CHAPTER lviii.

A.D. 1875.

An Act to effect the drainage of certain Mines and Mineral Lands in the county of Flint; and for other purposes.

[14th June 1875.]

WHEREAS within the district, for the purposes of this Act called "the Halkyn district," within the county of Flint, consisting of the areas herein-after defined, and called "drainage area No. 1," and "drainage area No. 2," there are various important mines of lead and other minerals which are so flooded with water as to prevent the working thereof below the water level, and many attempts have been made at several of the said mines to drain the same by pumping, but by reason of the failure of such attempts the said mines have ceased to be worked below the water level:

And whereas any effective scheme for the drainage of the said mines will operate for the common benefit of all the owners and occupiers of mines and mineral lands within the Halkyn district, but it has been found impracticable to obtain their co-operation in any such scheme; and it is reasonable that such provision as is herein-after authorised for effecting such drainage should be made:

And whereas the various tunnels or adit levels and other works herein-after authorised have been devised with the view of effecting such drainage in the most effective and economical way, and will, when executed, lessen the risk of danger to human life in carrying on mining operations within the said district:

And whereas it is expedient and will be for the advantage of all persons interested in the mines and mineral lands in the Halkyn district that the said tunnels or adit levels and the other works herein-after authorised should be carried out:

And whereas the several persons herein-after named, with others, are willing to make and maintain the said works, and it is expedient that they should be incorporated, with all necessary powers for carrying the same into effect, and that the other provisions herein-after contained should be made with the view of making and maintaining an efficient system of drainage of the mines and mineral lands within the Halkyn district:

A.D. 1875.

And whereas plans and sections showing the lines and levels of the tunnels or adit levels authorised to be acquired and made by this Act, and also books of reference containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act, together with an ordnance map with the said drainage areas shown and defined thereon, were duly deposited with the clerk of the peace for the county of Flint, and are herein-after respectively referred to as the deposited plans, sections, map, and books of reference:

And whereas the objects aforesaid cannot be effected without the authority of Parliament:

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

Short title.

1. This Act may be cited as "The Halkyn District Mines Drainage Act, 1875."

Provisions of certain general Acts incorporated.

2. The following Acts and parts of Acts are (except where expressly varied or other provision is made by this Act) incorporated with and form part of this Act:

"The Companies Clauses Consolidation Act, 1845:"

Parts I. and III. (relating respectively to cancellation and surrender of shares and to debenture stock) of "The Companies Clauses Act, 1863:"

"The Lands Clauses Consolidation Acts, 1845, 1860, and 1869:"

The provisions of "The Railways Clauses Consolidation Act, 1845," with respect to the temporary occupation of lands near the railway during the construction thereof; the word "railway" in the said provisions being for the purposes of this Act read as though the expression "works under this Act" were substituted for the word "railway:"

And the provisions of the same Act with respect to the settlement of disputes by arbitration, and with respect to the recovery of damages not specially provided for and of penalties, and to the determination of any other matter referred to justices.

Interpretation of terms.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings, unless there be something in the subject or context repugnant to such construction:

The expression "the Company" means the Company incorporated by this Act:

The expression "minerals" means and includes lead, lead ore, calamine, blende, coal, cannel, shale, ironstone, iron ore, fire-clay, or other saleable minerals:

The expression "mineral lands" means lands containing minerals:

The expression "mine" or "mines" means and includes mines either actually worked or opened, or which may be hereafter worked or opened, and mineral lands either wholly or partly within the drainage areas or one of them; but in the case of any mine only in part within the drainage areas or one of them means and includes, so far as respects liability to the royalties herein-after authorised, only such part:

The expression "owner" means the person for the time being entitled to the possession of a mine, or to the receipt or beneficial enjoyment of the rents or royalties thereof, or the agent for the time being of any such person:

The expression "occupier" means any corporation, company, or person actually working any mine, or entitled to work such mine, and includes any owner or lessees working a mine:

The expression "superior courts" or "court of competent jurisdiction," or any other like expression in this Act or in any Act wholly or partially incorporated herewith, shall be read and have effect as if the debt or demand with respect to which the expression is used were a simple contract debt, and not a debt or demand created by statute.

Company incorporated.

4. His Grace the Duke of Westminster, the Right Honourable Lord Richard Grosvenor, Sir Thomas Gibbons Frost, John Scott Bankes, William Barber Buddicom, Conwy Grenville Hercules Rowley Conwy, Richard Henry Howard, Philip Pennant Pennant, Arthur Troughton Roberts, Saint John Charlton, Edward Thompson, Robert Nicholson, George Hughes, John Taylor, William Maysmor Williams, Henry Richard Bowers, Henry Hodgson, and all other persons, corporations, and companies who have already subscribed to or shall hereafter become proprietors in the undertaking, and their executors, administrators, successors, and assigns respectively, shall be united into a company for the purpose of making and maintaining the said tunnels or adit levels and other works, and for other the purposes of this Act, and for those purposes shall be incorporated by the name of "The Halkyn District Mines Drainage Company," and by that name shall be a body corporate, with perpetual succession and a common seal, and with power to purchase, take, hold, and dispose of lands and other property for the purposes of this Act.

A.D. 1875.

Defining drainage areas.

