CHAPTER clxxxv.

An Act to vary and amend the provisions of the South Staffordshire Mines Drainage Acts 1873 to 1882. A.D. 1891.

[5th August 1891.]

WHEREAS the South Staffordshire Mines Drainage Act 1873 (in this Act referred to as "the Act of 1873") was passed for the purpose of facilitating the drainage of mines in parts of South Staffordshire and East Worcestershire: 36 & 37 Vict. c. cl.

And whereas the South Staffordshire Mines Drainage Act 1878 (in this Act referred to as "the Act of 1878") was passed for the purpose of varying and amending the provisions of the Act of 1873: 41 & 42 Vict. c. lxxxi.

And whereas the South Staffordshire Mines Drainage Act 1882 (in this Act referred to as "the Act of 1882") was passed for the purpose of varying and amending the Act of 1873 and the Act of 1878: 45 & 46 Vict. c. cxxxi.

And whereas the arbitrators appointed under the provisions of the Act of 1873 shortly after their appointment divided the drainage area into drainage districts in accordance with the direction contained in the twenty-third section of the same Act and one of such districts as subsequently altered by an award of the arbitrators dated the ninth day of March one thousand eight hundred and eighty-one is called or known by the name of "the Tipton district":

And whereas under the provisions of the South Staffordshire Mines Drainage Acts 1873 to 1882 (which are in this Act referred to collectively as "the Acts of 1873 to 1882") the Commissioners have from time to time borrowed divers sums of money on mortgage of the mines drainage rate levied in the said Tipton district (in this Act referred to as "the Tipton rate") and the total sum of two hundred and seventy-one thousand seven hundred and twenty-eight pounds ten shillings and three pence is now owing in respect of principal moneys with an arrear of interest:

And whereas the Commissioners being unable to pay the current interest on the said sum so borrowed an action was commenced on

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the twenty-fourth day of October one thousand eight hundred and eighty-eight in the Chancery Division of the High Court by Francis William Victor Mitchell and John Biddle Manly as plaintiffs on behalf of themselves and all other their co-mortgagees of the mines drainage rate for the Tipton district against the Commissioners in which the plaintiffs claimed the appointment of a receiver of the said rate and other incidental relief And by the judgment in the said action dated the second day of November one thousand eight hundred and eighty-eight divers accounts and inquiries were ordered to be taken and made and one Edmund Howl of the Quarries Gornal Staffordshire the manager of the Commissioners was appointed receiver of the Tipton rate And it was ordered that the said Edmund Howl should out of the moneys to be received by him pay all expenses chargeable to the said rate and all necessary and proper contributions (properly chargeable to the said rate) towards general expenses incurred by the Commissioners from time to time for the due carrying out by the Commissioners of the duties imposed on them by the Acts of 1873 to 1882 and should pay the balances if any from time to time in his hands into court and further consideration of the said action was adjourned:

And whereas the annual amount produced by the Tipton rate after payment thereout of the expenses and contributions directed by the said judgment is insufficient to keep down the interest on the said sum of two hundred and seventy-one thousand seven hundred and twenty-eight pounds ten shillings and three pence and no provision can be made thereout for a sinking fund as directed by the Acts of 1873 to 1882:

And whereas a large portion of the mines or underground workings in the said Tipton district are still submerged and if such mines and workings could be freed from water and were worked a very large addition would be made to the Tipton rate and by such means the principal moneys and interest so secured as aforesaid could be paid off within a reasonable period:

And whereas the Commissioners cannot carry into effect the works necessary for the underground drainage of the said submerged mines and workings (1) because they have no funds sufficient for that purpose and (2) because no persons will lend them the necessary moneys unless the Commissioners can give to such lenders by way of security a first charge on the Tipton rate in priority to the said existing debt of two hundred and seventy-one thousand seven hundred and twenty-eight pounds ten shillings and three pence and it is expedient in the interests both of the existing mortgagees of the said rate and also of the owners and

occupiers of mines in the said Tipton district that the Commissioners should be empowered to give such first charge:

And whereas it is expedient that the rate of interest on the said sum of two hundred and seventy-one thousand seven hundred and twenty-eight pounds ten shillings and three pence should be reduced and that a permanent receiver of the Tipton rate should be appointed and that the functions and duties of such receiver should be defined:

And whereas holders of upwards of three-fourths in value of the existing mortgages of the Tipton rate have consented in writing to the provisions of this Act:

And whereas it is expedient that provision should be made for the appointment of a committee to represent the interests of the present and future mortgagees of the Tipton rate and that the powers and functions of such committee should be defined:

And whereas it is expedient that further powers should be conferred on the Commissioners for the protection of their works and for the sale of their pumping plant and for divers other purposes:

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

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

Preliminary.

Short title.

1. This Act may be cited as the South Staffordshire Mines Drainage Act 1891 and the Acts of 1873 to 1882 and this Act may be cited together as the South Staffordshire Mines Drainage Acts 1873 to 1891.

Interpretation.

2. In this Act the several words and expressions to which meanings are assigned by the Acts of 1873 to 1882 or any of them or by the Acts wholly or partially incorporated with those Acts or with any of them have the same respective meanings unless there be something in the subject or context repugnant to such construction the expression "existing mortgage" shall mean a mortgage existing at the time of the passing of this Act.

New Loan.

Power to raise 100,000*l.* by

3. In addition to the powers of borrowing conferred on them by the Acts of 1873 to 1882 the Commissioners may for the purposes

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first mortgage of Tipton revenue and property.

of this Act borrow any moneys either at one time or several times not exceeding in the whole one hundred thousand pounds Such moneys shall be secured by mortgage or mortgages upon the Tipton rate and upon all other moneys in the nature of income receivable by the Commissioners from any other source in respect of the drainage of mines in the Tipton district only and also (subject to the provision hereafter contained) upon all property of the Commissioners for the time being situate in the Tipton district and acquired by them for the purposes of the drainage of mines in that district (not including the general drainage rate or any property acquired by the Commissioners for the purpose of general drainage) which rate income and property hereby authorised to be mortgaged are in this Act referred to as the Tipton revenue and property and separately as the Tipton revenue and the Tipton property :

Such mortgages may be in the form A set out in the Second Schedule to this Act or the like effect Notwithstanding anything contained in the Acts of 1873 to 1882 or in the Commissioners Clauses Act 1847 or in the Local Loans Act 1875 or in the several existing mortgages of the Tipton rate the several mortgages created under the powers of this section shall rank (and as between themselves pari passu without priority one over another) as a first charge on the Tipton revenue and property in priority to all existing mortgages of the Tipton rate :

Provided that no such mortgage shall entitle any mortgagee to take possession of or interfere with any such property required or which may be required for the carrying on of the undertaking works or operations of the Commissioners.

Terms on which money may be borrowed.

4. The Commissioners may borrow under the powers of this Act either at a fixed rate of interest or upon the terms of the mortgagees receiving in lieu of or in addition to interest a proportion of the moneys produced by the Tipton rate or of such part or parts of the Tipton rate as may be levied in any particular locality or in respect of any particular mine or mines in the Tipton district and the Commissioners may agree with any mortgagee for payment to him of a premium not exceeding five pounds per centum on the principal moneys secured by his mortgage when repaid :

Provided that the powers conferred on the Commissioners by this section shall not be exercised by them without the consent of the mortgagees' committee hereinafter constituted to be expressed by a resolution of that committee.

