CHAPTER cxlvi.

An Act to enable the Neath Harbour Commissioners to raise further Capital, to authorise and confirm Agreements between them and the Corporation of Neath, and the Great Western, the South Wales Mineral, and the Neath and Brecon Railway Companies; and for other purposes. A.D. 1878.

[4th July 1878.]

WHEREAS by the Neath Harbour Act, 1874 (in this Act referred to as "the Act of 1874"), the Neath Harbour Commissioners (in this Act referred to as "the Commissioners") were incorporated, and were empowered to enlarge and improve the port and harbour of Neath, and to provide floating accommodation for shipping, with railways, roads, and approaches thereto, and other works in connexion therewith, and were authorised to borrow on the security and subject to the terms mentioned in that Act any sums not exceeding in the whole the sum of one hundred and eighty thousand pounds: 37 & 38 Vict. c. cxlv.

And whereas the said sum of one hundred and eighty thousand pounds will not be sufficient to defray the expenses which the Commissioners have incurred and are about to incur in constructing and completing the several works by the Act of 1874 authorised, and in providing tipping stages, staiths, hydraulic machinery, lighthouses, and other accommodation and conveniences, and dredging and improving the entrance to the harbour for the purpose of making the said works useful to the public and remunerative to the Commissioners:

And whereas it is expedient that for the purposes aforesaid the Commissioners should be authorised to borrow further moneys not exceeding in the whole the sum of seventy thousand pounds upon the same security, and subject to the same terms and conditions upon which the said sum of one hundred and eighty thousand pounds was authorised to be borrowed under the Act of 1874, and that all securities granted for the repayment of such further moneys should rank together pari passu with securities granted or to be

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granted for the repayment of moneys borrowed under the authority of the Act of 1874:

And whereas the holders of the mortgages granted under the authority of the Act of 1874 have respectively signified their consent in writing to the provisions of this Act with respect to the borrowing of the said sum of seventy thousand pounds:

And whereas an agreement, dated the twenty-first day of June one thousand eight hundred and seventy-seven, between the Commissioners and the Great Western Railway Company has been entered into for the leasing to that Company of certain wharf or quay frontage and railway accommodation and conveniences, and for providing in certain cases hydraulic and other machinery and appliances, and it is expedient that such agreement be confirmed:

And whereas it is expedient that provision should be made for enabling the Commissioners to grant leases of other wharf or quay frontage, and railway and other accommodation and conveniences, and to provide hydraulic and other machinery and appliances to all or any of the following bodies; that is to say, to the mayor, aldermen, and burgesses of Neath (in this Act referred to as "the Corporation"), the Great Western Railway Company, the South Wales Mineral Railway Company, and the Neath and Brecon Railway Company, and to authorise the Corporation and such Companies respectively to accept such leases, and to apply moneys for the purposes thereof:

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,)

Short title.

1. This Act may be cited for all purposes as the Neath Harbour Act, 1878.

Power to raise additional capital.

2. The Commissioners may from time to time borrow any further moneys not exceeding in the whole the sum of seventy thousand pounds, and for this purpose the Act of 1874 shall be read and construed as if the sums which the Commissioners were authorised to borrow under the authority of the seventy-second section thereof had been sums not exceeding in the whole two hundred and fifty thousand pounds, instead of sums not exceeding one hundred and eighty thousand pounds as therein stated, and the moneys from time to time borrowed under the authority of the Act of 1874 and of this Act shall be applied to the purposes of the Act of 1874 and of this Act and to no other purpose whatsoever.

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As to loans by Public Works Loan Commissioners.

3. Nothing in this Act shall operate to empower the Commissioners to borrow any loan from the Public Works Loan Commissioners.

Sinking fund.

4. The Commissioners shall, in addition to the sum directed to be set apart and appropriated annually as a sinking fund by section 84 of the Act of 1874, set apart and appropriate annually to the sinking fund thereby directed to be provided, after the expiry of six years from the passing of this Act, the sum of five hundred pounds.

Further provision respecting sinking fund.