5. The drainage areas in this Act referred to are the following; (that is to say,)

Drainage Area No. 1.

The area, wholly within the county of Flint, comprised within the limits of a line commencing at a point at Moel-y-crio, in the township of Hendrefigillt and parish of Halkyn, one hundred and ten yards or thereabouts to the east of a house and premises belonging or reputed to belong to and in the occupation of Hugh Jones, being the extreme western boundary of the mineral take of the Halkyn Deep Level Mining Company, Limited, and running along such boundary in a southerly direction to the north-western corner of a farm and lands called Plas Winter, belonging or reputed to belong to the trustees of the Mostyn estate, and in the occupation of Mrs. Sarah Price, and thence running along the mountain fence bounding such farm down to the boundary of the parish of Northop; thence along such parish boundary through Lletty-y-reos Farm to the road leading from Halkyn Mountain to Lygan-ucha; thence along such road through Lygan-ucha and Hendrefigillt farms to a point immediately opposite to the lower entrance to the Hendrefigillt farmhouse; thence along the upper or northern fence of two fields numbered respectively 417 and 414 on the published ordnance map of the said township of Hendrefigillt (on the scale of 25·344 inches to a statute mile), and thence along the western fence of such field numbered 414 to the fence at the top of a wood called Coed-y-felin, being No. 443 on such last-mentioned map; thence in a straight line in a south-westerly direction to the north-western corner of a croft numbered 442 on the said last-mentioned map; thence along the public road running from Cilcen Hall down to the turnpike gate on the Mold and Denbigh turnpike road at Efel Parcy; thence along the old turnpike road in an easterly direction to its junction at Dolfechlas-ucha with the public road leading into the said Mold and Denbigh turnpike road; thence along such public road to such turnpike road; thence across such turnpike road into the public road leading up to Rhosesmor; thence following such last-mentioned road to the point where it enters Rhosesmor Common, near to a cottage and premises in the occupation of Robert Edwards; thence following the mountain fence in a south-easterly direction to the public road from Mold to Rhosesmor; thence past the Red Lion public-house and along the mountain fence to a footpath leading to Gwern-y-ffynon, at a cottage now or late in the occupation of Thomas Lewis; thence along such footpath to the south-

A.D. 1875.

eastern corner of a field No. 655 on the said ordnance map of the township of Caerfallwch, in the parish of Northop; thence along the fence on the eastern side of such field to the public road leading from Gwern-y-ffynon aforesaid to Rhosesmor Common; thence following the mountain fence to the public road leading from Halkyn to Rhosesmor at a point near to the Cross Keys public-house; thence along such road to a house in the occupation of Thomas Lloyd; thence along the southern fence of fields numbered 397, 400, 402, and 368 on the said ordnance map of Caerfallwch aforesaid, to the public road leading from Croes-y-Stryt to Pant-y-go; thence in a straight line in a northerly direction to the Holywell and Northop turnpike road, at the point where the public road from Midlist to Flint crosses it; thence along such turnpike road in a north-westerly direction to the boundary of the townships of Lygan-y-lan and Lygan-y-wern; thence along such boundary in a south-westerly direction to a cottage in the occupation of John Davies, at a point where the boundaries of the townships of Lygan-y-lan, Lygan-y-wern, and Hendrefigillt unite; and from thence in a straight line in a southerly direction to the point at Moel-y-crio aforesaid, one hundred and ten yards or thereabouts to the east of the house and premises belonging or reputed to belong to and in the occupation of Hugh Jones; and also all lands lying on the line of the proposed tunnel or level Number 3 herein-after described, and on a line to be drawn four hundred and forty yards south of the termination thereof, and within a distance of four hundred and forty yards from the east and west sides of such lines respectively:

Drainage Area No. 2.

The area, also wholly within the county of Flint, comprised within the limits of a line commencing at the point herein-before described as the commencement of the area No. 1; thence along the mountain road in a westerly direction to its junction with the road leading past Hersedd, Glust, and Pen Rhiw to Maes-y-cyffion; thence along such last-mentioned road down to and across the Mold and Denbigh Junction Railway and the Mold and Denbigh turnpike road to Tardd-dwr; thence along the public road in a southerly direction past Cefn-melyn and Cefn-issa, and on to Hesp Alyn; then along the River Alyn in a southerly direction to the boundary of the counties of Flint and Denbigh, at the bottom of a road leading to a farm called "Argoed;" thence along such boundary to the milestone on the Mold and Ruthin turnpike road indicating two miles

A.D. 1875.

from the town of Mold; and thence along such road to the road branching off to the Mold county gaol; thence proceeding in a straight line in a northerly direction to Shifna-hir farm-house, in the occupation of Edward Wilding; thence in a straight line up to the boundary of the drainage area No. 1 as herein-before defined, at a point on the said public road from Croes-y-stryt to Pant-y-go opposite the south-east corner of the said field numbered 368 on the said ordnance map of the township of Caerfallwch, and thence following the line or boundary of the said area No. 1 to its commencement as before defined (but excepting always from the limits of the said area No. 2 such of the lands comprised therein as are contained within the limits of the said area No. 1).

Power to make tunnels and other works.