Two classes of mortgages.

5. In this Act all mortgages which may be issued to secure moneys raised under the foregoing provisions of this Act are called

"mortgages of the A class" and all existing mortgages and all mortgages which may be issued to existing mortgagees in exchange for existing mortgages under the subsequent provisions of this Act are called "mortgages of the B class."

Application of borrowed moneys.

6. All moneys borrowed by the Commissioners under the powers of this Act shall be paid by the lenders to the joint account of the chairman of the Commissioners and the receiver and at such bank as the Commissioners may from time to time appoint and such moneys shall subject as in this Act provided be applied by the Commissioners in the execution of works which may be recommended by the arbitrators to be appointed under the subsequent provisions of this Act for freeing from water and keeping free the whole or any part or parts of the mines and underground workings situate in the Tipton district:

Provided that it shall not be necessary for any mortgagee to see to the application of any money lent by him nor shall he be responsible for the misapplication thereof.

Restrictions on expenditure.

7. Notice in writing shall be given by the Commissioners to the mortgagees' committee hereinafter constituted of any proposed expenditure on works within the Tipton district of moneys borrowed under this Act and if the committee within one month from the receipt of that notice object in writing to the proposed expenditure or any part thereof the expenditure objected to shall not be made unless and until the objection is withdrawn or such expenditure is authorised by the decision of the referee hereinafter mentioned.

If at any time the receiver hereinafter appointed shall be of opinion that any current or proposed expenditure of revenue within the Tipton district by the Commissioners is unnecessary or injudicious he may notify his opinion to them accordingly and thereupon the Commissioners shall not continue or commence (as the case may be) the expenditure so objected to by the receiver.

In case any dispute shall arise between the mortgagees' committee or the receiver on the one hand and the Commissioners on the other hand touching any matter in question under this present section such dispute shall on the application of either party be referred to some one person appointed by the Board of Trade and the decision of the referee shall be binding on all parties and the costs of the reference and award shall be in the discretion of the referee.

Commissioners not to further

8. So long as any mortgage of the B Class or any deferred interest certificate issued as hereinafter provided shall remain

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borrow or re-borrow without consent.

undischarged the Commissioners shall not be entitled to borrow or re-borrow any moneys on the security of the Tipton revenue and property save only the moneys by this Act authorised to be borrowed but they shall be at liberty with the consent of the mortgagees' committee (but not otherwise) to re-borrow any portion of the moneys by this Act authorised to be borrowed which may from time to time be paid off otherwise than by means of a sinking fund.

EXISTING MORTGAGE DEBT.

Consolidation of existing mortgage debt.

9.—(1) As soon as practicable after the passing of this Act all the existing mortgages of the Tipton rate (except as provided in the next sub-section) shall be called in by the Commissioners and shall be exchanged for mortgages of the B Class issued subject to the provisions of this Act.

(2) In consideration of the surrender and lease set out in the Third and Fourth Schedules to this Act the existing mortgage granted to the Tipton Moat Colliery Company Limited numbered 1123 on the register of the Commissioners' mortgages which mortgage is dated the first day of July one thousand eight hundred and eighty-seven and is expressed to secure repayment of nine thousand eight hundred and eighteen pounds (of which part has been repaid) is hereby cancelled and the arrears of interest due on that mortgage are hereby extinguished.

(3) In order to effect such exchange all holders of existing mortgages of the Tipton rate shall on receiving notice from the Commissioners calling in such mortgages deliver up the same with all outstanding coupons in respect thereof to be so exchanged and all rights and remedies of the holders of existing mortgages and coupons other than such right of exchange as aforesaid shall from and after the passing of this Act absolutely cease and determine.

(4) Every such mortgage of the B class shall be for the sum of one hundred pounds and shall be secured upon the Tipton revenue and (subject to the provision hereinafter contained) upon the Tipton property subject to the mortgages of the A class and shall be in the form B in the Second Schedule to this Act or to the like effect Provided that any holder of an existing mortgage for a sum which is or which includes a fraction of one hundred pounds shall be entitled to receive a separate mortgage for a sum equal to that fraction.

(5) All such mortgages shall as from the first day of July one thousand eight hundred and ninety-one bear interest at the uniform rate of three pounds per centum per annum and shall both

as regards principal and interest rank pari passu among themselves but after all mortgages of the A class.

(6) When all principal moneys secured by mortgages of the A class with all interest and premiums (if any) payable in respect thereof and all principal moneys secured by mortgages of the B class with all interest thereon (including all existing arrears of interest) shall have been repaid then and in that case an additional deferred interest at the rate of one pound per centum per annum computed from the said first day of July one thousand eight hundred and ninety-one shall be paid in respect of all moneys owing on the security of mortgages of the B class so as to make the interest thereon up to four pounds per centum per annum computed from the said first day of July one thousand eight hundred and ninety-one up to the actual date of repayment of such principal moneys.

(7) A certificate or certificates for such deferred interest shall be issued to every holder of a mortgage or mortgages of the B class at the time of the repayment of such mortgage or mortgages and shall be transferable by delivery and shall be in the form D in the Second Schedule to this Act or to the like effect and the Commissioners shall keep a register of such certificates.

(8) No such mortgage shall entitle any mortgagee to take possession of or interfere with any such property required or which may be required for the carrying on of the undertaking works or operations of the Commissioners.

Arrears of interest certificates.

10. In addition to the mortgage or mortgages of the B class to be issued under this Act to every holder of an existing mortgage or mortgages there shall be issued a certificate or certificates for the arrears of interest due to such holder on the thirtieth day of June one thousand eight hundred and ninety-one after deducting the amount of any moneys received by such holder in respect of such arrears under the subsequent provisions of this Act.

Every such certificate shall be for an amount not exceeding twenty pounds and shall be transferable by delivery and shall be in the Form C in the Second Schedule to this Act or to the like effect and the Commissioners shall keep a register of such certificates.

RECEIVER.

Appointment and reappointment of receiver.

11. The said Edmund Howl shall be and he is hereby appointed receiver of the Tipton rate revenue and property as from the first day of July one thousand eight hundred and ninety-one In the event of the said Emund Howl or any future receiver dying or remaining out of the United Kingdom for more than two months or desiring to be discharged from the receivership or becoming unfit

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to act as such receiver or in the event of the mortgagees' committee hereinafter constituted desiring to discharge such receiver then and in any and every such case the mortgagees' committee may appoint another person in the place of such receiver as aforesaid Every such receiver shall give security to the satisfaction of the mortgagees' committee and the amount of his remuneration shall be such as shall be approved by the said committee Every such receiver shall at all times have full and free access to all works books accounts plans and other documents of the Commissioners relating to the Tipton district.

Application of moneys received by receiver.

