# CHAPTER xcix.

An Act to authorise the Dock Company at Kingston-upon-Hull to make a Deep-water Entrance to their Albert Dock and other Works; and for other purposes. A.D. 1889.

[26th July 1889.]

WHEREAS the several Acts of Parliament mentioned in the schedule to this Act have been from time to time passed relating to the Dock Company at Kingston-upon-Hull which Company is in this Act referred to as "the Company":

And whereas among the docks belonging to the Company is a dock formerly called the western dock but now called "the Albert Dock" and it is expedient that the Company should be authorized to make a new deep-water entrance and lock thereto for the more convenient user thereof by ships of large tonnage:

And whereas it is expedient that the Company should be authorized to make the other works in this Act described for and in connection with the improvement of their undertaking:

And whereas it is expedient that the Company should be authorized to raise additional capital:

And whereas it is expedient that the other provisions contained in this Act should be authorized:

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

And whereas plans and sections showing the lines and levels of the works authorized by this Act and the foreshore to be taken for the purposes thereof and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of such foreshore were duly deposited with the clerk of the peace for the East Riding of Yorkshire and the said documents are hereinafter respectively referred to as "the deposited plans sections and books of reference":

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

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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:

## PART I.

### Preliminary.

Short title.

**1.** This Act may be cited as the Hull Docks Act 1889.

Act divided into parts.

**2.** This Act is divided into Parts as follows (that is to say):—

Part I.—Preliminary;

Part II.—Works &c.;

Part III.—Finance;

Part IV.—Miscellaneous;

Incorporation of general Acts.

**3.** The following Acts are (except where the same are expressly varied by this Act) incorporated with and form part of this Act namely:—

The Lands Clauses Consolidation Acts 1845 1860 and 1869 as amended by the Lands Clauses (Umpire) Act 1883;

The Harbours Docks and Piers Clauses Act 1847 except the provisions thereof with respect to lifeboats and to keeping a tide and weather gauge which shall not apply to the Company unless the Board of Trade shall so require.

Extending certain provisions of the Companies Clauses Consolidation Acts.

**4.** Subject to the provisions of this Act all the provisions of the Companies Clauses Consolidation Act 1845 with respect to the following matters (that is to say):—

The distribution of the capital of the Company into shares;

The transfer or transmission of shares;

The payment of subscriptions and the means of enforcing the payment of calls;

The forfeiture of shares for non-payment of calls;

The remedies of creditors of the Company against the shareholders;

The borrowing of money by the Company on mortgage or bond;

The conversion of borrowed money into capital;

The consolidation of shares into stock;

The general meetings of the Company and the exercise of the right of voting by the shareholders;

The making of dividends;

The giving of notices; and

The provision to be made for affording access to the special Act by all parties interested; and

Parts I. II. and III. of the Companies Clauses Act 1863 relating respectively to the cancellation and surrender of shares to additional capital and to debenture stock;

shall be applicable to the capital and moneys hereby authorized to be raised by shares or stock or mortgage and to the proprietors thereof.

Interpretation.

**5.** In this Act unless the subject or context otherwise requires—

The several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have the same respective meanings;

"The corporation" means the mayor aldermen and burgesses of the borough of Kingston-upon-Hull;

"Owner" includes Company:

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

## PART II.

### Works &c.

Power to make works.

**6.** Subject to the provisions of this Act the Company may make and maintain in the lines and according to the levels shown on the deposited plans and sections the following works shown on the deposited plans and the Company may enter upon take and use such of the foreshore delineated on the deposited plans and described in the deposited books of reference as may be required for those purposes.

The works hereinbefore referred to and authorized by this Act are:—

Work A.—A new deep-water entrance and lock to the Albert Dock of the Company (being work Number 6 on the deposited plans) to commence in and out of the basin of or entrance to that dock and terminating about sixty yards to the west of the south-eastern corner of that dock;

Work B.—In connection with Work A a river wall or embankment wholly in the parish of Holy Trinity and on the foreshore of the River Humber (being work Number 7 on the deposited plans) commencing at the south-eastern corner of the said

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intended new entrance and terminating at a point in the existing river wall or embankment about sixteen yards west of a line drawn in a southerly direction from the western end of the Company's Number 1 graving dock.

