CHAPTER 18.

An Act to grant Money for the purpose of Loans by the Public Works Loan Commissioners and by the Commissioners of Public Works in Ireland, and to authorise the former Commissioners to compound and cancel certain loans and interest, and to amend the Public Works Loans Act, 1875.

[27th May 1878.]

WHEREAS by the Public Works Loans Act, 1875, and other Acts, the Public Works Loan Commissioners are authorised to make loans for the purposes therein mentioned, and it is expedient to grant the money herein-after mentioned for the purpose of such loans: 38 & 39 Vict. c. 89.

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:

1. This Act may be cited as the Public Works Loans Act, 1878. Short title.

PART I.

Public Works Loan Commissioners.

2. For the purpose of loans by the Public Works Loan Commissioners, any sum or sums not exceeding in the whole six million pounds may be issued out of the Consolidated Fund of the United Kingdom, or the growing produce thereof, in manner provided by the Public Works Loans Act, 1875, during the period ending on the thirtieth day of June one thousand eight hundred and seventy-nine, or on any earlier day at which a further Act authorising the issue of money for the purpose of the said loans comes into operation. Grant of 6,000,000*l.* for loans during the period ending the 30th June 1879. 38 & 39 Vict. c. 89.

The Treasury may, in the manner and subject to the limitations provided by the Public Works Loans Act, 1875, borrow the said sum or any part thereof.

3. Whereas, in pursuance of the Sanitary Act, 1866, and the Acts amending the same, one of Her Majesty's Principal Secretaries of State, being satisfied that the sewer authority for the special drainage district of Epping, in the county of Essex, had made default in providing their district with sufficient sewers and a supply of water, appointed a person to provide the same by means of certain works of drainage and water supply, and directed that the expenses of such works should be paid by the said authority, and certified that loans were required for the purpose of defraying those expenses, and charged the local rate with the repayment of the principal and interest due in respect of the said loans, and the Public Works Loan Commissioners advanced the amount of such loans: Composition of debt due from the Epping rural sanitary authority. 29 & 30 Vict. c. 90.

And whereas the loans so advanced amount in the whole to a debt of eleven thousand nine hundred pounds, repayable by yearly instalments, with interest at five per cent. per annum:

And whereas the powers, property, and liabilities of the said sewer authority have become vested in and imposed on the rural sanitary authority of the Epping union:

And whereas the said sewer authority and rural sanitary authority refused to pay any sum in respect of the instalments or interest of the said debt, and alleged that the said works of drainage and water supply were useless:

And whereas the powers and duties vested in or imposed on one of Her Majesty's Principal Secretaries of State by the Sanitary Act, 1866, and the Acts amending the same, were transferred to and imposed on the Local Government Board by the Local Government Board Act, 1871: 29 & 30 Vict. c. 90. 34 & 35 Vict. c. 70.

And whereas Sir Joseph William Bazalgette, C.B., being requested by the Local Government Board to report as to the said works of drainage and water supply, and their value to the district, having regard to the insufficiency of the water supply which has been obtained, and other matters, reported that in certain events the present waterworks would become most valuable to the Epping rural sanitary authority, but that, having regard to the difficulties of the case, and to the works of drainage remaining to be done, it appeared to him that the justice of the case would be met if the rural sanitary authority were charged with about one fourth of the cost of the works of water supply and two thirds of the cost of the drainage works, that is to say, five thousand pounds:

And whereas the Commissioners of Her Majesty's Treasury by a letter dated the thirty-first day of December one thousand eight hundred and seventy-five, offered the rural sanitary authority of the Epping union as a compromise to remit so much of the said debt as was in excess of the said sum of five thousand pounds:

And whereas such offer, when communicated by the Local Government Board to the rural sanitary authority, was rejected by that authority, and legal proceedings were taken by the Public Works Loan Commissioners to compel that authority to pay the instalments of and interest on part of the said debt, and the High Court of Justice ordered the said authority to pay the same:

And whereas the rural sanitary authority subsequently requested the Commissioners of Her Majesty's Treasury to renew the offer of the above-mentioned compromise on the ground that the sums required to be levied to repay the debt would be very oppressive if not ruinous to the ratepayers, and that the works were to a great extent useless, and the said Commissioners offered the same compromise on condition that the rural sanitary authority should, in addition to the said sum of five thousand pounds, pay interest thereon at the rate of four per cent. per annum from the first day of January one thousand eight hundred and seventy-six, and such further sum as might be necessary to cover the expenses entailed upon the Public Works Loan Commissioners by the refusal to accept the former offer:

And whereas the said interest and expenses amount to six hundred and twenty pounds, making a total of five thousand six hundred and twenty pounds, and the Commissioners of Her Majesty's Treasury have further agreed to permit the total sum of five thousand six hundred and twenty pounds, with interest at four per cent. per annum from the first day of January one thousand eight hundred and seventy-eight, to be paid by twenty equal annual instalments, the first instalment to be paid on the thirty-first day of December one thousand eight hundred and seventy-eight:

And whereas it is expedient to authorise the Public Works Loan Commissioners and the rural sanitary authority to carry into effect the said compromise: Be it therefore enacted as follows:

The rural sanitary authority of Epping union, in the county of Essex, shall pay to the Public Works Loan Commissioners the sum of five thousand six hundred and twenty pounds, with interest thereon at four per cent. per annum from the first day of January one thousand eight hundred and seventy-eight, and shall pay the same sum and interest by twenty annual instalments of four hundred and thirteen pounds ten shillings and sevenpence, such instalments to be paid on the thirty-first day of December in the year one thousand eight hundred and seventy-eight, and in each succeeding year up to and including the year one thousand eight hundred and ninety-seven, and the said rural sanitary authority shall pay the said instalments out of any moneys or rates out of which they are authorised to defray special expenses incurred by them in relation to the said special drainage district under the Public Health Act, 1875, and shall from time to time raise such sums and issue precepts for such contributions as may be required for the purpose, and the overseers to whom those precepts are issued shall comply therewith, either by paying the amount out of the funds in their hands applicable to special expenses in relation to the said special drainage district, or by levying on the said district such rates as may be necessary for the purpose, and the precepts so issued and any rate levied to meet the same shall for all purposes be deemed to be issued and levied in respect of special expenses incurred by the said rural sanitary authority in relation to the said district, and may be enforced accordingly, and the payment of the said yearly instalments of four hundred and thirteen pounds ten shillings and sevenpence shall be enforceable by the Public Works Loan Commissioners in the same manner in all respects as if the said rural sanitary authority had executed a legal mortgage to the Public Works Loan Commissioners of the rates of the said special drainage district for securing the repayment of the said sum of five thousand six hundred and twenty pounds, with interest at the rate aforesaid, by the instalments herein-before mentioned, and after the commencement of this Act the said debt of eleven thousand nine hundred pounds, with all interest due thereon, shall be extinguished.

38 & 39 Vict. c. 55.

Amendment of 38 & 39 Vict. c. 89. s. 36. as

4. Whereas by section thirty-six of the Public Works Loans Act, 1875, the Local Government Board are required to satisfy themselves that any loan advanced by the

Public Works Loan Commissioners on the security of a rate is applied to the purpose for which it is advanced, and are authorised to appoint any officer to conduct on their behalf such examination as they may think necessary with a view to ascertaining that the loan has been so applied, and it is expedient to make further provision with respect to the powers of the Local Government Board for the purposes of the said section: Be it therefore enacted as follows:

to examination into proper application of loan advanced on rates.

Where upon any examination made in pursuance of section thirty-six of the Public Works Loans Act, 1875, with reference to a loan advanced by the Public Works Loan Commissioners for any purpose on the security of a rate, it appears to the Local Government Board that any sum, being the whole or part of the money raised by the loan, has not been applied for the said purpose, the Local Government Board may order that sum to be, within the time named in the order, applied either for the said purpose or towards the repayment to the Public Works Loan Commissioners of the principal of the loan, or partly in one of such ways and partly in the other, and further, if it appears to them that the sum, or any part thereof, has been applied for some purpose other than that for which it was advanced, may by the same or any other order direct a sum equal to the amount so misapplied to be raised within the time and out of the fund or rate named in the order and to be applied as directed by the above-mentioned order.

38 & 39 Vict. c. 89.

An order made by the Local Government Board in pursuance of this section may be enforced by writ of Mandamus.

Cancellation of debt due in respect of Wigan Church.

5. Whereas on the eighth day of October one thousand eight hundred and forty-nine, a loan of four thousand five hundred and forty pounds was advanced by the Public Works Loan Commissioners, in pursuance of the Acts relating to loans by those Commissioners, towards the re-building of the parish church of All Saints in the parish of Wigan, in the county of Lancaster, and was to be repaid, with interest at the rate of four per cent. per annum, by equal annual instalments of two hundred and twenty-seven pounds, in twenty years from the aforesaid date:

And whereas the said loan was charged upon the church rates of the said parish of Wigan:

And whereas four of the said annual instalments only were repaid, amounting to the sum of nine hundred and eight pounds, and the remainder of the principal sum and large arrears of interest remain due and unpaid:

And whereas in the year one thousand eight hundred and sixty-seven proceedings were taken to enforce payment of the said principal and interest of the said loan, and in the year one thousand eight hundred and seventy-six judgment was finally delivered in the House of Lords, whereby it was declared that in consequence of the lapse of time and change of circumstances the churchwardens and the church rates of the parish of Wigan were no longer liable to repay the said principal and interest, and it is expedient expressly to cancel the said loan in the books of the Public Works Loan Commissioners: Be it therefore enacted as follows:

So much of the loan advanced by the Public Works Loan Commissioners to the churchwardens of the parish of Wigan, in the county of Lancaster, in the year one thousand eight hundred and forty-nine, as remains unpaid, and all arrears of interest due thereon, are hereby cancelled.