12. Every such receiver shall apply all moneys which may be received by him in manner and in the order of priority following:—

(1) In payment of all working expenses chargeable to the Tipton rate and of the remuneration of the receiver and of all proper and necessary contributions (properly chargeable to the said rate) towards general expenses incurred by the Commissioners from time to time for the due carrying out by the Commissioners of the duties imposed on them by the Acts of 1873 to 1882 or by this Act and for the purposes of this sub-section the working expenses chargeable to the Tipton rate shall include a sum of four hundred and twenty-five pounds per annum payable by the Commissioners to the Tipton Moat Colliery Company Limited by way of rent under the indenture of lease dated the third day of June one thousand eight hundred and ninety-one set out in the Fourth Schedule to this Act and also as from the first day of July one thousand eight hundred and ninety-four a sum of five hundred pounds per annum towards payment of the respective debts of three thousand five hundred and fourteen pounds and eight pence sixty-seven pounds two shillings and four pence and one hundred and eighty-three pounds twelve shillings and six pence now due from the Tipton district to the general drainage district the Old Hill district and the Kingswinford district respectively until the same debts respectively shall have been paid off;

(2) In payment of interest payable in respect of the mortgages of the A class;

(3) In setting aside annually a sum equal to one-twentieth of the principal moneys borrowed by the Commissioners under the powers of this Act or such greater annual sum as may be agreed on with the lenders as a sinking fund under the eighty-fourth section of the Commissioners Clauses Act 1847 to be applied in paying off the principal moneys secured by mortgages of the A class together with any premium thereon and such sinking

fund shall commence on the first day of July one thousand eight hundred and ninety-four and may be invested in any securities in which trustees are for the time being empowered by law to invest trust moneys;

(4) In payment of interest after the rate of three pounds per centum per annum on all principal moneys which may be owing on mortgages of the B class;

(5) In payment of the arrears of interest certificates issued and drawn for payment in pursuance of this Act;

(6) In setting aside annually a sum equal to one-thirtieth of the principal moneys for which mortgages of the B class shall be issued as a sinking fund (in lieu of the sinking funds prescribed by the Acts of 1873 to 1882) to be applied in paying off the principal moneys for the time being owing on the security of mortgages of the B class;

(7) In augmenting the sinking fund applicable to mortgages of the A class until the whole of the moneys borrowed under this Act on the security of such mortgages together with any premiums payable in respect thereof have been paid off;

(8) In augmenting the sinking fund applicable to mortgages of the B class;

(9) After repayment and discharge of all principal moneys premiums and interest secured by mortgages of the A class and by mortgages of the B class and of arrears of interest certificates and not before the receiver shall apply the said moneys to be received by him (subject to the provisions of paragraph (1)) in setting aside a sinking fund to be applied in payment of the deferred interest certificates issued in pursuance of this Act:

Provided that the several preferential rights conferred by this section shall operate cumulatively so that the deficiency of any year or years shall be made good in any subsequent year or years before any payments shall be made to the class next in order of priority:

Provided further that in the event of any of the moneys borrowed under the powers of this Act being secured on the terms that the mortgagees shall receive a proportion of the moneys raised by the Tipton rate or raised by so much of the Tipton rate as may be levied in any particular locality or in respect of any particular mine or mines the provisions of this section respecting mortgages of the A class shall be modified so far as may be necessary to give effect to the terms agreed with such mortgagees.

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Drawings for payment out of sinking fund.

13. The Commissioners shall from time to time on the first day of January and the first day of July in every year (subject to the proviso hereinafter contained) cause to be drawn for repayment or for payment (as the case may be) mortgages of the A class and of the B class and arrears of interest certificates and deferred interest certificates respectively Provided that no drawing of mortgages of the A class or of the B class or of arrears of interest certificates or of deferred interest certificates respectively shall take place on any such half-yearly day as aforesaid unless at the time of the drawing a sum of not less than one thousand pounds is standing to the credit of the appropriate sinking fund Notice shall be given to every mortgagee at his registered address of his mortgage having been drawn for payment and notice shall be given by advertisement in one London daily newspaper and in two local newspapers of any arrears of interest certificates or of any deferred interest certificates having been drawn for payment.

MORTGAGEES' COMMITTEE.

Constitution and first members of mortgagees' committee.

14. There shall be a committee to represent the several persons who for the time being are holders of mortgages of the B class in this Act referred to as "the mortgagees' committee" and the persons whose names are mentioned in the First Schedule to this Act shall be the first members of such committee.

Meetings of mortgagees of B class.

15. In the month of October one thousand eight hundred and ninety-two and in every subsequent month of October a general meeting of the holders for the time being of mortgages of the B class shall be held at such time and place as the mortgagees' committee shall determine and of which the mortgagees' committee shall cause fourteen days' notice to be sent to every holder for the time being of a mortgage of the B class at his registered address A special meeting of the holders of mortgages of the B class shall be summoned by the receiver acting as secretary to the mortgagees' committee at such time and place as he may fix on the written requisition of any three holders of such mortgages of which meeting a similar notice shall be given.

Voting at meeting of mortgagees.

16. Every person who at the date of any such annual or special meeting is the holder of a mortgage of the B class shall be entitled to appear thereat either personally or by proxy and shall be entitled to one vote for every complete one hundred pounds of principal money owing to him in respect of his mortgage or mortgages Where two or more persons are joint mortgagees the one whose name first appears in the mortgage shall alone have

the right to attend and vote unless all the joint mortgagees by writing under their hands appoint another of their number to attend and vote The instrument appointing a proxy shall be signed by the party appointing such proxy or if the appointor be a corporation shall be sealed with its common seal Every such instrument shall be deposited with the secretary of the mortgagees' committee forty-eight hours at least before the date of the meeting otherwise such proxy shall not be allowed to attend and vote.

Retirement of committee men.

17. At the annual meeting of the holders for the time being of mortgages of the B class to be held in the month of October one thousand eight hundred and ninety-two and in every subsequent year one-third or the number nearest one-third of the members of the mortgagees' committee shall retire but shall be eligible for re-election In default of agreement between themselves the members to retire shall be those who have been longest in office but as between those who have been in office an equal length of time the members to retire shall be determined by lot and the places of the retiring members shall be filled up by the mortgagees present in person or by proxy and voting at such meeting electing a like number of persons to serve on the said committee Any person whether a mortgagee or not may be so elected Provided that the mortgagees present and voting at any such meeting may after notice given with the notice of meeting increase or reduce the number of committee men.

Meetings of committee.

18. The mortgagees' committee may appoint a chairman and may meet together for the despatch of business adjourn or otherwise regulate their meetings as they think fit and three members shall constitute a quorum All questions shall be decided by a majority of votes and in case of an equality of votes the question shall be decided in the negative.

Minutes of proceedings of committee.

19. The receiver shall act as secretary to the mortgagees' committee and shall keep minutes of their proceedings in a minute book and such minutes signed by the receiver and two of the committee men present at the meeting referred to in such minutes shall be primâ facie evidence in every court and upon every proceeding of what occurred at such meeting.

Reports of committee.

20. At the annual meeting of the holders of mortgages of the B class the mortgagees' committee shall make and cause to be read a report of their transactions during the past year and the mortgagees' committee shall immediately after every such annual meeting forward to the Commissioners a copy of the said report.

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Powers and authorities of committee.