6. Subject to the provisions of this Act, the Company may make, form, lay down, work, use, and maintain the tunnels or adit levels herein-after described, in the lines and according to the levels shown on the deposited plans and sections, with all proper shafts, works, and conveniences connected therewith, and may enter upon, take, and use, or at their option may purchase and take an easement in, through, over, or under, or right of using, such of the lands delineated on the said plans and described in the deposited books of reference as may be required for that purpose. The tunnels or adit levels herein-before referred to and authorised by this Act are:

1. A tunnel or level wholly situate in the township of Caerfallwch in the parish of Northop, commencing at Pant-y-go, at a point two hundred and fifty yards or thereabouts south of a mine shaft called "Lewis' Shaft," in the occupation of the Halkyn Deep Level Mining Company, Limited, by a junction with the existing tunnel or level called or known as "the Halkyn Deep Level," at or near the termination thereof, and thence extending in a southerly direction and terminating at or under the mine shaft known as the "South Pant-y-go Shaft," in the occupation of the Rhosesmor Mining Company, Limited:

2. A tunnel or level wholly situate in the said township of Caerfallwch, commencing by a junction with the said intended tunnel or level No. 1 at its termination above described, and thence extending in a southerly direction for a distance of four hundred and twenty-nine yards or thereabouts to a field belonging or reputed to belong to John Edwards, and in the occupation of Robert Jones, and numbered 549 on the published ordnance map (on the scale of 25·344 inches to a statute mile) of the said township of Caerfallwch, and

from thence extending in a south-easterly direction for a distance of eight hundred and eighteen yards or thereabouts, and terminating in or under the eastern corner of a meadow belonging or reputed to belong to Philip Bryan Davies Cooke, and in the occupation of Thomas Watkins Bowdage, and numbered 567 on the said published ordnance map of the said township of Caerfallwch :

3. A tunnel or level commencing by a junction with the said intended tunnel or level Number 2 at its termination above described, and thence extending in a south-easterly direction for a distance of one thousand two hundred and forty-five yards or thereabouts, and terminating in the township of Gwernaffield and parish of Mold, at or under a certain mine shaft called "Cooke's Shaft" or the "Rhyd-y-Mwyn Iron Shaft," situate and being in a plantation belonging or reputed to belong to and in the occupation of Philip Bryan Davies Cooke, and numbered 19 on the published ordnance map on the scale aforesaid of the said township of Gwernaffield :

4. A tunnel or level wholly situate in the said township of Caerfallwch, branching out of the said intended tunnel or level Number 2 above described, at or under a point near the centre of a field belonging or reputed to belong to Philip Bryan Davies Cooke, and in the occupation of Thomas Watkins Bowdage, and numbered 556 on the said published ordnance map of the said township of Caerfallwch, thence extending in a north-easterly direction for seven hundred and forty-two yards or thereabouts, and terminating at or under a certain mine shaft called "Batters Shaft," in the occupation of the Rhosesmor Mining Company, Limited :

5. A tunnel or level branching out of the said intended tunnel or level Number 2 above described, at a point in the western corner of a field belonging or reputed to belong to Philip Bryan Davies Cooke, and in the occupation of Thomas Watkins Bowdage, and numbered 565 on the said published ordnance map of the said township of Caerfallwch, and thence extending in a westerly direction for a distance of seven hundred and forty-one yards or thereabouts, and terminating in the township of Hendrefigillt and parish of Halkyn, at a point in or under a field called Cae-pen-y-coed, belonging or reputed to belong to Sir Francis George Manningham Boileau, Baronet, William John Utten Browne, James Cockburn, Robert Blake Humfrey, and William Morris, and now in the occupation of William Lloyd, and

A.D. 1875.

numbered 456 on the published ordnance map, on the scale aforesaid, of the said township of Hendrefigillt, which said last-mentioned point is two hundred yards or thereabouts to the east of an engine-shaft called "Lloyd's Shaft" at the Great Hendre Lead Mine.

Company may acquire the Halkyn Deep Level, &c.

7. Subject to the provisions and for the purposes of this Act, the Company may purchase, lease, or otherwise acquire, by compulsion or agreement,

1. The said tunnel or level called or known as "the Halkyn Deep Level," now in the occupation of the Halkyn Deep Level Mining Company, Limited, situate in the said township of Caerfallwch, and in the township of Lygan-y-lan, in the parish of Halkyn, in the county of Flint, or an easement in, through, or over, or right of drainage through, or other right of using the same:
2. The existing open cut or watercourse in the township of Caerfallwch, fifty-two yards or thereabouts in length, which commences at the mouth of the said Halkyn Deep Level, and runs into the Nant-y-Flint brook, which divides the parishes of Northop and Holywell, in the said county of Flint, or an easement in, through, or over, or right of drainage through, or other right of using the same:
3. Two acres of land or thereabouts, shown on the deposited plans, wholly situate in the township of Coleshill-fawr, in the parish of Holywell in the county of Flint.

Company may alter, &c. Halkyn Deep Level, &c.

8. In the event of the Company acquiring the said Halkyn Deep Level and the said existing open cut or watercourse, or any such easement or right as aforesaid, they may from time to time cleanse, repair, scour, deepen, widen, straighten, alter, enlarge, divert, and improve the same, or either of them, when and to such extent as may be necessary for the purposes of the Company's undertaking.

