CHAPTER xiii.

An Act to amend the Alexandra (Newport and South Wales) Docks and Railway Act 1906 and for other purposes. A.D. 1916.

[19th July 1916.]

WHEREAS the Alexandra (Newport and South Wales) Docks and Railway Company (in this Act called "the Company") were incorporated under the name of the Alexandra (Newport) Dock Company by the Alexandra (Newport) Dock Act 1865 for making a dock railway and other works at Newport in the county of Monmouth and by various subsequent Acts the powers of the Company have been from time to time extended and further powers have been conferred upon them:

And whereas under the powers conferred by the Alexandra (Newport and South Wales) Docks and Railway Act 1906 (in this Act called "the Act of 1906") the Company were for the purpose inter alia of providing greater facilities of entrance to the south dock of the Company at Newport for vessels of the largest class authorised to make and have made the lock entrance and entrance channel described in section 4 (Power to make and maintain lock entrance entrance channel and other works) of the Act of 1906:

And whereas by section 21 (Arrangements between Newport Harbour Commissioners and Company with respect to dredging) of the Act of 1906 certain provisions were enacted relating (inter alia) to the formation by the Company of a channel of the dimensions and in the manner therein provided and leading from the said entrance channel to the outer limits of the jurisdiction of the Newport Harbour Commissioners (in this Act called "the commissioners") and to the subsequent maintenance of such channel by the Company and the commissioners and

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limiting the contributions by the commissioners towards the cost of such maintenance and making other provisions incidental thereto:

And whereas it was further enacted by the said section 21 that the provisions of that section should have effect unless otherwise agreed between the Company and the commissioners:

And whereas the Company have formed a channel between the said entrance channel and the outer limits of the jurisdiction of the commissioners but a difference has arisen between the Company and the commissioners whether the channel has been formed in accordance with the requirements of the said section 21:

And whereas it has been agreed between the Company and the commissioners and it is expedient that the provisions of the said section 21 relating to the said channel be amended and that provision should be made as contained in this Act with regard to the future maintenance of the said channel and the contribution of moneys by the Company and by the commissioners respectively towards the cost of such maintenance and that such other provisions as are in this Act contained should be made:

And whereas the objects of this Act 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 King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

Short title.

1. This Act may be cited for all purposes as the Alexandra (Newport and South Wales) Docks and Railway Act 1916.

Citation of Acts.

2. The Alexandra (Newport) Dock Acts 1865 1868 1870 1873 1874 and 1876 the Alexandra (Newport and South Wales) Docks and Railway Act 1882 the Newport Dock (Transfer) Act 1883 the Alexandra (Newport and South Wales) Docks and Railway Acts 1885 1890 1896 1897 1904 and 1906 the Alexandra (Newport and South Wales) Docks and Railway (Additional Capital &c.) Act 1907 the Alexandra (Newport and South Wales) Docks and Railway Acts 1909 1911 and 1914 and this

Act may be cited together as the Alexandra (Newport and South Wales) Docks and Railway Acts 1865 to 1916. A.D. 1916.

Interpretation.

3. In this Act unless the subject or context otherwise requires the following expressions shall have the meanings assigned to them in this section (that is to say):—

"The Company" means the Alexandra (Newport and South Wales) Docks and Railway Company;

"The commissioners" means the Newport Harbour Commissioners;

"The joint committee" means the joint committee by this Act constituted representing the Company and the commissioners;

"The maintaining authority" means the Company or the commissioners as the case may be who for the time being are under the provisions of this Act entrusted with the maintenance of the channel;

"The contributing authority" means the commissioners or the Company who as the case may be are not for the time being the maintaining authority;

"The Act of 1906" means the Alexandra (Newport and South Wales) Docks and Railway Act 1906;

"The channel" means the channel between the entrance channel (B) authorised by the Act of 1906 and the outer limits of the jurisdiction of the commissioners;

"Year" means a year ending on the thirty-first day of December;

"Harbour dues" means the rates or duties received by the commissioners under section 69 of the Newport (Monmouthshire) Harbour Act 1836 as amended by any subsequent Act.

Amendment of section 12 of Act of 1906.

