CAP. XVI.

An Act to make further Provision concerning Mortgages and other Dispositions of Property belonging to Municipal Corporations in *England* and *Ireland*.

[15th *May* 1860.]

'WHEREAS it is expedient to make further Provision concerning Mortgages and other Dispositions of Property belonging to Municipal Corporations:' Be it therefore enacted by the Queen'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:

Treasury, in approving Mortgages by Municipal Corporations, may require Money borrowed to be repaid within a limited Time, by Instalments or by a Sinking Fund, or by both.

I. In any Case where the Commissioners of Her Majesty's Treasury approve of any Mortgage of any Hereditaments of the Body Corporate of any Borough, the said Commissioners may, as a Condition of their Approval, require that the Money borrowed on the Security of such Mortgage shall be repaid, with all Interest thereon, in Thirty Years, or any less Period, and either by Instalments or by means of a Sinking Fund, or both, as the said Commissioners may think fit; and in every such Case the Sums required for providing for the Repayment of the Principal and Interest of the Money borrowed shall by virtue of this Act become charged upon the Hereditaments comprised in such Mortgage (without Prejudice to the Security thereby created), or any other Hereditaments (if any) of the said Body Corporate, or the Borough Fund, or the Borough or other Rates legally applicable for the Payment or Discharge of the Money borrowed, or the Expenses which such Money may be borrowed to defray, or on all or any of the Securities aforesaid, as the said Commissioners may direct.

How Sinking Fund to be raised.

II. When any Money to be borrowed as aforesaid is directed to be repaid by means of a Sinking Fund, the Council of the Borough shall, out of the Rents and Profits of the Hereditaments, or out of the Borough Fund or Rates on which the Sums required for such Sinking Fund are charged under this Act, invest or cause to be invested such Sums, and at such Times and in such Government Annuities, as the said Commissioners may direct, and shall also from Time to Time invest or cause to be invested in like Manner all Dividends of such Annuities, so as to accumulate at Compound Interest, and all Annuities in which such Investments are made shall, in the Books of the Governor and Company of the Bank of *England* and of the Governor and Company of the Bank of *Ireland* respectively, be placed to the Account of the Body Corporate, and "In the Matter of the Municipal Corporation Mortgages, &c. Act, 1860," and the Dividends of such Annuities shall be paid to such Person or Persons as the said Council by Power of Attorney under the Corporate Seal of the Borough from Time to Time appoint, and shall be invested as herein directed; but the Annuities to be purchased shall not be sold or transferred without the Consent in Writing of the said Commissioners, addressed to the Chief Accountant of the Bank of *England* or of the Bank of *Ireland* (as the Case may require); and the Direction in Writing of the Council of the Borough by Power of Attorney under the Corporate Seal of the Borough, with such Consent in Writing of the said Commissioners, shall be sufficient Authority to the Governor and Company of the Bank of *England* or of the Bank of *Ireland* (as the Case may be) for permitting the Transfer of such Annuities or any Part thereof.

When Money paid into the Bank, under any Act of Parliament, for Purchase of Lands, &c. of a Municipal Corporation, is paid out, Treasury may require Provision to be made for replacing the Amount.

III. Where any Purchase Money or Compensation has been paid into the Bank of *England* or *Ireland*, under any Act of Parliament, in respect of any Hereditaments, or any Interest therein, purchased or taken from any such Body Corporate, or in respect of any permanent Damage to any Land of any such Body Corporate, and the said Commissioners approve of the Payment of such Money or Compensation, or of any Money to arise from the Sale of any Government Securities in which the same may have been invested, to such Body Corporate or their Treasurer, the said Commissioners may, as a Condition of their Approval, require Provision to be made for raising in manner herein-before provided with respect to a Sinking Fund for Repayment of Money borrowed on Mortgage, and investing in Government Annuities a Sum equivalent to the Amount of Money so paid to such Body Corporate or their Treasurer; and the Provisions herein-before contained in the Case of a Sinking Fund, as to the Mode of investing, Payment of Dividends,

