue of this Act may enforce the payment of arrears of interest or of principal or of principal and interest by the appointment of a receiver provided that such payment is at least six months in arrear. The amount of arrears of principal due to such mortgagee or in the case of a joint application by two or more mortgagees to such mortgagees collectively sufficient to authorise the appointment of a receiver shall not be less than one thousand pounds in the whole.

(2) The application for the appointment of a receiver shall be made to the High Court.

Mortgagees  
may levy  
rates in  
certain  
events.

**39.** In case the Commissioners at any time while any money shall remain due on any mortgage made under the powers of this Act neglect or refuse to exercise all or any of the powers by this Act given to them for raising rates so as to meet and provide for the payment of the principal money or interest due on any such mortgage or any part thereof according to the terms of such mortgage then and in every such case the mortgagees under such mortgage or any of them their executors or administrators and assigns respectively for the purpose of obtaining and enforcing the payment of interest or the repayment of principal money due on any such mortgage (as the case may require) shall have and may exercise (so far as regards the rates included in their respective mortgages) the same or the like powers rights and remedies for assessing rating and charging the protected lands and for collecting receiving and enforcing the rates so assessed as are by this Act and the Acts incorporated with this Act given to the Commissioners for the like purposes.

Application  
of rates.

**40.** All money to be received from the rates authorised by this Act and the general revenue of the Commissioners shall be applied as follows:—

First—In paying the expenses of management and of maintaining repairing restoring and replacing

the embankments and drainage system and any other expenses incurred in the execution of this Act : A.D. 1924.

Secondly—In paying the interest on all money borrowed on the credit of the rates by this Act authorised to be levied :

Thirdly—In paying at their due date any instalments of the principal of the money so borrowed as aforesaid :

Fourthly—In improving the embankments and drainage system :

Fifthly—In providing a reserve fund (if the Commissioners think fit) by setting aside such money as they may think reasonable and investing the same and the resulting income thereof in securities in which trustees are authorised by law to invest trust funds and accumulating the same at compound interest until the fund so formed amounts to a sum not exceeding one thousand pounds which fund shall be applicable to meet any extraordinary claim or demand at any time arising in respect of the embankments and drainage system or for the cost of renewing any part thereof and so that if that fund be at any time reduced it may thereafter be again restored to the prescribed maximum and so from time to time as often as such reduction happens Provided that resort may be had to the reserve fund under the foregoing provisions although such fund may not at the time have reached or may have been reduced below the prescribed maximum :

Sixthly—In paying off the balance of the principal of the moneys so borrowed as aforesaid in such order as the Commissioners shall think proper.

41. A person lending money to the Commissioners shall not be bound to inquire whether the money is wanted or more than is wanted is raised or as to the observance by the Commissioners of any of the provisions of this Act or be bound to see to the application or be answerable for any loss misapplication or non-application of the money lent or of any part thereof. Protection of lenders from inquiry.

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Commissioners not  
to regard  
trusts.

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

Power to  
promote  
and oppose  
Bills &c.

**43.** The Commissioners shall have power to promote or oppose Provisional Orders and Bills in Parliament and to take Parliamentary proceedings and to enter into and make the necessary preparatory arrangements therefor in matters which in the opinion of the Commissioners are connected with the purposes of this Act.

Power to  
acquire land  
by agree-  
ment.

**44.** The Commissioners may in addition to the lands by this Act vested in them from time to time for the purposes of any of their powers and duties under this Act acquire purchase take on lease or exchange (by agreement but not otherwise) and hold any lands not exceeding in the whole one hundred acres or any easements or rights over or in land but nothing in this Act shall exempt the Commissioners from any indictment action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon any lands so acquired purchased taken on lease or taken in exchange.

Power to  
deal with  
land &c.

**45.—(1)** The Commissioners shall have full power to manage any land for the time being vested in them and to erect make or permit the erection or making of any buildings roads or other works through or thereon and to manage alter and enlarge any buildings roads or works for the time being vested in them.



(2) The Commissioners may from time to time sell lease let exchange or otherwise dispose of in such manner and for such consideration and purpose and on such terms and conditions and subject to such reservations as they think fit and in case of sale either in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands or any interest in any lands for the time being belonging to them and not required for the purposes of any of their powers or duties and may sell or exchange and dispose of any rents reserved on the sale exchange lease or disposition of such lands and may make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition and on any exchange may give or take any money for equality of exchange and may enter into or accept the benefit of or release or waive any restrictive or other covenants. A.D. 1924.

