



CHAPTER iv.

An Act to authorise the sale of Herne Bay Pier and for other purposes. A.D. 1908.
[14th April 1908.]

WHEREAS under powers conferred by the Herne Bay Pier Orders 1891 to 1903 the Herne Bay Pier Company Limited (in this Act called "the Company") have constructed the pier and various works and buildings connected therewith at Herne Bay :

And whereas the Company have created and issued certain first and second mortgage debentures and have otherwise encumbered their undertaking and property or some part thereof :

And whereas the interest on the first mortgage debentures having fallen into arrear a debenture holders' action "In re the Herne Bay Pier Company Limited Concanon v. The Herne Bay Pier Company Limited and others 1905 H. No. 501" was on the fourteenth day of February one thousand nine hundred and five commenced in the Chancery Division of the High Court of Justice and by an order in the said action dated the seventeenth day of February one thousand nine hundred and five a receiver of the undertaking of the Company was appointed and by a subsequent order dated the second day of May one thousand nine hundred and five the said receiver was authorised to manage and carry on as a going concern those portions of the business and undertaking of the Company which related to amusements and other matters not forming part of the undertaking in respect of which the Company was by the Herne Bay Pier Order 1891 authorised to levy rates :

And whereas by a judgment in the said action dated the twenty-third day of May one thousand nine hundred and five the

A.D. 1908. accounts and inquiries usual in the like case were directed to be taken and made for ascertaining what was due to the debenture holders and other incumbrancers of the Company and what was included in the respective securities held by them and what were their respective priorities :

And whereas the said accounts have been duly taken and inquiries answered as appears by the certificate of the Master filed in the said action on the twenty-seventh day of March one thousand nine hundred and six :

And whereas in order to enable the pier undertaking to be carried on the expenditure of a considerable sum of money is requisite and such money cannot be obtained unless power be granted to sell the undertaking :

And whereas inasmuch as the Herne Bay Pier Orders 1891 to 1903 do not authorise a sale of the Company's undertaking authorised by the said orders or any part thereof the Court is at present unable to sanction a sale of the undertaking and property of the Company except only such parts thereof as it has acquired otherwise than by virtue of the said Herne Bay Pier Orders 1891 to 1903 or some or one of them and it is expedient that power should be granted to sell the entire undertaking and property of the Company as a going concern :

And whereas it is expedient that provision be made as herein-after contained for future sales of the undertaking authorised by the said orders :

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

And whereas by resolution of a meeting of the debenture holders held by the direction of the judge in the said action on the fourth day of November one thousand nine hundred and seven the receiver was authorised to promote with the sanction of the Court a Bill in Parliament empowering the sale of the undertaking of the Company and by an order made in Chambers in the said action on the eighth day of November one thousand nine hundred and seven it was amongst other things directed that the receiver be at liberty to promote such Bill accordingly and to take all necessary steps for that purpose :

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 (that is to say):— A.D. 1908.

1. This Act may be cited as the Herne Bay Pier Act Short title.
1908.

2. In this Act (unless the subject or context otherwise requires) the following words and expressions shall have the following meanings (that is to say):— Interpreta-
tion.

“The Company” means the Herne Bay Pier Company Limited;

“The undertaking” means the pier at Herne Bay and the undertaking authorised by the Herne Bay Pier Orders 1891 to 1903 and all jetties landing-places buoys moorings cranes lifts engines tramways sheds pavilions concert refreshment and other rooms shelters works lands buildings apparatus and conveniences in connexion therewith together with all rights powers authorities and privileges including the right to levy rates tolls dues and charges exerciseable by the Company under the Herne Bay Pier Orders 1891 to 1903 or any of them and generally the full benefit of the said Pier Orders 1891 to 1903 and of the powers therein contained;

“The receiver” means the receiver for the time being in the said action;

“The Court” means the High Court of Justice and “judge” means a judge of that Court.

