

A.D. 1930.

PART VII.
—cont.

Provided that the Conservators shall be entitled to charge such moneys with the payment of a proportionate part of the necessary and proper establishment expenses of the Conservators and of a proportionate part of the cost (including any interest and payments to sinking funds or other sums required to be provided in respect to the repayment of borrowed moneys) of any works carried out by the Conservators and the execution and performance of any powers and duties of the Conservators which are applicable to or enure for the benefit of not only the purposes of the Thames Conservancy Acts, 1894 to 1924, but also the purposes of this Act.

(6) For the purposes of the provisions of this Act relating to compensation to existing officers, the Conservators shall be deemed to have been a drainage board immediately before the commencement of this Act.

(7) Notwithstanding anything in this Act all deeds, conveyances, grants, assurances, assignments, leases, purchases, sales, mortgages, bonds, covenants, agreements, securities and contracts entered into or made and subsisting at the commencement of this Act and then in force and all obligations and liabilities incurred before the commencement of this Act shall be as binding and of as full force and effect in every respect against or in favour of the Conservators as they would or might have been against or in favour of the Conservators if this Act had not come into operation and everything before the commencement of this Act done, suffered and confirmed respectively shall be as valid as if this Act had not come into operation.

(8) Every officer or servant of the Conservators not entitled to compensation under this Act and not otherwise legally entitled to any pension or superannuation allowance who becomes incapable of discharging the duties of his office with efficiency by reason of permanent infirmity of mind or body or who has attained the age of sixty years or who, having been in the service of the Conservators for a period of not less than five years prior to the commencement of this Act, is dismissed on any ground other than misconduct, shall upon his resigning or otherwise ceasing to hold office be entitled to a superannuation allowance upon the terms and conditions and according

to the scale from time to time applicable to persons in the permanent Civil Service of the State :

Provided that this provision shall not apply to any officer or servant who, having regard to the practice of the Conservators with regard to pensioning their officers and servants, had no reasonable expectation of receiving a pension or superannuation allowance on retirement, and any question as to whether an officer or servant had such reasonable expectation shall be determined by the Minister.

(9) The powers conferred on drainage boards by this Act with respect to the improvement of existing works and the construction of new works shall not in the case of the drainage board of the Thames catchment area become exerciseable until the expiration of two years from the commencement of this Act, but nothing in this subsection shall be taken to prevent the said board from exercising before the expiration of the period aforesaid any other powers vested in them under this Act, notwithstanding that such other powers are only exercised in anticipation of the exercise after the said period of the first-mentioned powers.

80.—(1) The drainage board of the Lee catchment area (in this section referred to as "the Catchment Board") shall consist of the persons who are for the time being members of the Lee Conservancy Board (in this section referred to as "the Conservancy Board") together with six additional members, one to be appointed by the Minister, one by the London County Council, and two each by the council of the county of Essex and the council of the county of Middlesex, and the provisions of this Act with respect to the constitution and membership of drainage boards for catchment areas (except paragraphs seven, eight and ten of Part II of the First Schedule to this Act) shall not apply in relation to the Lee catchment area.

(2) The Catchment Board shall be a body corporate under the name of the Lee Conservancy Catchment Board.

(3) An additional member of the Catchment Board appointed by a county council in pursuance of this section need not be a member of that council.

(4) Section four (Appointed members) and section fifteen (Persons disqualified from being conservators) of

A.D. 1930.

PART VII.
—cont.

Provisions as to drainage board of Lee catchment area and Lee Conservancy Board.

A.D. 1930. the Lee Conservancy Act, 1900, and section eleven (Casual vacancies amongst appointed members) of the Lee Conservancy Act, 1921, shall apply to the additional members of the Catchment Board to be appointed in pursuance of this section :

PART VII.
—cont.

63 & 64
Vict.
c. cxvii.
11 & 12
Geo. 5.
c. lxxviii.

Provided that the first members so appointed shall be appointed as soon as may be after the passing of this Act, and shall, subject as in the said section four provided, continue to hold office until the first Friday in April in the year nineteen hundred and thirty-four.