46. All capital money received by the Commissioners on any sale disposition or exchange of lands held for the purposes of or in connection with the embankments and drainage system and all fines and premiums received by them on the grant or renewal of any lease of any such lands shall be applied in or towards the repayment of any money borrowed by the Commissioners for the purposes in connection with which they hold or held such lands and for the time being owing or shall be paid into any sinking fund established under the provisions of this Act or if there shall be no such money owing shall be applied by the Commissioners to such purposes as the Commissioners may think fit (being in all cases purposes to which capital money is properly applicable) in connection with the performance of such of their powers and duties as relate to the purposes in connection with which they hold or held such lands and in the meantime may be invested in any investments for the time being authorised by law as investments for trust money. Application of proceeds of sale &c.

47. The Commissioners may either let by public auction or private contract the grass and herbage growing and accruing in or upon the embankments and drainage system or any part or parts thereof or other ground belonging to or vested in the Commissioners under the powers of this Act to any persons willing to take the same for such term as they may think fit and at the best rents Power to lease herbage.

A.D. 1924. obtainable having regard to all the circumstances of the case and with under and subject to such conditions covenants provisions and agreements as may be agreed upon between the Commissioners and such persons.

Power to grant pensions &c.

48. The Commissioners may if they think fit pay to any of their officers or servants upon his retirement from service such annual or other sum as they may think reasonable either during the term of his natural life or for such other period or in gross as they may think just and proper and may establish and contribute to superannuation or other schemes for the purpose of providing superannuation or other allowances for any such officers or servants.

Certain offences in relation to embankments and drainage system.

49.—(1) If any person shall—

- (A) Injure the embankments and drainage system or any part or parts thereof or any other works of the Commissioners; or
- (B) By any other act endanger the security of the embankments and drainage system or any part or parts thereof or other works of the Commissioners;

such person shall be liable to a penalty not exceeding five pounds and if any act contravening the provisions of this section results in injury to the embankments and drainage system or any part or parts thereof or other works of the Commissioners they may themselves execute any works necessary for repairing such injury and the expenses attending such works shall be reimbursed to the Commissioners by the person having caused such injury or obstruction.

(2) Every person who shall at any time obstruct the Commissioners or any person employed by them in the performance of anything which they are empowered to do in reference to the embankments and drainage system shall be liable on conviction to a penalty not exceeding five pounds for every such offence.

Recovery of penalties &c.

50. All penalties forfeitures charges and expenses imposed or recoverable under this Act may (unless otherwise in this Act expressly provided) be recovered summarily before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts Provided that costs charges or expenses except such as are recover-

able along with a penalty shall not be recovered as penalties but may be recovered summarily as civil debts. A.D. 1924.

**51.** Notices orders summonses or any other documents required or authorised to be served under this Act by the Commissioners may be served by post or by delivering the same to or at the residence of the person to whom they are respectively addressed or where addressed to the owner or occupier of premises by delivering the same or a true copy thereof to some person on the premises or if there is no person on the premises who can be served by fixing the same on some conspicuous part of the premises. Service of notices &c.

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

**53.** Except as by this Act expressly provided nothing in this Act contained shall authorise the Commissioners to do by or in connection with the embankments and drainage system any work act or thing which may interfere with any drainage district or prejudicially affect any banks works watercourses rights interests or liabilities outside the protected lands. For protection of other districts.

### PART III.

#### PROVISIONS RELATING TO THE SCARISBRICK ESTATE.

**54.** As from the commencement of this Act the embankments and drainage system shall be and the same are hereby vested in the Commissioners in fee simple in possession free from incumbrances and from all the limitations trusts powers and provisions of the Testator's will and of the Talbot Scarisbrick Settlement and the Naylor Leyland Settlement and thereupon the right of management and control thereof shall devolve upon and be exerciseable by the Commissioners for the purposes of this Act: Embankments and drainage system vested in Commissioners.

Provided that subject to the provisions of the section of this Act of which the marginal note is "Certain offences

A.D. 1924. — in relation to embankments and drainage system” the owner or occupier of any part of the protected lands shall at all times have the right to pass or repass across the embankments and drainage system for the purpose of obtaining access from one part to any other part of the said lands owned or occupied by him.

Obligations  
of Scaris-  
brick Estate  
Trustees to  
cease.

**55.** From and after the commencement of this Act all liabilities and obligations of the Scarisbrick Estate Trustees to carry on or maintain the embankments and drainage system or with regard to the drainage of any lands shall absolutely cease and determine and the Commissioners shall at all times thereafter save harmless and keep indemnified the Scarisbrick Estate Trustees from and against all proceedings claims costs and expenses on account of any neglect or failure to perform or carry out or discharge the aforesaid liabilities and obligations or any of them.

