CHAPTER ccxxxix.

An Act to define the ranking and priority of the mortgages of the Hastings Harbour Commissioners already issued and to be issued under former Acts for the completion of the harbour works to extend the periods limited for the purchase of lands for and for the completion of such works and for other purposes. [14th August 1903.] A.D. 1903

WHEREAS by the Hastings Harbour Act 1890 (hereinafter called "the Act of 1890") a body of Commissioners (in the said Act and hereinafter called "the Commissioners") was constituted for making and maintaining a harbour and works at Hastings in the eastern division of the county of Sussex and the Commissioners were empowered to borrow money for the purpose to an amount not exceeding two hundred thousand pounds:

And whereas by the Hastings Harbour Act 1897 (hereinafter called "the Act of 1897") some of the powers conferred upon the Commissioners by the Act of 1890 were varied and amended and additional borrowing powers to an amount not exceeding one hundred thousand pounds and other further powers were conferred upon them and the period limited by the Act of 1890 for the completion of the harbour and works was extended:

And whereas by the Hastings Harbour Act 1899 (hereinafter called "the Act of 1899") the Corporation obtained authority from Parliament to enter into the agreement with the Commissioners scheduled to and confirmed by that Act whereby the Corporation were empowered to guarantee and pay interest at a rate not exceeding three per centum per annum upon the sum of one hundred thousand pounds authorised to be borrowed by the Commissioners under the Act of 1897 upon the terms and conditions and for the period in that Act and the said agreement named:

A.D. 1903.

And whereas the Commissioners raised a portion of the moneys which they were authorised to borrow under the Act of 1890 amounting in all to one hundred and eighteen thousand four hundred pounds and have made considerable progress with the works authorised by the Act of 1890 as amended by the Act of 1897 (including the western and eastern piers authorised by the said Act of 1890) but have not been able to raise the further moneys authorised to be borrowed by them under the Acts of 1890 and 1897 other than the sum above-mentioned and the Commissioners have consequently been unable to complete the harbour and the works have been in abeyance for upwards of a year and it is therefore expedient that the agreement which has been entered into with the Corporation and contained in the Schedule hereto be confirmed:

And whereas by the Hastings Harbour Act 1900 (hereinafter called "the Act of 1900") additional borrowing powers to an amount not exceeding fifty thousand pounds were conferred on the Commissioners And the periods limited by the Acts of 1890 and 1897 for the purchase of lands and for the completion of the harbour were further extended but as the Commissioners have been unable to raise the necessary capital under the agreement scheduled to the Act of 1899 for the completion of the harbour and works it is expedient that the periods limited by the said Acts of 1890 and 1897 as extended by the said Act of 1900 for taking lands and for the completion of works be further extended as provided by this Act:

And whereas doubts have arisen as to the ranking of the mortgages issued and authorised to be issued under the authority of the Acts of 1890 1897 and 1900 and as to the priority of the interest and dividend thereon and it is therefore expedient that the priority of interest and dividend and the priority of the mortgages already issued and authorised to be raised under the said Acts should be defined as provided by this Act:

And whereas out of a total amount of one hundred and eighteen thousand and four hundred pounds the holders of eighty-five thousand five hundred pounds in value of the said mortgages have respectively signified their consent in writing to the provisions of this Act and the holders of only five thousand four hundred pounds in value of the said mortgages dissented thereto:

And whereas it is expedient that the Commissioners should be empowered to enter into the agreements with the railway companies mentioned in this Act and that the other powers herein contained should be conferred on the Commissioners:

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

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 title.

1. This Act may be cited as the Hastings Harbour Act 1903.

Interpretation.

2. In this Act the several words and expressions to which meanings are assigned by the Acts of 1890 1897 1899 and 1900 or the Acts wholly or partially incorporated therewith shall have the same respective meanings unless there be something in the subject or context repugnant to such construction.

Incorporation of Acts.