(5) The moneys received by the Catchment Board under this Act shall be charged with the payment of a proportionate part of the necessary and proper establishment expenses of the Conservancy Board and of a proportionate part of the cost (including any interest and payments to sinking funds or other sums required to be provided in respect to the repayment of borrowed moneys) of any works carried out by that board and the execution and performance of any of their powers and duties which are applicable to or enure for the benefit of not only the purposes of the Lee Conservancy Acts, 1870 to 1921, but also the purposes of this Act.

(6) For the purposes of the provisions of this Act relating to compensation to existing officers the Conservancy Board shall be deemed to have been a drainage board immediately before the commencement of this Act.

(7) Every officer or servant of the Conservancy Board or of the Catchment Board not entitled to compensation under this Act, and not otherwise legally entitled to any pension or superannuation allowance, who becomes incapable of discharging the duties of his office with efficiency by reason of permanent infirmity of mind or body, or who has attained the age of sixty years, or who having been in the service of the Conservancy Board for a period of not less than five years prior to the commencement of this Act, is dismissed on any ground other than misconduct, shall upon his resigning or otherwise ceasing to hold office, be entitled to a superannuation allowance upon the terms and conditions and according to the scale from time to time applicable to persons in the permanent Civil Service of the State :

Provided that this provision shall not apply to any officer or servant who having regard to the practice of the Conservators with regard to pensioning their officers

and servants had no reasonable expectation of receiving a pension or superannuation allowance on retirement and any question as to whether an officer or servant had such reasonable expectation shall be determined by the Minister.

A.D. 1930.
—
PART VII.
—cont.

81. In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“Banks” means banks, walls, or embankments adjoining or confining, or constructed for the purposes of or in connection with, any channel or sea front, and includes all land between the bank and low-water mark :

“Conservancy authority” has the same meaning as in the Merchant Shipping Act, 1894 :

57 & 58 Vict.
c. 60.

“Defence against water” includes defence against sea water :

“Drainage,” except in the phrase “any enactments relating to the drainage of land,” includes defence against water, irrigation, warping and the supply of water :

“Drainage authority” means any drainage board constituted, or to be treated as having been constituted, under this Act, or any other body of persons having power to make or maintain works for the drainage of land :

“Harbour” and “harbour authority” have the same respective meanings as in the Merchant Shipping Act, 1894 :

“Internal drainage district” means a drainage district within a catchment area or, in the case of a drainage district situate partly within and partly without a catchment area, so much thereof as is situate within the catchment area, and “internal drainage board” means the drainage board of an internal drainage district :

“Land” includes water and any interests in land or water and any easement or right in, to, or over land or water :

“Main river” includes any structure or appliance for controlling or regulating the flow of water in or out of the channel, and situate therein or in any part of the banks thereof other than

Interpreta-
tion.

A.D. 1930.

PART VII.
—cont

any such structure or appliance which is vested in or controlled by an internal drainage board :
“The Minister” means the Minister of Agriculture and Fisheries :

“Navigation authority” means any person or body of persons having powers under any Act of Parliament to work or maintain a canal or other inland navigation (including a navigation in tidal water) :

“Prescribed” means prescribed by regulations made by the Minister :

“Watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers (other than sewers under the control of a local authority within the meaning of the Public Health Act, 1875) and passages, through which water flows.

38 & 39 Vict.
c. 55.Effect of
Act on local
Acts.

82.—(1) The powers conferred by Part V of this Act on any drainage board shall be deemed to be conferred in addition to and not in substitution for any like powers conferred by any local Act on that board.

(2) Where the boundaries of a drainage district or drainage area are altered under this Act, all powers exercisable under any local Act by the drainage board of the district or area with respect to land included therein, shall, except so far as the scheme or order effecting the alteration otherwise provides, be exercisable with respect to land added to the district or area by the scheme or order.

Repeals.

83.—(1) The enactments mentioned in the Seventh Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule :

Provided that—

(a) notwithstanding anything in this repeal, where any application has been made for, or any proceedings have been taken towards the making of, an order under any Act repealed by this Act, the said application may be considered and the said proceedings may be completed and an order may be made in like manner and with like effect, as if this Act had not passed ;

(b) subject to the provisions of the preceding paragraph, nothing in this repeal shall affect

any appointment, appeal, agreement, resolution, certificate, rule, order (including provisional order), regulation, requisition or rate made, notice given or proceedings taken, or instrument issued under any enactment hereby repealed, but any such appointment, appeal, agreement, resolution, certificate, order (including provisional order), or regulation, requisition, rate, notice, proceedings, or instrument shall have effect or be continued as if made, given, taken or issued under the corresponding provision of this Act, and may be amended, varied, revoked or enforced accordingly ;

(c) any document referring to any Act or enactment so repealed shall be construed as referring to this Act or to the corresponding enactment in this Act.