As to  
unparti-  
tioned  
properties.

**56.**—(1) From and after the passing of this Act the investments described in the Third Schedule to this Act and the sum of six hundred and fifty-seven pounds sixteen shillings and fivepence therein referred to shall remain in the hands of the Scarisbrick Estate Trustees and shall be by them applied in accordance with such order of the court as may be made in the action for the administration of the estate of the Testator now proceeding in the Chancery Division of His Majesty’s High Court of Justice the short title and reference whereof is *Talbot v. Scarisbrick* 1860 T. 136 Provided that any such Order shall provide—

- (A) for the payment of the following sums that is to say to William Worth Deane of the Scarisbrick Estate Office Southport the sum of three thousand five hundred pounds to Thomas Booth of the same address the sum of one thousand five hundred pounds and to Walter Thomas Merchant of the same address the sum of one thousand four hundred pounds;
- (B) for the payment of such liabilities costs charges and expenses whether incurred by the Scarisbrick Estate Trustees or any other parties to the said action as the said Order may direct; and
- (C) for the division into three equal parts of any balance remaining after making the aforesaid

payments and for the payment of one such third equal part to Ewald Scarisbrick another such third equal part to the trustees of the Talbot Scarisbrick Settlement and the remaining third equal part to the trustees of the Naylor Leyland Settlement and any moneys so received by the trustees of the Talbot Scarisbrick Settlement or by the trustees of the Naylor Leyland Settlement shall be treated by them respectively as capital moneys subject to the trusts declared by their respective settlements and applied accordingly.

A.D. 1924:

(2) As from the commencement of this Act the remainder of the unpartitioned properties shall be and the same is hereby vested as to one equal third undivided part in Ewald Scarisbrick as to another equal third undivided part in the trustees of the Talbot Scarisbrick Settlement and as to the remaining equal third undivided part in the trustees of the Naylor Leyland Settlement as tenants in common for all the estate and interest therein of the Scarisbrick Estate Trustees.

(3) The whole of any mining rents or royalties received by the trustees of the Talbot Scarisbrick Settlement or by the trustees of the Naylor Leyland Settlement in respect of the unpartitioned properties shall be treated by them as income and applied accordingly.

**57.** The trustees of the Talbot Scarisbrick Settlement and the trustees of the Naylor Leyland Settlement respectively may invest any trust funds in their hands whether at the time in a state of investment or not in mortgages of the rates granted by the Commissioners under the provisions of this Act.

Extending trustees' powers of investment.

**58.** From and after the commencement of this Act section 20 of the Scarisbrick Estate Act 1877 shall be and the same is hereby repealed.

Repeal of section 20 of Scarisbrick Estate Act 1877.

**59.** Saving always to the King's most Excellent Majesty His heirs and successors and to every other person and body politic or corporate and their respective heirs and successors executors and administrators (other than and except only the several persons who by this Act are expressly excepted out of this general saving) all such estate right title interest claim and demand

Saving clause.

A.D. 1924.

whatsoever of in to or out of the protected lands and the embankments and drainage system and any and every part thereof as they every and any of them respectively would have held or enjoyed or been entitled to if this Part of this Act had not been passed.

Exceptions  
from saving  
clause.

**60.** The following persons and their respective executors administrators and assigns and all persons who now derive or claim or may hereafter derive or claim title under them or in trust for them or any of them or under the exercise of any power or powers given to them or any of them by the Testator's will the Talbot Scarisbrick Settlement and the Naylor Leyland Settlement are excepted out of the general saving in this Act contained and are accordingly the only persons bound by the provisions of this Part of this Act (that is to say) :—

- (1) Sir Francis Robert Anderton Knight and John Ernle Money and their successors as Scarisbrick Estate Trustees :
- (2) Charles Ewald Scarisbrick :
- (3) Rosalie Georgina Cicely Barrett Lennard Scarisbrick :
- (4) John Cyril Bouverie Luxmoore and Robert Carr Dodds and their successors as trustees of the term of three hundred years mentioned in recital (E) hereof :
- (5) Sir Tom Talbot Leyland Scarisbrick Baronet :
- (6) Everard Talbot Scarisbrick :
- (7) Dame Josephine Ethel Scarisbrick :
- (8) All sons and daughters of Everard Talbot Scarisbrick and all issue of any sons or daughters of Everard Talbot Scarisbrick :
- (9) All sons of Sir Tom Talbot Scarisbrick (other than Everard Talbot Scarisbrick) and all daughters of Sir Tom Talbot Scarisbrick and all issue of any such sons or daughters of Sir Tom Talbot Scarisbrick :
- (10) Robert Edwin Smalley Thomas Phillips and John Edward Reid-Cuddon and their successors as trustees of the Talbot Scarisbrick Settlement or of any purpose thereof :