3. The provisions of the Acts hereinafter specified are (except where expressly varied by this Act) incorporated with and form part of this Act (that is to say):—

The Lands Clauses Acts

The Harbours Docks and Piers Clauses Act 1847 except that the expression "the undertakers" in that Act means the Commissioners incorporated by the Act of 1890; and

The Commissioners Clauses Act 1847.

Renewing and extending time for purchase of lands under Acts of 1890 and 1897.

4. The powers of the Commissioners for the compulsory purchase and taking of lands for the purposes of the harbour and works authorised by the Acts of 1890 and 1897 as extended by the Acts of 1899 and 1900 (except the lands required for the works authorised to be abandoned by the Act of 1897) are by this Act revived and further extended and may be exercised for and during a period of two years from the fifteenth day of July one thousand nine hundred and two.

Extending time for completing works authorised by Acts of 1890 and 1897.

5. The time limited by the Acts of 1890 and 1897 as extended by the Act of 1900 for the completion of the works by those Acts respectively authorised (except such works as were abandoned by the Act of 1897) is hereby extended for a period of three years from the fifteenth day of July one thousand nine hundred and two.

Restriction on taking houses of labouring class.

6.—(1) The Commissioners shall not under the powers of any former Act revived or extended by this Act purchase or acquire ten or more houses which on the fifteenth day of December next before the passing of the respective Acts by which such purchase or

A.D. 1903.

acquisition was originally authorised were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Local Government Board ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

(2) If the Commissioners acquire or appropriate any house or houses for the purposes of this Act in contravention of the foregoing provisions they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Local Government Board by action in the High Court and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the court may if it think fit reduce such penalty.

(3) For the purposes of this section the expression "house" means any house or part of a house occupied as a separate dwelling and the expression "labouring class" means mechanics artizans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them.

Confirmation of new agreement between Commissioners and corporation.

7. The agreement dated the thirteenth day of July one thousand nine hundred and three between the Commissioners and the corporation contained in the Schedule to this Act is hereby confirmed and made obligatory and binding upon the Commissioners and the Corporation respectively.

Ranking and priority of interest and dividend on balance of unissued mortgages granted under Acts of 1890 1897 and 1900.

8. The charge on the undertaking of the Commissioners contained or created by mortgages to be hereafter issued by the Commissioners under the authority of the Acts of 1890 1897 and 1900 to a total authorised amount of two hundred and thirty-one thousand six hundred pounds shall have priority as regards principal and interest over all the said bonds or mortgages amounting to one hundred and eighteen thousand four hundred pounds heretofore issued and over the charge on such undertaking contained in the said bonds so heretofore issued Provided always that nothing herein contained shall prejudice or affect the rights of the corporation under section 5 of the Act of 1899 and the moneys paid by the Corporation by way of guaranteed interest shall also rank pari passu with all mortgages under the Act of 1900 hereafter granted.

As to issue of balance of unissued mortgages by Commissioners.

9. Notwithstanding anything in this Act contained or in the agreement scheduled hereto or to the Act of 1899 the Commissioners shall have power to issue the whole of the unissued bonds authorised by the Acts of 1890 1897 and 1900 as four per centum bonds should they so desire without availing themselves of the guarantee of the Corporation under the said agreement scheduled to the Act of 1899 in which case all obligations of the Corporation as to such guarantee shall cease and determine.

Agreements with Corporation Office of Woods and Board of Trade.

10. The Commissioners may enter into agreements with the Commissioners of Woods and Forests and with the Board of Trade on behalf of the Crown and also (subject to the provisions of the grant from the Crown to the corporation dated the eighth day of September one thousand eight hundred and ninety-three referred to in section 21 of the Act of 1897) with the corporation in regard to any foreshore or lands now belonging to the Crown or the corporation which may or will be required for the purposes of the harbour and works.

Agreements with railway companies.

11. The Commissioners the London Brighton and South Coast Railway Company the South Eastern and London Chatham and Dover Railway Company and the Hastings Harbour District Railway Company and any other railway company in the district may from time to time enter into and carry into effect contracts agreements and arrangements for or with respect to the maintenance use and management of the harbour and works or any part or parts thereof and for the conduct of the traffic at the harbour and in regard to the payments to be made and the conditions to be performed with respect to such maintenance use and management.