21. The mortgagees' committee shall in addition to the other powers and authorities conferred on them by this Act have and exercise the following powers and authorities:—

(A) They may appear and be heard by counsel solicitor or agent at every public meeting held by the arbitrators under the fifteenth section of the Act of 1878 or under this Act in relation to the Tipton district and at every joint sitting of the arbitrators and Commissioners held under the sixteenth section of the Act of 1878 relating to the Tipton district and at every sitting of the assessment committee of the Commissioners for such district and at every arbitration under the forty-fourth section of the Act of 1873 or under this Act for such district and every arbitrator and Commissioner shall give due weight to any suggestions or objections which may be made by such counsel solicitor or agent on behalf of the mortgagees' committee and for the purposes of this section the mortgagees' committee shall be deemed to be a person affected within the meaning of the third sub-section of the sixteenth section of the Act of 1878;

(B) They may from time to time require from the Commissioners full inspection of the returns of minerals made to the Commissioners under the seventeenth section of the Act of 1873 and the eleventh section of the Act of 1878 and may require the Commissioners to exercise their full powers for testing the accuracy of any such returns;

(C) They may from time to time appoint and from time to time remove an auditor or auditors who shall audit the accounts of the receiver for the time being appointed under the provisions of this Act and report the result to the mortgagees' committee;

(D) They may require from the Commissioners full information from time to time in relation to the Tipton district and the Commissioners' operations therein;

(E) They may sue or be sued or make any application to any court in the name of their chairman or secretary;

(F) They may fill up vacancies in the committee occurring between the annual meetings;

(G) Generally they may assent to any act deed matter or thing which may be done executed or suffered by the Commissioners and which might otherwise be deemed to be in derogation of or to endanger or depreciate the mortgagees' securities and such assent shall operate as fully and effectually in all respects as if the same had been given by each and every individual mortgagee of the B class.

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22. All the reasonable expenses of and incident to the mortgagees' committee and the meetings thereof and of and to the annual and special meetings of the mortgagees shall be included in the working expenses of the Tipton district.

Expenses of committee.

Appointment of Arbitrators.

23. So long as any mortgage of the B class or any deferred interest certificate shall remain undischarged and no longer the provisions of sections eighteen nineteen and twenty of the Act of 1873 shall be suspended and in lieu thereof the following provisions shall take effect (that is to say):—

Appointment of arbitrators.

The present arbitrators shall cease to hold office on the first day of October one thousand eight hundred and ninety-one but shall be eligible for appointment under this Act;

On that day or within one month thereafter the commissioners shall appoint two arbitrators one of whom shall be a barrister of not less than seven years' standing and the other of whom shall be a surveyor acquainted with mining operations but having no interest in or employment with relation to any mine in the drainage area On the same day or within one month thereafter the mortgagees' committee shall appoint a third arbitrator who shall also be a surveyor acquainted with mining operations but having no interest in or employment with relation to any mine in the drainage area;

The said arbitrators may be appointed for a term certain or indefinitely and the Commissioners may from time to time reappoint the two arbitrators appointed by them or appoint other arbitrators in their stead and the mortgagees' committee may from time to time reappoint the arbitrator appointed by them or appoint another arbitrator in his stead Provided that in every case the arbitrators so appointed or reappointed shall be under the same restrictions and have the same qualifications and powers as the arbitrators originally appointed under this Act;

The arbitrators appointed under the provisions of this Act shall have all the powers and perform all the duties conferred or imposed upon the arbitrators by the Acts of 1873 to 1882 except as varied by this Act;

It shall be lawful for the Lord Chancellor if he think fit to remove for inability or misbehaviour any arbitrator appointed in pursuance of this Act.

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Procedure of arbitrators.

24. In case no notice of objection to a draft award shall have been delivered at the office of the Commissioners in accordance with the third sub-section of the sixteenth section of the Act of 1878 a joint sitting of the arbitrators and Commissioners shall not be held pursuant to the fourth sub-section of the said sixteenth section but the arbitrators upon the receipt by them of a certificate under the hand of the secretary of the Commissioners that no such notice has been delivered of which fact such certificate shall be evidence shall proceed to make their award as provided by or pursuant to the thirty-fifth section of the Act of 1873.

Stay of Legal Proceedings.

Stay of proceedings in action of Mitchell *v.* South Staffordshire Mines Drainage Commissioners.

25. The costs of all parties to or properly attending the proceedings in the said action commenced by the said Francis William Victor Mitchell and John Biddle Manly against the Commissioners including the costs of the receiver appointed therein shall be taxed as between solicitor and client and paid primarily out of the funds in court or to be paid into court by the receiver in the said action on passing his accounts as such receiver to the credit of that action on whatever account the same may be standing or paid and in the event of such funds proving insufficient then by the receiver as part of the working expenses of the Tipton district In the event of the funds standing in or being paid into court as aforesaid proving more than sufficient to pay such costs the balance shall be paid out of court to the receiver appointed under this Act and shall be applied by him after paying all expenses chargeable to the Tipton rate up to the thirtieth day of June one thousand eight hundred and ninety-one in payment to the holders of existing mortgages of the Tipton rate (other than the said mortgage numbered 1123 cancelled as hereinbefore provided) of an equal proportion of the existing arrears of interest due upon such mortgages Save so far as may be necessary for carrying out the provisions of this section the said action shall be stayed as from the thirtieth day of June one thousand eight hundred and ninety-one and the security given by the said Edmund Howl on his appointment as receiver in the said action vacated on his passing his accounts as such receiver down to the said thirtieth day of June one thousand eight hundred and ninety-one.

Arrears of Tipton rate unpaid portions of Tipton revenue and

26. With all convenient speed after the passing of this Act the receiver appointed by this Act shall collect and receive all arrears (if any) of the Tipton rate and all other portions of the Tipton revenue (if any) unpaid which shall be due on the said

thirtieth day of June one thousand eight hundred and ninety-one including the balance (if any) which shall become due in respect of the amendment of the said rate up to that date The Commissioners shall also pay to the said receiver all moneys in their hands on the said thirtieth day of June one thousand eight hundred and ninety-one.

funds in hands of Commissioners.

The receiver appointed under this Act shall apply in the same manner as in the last preceding section mentioned all moneys paid to him under this present section on or before the thirty-first day of December one thousand eight hundred and ninety-one or the date on which the receiver appointed in the said action shall pass his accounts under the preceding section whichever shall last happen and shall apply all further moneys paid to him under this present section in manner and in the order of priority prescribed by this Act.

Final Discharge of Receiver and Dissolution of Committee.

Committee to cease to exist and receiver to be discharged when all debts on Tipton rate are paid off.

27. When all moneys secured by the mortgages of the A class and of the B class and all premiums arrears of interest certificates and deferred interest certificates and other incumbrances (if any) charged on the Tipton revenue and property shall have been discharged by the receiver under the provisions of this Act relating thereto the mortgagees' committee shall ipso facto cease to exist and the receiver of the Tipton revenue and property shall vacate his office and the Tipton rate and revenue shall thenceforth be received by the Commissioners under the provisions of the Acts of 1873 to 1882 and all powers and interests of the receiver over or in any property comprised in the said mortgages shall cease.

Assessing and Levying Rates.

Assessing and levying rates for Tipton district.

28.—(1) So long as any mortgage of the B class or any deferred interest certificate shall remain undischarged the arbitrators shall award and order the Tipton rate to be assessed and levied at the full maximum amount authorised by the Act of 1882 and the Commissioners shall assess and levy the same accordingly subject nevertheless to the provision in section eight of that Act for the protection of the Claycroft Colliery and subject also to the provisions with regard to graduation and exemption and to the amendment of assessments and repayment of overpaid rate contained in the Acts of 1873 and 1878 respectively.

(2) The award fixing the amount of the Tipton rate for any year may be made either in the month of June or in the month of July

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but in either case the Tipton rate shall commence and take effect from the first day of July of the year in which it is made until the succeeding first day of July.