5. The sums directed by the Act of 1874 and this Act to be set apart and appropriated annually as a sinking fund shall be invested from time to time and accumulated in the way of compound interest by investing the same respectively on such securities as trustees are by law for the time being authorised to invest trust moneys, and the Commissioners may at any time apply the whole or part of any sinking fund set apart by them in or towards the repayment of the borrowed moneys, for the repayment of which such sinking fund was set apart, in such order and manner as they deem proper: Provided always, that whenever any of such principal moneys have been so paid off, the Commissioners shall thenceforward, until the whole of such principal moneys have been paid off, pay into the sinking fund every year, in addition to the other sums by the Act of 1874 and this Act required to be set apart and appropriated, a sum equal to the annual interest of the principal money so paid off: Provided also, that whenever and so long as the yearly income arising from the sinking fund shall be equal to the annual interest of the principal moneys then due and outstanding, the Commissioners may, instead of investing the said yearly income, apply the same in payment of such interest, and may during such periods discontinue the payment to such sinking fund of the annual sums by the Act of 1874 and this Act directed to be paid thereto.

Agreement between Commissioners and Great Western Railway Company confirmed.

6. The agreement of the twenty-first day of June one thousand eight hundred and seventy-seven between the Commissioners on the one part, and the Great Western Railway Company on the other part, and of which agreement a copy is set forth in the schedule to this Act annexed, is hereby confirmed and made binding on the parties thereto, and their successors and assigns, and the Commissioners may grant and the Great Western Railway Company may accept the lease mentioned in the said agreement upon the terms and conditions therein stated: Provided always, that the Great Western Railway Company may, after the acceptance of such lease from the Commissioners, apply any part of their revenue to the payment of the rent reserved by such lease, and they may also

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apply any part of their funds to the costs which they may from time to time incur in performing, fulfilling, and observing the covenants and conditions contained in such lease, and on their part to be performed, fulfilled, and observed.

Commissioners may grant leases of lands, &c. to Corporation. 10 & 11 Vict. c. 27.

7. Notwithstanding anything in the Harbours, Docks, and Piers Clauses Act, 1847, the Commissioners may from time to time grant leases for any terms not exceeding ninety-nine years of any of the lands of the Commissioners to the Corporation in case they shall covenant to improve and use such lands for purposes incidental to the business of the harbour and works of the Commissioners, and they may also grant to such lessees the use during their lease of such water frontage, quay room, and wharfage room, and other accommodation as may be requisite and convenient for the purpose of the trade or business to be carried on in or at the land, buildings, or works leased, erected, or constructed by such lessees; and the Corporation are hereby empowered to accept any such lease from the Commissioners, and to apply the moneys received by them in respect of the demised property, and, if necessary, any part of their corporate funds, to the payment of the rent reserved by such lease, and to the costs which they may from time to time incur in performing, fulfilling, and observing the covenants and conditions contained in such lease, and to be by them performed, fulfilled, and observed.

Commissioners may grant leases to certain railway companies. 10 & 11 Vict. c. 27.

8. Notwithstanding anything in the Harbours, Docks, and Piers Clauses Act, 1847, the Commissioners may from time to time grant leases of any land, quay space, or wharfage to any of the following railway companies, who are hereby respectively empowered, with the authority of three fourths of the votes of their shareholders present in person or by proxy at a general meeting specially convened for the purpose, to accept such leases, that is to say, the Great Western Railway Company, the South Wales Mineral Railway Company, and the Neath and Brecon Railway Company, or to any of the said companies, for purposes incidental to the business of the harbour, docks, and works of the Commissioners; and the Commissioners may also agree with any company accepting any such lease (which company is in this Act referred to as "the lessees") for providing for their use during the lease of such railway standing room, sidings, tips, staiths, hydraulic machinery, and other accommodation and conveniences as may be requisite or convenient for the purpose of the trade or business to be carried on by the lessees on the premises comprised in any such lease, and the lessees may apply any part of their revenue to the payment of the rent reserved by such lease, and they may also apply any part of their funds to the costs which they may from time to time incur in performing, fulfilling,

and observing the covenants and conditions contained in such lease, and on their part to be performed, fulfilled, and observed.

Terms and conditions of leases.

9. Every such lease as is mentioned in either of the two preceding sections shall be made without fine, and may be made with and subject to such exceptions, reservations, yearly or other rents or payments, covenants, conditions, powers, and provisions whatsoever as the parties thereto mutually agree on: Provided always, that by every such lease due provision shall be made for securing the payment of the rent, and the performance and observance by the lessees of the covenants and conditions in and by the same respectively reserved and contained, and on their part to be respectively paid, performed, fulfilled, and observed: Provided also, that a duplicate or counterpart of every such lease shall be executed by the lessees therein named, and be delivered to the Commissioners.