Saving rights of Crown.

12. Nothing herein contained shall authorise the Commissioners to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to the King's most Excellent Majesty in right of His Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose (which consent such Commissioners and such Board are hereby respectively authorised to give) neither shall anything herein contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exerciseable by the King's Majesty.

A.D. 1903.

Application of certain sections of Harbours Docks and Piers Clauses Act 1847.

13. Sections 28 and 99 of the Harbours Docks and Piers Clauses Act 1847 as incorporated with this Act shall apply to and for the benefit of any Government department in the same manner as they apply to and for the benefit of any Government departments specially named in those sections.

Expenses of Act.

14. 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 and discharged out of the funds of the Commissioners.

The SCHEDULE referred to in the foregoing Act.

A.D. 1903.

AN AGREEMENT made this thirteenth day of July one thousand nine hundred and three between the HASTINGS HARBOUR COMMISSIONERS (hereinafter called "the Commissioners") of the one part and the MAYOR ALDERMEN AND BURGESSES OF THE BOROUGH OF HASTINGS in the county of Sussex (hereinafter called "the corporation") of the other part.

WHEREAS by the Hastings Harbour Act 1890 the Commissioners were authorised to borrow on mortgage of their undertaking such sums as might be required for the purpose thereof not exceeding the sum of two hundred thousand pounds of which the Commissioners borrowed one hundred and eighteen thousand four hundred pounds:

And whereas by the Hastings Harbour Act 1897 the Commissioners were authorised to borrow on mortgage of their undertaking the sum of one hundred thousand pounds in addition to the amount authorised by the Act of 1890 subject to the provision that money then already borrowed under the powers given by the last-mentioned Act should have priority over mortgages granted in pursuance of the said Act of 1897:

And whereas by an agreement made between the parties hereto and dated the seventeenth day of June one thousand eight hundred and ninety-nine it was among other things agreed that to the extent and in the manner and subject to the conditions therein provided the corporation should guarantee interest at the rate of three per centum per annum upon the sum of one hundred thousand pounds authorised to be borrowed by the Commissioners under the said Act of 1897:

And whereas by the Hastings Harbour Act 1899 the said agreement was confirmed and it was thereby enacted that money paid by the corporation by way of guaranteed interest should be a charge upon the undertaking of the Commissioners having priority to the mortgages then already granted:

And whereas questions have arisen as to the true effect of the terms of the said agreement and the provisions of the said Act of 1899 in consequence of which the Commissioners have been unable to borrow any part of the said one hundred thousand pounds:

And whereas by the Hastings Harbour Act 1900 the Commissioners were authorised to borrow a further sum of fifty thousand pounds in addition to

A.D. 1903.

the amounts authorised by the Acts of 1890 and 1897 subject to a proviso that money then already borrowed as aforesaid should have priority over mortgages granted in pursuance of the said Act of 1900:

And whereas the completion of the undertaking of the Commissioners will be for the benefit of the borough of Hastings and in order to set at rest any question as to the nature of the guarantee to be given the corporation is willing to vary and amend the said guarantee in manner hereinafter expressed:

Now it is hereby agreed:—

1. Clauses 3 and 4 of the said agreement of the seventeenth day of June one thousand eight hundred and ninety-nine are hereby rescinded and there shall be substituted therefor the provisions following (that is to say):—

After the completion of the harbour and works to the reasonable satisfaction of the engineer of the corporation and the opening of the harbour for use the Commissioners shall apply the revenues of the harbour in payment of all expenses incurred by the Commissioners in relation to—

(A) The maintenance of the harbour and works;

(B) The management of the harbour;

(C) The proper salaries and wages of the officers and servants of the Commissioners;

(D) The legal charges and other necessary disbursements for carrying the Acts of 1890 and 1897 into execution (not properly charged to capital account) and the residue (if any) of such revenues after payment of such expenses as aforesaid shall be applied by the Commissioners half yearly (pari passu) in the payment of interest on all sums to be hereafter borrowed on mortgage under the provisions of the Acts of 1890 and 1897:

