



CHAPTER lxxi.

An Act to confirm a Provisional Order under the Land Drainage Act 1918 altering the boundaries of the drainage area and altering or supplementing the provisions of the Black Sluice Acts. A.D. 1925.
[31st July 1925.]

WHEREAS the Minister of Agriculture and Fisheries made the Provisional Order set forth in the schedule hereto under the provisions of the Land Drainage Act 1918: 8 & 9 Geo. 5. c. 17.

And whereas the Order was duly published and a memorial was duly presented by a body affected by the Order and having such interest as is prescribed as being sufficient for the purpose praying that the Order should not become law without confirmation by Parliament and such memorial has not been withdrawn:

And whereas it is requisite that the said Order should be confirmed by Parliament:

Be it therefore enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

1. The Order as set out in the schedule hereto shall be and the same is hereby confirmed and all the provisions thereof shall have full validity and force. Order in schedule confirmed.

2. This Act may be cited as the Land Drainage (Black Sluice) Provisional Order Confirmation Act 1925. Short title.

[Price 6d. Net.]

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[Ch. lxxi.] *Land Drainage (Black Sluice) Provisional Order Confirmation Act, 1925.* [15 & 16 GEO. 5.]

A.D. 1925.

SCHEDULE.

Black Sluice Provisional Order.

WHEREAS the powers duties and proceedings of the Black Sluice Drainage and Navigation Commissioners (hereinafter referred to as "the Commissioners") and the area under their jurisdiction are regulated and defined by the several Acts set out in the First Schedule to this Order and therein referred to severally as the Act of 1765 the Act of 1770 the Act of 1846 the Act of 1849 and the Act of 1880 (all of which Acts are in this Order collectively referred to as "the Black Sluice Acts") and by the River Witham Outfall Improvement Act 1880:

And whereas the lands charged with or liable to the payment of drainage taxes to the Commissioners were at the date of the passing of the Act of 1849 as regards taxation for general drainage under the Acts therein referred to divided into three districts which are therein severally referred to as the Eighteenpenny District the Ninepenny District and the Sixpenny District:

And whereas a petition has been presented by the Commissioners to the Minister of Agriculture and Fisheries (hereinafter referred to as "the Minister") for the alteration of the boundaries of their drainage area and for altering or supplementing the provisions of the Black Sluice Acts:

And whereas in the opinion of the Minister it is desirable that the boundaries of the said drainage area should be altered in the manner provided by this Order and that such Order should be made as is hereinafter set forth conferring on the Commissioners such additional powers of levying drainage rates and borrowing powers and altering or supplementing the provisions of the Black Sluice Acts in such respects as hereinafter appear such alterations or supplemental provisions being in the opinion of the Minister necessary or expedient for enabling the area for the benefit of which drainage works are authorised by the Black Sluice Acts to be drained effectively.

Now therefore the Minister by virtue and in exercise of the powers conferred on him by the Land Drainage Act 1918 and of every other power enabling him in that behalf hereby orders as follows:—

Alteration of boundaries. 1.—(1) The lands coloured on the map sealed with the Minister's seal in relation to this Order shall be included within the drainage area of the Commissioners as if all those lands had been included within the boundaries described in the Act of 1765 but so that for the purposes of taxation the lands coloured pink

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shall be deemed to form part of the said Eighteenpenny District and the lands coloured green shall be deemed to form part of the said Ninepenny District and the lands coloured yellow (except those referred to in paragraph (4) of this Article) shall be deemed to form part of the said Sixpenny District. Provided that the Glen Banks from Pinchbeck Bars to Surfleet shall remain outside the drainage area of the Commissioners for all purposes: A.D. 1925.

Provided also that nothing in this Order shall in any way affect any existing right power privilege or jurisdiction of the Commissioners of Sewers for the city and county of Lincoln sitting at Boston (hereinafter called "the Court of Sewers"):

Provided also that this Order shall not be construed as authorising the inclosure of any common.

(2) The lands coloured brown on the said map shall form part of and be known as the Threepenny District and shall be subject to taxation for the purposes of the Black Sluice Acts at a fixed acreage rate of threepence per acre. Provided always that in respect of lands so coloured and hatched which are within the boundary of the town of Boston the Commissioners shall receive from the corporation of Boston the annual sum of thirty shillings as a composition for the taxes chargeable thereon under the Black Sluice Acts or this Order.