Commissioners not bound to sell lands demised. 8 & 9 Vict. c. 18.

10. Anything in the Lands Clauses Consolidation Act, 1845, to the contrary notwithstanding, the Commissioners shall not be bound to sell or dispose of any lands which may be included in any lease made under the authority of this Act or the reversion thereof.

Commissioners not exempt from provisions of any present or future general Act relating to harbours.

11. Nothing herein contained shall exempt the Commissioners, or the docks and works by the Act of 1874 authorised, from the provisions of any present or future general Act relating to harbours, docks, or piers, or to dues on shipping, or on goods carried in ships, or to pilotage, or to lights, buoys, and beacons, or to the powers and privileges of the general lighthouse authorities.

Expenses of Act.

12. All costs, charges, and expenses of and incident to the preparing, applying for, obtaining, and passing of this Act, or otherwise relating thereto, shall be paid by the Commissioners.

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SCHEDULE.

HEADS of ARRANGEMENT between the NEATH HARBOUR COMMISSIONERS and the GREAT WESTERN RAILWAY COMPANY.

WHEREAS the Neath Harbour Commissioners, herein-after called "the Commissioners," were appointed, under the authority of Parliament, for improving and maintaining the Harbour of Neath, in the county of Glamorgan:

And whereas by the Neath Harbour Act, 1874, herein-after called "the Act of 1874," the appointment of new Commissioners was authorised and powers were obtained for the construction of certain works therein specified:

And whereas the Great Western Company are the owners of lines of railway which extend from Aberdare, Cardiff, Swansea, &c. to Neath, with which it is intended, under the Neath Harbour Act, to construct junctions and lines of railway to communicate with the authorised works at Neath Harbour:

And whereas the Commissioners are unable to raise the capital required to construct the said intended works, and in order to enable them to raise the necessary capital, or some part or parts thereof, required for the construction of the works, have applied to the Company to take on lease from the Commissioners the wharf or quay frontage and land hereafter mentioned, and the Company have agreed to do so:

Now therefore it has been mutually agreed as follows:

1. The Commissioners will construct the intended works, navigable cut, float, or dock according to the plans signed by Mr. Brereton, the engineer to the Commissioners, and Mr. James Grierson, the general manager of the Great Western Railway, and Railways Nos. 2 and 3. The Railways Nos. 2 and 3 to be constructed so as to form a junction with the South Wales Railway, and both of such railways to be constructed with a double junction respectively east and west with the Great Western Railway, and with all lines of rails, basin, gates, locks, sidings, jetties, tips, machinery, and other works, wharf walls, moorings, cranes, conveniences, signals, locking, and appliances necessary for the accommodation of shipping, and for the convenient loading and unloading of traffic at the said dock, and for the conveyance of traffic to and from the said dock from and to the railways of the Great Western Railway Company, and to satisfy the requirements of the Board of Trade for the time being in force, and to provide all such accommodation as may be required by the officers of Her Majesty's Customs for their use in a first-class dock: Provided always, that upon notice from the Great Western Company to that effect the Commissioners shall also erect all such hydraulic machinery and the necessary appliances connected therewith as may be requisite or desirable for the purpose of working the said tips and cranes, and upon the completion of such machinery and appliances the Great Western Company shall pay to the Commissioners one half of the costs properly incurred by the Commissioners in erecting such machinery and appliances as may be exclusively used by the Company, together with a reasonable proportion, not exceeding one half, to be from time to time

fixed, having regard to the user of the interest upon the cost of providing such engine-power, accumulators, pipes, buildings, and tanks as may be necessary for the working of the tips, cranes, wharves and jetties, and lock gates in or around the harbour. The inner sill of the lock to be laid at a depth of not less than twenty-seven feet, and the sill of the basin entrance at a depth of not less than twenty-seven feet, below the level of high-water ordinary spring tides, high-water level ordinary spring tides being taken as twenty-seven feet above the level of the Britonferry Dock sill, together with the main lines of railway coloured green upon the plan hereto annexed, and the lines of main sidings coloured yellow on the same plan, or such other main lines and main sidings as may be necessary for the efficient and economical accommodation and working of the traffic to and from the said dock, and the Commissioners shall dredge or excavate the entrance channel outside the float to a depth of twenty-seven feet as aforesaid.

