



CHAPTER 5.

An Act to further amend the Earl of Aylesford's Estate Act, 1882. A.D. 1884.
[14th August 1884.]

WHEREAS in the Earl of Aylesford's Estate Act, 1882 (herein-after referred to as "the Act of 1882"), it is recited, amongst other things, that a total aggregate principal sum of £192,000 was secured or alleged to be secured to George Russell and William Augustus Guy upon certain charges mentioned in the Act of 1882 affecting the life estate of the Right Honourable Heneage 7th Earl of Aylesford (herein-after called "the present Earl") in the settled estates mentioned in the said Act And it is also recited that the sum of £24,055 1s. 8d. and further advances then amounting therewith to the total sum of £55,000 or thereabouts, with interest thereon at the rate of £8 per cent. per annum, were secured to Frank Manley Cobbett and Harry Burr by an indenture dated the 13th of April, 1881 (being a further charge upon the life estate of the present Earl in the said settled estates), and that the sum required to discharge the debts of the present Earl over and above the sum due in respect of the life estate charges referred to in the said Act amounted to £55,000 or thereabouts And it is also recited that for effecting the objects mentioned in the said Act, and in order to the general preservation of the settled estates, it was fit and proper and for the benefit of the persons entitled to the settled estates in remainder after the death of the present Earl that money should be raised by mortgage of the said estates for the purchase of certain chattels therein mentioned (being chattels belonging to the present Earl of great value and interest, kept and used at the family mansion of Packington Hall in the county of Warwick and at the family residence called "The Friars" at Aylesford), and for the payment of the debts of the present Earl, and that the said chattels and also the life interest of the present Earl in the settled estates should be vested in trustees

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And whereas by the operation of the Act of 1882 the Right Honourable William Henry Earl Poulett and Frederick Robert Knollys, Esq., were appointed trustees of the settlement therein referred to as the settlement of 1871, in the place of the former trustees thereof, and the life estate and interest of the present Earl in the settled estates aforesaid, and also numerous policies of assurance on his life mentioned in the schedule to the said Act were vested in the said William Henry Earl Poulett and Frederick Robert Knollys (who and the survivor of them, his executors and administrators, or other the trustees or trustee for the time being of the power of sale and exchange contained in the settlement of 1871, are in the Act of 1882, and herein-after in this Act included in the expression "the trustees") for the purposes of the Act of 1882, and certain pictures, portraits and engravings, which had been purchased by Charles Henry Murray and Daniel Harry Finch for a sum which, with interest, expenses and costs, is mentioned in the said Act as amounting on the 1st of March, 1882, to £20,000 or thereabouts from a person to whom the present Earl had mortgaged or pledged the same, and also other chattel effects, the property of the present Earl, were also vested in the trustees for the purposes of the said Act :

And whereas by section 18 of the said Act it was enacted that any of the chattels in the said Act mentioned might be from time to time sold, and the nett proceeds of such sale held upon trust as therein by reference mentioned. Provided always that if the usufructuary for the time being of the said chattels was of full age, no such sale should be made without his consent in writing :

And whereas by section 23 of the said Act the trustees were empowered at any time, or from time to time after the passing of the said Act, to raise by mortgage of the settled estates or any part thereof any sum or sums not exceeding £350,000, and they were thereby directed accordingly to raise such sums within that limit as might from time to time be required for the purposes to which the mortgage moneys were therein-after directed to be applied, and the trustees were thereby empowered to convey the settled estates or any part thereof to any person or persons for an estate in fee simple, or any less estate by way of mortgage for securing payment of the money raised and the interest thereon :

And whereas by section 29 of the said Act it is enacted that all money raised by mortgage under the said Act should be applied in

the order and for the purposes and in the manner following, and not otherwise (that is to say):— A.D. 1884.

First.—In paying the costs and expenses of or incidental to obtaining the said Act, and the costs and expenses of or incidental to the raising of the money from time to time raised on mortgage under the said Act.