In the event of there not being in any half year after payment of all such expenses as aforesaid any residue of such revenues the corporation shall pay to the Commissioners in respect of such half year a sum not exceeding one thousand five hundred pounds (being interest at the rate of three per centum per annum upon the sum of one hundred thousand pounds authorised to be borrowed by the Commissioners under the Act of 1897):

In the event of there being in any half year after payment of all such expenses as aforesaid some residue of such revenues but not enough for the payment in full of interest on all sums to be hereafter borrowed under the provisions of the Acts of 1890 and 1897 the corporation shall pay to the Commissioners in respect of such half year such sum only as shall be equivalent to the difference between the amount hereby required to be applied by the Commissioners half yearly in the payment of interest on any sums to be hereafter borrowed on mortgage under the provisions of the Act of 1897 as aforesaid and the sum of one thousand five hundred pounds Provided that the liability of the corporation

hereunder shall not in any case exceed three thousand pounds in respect of any one year being interest at the rate of three per centum per annum upon the said sum of one hundred thousand pounds so authorised to be borrowed by the Commissioners under the Act of 1897 as aforesaid.

2. The first of such payments by the corporation to the Commissioners shall be made at the expiration of six calendar months after the beginning of the first calendar month subsequent to the date of the opening of the harbour for use and the succeeding payment shall be made at the end of each successive period of six calendar months after such first payment Provided that the corporation shall not be bound to make any payment in respect of any half year until they have been furnished by the Commissioners with a full and correct account showing the said revenues and expenses for such half year.

3. The corporation shall at the request of the Commissioners cause to be endorsed on every mortgage the interest upon which is intended to be hereby guaranteed a memorandum of such guarantee referring to the said Act of 1899 and bearing the signature of some officer of the corporation appointed for that purpose.

4. The corporation will if required by the Commissioners and at their expense enter into a deed or agreement with trustees nominated by the Commissioners for holders of the mortgages or bonds issued or to be issued in respect of the one hundred thousand pounds so authorised to be issued by the Act of 1897 as aforesaid and covenant to pay to such trustees the said sum mentioned in Clause 2 hereof but whether such separate deed or agreement be entered into or not the sum so paid by the corporation to the Commissioners shall be set aside to separate account and shall be applicable only to the providing and payment of the interest on the bonds for one hundred thousand pounds so to be issued under the Act of 1897.

5. The Commissioners shall at their own costs endeavour in the session of Parliament held in the year one thousand nine hundred and three to obtain and the corporation will on their costs charges and expenses Parliamentary or otherwise being paid or provided for by the Commissioners concur in endeavouring to obtain the sanction of Parliament to a Bill confirming this agreement and conferring on the Commissioners and upon the corporation all powers necessary for giving effect thereto and postponing the charge on the undertaking of the Commissioners contained in or created by the bonds or mortgages already issued by the Commissioners for the sum of one hundred and eighteen thousand four hundred pounds so borrowed as aforesaid to the charge on such undertaking to be contained in or created by the bonds or mortgages to be hereafter issued by the Commissioners under the powers of the said Acts of 1890 1897 and 1900 Provided always that no other powers shall be sought to be conferred upon the Commissioners or the corporation by the said Bill without the sanction of the corporation.

6. This agreement is made subject to the sanction of Parliament and to such alteration as Parliament may seem fit to make herein but if the

A.D. 1903. Committee on the Bill make any material alterations in this agreement it shall be competent to either of the parties hereto to withdraw from the same.

In witness whereof the Commissioners and the corporation have hereunto set their respective common seals the day and year first above written.

The common seal of the Hastings Harbour Commissioners was hereunto affixed in pursuance of a resolution of the said Commissioners passed on the sixth day of April one thousand nine hundred and three in the presence of—

L.S.

W. J. LARCOMBE
H. T. DITON } Commissioners.
ARTHUR F. WATSON Clerk.

The common seal of the corporation was hereunto affixed in the presence of—

L.S.

BEN F. MEADOWS
Town Clerk.

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