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- (11) Dame Jane Willson Naylor Leyland : A.D. 1924.  
(12) Sir Albert Edward Herbert Naylor Leyland  
Baronet : —  
(13) All sons and daughters of Sir Albert Edward  
Herbert Naylor Leyland and all issue of any  
such sons or daughters of Sir Albert Edward  
Herbert Naylor Leyland :  
(14) Percy Alfred Leyland Laming and the Right  
Honourable George Viscount Cave and their  
successors as trustees of the Naylor Leyland  
Settlement or of any purpose thereof.

**61.** This Act shall not be deemed a local Act within the meaning of section 13 of the Land Drainage Act 1918. Act not to be a local Act under section 13 of Land Drainage Act 1918.

**62.** This Act shall not be a public Act but shall be printed by the several printers to the King's most Excellent Majesty duly authorised to print the statutes of the United Kingdom and a copy thereof so printed by any of them shall be admitted as evidence by all judges justices and others. Act not to be a public Act.

A.D. 1924. The SCHEDULES referred to in the foregoing Act.

THE FIRST SCHEDULE.

RULES AS TO ELECTION OF COMMISSIONERS.

1. At each election of Commissioners the chairman of the Commissioners of the previous year or some person appointed by him shall be the returning officer.

2. If at any time from any default of such chairman as aforesaid or from any reason there is no returning officer or such returning officer is unwilling or unable to act the Minister of Agriculture and Fisheries may on the application of the Commissioners appoint a returning officer.

3. The elections of new elected members subsequent to the first election shall take place on the first day of January in each succeeding third year.

4. On every occasion of the election of Commissioners the returning officer shall convene a meeting of the electors for the purpose of such election and shall give notice of such meeting and of the time and place at which it is to be held by advertisement in some one or more newspapers circulating in the county borough of Southport and on every occasion after the occasion of the first such election by causing a copy of such notice to be affixed to the outer door of the principal office of the Commissioners.

5. The returning officer shall preside and regulate the proceedings at such meeting.

6. At such meeting as aforesaid any person or persons qualified pursuant to this Act for election may if he or they consent thereto be nominated by any elector and seconded by any other elector as an elected member or elected members of the Commissioners.

7. If more candidates are proposed than the number to be elected a poll may be demanded and shall be taken in manner hereinafter mentioned but if not or if no poll is demanded a declaration by the returning officer that the candidates are elected Commissioners shall be evidence of the fact.

8. When a poll is demanded the returning officer shall direct the same to be taken at such place or places on such day not



exceeding three clear days from the day appointed for the election as he may determine. A.D. 1924.

9. In case of an equality of votes between any two or more candidates the returning officer shall decide by lot the candidate or candidates to be elected.

10. The poll shall be opened at nine o'clock in the forenoon of the day appointed for that purpose and shall close at four o'clock in the afternoon of the same day except in the case of disturbance when the closing of the same may take place at such time as the returning officer directs.

11. The returning officer shall cause to be entered in the polling books the name and address of every voter and the manner in which he votes.

12. At the close of the poll the returning officer shall sum up the votes and as soon as possible publish the names of the candidates elected as herein mentioned:—

- (A) By advertisement in some one or more newspaper or newspapers circulating in the county borough of Southport;
- (B) By affixing the list of such candidates to the outer door of the principal office of the Commissioners.

13. Whenever any day appointed for any purpose happens to be a Sunday or bank or other public holiday the business so appointed to be done shall take place on the Monday following the Sunday or the next day after the bank or other holiday not being a Sunday or public holiday.

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## THE SECOND SCHEDULE.

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### FORM OF ASSESSMENT TO RATE.

The Commissioners acting under the Scarisbrick Estate Drainage Act 1924 do hereby assess rate and charge the lands mentioned in the annexed book and in such book distinguished by the numbers by which the same lands are distinguished on the 25-inch Ordnance map of the parish of \_\_\_\_\_ and the respective owners and occupiers of the said lands whose names are mentioned in the several pages of the said book with the respective sums set down in the several pages of the said book against the names of such owners and occupiers and the Commissioners order and direct that the rate hereby imposed shall be paid to Mr. \_\_\_\_\_ the collector appointed

[CH. 2.] *Scarisbrick Estate Drainage* [14 & 15 GEO. 5.]  
Act, 1924.