Company not to take lands of Mold and Denbigh Junction Railway Company without consent.

9. Notwithstanding anything in this Act contained, the Company shall not enter upon, take, or interfere with, otherwise than by agreement with the Mold and Denbigh Junction Railway Company, and with the consent of the London and North-western Railway Company, testified under the common seal of that company, during the continuance of the working agreement between those two companies, any of the lands belonging to the Mold and Denbigh Junction Railway Company; but the Company may acquire and take, under the powers of this Act, any easement, power, or privilege in or under the said lands (but not nearer than fifty yards to the

surface thereof) which may be necessary for the purposes of this Act.

For protection of Chester and Holyhead Railway.

10. And whereas the water to be drained by the tunnels or levels hereby authorised will pass into the brook known as the Nant-y-Flint brook, which brook passes under the Chester and Holyhead Railway of the London and North-western Railway Company by means of two culverts, one carrying the main or natural stream of that brook, and the other carrying an artificial watercourse from the reservoir constructed by that company to the works at Flint of the Messieurs Muspratt: And whereas that company are apprehensive that, by reason of the increased flow of water into the said brook from the said tunnels or levels, the said culverts may be insufficient for the purpose of the discharge thereof through the said culverts: Therefore, if the said two culverts or either of them shall be found, at any time during or after the construction of the works hereby authorised, insufficient, by reason of the increased discharge of water from the said works into the said brook, to carry off the waters of the said brook, that company may thereupon forthwith, after giving written notice to the Company of their intention so to do, execute all such works as may be necessary for enlarging the said culverts or either of them, to such an extent as that company may deem fit; and the cost of and incidental to the execution of such works shall be borne and defrayed by the Company, and the certificate in writing of the principal engineer of that company of the amount of their expenditure in that behalf shall be conclusive as against the Company: Provided nevertheless, that if the Company shall, within fourteen days after receiving such notice as aforesaid, intimate to that company that they do not admit that the necessity for such enlargement has been caused by the increased flow of water into the said brook from the Company's works, and shall claim an arbitration in respect thereto, the question shall be referred to an arbitrator to be mutually agreed upon between the companies, or, failing agreement, to be appointed on the application of either of them by the president of the Institute of Civil Engineers; and such arbitrator shall have full power finally to decide the question in difference, and the costs of and incidental to the arbitration shall be paid as he may direct; but, notwithstanding the provision herein-before contained with respect to the intimation which may be given by the Company, the works which that company may execute may be proceeded with: Provided also, whether that company shall or shall not enlarge both or either of such culverts, the Company shall make good and pay to that company all damages, costs, and expenses which that company may be put to, sustain, or incur for or in respect to damage caused to

A.D. 1875.

their said Chester and Holyhead Railway or any of its works by or by reason of such increased flow of water into the said brook, all such expenditure, damages, costs, and expenses to be recovered, with full costs, by that company from the Company in any court of competent jurisdiction.

Power to Company to construct and use pumping apparatus, &c.

11. The Company may for the purposes of their undertaking construct, maintain, use, and renew from time to time engines, pumps, conduits, and all requisite machinery and works for pumping and draining water now accumulated in or hereafter flowing or percolating into any mines, and for preventing for the future any such accumulation or any such flowing or percolation; they may also construct, purchase, maintain, remove, pierce, or otherwise alter any underground wall, pillar, rib, barrier, or other defence against or impediment to the flow of water; and they may also purchase and acquire, or take on lease, or occupy upon such terms as may be agreed upon or be settled by arbitration, any pumping, winding, or other plant or machinery from time to time existing at, in, or on any mine, and may use the same for the purposes of this Act, or they may agree with the owners or occupiers of such plant or machinery for the employment or use thereof, and may compensate for such employment or use.

Power to acquire lands by agreement.

12. The Company may from time to time, for the extension of the said tunnels or adit levels or any of them, by agreement acquire, either by purchase or by way of lease, hire, exchange, or otherwise, any land, or any estate, term, or interest therein, or any easement, power, or privilege in, through, under, or over the same; and may from time to time sell, lease, exchange, or otherwise dispose of all lands, easements, powers, or privileges so acquired by them and not wanted for the said purposes.

Company may take land by agreement.

13. The Company may also take by agreement for the purposes of this Act any quantity of land not exceeding five acres.

Persons under disability may sell, exchange, or lease.

14. The persons by "The Lands Clauses Consolidation Act, 1845," empowered to sell and convey or re-lease lands, and also any joint stock or other company not specially authorised by its deed of settlement or memorandum or articles of association to sell, lease, or otherwise dispose of property acquired by them, may sell, lease, exchange, or otherwise dispose of any lands, and may grant in fee or demise any such easement, power, or privilege as aforesaid; but in the case of any joint stock or other company not specially authorised as aforesaid, the power hereby granted shall only be exercised in pursuance of a special resolution of such company to that effect; and for the purposes of this Act the several provisions of that Act, and of "The Lands Clauses Consolidation

Acts Amendment Act, 1860," as far as the same are respectively applicable in that behalf, shall extend and apply to any such sale, lease, exchange, grant, demise, easement, power, or privilege, and to any rentcharge reserved on any such grant or demise.

Capital.

15. The capital of the Company shall be one hundred thousand pounds, in ten thousand shares of ten pounds each.

Shares not to issue until one fifth paid up.