4.—(1) Section 21 (Arrangements between Newport Harbour Commissioners and Company with respect to dredging) of the Act of 1906 shall be read and construed as if there had been added at the end of subsection (1) thereof the following words (namely):—

"For the purposes of this subsection the level of low water of ordinary spring tides shall be taken as being 13.15 feet below ordnance datum";

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and as if in lieu of subsection (2) of that section there had been inserted therein the following subsection (that is to say):—

"(2) The Company shall at their own expense and under the supervision and to the reasonable satisfaction of the commissioners form a channel from the entrance channel (B) by this Act authorised to the outer limits of the jurisdiction of the commissioners with such uniform or varying depth and width as may be agreed between the Company and the commissioners."

(2) Subsections (3) to (13) both inclusive of the said section 21 of the Act of 1906 are hereby repealed.

Channel to be deemed to have been duly formed.

5. The channel as existing at the date of the passing of this Act shall be deemed to have been formed by the Company in accordance with the provisions of the said section 21 of the Act of 1906 as amended by this Act.

Joint committee.

6.—(1) For the purposes hereinafter in this Act mentioned there shall be a joint committee representing the Company and the commissioners respectively.

(2) The joint committee shall consist of three persons to be from time to time nominated in writing under the seal of the Company and three persons (being members of the commissioners) to be from time to time nominated in writing under the seal of the commissioners the first nomination to be made in each case within three months after the passing of this Act.

(3) The members of the joint committee shall be nominated annually and shall except as hereinafter provided hold office for one year from the date of such nomination and be eligible for re-nomination Provided that the Company and the commissioners may from time to time by writing under their respective seals remove all or any of the members of the joint committee nominated by them respectively as aforesaid and fill up any vacancies occurring in the joint committee by removal death disqualification or resignation Any member so nominated to fill up any vacancy in the joint committee shall subject to the foregoing provisions of this subsection hold office during the remainder of the current year of office of the person in whose place he is nominated.

(4) Any informality in the nomination of a member of the joint committee shall not invalidate any acts done by the joint committee previously to the discovery of such informality and the omission of the Company or the commissioners to nominate members of or to fill up vacancies in the joint committee shall not invalidate the acts of the joint committee.

(5) The joint committee shall at their first meeting and thereafter from time to time appoint an independent chairman who shall hold office for one year from the date of his appointment be eligible for re-appointment and be appointed annually or as a vacancy may occur by death resignation or otherwise Failing agreement by the joint committee the independent chairman shall be appointed by the Board of Trade The independent chairman shall be paid such remuneration as shall be fixed by agreement between himself and the joint committee or failing such agreement by the Board of Trade and such remuneration shall be paid by the Company and the commissioners in equal moieties and shall not for the purposes of the section of this Act whereof the marginal note is "Provision as to cost of maintenance" form part of the cost of maintenance of the channel.

(6) The joint committee shall hold its meetings at such time and place as they may from time to time determine and four shall be a quorum thereof exclusive of the independent chairman.

(7) The joint committee shall keep or cause to be kept books in which shall be entered the minutes of all proceedings of every meeting of the joint committee and all decisions of the independent chairman and of any arbitrator appointed as hereinafter provided upon any questions referred to the independent chairman or such arbitrator as the case may be Two persons to be from time to time appointed one by the Company and the other by the commissioners shall act as joint secretaries of the joint committee.

(8) The representatives of the Company and the representatives of the commissioners respectively shall have only one vote amongst them and such vote shall be given as the majority of such representatives respectively shall determine Provided that if only two representatives of either authority are present at a meeting of the joint committee and such two

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representatives are divided they shall be deemed to have voted against the representatives of the other authority..

(9) In the event of the respective votes of the representatives of the Company and the commissioners at any meeting of the joint committee being given on opposite sides upon any matter which by this Act is required to be decided by the joint committee the independent chairman shall if so agreed by the joint committee but not otherwise be called in and shall determine the matter in respect of which a difference has arisen Any matter in difference not referred by the joint committee to the independent chairman shall be referred to and be determined by an arbitrator to be agreed upon by the joint committee or failing agreement to be appointed by the Board of Trade and the provisions of the Arbitration Act 1889 shall apply to any such arbitration.