(3) Lands in the parishes of Surfleet and Gosberton coloured and cross hatched brown on the said map shall be subject to a fixed tax of threepence per acre in lieu of the new outfall tax now chargeable thereon. Provided always that the Court of Sewers shall have power to remove the sluice at Gosberton Clough to a bridge called Carter's Bridge in Gosberton Risegate and there re-erect it of the same dimensions and at the same sill level and thereafter the said lands shall become part of and be chargeable with the same taxes as lands in the Sixpenny District.

(4) Lands in the parish of Pinchbeck known as the East Fen or Burtey Fen coloured yellow and hatched red on the said map shall be subject to a tax of threepence per acre in lieu of the new outfall tax now chargeable thereon. Provided always that if the precept of the new outfall board shall at any time amount to a sum necessitating a tax of more than threepence per acre upon eighty-five thousand six hundred and thirty-two acres the taxable area of the said board the taxation of the said lands in Pinchbeck shall be increased proportionately but such additional taxation shall not in any event exceed the sum of threepence per acre.

(5) No new or additional drainage rate or tax shall be levied under the powers of this Order upon any railway or property of the London and North Eastern Railway Company not previously included in the taxable area of the Black Sluice Commissioners.

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(6) From and after the date of the confirmation of this Order the Commissioners shall become and be responsible for the cleansing and maintenance of such parts of the several highland and other drains as are hatched blue on the said map in extension of and addition to their responsibility previous to the confirmation of this Order for the cleansing and maintenance of the highland and other drains coloured blue on the said map.

(7) The Commissioners shall within twelve months after the date of this Order thoroughly cleanse scour out and where necessary deepen and widen to its former dimensions the Old Hammond Beck so as to admit the free flow of water through the same into the Black Sluice drain and shall whenever necessary again cleanse scour deepen and widen the said Old Hammond Beck so as to admit the free course of water as aforesaid.

If the Commissioners shall make default in carrying out the duties imposed upon them by the last paragraph the Court of Sewers may complain to the Minister and if he or any engineer appointed by him decides that the Commissioners have made default as aforesaid the lands coloured yellow within the district of the said Court of Sewers shall cease to pay any rate under this Order to the Commissioners until the default is amended and all costs incurred in obtaining such decision of the Minister shall be paid by the Commissioners.

Exemption of certain lands from taxes to cease.

2. In respect of any tax or assessment levied or charged by the Commissioners after the date on which this Order comes into operation lands within the drainage area of the Commissioners shall not be entitled to exemption in whole or in part by reason only of the lands being or having been extra-parochial or being or having been known or distinguished by the name of high lands or of the lands not having been subject to inundations or otherwise annoyed by flood water and such lands shall accordingly be liable to be assessed and rated or charged for any such tax or assessment as if the land were marsh low or fen land.

Certain parishes to cease to elect Commissioners and other parishes to elect Commissioners.

3.—(1) After the date on which this Order comes into operation Commissioners shall not be elected under the Black Sluice Acts for the parishes or places of Cawthorpe Hanthorpe Stainfield Ringstone Millthorpe Graby Kirkby Spalding Cowbit Asgarby and Pinchbeck but this provision shall not affect the tenure of office of any Commissioner elected for any such parish or place before that date and the tenure of office of any such Commissioner shall continue until the first Tuesday in May after that date.

(2) The provisions of the Act of 1765 as to appointing Commissioners shall after the date on which this Order comes into operation have effect as if the word "taxable" preceded the word "lands" whenever the word "lands" occurs in section 5

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of that Act and as if the following places namely Pinchbeck Star Lode Fen Pinchbeck Leaves Lake Fen Hart's Grounds and Pelham's Lands were included in section 5 of the Act of 1765 and as if that section as so amended provided that two Commissioners shall be elected for each of the parishes or places following that is to say Bourne Morton Billingborough Heckington Gosberton Quadring Donington and Bicker and one each for Pinchbeck Star Lode Fen Pinchbeck Leaves Lake Fen Hart's Grounds and Pelham's Lands. Provided that this Order shall not confer any right of voting in the election of a Black Sluice Commissioner in respect of any lands under the jurisdiction of any commission of sewers.