3. The Court or a judge may on the application in the said action of the plaintiff or of any person for the time being having the conduct of the said action or on the application in the said action or by petition in the matter of this Act of the Company or of any debenture holder creditor or member of the Company or any duly appointed liquidator of the Company sanction a sale by the receiver or other person or persons appointed in his stead by the Court or judge in that behalf not only of the assets and property of the Company acquired otherwise than by virtue of the Herne Bay Pier Orders 1891 to 1903 or any of them but also of the undertaking upon such terms and subject to such conditions as the Court or such judge shall think fit and generally may give such directions or make such order with respect to the conduct of the sale payment or satisfaction of the purchase money or other consideration conveyance transfer or vesting of the undertaking Power to
Court to
sanction sale
of under-
taking.

A.D. 1908. application or distribution of the proceeds of sale in specie or otherwise and generally may make such orders in the premises as the Court or such judge shall deem desirable. The receiver or other person or persons so appointed shall within one month from the making of any order sanctioning such sale cause a copy of such order to be delivered to the Board of Trade.

Sale to be subject to Company's Orders.

4. Any sale made under the powers of this Act shall be subject to such of the terms conditions and obligations imposed upon the Company by the Herne Bay Pier Orders 1891 to 1903 or any of them as shall for the time being be applicable thereto.

Consideration for sale.

5. The consideration for such sale may be the payment of a sum in gross payable at one time or by instalments with or without interest and with or without provision for any additional payment or payments whether of a fixed fluctuating terminable or contingent character or the allotment or issue of shares stock debentures debenture stock or securities of any purchasing company or partly one and partly another or others of such forms of consideration and provision may be made for receiving the payment of any part of such consideration by way of mortgage at interest upon the undertaking and property comprised in the sale.

Powers &c. of Company to be exercised by purchaser.

6. As from the completion of such sale all the rights powers authorities and privileges of the Company and their officers and servants respectively which by the Herne Bay Pier Orders 1891 to 1903 or any of them might be exercised and enjoyed by them respectively with respect to the undertaking and which in accordance with the terms and conditions of such sale are to be exercised and enjoyed by the purchaser may and shall be so exercised and enjoyed under subject to and with the same regulations restrictions conditions penalties and immunities in accordance with the aforesaid orders respectively as by the Company their officers and servants respectively and the Herne Bay Pier Orders 1891 to 1903 shall be read and have effect as if the same had been passed with respect to the purchaser instead of with respect to the Company.

Power to resell undertaking.

7. Any company body or person by whom the undertaking may have been purchased and in whom the same is for the time being vested may with the consent of and upon such terms and conditions and for such period as may be sanctioned by the Board of Trade by deed to be approved by them transfer the undertaking and so from time to time and the provisions of the foregoing sections of this Act of which the marginal notes are "Sale to be subject to Company's orders" "Consideration for sale" and

“ Powers &c. of Company to be exercised by purchaser ” shall extend and apply mutatis mutandis to and in the case of any such transfer. A.D. 1908.

8. Nothing in this Act shall alter or affect the rights of the Herne Bay Urban District Council under the indenture of lease dated the twenty-sixth day of November one thousand eight hundred and eighty-three and made between the Herne Bay Local Board (the predecessors of the said council) of the one part and the Herne Bay Pavilion Promenade and Pier Company Limited (the predecessors of the Company) of the other part or on any sale of the undertaking made under the powers of this Act extend to authorise the assignment of the premises demised by such indenture of lease without the previous consent in writing of the said council. Saving of rights of parties to indenture of lease of twenty-sixth November one thousand eight hundred and eighty-three.

9. The Company shall deliver to the Registrar of Joint Stock Companies a printed copy of this Act and he shall retain and register the same and if such copy is not so delivered within three months from the passing of this Act the Company shall incur a penalty not exceeding two pounds for every day after the expiration of those three months during which the default continues and any director or manager of the Company who knowingly and wilfully authorises such default shall incur the like penalty. Every penalty under this section shall be recoverable summarily. Copy of Act to be registered.

There shall be paid to the registrar by the Company on such copy being registered the like fee as is for the time being payable under the Companies Act 1862 on registration of any document other than a memorandum of association.

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