2. Upon the completion of the said dock in manner aforesaid, and provided adequate powers and provisions for giving effect to this agreement are obtained by the Commissioners in the next or some future session of Parliament, not being later than the session of one thousand eight hundred and eighty, the Commissioners will grant and the Company will accept, subject to the reservations herein-after mentioned, a lease for the term of ninety-nine years of the wharf or quay frontage eight hundred feet in length, and also of the land adjoining and in the rear thereof, which said wharf or quay frontage and land are respectively shown on the said plan hereto annexed, and are thereon coloured red, it being agreed that if hereafter a greater quantity of land in proportion to the number of feet of frontage is granted to any other company or person, the same extent of land shall be granted free of charge to the Company either by the lease herein-before referred to or by a subsequent deed or instrument.

3. The lease herein-before referred to shall come into operation on the completion as aforesaid and opening for public traffic of the said dock and works.

4. The Company shall pay the Commissioners annually by way of rent for the said wharf or quay frontage and land the sum of one thousand six hundred pounds, payable half-yearly on the twenty-fourth day of June and the twenty-fifth day of December in every year, the first half-yearly payment, or a proportionate part thereof, to be made on such one of the said half-yearly days as shall happen first after the completion as aforesaid and opening for public traffic of the said dock.

5. The Company to have the exclusive right, under the reasonable direction of the harbour-master, to berth ships and vessels alongside of the said wharf frontage in a single tier, and to levy and receive all wharfage rates, tipping, and other charges, rates, and dues in respect both of the said wharf or quay frontage and of the said land and tips: Provided always, that in case hydraulic power shall be supplied by the Commissioners as herein-before provided for working the said tips, the Company shall pay to the Commissioners one moiety of the net profit received by them from the use of the said tips, after deducting the cost incurred by the Company in working such tips, and all payments and services in connexion therewith.

6. The Company to be at liberty to construct, to the reasonable satisfaction of the engineer of the Commissioners, any line of railway they may consider necessary, and to erect upon the said wharf or quay frontage and land, and projecting so far into the float as may be necessary, such additional sidings,

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jetties, tips, hydraulic and other machinery, and other works, warehouses, buildings, and conveniences, as may be necessary, so as to enable the Company fully to utilise the wharf or quay frontage and land for all purposes in connexion with their business, and in case of any difference as to such construction the same shall be decided by arbitration.

7. The Commissioners shall maintain, work, and signal such junctions between the Company's sidings and the main lines coloured green on the said plan, and the main sidings coloured yellow thereon, to be constructed by the Commissioners as aforesaid as may be necessary, and in case of any difference between the Commissioners and the Company as to the number of such junctions the same shall be decided by arbitration. If in the construction by the Company of additional sidings from the Commissioners lines to the wharf or land to be leased to the Company it shall be found desirable to vary the same from the position now laid down, the Commissioners and the Company shall be empowered to make such arrangements with respect to land for sidings as may be agreed on between the Commissioners and the Company.

8. The Commissioners shall during the continuance of the lease maintain at their own expense the dock and basin and the waterway and entrance channel leading thereto, and the water therein and in the dock adjoining the said wharf or quay frontage to be included in the said lease at the depth of twenty-two feet below high-water spring tides as aforesaid, and also all walls, approaches, causeways, and lines of rails belonging to them, together with the said wharf and the said jetties, tips, works, machinery, and all locks, and all other works, conveniences, and appliances as provided by Article I. which may be necessary for the full and efficient maintenance and working of the dock and the accommodation of shipping and traffic passing to or from the same, and for the enjoyment by the Company of the lands coloured red on the said plan, except such additional jetties, tips, sidings, machinery, and conveniences as may have been or as may hereafter be erected by the Company.

9. The Commissioners reserve to themselves the right to erect and maintain in or on the said wharf or quay frontage such mooring posts, rings, and other devices as may be necessary for the proper and convenient working of the said dock, and to lay, fix, and maintain hydraulic and other pipes, and other conveniences that may be necessary, and also free liberty at all reasonable times to their officers and servants engaged in working the said dock to pass and repass over and along the margin of the dock frontage adjoining the said wharf or quay frontage, such margin not to exceed thirty feet in width, but the Company are not to be inconvenienced in the conduct of their business or the enjoyment of the said wharf or quay frontage to any greater extent than may be avoidable, and in case of difference as to the reasonable exercise by the Commissioners of the rights and liberty so reserved as aforesaid, the same to be referred to arbitration.

