



CHAP. cxlii.

An Act to amend the Exmouth Docks Act, 1864.

A.D. 1870.

[1st August 1870.]

WHEREAS by “The Exmouth Docks Act, 1864,” (in this Act 27 & 28 Vict.
called “the Act of 1864,”) the Exmouth Docks Company (in c. cccix.
this Act referred to as “the Company”) was empowered, amongst
other things, to construct docks at Exmouth in the county of Devon,
and to demand in respect of ships, passengers, and goods entering,
using, or landed at such docks the rates in that behalf specified :

And whereas the Exmouth Docks Company have constructed
docks in pursuance of the said Act of 1864 :

And whereas it is expedient that the powers and jurisdiction of
the dock-master of the Company should be altered and defined, and
that the Company should have power to divide the shares in the
Company into preferred half shares and deferred half shares, and
to convert the debentures of the Company into stock, and to attach
to such stock such preference as in this Act specified :

And whereas the said objects cannot be effected without the
consent 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,)

1. This Act may be cited for all purposes as “The Exmouth Docks Act, 1870.” Short title
of Act.

2. “The Companies Clauses Consolidation Act, 1845,” and Part 8 & 9 Vict.
III. of “The Companies Clauses Act, 1863,” relating to debenture c. 16.
stock, as amended by “The Companies Clauses Act, 1869,” shall be 26 & 27 Vict.
incorporated with this Act ; and words in this Act shall have the c. 118. and
same meaning as in the incorporated Acts and the Act of 1864 ; and 32 & 33 Vict.
the Act of 1864 and this Act shall be read and have effect together c. 48. incor-
as one Act, and for this purpose the expression “this Act” when porated.

A.D. 1870. — used in the Act of 1864 shall be taken to apply to the present Act as well as to the Act of 1864.

Limits of dock-master's jurisdiction extended.

3. The 23rd section of the Act of 1864 is hereby repealed; and the limits within which the powers of the dock-master for the purposes of "The Harbours, Docks, and Piers Clauses Act, 1847," the Act of 1864, and this Act, may be exercised shall extend to the docks and entrances thereof, and all works and lands belonging to the Company connected therewith, and to any place within a radius of six hundred feet from the dockhead on the northern side of the entrance to the docks, and also three hundred feet in a straight line west from the westernmost point of such radius, and from thence in a straight line in a north-easterly direction terminating at the second level crossing on the Exeter and Exmouth Railway above the bridge that crosses the Withycombe Brook at the upper end of the embankment known as the Mud Bank, and shall also extend to all parts of the foreshore down to low-water mark spring tides at and between the said dockhead and Mare Rocks, situated in a south-easterly direction, on the Exmouth side of the River Exe.

Power of dock-master extended.

4. The powers of the dock-master under the 52nd section of the Harbours, Docks, and Piers Clauses Act, 1847, shall be deemed to include the power of determining at what place or places within the limits of his said powers vessels may discharge and take in their cargoes; but the powers of the dock-master shall not extend to any vessel passing through the limits aforesaid, or that may be obliged to drop her anchor within such limits temporarily through stress of weather, accident, falling off of tides, or any other necessary causes affecting navigation.

Saving rights.

5. That nothing in this Act or in the Act of 1864 contained shall extend or be construed to extend to take away, restrict, or in any way affect the right of any person or persons, with or without luggage, to land on or embark from any part of the beach within the limits aforesaid from or in any vessel, barge, or boat, or craft of any kind whatsoever, nor to take away, restrict, or in any way affect the right of any person or persons residing at Exmouth, or any place on the banks of the River Exe, to land fresh fish at or on any part of the beach within the limits aforesaid.

Power to divide shares.

6. Subject to the provisions of this Act, the Company, with the authority of three fourths of the votes of the shareholders present in person or by proxy at a general meeting of the Company specially convened for the purpose, may from time to time divide any share in their capital into half shares, of which one shall be called "preferred half share" and the other shall be called "deferred half

share: " Provided always, that the Company shall not divide any share under the authority of this Act unless and until not less than sixty per centum upon such share has been paid up; and upon every such division fifty per centum upon the entire share shall be carried to the credit of the deferred half share (being the whole amount payable thereon), and the residue to the credit of the preferred half shares.

A.D. 1870.

7. The dividend which would from time to time be payable on any divided share if the same had continued an entire share shall be applied in payment of dividends on the two half shares in manner following; (that is to say,) first, in payment of dividend after such rate, not exceeding six per centum per annum, as shall be determined at a general meeting of the Company specially convened for the purpose, on the amount for the time being paid up on the preferred half share, and the remainder, if any, in payment of dividend on the deferred half share, and the Company shall not pay any greater amount of dividend on the two half shares than would have from time to time been payable on the entire share if the same had not been divided.

Dividend on half shares.

8. Each preferred half share shall be entitled out of the profits of each year to the dividend which may have been attached to it by the Company as aforesaid in priority to the deferred half share bearing the same number; but if in any year ending the thirty-first day of December there be not profits available for the payment of the full amount of dividend on any preferred half share for that year, no part of the deficiency shall be made good out of the profits of any subsequent year, or out of any other funds of the Company.

