CHAP. xcvii.

An Act for enabling the Milford Improvement Commissioners to borrow further monies; and for other purposes. A.D. 1869.

[12th July 1869.]

WHEREAS by the "Milford Improvement Act, 1857," the Milford Improvement Commissioners were incorporated, and were empowered to purchase, take, and hold lands and other property for the purposes of but subject to the restrictions of that Act, and to put that Act in all respects into execution, and the Commissioners were authorized to establish and maintain gasworks, waterworks, and a cemetery, and to make and sell gas, and light the streets and public places, and to sell and supply water within the district defined by the said Act, and the Commissioners were also authorized to make and maintain the sewers, streets, and bridges in that Act referred to, and to perform and execute the other works and things in the said Act described; and the Commissioners were empowered to make and levy, as in the said Act mentioned, certain paving and sewering rates and an improvement rate, and also to levy and take certain tolls in respect of the use of the said bridges; and the Commissioners were also authorized from time to time to borrow on mortgage of the paving and sewering rate not exceeding one thousand nine hundred pounds, and on mortgage of the improvement rate and any property from time to time vested in them under that Act, for any purposes other than for paving and sewering, not exceeding five thousand six hundred pounds, and after having paid off (otherwise than by means of the sinking fund to be provided under that Act) any money so borrowed the Commissioners were authorized to reborrow the amount so paid off from time to time; provided that the total amount of principal at any one time borrowed and secured under the authority of that Act should not exceed seven thousand pounds, and that the Commissioners should not borrow for the several purposes specified in the said Act more than the several sums therein mentioned; and the said Act further provided that the Honourable Robert Fulke Greville (since deceased) 21 & 22 Vict. c. lxxiv.

A.D. 1869.

should, at his own expense, provide the land for, and within eighteen months after the passing of the said Act construct, the two new streets and bridges by the said Act authorized, and on the passing of that Act convey in manner therein mentioned and vest in the said Commissioners the land therein specified for the purposes of a cemetery, and that he should also pay one third of the costs, charges, and expenses of obtaining and passing the said Act, and the commissioners were thereby required to accept such contributions for the purposes of that Act; and the said Act further provided that the Commissioners should set apart and appropriate out of the monies in their hands, as a sinking fund to be applied in paying the principal monies borrowed on mortgage under that Act, in each year not less than one thirtieth part of the respective monies so borrowed:

And whereas the Commissioners have proceeded to put in execution the powers of the said Act, and have erected or purchased gasworks, and have also erected waterworks by means of a contract entered into for erecting the same, and a lease granted thereof to the contractor when erected, and the district limited by the said Act is thereby now supplied with gas and water, and the said Commissioners have also made and executed paving, sewering, and other works authorized by the said Act:

And whereas the said Robert Fulke Greville, at his own expense, duly provided the land for and constructed the two new streets and bridges, and also conveyed and vested in the Commissioners the said land for the cemetery, and paid one third of the expense of obtaining and passing the said Act, in pursuance of the provisions in that behalf contained in section 19 of the said Act:

And whereas the Commissioners, under the authority of the said Act, have borrowed upon mortgage the following sums, upon mortgage of the paving and sewering rate one thousand four hundred pounds, upon mortgage of the improvement rate, the gasworks, and other property of the Commissioners five thousand six hundred pounds, being the full amount authorized to be borrowed by the said Act, and there is now due in respect of the said mortgages the full sum of seven thousand pounds, together with an arrear of interest thereon:

And whereas the several sums, amounting together to seven thousand pounds, so borrowed by the Commissioners were expended by them in paying the cost of the said gasworks, and in paying two thirds of the expenses of obtaining the said Act and for other purposes of the said Act, but the particulars of part of the money so expended and the manner of such expenditure the Commissioners are now unable completely to specify, owing to the books, accounts, and other documents of the Commissioners having been destroyed

and mutilated by a former clerk of the Commissioners under the circumstances herein-after appearing:

And whereas the Commissioners, from divers causes connected with the town of Milford and their undertaking, were unable or failed to set apart annually and appropriate out of the monies in their hands, as a sinking fund, the amounts required by the said Act, but they did set apart and appropriate out of such monies certain sums of money, which were invested by them in the purchase of three per centum consolidated bank annuities, and in the month of October one thousand eight hundred and sixty-two there was standing in the books of the Governor and Company of the Bank of England to the credit of the said Commissioners the sum of two hundred and fifty pounds three per centum consolidated bank annuities:

And whereas in the month of October one thousand eight hundred and sixty-two the then clerk to the Commissioners having fraudulently obtained possession of and affixed the common seal of the Commissioners to a transfer of the said stock, sold the said stock, and received the proceeds of such sale and transfer, and fraudulently misappropriated the whole of the proceeds of such stock to his own purposes; and the said clerk in or about the year one thousand eight hundred and sixty-two also forged or fraudulently altered cheques or orders of the Commissioners for the payment of money, and he also fraudulently received and misappropriated to his own purposes monies of the Commissioners to a considerable amount, and the said clerk took away, concealed, destroyed, and mutilated books, accounts, and documents of the Commissioners, and the Commissioners are unable to ascertain the precise amount of such forgeries, frauds, and embezzlements, and by the manner herein stated the sinking fund and other monies of the Commissioners were and are lost, and the said clerk was prosecuted for and convicted of such offences: And whereas it is expedient that further provision be made with respect to the losses so sustained by the Commissioners, and to the sinking fund to be provided by the Commissioners under that Act, and to substitute other provisions therefor:

And whereas the monies borrowed on mortgage by the Commissioners as aforesaid having been borrowed for a fixed time, which has expired, the Commissioners have been called on and required to repay the same, and they have endeavoured to reborrow the amount required for that purpose on security of a transfer of the said mortgages, but proof having been required of the validity of the said mortgages, and of the due application of the money so raised, which

A.D. 1869.

the Commissioners as to part thereof are by the means aforesaid unable to give, the Commissioners have been unable to carry out such transfer, and the mortgagees have instituted proceedings at law against the Commissioners to enforce repayment of the mortgage monies, and they have also obtained the appointment of a receiver of the rates leviable under the said Act:

And whereas the Commissioners have incurred liabilities to the amount of two thousand four hundred pounds, with some interest thereon, on account of the construction of the waterworks authorized by the said Act as aforesaid, and otherwise in carrying the provisions of the said Act in that behalf into effect, and in consequence of the difficulties and embarrassments in which they have become involved they are unable to meet their engagements, and the Commissioners are threatened with litigation in consequence thereof:

And whereas, in order to enable the Commissioners to repay the said mortgage monies, it is necessary that all doubts raised concerning the validity of such mortgages should be removed, and that the said mortgages should be rendered valid and effectual, and for the purpose of enabling the Commissioners to discharge their liability in respect of the waterworks it is necessary that the borrowing powers of the Commissioners should be increased, and that they should be authorized to raise by mortgage for that and other purposes the further sum of three thousand pounds:

And whereas, in order to effect the purposes aforesaid, it is expedient that the powers herein-after contained be conferred upon the Commissioners:

And whereas the objects aforesaid 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 Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and of the Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited for all purposes as "The Milford Improvement Act, 1869."

Interpretation of terms.

2. In construing this Act the several words and expressions to which by the Act incorporated with this Act meanings are assigned shall have in this Act the same respective meanings, unless there be something in the subject or context repugnant to or inconsistent with such construction; and the words and expressions following shall have the meanings hereby assigned to them respectively, unless there be something in the subject or context inconsistent with or repugnant to such construction, that is to say, the expression

"the former Act" shall mean "The Milford Improvement Act, 1857;" the expression "the Commissioners" shall mean the Milford Improvement Commissioners incorporated by the former Act, and for the time being acting in execution of that Act; the expression "the existing mortgages" shall mean the several mortgages heretofore granted by the Commissioners, amounting together to the sum of seven thousand pounds, and now overdue.

10 & 11 Vict. c. 16. incorporated.

3. "The Commissioners Clauses Act, 1847," is (except where expressly or by implication varied by this Act) incorporated with and forms part of this Act.

Existing mortgages confirmed.

4. Notwithstanding any legal or other informalities, defects, errors, or questions which may have occurred or arisen in the creation and issuing of the existing mortgages on the paving and sewering rates, and on the improvement rate, gasworks, and property of the Commissioners respectively, or on account or by reason of the loss of books and documents of the Commissioners, or of the application of the monies so borrowed respectively not having been or proved to have been in conformity with the provisions of the former Act, or anything in such Act contained, the existing mortgages respectively are hereby severally confirmed and rendered valid and subsisting in all respects; and the Commissioners may concur in any transfer of such mortgages respectively for the purpose of paying off the then holders thereof, or they may reborrow the amount thereof or any part thereof, and grant a new mortgage or new mortgages in respect thereof, either jointly or separately, on all or any of the properties or rates so already charged, and on the said waterworks or the tolls or other property of the Commissioners or any part thereof, and for all or any part of such sums so already charged, and with all usual and necessary powers, without reference to the rates, properties, or purposes on or for which such charges were originally made.

Power to borrow on mortgage further monies.