A.D. 1924. by the Commissioners to receive the same at  
— on the                      day of                      next between the hours  
of 12 noon and 3 in the afternoon of that day.

FORM OF RATING.

Occupier.	Owner.	Parish.	No. on Map.	Extent.	Rate per Acre.	Amount of Rate.
				A. R. P.		

THE THIRD SCHEDULE.

DESCRIPTION OF THE UNPARTITIONED PROPERTIES OTHER THAN THE LANDS DELINEATED AND COLOURED BROWN AND YELLOW ON THE PLAN A.

- (1) A sum of £657 16s. 5d. in cash.
- (2) The following investments :—
  - £5,500 5 per cent. War Stock 1929-47.
  - £11,000 4 per cent. Funding Stock 1960-1990.
  - £20,000 3½ per cent. Conversion Stock.
- (3) The following lands, properties and easements :—

Description of Property.	Tenant &c.
£200 per annum paid by the Opera House and Winter Garden Company for release of covenants.	—
£3 5s. 0d. per annum paid by the Southport Corporation in respect of Fernley Road Southport.	—
Cheshire Lines beerhouse - - - -	Ellis Warde and Company Limited.
Blowick hotel - - - -	T. R. Wilkins.

[14 & 15 GEO. 5.] *Scarisbrick Estate Drainage Act, 1924.* [CH. 2.]

Description of Property.	Tenant &c.	A.D. 1924.
Coal yard Tulketh Street Southport	Pearson and Knowles Coal and Iron Company Limited.	
Scarisbrick estate offices Lord Street Southport.	Scarisbrick Estate Trustees and others.	
Albert hotel - - - - -	Magee Marshall and Company Limited.	
Chisnall Hall Farm Wrightington 198·575 acres held on lease for 21 years from 2nd February 1910.	Pearson and Knowles Coal and Iron Company Limited.	
Chisnall and West Oaks Woods (15·674 acres of woodlands) at Wrightington.	In hand.	

(4) The following ground rents at Wigan and Coppull :—

No. of Registered Scarisbrick Lease.	Situation.	Annual Rent.
		£ s. d.
2,000	Wigan Lane Wigan - - -	4 4 0
2,028	Do. - - - - -	3 11 10½
2,139	Wigan - - - - -	1 0 0
3,203	Do. - - - - -	0 4 3
3,296	Preston Road Coppull - - -	27 16 10
3,410	Great Acre and Scholes Wigan -	22 4 6
3,433	House " Westerton " Coppull -	10 0 0
3,487	Preston Road Coppull - - -	2 0 0
3,514	Coppull Moor - - - - -	3 8 8
3,526 <sub>x</sub>	Bankes Yard Wigan Lane - - -	3 9 9
3,526 <sub>y</sub>	Coppull Lane Wigan - - - - -	2 1 10½
3,606	Bradshaw Street Wigan - - -	14 0 0
3,690	Do. - - - - -	5 8 0
3,708	Do. - - - - -	5 8 0
3,805	Wigan - - - - -	4 0 6
3,863	Bradshaw Street Wigan - - -	1 7 3
3,938	Great Acre Wigan - - - - -	5 5 0

(5) The mines minerals and mineral substances lying and being within and under certain lands in the neighbourhood of Wigan in the county of Lancaster subject to the leases set out below and the right to receive and recover the rents and royalties reserved by the said leases.

Date of Lease.	Lessees.
31st December 1885	Wigan Coal and Iron Company Limited.
3rd April 1903 - - -	Do. Do.

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*Act, 1924.*

A.D: 1924.	Date of Lease.	Lessees.
	2nd November 1897	Pearson and Knowles Coal and Iron Com- pany Limited.
	28th November 1902	Do.
	10th April 1912 -	Pearson and Knowles Coal and Iron Com- pany Limited.
	11th November 1914	Do.
	13th May 1914 -	Birkacre Colliery Company Limited.
	29th April 1916 -	Do.
	16th September 1914	Blainscough Colliery Company Limited.
	23rd May 1918 -	Do.

(6) All private roads intersecting the lands delineated and coloured brown on the plan A but left uncoloured on such plan.

(7) All other property of whatsoever kind remaining subject to the trusts of the Testator's will and not otherwise disposed of by this Act.

(8) The benefit of any restrictive covenants contained in all indentures of sale made between the Scarisbrick Estate Trustees or their predecessors and various purchasers from them and the right to enforce or release the same so far as such rights were enforceable by the Scarisbrick Estate Trustees immediately prior to the commencement of this Act.

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