16. The Company shall not issue any share created under the authority of this Act, nor shall any share vest in the person accepting the same, unless and until a sum not being less than one fifth of the amount of such share shall have been paid in respect thereof.

Receipts on behalf of incapacitated persons.

17. If any money be payable to a shareholder being a minor, idiot, or lunatic, the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

Powers to other companies to subscribe to capital of Company.

18. Any joint stock or other company, if authorised by its deed of settlement or memorandum or articles of association, or by special resolution passed in manner provided by "The Companies Act, 1862," may subscribe to the capital of the Company, and be and become a proprietor in the undertaking.

Power to borrow.

19. The Company may from time to time borrow on mortgage any sum not exceeding in the whole thirty-three thousand pounds, and of such sum they may borrow on mortgage any sum not exceeding sixteen thousand five hundred pounds when fifty thousand pounds of the capital of the Company is issued and accepted, and one half thereof is paid up, and the further sum of eight thousand two hundred and fifty pounds in respect of each twenty-five thousand pounds of the remainder of the capital of the Company when the same is respectively issued and accepted, and one half thereof is paid up; but no such borrowing powers shall be exercised until the Company have proved to the justice who is to certify under the fortieth section of "The Companies Clauses Consolidation Act, 1845," before he so certifies, that so much of the capital in respect whereof the borrowing powers are from time to time sought to be exercised has been issued and accepted, and that one half thereof has been paid up, and that not less than one fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof, and that such capital was issued bonâ fide, and is held by the persons, corporations, or companies to whom the same was issued, or their executors, administrators, successors, or assigns, and that such persons, corporations, or companies, their executors, administrators, successors, or assigns, are legally liable for the same;

A.D. 1875.

and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient, he shall grant a certificate that the proof aforesaid has been given, which shall be sufficient evidence thereof.

For appointment of a receiver.

20. The mortgagees of the Company may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages by the appointment of a receiver; in order to authorise the appointment of a receiver in respect of arrears of principal, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than one tenth of the amount which the Company for the time being owe on mortgage.

Debenture stock.

21. The Company may create and issue debenture stock, subject to the provisions of Part III. of "The Companies Clauses Act, 1863," but, notwithstanding anything therein contained, the interest of all debenture stock at any time created and issued by the Company shall rank pari passu with the interest of all mortgages at any time granted by the Company, and shall have priority over all principal moneys secured by such mortgages.

Application of money.

22. All moneys raised under this Act, whether by shares, debenture stock, or borrowing, shall be applied for the purposes of this Act only.

First ordinary meeting.

23. The first ordinary meeting of the Company after the passing of this Act shall be held within six months next after the passing of this Act.

Number of directors.

24. The number of directors shall be not less than five nor more than nine.

Qualification of directors.

25. The qualification of a director shall be the possession in his own right of not less than twenty-five shares.

Quorum.

26. The quorum of a meeting of directors when the number of directors is more than seven shall be five, and when the number of directors is seven or less than seven the quorum shall be three.

First directors.

27. His Grace the Duke of Westminster, Lord Richard Grosvenor, John Scott Bankes, William Barber Buddicom, Robert Nicholson, and not more than four persons duly qualified, to be nominated by them or the majority of them, and consenting to such nomination, shall be the first directors of the Company, and shall continue in office until the first ordinary meeting held after the passing of this Act. At that meeting the shareholders present, in person or by proxy, may either continue in office the directors appointed by this Act or nominated as aforesaid, or any of them, or may elect new directors to supply the place of those not continued in office, the

directors appointed by this Act or nominated as aforesaid being, if qualified, eligible for re-election; and at the first ordinary meeting to be held in every year after the first ordinary meeting, the shareholders present, in person or by proxy, shall (subject to the power herein-before contained for varying the number of directors) elect persons to supply the places of the directors then retiring from office, agreeably to the provisions in "The Companies Clauses Consolidation Act, 1845," contained; and the several persons elected at any such meeting, being neither removed nor disqualified, nor having died or resigned, shall continue to be directors until others are elected in their stead in manner provided by the same Act.

Appointment of arbitrator.

28. The arbitrator for the purposes of this Act shall be the county court judge for the time being of the district in which the town of Mold, in the county of Flint, is comprised, and his decision in all matters shall be final and without appeal; and the arbitrator for the time being acting under the authority of this Act may at any time and from time to time appoint by writing under his hand an assessor or assessors for his guidance and assistance where necessary, such assessor or assessors being a person or persons of experience conversant with mining operations, but having no interest in or employment with relation to any mine affected by or interested in the arbitration.

Provision for future appointment of arbitrator.

29. If and when the arbitrator appointed by or acting under the authority of this Act shall from any cause be incapable of acting or be unwilling to act, either generally or in any particular case or arbitration, another person shall be appointed in his place by the Lord High Chancellor of England, such person being a barrister of not less than ten years standing, and such last-mentioned person may be appointed or re-appointed for such periods or purposes as the Lord Chancellor shall in each case determine, although the county court judge for the time being of the district may be capable of acting and willing to act.

Declaration by arbitrator.