As to construction of work B.

**7.** The river wall or embankment (Work B) shall be made and constructed by the Company in a substantial and workmanlike manner and to the reasonable satisfaction of and according to plans to be previously approved by the engineers of the Humber Conservancy Commissioners and shall for ever afterwards be so maintained and kept in good and proper repair by and at the expense of the Company.

Any difference which shall at any time arise between the Company and the Commissioners or between their respective engineers with respect to such river wall or embankment shall be referred to the decision of an arbitrator to be appointed by the Board of Trade and his decision shall be conclusive in the matter and the costs of the reference shall be borne as he shall direct.

Subsidiary works.

**8.** The Company may from time to time make and maintain all such sidings junctions turntables wharves approaches roads gates locks walls embankments arches piling coffer-dams sluices watercourses sewers drains opening-bridges hydraulic and other apparatus dolphins buoys posts and other works buildings and conveniences as may be deemed necessary or expedient for or incidental to the several works by this Act authorized Provided always that no such works other than temporary works shall project into the River Humber beyond the line of the river wall or embankment authorized by the section of this Act the marginal note whereof is "Power to make works."

Company to dredge Humber if silt accumulated.

**9.**—(1.) If by reason of the works of the Company authorized by this Act any accumulation of silt or other material shall create an impediment to the free navigation of the River Humber the Company shall from time to time at the request of the Humber Conservancy Commissioners dredge such accumulation of silt or other material and restore the river to its former condition and if the Company on such request refuse or fail to do so the Humber Conservancy Commissioners may themselves cause the work to be done and restore the said river to its former condition and the amount of the expense occasioned thereby shall be a debt due from the Company to the Commissioners and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Company.

(2.) If any question or difference shall arise between the Company and the Humber Conservancy Commissioners with reference to any

matter comprised or referred to in this section the matter in dispute shall from time to time be decided by an engineer to be appointed by the Board of Trade on the application of the Company or of the Humber Conservancy Commissioners and his decision shall be final in the matter and the costs of the reference shall be borne as he shall direct.

For protection of Corporation of Hull.

**10.**—(1.) If by reason of the works of the Company authorized by this Act any accumulation of silt or other material shall create an impediment to the free access to the pier of the corporation known as the Victoria Pier or to the jetty of the corporation known as the Vittoria Jetty or to the dock of the corporation known as the Ferry Boat Dock or shall cause any silting up within the said dock the Company shall from time to time at the request of the corporation dredge such accumulation of silt or other material and restore the river or dock to its former condition and if the Company on such request refuse or fail to do so the corporation may themselves cause the work to be done and restore the said river or dock to its former condition and the amount of the expense occasioned thereby shall be a debt due from the Company to the corporation and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Company.

(2.) If any question or difference shall arise between the Company and the corporation with reference to any matter comprised or referred to in this section the matter in dispute shall from time to time be decided by an engineer to be appointed by the Board of Trade on the application of the Company or of the corporation and his decision shall be final in the matter and the costs of the reference shall be borne as he shall direct.

For protection of frontagers.

**11.**—(1.) If by reason of the works of the Company authorized by this Act any accumulation of silt or other material shall create an impediment to the free access to any premises fronting on the north side of the River Humber the Company shall from time to time at the request of the owner or lessee of such premises dredge such accumulation of silt or other material and restore the river to its former condition and if the Company on such request refuse or fail to do so such owner or lessee may cause the work to be done and restore the said river to its former condition and the amount of the expense occasioned thereby shall be a debt due from the Company to such owner or lessee and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Company.