(2) Every commission of sewers in force at the commencement of this Act shall continue in force unless and until the said commission is determined by a scheme made and approved under and in accordance with the provisions of Part II of this Act or by an order made under and in accordance with the provisions of Part III of this Act.

(3) Commissioners of Sewers shall, until the commission is determined and subject as hereinafter provided, continue to have all such powers as were vested in or exercisable by them immediately before the commencement of this Act and in addition all such powers as are given to drainage boards by the provisions of this Act :

Provided that any powers vested in or exercisable by commissioners of sewers as aforesaid shall be subject to all restrictions, conditions and qualifications which are attached to any like powers conferred on drainage boards by this Act.

(4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals.

84.—(1) This Act shall not extend to Scotland or Northern Ireland.

(2) This Act may be cited as the Land Drainage Act, 1930.

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PART VII.
—cont.52 & 53
Vict. c. 63.Extent and
short title.

A.D. 1930.

SCHEDULES.

Sections 2
and 3.

FIRST SCHEDULE.

CATCHMENT AREAS AND BOARDS.

PART I.

Catchment Areas.

Areas the drainage of which is directed to the following rivers or arterial drains:—

Adur.	Nene.
Alt.	North Norfolk Rivers.
Ancholme and Winterton Beck.	Old Haven (Pevensey) and Bulverhythe Stream.
Anglesey rivers.	Ouse (Yorks).
Arun.	Ouse (Great).
Avon and Stour.	Ouse (Sussex).
Avon (Bristol).	Prysor.
Clwyd.	Roding.
Conway.	Romney and Denge Marsh Main Drains.
Crossens.	Rother and Jury's Gut.
Cuckmere.	Severn.
Dee.	Somerset rivers.
Derwent.	Stour (Kent).
Douglas.	Stour (Essex and Suffolk).
Dysynni.	Thames above Teddington Lock.
East Norfolk rivers (including the river Waveney).	Thaw.
East Suffolk rivers (excluding the river Waveney).	Trent.
Essex rivers.	Waver and Wampool.
Hull.	Weaver.
Kent.	Welland.
Lee.	Witham and Steeping River.
Lune.	Wye.
Medway.	Wyre.
Mersey (above Irlam Weir) and Irwell (above Hunt's Bank).	

PART II.

A.D. 1930.

*Provisions as to Members and Proceedings of Catchment Boards.*1st Sch.
—cont.

1. The first members of the Board shall hold office until the first day of November in the calendar year next following the calendar year in which this Act comes into force.

2. Any members of the Board other than the first members thereof shall come into office on the first day of November next after the day on which they are appointed, and shall hold office for a term of three years:

Provided that—

- (a) a member may resign his office by notice in writing under his hand given to the chairman of the Board; and
- (b) if a member becomes bankrupt or makes a composition or arrangement with his creditors he shall vacate his office; and
- (c) if a member is absent from meetings of the Board for more than six months consecutively he shall, unless his absence is due to illness or some other reason approved by the Board, vacate his office on the expiration of the said six months.

3. Any member shall, if he is interested in any company with which the Board has or proposes to make any contract, disclose to the Board the fact and nature of his interest, and shall take no part in any deliberation or decision of the Board relating to such contract, and such disclosure shall be forthwith recorded in the minutes of the Board.

4. If for any reason whatsoever the place of a member of the Board becomes vacant before the end of his term of office, the vacancy shall be filled by the appointment of a new member by the Minister or by the council by whom the vacating member was appointed, as the case may be:

Provided that, where the unexpired portion of the term of office of the vacating member is less than six months, the vacancy need not be filled.

5. A person appointed to fill a casual vacancy shall hold office so long only as the vacating member would have held office.

6. A person who is an undischarged bankrupt, or who has at any time within the preceding five years made a composition or arrangement with his creditors, shall be disqualified for being appointed or being a member of the Board.

A.D. 1930.

1st Sch
—cont.