Secondly.—In paying the principal money and all arrears of interest and other payments due at the time of the passing of the said Act, or subsequently to become due in respect of the life estate charges mentioned in the said Act, or in respect of the charges on the said chattels including as a charge due to the said Charles James Murray and Daniel Harry Finch the sum of £20,000 therein-before mentioned, and all costs and expenses of or incidental to procuring any release or surrender of the securities for the life estate charges, and procuring assignments or releases to the trustees of the policies mentioned in the schedule to the said Act or any substituted policy or policies, or in procuring the release or delivery to the trustees of the said chattels, but so that interest becoming due after the passing of the said Act and the premiums and other payments for keeping on foot the policies mentioned in the schedule to the said Act, or any substituted policies becoming due after the passing of the said Act should be paid primarily out of the rents and profits of the settled estates in exoneration of money raised by mortgage under the said Act.

Thirdly.—In paying the other debts of the present Earl, due at the time of the passing of the said Act, and all other moneys (if any) required to be paid in order to effect the discharge of the present Earl from his then present debts, save and except the life estate charges, and also in paying all costs and expenses of the present Earl or the trustees incurred in reference to such debts, or for the purpose of effecting the discharge or procuring the release thereof, or procuring the release and re-assignment to the present Earl, free from the life estate charges of every policy of assurance forming a security for those charges which was not mentioned in the schedule to the said Act, or had not become substituted for a policy mentioned in that schedule, or any other purpose with reference to the matters aforesaid. And any excess of the money raised by mortgage as aforesaid, over what should be actually required for the purposes aforesaid, should be held by the trustees upon the trusts and subject to the powers and provisions declared by and for the time being subsisting under

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the settlement referred to in the said Act as the settlement of 1871, with respect to moneys arising from sales and exchanges under the power of sale and exchange contained in that settlement :

And whereas by section 34 of the said Act such rents, profits, and annual income as therein mentioned of the settled estates during the life of the present Earl, are directed to be applied by the trustees in the order and manner and for the purposes therein mentioned, including as the purpose sixth in order of mention, the payment year by year to the present Earl during his life, of the annual sum of £2,500 by equal half-yearly payments, on the 1st day of May and the 1st day of November in each year, the first of such payments to be made on the first of those days which should happen next after the passing of the said Act :

And whereas by section 35 of the said Act, the surplus (if any) of the annual income received by the trustees and not required to be applied for any of the purposes mentioned in the last preceding section of the said Act, and all money received by the trustees from the sale of timber or from the working of mines or minerals not comprised in any lease subsisting at the time of the passing of the said Act, are directed to be invested and accumulated as therein mentioned, so as to form a sinking fund for the discharge of incumbrances affecting the fee simple of the settled estates :

And whereas by section 37 of the said Act it is enacted that when, by means of the sinking fund under the said Act, the sum of £25,000 or investments representing that sum in value shall have been provided, or when, by means of the sinking fund, payments shall have been made towards discharge of money raised by mortgage under the powers of the said Act, so as (without regard to other payments from any other source) to reduce the amount which is or which but for such other payments would be for the time being actually due on account of money so raised to a sum not exceeding £325,000, then the surplus annual income of the settled estates, and also the proceeds of the sale of timber, and of working mines and minerals shall cease to be accumulated under the said Act, and shall thenceforth be paid to the present Earl during the residue of his life for his own use, but without prejudice to the other provisions of the said Act :

And whereas at the time when the Act of 1882 was passed it was considered that the sum which would be required for the purposes of the said Act would not exceed the limit of £350,000 mentioned in the said Act, and money to the amount of the aforesaid limit would have been provided for the purposes of the said Act immediately after the

passing thereof, but under the circumstances and for the reasons which are mentioned in the Earl of Aylesford's Estate (Amendment) Act, 1883 (herein-after called "the Act of 1883"), it was found impossible to carry the purposes of the Act of 1882 into effect until after the passing of the Act of 1883, after which the trustees proceeded to carry the said purposes into effect, and they have already raised money to the amount of £232,000 by mortgage under the authority of the Act of 1882, and have duly applied for the purposes to which moneys raised by mortgage under the said Act are applicable, the said sum of £232,000, and also the further sum of £116,000 derived from other sources, and available in that behalf under the said Act, such sums of £232,000 and £116,000, making in the whole the sum of £348,000, leaving a balance of £2,000 only unexpended of the sum of £350,000 mentioned in the said Act, which balance of £2,000 is altogether insufficient for carrying into effect the remaining purposes of the said Act, for which moneys raisable by mortgage thereunder were directed to be applied :