(2.) If any question or difference shall arise between the Company and such owner or lessee with reference to any matter comprised or

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referred to in this section the matter in dispute shall from time to time be decided by an engineer to be appointed by the Board of Trade on the application of the Company or of such owner or lessee and his decision shall be final in the matter and the costs of the reference shall be borne as he shall direct.

Power to deviate.

**12.** The Company in constructing the works hereinbefore authorized may deviate from the centre lines shown on the deposited plans to the extent of the limits of deviation marked on such plans respectively but so nevertheless that no part of such deviation be constructed beyond the said limits and may deviate from the levels shown on the deposited sections to any extent not exceeding five feet Provided that no deviation of any works authorized by this Act within the limits of deviation of which any public navigation tidal river or channel is included shall be made from the lines thereof as shown on the deposited plans even within the limits of deviation shown on such plans in such manner as to diminish the navigable space of such river or channel without the previous consent of the Board of Trade and the Humber Conservancy Commissioners nor otherwise than in such manner as is expressly authorized by the Board of Trade and the Humber Conservancy Commissioners.

Power to dredge &c.

**13.** For the purposes of and in connection with the construction and maintenance of the said new entrance and lock (Work A) the Company may exercise the following powers (that is to say) :—

They may deepen scour alter and improve the bed shore and channel of the River Humber adjoining the said new entrance and lock and they may strengthen and support by piling underpinning or otherwise the wharf commonly known as the "Island Wharf" or the "Island Pier":

Provided that the Company shall two months before commencing such work deliver to the Humber Conservancy Commissioners plans defining the nature and extent of the work so proposed to be carried out and that the Company shall not in the exercise of any of the powers conferred on them by this section carry out the work thereby authorized so as to project further upon the foreshore or bed of the River Humber than the existing works (without the consent of the Humber Conservancy Commissioners) or so as to prejudicially affect the navigation or the channel or roadstead of the River Humber and in the event of any question or difference arising between the Commissioners and the Company either as to the withholding of such consent or as to whether such works prejudicially affect the navigation or the channel or roadstead of the River Humber such question or difference shall be referred to an arbitrator to be

appointed by the Board of Trade and his decision shall be conclusive in the matter.

Power to take easements &c. by agreement.

**14.** Persons empowered by the Lands Clauses Consolidation Act 1845 to sell and convey or release lands may if they think fit subject to the provisions of that Act and of the Lands Clauses Consolidation Acts Amendment Act 1860 and of this Act grant to the Company any easement right or privilege (not being an easement of water) required for the purposes of this Act or any of the purposes of their undertaking in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges as far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights or privileges as aforesaid.

Period for compulsory purchase of foreshore.

**15.** The powers for the compulsory purchase of foreshore for the purposes of this Act shall not be exercised after the expiration of five years from the passing of this Act.

Period for completion of works &c.

**16.** If the works hereinbefore authorized by this Act be not completed within seven years from the passing of this Act then on the expiration of that period the powers by this Act granted for making and completing the said works respectively or otherwise in relation thereto shall cease except as to so much thereof respectively as is then completed.

Lights on works.

**17.** The Company shall on or near the works below high-water mark hereby authorized during the whole time of their construction exhibit and keep burning at their own expense every night from sunset to sunrise such lights (if any) as the Board of Trade from time to time require or approve and shall also on or near the south-eastern extremity of the river wall or embankment hereby authorized when completed always maintain exhibit and keep burning at their own expense every night from sunset to sunrise such lights (if any) for the guidance of ships as the Board of Trade from time to time require or approve If the Company fail to comply in any respect with the provisions of the present section they shall for each night in which they so fail be liable to a penalty not exceeding five pounds.

Abatement of works abandoned or decayed.

