CHAPTER xxxv

An Act to authorise the Falmouth Docks and Engineering Company to construct a new quay to confer further powers upon the Company and for other purposes.

[30th July 1949.]

WHEREAS by the Falmouth Docks Acts 1859 to 1939 the Falmouth Docks and Engineering Company (hereinafter called "the Company") were incorporated and authorised to construct and maintain a tidal harbour and certain docks and other works at and in the neighbourhood of Falmouth in the county of Cornwall and to exercise various other powers:

And whereas it is expedient that the Company should be authorised to construct a new quay and that the powers and provisions relating thereto which are contained in this Act should be conferred and enacted:

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

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

And whereas a plan and sections showing the lines and levels of the work authorised by this Act were duly deposited with the clerk of the county council of the administrative county of Cornwall which plan and sections are in this Act respectively referred to as the deposited plan and sections:

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 and collective titles.

1.—(1) This Act may be cited as the Falmouth Docks Act 1949.

(2) The Falmouth Docks Acts 1859 to 1939 and this Act may be cited as the Falmouth Docks Acts 1859 to 1949.

Incorporation. 10 & 11 Vict. c. 27.

2. The provisions of the Harbours Docks and Piers Clauses Act 1847 (so far as the same are applicable for the purposes of this Act and are not varied by or inconsistent with the provisions of the Falmouth Docks Acts 1859 to 1949 and except sections 12 and 13 and 16 to 19 of the said Act of 1847) are hereby incorporated with this Act:

Provided that—

(*a*) In the application to this Act of the said Act of 1847 the word "vessel" shall include a seaplane on the surface of the water;

(*b*) Nothing in the said Act of 1847 shall require or authorise the harbour master or other officer to require the dismantling of a seaplane or any part thereof or the making of any alteration whatever of the structure or equipment of a seaplane.

Interpretation.

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

"The Company" means the Falmouth Docks and Engineering Company;

"The undertaking" means the undertaking of the Company as for the time being authorised;

"The new quay" means the quay or wall by this Act authorised;

"The dock estate" has the meaning assigned to it by the Falmouth Docks Act 1921;

11 & 12 Geo. 5. c. xxiii.

"Seaplane" includes a flying boat and any other aircraft designed to manoeuvre on the water;

"The Minister" means the Minister of Transport.

Power to construct new quay.

4.—(1) 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 plan and sections the work which is hereinafter described (that is to say):—

A quay or wall in the borough of Falmouth commencing at Kings Jetty and terminating at the Royal Engineer Pier.

(2) The Company may by means of the said quay or wall enclose and reclaim and may hold and use as part of the undertaking so much of the bed and foreshore of Falmouth Harbour as is situate on the landward side of the said quay or wall.

Limits of deviation.

5. In the construction of the new quay the Company may deviate from the lines thereof shown on the deposited plan to any extent not exceeding the limits of deviation shown on that plan and they may also deviate from the levels shown on the deposited sections to any extent not exceeding twenty feet upwards or downwards.

Period for completion of new quay.

6. If the new quay is not completed within five years from the passing of this Act then on the expiration of that period the powers by this Act granted for the making thereof shall cease except as to so much thereof as is then completed:

Provided that the Company may at any time and from time to time within the limits of deviation shown on the deposited plan make and maintain all such extensions and enlargements of the new quay as they find requisite.

Works below high-water mark to be subject to approval of Minister.

7.—(1) Subject to the provisions of this Act any work authorised by this Act shall be constructed so far as the same shall be on under or over tidal waters or tidal lands below high-water mark of ordinary spring tides only in accordance with plans and sections approved by the Minister and subject to such restrictions and regulations as the Minister may prescribe before such work is begun.

(2) Any alteration or extension of any such work shall be subject to the like approval.

(3) If any such work be commenced or completed contrary to the provisions of this section the Minister may abate and remove the same and restore the site thereof to its former condition at the cost of the Company and the amount of such cost shall be a debt due from the Company to the Crown and shall be recoverable as a debt due to the Crown.

As to floating dock.

8.—(1) The Company may acquire and provide and within the limits of deviation shown on the deposited plan moor maintain and use a floating dock.

(2) For the purposes of tolls rates and charges and for all other purposes any floating dock so acquired provided or moored shall be deemed to form part of the undertaking.

Works to form part of undertaking.

