

PENRYN HARBOUR IMPROVEMENT.

Provisional Order for the Construction of Further Works in Penryn Harbour and for conferring further Powers upon the Mayor Aldermen and Burgesses of the Borough of Penryn in the County of Cornwall in relation to that Harbour.

Preliminary.

1.—(1) This Order may be cited as the Penryn Harbour Improvement Short title.
Order 1900.

(2) This Order shall be construed as one with the Penryn Harbour Order of 1870 (in this Order called "the Order of 1870") and this Order and the Order of 1870 may together be cited as the Penryn Harbour Orders 1870 and 1900.

Undertakers.

2. The Mayor Aldermen and Burgesses of the borough of Penryn acting by Undertakers into execution and are in this Order referred to as "the Corporation."

Limits Works and Management.

3.—(1) The limits within which the Corporation shall have authority and Limits which shall be deemed to be the limits to which the Order of 1870 and this Order extend shall include the works authorized by this Order as well as the area within the limits to which the Order of 1870 extends.

(2) The area within the limits to which the Order of 1870 and this Order extend is in this Order referred to as "the harbour."

4. Subject to the provisions of this Order and subject also to such alterations Power to con- (if any) in the plan and section deposited with reference to this Order as the Board of Trade require before the completion of the works in order to prevent injury to navigation the Corporation may on the lands and in the lines and situations and according to the levels and width the limits of deviation shown on the deposited plan and section so far as the same are shown thereon make and maintain the works authorized by this Order with all necessary works accesses and conveniences.

5. The works authorized by this Order comprise a wharf wall and embankment Description of works, commencing at a point two hundred and forty-nine feet six inches measured in an east-south-easterly direction from the north-easterly corner of the partly erected wharf belonging or reputed to belong to Messrs. Diplock and Company on the southern side of that part of the Penryn River called or known as Penryn Harbour thence proceeding in an east-south-easterly direction for a distance of nine hundred and thirty feet or thereabouts from the point of commencement and thence proceeding in a south-south-westerly direction for a distance of four

hundred and ten feet or thereabouts and terminating at a point one hundred and ninety feet or thereabouts measured in a north-easterly direction from the south-westerly corner of the enclosure number fifty-nine on the ^{re} Ordnance map (Cornwall LX XI, 7 1892).

The said wharf will or embarkment will be sold.

The said works will be wholly situate in the parish of Budock in the county of Cornwall.

5. The Corporation may with the consent in writing of the Board of Trade in extent within the limits of deviation shown on the deposited plan and vertically to any extent approved by the Board of Trade.

7. If any person willfully obstructs any person acting under the authority of the Corporation in setting out the lines of the works authorised by this Order or pulls up or removes any poles or stakes driven into the ground for the purpose of setting out the lines of those works or defaces or destroys those works or any part thereof that person shall for each offence be liable to a penalty not exceeding five pounds.

8.—(1.) If within two years from the date of the passing of the Act confirming this Order the works authorised by this Order are not substantially commenced there to shall cease unless the time for commencement is extended by the special direction of the Board of Trade.

(2.) If the works authorised by this Order after having been substantially commenced are virtually suspended for twelve consecutive months the powers given by this Order for executing those works or otherwise in relation thereto shall cease except as to so much of those works as is then completed unless those powers are by the special direction of the Board of Trade continued and directed to remain in force for any period not exceeding five years from the date of the passing of the Act confirming this Order.

(3.) In either of the above cases a certificate from the Board of Trade to the effect that the works have not been substantially commenced or that they have been virtually suspended for twelve consecutive months shall for the purposes of this Order be conclusive evidence of the fact stated in that certificate.

9. The Corporation may make provide and maintain in connexion with the works authorised by this Order all or any of the following subsidiary works namely any necessary or convenient roads approaches slips quays shipping and landing places sea walls jetties stages sheds warehouses buildings cranes lamps lamp-posts buoys moorings machinery sewers drains groyes and other similar works appliances and conveniences.

10. The Corporation may blast dredge scour widen straighten deepen alter and improve the harbour and appropriate any rock mud sand or other material so dug and excavated and generally use the same for the construction and maintenance of the works authorised by this Order or for the purposes of the harbour.

A.D. 1900.

Penryn.

Power to deviate.

Penalty for obstructing works.

Power to cease in certain events.

Subsidiary works.

Power to dredge &c. harbour and channels thereof.

Pier and Harbour Orders Confirmation (No. 2) Act, 1900.

[Ch. cxviii.]

A.D. 1900.

Permy.

Consent of Board of Trade to works below high-water mark.