**18.** If any of the works constructed by the Company on in over through or across tidal lands or tidal waters are abandoned or suffered to fall into decay the Board of Trade or the Humber Conservancy Commissioners may abate and remove the same or any part of them and restore the site thereof to its former condition at the expense of the Company and the amount of such expense shall be a debt due from the Company to the Crown or the Humber

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Conservancy Commissioners as the case may require and be recoverable accordingly with costs or the same may be recovered with costs as a penalty is recoverable from the Company.

As to footway on new embankment &c.

**19.** The river wall or embankment (Work B) shall be deemed part of the works of the Albert Dock and section 34 (Company to provide a footway on the riverside of new dock and works) section 35 (Company to provide steps at riverside) and section 36 (steps to be free for passengers) of the Hull Docks Act 1861 shall extend and apply mutatis mutandis to the said river wall or embankment as if the same had been authorized by that Act.

## PART III.

### Finance.

Company may apply their funds towards purposes of Act and may raise additional capital.

**20.** The Company may apply to the purposes of this Act to which capital is properly applicable any of the moneys which they are already authorized to raise and which may not be required by them for the purposes for which the same were authorized to be raised and the Company may for the purposes of this Act and for the general purposes of their undertaking from time to time subject to the provisions of Part II. of the Companies Clauses Act 1863 raise in addition to the sums of money which they are already authorized to raise any additional sum or sums not exceeding in the whole one hundred and sixty thousand pounds by the issue at their option of new ordinary shares or stock or new preference shares or stock (entitled to a preferential dividend not exceeding seven pounds per centum per annum) or wholly or partly by any one or more of those methods respectively which shares or stocks shall form part of the general capital of the Company.

Shares or stock not to vest until one-fifth part paid up.

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

Votes in respect of new shares.

**22.** The Company may from time to time if they think fit attach to all or any new shares or any class of new shares created under the powers of this Act any total or partial permanent or temporary restriction of the rights of voting and other qualifications of the holders thereof.

Shares of same class to have like privileges.

**23.** All shares of the same class created by the Company under this Act shall confer like privileges and shall bear like dividends or interest and be subject to like restrictions (if any).

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Power to borrow on mortgage &c.

**24.** The Company may from time to time borrow on mortgage of their undertaking or by the issue of debentures any additional sums not exceeding in the whole forty thousand pounds in respect of the additional capital of one hundred and sixty thousand pounds by this Act authorized to be raised Provided that in respect of every forty thousand pounds of such additional capital issued and accepted and one-half whereof shall have been paid up the Company may borrow a sum or sums not exceeding in the whole ten thousand pounds But no part of any of the before-mentioned sums of ten thousand pounds shall be borrowed until shares for so much of the said portion of the additional capital in respect of which the borrowing powers are to be exercised as is to be raised by means of shares are issued and accepted and one-half of such capital is paid up and the Company have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that shares for the whole of such portion of additional capital have been issued and accepted and that one-half of such portion has been paid up and that not less than one-fifth part of the amount of each separate share in such portion of capital has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one-half of so much of such portion of the said additional capital as is to be raised by means of stock is fully paid up and the Company have proved to such justice as aforesaid before he so certifies that such shares or stock as the case may be were issued and accepted and paid up bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and also so far as the said capital is raised by shares that such persons or corporations or their executors administrators successors or assigns are legally liable for the same and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

Existing mortgages and debentures to have priority.

**25.** All mortgages and debentures granted by the Company in pursuance of any Act of Parliament and which shall be subsisting at the time of the passing of this Act shall during the continuance of such mortgages and debentures and subject to the provisions of the Acts under which such mortgages and debentures were respectively granted have priority over any mortgages or debentures granted by virtue of this Act and nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Company.

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Debenture stock.

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

Application of moneys.

**27.** All moneys raised by the Company under this Act whether by shares stock debenture stock or borrowing shall be applied only to the purposes of this Act for which the same are expressly authorized and subject thereto to the general purposes of the Company being in every case purposes to which capital is properly applicable.

Receipt in case of persons not sui juris.

**28.** If any money is payable to a holder of shares or stock in the Company being a minor idiot or lunatic the receipt of the guardian or committee of his estate shall be a sufficient discharge to the Company.