10. The junctions with the Great Western Railway shall be constructed, maintained, watched, worked, and signalled in accordance with the provisions of the Railways Clauses Act, 1863, and the Commissioners shall also maintain, watch, work, and signal the main lines of rails, main lines of sidings, and other lines of rails as provided by Article I. or shown on the said plan hereto annexed, and the Company shall at all convenient times have the use of the main lines of rails adjoining such sidings for shunting purposes free of charge, and shall at all times have the use of the main lines of rails on payment at the

rate named in the Act per ton per mile in respect of the traffic carried over the same or any part thereof for the distance for which such lines of rails shall be actually used, and so in proportion for any less distance than a mile: Provided always, that the charge to be made to the Great Western Company for the use of the lines of rails provided by the Commissioners shall in no case be higher than the charge made in respect of the like distance to any other Company or person for a like use of the lines of rails of the Commissioners.

11. The Company shall be at liberty to lay down and place in, through, over, or upon the land comprised in the said lease, or in, through, over, or upon any other land of the Commissioners, such hydraulic and other pipes and machinery as may be necessary or convenient to enable the traffic of the Company to be worked with economy and despatch, and the Commissioners shall from time to time afford to the Company all necessary facilities for the construction or repair of the said pipes and machinery, and for obtaining a supply of water to work the said machinery: Provided that the Company may from time to time require the Commissioners, and the Commissioners shall, upon receiving twelve months notice from the Company requiring them so to do, supply at cost price all water that may be required for working the said machinery or in connexion therewith, but during the time that the Commissioners supply the water that may be so required the Company's machinery shall be kept in a proper state of repair so as to prevent unnecessary waste.

12. The Company shall have the option at any time within the space of five years from the opening of the dock for public traffic of taking upon lease a space of about two hundred feet fronting on the dock, and situate between the point marked A and the point marked B on the said plan, including the land for a depth of two hundred feet from the quay wall, for the purpose of erecting sheds, warehouses, or other purposes, upon payment of two pounds per foot per annum for each lineal foot of frontage, and the Company shall be at liberty to construct lines of rails in such a manner as may be necessary or convenient for the proper user of the land to be so leased, and to make such lines and junctions and connexions with the Commissioners lines as may be necessary, or, failing agreement, as may be settled by arbitration. The Commissioners not to ship iron ore, coal, or other minerals upon the dock or harbour on lower terms than those charged by the Company. In case of difference between the Commissioners and the Company as to such charges, the same shall be settled by arbitration.

13. The Commissioners undertake that they will not, either by themselves or by their officers or agents, seek for any powers to take or use any rails, land, or other property of the Company except for the purpose of forming the railway junctions under this agreement, or do or assist any person or company in obtaining the aforesaid powers without the consent of the Company.

14. The Commissioners shall not levy or charge in respect of vessels using or loading or unloading at the wharf or quay frontage included in the said lease any higher dues or rates than they shall for the time being charge or levy in respect of similar vessels or goods using or loading or unloading at any other portion of the said dock or basin.

15. Should the Great Western Company at any time hereafter apply to Parliament for powers to construct a branch line of railway which would cross at some point between the point marked C and the point marked D on the said plan the intended float in such manner so as not unnecessarily to interfere

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with the navigation of vessels in such float, the Neath Harbour Commissioners undertake not to oppose the same.

16. All usual and necessary clauses to be inserted in the lease to carry out the arrangements hereby agreed to.

17. All differences, if any, which shall arise between the Commissioners on the one hand, and the Company on the other hand, with respect to these heads or the lease or any of the subject matter thereof respectively, or otherwise relating thereto respectively, shall, except where otherwise provided for, be referred to arbitration, and provision for the purpose shall be made by the lease, and the arbitration shall be as nearly as can be in accordance with the Railway Companies Arbitration Act, 1859, and for every such purpose the Commissioners shall be deemed to be a railway company.

In witness whereof the Commissioners and the Company have hereunto set their respective common seals this 21st day of June one thousand eight hundred and seventy-seven.

The common seal of the Great Western Railway Company was hereunto affixed in the presence of

G. COTTMAN, Assistant Secretary.

Seal of the Great Western Railway Company.

The common seal of the Neath Harbour Commissioners was hereunto affixed in the presence of

J. H. ROWLAND, Chairman.

JAMES KEMPTHORNE, Clerk to the Commissioners.

Seal of the Neath Harbour Commissioners.

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