Assessment of Old Hill rate.

29. The award fixing the amount of the mines drainage rate to be levied in the Old Hill district for any year may be made either in the month of December or in the month of January but in either case the mines drainage rate for the Old Hill district shall commence and take effect from the first day of January in the year in which it is made if made in January or if made in December then from the first day of January following and in either case until the succeeding first day of January.

New occupiers to be assessed from time to time.

30. The Commissioners shall assess and levy the mines drainage rate in each drainage district of the drainage area on every occupier who may commence his occupation after the general yearly assessment shall have been from time to time made or on any occupier who may have been omitted from such assessment by error Every such assessment shall in all respects take effect as if made at the time when the general assessment was made.

Appeal by mortgagees' committee.

31.—(1) It shall be lawful for the mortgagees' committee to object before the Commissioners to the assessment of any person liable to the payment of any rate within the Tipton district as being an insufficient assessment It shall be the duty of the Commissioners to hear any objection so made and if after the hearing they abide by their original assessment the matter shall on the application of the mortgagees' committee be referred to some one person appointed by the Board of Trade and the decision of the referee shall be binding on all parties and the costs of the reference and the award shall be in the discretion of the referee.

(2) Notwithstanding anything contained in section 16 of the Act of 1878 it shall be lawful for the mortgagees' committee if dissatisfied with the decision of the arbitrators and Commissioners at a joint sitting under that section with respect to either—

(A) The amount of the reduction per ton to be made in the mines drainage rate in favour of any particular mine or mines in the Tipton district; or

(B) The total exemption of any particular mine or mines in the Tipton district—

to appeal to the Board of Trade against such decision and the decision of the Board of Trade or of any referee appointed by the Board of Trade to decide the question shall be final and the costs of the reference and the award shall be in the discretion of the Board of Trade or the referee as the case may be.

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Appeal not to postpone payment of rate.

32. No appeal from the assessment of the Commissioners under section 44 of the Act of 1873 or under the last preceding section of this Act shall exempt the appellant from immediate liability to pay the rate assessed upon him by the Commissioners and such rate may be forthwith recovered by the Commissioners subject to the liability to recoup any excess which may appear to have been paid when the Board of Trade or the referee appointed by the Board of Trade shall have decided the appeal.

Power to Commissioners to appoint inspectors of output and to post them on the surface of any colliery.

33. The Commissioners shall have power to place any person or persons either permanently or from time to time at any part of the surface of any colliery within the drainage area for the purpose of taking an account of all minerals and water raised from any mine within the drainage area and to require the occupier of such mine and all persons in his employ to give all reasonable assistance to such person or persons in taking such account Provided that nothing in this section contained shall be deemed to authorise or empower any person or persons placed by the Commissioners at any colliery to have access to the offices or books of the occupier of such colliery or to interfere in any way with the operations of such occupier or his servants or workmen:

Any occupier of any mine within the drainage area who shall obstruct any such person or persons in taking any such account or who or whose employées shall fail to give to such person or persons every assistance in his or their power shall be liable to a penalty of not less than ten pounds or more than twenty-five pounds for every occasion upon which such obstruction shall have been caused or such assistance withheld and every such penalty shall be payable to the Commissioners.

Miscellaneous.

Acid or liquid &c. not to be thrown into any water-course &c.

34. No person shall place turn or throw into or permit to be placed turned or thrown into any watercourse drain or pit or deposit or permit to be deposited upon the surface of any land any acid or liquid or solid matter of a noxious or deleterious kind which might have the effect of injuring any of the machinery or works of the Commissioners or of polluting any water pumped or to be pumped by them Every person who shall commit or suffer to be committed any act prohibited by this present section shall be liable to a penalty of not less than five pounds or more than twenty pounds for every occasion on which such act shall be committed and every such penalty shall be payable to the Commissioners Provided that the word "person" in this present section shall not include or have reference to a sanitary authority.

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Repeal and re-enactment of sections 31 & 32 of Act of 1878.

35. Sections thirty-one and thirty-two of the Act of 1878 are hereby repealed and in lieu thereof it is enacted that if any person in any way—

(i.) Interferes with any pit culvert drain sewer outfall or public watercourse whether natural or artificial within the drainage area which has been constructed or repaired by the Commissioners so as to damage any work done or addition made by the Commissioners in respect thereof; or

(ii.) Damages or injuriously interferes with any reservoir pond tank floodgate weir bridge tunnel pumping plant or any other engineering work or thing of the Commissioners or any level driven or constructed by the Commissioners within the Tipton district either before or after the passing of this Act; or

(iii.) Pierces injures weakens or in any way injuriously interferes with any underground barrier of or belonging to the Commissioners; or

(iv.) Does or omits to do any act or make any works the probable consequence of the doing or omission to do or make which would be to damage the works of the Commissioners—

the Commissioners may (whether they have or have not given notice of their intention) do any repairs or any act or make any works which in their judgment are requisite for repairing any damage occasioned by any act or omission of such person or for preventing any damage apprehended as a probable consequence of any such act or omission as aforesaid.

Penalty in certain cases.

36. If any person causes storm-water or water used for any manufacturing purpose to fall or flow down any pit shaft in the drainage area he shall be liable to a penalty not exceeding fifty pounds and every such penalty shall be payable to the Commissioners.

Power of inspection in certain cases.

37. For the purposes of this part of this Act and also for the purpose of ascertaining whether any damage is being done or is likely to be done to any work or plant or property of the Commissioners above or under ground the Commissioners may by themselves their engineers and workmen enter into and upon any of the lands or mines of any person with or without engines carts horses and all other necessary aids and may take any measurements and do any other necessary acts and the Commissioners may recover in a summary manner from such person the expenses incurred by them in doing such repairs or acts or making such works Any person resisting or impeding the Commissioners or their engineers or workmen in doing any such act

or making any such work or examination as aforesaid shall be liable to a penalty not exceeding ten pounds for every occasion upon which such resistance or impediment shall have been caused and every such penalty shall be payable to the Commissioners.

For protection of Birmingham Canal Company.

38. The enactments contained in the sections of this Act of which the marginal notes are as follows "Acid or liquid &c. not to be thrown into any watercourse &c." "Repeal and re-enactment of sections 31 and 32 of Act of 1878" "Penalty in certain cases" "Power of inspection in certain cases" shall not nor shall any of them apply to any act done by or on behalf of the Company of Proprietors of the Birmingham Canal Navigations (hereinafter called "the Canal Company") in exercise of any powers conferred upon them or to any omission on the part of the Canal Company or any person acting on their behalf:

And the provisions in the Acts of 1873 to 1882 for the protection of the Canal Company and their property and works shall extend and apply to all acts and proceedings under this Act in the same manner as if such provisions so far as they are applicable were re-enacted in this Act in reference to such respective acts and proceedings.

Power to sell pumping plant to the Birmingham Canal Company.

39. It shall be lawful for the Commissioners at any time hereafter (but with the consent of the mortgagees' committee so long as it remains in being) to sell to the Canal Company and for the Canal Company to purchase from the Commissioners all or any of the pumping plant and engines of the Commissioners not for the time being required by them except any engines pumps plant or machinery which under the indenture of lease of the third day of June one thousand eight hundred and ninety-one hereinafter mentioned are not to be removed without the license in writing of the Tipton Moat Colliery Company Limited It shall also be lawful for the Commissioners to make and enter into such contracts and engagements with the Canal Company at any time previous to such sale (but with such consent as aforesaid) for the working of all or any of the said plant or engines not for the time being required by the Commissioners as they and the Canal Company shall deem proper.