and Transfer of Annuities, shall be applicable in the Case of Investments under this Provision; and the said Commissioners shall, when it appears to them that an Amount of Annuities equivalent to the Amount paid as aforesaid has been raised by Investment under this Enactment, direct that the Accumulation shall cease; and such Annuities and the Dividends thereof shall thenceforth be applicable as the same would have been if such Annuities had arisen from Investment under the Act of Parliament under which such Purchase Money or Compensation as aforesaid became payable: Provided always, that this Section shall not apply to any Money payable to a Body Corporate, when Provision for the Application of such Money, or of the Price or Compensation from which such Money has been derived, is contained in any Local Act of Parliament relating thereto, and the Money is to be paid to such Body Corporate, to be applied in conformity with such Provision.

Not to apply to Money, when Provision for its Application is contained in any Local Act.

Treasury may, where they authorize a Sale of Land of any Municipal Corporation, direct Investment of Proceeds.

IV. Where the said Commissioners approve of the Sale of any Hereditaments, or any Interest therein, of any such Body Corporate, their Approval may be subject to such Conditions for and in relation to the Investment of the Proceeds of such Sale for the Benefit of such Body Corporate as the said Commissioners may see fit, and where they direct the same to be invested in Government Annuities, the Provisions herein-before contained as to the Mode of investing, Payment of Dividends, and Transfer of such Annuities, shall be applicable, but not so as to render necessary any Accumulation; or if the said Commissioners see fit to consent to the Application of the Proceeds of such Sale or any Part thereof for the Benefit of the Inhabitants of the Borough, they may as a Condition of their Consent require the like Provision to be made as they are authorized to require in the Case of their Approval of Payment to any such Body Corporate or their Treasurer as herein-before mentioned; and this Enactment shall apply as well to any Money received for Equality of Exchange by any such Body Corporate as to the Proceeds of the Sale of any Hereditaments or Interest in Hereditaments of any such Body Corporate.

Power to apply certain Investments for the Benefit of the Borough.

V. The said Commissioners may at any Time consent to the Application of any Annuities arising from Investments under either of the Two last preceding Sections, or of the Moneys to arise from the Sale thereof or any Part thereof respectively, for the Benefit of the Inhabitants of the Borough, and as a Condition of their Consent may require the like Provision to be made as they are authorized to require in the Case of their Approval of Payment to any such Body Corporate or their Treasurer as herein-before mentioned, and so from Time to Time, as often as the said Commissioners think fit, and the Provisions of this Act shall be applicable accordingly: Provided always, that nothing in this Act shall be deemed to make it imperative on the said Commissioners to require such Provision as aforesaid as a Condition of their Assent to the Application of such Annuities or Moneys, or to the Payment of any Purchase Money or Compensation in respect of Hereditaments of a Body Corporate (or Money to arise from the Sale of Investments thereof), to such Body Corporate or its Treasurer, where, by reason of the Application of such Annuities or Moneys to Improvement of the Property of such Body Corporate, or for the permanent Benefit of the Borough or otherwise, under the special Circumstances of the Case, the Commissioners in their Discretion think fit to dispense with such Provision.

Proviso, setting aside, in certain Cases, Direction as to Investment of Proceeds.

Provision for Cases of Mortgage, &c. before the passing of this Act.

VI. Where before the passing of this Act the Commissioners of Her Majesty's Treasury have approved of any Mortgage of the Hereditaments of the Body Corporate of any Borough, and on such Approval have required a Sinking Fund to be formed from Time to Time in the Name of Trustees, or have approved of the Payment to any such Body Corporate or their Treasurer of any such Purchase Money or Compensation as aforesaid, or of any Money arising from the Sale of any Government Securities in which the same may have been invested, and have on such Approval required Provision to be made for raising, by means of Investments in the Names of Trustees, an Amount equivalent to the Amount paid with such Approval to such Body Corporate or their Treasurer, or have approved of the Sale or Alienation of any Hereditaments or Interest therein of any such Body Corporate, and have required on such Approval the Investment of the Proceeds of such Sale in the Names of Trustees, the said Commissioners may require any Securities in which any such Investments may have been already made to be transferred into the Name of such Body, and "In the Matter of the Municipal Corporation Mortgages, &c. Act,