Power to provide warehouses in

Power to lease Warehouses Co.

11. Any works below high water mark shall not be commenced without the consent in writing of the Board of Trade and shall be executed only in the manner approved by that Board.

12. In addition to the subsidiary works authorised by this Order the Corporation may construct provide and maintain warehouses and other buildings in connexion with the harbour.

13. Notwithstanding anything contained in the Harbours Docks and Piers Clauses Act 1847 the Corporation may from time to time lease or grant the exclusive use or occupation of any warehouses buildings wharves yards cranes machines or other conveniences provided by them for the purposes of their harbour undertaking to any person for such period (not exceeding seven years) and at such rents and on such terms and conditions as they think fit.

14.—(1) The Corporation may provide for lighting the harbour and the works and buildings connected therewith by gas or electricity or other illuminating power and for that purpose may enter into agreements for such lighting.

(2.) All works provided by the Corporation for lighting the harbour and the works and buildings connected therewith by electricity shall be so constructed and used as to prevent any interference with telegraphic communication by means of any telegraphs for the time being used or intended to be used by the Postmaster-General.

(3.) The position and character of any lights used by the Corporation in or in connexion with the harbour shall be approved by the Corporation of Trinity House Deptford Strand and the Corporation shall not use any such lights unless so approved.

15. Subject to the provisions of this Order the Corporation may demand and receive on any and every vessel entering within the harbour whether that vessel anchors or is moored within the harbour or not or is lying alongside any wharves or quays within the harbour or not a rate not exceeding the rate of two pence per ton register of the vessel and if the vessel remains in the harbour more than two months continuously then for every month or part of a month during which the vessel so remains after the first two months a further rate not exceeding the rate of one penny per ton register of the vessel. Provided that—

(a) the rates leviable under this section in the case of vessels forced by stress of weather to seek shelter in the harbour and not breaking bulk while making use thereof shall not exceed one halfpenny per ton register of the vessel; and

(b) the rates leviable under this section shall in the case of unregistered vessels be calculated upon every ton of one half of the gross burden or dead weight capacity of the ship instead of the ton register; and

(c) rates under this section shall not be levied in respect of the same vessel more than four times in any one year ending on the thirty-first day of March.

A.D. 1900.

16.—(1.) The rates to be levied by the Corporation for the time being under this Order shall be adjusted by the Corporation within the maximum rates specified in this Order in such a manner that so far as possible the income of the harbour shall not for the time being be more than is sufficient for the purposes of the Order of 1870 and this Order.

Penyn.
Revision of rates.

(2.) If at any time it appears to the Board of Trade from the annual account sent to them that the clear annual income derived from the harbour on the average of the then three last preceding years after payment of all expenses and outgoings exceeds the amount sufficient for the purposes of the Order of 1870 and this Order that Board may if they think fit reduce the maximum rates to such sums as will be sufficient to provide the amount aforesaid and may at any time raise those maximum rates again so that they do not exceed the sums specified in this Order as the maximum rates.

17. Fishing vessels belonging to countries with which for the time being treaties exist exempting from dues and port charges those vessels when forced by stress of weather to seek shelter in the ports or on the coast of the United Kingdom shall when forced by stress of weather to make use of the harbour and not breaking bulk while making use thereof be exempt from rates leviable under this Order.

ertain fishing
vessels under stress of weather exempt from rates.

18. All persons going to or returning from any lifeboat or using any apparatus for saving life and being persons either belonging to the crew of the lifeboat or to the coastguard or being persons for the time being actually employed in saving life or in exercising or using the lifeboat or the apparatus for saving life and also all persons brought ashore from any vessel in distress shall at all times have free ingress passage and egress to in or from the harbour.

Lifeboat crew
exempt from rates.

19.—(1.) The Corporation may borrow on mortgage at interest on the security of the rates authorised by this Order such sums of money as may be required for the purposes of this Order and the Order of 1870 not exceeding in the whole the sum of ten thousand pounds.

Power to borrow

(2.) All sums borrowed by the Corporation under this Order shall be applied for the purposes of the Order of 1870 and this Order to which capital is properly applicable and not otherwise.

(3.) The Corporation may secure by mortgage under this section the payment with interest of any money due or to become due to any contractor for the execution of works authorised by this Order and any money so secured shall be considered to be money borrowed under this Order.

(4.) Sections 236 237 238 and 239 of the Public Health Act 1875 shall apply to all mortgages made under this Order but in those sections as so applied the word "rates" shall mean the rates authorised by this Order.