Indenture in Third Schedule confirmed.

40. The indenture dated the third day of June one thousand eight hundred and ninety-one of which a copy is set out in the Third Schedule to this Act and made between the Commissioners of the one part and the Tipton Moat Colliery Company Limited of the other part is hereby confirmed.

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Indenture in Fourth Schedule confirmed.

41. The indenture of lease dated the third day of June one thousand eight hundred and ninety-one of which a copy is set out in the Fourth Schedule to this Act and made between the Tipton Moat Colliery Company Limited of the one part and the Commissioners of the other part is hereby confirmed:

And in the event of the said Company at any time during the said term lawfully re-entering on the premises demised by the said lease or any part thereof with a view to determine the same as is in the said lease provided then and in any such event all such engines pumps plant and machinery as shall be in upon or about the said demised premises shall forthwith become the absolute property of the said Company and may be dealt with by the said Company accordingly.

Saving in favour of municipal corporations.

42. Nothing in the sections of this Act hereinafter in this section referred to shall extend or apply to any act or default or to any works or property of the mayor aldermen and burgesses of the respective boroughs of Wolverhampton Walsall Dudley West Bromwich and Wednesbury in their several capacities as municipal or sanitary authorities The marginal notes of the sections herein-before referred to are as follows:—

Repeal and re-enactment of sections 31 and 32 of Act of 1878.

Penalty in certain cases.

Power of inspection in certain cases.

Disqualification for office of Commissioner.

43. A person convicted after the passing of this Act of wilfully mis-stating any of the particulars in any return made by him to the Commissioners under the provisions of the seventeenth section of the Act of 1873 and the eleventh section of the Act of 1878 shall not be capable of being elected or sitting as a Commissioner.

Expenses of Act.

44. The costs charges and expenses (including those of the mortgagees' committee) preliminary to and of and incidental to the preparing applying for obtaining and passing this Act as taxed by the taxing officer of the House of Lords or the House of Commons shall be paid by the Commissioners in the first instance either out of moneys borrowed by them under this Act or out of moneys received or to be received by them in respect of the general drainage rate or out of both such sources Provided nevertheless that all such costs paid out of money received or to be received in respect of the general drainage rate shall be recouped to that rate by money borrowed under this Act and if such money prove insufficient then the same shall be recouped to the general drainage rate out of money to be received from the Tipton rate by four equal annual instalments and as part of the working expenses chargeable to the Tipton rate.

SCHEDULES.

THE FIRST SCHEDULE.

Names of first members of Mortgagees' Committee :—
Thomas Henry Goodwin Newton, Barrells Park Henley-in-Arden.
Francis William Victor Mitchell, Cumberland Street Birmingham.
Walter Bassano, Haden Cross Old Hill.
Edward F. Coates, Gresham Street London.
James Richardson Holliday, Bennett's Hill Birmingham.
John Biddle Manly, Oaklands Harborne.
John Walford Lea, Bennett's Hill Birmingham.
Charles A. Hanson, 99 Gresham Street London.
David Evans, 1 Wood Street London.

THE SECOND SCHEDULE.

FORM A.

No. Class A.

THE SOUTH STAFFORDSHIRE MINES DRAINAGE ACTS 1873 TO 1891.

TIPTON DISTRICT.

BY VIRTUE of the provisions in this behalf contained in the South Staffordshire Mines Drainage Acts 1873 to 1891 we the South Staffordshire Mines Drainage Commissioners incorporated by and acting in pursuance of the said Acts in consideration of the sum of
pounds paid to the joint account of the chairman of the Commissioners and the receiver at the bank by of in the county of do grant and assign to the said executors administrators and assigns such proportion of the whole of the mines drainage rates for that division of the drainage area known by the name of the Tipton district now made or hereafter to be made by us or our successors under the provisions of the same Acts and also such proportion of all other moneys in the nature of income for the time being receivable by us from any other source in respect of the drainage of mines in the Tipton district and all our property for the time being situate in the Tipton district and acquired by us for the purpose of the drainage of mines in that

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district (but not including the general drainage rate or any property acquired by us for the purpose of general drainage) as the said sum of pounds doth or shall bear to the whole sum which is or shall be borrowed under the South Staffordshire Mines Drainage Act 1891 authorising the raising of a loan of one hundred thousand pounds upon the credit of the same rates income and property To hold to the said executors administrators and assigns from this day until the said sum of pounds with interest at pounds per centum per annum for the same shall be fully paid and satisfied:

Provided that this mortgage shall not entitle the mortgagee to take possession of or interfere with any such property required or which may be required for the carrying on of the undertaking works or operations of the Commissioners.

Given under our corporate seal this day of one thousand eight hundred and

The seal of the South Staffordshire Mines Drainage Commissioners was affixed hereto in the presence of

L.S.

Chairman.

Law Clerk.

Entered

Secretary.

Issued with the consent of the mortgagees' committee.

Chairman.

FORM B.

No. Class B.

THE SOUTH STAFFORDSHIRE MINES DRAINAGE ACTS 1873 to 1891.

TIPTON DISTRICT.

BY VIRTUE of the provisions in this behalf contained in the South Staffordshire Mines Drainage Acts 1873 to 1891 we the South Staffordshire Mines Drainage Commissioners incorporated by and acting in pursuance of the said Acts in consideration of

of in the county of

having concurrently with the sealing of these presents in pursuance of the South Staffordshire Mines Drainage Act 1891 surrendered and delivered up to us a mortgage for
(on which the proper ad valorem duty has been paid) in order to receive in exchange this and other mortgages of equal amount with the said original mortgage do (subject to the mortgages of the A class created by the said Act) grant and assign to the said executors administrators and assigns such proportion of the whole of the mines drainage rates for that division of the drainage area known by the name of the Tipton district now made or hereafter to be made by us or our successors under the provisions of the same Acts and also such proportion of all other moneys in the nature of income for the time being receivable by us from any other source in respect of the drainage of mines in the Tipton district and all our property for the time being situate in the Tipton district and acquired by us for the purpose of the drainage of mines in that district (but not including the general drainage rate or any property acquired by us for the purpose of general drainage) as the sum of one hundred pounds doth or shall bear to the whole sum for the sum being due in respect of the principal sum of two hundred and seventy-one thousand seven hundred and twenty-eight pounds ten shillings and three pence borrowed as is mentioned in the said Act of 1891 To hold to the said executors administrators and assigns from this day until the said sum of one hundred pounds with interest at three pounds per centum per annum shall be fully paid and satisfied :

Provided that this mortgage shall not entitle the mortgagee to take possession of or interfere with any such property required or which may be required for the carrying on of the undertaking works or operations of the Commissioners.

Given under our corporate seal this day of one thousand eight hundred and

The seal of the South Staffordshire Mines Drainage Commissioners was affixed hereto in the presence of

L.S.

Chairman.

Law Clerk.

Entered

Secretary.

A.D. 1891.

FORM C.

Form of Arrears of Interest Certificate.

SOUTH STAFFORDSHIRE MINES DRAINAGE.

Tipton District.

No.