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The areas entitled to elect Black Sluice Commissioners are delineated on a map sealed with the Minister's seal in relation to this Article and the number of Commissioners to be elected by each area is marked thereon in red.

(3) The additional Commissioners to be elected in pursuance of this Order shall be elected on or as from the first Tuesday in May next after the date on which this Order comes into operation and the tenure of office of any Commissioner so elected shall continue until the first Tuesday in May nineteen hundred and twenty-seven but subject in other respects to the provisions of the Black Sluice Acts as to tenure of office of Commissioners.

(4) The Commissioners may by order prescribe the mode of convening a meeting of the persons entitled to elect a Commissioner or Commissioners for any parish or place and the time and place of any such meeting and the provisions of the Black Sluice Acts relating to such matters shall have effect subject to any such order.

(5) The provisions of the Black Sluice Acts as to persons entitled to elect a Commissioner or act as a Commissioner shall apply to any body corporate or unincorporate except that there shall be substituted for the body a person appointed by the body by a power of attorney or resolution of which a copy shall be sent to the clerk to the Commissioners and in the case of any person acting as such attorney the declaration required by the said Acts shall be modified accordingly. This provision shall apply to the Commissioners of Woods and Forests in respect of any land under their management as if the lands were vested in them and they were a body corporate.

4. In the event of a Commissioner not attending any meeting of the Commissioners during a period of twelve months the Commissioners after notice to the Commissioner and consideration of any representations made by him may terminate his appointment and thereupon the provisions of section 8 of the Act of 1765 as to filling a vacancy on the death of a Commissioner shall apply with the necessary modifications.

Commissioners not attending meetings to be disqualified.

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Amount and
proportion
of taxes.

5.—(1) Notwithstanding anything contained in the Black Sluice Acts the Commissioners may levy half-yearly taxes of such amounts as may in their opinion be necessary or expedient but not exceeding five shillings per acre in any one year and upon such half-yearly days as they may fix but so that the taxes levied in any half-year for drainage under the Black Sluice Acts as amended by this Order in the said Ninepenny District shall not exceed one-half of the amount per acre levied in that half-year on lands in the said Eighteenpenny District and the taxes so levied in any half-year on lands in the said Sixpenny District shall not exceed one-third of the amount per acre levied in that half-year on lands in the said Eighteenpenny District.

(2) The provisions of the Black Sluice Acts as to taxes levied under those Acts except so far as they are inconsistent with the terms of this Order and except as hereby altered or repealed shall apply to taxes levied under this provision.

(3) A tax levied by the Commissioners may be of such amount as in the opinion of the Commissioners is required to defray expenses already incurred or expenses to be incurred within the next half-year or for both purposes.

Collection
of taxes.

6.—(1) For facilitating the collection of any tax levied or charged by the Commissioners and to be collected by the Commissioners it shall be lawful for the Commissioners to appoint such collectors at such remuneration as they may think desirable.

(2) The Commissioners shall by advertisement inserted in one or more newspapers circulating in the said drainage area give not less than fourteen days' notice of the name and address of the collector to whom and of the place where and the time when the tax to which the advertisement relates is to be paid and the tax shall become payable accordingly. The collector shall send by post to the last known place of abode of each person liable to pay the said tax a notice in writing specifying the amount due. Such notice shall be sent not less than fourteen days before the tax shall become payable.

(3) If any occupier of land charged with the payment of any tax levied under this Order or under the Black Sluice Acts shall omit or neglect to pay the same within forty-two days after such date as shall have been specified in such advertisement as aforesaid he shall forfeit to the Commissioners the additional sum of one shilling where the sum payable by him does not exceed ten shillings and where the sum payable exceeds ten shillings then the additional sum of one shilling for each ten shillings of the sum payable by him and such additional sums shall be recovered in like manner as the tax. Notice of such forfeit shall be given by the collector to each occupier so liable by sending a notice by post to his usual place of abode.