(5.) A person lending money to the Corporation shall not be concerned to inquire as to the observance by them of any provisions of this Order or be bound to see to the application or be answerable for any loss or non-application of the money lent.

A.D. 1900.

Penryn.

Repayment of money borrowed.

20.—(1) Any sum borrowed by the Corporation under this Order shall be repaid within forty years from the date on which the sum is borrowed.

(2) The Corporation shall pay off all moneys borrowed by them under this Order either by equal yearly or half-yearly instalments of principal or of principal and interest or by means of a sinking fund.

(3) If any money borrowed under this Order is to be repaid by means of a sinking fund the Corporation shall in every year set apart for a sinking fund and accumulate in the way of compound interest (by investing the same in securities in which trustees are by law for the time being authorised to invest other than securities of the Corporation and securities transferable by delivery) such a sum as will with accumulations in the way of compound interest be sufficient to pay off the whole of the principal money borrowed within the period for which it is borrowed and the Corporation may apply any portion of the sinking fund in or towards paying off the money for the repayment of which it was created.

21.—(1) The town clerk shall within two months after the expiration of each year during which any sum is required to be paid as an instalment or set apart for a sinking fund under this Order transmit to the Board of Trade a return in such form as may be prescribed by that Board and verified by statutory declaration if so required by that Board showing the amount which has been paid as an instalment or invested for the purpose of any such sinking fund during that year and the description of the securities upon which the amount has been invested and also showing the purposes to which any portion of the moneys invested for the sinking fund and the interest thereof have been applied during that year and the total amount remaining invested at the end of that year.

(2) The town clerk in the event of any wilful default in making the return under this section shall be liable to a penalty not exceeding twenty pounds and that penalty shall be paid to the Board of Trade and shall be recoverable by that Board in a summary manner.

(3) If it appears to the Board of Trade by the return under this section or otherwise that the Corporation have failed to pay any instalment or to set apart in accordance with the provisions of this Order any sum required by this Order for the sinking fund or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised by this Order the Board of Trade may by order direct that a sum not exceeding double the amount in respect of which the default has been made shall be set apart and invested as part of the sinking fund and such Order shall be enforceable by writ of mandamus to be obtained by the Board of Trade out of the High Court.

22.—(1) If the Corporation pay off any part of any money borrowed by them under this Order otherwise than by means of instalments or a sinking fund they may borrow that money.

(2) All moneys so borrowed shall be repaid within the period fixed for the repayment of the money in lieu of which the borrowing has been made and any amounts borrowed shall be deemed to form the same loan as the moneys in lieu of which the borrowing has been made and the obligations of the Corporation with respect to the repayment of that money shall not be in any way affected by the borrowing.

Pier and Harbour Orders.
Confirmation (No. 2) Act, 1900.
[63 & 64 Vict.]

[Ch. cxlii.]

A. D. 1900.
Penny.
Application
Income.

28. After the passing of the Act confirming this Order the Corporation shall apply the revenue received from rates or otherwise under the Order of 1870 and this Order for the purposes and in the order following and not otherwise (that is to say) :—

(1.) In paying all the costs charges and expenses of or incidental to applying for preparing and obtaining this Order or otherwise incurred in relation thereto except so far as the same are paid out of the moneys borrowed under this Order ;
(2.) In paying the expenses properly chargeable to revenue of the maintenance repair management and regulation of the harbour and of the works authorised by the Order of 1870 and this Order ;
(3.) In paying year by year the interest of any money borrowed under this Order ;

(4.) In paying the instalments as they become due in respect of the principal of any money borrowed under this Order or in providing in accordance with this Order a sinking fund for the discharge of that principal money ;
(5.) In paying the cost of constructing any subsidiary works so far as such cost has not been paid out of borrowed moneys ;
(6.) The surplus income (if any) may be applied in the further general improvement of the harbour and works ;

24.—(1.) The Corporation within one month after sending to the clerk of the Board of Trade and the sixteenth section of the General Pier and Harbour Act 1861 Amendment Act shall apply to the account as if the Corporation were a Company within the meaning of that section.
(2.) The account shall be made up to the end of the financial year of the borough.
(3.) If the Corporation refuse or neglect to comply with this provision they shall for each refusal or neglect be liable to a penalty not exceeding ten pounds.

Byelaws.