Dividend on preferred shares to be paid out of the profits of the year only.

9. Forthwith after the creation of any half shares the same shall be registered by the directors, and each half share shall bear the same number as the number of the entire share certificate in respect of which it was issued; and the directors shall issue certificates of the half shares accordingly, and shall cause an entry to be made in the register of the entire shares of the conversion thereof: Provided always, that the directors shall not be bound to issue a certificate of any half share until the certificate of the existing share be delivered to them to be cancelled, unless it is shown to their satisfaction that the certificate is destroyed or lost; and on any certificate being so delivered up the directors shall cancel it.

Half shares to be registered and certificates issued.

10. The terms and conditions on which any preferred half share or deferred half share created under this Act is issued shall be stated on the certificate of each such half share.

Terms of issue to be stated on certificate.

11. The provisions of "The Companies Clauses Act, 1845," with respect to the forfeiture of shares for non-payment of calls shall

Forfeiture of preferred half shares.

A.D 1870.

apply to all preferred half shares to be created under the authority of this Act, and every such preferred half share shall for that purpose be considered a whole share, distinct from the corresponding half share: Provided always, that until any forfeited preferred half share is sold by the directors of the Company all dividends which would be payable thereon if the same had not been forfeited shall be applied in or towards payment of any expenses attending the declaration of forfeiture thereof, and of the arrears of calls for the time being due thereon, with interest.

Preferred half shares not to be cancelled or surrendered. Half shares to be half shares in capital.

12. No preferred half share created under the authority of this Act shall be cancelled or surrendered to the Company.

13. The several half shares under this Act shall be half shares in the capital of the Company; and every two preferred or deferred half shares held by the same person shall confer such right of voting at meetings of the Company, and (subject to the provisions hereinbefore contained) shall confer and have such other rights, qualifications, privileges, liabilities, and incidents as attach and are incident to an entire share.

Power to convert debentures into stock.

14. The Company may at any time after the passing of this Act convert the debentures of the Company into debenture stock, and may for that purpose create and issue debenture stock, and may attach thereto preferential interest at the rate of six pounds per centum per annum.

Saving for Earl of Devon, &c.

15. Provided that nothing contained in this Act or in the Act of 1864 shall alter, affect, or abridge any rights, privileges, powers, or dues of or belonging to the Earl of Devon as lord of the manor of Kenton, or any person, company, or corporation claiming under him as such lord, nor any rights, powers, or privileges of the said Earl of Devon as conservator of the River Exe, or otherwise: Provided that nothing in this Act contained shall abridge or alter the powers, rights, and privileges conferred by "The Exe Bight Pier Order, 1864," and "The Piers and Harbours Orders Confirmation Act, 1864."

Saving rights of Samuel Bishop Davy, Esq.

16. Nothing in this Act shall take away, lessen, prejudice, or affect, or authorise the Company in any way to interfere with the rights, powers, or privileges of Samuel Bishop Davy, his executors, administrators, or assigns, the present occupier of the lime kilns situate near Mare Rocks, during his or their occupation thereof under his present existing lease in respect of landing or exporting on or from the beach there, within the limits aforesaid, any stone, culm, coal, or other material for burning stone into lime, or any manure or other material used in husbandry and landed or exported solely

on the account of the said Samuel Bishop Davy, his executors, administrators, or assigns, in the business of a lime merchant. A.D. 1870.

17. Nothing in this Act contained shall take away, lessen, prejudice, or affect, or authorise the Company in any way to interfere with, any of the estates, rights, interests, powers, or privileges of the lord of the manor of Littleham and Exmouth, without or otherwise than in accordance with his respective previous consent in writing, except as is by this Act specially authorised.

Saving rights of lord of manor of Littleham and Exmouth.

18. Nothing in this Act contained shall authorise the Company in any way to interfere with the getting or selling or disposing of ballast, sand, or other substances from any part of the estate late of the Right Honourable John Lord Rolle, deceased, or take away, lessen, or prejudice any of the rights of the owner from time to time of any part of that estate with respect to ballast or sand, or ballast grounds, or sand-pits, or the getting or selling or disposing of ballast or sand, with the exception that such rights shall be held not to extend to nor be exercised within the Company's limits of deviation as shown on the deposited plans, so far as the exercise of such rights shall endanger the stability of the works authorised by the Act of 1864.

Saving rights as to ballast, &c. of owners of the Rolle Estate.

19. Nothing in this Act shall be deemed to take away, prejudice, interfere with, or affect any right which any person or persons has or have or may have to land or embark goods and merchandise at the bridge at the north end of the Mud Bank near Withycombe Brook in the parish of Withycombe Raleigh, provided such goods and merchandise are not landed from or intended to be placed on board of any boat, barge, lighter, or vessel lying or being at any place within the limits of the dock-master, as defined by section 23 of the Act of 1864, notwithstanding the repeal of that section by this Act or anything herein contained.

Saving rights as to landing or embarking goods, &c. north of Mud Bank near Withycombe Brook.

20. All the 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.

Expenses of Act.