7. A vacating member shall, subject to the provisions of this Schedule, be eligible for re-appointment.

8. The proceedings of the Board shall not be invalidated by any vacancy in their number or by any defect in the appointment or qualification of any member of the Board.

9. The Board may, with the approval of the Minister, make rules—

- (a) for regulating the proceedings, including quorum, place of meeting and notices to be given of meetings, of the Board; and
- (b) with respect to the appointment of a chairman and a vice-chairman; and
- (c) for enabling the Board to constitute committees and for authorising committees subject to the consent of the Board, to co-opt additional members; and
- (d) for authorising the delegation to committees, either generally or as respects any particular area, of any of the powers or duties of the Board and for regulating the proceedings, including quorum, place of meeting and notices to be given of meetings, of committees.

10. The first meeting of the Board shall be held on such day and at such time and place as may be appointed by the Minister, and the Minister shall cause notice of the meeting to be sent by post to each member of the Board not less than fourteen days before the appointed day.

11. A minute of the proceedings of a meeting of the Board or of a committee of the Board, purporting to be signed at that or the next ensuing meeting by a person describing himself as, or appearing to be, the chairman of the meeting to the proceedings of which the minute relates, shall be evidence of the proceedings and shall be received in evidence without further proof, and until the contrary is proved every meeting in respect of the proceedings of which a minute has been so signed shall be deemed to have been duly convened and held and all the proceedings had at the meeting to have been duly had, and where the proceedings are the proceedings of a committee, the committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute.

12. The Minister may, if he thinks fit, by order authorise the Board—

- (a) to pay to the Chairman of the Board by way of remuneration such sum as may be specified in the order; and
- (b) to repay to the members thereof the whole or any part of any travelling expenses incurred by them in attending meetings of the Board.

A.D. 1930.

Sections 13,
18, 41
and 42.

SECOND SCHEDULE.

PROCEDURE FOR MAKING AND PROVISIONS AS TO
THE VALIDITY OF ORDERS.

PART I.

General Provisions.

1. Before making an order the Minister shall cause notice of the intention to make the order and of the place where copies of the draft order may be inspected and obtained, and of the time within and manner in which objections to the draft order may be made, to be published in the London Gazette and in such other manner as he thinks best adapted for informing persons affected, and to be sent to the council of every county or county borough in which any part of the area proposed to be affected by the order is situate and to every drainage authority, navigation authority, harbour authority or conservancy authority which is known to the Minister to be exercising jurisdiction within the area proposed to be affected by the order.

2. Before making an order the Minister shall consider any objections which may be duly made to the draft order and may in any case cause a public local inquiry to be held with respect to any objections to the draft order.

3. The Minister may make regulations in relation to the publication of notices and advertisements under this Schedule and to the holding of and procedure at public local inquiries under this Schedule and to any other matters of procedure respecting the making of orders to which this Schedule applies.

PART II.

*Provisions applicable to Orders which are
Provisional if opposed.*

1. After an order has been made by the Minister it shall be published in such a manner as he thinks best adapted for informing persons affected, together with a notice that the Minister has made the order, and that the order will become final and have effect unless within such period, not being less than thirty days, as may be specified in the notice, a memorial is presented to the Minister by some person affected by the order and having such interest as may be prescribed as being sufficient for the purpose praying that the order shall not become law without confirmation by Parliament.

2. If no such memorial has been presented within such period as aforesaid or if every such memorial has been withdrawn, the Minister shall confirm the order and the order shall thereupon

A.D. 1930. have effect, but if such a memorial has been presented and has not been withdrawn the order shall have no effect until confirmed by Parliament.

—
2ND SCH.
—cont.

3. The Minister may submit any order made by him to Parliament for confirmation.

4. If, while the Bill confirming any such order is pending in either House of Parliament, a petition is presented against any order comprised therein, the Bill, so far as it relates to that order, may be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of Private Bills.

5. The Minister may revoke, either wholly or partially, any provisional order made by him before the order is confirmed by Parliament, but such a revocation shall not be made while the Bill confirming the order is pending in either House of Parliament.

PART III.

Provisions with respect to the Validity of Orders not confirmed by Parliament.