30. No person shall be capable of acting as an arbitrator until he shall have made and subscribed the declaration following; (that is to say,)

"I, A. B., do solemnly and sincerely declare that I will faithfully, honestly, and impartially, according to the best of my skill and ability, execute and perform the several trusts, powers, and authorities vested in and imposed upon me as arbitrator by virtue of 'The Halkyn District Mines Drainage Act, 1875,' according to equity and good conscience, and without favour or affection, prejudice or partiality, to any person or persons whatsoever;"

A.D. 1875.

and such declaration shall be made and subscribed before any justice of the peace, and shall be delivered to the Company and kept at the office of the Company along with the books and documents belonging to them.

Costs of arbitration.

31. In all cases of difference the arbitrator shall have power to ascertain the costs of and incident to the reference, including the reasonable remuneration and costs of the arbitrator and assessor or assessors, and to direct payment of the same by the parties thereto, or any of them, in such manner as he shall think proper; and in all other cases where the arbitrator shall act under the provisions of this Act (and no discretion is given him as to awarding costs) the reasonable remuneration and costs of the arbitrator and assessor or assessors shall be paid by the Company.

Arbitrator to ascertain condition of mines.

32. The arbitrator shall if and when thereto required by the Company, and so far as and to the extent he shall be so required, do the following acts or any or either of them, and all things incidental thereto:

He shall ascertain, as nearly as may be, the height or level of the water existing at any time or times, or within any period specified by the Company, in any mine, the sources from which such water is or was derived, the means of disposing of the same, and whether the same has been drained by any of the works constructed or acquired by the Company:

And he shall embody the result of his inquiries in a report or reports, together with such surveys and sections as he may deem necessary for the due understanding of the same, and for putting on record the condition of the mines with respect to the flooding of the same by water, or the drainage thereof, at the time of making such inquiry, or at any other time or times as the Company may require; and such report or reports shall be verified by the signature of the arbitrator and delivered to the Company, and shall be preserved by them, and shall at all reasonable times be open to inspection by all persons interested.

Entry upon lands.

33. For the purposes aforesaid or for any of the purposes of this Act, the arbitrator may, by himself or by any person appointed by him, enter upon, inspect, and survey any mines (but not any lands belonging to the Mold and Denbigh Junction Railway Company, except by agreement and with consent as provided for in section 9 of this Act), and open any shaft or shafts, or make any borings thereon or therein, and make all such soundings and examinations as he may think necessary: Provided always, that the Company

shall make compensation to the owners and occupiers of such mines for any damage done thereby.

Powers of arbitrator.

34. For the purposes of such inquiry as aforesaid, or of any other inquiry or arbitration under this Act, the arbitrator may require the attendance of all persons interested in the mines to which his inquiry relates whom he may think fit to call before him and examine, and he shall have power and authority to require discovery from any party, to summon any person before him to give evidence, or to bring and produce and to give inspection of deeds, documents, plans, and sections and books, to administer oaths, and to take or direct the taking of affidavits and declarations; and an order or requisition under the hand of the arbitrator shall have the force and effect of a subpœna or process issued by any court of law or equity; and every person who, being examined under the authority of this Act, shall wilfully swear, affirm, or declare falsely in any vivâ voce evidence, or in any affidavit, declaration, or deposition, shall be liable to the penalties and consequences of wilful and corrupt perjury.

Mode of conducting references.

35. Applications to the arbitrator, in the case of any difference between the Company and any person, corporation, or company as to any matters authorised by this Act to be determined by the arbitrator, shall be made in such manner and form, and shall be heard and disposed of on the attendance of such parties or persons chosen as the representatives of such parties, on such written or other statements, and on such evidence, as the arbitrator may from time to time direct; and the costs of and incident to such applications shall be in the discretion of the arbitrator, who may direct to or by whom the same shall be paid, and the opinion or decision of the arbitrator on any such application, or with respect to the costs thereof, or incident thereto, shall not be subject to review or appeal: Provided always, that the arbitrator may from time to time, upon the application of either party, review and, if he see fit, alter or modify his award in case of any altered state of circumstances or otherwise.

Award of arbitrator to have the same force and effect as a judgment of the county court.

36. For the purpose of enforcing any award or decision of the arbitrator under this Act, such award or decision shall be taken and deemed to be and shall have the same force and effect as a judgment or decree of the county court of the district in which the town of Mold, in the county of Flint, is comprised, and shall, on the application of any person interested, be recorded and registered, and be enforceable by the same processes and in the same manner as a judgment or decree of the said court.

A.D. 1875.

Arbitrator may employ surveyors, &c.

37. The arbitrator may from time to time employ such surveyors and other persons as he may find necessary for the performance of his duties, and the remuneration of such persons shall be paid by the Company or otherwise as the arbitrator shall determine.

Company to levy royalty on minerals raised within the drainage areas.