This is to certify that the bearer of this certificate is entitled to payable by the South Staffordshire Mines Drainage Commissioners in respect of arrears of interest under and subject to the provisions of the South Staffordshire Mines Drainage Act 1891.

Given under our corporate seal this day of one thousand eight hundred and

The seal of the South Staffordshire Mines Drainage Commissioners was affixed hereto in the presence of

L.S.

Chairman.

Law clerk.

Entered

Secretary.

FORM D.

Form of Deferred Interest Certificate.

SOUTH STAFFORDSHIRE MINES DRAINAGE.

Tipton District.

No.

This is to certify that the bearer of this certificate is entitled to payable by the South Staffordshire Mines Drainage Commissioners in respect of deferred interest under and subject to the provisions of the South Staffordshire Mines Drainage Act 1891.

Given under our corporate seal this day of one thousand eight hundred and

The seal of the South Staffordshire Mines Drainage Commissioners was affixed hereto in the presence of

L.S.

Chairman.

Law Clerk.

Entered

Secretary.

THE THIRD SCHEDULE.

THIS INDENTURE made the 3rd day of June 1891 between the South Staffordshire Mines Drainage Commissioners (hereinafter called "the Commissioners") of the one part and the Tipton Moat Colliery Company Limited (hereinafter called "the Company") of the other part.

WHEREAS these presents are supplemental to a certain indenture (hereinafter called "the principal indenture") dated the 10th day of September 1883 and made between the Company of the one part and the Commissioners of the other part whereby certain land and certain rights powers privileges and premises situate and exercisable at Tipton in the county of Stafford but with certain exceptions and reservations therein expressed were demised by the Company to the Commissioners for the term of twenty-one years from the 9th day of September 1879 at the rents reserved by and under and subject to the covenants and conditions contained in the said indenture and on the part of the Commissioners to be performed and observed And whereas the Commissioners are at present applying for an Act of Parliament intended to be called the South Staffordshire Mines Drainage Act 1891 and in connection therewith it has been agreed between the Commissioners and the Company that the Commissioners shall make and the Company shall accept such surrender of the premises demised by the principal indenture as is hereinafter contained Now this indenture witnesseth that in pursuance of the said agreement and in consideration of the premises the Commissioners do hereby surrender to the Company all and singular the land rights powers privileges and premises so as aforesaid demised by the principal indenture To the intent that the residue now to come of the said term of twenty-one years expressed to be granted by the principal indenture may be merged and absolutely extinguished in the reversion expectant thereon Provided always and it is hereby declared that these presents are intended to take effect only in the event of the said Act being passed during the present session of Parliament and these presents being thereby confirmed otherwise these presents shall be void In witness whereof the Commissioners have hereunto caused their common seal to be affixed the day and year first before written.

WILSON LLOYD
Chairman.

J. E. UNDERHILL
Law Clerk.

Common Seal of the South Staffordshire Mines Drainage Commissioners.

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THE FOURTH SCHEDULE.

THIS INDENTURE made the 3rd day of June 1891 between the Tipton Moat Colliery Company Limited (hereinafter called "the lessors") of the one part and the South Staffordshire Mines Drainage Commissioners (hereinafter called "the lessees") of the other part.

WHEREAS the lessees are at present applying for an Act of Parliament intended to be called the South Staffordshire Mines Drainage Act 1891 and in connection therewith the lessors have agreed to grant to the lessees who have agreed to accept a lease of the land and premises hereinafter described upon the terms herein appearing Now this Indenture witnesseth that for effectuating the said Agreement and in consideration of the rent hereby reserved and the covenants by the lessees herein contained The lessors do hereby demise unto the lessees all that piece of land situate at Tipton in the county of Stafford containing an area of one acre and fifteen perches or thereabouts and delineated on the plan annexed to these presents and marked "A" and thereon coloured pink a part whereof adjoining the canal of the company of proprietors of the Birmingham Canal Navigations is used as a wharf together with a right to maintain and use thereon the pumping and capstan engines and the boilers and other erections now being thereon and to place thereon other engines boilers and erections And also a right to use all the underground levels now driven under any of the land of the lessors called the Tipton Moat Colliery And also a right so far as the lessors have power to grant the same to deposit the ashes and refuse arising from or produced by or in connection with the said engines and other spoil on all that other piece of land also situate at Tipton aforesaid containing an area of three acres or thereabouts and delineated on the said plan marked "A" and thereon coloured green and so that in the exercise of such right the lessees shall deposit the said ashes refuse and spoil in such positions and in such manner as the lessors shall from time to time direct but so that the lessees shall not be put to unnecessary expense by reason of such direction And together also with a right of way for the last mentioned purpose at all times to and from the piece of land lastly hereinbefore described over the canal bridge and along the strip of land extending from the point "A" to the point "B" on the said plan and thereon coloured brown from and to the piece of land first hereinbefore described and intended to be hereby demised And together also with rights of way in common with the lessors and all other persons over and along all roads on the estate of the lessors at Tipton aforesaid to and from the said demised premises And together with the right to pierce any underground barrier belonging to the lessors their successors or assigns and for that purpose and also for the purpose of driving any underground levels and repairing cleansing or inspecting the same or any levels now existing to have the use of all levels pits or shafts situate on the aforesaid estate of the lessors and the machinery and plant (if any) for the time being connected with the said pits or shafts and

belonging to the lessors but so as not to interfere unreasonably with any mining or other operations of the lessors or any person claiming under them and so that the right hereby given shall be exercised to the reasonable satisfaction of the lessors or their mine agent for the time being Provided always that in the event of the pits or shafts known as No. 12 pits being so used as aforesaid the lessees shall make such connexions between one of the same and the levels of the lessees as may be necessary for carrying away all water from such pit or shaft and the mines connected therewith to the pumping engines on the said demised land but so that the right lastly hereinbefore granted shall not impose on the lessors any obligation to maintain the said levels pits or shafts or any machinery or plant connected therewith except that the lessors shall not fill up the said pits or shafts known as No. 12 pits without the consent of the lessees except and always reserved out of this demise unto the lessors all mines and minerals within or under the said demised premises with full liberty power and authority to the lessors to work and get the same and any adjoining or neighbouring mines except as hereinafter mentioned without liability for damage to the surface of the said demised premises or any erection building or thing thereon To hold the premises hereinbefore expressed to be hereby demised unto the lessees for the term of twenty-eight years (less three days) from the 25th day of March 1891 being the residue unexpired (less three days) of two several terms of years granted by two indentures of lease each dated the 24th day of June 1799 under which indentures of lease the premises hereby demised are (with other premises) now held by the lessors Yielding and paying therefor during the term hereby granted unto the lessors the yearly rent of 425*l.* by equal half-yearly payments to be made except as to the last of such payments on the 25th day of March and the 29th day of September in each year the first of such payments to be made on the 29th day of September 1891 and the last of such payments to be made in advance on the 25th day of December immediately preceding the expiration of the term hereby granted and also yielding and paying in the event of and immediately upon the said term being determined by re-entry under the proviso hereinafter contained a proportionate part of the said rent for the fraction of the current half-year up to the day of such re-entry the said rent to be paid clear of all deductions except landlords' property tax and the lessees do hereby covenant with the lessors that they the lessees will during the said term hereby granted pay the said yearly rent hereinbefore reserved on the days and in manner hereinbefore appointed for payment thereof clear of all deductions except as aforesaid and also will during the said term pay all existing and future taxes rates assessments and outgoings of every description for the time being payable either by the lessors or lessees in respect of the said premises and also will if required to do so by the lessors pay one half the expense of fencing off and during the term hereby granted keeping fenced off the piece of land coloured pink on the said plan marked "A" from the adjoining property of the lessors and of maintaining the gate at the junction of the said piece of land with the road leading to the present office of the lessors And also will throughout the said term at their own expense without being thereunto required well and sufficiently repair maintain and keep the said demised premises and the fence gates bridge and door at the west end of the said piece of land coloured pink on the said plan marked "A" and all engines