Act, 1860," or may require any Money applicable for the Purposes of such Sinking Fund to be invested in the Purchase of Government Annuities in the Name of such Body, and "In the Matter of the Municipal Corporation Mortgages, &c. Act, 1860;" and the Order in Writing of the said Commissioners for that Purpose shall be a sufficient Discharge to such Trustees from all Claims in respect of the Transfer of such Securities in pursuance of such Order, and the said Commissioners may in the respective Cases aforesaid give such Directions as they might give in the analogous Cases herein-before provided for, arising after the passing of this Act, or as near thereto as the Circumstances of the Case may require, and the Provisions of this Act shall be applicable accordingly.

Penalty for Misappropriation of Moneys, as stated in 20 & 21 Vict. c. 54.

VII. If any Person authorized to receive the Moneys to arise from the Sale of any Annuities or Securities purchased or transferred under this Act, or any Dividends, or any other such Money as aforesaid, appropriate the same otherwise than as directed by this Act, or by the said Commissioners in pursuance thereof, he shall be guilty of a Misdemeanor, and shall be subject in respect thereof to the Provisions of the Act of the Session holden in the Twentieth and Twenty-first Years of Her Majesty, Chapter Fifty-four, applicable to any Person guilty of a Misdemeanor under that Act.

Councils of Cities or Boroughs may acquire Lands, &c. with the Consent of the Treasury.

VIII. In every Case in which the Council of any City or Borough in *England*, the Body Corporate of which has not Power to purchase or acquire Land and Hereditaments, or to hold Land in Mortmain, deem it expedient to purchase or otherwise acquire, for public Purposes, any Hereditaments, such Council shall represent the Circumstances of the Case to the Commissioners of Her Majesty's Treasury, and it shall be lawful for such Council, with the Approbation of the said Commissioners, to purchase or acquire any Hereditaments in such Manner and on such Terms and Conditions as may have been approved of by the said Commissioners, and such Hereditaments may be conveyed to and holden by the Body Corporate of such Borough accordingly; and in any such Case as aforesaid, and also in any other Case where the said Commissioners are satisfied, upon Representation of the Circumstances, that all or any Part of the Purchase Money of any Hereditaments proposed to be purchased for public Purposes by the Council of a Borough should be raised by Mortgage or Charge as herein-after mentioned, the Council may, with the Approbation of the Commissioners, charge and make liable, by way of Mortgage or otherwise, the Hereditaments so to be purchased, or any other Hereditaments of the Body Corporate, or the Borough Fund, or Borough Rates of the Borough, or all or any of the Securities aforesaid, with the Payment of any Money necessary for effecting such Purchase, and Interest; and the Provisions herein-before contained with reference to the Approval of Mortgages shall be applicable in the Case as well of Charge on the Borough Rates or Borough Fund as of Mortgages under this Provision; provided that Notice of the Intention of the Council to make such Application shall be given, and a Copy of the Memorial intended to be sent be opened to Inspection as by Law required in the Case of a like Application in relation to a Disposition of Hereditaments.

Answer of the Treasury to Applications of the Council to be published, &c.

IX. Where any Application by the Council of any Borough is made for the Approbation of the said Commissioners to any proposed Disposition, Purchase, or Acquisition of any Property, and the said Commissioners either altogether refuse the Application or grant their Approbation conditionally, or otherwise qualify the same, Notice of the Correspondence between the said Commissioners and the Council shall forthwith and for One Month be fixed on the outer Door of the Town Hall, or in some public and conspicuous Place within the Borough, and a Copy of such Correspondence shall during the same Period be kept in the Town Clerk's Office, and be freely open to the like Inspection as by Law provided with respect to the Copy of the Memorial containing such Application required to be kept in such Office.

Corporations may submit Schemes to Commissioners of Treasury for Payment of Borough Mortgage Debt.