(10) The decision of the independent chairman or of such arbitrator as the case may be shall be final and be deemed to be the decision of the joint committee.

Maintenance of channel.

7.—(1) The channel shall be maintained by the Company or by the commissioners as hereinafter provided under the supervision and to the satisfaction of the joint committee and so far as reasonably practicable at such uniform or varying depth and width as the joint committee may from time to time decide to be necessary for the purpose of affording reasonable facilities for vessels using the port or harbour of Newport having regard to all the circumstances which shall include the financial position of the Company.

(2) Until the thirty-first day of December one thousand nine hundred and twenty-one or such later date as may be agreed between the Company and the commissioners the channel shall be maintained by the Company and thereafter unless otherwise agreed between the Company and the commissioners the channel shall be maintained by the commissioners but in either case the cost of such maintenance shall be borne as hereinafter by this Act provided.

Provision as to cost of maintenance.

8.—(1) The cost of maintenance of the channel (in this section referred to as "cost of maintenance") shall (unless otherwise agreed between the Company and the commissioners) include hire depreciation repairs and ordinary upkeep of plant

used for such maintenance wages fuel and stores insurance sounding and charting interest on capital expended on plant used for such maintenance and all other charges which shall be properly chargeable in respect of such maintenance and have been sanctioned by the joint committee together with five per centum on the annual cost of maintenance as hereinbefore defined to cover management and in addition any interest and allowance for depreciation or sinking fund which under the provisions of the section of this Act of which the marginal note is "As to capital expenditure" is to be included in the cost of maintenance of the channel.

(2) The cost of maintenance to be borne by the commissioners in any year (hereinafter referred to as "the commissioners' quota") shall (subject as hereinafter in this subsection mentioned) be five hundred pounds together with a sum equal to one-half of the amount by which the harbour dues in respect of that year shall have exceeded the sum of five thousand five hundred pounds Provided that the commissioners' quota shall not in any year be more than one-half the cost of maintenance in that year The cost of maintenance so far as the same is not borne by the commissioners shall be borne by the Company and is hereinafter referred to as "the Company's quota."

(3) The obligation of the commissioners to contribute towards the cost of maintenance shall be deemed to have commenced as from the first day of January one thousand nine hundred and sixteen and as soon as the cost of maintenance and the amount of the harbour dues in respect of the year one thousand nine hundred and sixteen shall have been ascertained the commissioners shall pay to the Company the commissioners' quota for that year.

(4) In the year one thousand nine hundred and seventeen and every subsequent year the following provisions shall have effect (that is to say):—

On the thirty-first day of March the thirtieth day of June the thirtieth day of September and the thirty-first day of December there shall be paid to the maintaining authority by the contributing authority an instalment equal to one-fourth of the estimated amount of the contributing authority's quota for that year and as soon as practicable

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after the end of the year accounts shall be prepared showing (*a*) the cost of maintenance during the year (*b*) the total amount of the harbour dues in respect of the year (*c*) the amount of the contributing authority's quota for the year and (*d*) the total amount of the instalments which shall have been paid by the contributing authority during that year Such accounts shall be submitted to and approved by the joint committee and after the same have been so approved the amount by which the contributing authority's quota for that year as calculated under subsection (2) of this section shall be greater or less than the total instalments so paid by them shall be forthwith paid by or to the contributing authority to or by the maintaining authority as the case may require.

(5) The maintaining authority shall keep proper accounts of the cost of maintenance with all necessary vouchers receipts and other documents which accounts shall be made up annually as soon as practicable after the termination of every year and shall be verified by the auditors of the maintaining authority and the contributing authority The contributing authority shall at all reasonable times be entitled to inspect and take copies of such accounts vouchers receipts and other documents and the maintaining authority shall afford all reasonable facilities to the contributing authority for that purpose and whenever reasonably required by the contributing authority so to do shall have such accounts duly verified A copy of all such annual accounts shall as soon as verified by the auditors aforesaid be sent by the maintaining authority to the contributing authority.

(6) Any dispute which shall arise between the commissioners and the Company under this section as to the amount of the cost of maintenance or of the commissioners' quota or the Company's quota or of the instalments to be paid in any year or with reference to any such accounts as aforesaid or in any other way whatsoever arising under this section shall be decided by the joint committee.