5. Notwithstanding anything in the former Act, the liabilities and arrangements entered into and incurred by the Commissioners respecting the waterworks and otherwise are confirmed and made valid, and in addition to the sums authorized to be borrowed by the former Act the Commissioners may from time to time borrow at interest on mortgage of all or any of the rates or properties, and in the manner mentioned in the last preceding section, and either together with or separate from any security made thereunder, any further sum or sums of not exceeding in the whole three thousand pounds, and for the purpose of paying off the holders of any security under this or the last preceding section for the time being the Commissioners may concur in transferring any such mortgage or security,

A.D. 1869.

or may reborrow the amount of principal monies secured thereby for the purpose of paying off the same, and after having paid off (otherwise than by a sinking fund or instalments as herein-after provided) any money so borrowed they may reborrow the amount so paid off, and so from time to time.

Limit of further borrowing powers.

6. Provided that the total amount of principal money at any one time borrowed under this Act shall not, in addition to the maximum amount of seven thousand pounds authorized to be borrowed by the former Act, exceed three thousand pounds.

Existing mortgages to have priority.

7. The existing mortgages shall, during the continuance of such mortgages, and as regards the property therein comprised, have priority over any mortgages to be granted by virtue of this Act.

Bridge tolls may be included in any mortgage within ten years.

8. The Commissioners may include in any mortgage security to be given by them under this Act, within ten years of the passing thereof, the surplus bridge tolls they are authorized to take under the former Act which may remain after defraying out of such tolls the expense of maintaining the said streets and bridges.

Arrears may be enforced by appointment of receiver.

9. The respective mortgagees of the company may enforce the payment of the arrears of the principal and interest due on their mortgages to be granted under this Act by the appointment of a receiver, and the amount to authorize a requisition for a receiver shall be two thousand pounds.

Receiver may make payments and allowances for expenses of Commissioners.

10. Notwithstanding anything in the former Act or this Act or any Act incorporated therewith contained, it shall be lawful for every receiver appointed at the instance of a mortgagee to make out of the monies he may from time to time receive such payments and allowances to the Commissioners for or towards the current expenditure of the Commissioners as such receiver, with the consent of the mortgagee, may deem necessary for the purpose, and any payments which before the passing of this Act shall have been made by any such receiver for that purpose, with such consent as aforesaid, shall be deemed and taken to have been lawfully made.

Application of monies borrowed under this Act.

11. Notwithstanding anything in the former Act as to the application of monies borrowed as therein mentioned, the additional sum of three thousand pounds by this Act authorized to be raised on mortgage shall be applied by the Commissioners when raised as follows:

First, in paying the costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto:

Second, in discharging the liability of the Commissioners in respect of the waterworks:

Third, in payment of any other liability of the Commissioners:

Provided always, that no person or body advancing any money or taking any security under or for the purposes as stated of this Act shall be obliged to see to the application of such money or the purpose for which the same shall be or has been required.

Repeal of section 93 of Act of 1857.

12. From the passing of this Act the ninety-third section of the former Act, and other the provisions of that Act relating to the sinking fund, shall be and is and are hereby wholly repealed, and the Commissioners are and shall be hereby released from the obligation and necessity of restoring or providing the sinking fund, or any part thereof, by that Act directed and required to be provided, and also from or with respect to the application of monies borrowed, and keeping accounts relative thereto, by that Act also directed and required.

New sinking fund.

13. From and after the passing of this Act the Commissioners shall either set apart and appropriate, out of any monies other than borrowed monies coming to the hands of the Commissioners, as a sinking fund to be applied in paying off the principal monies borrowed on mortgage under the former Act and this Act or either of them, in each year respectively not less than one thirtieth part of the respective monies so borrowed, or instead thereof may, at their option, contract with the mortgagees for the payment of such monies by instalments, composed of principal and interest, either equal or not, or annual or half-yearly, or otherwise, so that all such monies, with interest, shall be repaid at or before the end of thirty years from the passing of this Act as to existing mortgages, or from the time of making the same as to future mortgages, and shall out of the monies coming to the hands of the Commissioners pay off such mortgages accordingly.

Certain kinds of property amenable as one fourth of their net annual value.

14. Notwithstanding anything in the former Act contained the occupier of any land used as arable, meadow, or pasture ground only, or as woodlands, market gardens, or nursery grounds, and the occupier of any land covered with water or used only as a canal or towing-path for the same, or as a railway constructed under the powers of any Act of Parliament for public conveyance, shall be assessed in respect of the same from and after the expiration of five years after the passing of this Act to the rates authorized to be levied under the former Act in proportion of one fourth part only of the net annual value thereof.

A.D. 1869.

Expenses of Act.

15. All the costs, charges, and expenses of and incident to the obtaining and passing of this Act shall be paid by the Commissioners, and if not paid as herein-before provided may be apportioned by them between the paving and sewering accounts and the improvement account, or may be borne by either of such accounts, as they think reasonable.

LONDON : Printed by George Edward Eyre and William Spottiswoode,
Printers to the Queen's most Excellent Majesty. 1869.