1. So soon as may be after an order has effect the Minister shall publish in the London Gazette, and in such other manner as he thinks best adapted for informing persons affected, a notice stating that the order has come into force, and naming a place where a copy thereof may be seen at all reasonable hours.

2. If any person aggrieved by an order desires to question its validity on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may, within six weeks after the publication of the notice mentioned in paragraph 1 hereof, make an application for the purpose to the High Court, and if any such application is duly made, the court, if satisfied that the order is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirements of this Act not having been complied with, may quash the order either generally or in so far as it affects the applicant.

3. Subject to the provisions of the last preceding paragraph an order shall not at any time be questioned by prohibition or certiorari or in any legal proceedings whatsoever.

4. Except by leave of the court of appeal no appeal shall lie to the House of Lords from a decision of the court of appeal in proceedings under this section.

THIRD SCHEDULE.

DRAINAGE BOARDS OTHER THAN CATCHMENT BOARDS.

PART I.

Provisions as to Persons to vote at the Election of Members of Drainage Boards.

1. The electors for members of a drainage board for any district shall be the persons who at the date of the election own or occupy land on which a drainage rate has been levied in the year immediately preceding :

Provided that—

- (i) a person shall not be entitled to be an elector by reason of his occupation of any land if at the date of the election any amount demanded in respect of any drainage rate levied on that land has remained unpaid for more than a month; and
- (ii) a person shall not be entitled to be an elector by reason of his ownership of any land if at the date of the election any amount demanded in respect of any owner's drainage rate levied on that land has remained unpaid for more than one month.

2. Each elector at an election of members of a drainage board shall be entitled to one or more votes in accordance with the following scale :—

Value of property.	Number of votes.
Where the rateable value of the property in respect of which the elector is entitled to vote—	
is less than £50 - - - - -	One vote.
amounts to £50, but is less than £100 - - - - -	Two votes.
amounts to £100, but is less than £150 - - - - -	Three votes.
amounts to £150, but is less than £200 - - - - -	Four votes.
amounts to £200, but is less than £250 - - - - -	Five votes.
amounts to £250, but is less than £500 - - - - -	Six votes.
amounts to £500, but is less than £1,000 - - - - -	Eight votes.
exceeds £1,000 - - - - -	Ten votes.

PART II.

Provisions as to Members and Proceedings of Drainage Boards.

1. No person shall be qualified for election as a member of a drainage board unless he is either—

- (a) the owner of not less than ten acres of land in respect of which a drainage rate may be levied by the board and

A.D. 1930.

3RD SCH.
—cont.

- situate in the electoral district for which he is a candidate for election; or
- (b) the occupier, whether under tenancies of year to year or otherwise, of not less than twenty acres of such land as aforesaid; or
- (c) the owner or occupier of land which is of the annual value of thirty pounds or upwards and situate in the electoral district for which he is a candidate for election; or
- (d) a person nominated as a candidate for election by the owner (whether the owner is an individual or a body of persons) of land which is situate in the electoral district in question, and is either of not less than ten acres in extent or of the annual value of thirty pounds or upwards.

Provided that—

- (i) no person shall be deemed to be qualified as aforesaid as being an occupier of any land if at the date of the election any amount demanded in respect of any drainage rate levied on that land has remained unpaid for more than one month; and
- (ii) no person shall be deemed to be qualified as aforesaid as being the owner, or a person nominated by the owner, of any land if at the date of the election any amount demanded in respect of any owner's drainage rate levied in respect of that land has remained unpaid for more than one month. *Remains unpaid unless cured by date*

2. The first members of the board shall be persons appointed by the Minister and shall hold office until the first day of November in the calendar year next following the calendar year in which this Act comes into force.

3. Any members of the board other than the first members thereof shall come into office on the first day of November next after the day on which they are elected, and shall hold office for a term of three years:

Provided that—

- (a) a member may resign his office by notice in writing under his hand given to the chairman of the board; and
- (b) if a member becomes bankrupt or makes a composition or arrangement with his creditors he shall vacate his office; and
- (c) if a member is absent from meetings of the board for more than six months consecutively, he shall, unless his absence is due to illness or some other reason approved by the board, vacate his office on the expiration of the said six months.

4. If for any reason whatsoever the place of a member of the board becomes vacant before the end of his term of office,

the vacancy shall be filled by the election by the board of a new member:

Provided that, where the unexpired portion of the term of office of the vacating member is less than six months, the vacancy need not be filled

5. A person elected to fill a casual vacancy shall hold office so long only as the vacating member would have held office.