## PART IV.

### Miscellaneous.

Recovery of penalties under Act of 1883.

**29.** Any penalty incurred under the provisions of section six (for protection of dock master &c. in execution of his duties) of the Hull Docks Act 1883 may be recovered summarily.

False answers &c. as to ship's destination.

**30.** Any person who shall refuse to make an answer to any question put to him under section forty (penalty for evading to make a true report of the ship's destination) of the Kingston-upon-Hull Dock Amendment Act 1854 or who shall make a false or untrue answer to any such question shall not be exempted from the penalty imposed by that section by reason of his want of information or of his making such answer on information received from some other person.

Saving rights of the Crown in the foreshore.

**31.** Nothing contained in this Act shall authorize the Company to take use or in any manner interfere with any portion of the shore or bed of any river channel creek bay or estuary or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of Her Crown and under the management of the Board of Trade without the previous consent in writing of the Board of Trade on behalf of Her Majesty (which consent the Board of Trade

may give) neither shall anything in this Act contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exercisable by the Queen's Majesty Her heirs or successors.

Saving rights of Crown under Crown Lands Act.

**32.** Nothing contained in this Act or to be done under the authority thereof shall in any manner affect the title to any of the subjects or any rights powers or authorities mentioned in or reserved by sections twenty-one and twenty-two of the Crown Lands Act 1866 and belonging to or exercisable on behalf of Her Majesty Her heirs or successors.

Saving rights of Humber Conservancy Commissioners.

**33.** Except as in this Act otherwise expressly provided nothing contained in this Act shall prejudice or alter any of the provisions of the Humber Conservancy Acts 1852 to 1876 or any of them.

Saving rights of Humber Conservancy Commissioners in land and foreshores.

**34.** Nothing contained in this Act shall prejudice or alter any title of the Humber Conservancy Commissioners in to or over any lands or foreshores held or acquired by them under the said Acts or any of them or under any lease or agreement made under the powers thereof or confirmed thereby or otherwise howsoever.

Saving for Earle's Shipbuilding Company.

**35.** Except as by this Act expressly provided nothing in this Act shall prejudice alter vary or affect any rights of Earle's Shipbuilding and Engineering Company Limited at the time of the passing of this Act.

Saving for Corporation of Hull.

**36.** Except as is by this Act expressly provided nothing in this Act shall extend or be construed to extend to take away lessen prejudice alter or affect any of the powers rights privileges or authorities vested in exercised or enjoyed by the corporation.

Interest not to be paid on calls paid up.

**37.** No interest or dividend shall be paid out of any share or loan capital which the Company are by this or any other Act authorized to raise to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

Provision for Merchant Shipping Act and general Acts.

**38.** Nothing in this Act contained shall exempt the Company from the provisions of the Merchant Shipping Act 1854 or any general Acts relating to docks or dues on shipping or on goods carried in ships now in force or which shall be passed during the present or any future session of Parliament or from any future revision or alteration under the authority of Parliament of the dock rates or duties by this Act authorized.

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Costs of Act.

**39.** 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.

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## The SCHEDULE referred to in the foregoing Act.

The Kingston-upon-Hull Dock Act 1774.
The Kingston-upon-Hull Dock Act 1802.
The Kingston-upon-Hull Dock Act 1805.
The Kingston-upon-Hull Dock Act 1844.
The Kingston-upon-Hull Dock Act 1845.
The Kingston-upon-Hull Dock Act 1847.
The Kingston-upon-Hull Dock Act 1849.
The Hull Dues Act 1852.
The Kingston-upon-Hull Dock Amendment Act 1854.
Hull Docks Act 1861.
Hull Docks Act 1864.
Hull Docks Act 1866.
Hull Docks Act 1867.
Hull Docks Act 1873.
The Hull Docks Act 1877.
The Hull Docks Act, 1883.

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