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plant and machinery for the time being erected or placed on the said demised premises in good order condition and repair usual wear and tear excepted And also will permit the lessors with workmen or others at all times to enter into and upon the said premises for the purpose of viewing the condition thereof and of the said engines plant and machinery or for any other purpose whatsoever And also will not during the said term hereby granted assign underlet charge or part with the possession of the said demised premises or any engines plant or machinery for the time being erected or placed thereon and will not except under the provisions in that behalf hereinafter contained remove any such engines plant or machinery without the previous licence in writing of the lessors under their common seal And also will at the expiration or other sooner determination of the said term deliver up to the lessors their successors or assigns the said demised premises in such order condition and repair as aforesaid and in all respects in such state as shall be consistent with the due performance of the several covenants herein contained And that they the lessees will at all times keep the lessors indemnified from and against all actions suits losses costs damages claims and demands on account or by reason of any act matter or thing done omitted or suffered by the lessees in the exercise of the right hereinbefore granted to deposit ashes refuse and spoil on the land coloured green on the said plan marked "A" which may be a breach of any lessee's covenant or condition contained in the said leases under which the lessors hold their said estate or in either of such leases Provided always that the lessees shall not be liable under this covenant to any greater amount than the lessors would be liable to pay to their superior lessors as compensation in money or damages for the breach of such lessee's covenant or condition as aforesaid if the same were the sole breach complained of Provided also and these presents are upon this express condition that if and whenever any part of the said yearly rent hereby reserved shall during the first twenty-seven years of the term hereby granted be in arrear for six calendar months or if and when either half-yearly payment of the said rent in respect of the last year less three days of the said term shall be in arrear for two calendar months whether the same shall have been legally demanded or not or if and whenever the lessees their successors or assigns shall cease to exist or shall become bankrupt within the meaning of any Act of Parliament or if and whenever there shall be a breach of any of the covenants and agreements by the lessees herein contained the lessors may re-enter upon any part of the said premises in the name of the whole and thereupon the term hereby granted shall absolutely determine And the lessors do hereby covenant with the lessees that they the lessors will at all times during the term hereby granted leave unworked for the support of the engines plant and machinery on the said demised premises all the coal and other minerals now remaining ungotten in and under the land included within the black circular line on the said plan marked "A" (other than so much as is cross shaded on the same plan the mines under which have been parted with by the lessors) And also that the lessees paying the rent hereby reserved at the times and in manner aforesaid and observing the lessees' covenants and conditions herein contained may peaceably hold and enjoy the said premises during the said term without any interruption by the lessors or any company or person claiming through or in trust for them And may at any time during the said term hereby granted (all

the rent up to the end of the said term having been previously paid and all the covenants and conditions on the part of the lessees during the like period to be observed and performed having been duly observed and performed) remove the whole of the engines plant machinery and buildings used by the lessees under the provisions of these presents in or upon the said premises hereby demised or any part thereof and also that the lessors will pay one half the expense of fencing off and during the term hereby granted keeping fenced off in such manner and to such extent as may be required by them the piece of land coloured pink on the said plan from the adjoining property of them the lessors and of maintaining the gate at the juuction of the said piece of land with the road leading to the present office of the lessors Provided also and it is hereby agreed and declared that in the event of the lessors acquiring the reversion in fee simple expectant on the determination of the terms created by the said indentures of lease of the 24th day of June 1799 the lessors shall when required by and at the costs of the lessees and on payment by them to the lessors of 500*l.* convey to the lessees or as they may direct (but so as not under any circumstances to create a merger of the term hereby created or in any way to prejudice or affect the rights of the company hereunder) the fee simple of the land hereby demised and coloured pink on the said plan marked "A" and of the minerals then unworked in or under the land included in a black circular line on the said plan and are not thereon cross shaded but so that in getting such minerals the lessees shall not enter upon or damage any part of the surface of the land in or under which the same lie other than the land hereby demised and shall not damage any other adjoining or neighbouring land now belonging or hereafter to be belonging to the lessors or any buildings erections or things for the time being erected or placed on such lands as aforesaid Provided always that nothing herein contained shall impose any obligation on the lessors to acquire or attempt to acquire such reversion as aforesaid And it is hereby further agreed that the lessees shall not at any time during the term created by the said indentures of lease of the 24th day of June 1799 acquire or attempt to acquire from the owner or owners thereof for the time being (other than the lessors) the fee simple expectant on the determination of the said term created by the said indentures or either of them in any of the hereditaments comprised in the said indentures or either of them And that in the event of the lessees at any time requiring any of the bottom coal belonging to the lessors and for the time being ungotten to be left for the support of any part of the underground levels or waterways constructed in or about the level of the measure of coal known as "bottom coal" and shown on the plan hereunto annexed and marked "B" being thereon coloured blue and red and which are not in or under the land included within the black circular line upon the said plan the lessors shall upon request sell to the lessees the interest of the lessors in so much of the said bottom coal as may be required by the lessees for such support at the rate of 100*l.* per acre for every acre or portion of an acre of coal so required by the lessees for such support and the lessors and their assigns shall not work in the bottom coal measures within fifty yards of any of the said levels or waterways without first giving one month's notice to the lessees of their intention so to work And also that the lessees shall at all times permit the lessors for the purpose of draining any adjoining

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or neighbouring mines belonging to them to connect the levels or waterways of the lessors or any fresh levels or waterways which the lessors may make with any levels or waterways for the time being belonging to or used by the lessees so as to convey the water from such adjoining or neighbouring mines of the lessors to the pumping engines for the time being on the land hereby demised and so that any such connection shall be made to the reasonable satisfaction of the engineer for the time being of the lessees And further that the lessors shall not acquire the reversion in any part of the hereditaments comprised in the said indentures of the 24th day of June 1799 adjoining or near to the land hereby demised or to the minerals in or under the land included in the said black circular line without using all reasonable endeavours to acquire the reversion in fee simple of the said land and minerals And it is hereby further agreed and declared that nothing herein contained shall be deemed to alter or affect the provisions which shall be contained in the South Staffordshire Mines Drainage Act 1891 for the protection or benefit of the lessors or any other right or remedy which the lessors may for the time being have against the lessees Provided always and it is hereby declared that these presents are intended to take effect only in the event of the said Act being passed during the present session of Parliament and these presents being thereby confirmed otherwise these presents shall be void In witness whereof the lessors have to this lease affixed their common seal and the lessees have to a counterpart thereof affixed their common seal.

(*On Lease*)—

Two Directors { Rupert Smith, Howard Thomas,

Secretary, James Lawley.

Common Seal of the Tipton Moat Colliery Company, Limited.

(*On Counterpart*)—

Wilson Lloyd,
Chairman.

J. E. Underhill,
Law Clerk.

Common Seal of the South Staffordshire Mines Drainage Commissioners.

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