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(4) In any case where the amount payable by way of tax by an occupier would but for this provision be less than sixpence the occupier shall be liable to a tax of sixpence and where the amount payable would but for this provision include a fraction of a penny the amount payable shall include the whole penny.

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(5) A warrant of distress for recovery of any tax or other payment due to the Commissioners under this Order or the Black Sluice Acts may be in the form in the schedule to the Act of 1849 or to the like effect and shall be signed by five Commissioners. Provided always that no warrant shall be executed on or against any person to whom it relates unless twenty-one days previous demand in writing by the collector for payment of the taxes or other payments due to the Commissioners and leviable under such warrant shall have been made on such persons by sending a written notice of such demand by registered post addressed to his usual place of abode and also unless such person has been given a reasonable opportunity of attending before the Commissioners to show cause why such distress warrant should not be executed.

(6) Any tax recoverable by the Commissioners by distress may be recovered summarily as a civil debt from the occupier of the land charged with the tax.

7. For the purpose of removing doubts it is hereby declared that the south bank of the Kyme Eau so far as it bounds any lands in the drainage area of the Commissioners and the right and property to and in the same are vested in the Commissioners and are within the control direction or survey order and jurisdiction of the Commissioners.

South bank of Kyme Eau vested in Commissioners.

8.—(1) The Commissioners may in connection with the cleansing and maintenance of the efficiency of the South Forty Foot drain or any other arterial drain within their jurisdiction deposit mud soil weeds and other refuse removed from the drain beyond the containing banks adjoining such drain but so that the Commissioners shall pay compensation for any crops land or buildings erected thereon injured by the exercise of these powers to the person entitled to such crops or occupying or owning such land. Provided that the person claiming such compensation shall have given written notice to the Commissioners within twenty-eight days of the injury in respect of which the claim is made being caused. Such compensation shall in default of agreement be determined by an arbitrator under and in accordance with the provisions of the Arbitration Act 1889.

Power to deposit soil and to remove trees &c. from banks.

(2) Wherever there shall be a tree hedge or other fence upon any containing bank adjoining an arterial drain within the jurisdiction of the Commissioners they shall have power to cut trim or remove such tree hedge or fence so far as the same may in the opinion of the Commissioners or their officers be

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Sluice) Provisional Order Confirmation Act, 1925.*

A.D. 1925. necessary to obviate the obstruction or interference with the
— cleansing and maintenance of the drain. Provided that where
any fence is so removed the Commissioners shall if so required
by the owner or occupier of the land on which the fence was
situate erect an adequate fence in substitution therefor.

(3) For the purposes of this Order the expression "bank" shall mean an artificial embankment where such exists and is of a width of not less than thirty-three feet and where an artificial embankment does not exist or is of a width of less than thirty-three feet shall mean the inner slope of the drain and a distance of thirty-three feet measured landward from the outer edge or the top of the drain at the level of the natural surface of the land at the point of measurement.

Penalties for
obstructing
or injuring
drains or
banks.

9.—(1) If any person shall—

- (a) throw or deposit any earth stone weeds brushwood or other refuse into any drain within the jurisdiction of the Commissioners; or
- (b) dam injure or obstruct or permit any injury or obstruction to any such drain bank sluice mill or any work or appliance vested in or under the control of the Commissioners; or
- (c) deposit any such materials as aforesaid on the top or interior slope of the bank of any such drain; or
- (d) suffer or permit any cattle sheep horses or pigs to go into across or along such drain; or
- (e) shall wash any sheep therein

he shall in proceedings instituted by the Commissioners on summary conviction be liable in respect of each such offence to a fine not exceeding five pounds.

(2) If any owner or occupier of land adjoining any arterial drain under the jurisdiction of the Commissioners shall plough down remove carry away or otherwise injure any bank containing such drain without the previous consent in writing of the Commissioners or their surveyor he shall on summary conviction be liable in respect of each offence to a fine not exceeding twenty-five pounds.