X. 'Whereas in certain Boroughs Mortgage Debts have been heretofore incurred, for 'the Payment and Discharge of which no adequate legal Provision now exists:' It shall be lawful for the Corporation of any such Borough to submit to the Commissioners of Her Majesty's Treasury any Scheme for the Discharge of any such Debts, by Instalments, or by a Sinking Fund, or by both, extending over any Term of Years; and if the said Commissioners approve of such Scheme, the Sums required for providing for the Discharge of

the Debt to which such Scheme relates, in the Manner proposed therein, shall, by virtue of this Act, become charged upon all or any of the Hereditaments of the Body Corporate, or the Borough Fund, or the Borough Rates, or any other Rates which would have been applicable to or towards the Discharge of such Debts, or on all or any of the Securities aforesaid, as the said Commissioners may approve and direct; and the Provisions hereinbefore contained applicable where Provision is made for Repayment of Money borrowed on Mortgage by a Sinking Fund and Instalments, or both, except the Limitation to a Period of Thirty Years, shall be applicable to the Provision for the Discharge of a Mortgage Debt under this Provision; provided that Notice of the Intention of the Council to make Application to the said Commissioners for the Approval of any such Scheme shall be given, and a Copy of the Memorial intended to be sent shall be open to Inspection, in like Manner as in Cases of Application to the Commissioners for their Approval of a Disposition of Hereditaments.

As to Payment of Debts due under Authority of Acts of Parliament.

XI. 'And whereas in certain Boroughs sundry Debts have from Time to Time been 'incurred under the Authority of Acts of Parliament, with different Periods assigned for 'the Discharge of the same:' Be it enacted, That it shall be lawful for the Corporations of such Boroughs respectively, with the Consent of the Commissioners of Her Majesty's Treasury, and with the Consent in Writing of the Persons or Bodies Corporate to whom such Debts respectively may be owing, previously obtained, to consolidate all such sundry Debts into One, and thereon to make Provision for the Discharge of such consolidated Debt, by annual Instalments or by a Sinking Fund, or by both, extending over a Period not exceeding Thirty Years, and to make such annual Instalments or Payments a legal Charge upon the Borough Fund or the Borough Rates, or any other Rates which would have been applicable to or towards the Discharge of such Debts, or on all or any of the Securities aforesaid, as the said Commissioners may approve and direct; provided that Notice of the Intention of the Council to make Application to the said Commissioners for the Purpose aforesaid shall be given, and a Copy of the Memorial intended to be sent shall be open to Inspection, in like Manner as in Cases of Application to the Commissioners for their Approval of a Disposition of Hereditaments.

Power of Local Boards in Boroughs.

XII. Where in any Borough subject to the Provisions of the Act passed in the Session holden in the Fifth and Sixth Years of the Reign of His late Majesty King *William* the Fourth, Chapter Seventy-six, and intituled *An Act to provide for the Regulation of Municipal Corporations in* England *and* Wales, a Surplus is standing to the Credit of the Borough Fund arising from the Rents and Profits of the Property of the Corporation, and not from a Borough Rate, and such Borough is a District within the Meaning of the "Public Health Act (1848)," the Corporation, acting as the Local Board of Health of such Borough, may, with the Consent of such Corporation, apply such Surplus in Payment of any Expenses that have been previously to the passing of this Act or may hereafter be incurred by them acting as the Local Board of Health of such Borough in the Improvement of the Borough or of any Part thereof, by Drainage, Enlargement of Streets, or otherwise, in pursuance of the "Public Health Act (1848)," and the "Local Government Act (1858)," or of One of such Acts.

Not to affect Powers under Local Acts.

XIII. Provided always, That nothing in this Act shall repeal, abridge, or affect any Power or Authority of any Body Corporate, or the Council of any Borough, under any Local Act of Parliament relating to such Body Corporate or Borough.

Act to be construed with 5 & 6 W. 4. c. 76. and 3 & 4 Vict. c. 108.(I.)

XIV. This Act shall, as regards *England*, be construed with the Act of the Session holden in the Fifth and Sixth Years of King *William* the Fourth, Chapter Seventy-six, as One Act; and shall, as regards *Ireland*, be construed with the Act of the Session holden in the Third and Fourth Years of Her Majesty, Chapter One hundred and eight.

Short Title.

XV. This Act may be cited as "The Municipal Corporation Mortgages, &c. Act, 1860."