38. From and after the passing of this Act, the Company may and they are hereby authorised to demand, levy, and take from every occupier of a mine the royalties respectively specified in schedules A. and B. to this Act in respect of each ton or fraction of a ton of minerals thereafter raised or got from such mine: Provided always, that no occupier shall be liable to pay such royalties unless and until the mine of such occupier has been drained by means of the works constructed or acquired by the Company, or any of such works; and if any dispute shall at any time arise between the Company and the occupier as to whether any mine has been drained, the same shall, on the application of either party, be referred to and settled by the arbitrator, who may make such inquiry and hear such evidence as either party may adduce and he may think necessary for determining the matter in dispute: And provided also, that if any occupier of a mine shall allege that, owing to the Company's works not draining such mine to the depth of the lowest levels or workings thereof or therein, he has to employ steam or other power in pumping, it shall be lawful to and in the power of the arbitrator to make or cause to be made such inquiry as he may think fit, and, if he find the allegation to be sustained, to prescribe such reduction of the said royalties as in his judgment shall be equitable, and such reduced royalties shall thenceforth, so long as such mine shall be worked below the level of the drainage effected by the works of the Company and be drained by means of steam or other power, be taken by the Company, in respect of minerals raised or got from the said mine, in full satisfaction of the royalties authorised by this Act.

When mines shall be deemed to be drained.

39. For the purposes of this Act a mine shall be deemed to be drained if the water of the district be drained to the level of the waterflow in the tunnels or adit levels of the Company, or as near thereto as, allowing for intervening distance and other circumstances, may be practicable, and if such mine can be worked to the depth of such waterflow, or as near thereto as aforesaid, notwithstanding that other means or appliances may have to be taken or used by the occupier of such mine for getting rid of surface or top water in such mine.

Statement to be furnished to Company of minerals raised.

40. Every occupier of a mine from which minerals are raised or got shall quarterly, on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of September respectively, make and send to the Company a return

in writing of the number of tons and description of minerals raised from such mine during the preceding three months, and distinguishing minerals raised or got within the said drainage area No. 1 from minerals raised or got within the said drainage area No. 2, and, if called upon by the Company so to do, he shall verify such return by statutory declaration; and the amount of royalty payable under this Act in respect of the minerals so raised or got shall, for the purposes of this Act, be deemed to be due and payable at the date at which such quarterly returns respectively are herein-before required to be made: Provided always, that every occupier who shall fail or neglect to make such return to the Company for seven days after demand thereof in writing by or on behalf of the Company shall be liable to a penalty not exceeding ten pounds for each offence, and to a further penalty not exceeding five pounds for every day during which such default shall continue, and every occupier who shall make a false return shall be liable to a penalty not exceeding one hundred pounds.

Power to Company to check returns.

41. For the purpose of ascertaining the amount of royalties payable to the Company under this Act, and the correctness of any returns made or sent to the Company in pursuance of this Act, the Company may by their officers or servants, or other persons appointed by them, from time to time and at any time inspect any book, pay-sheet, or other document kept by any occupier containing any entry of the minerals raised or gotten or sold from or out of any mine, or any entry or entries of any payment made for raising or getting such minerals, and the working plans and sections of such mine, and, if deemed necessary by the Company, the mine itself, and may take copies of such books, documents, and working plans and sections; and any occupier, or the agent, clerk, or servant of any occupier, doing any act to prevent or impede the Company from exercising any of the powers by this section granted shall be liable to a penalty not exceeding ten pounds for each offence.

Occupiers to pay royalties to Company and deduct proportion of same from the rent payable to owners.

42. The occupier of every mine is hereby authorised and required to pay the amount of the royalties by this Act authorised to be levied by the Company, and to deduct so much of the same as is specified in schedule C. to this Act out of any rent or royalty then due, or within three years after the payment to accrue due, to the owner of such mine, and every occupier who shall make such payment shall be acquitted and discharged, to the extent of the money so authorised to be deducted, as if the same had been actually paid to the owner of such mine or other person to whom his rent or royalty was due and payable; and in those cases where royalty is rendered by the occupier to the owner in kind, then an equivalent in kind may be deducted.

A.D. 1875.

Royalties due to Company may be levied by distress.

43. In case any occupier shall refuse or neglect to pay any royalties due to the Company within thirty days next after the same shall become due, it shall be lawful for the Company to levy the amount of royalties so due, and the costs of the sales and distresses herein authorised, by distress and sale of the goods and chattels, and fixed or moveable plant and machinery, in, upon, or about the mine from which the minerals were raised or got in respect of which the royalties became due, or of the occupier making default as aforesaid, wherever the same goods, chattels, plant, and machinery can be found.

Powers to Company to inspect mines within drainage areas.

44. For the purpose of ascertaining the actual condition of any mine with respect to the flooding or drainage of such mine, the Company may at any time and from time to time, by their officers or servants, or other persons appointed by them, enter upon, inspect, and survey such mine, and may inspect the plans, sections, and working drawings of such mine, and make copies and extracts therefrom, and may open any shaft or shafts, and make any borings at, on, or in such mine, and may make all such soundings and examinations as may be necessary; and the Company shall make compensation to the owners and occupiers of such mine for any damage done thereby.

No communication with Company's works to be made without consent of the Company.

45. It shall not be lawful for any person or company, without the written consent of the Company first had and obtained, and then only subject to such conditions and regulations as shall be prescribed by the Company, to make or form any communication to or with the tunnels and levels or other works of the Company; and any person or company who shall act in violation of this provision shall be liable to a penalty not exceeding one hundred pounds, and shall also make compensation for all injury or damage occasioned by or resulting from such violation as aforesaid.

Power to make byelaws.