6. A person who is an undischarged bankrupt or who has at any time within the preceding five years made a composition or arrangement with his creditors shall be ineligible for election as or being a member of the board.

7. A vacating member shall, subject to the provisions of this Schedule, be eligible for re-election.

8. The proceedings of the board shall not be invalidated by any vacancy in their number, or by any defect in the appointment or qualification of any member of the board.

9. The board may, with the approval of the Minister, make rules—

- (a) for regulating the proceedings, including quorum, place of meeting and notices to be given of meetings, of the board; and
- (b) with respect to the appointment of a chairman and a vice-chairman; and
- (c) for enabling the board to constitute committees; and
- (d) for authorising the delegation to committees of any of the powers of the board and for regulating the proceedings, including quorum, place of meeting and notices to be given of meetings, of committees.

10. The first meeting of the board shall be held on such day and at such time and place as may be fixed by the Minister, and the Minister shall cause notice of the meeting to be sent by post to each member of the board not less than fourteen days before the appointed day.

11. A minute of the proceedings of a meeting of the board or of a committee of the board, purporting to be signed at that or the next ensuing meeting by a person describing himself as, or appearing to be, the chairman of the meeting to the proceedings of which the minute relates, shall be evidence of the proceedings and shall be received in evidence without further proof, and until the contrary is proved every meeting in respect of the proceedings of which a minute has been so signed shall be deemed to have been duly convened and held and all the proceedings had at the meeting to have been duly had, and where the proceedings are the proceedings of a committee the committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute.

A.D. 1930.

3RD SCH.
—cont.

12. The Minister may, if he thinks fit, by order authorise the board :

- (a) to pay to the Chairman of the board by way of remuneration such sum as may be specified in the order; and
- (b) to repay to the members thereof the whole or any part of any travelling expenses incurred by them in attending meetings of the Board.

13. Any member shall, if he is interested in any company with which the board has or proposes to make any contract, disclose to the board the fact and nature of his interest, and shall take no part in any deliberation or decision of the board relating to such contract, and such disclosure shall be forthwith recorded in the minutes of the board.

Section 45.

FOURTH SCHEDULE.

PROVISIONS AS TO THE COMPULSORY ACQUISITION OF
LAND BY DRAINAGE BOARD.

1. Where a drainage board propose to purchase land compulsorily, the drainage board may submit to the Minister an order putting in force as respects the land specified in the order the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

2. An order under this Schedule shall be of no force unless and until it is confirmed by the Minister, and the Minister may confirm the order either without modification or subject to such modifications as he thinks fit, and an order when so confirmed shall, save as otherwise expressly provided by this Schedule, become final and effective.

3. The order shall be in the form prescribed and shall contain such provisions as may be prescribed for the purpose of carrying the order into effect and of protecting the drainage board and the persons interested in the land, and shall incorporate, subject to the necessary adaptations, the Lands Clauses Acts (except sections one hundred and twenty-three and one hundred and twenty-seven of the Lands Clauses Consolidation Act, 1845) as modified by the Acquisition of Land (Assessment of Compensation) Act, 1919.

4. The order shall be published by the drainage board in the manner prescribed, and such notice of the order having been made as may be prescribed shall be given both in the locality in which

the land is proposed to be acquired, and to the owners, lessees, and occupiers of that land.

A.D. 1930.
4TH SCH.
—cont.

5. If within such period as may be prescribed no objection to the order has been presented to the Minister by a person interested in the land, or if every such objection has been withdrawn, the Minister shall, without further inquiry, confirm the order unless he is of opinion that the land is unsuited for the purpose for which it is proposed to be acquired, but, if such an objection has been presented and has not been withdrawn, the Minister shall forthwith cause a public inquiry to be held in the locality in which the land is proposed to be acquired, and the drainage authority and all persons interested in the land and such other persons as the person holding the inquiry in his discretion thinks fit to allow shall be permitted to appear and be heard at the inquiry, and the Minister shall, before confirming the order, duly consider the report of the person by whom the public inquiry was held :

Provided that the Minister may dispense with the holding of a public inquiry and may confirm the order without holding such an inquiry in any case where the objectors agree that the questions raised relate exclusively to matters which could be dealt with by the arbitrator to whom questions of disputed compensation are to be referred under the order, and the Minister may, for that purpose, require any objector to state in writing the grounds of his objection.