9. For the purposes of tolls rates and charges and for all other purposes the works by this Act authorised shall be deemed to form part of the undertaking and of the dock estate.

As to accounts.

10.—(1) Notwithstanding anything contained in the Falmouth Docks Acts 1859 to 1939 or this Act section 50 (Annual account to be prepared and transmitted to the clerk of the peace in England or Ireland or the sheriff in Scotland) of the Harbours Docks and Piers Clauses Act 1847 shall in its application to the

Company have effect as if for the words " such account shall end " there were substituted the words " the ordinary general meeting of the Company shall be held ".

(2) The Company shall within one month after the first day on which an ordinary general meeting of the Company shall be held after the date to which the accounts of the Company are made up in pursuance of the said section 50 send a copy of such accounts and of the balance sheet of the Company to the Minister and the Company shall as from the expiration of the said period be liable to a penalty not exceeding twenty pounds for every week or part of a week during which they refuse or neglect to comply with this subsection.

(3) Section 35 (As to accounts) of the Falmouth Docks Act 1921 and proviso (*b*) to section 2 (Incorporation) of the Falmouth Docks Act 1939 are hereby repealed.

2 & 3 Geo. 6. c. lxxx.

Application of moneys.

11.—(1) The Company may apply for or towards all or any of the purposes of this Act to which capital is properly applicable any sums of money which they have raised or are authorised to raise under the authority of the Falmouth Docks Acts 1859 to 1939.

(2) It shall not be lawful to exercise the powers of borrowing applied by this Act otherwise than in compliance with the provisions of any orders for the time being in force made under section 1 (Treasury control of borrowing &c.) of the Borrowing (Control and Guarantees) Act 1946.

9 & 10 Geo. 6. c. 58.

Application of sections from existing Acts.

12. The following sections of the Acts hereinafter mentioned shall so far as the same are applicable extend and apply to and for the purposes of this Act as if the same with any necessary modifications were re-enacted in this Act (that is to say):—

16 & 17 Geo. 5. c. xliii.

The Falmouth Docks Act 1926—

Section 9 (Crown rights);

Section 10 (Lights on works during construction);

Section 12 (Permanent lights on works);

Section 13 (Abatement of work abandoned or decayed);

Section 14 (Survey of works by Board of Trade); and

Section 15 (Provision against danger to navigation):

Provided that the said sections 10 13 and 14 shall have effect as if in each of those sections for the words " Board of Trade " there were substituted the words " Minister of Transport ":

The Falmouth Docks Act 1939—

Section 5 (Subsidiary works).

For protection of Harvey and Company Limited.

13. The following provisions for the protection of the protected owner shall notwithstanding anything in this Act or shown on the deposited plan and section and unless otherwise agreed in writing between the Company and the protected owner apply and have effect (that is to say):—

(1) In this section—

"the protected property" means the lands shown on the deposited plan and thereon numbered 3 and 5 and described in the deposited book of reference;

"the protected owner" means Harvey and Company Limited or other the owner or owners for the time being of the protected property and includes the occupier or occupiers of that property;

"the authorised works" means the new quay as originally constructed or as altered or extended in accordance with the provisions of this Act and includes any work connected therewith or subsidiary thereto:

(2) No authorised work shall be constructed in such a way as to obstruct such passage as may be reasonably required by any vessel proceeding to the protected property from the sea or vice versa:

(3) If any question arises between the Company and the protected owner under the provisions of this section such question shall be referred to and determined by an arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers upon the application of either party (after notice in writing to the other) and the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such arbitration.

Saving for town and country planning. 10 & 11 Geo. 6. c. 51.

14. This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 (Development orders) and subsection (1) of section 118 (Application to land regulated by special enactments) of that Act.

Costs of Act.

15. All costs charges and expenses of and incidental to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

PRINTED BY HENRY GEORGE GORDON WELCH, C.B.E.
Controller of His Majesty's Stationery Office and King's Printer of Acts of Parliament

To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:
York House, Kingsway, London, W.C.2 ; 13a Castle Street, Edinburgh, 2;
39 King Street, Manchester, 2; 2 Edmund Street, Birmingham, 3;
1 St. Andrew's Crescent, Cardiff ; Tower Lane, Bristol, 1 ;
80 Chichester Street, Belfast
OR THROUGH ANY BOOKSELLER

Price 6d. net

(73859) PRINTED IN GREAT BRITAIN