25.—(1.) The Corporation may make byelaws to take effect within the harbour for the regulation licensing and control of vessels and boats and also for the regulation licensing and control of persons embarking disembarking plying for hire frequenting or resorting to or employed in the harbour and for regulating and fixing the rates to be charged by those licensed persons and may impose and recover a penalty not exceeding forty shillings in any case for the breach of non-observance of any byelaw.
(2.) A byelaw made under this section shall not come into operation until it has received the allowance and confirmation of the Board of Trade and that allowance and confirmation shall be sufficient for all purposes.
(3.) The Corporation shall not under this Order make or enforce byelaws for any purpose for which they have power under the Public Health Acts to make byelaws.

Life-saving Apparatus.

A. D. 1900.

Penny.

Site for life-boat house.

Life-saving apparatus may be attached to pier.

26.—(1) The Corporation shall whenever required by the Board of Trade provide at their own expense and to the satisfaction of the Board of Trade a site near the harbour and build on that site a house and other proper accommodation for a lifeboat rocket apparatus and other life-saving apparatus. (2) If the Corporation fail to comply with this section they shall be liable to a penalty not exceeding ten pounds for every month during which the failure continues.

27. The officers of the coastguard and all other persons for the time being actually employed in connexion with the lifeboat or the apparatus for saving life may either permanently or temporarily and without payment attach or cause to be attached to any part of the harbour spars and other apparatus for saving life and may also either in course of using or of exercising the apparatus for saving life fire rockets over the harbour.

28.—(1) The Corporation shall keep at such places in the harbour as may be directed by the Board of Trade lifebuoys and lines in good order and ready for use and shall apply for the directions of the Board under this section as soon as the works are completed.

(2) The Corporation shall be liable to a penalty not exceeding ten pounds for every month during which they omit so to apply or refuse or neglect to observe any such directions.

Lights.

29.—(1) Before commencing the works authorised by this Order the Corporation shall apply to the Board of Trade for directions as to the lights to be exhibited and other means to be taken for preventing danger to navigation and shall in all respects obey any directions given upon that application or afterwards given as to the like matters by the Board of Trade during the construction of the works and compliance with the directions so given shall satisfy and be in place of every other statutory requirement as to those matters during the construction of the works.

(2) The Corporation shall be liable to a penalty not exceeding ten pounds for every day during which they omit so to apply or refuse or neglect to observe any such directions.

30.—(1) After completion or permanent discontinuance or abandonment of the works authorised by this Order or the Order of 1870 the Corporation shall exhibit the outer extremity of the works or the completed portions thereof or in such other places as may be required for all or any part of the time from sunset to sunrise and according to the requirements of the traffic and the season of the navigation as may be directed by the Corporation of Trinity House Deptford and the Corporation shall apply to the said Corporation of Trinity House for such directions.

(2) The Corporation shall be liable to a penalty not exceeding ten pounds for every day during which they omit so to apply or refuse or neglect to obey any such directions.

31.—(1) In case of injury to or destruction or decay of the works authorised by this Order or the Order of 1870 or any part thereof the Corporation shall lay down such buoys exhibit such lights or take such other means for preventing (as far as may be) danger to navigation as are directed by the Corporation of Trinity House Deptford Strand and shall apply to the said Corporation of Trinity House for such directions.
(2) The Corporation shall be liable to a penalty not exceeding ten pounds for every day during which they omit so to apply or refuse or neglect to obey any such directions.

Miscellaneous.

32. All penalties shall be recovered and applied as penalties are recoverable and applicable under the Harbours Docks and Piers Clauses Act 1847 and for all the purposes of that Act this Order shall be deemed the Special Act.

33. Sections 28 and 99 of the Harbours Docks and Piers Clauses Act 1847 as incorporated with the Order of 1870 and this Order shall apply to and for the benefit of any Government Department in the same manner as they apply to and for the benefit of the Government Department specially named in those sections.
34. The sections of the Harbours Docks and Piers Clauses Act 1847 which are excepted from incorporation under section 17 of the Order of 1870 are not incorporated with this Order.

35. Sections 6 7 8 9 and 10 of the Order of 1870 are hereby repealed.
36. All the costs charges and expenses of or incidental to the obtaining of this Order or otherwise incurred in relation thereto as taxed by the proper officer shall be paid by the Corporation.

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Costs of Order

Repeal.

Clauses Act 1847.

Docks and Piers

of Harbours

incorporation of

certain sections

Government

Departments.

10 & 11 Vict.

c. 27 (ss. 28

99) to all

incorporated with

the Order of 1870

and this Order

shall apply to and

for the benefit of

any Government

Department

specially named

in those sections.

34. The sections

of the Harbours

Docks and Piers

Clauses Act 1847

which are

excepted from

incorporation

under section 17

of the Order of

1870 are not

incorporated

with this Order.