Repeal of obligation of the Public Works Loan Commissioners to take securities under 38 & 39 Vict, c. 83.

6. So much of any Act as requires the Public Works Loan Commissioners to take in respect of any loan advanced by them under that Act in preference to any other securities, all or such one or more of the securities issuable under the Local Loans Act, 1875, as they may prefer, is hereby repealed, and the security for any such loan may be given and taken under and pursuant to the Public Works Loans Act, 1875.

38 & 39 Vict. c. 89.

PART II.

Public Works Commissioners, Ireland.

Grant of 800,000*l.* for loan by Commissioners of Public Works in Ireland during the

7. For the purpose of loans by the Commissioners of Public Works in Ireland, any sum or sums not exceeding in the whole eight hundred thousand pounds may be issued out of the Consolidated Fund of the United Kingdom, or the growing produce thereof, in manner provided by Part Two of the Public Works Loans (Ireland) Act, 1877, during the period ending on the thirtieth day of June one thousand eight hundred and seventy-nine, or on

period ending the 30th of June 1879.

any earlier day on which a further Act authorising the issue of money for those loans comes into operation.

40 & 41 Vict. c. 27.

The Treasury may, in the manner and subject to the limitations provided by Part Two of the said Act, borrow the said sum or any part thereof.

CHAPTER 19.

An Act to amend the Matrimonial Causes Acts. [27th May 1878.]

BE it 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:

Short title.

1. This Act may be cited as the Matrimonial Causes Act, 1878.

Costs of intervention.

2. Where the Queen's proctor or any other person shall intervene or show cause against a decree nisi in any suit or proceeding for divorce or for nullity of marriage, the Court may make such order as to the costs of the Queen's proctor, or of any other person who shall intervene or show cause as aforesaid, or of all and every party or parties thereto, occasioned by such intervention or showing cause as aforesaid, as may seem just; and the Queen's proctor, any other person as aforesaid, and such party or parties shall be entitled to recover such costs in like manner as in other cases: Provided that the Treasury may, if it shall think fit, order any costs which the Queen's proctor shall, by any order of the Court made under this section, pay to the said party or parties, to be deemed to be part of the expenses of his office.

Extension of power given by 22 & 23 Vict. c. 61. s. 5.

3. The Court may exercise the powers vested in it by the provisions of section five of the Act of the twenty-second and twenty-third years of Victoria, chapter sixty-one, notwithstanding that there are no children of the marriage.

If husband convicted of aggravated assault, Court may order that wife be not bound to cohabit, &c.

4. If a husband shall be convicted summarily or otherwise of an aggravated assault within the meaning of the statute twenty-fourth and twenty-fifth Victoria, chapter one hundred, section forty-three, upon his wife, the Court or magistrate before whom he shall be so convicted may, if satisfied that the future safety of the wife is in peril, order that the wife shall be no longer bound to cohabit with her husband; and such order shall have the force and effect in all respects of a decree of judicial separation on the ground of cruelty; and such order may further provide,

1. That the husband shall pay to his wife such weekly sum as the Court or magistrate may consider to be in accordance with his means, and with any means which the wife may have for her support, and the payment of any sum of money so ordered shall be enforceable and enforced against the husband in the same manner as the payment of money is enforced under an order of affiliation; and the Court or magistrate by whom any such order for payment of money shall be made shall have power from time to time to vary the same on the application of either the husband or the wife, upon proof that the means of the husband or wife have been altered in amount since the original order or any subsequent order varying it shall have been made;
2. That the legal custody of any children of the marriage under the age of ten years shall, in the discretion of the Court or magistrate, be given to the wife.

Provided always, that no order for payment of money by the husband, or for the custody of children by the wife, shall be made in favour of a wife who shall be proved to have committed adultery, unless such adultery has been condoned; and that any order for payment of money or for the custody of children may be discharged by the Court or magistrate by whom such order was made upon proof that the wife has since the making thereof been guilty of adultery; and provided also, that all orders made under this section shall be subject to appeal to the Probate and Admiralty Division of the High Court of Justice.