46. The Company may from time to time make, repeal, alter, or amend byelaws to take effect within the said drainage areas, and with respect to mines wholly or in part therein, and may impose reasonable penalties for the breach of such byelaws: Provided that all byelaws be so framed as to allow a part only of the maximum penalty being in any case ordered to be paid, and such byelaws may relate to the following matters or matters incidental thereto:

For the protection of the works of the Company:

For the protection of or with the view to enable the Company to secure or enforce any of the rights or remedies of the Company under this Act:

For preventing the flow, or escape, or percolation of water by any means inconsistent with those prescribed or provided by the Company.

Allowance of byelaws by arbitrator.

47. No such byelaws shall have effect until allowed by the arbitrator, and such arbitrator shall, on the request of the Company or of any owner or occupier, inquire into any byelaws tendered to him for allowance, and allow or disallow the same as he may think meet.

Notice of application for allowance.

48. No such byelaws shall be allowed unless notice of intention to apply for the allowance thereof has been given by advertisement in at least one newspaper circulating in the county of Flint one month at least before the application for allowance is made.

Objections to proposed byelaws.

49. Any person desiring to object to any such byelaws, on giving to the Company notice of the nature of his objection not less than ten days before the hearing of the application for allowance, may by himself or his counsel, attorney, or agent be heard thereon.

Access to proposed byelaws.

50. For one month at least before the hearing of any such application printed copies of the proposed byelaws shall be kept at the principal office of the Company, and the secretary of the Company shall furnish every person applying for the same with a copy thereof on payment of a sum not exceeding sixpence for each copy.

Copies of byelaws.

51. All byelaws when allowed shall be printed, and the secretary of the Company shall deliver a printed copy thereof to every person applying for the same on payment of a sum not exceeding sixpence for each copy.

Proof of byelaws.

52. A printed copy signed by the secretary of the Company, purporting to be under the common seal of the Company and to be allowed by the arbitrator, shall be evidence of the existence and due making and allowance of such byelaws, without proof of the signature of the secretary.

Penalty for obstructions.

53. Any owner, occupier, or other person who without reasonable excuse obstructs the Company or the arbitrator or any person appointed by them respectively in the execution of any of the powers, authorities, works, or things to be exercised or done by the Company or arbitrator respectively under the authority of this Act, shall be liable for each offence to a penalty not exceeding ten pounds.

Provision in regard to Bedford Pits Colliery.

54. And whereas a small part of the mines or mineral lands leased or held by the Bedford Pits Colliery, Limited, is situate

A.D. 1875.

within the drainage area No. 2, but the greater part of the mines or mineral lands of that colliery, and their shafts and works, are situate both outside of the drainage areas: Therefore nothing in this Act contained, nor any of the powers or rights of the Company or the arbitrator hereunder, shall extend to or affect any of the mines or mineral lands now leased or held by the said colliery, or any of their shafts or works, outside the drainage areas, or any minerals to be gotten by the said colliery from out of that portion of their said mines or mineral lands which is outside the said areas.

Saving rights of the Crown.

55. Nothing contained in this Act shall authorise the Company to take, use, or in any manner interfere with any land or hereditaments, or any rights of whatsoever description, belonging to the Queen's most Excellent Majesty in right of her Crown, and under the management of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, or either of them, without the consent in writing of the same Commissioners, or one of them, on behalf of Her Majesty, first had and obtained for that purpose (which consent such Commissioners are hereby respectively authorised to give); neither shall anything in this Act contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the Queen's Majesty, her heirs or successors.

Expenses of Act.

56. All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Company.

SCHEDULES referred to in the foregoing Act.

SCHEDULE A.

Royalties to be levied within Drainage Area No. 1.

	£	*s.*	*d.*
For every ton of lead or lead ore raised - - - -	2	10	0
For every ton of blende or calamine raised - - -	0	2	6
For every ton of coal, cannel, or shale raised - - -	0	0	6
For every ton of ironstone or iron ore raised - - -	0	0	3
For every ton of fireclay raised - - - - -	0	0	2

For every ton of other minerals raised, five per cent. of the saleable value thereof on the pit bank.

And so in proportion for each fraction of a ton.

SCHEDULE B.

Royalties to be levied within Drainage Area No. 2.

	£	*s.*	*d.*
For every ton of lead or lead ore raised - - - -	1	10	0
For every ton of blende or calamine raised - - -	0	1	6
For every ton of coal, cannel, or shale raised - - -	0	0	4
For every ton of ironstone or iron ore raised - - -	0	0	2
For every ton of fireclay raised - - - - -	0	0	1

For every ton of other minerals raised, three per cent. of the saleable value thereof on the pit bank.

And so in proportion for each fraction of a ton.

SCHEDULE C.

Proportion of Royalties to be deducted by the Occupier from the Rent or Royalty payable to the Owner.

	£	*s.*	*d.*
For every ton of lead or lead ore raised - - - -	0	5	0
For every ton of blende or calamine raised - - -	0	0	6
For every ton of coal, cannel, or shale raised - - -	0	0	1
For every ton of ironstone or iron ore raised - - -	0	0	$0\frac{1}{2}$
For every ton of fireclay raised - - - - -	0	0	$0\frac{1}{2}$

For every ton of other minerals raised, one tenth of the royalty paid to the company.

LONDON : Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1875.