(3) The Commissioners may in the case of any bank belonging to or under their jurisdiction which on account of its being composed wholly or in part of silt peat or other like material is liable to serious injury by cattle sheep horses pigs geese or fowls affix and maintain on or near the bank a public notice prohibiting the use of the bank or such part thereof as they may consider reasonable for any such stock or may by post or otherwise serve a notice to that effect on the occupier of the bank or the adjoining land and any person who shall act in contravention of such notice shall in proceedings instituted by the

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Commissioners on summary conviction be liable in respect of each offence to a fine not exceeding twenty-five pounds Provided that except where a public notice is so affixed and maintained a person shall not be liable to conviction under this section unless a notice has been so served upon him as aforesaid.

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(4) If any person shall wilfully or negligently occasion or permit any obstruction to any drain or any injury to any bank sluice mill or any work or appliance vested in or under the control of the Commissioners and after receipt of a notice served by the Commissioners requiring him to remove such obstruction or to make good such injury shall fail to comply with the requirement of such notice within twenty-eight days it shall be lawful for the Commissioners to execute any work specified in the notice and to recover summarily as a civil debt from the person in default the reasonable cost of executing such work in a proper manner and the right of instituting proceedings in respect of an offence against this Order or the Black Sluice Acts shall not be prejudiced by the fact that the Commissioners have executed the work specified in the notice.

(5) Notwithstanding anything in any Act to the contrary such part not exceeding one-half of every fine recovered under this Order or the Black Sluice Acts as the court before which it is recovered thinks fit shall be paid to the Commissioners.

10. Notwithstanding anything contained in sections 69 to 71 of the Act of 1846 in section 5 of the Act of 1849 or in any other section or sections of the said two Acts or in the Bourne Fen Drainage Acts of 4 & 5 Victoria c. 113 and 6 & 7 Victoria c. 37 the lands situate in Bourne North Fen and Dyke Fen shall from the date of this Order become and be subject to the same scale of taxation as other lands in the Eighteenpenny District of the Black Sluice Commissioners and the trustees having charge of the drainage of the said fens shall have full liberty to discharge flood waters into the Forty Foot Drain without restriction as to the number or power of the engines or the times of pumping or limitations on account of height of water in the said drain.

Amendment of sections 69 to 71 of Act of 1846.

11. Section fifty-eight of the Act of 1849 shall be construed as if after the words "any of them" the following words were inserted namely "or shall wilfully open close interfere or tamper with any such sluice door lock or gate or any dam staunch or weir being the property of or vested in the Commissioners so as to affect prejudicially the drainage connected therewith."

Amendment of section 58 of Act of 1849.

12. If any drain or bank being within the area of the Commissioners' jurisdiction and directed to be maintained under the provisions of any Inclosure Act or Award is not maintained in accordance with the provisions of such Act or Award whether owing to the non-existence of any body or person directed or empowered to carry out or enforce such maintenance or to the

Power to enforce awards.

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A.D. 1925. — defective provision in the Act or Award for recovering the cost of the maintenance or if there be any such drain or bank within such area for the maintenance or repair of which no provision is otherwise made it shall be lawful for the Commissioners with the approval of the Minister to carry out such works as may be necessary for the maintenance or the improvement of such drain or bank and to recover the cost of such work in accordance with the provisions of the Act or Award in so far as the same are sufficient and available for that purpose and as regards any costs which are not so recoverable to defray the same by means of an equal acre rate to be levied on the lands which in the opinion of the Commissioners are benefited by such maintenance or improvement such rate to be recoverable by the Commissioners by distress or summary proceedings.

Power to dispose of lands.

13. It shall be lawful for the Commissioners to sell exchange mortgage or lease any lands buildings or other hereditaments vested in them which in the opinion of the Commissioners are not required for the purpose of exercising their powers and duties or by agreement to lease or purchase for such purpose any land buildings or other hereditaments and to hold the same for the purpose of exercising their powers or duties.

New outfall tax not to be levied separately.

14. The tax known as the new outfall tax levied in pursuance of the Act of 1880 to meet the precepts of the Witham Outfall Board shall cease to be levied and the said precepts shall after the date of the confirmation of this Order be met by moneys provided out of the general rates leviable by the Commissioners and the Commissioners shall no longer be required to keep separate accounts of the moneys received and payable by them under the provisions of the said Act.

Rates for interior drainage not to exceed five shillings per acre.