Dredging plant.

9.—(1) The maintaining authority shall not purchase any additional dredging plant either out of capital or revenue or expend any moneys otherwise on capital account for the purposes of the maintenance of the channel except with the previous

approval of and on such terms as may be decided by the joint committee Any additional dredging plant so purchased by the Company during their period of maintenance shall if so required by the Company or the commissioners be purchased and taken over by the commissioners when they take over the maintenance of the channel at such price as may be decided by the joint committee.

(2) For the purposes of the maintenance of the channel and the dredging of the docks of the Company the contributing authority shall whenever required by the maintaining authority let on hire to the maintaining authority upon cost terms (to be fixed by the joint committee) any dredging plant belonging to the contributing authority and not for the time being required for the purposes of their own undertaking or of the fulfilment of their statutory powers and obligations.

As to capital expenditure.

10. Any capital expended on works required or authorised by the joint committee for the purposes of this Act shall be borne by the Company but interest and allowance for depreciation or sinking fund on any capital so expended at such rate as the joint committee shall determine shall whether the Company or the commissioners are the maintaining authority be for the purposes of this Act included in the cost of maintenance of the channel and shall while the commissioners are the maintaining authority be paid by the commissioners to the Company.

Company may determine obligations under this Act.

11. The Company may by not less than twelve months' previous notice in writing to the commissioners determine the obligations of the Company and the commissioners as to the maintenance of the channel under this Act on the thirty-first day of December one thousand nine hundred and twenty-one or any subsequent thirty-first day of December and if the Company shall give such notice the obligations of the Company and the commissioners with regard thereto under this Act shall on the expiration of such notice cease and determine Provided that the Company shall forthwith pay to the commissioners the difference between the amount (if any) then due in respect of moneys borrowed by the commissioners for the purchase of plant for the purposes of this Act and the then value of such plant.

Agreements between Company

12. The Company on the one hand and the commissioners on the other hand may enter into and carry into effect agreements

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and commissioners.

for the extension to such extent and in such manner as may be approved by the Board of Trade of the channel seawards beyond the limits of the jurisdiction of the commissioners and for the maintenance of any such extension Any such agreement may provide for any of such purposes for the application of the revenue of the commissioners and of moneys borrowed by them.

Company and commissioners may apply funds.

13.—(1) The Company may apply to any of the purposes of this Act to which capital is properly applicable any moneys which they are already authorised to raise (other than the moneys authorised to be raised by the Company under the Alexandra (Newport and South Wales) Docks and Railway Act 1911) and which may not be required by them for the purposes for which the same were authorised to be raised Provided that the powers conferred by this subsection shall not except for the payment of the costs charges and expenses referred to in the section of this Act whereof the marginal note is "Costs of Act" be exercised by the Company during the continuance of the present war and twelve months thereafter unless the consent of the Treasury has been previously obtained.

(2) The commissioners may apply to any of the purposes of this Act any of the moneys which they have borrowed or raised or have power to borrow or raise under the provisions of the Newport (Monmouthshire) Harbour Act 1890 and any other money from time to time under their control or forming part of their corporate funds or revenue and section 44 of the said Act of 1890 shall be read and have effect as if the purposes for which money can be borrowed under that section included the purposes of this Act and sections 44 to 53 inclusive of the said Act of 1890 shall apply in the case of any money so to be borrowed for the purposes of this Act as if such moneys had been authorised to be borrowed for the purposes of and under the said Act of 1890 Provided that no moneys borrowed or raised by the commissioners under the provisions of the said Act of 1890 shall during the continuance of the present war and twelve months thereafter be applied to any of the purposes of this Act unless the consent of the Treasury has been previously obtained.

Saving for commissioners.

14. Except in so far as by this Act or the Act of 1906 as amended by this Act expressly provided nothing in this

Act or the Act of 1906 as amended by this Act shall affect or interfere with the rights powers authorities or duties of the commissioners under the provisions of the Newport Harbour Acts 1836 to 1906. A.D. 1916.

15. 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. Cost of Act.

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