6. In construing for the purposes of this Schedule or any order made thereunder any enactment incorporated with the order, this Act, together with the order, shall be deemed to be the special Act, and the drainage board shall be deemed to be the promoters of the undertaking.

7. In the case of glebe land or other land belonging to an ecclesiastical benefice, the order shall provide that sums agreed upon or awarded for the purchase of the land or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or other injuries affecting the land shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale under the provisions of the Ecclesiastical Land Acts of land belonging to a benefice.

A.D. 1930.

Section 58.

FIFTH SCHEDULE.

PROVISIONS WITH RESPECT TO PROCEDURE IN THE
CASE OF APPLICATIONS FOR LEAVE TO MAKE DRAINS
THROUGH LANDS OF ADJOINING OWNER.

PART I.

*Procedure where Adjoining Owner assents to
Application.*

1. The adjoining owner may by deed under his hand and seal assent to an application upon such terms and on payment of such compensation as he may require; and any assent so given shall be binding on all parties having any estate or interest in the land, provided that—

- (a) any arrangement entered into by any adjoining owner under any disability or incapacity or not having power to assent to such application except under the provisions of this Act shall not be valid unless the said arrangement is approved by two surveyors, of whom one is to be nominated by the applicant and the other by the adjoining owner; and each of such surveyors, if they approve of the said arrangement, shall annex to the document containing the said arrangement a declaration to that effect subscribed by him;
- (b) any compensation to be paid by the applicant to the adjoining owner in cases where such owner is under any disability or incapacity or has not power to assent to any such application except under the provisions of this Act shall be applied in manner in which the compensation coming to parties having limited interests or prevented from treating and not making title is applicable under the Lands Clauses Acts;
- (c) any occupier or person other than the owner interested in the lands shall be entitled to compensation for any injury he may sustain by the making of the proposed drains or improvements in drains (so that the claim therefor be made within twelve months after completion of the said drains or improvements in drains) the amount of such compensation to be determined in case of dispute in the manner in which disputed compensation for land is required to be determined by the Lands Clauses Acts.

2. The applicant shall forward to the clerk of the peace of the county wherein the land is situate the deed containing the

assent of the adjoining owner to the proposed drains or improvements in drains and it shall be kept in his office as a record of the proceedings between the parties.

A.D. 1930.

5TH SCH.
—cont.

PART II.

Procedure where Adjoining Owner dissents.

1. The adjoining owner shall be deemed to have dissented from the application made to him if he fail to express his assent thereto within one month of the application; and in the event of his dissent there shall be decided by two or more justices in petty sessions assembled, unless the adjoining owner within the said period of one month requires their decision by arbitration, the questions following; that is to say:—

- (i) whether the proposed drains or improvements in drains will cause any injury to the adjoining owner or to the occupier or other person interested in the lands;
- (ii) whether any injury that may be caused is or is not of a nature to admit of being fully compensated for by money.

2. Where the justices have cognisance of the case, the same proceedings shall be had as are required under the Lands Clauses Acts, in case of a question of disputed compensation authorised to be settled by two justices, and where such questions are referred to arbitration, the same proceedings shall be had as are required by the said Acts where any question of disputed compensation authorised to be settled by arbitration has arisen, provided that the costs of the said arbitration shall be in the discretion of the arbitrators.

3. If the decision is that no injury will be caused to the adjoining owner, the occupier or other parties interested in the lands, the applicant may proceed forthwith to make the proposed drains or improvements in drains.

4. If the decision is that injury will be caused to the adjoining owner, occupier or other parties interested in the lands, but that the injury is of a nature to admit of being fully compensated by money, the justices or arbitrators shall proceed to assess the said compensation and to apportion it amongst the parties in their judgment entitled thereto, and on payment of the sum so assessed the applicant may proceed to make the proposed drains or improvements in drains.

5. If the decision is that injury will be caused to the adjoining owner, occupier or other parties interested in the lands, and that such injury is not of a nature to be fully compensated by money, the applicant shall not be entitled to make the proposed drains or improvements in drains.