15. Section seventy-eight of the Act of 1846 shall be amended by the insertion therein of the words "or rates" after the expression "an acre rate" where that expression first occurs and by the substitution of the words "not exceeding five shillings per acre in any one year" for the words "not exceeding half-a-crown per acre."

Power to borrow for works of emergency.

16.—(1) In any case of sudden emergency involving serious damage or danger to the Black Sluice drainage banks sluices or other works it shall be lawful for the Commissioners or any five or more of them to borrow in accordance with the provisions of the Black Sluice Acts such sum or sums as may be required to defray the expense of repairing such damage or averting such danger Provided that any money so borrowed shall be repaid by equal annual instalments within a period of five years unless the Minister shall on the application of the Commissioners extend such period.

(2) In order to defray the expenses of grading deepening and widening or otherwise making effective the several highland

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and other drains referred to in Article 1 (6) of this Order it shall be lawful for the Commissioners from time to time within three years next after the date on which this Order comes into operation to borrow any sum or sums of money not exceeding in the whole the sum of ten thousand pounds on the credit of the general taxes payable to the Commissioners and every mortgage or other security for ensuring repayment of any such loan or loans shall be executed by seven or more Commissioners and shall contain a provision for repayment of the money lent and interest thereon by yearly or half-yearly instalments within a period of ten years from the date or dates upon which such loan or loans shall be advanced.

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17. Notwithstanding the provisions of sections thirty-seven and forty of the Act of 1765 the height of a bridge to which such sections or either of them applies may be less than is required by such sections if a less height is authorised by the petty sessional court of the district in which the bridge or any part of the bridge is situate Provided that where any bridge forms part of a public highway not less than fourteen days' notice of the application for the authority of the court under this section shall be given by the Commissioners to the highway authority.

Heights of bridges.

18. Nothing in this Order shall in any way affect any existing right power privilege or jurisdiction of the Witham Drainage General Commissioners.

For protection of Witham Drainage General Commissioners.

19. In the Black Sluice Acts the expression "outring dyke" shall mean a dyke between two parishes and the expression "division dyke" shall mean a dyke draining lands in the ownership or occupation of different persons The expression "tax" in this Order includes an assessment.

Definitions.

20. Subject to the provisions of Article 5 (2) hereof in the event of there being any inconsistency between the provisions of this Order and of the Black Sluice Acts the provisions of this Order shall prevail.

21. The Acts specified in the Second Schedule to this Order are hereby repealed to the extent stated in such schedule.

Repeals.

22. This Order shall come into operation at the expiration of two months after it is made by the Minister or if the Order is confirmed by Parliament then at the expiration of two months after it is so confirmed.

In witness whereof the official seal of the Minister of Agriculture and Fisheries is hereunto affixed this twenty-eighth day of January nineteen hundred and twenty-five.

(L.S.)

(Sgd.)

A. T. A. DOBSON

Assistant Secretary.

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FIRST SCHEDULE to this Order.

BLACK SLUICE ACTS.

Reference in this Order.	Session and Chapter.	Short Title.
Act of 1765 -	5 Geo. III. c. lxxxvi.	The Black Sluice Drainage Act 1765.
Act of 1770 -	10 Geo. III. c. xli.	The Black Sluice Drainage Act 1770.
Act of 1846 -	9 & 10 Vict. c. ccxcvii.	The Black Sluice Drainage Act 1846.
Act of 1849 -	12 & 13 Vict. c. lix.	The Black Sluice Drainage Amendment Act 1849.
Act of 1880 -	43 & 44 Vict. c. cli.	The Black Sluice Drainage Act 1880.

SECOND SCHEDULE to this Order.

REPEALS.

Act repealed in part.	Extent of Repeal.
Act of 1765 -	Section five (the proviso). Section fifteen (the proviso). Sections fifty-two fifty-three fifty-four sixty-two sixty-three seventy-two seventy-three and seventy-seven.
Act of 1770 -	Sections three four six seven eight and nine.
Act of 1846 -	Section seventy-seven.
Act of 1849 -	Sections eleven thirty fifty-eight fifty- nine and sixty. Section thirty-seven the word "only."
Act of 1880 -	Sections five to ten (inclusive) and section twenty.

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