And whereas by reason of the delay which was occasioned as aforesaid in carrying the purposes of the Act of 1882 into effect the amount required for satisfying and discharging the debts and payments which were intended to be provided for by the said Act was much increased, and the costs, charges, and expenses provided for by section 40 of the Act of 1882 were by the addition thereto of the costs, charges, and expenses of the Act of 1883 and the other costs, charges, and expenses provided for by section 2 of the last-mentioned Act also much increased :

And whereas after the passing of the Act of 1882 it was ascertained and it is the fact that in addition to the sum of £192,000 for principal money secured to the said George Russell and William Augustus Guy upon their charges mentioned in the Act of 1882 and the interest thereon, they, the said George Russell and William Augustus Guy were entitled to claim a large amount for costs, charges, and expenses properly incurred by them as mortgagees in relation to their securities and particularly for moneys expended by them in maintaining or keeping in cultivation farms on the said settled estates which had been thrown up by the tenants thereof, and for providing stock for working the said farms, and the trustees have duly paid to the said George Russell and William Augustus Guy the amount of such costs and charges, and on such payment have had the purchased stock delivered to them the trustees :

And whereas it is estimated that under the circumstances herein-before mentioned a further sum of £40,000 or thereabouts will be

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required for carrying into full effect the purposes of the Act of 1882 for which the moneys raised by mortgage under the authority of the said Act were thereby directed to be applied :

And whereas since the passing of the Act of 1882 the Honourable Clement Edward Finch has attained the age of twenty-one years, and the Honourable Charles Wightwick Finch has had issue a son—namely, Heneage Greville Finch—who was born on the 2nd of June, 1883, and is now living :

And whereas it is fit and proper and for the benefit of the persons entitled to the settled estates in remainder after the death of the present Earl that, upon the terms herein-after mentioned as to reduction of the annual sum of £2,500 provided in favour of the present Earl by the Act of 1882, further money should be raised by mortgage of the said estates for the purposes aforesaid, but that object cannot be attained without the authority of Parliament :

And whereas the present Earl has consented to the terms aforesaid :

And whereas it is fit and proper, and in the interest of the persons entitled in remainder as aforesaid that no sale should be made without such consent, as herein-after mentioned, of the chattels which by the Act of 1882 were vested in the trustees :

And whereas the Official Solicitor to the Supreme Court of Judicature (Henry Leigh Pemberton, Esquire), was under Standing Order No. 163A of the House of Lords, appointed on the 4th July, 1884, by writing under the hand of the Lord Chancellor, guardian or protector of the infant, Guy Bertrand, in the said Act of 1883 named to represent the said infant before the Committee of the House of Lords to whom the Bill for this Act was referred :

Therefore Your Majesty's most dutiful and loyal subjects William Henry Earl Poulett and Frederick Robert Knollys most humbly beseech 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 Commons in this present Parliament assembled and by the authority of the same as follows :—

Short title.
This Act
and Acts of
1882 and
1883, to be
construed
as one.

1. This Act may be cited for all purposes as the Earl of Aylesford's Estate (Amendment) Act, 1884, and the same together with the Act of 1882 and the Act of 1883 shall, so far as is consistent with the tenor thereof, be construed as one Act, and the said Acts and this Act may be referred to as the Earl of Aylesford's Estate Acts 1882 to 1884.

Provision as
to sale of por-
tion of settled
estates.

2. Notwithstanding anything in the Act of 1882, or herein-after contained no sale shall be made during the life of the present Earl

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of any of the chattels which by the Act of 1882 were vested in the trustees without the previous consent in writing of the person for the time being entitled under the limitations of the settlement in the Act of 1882 referred to as the settlement of 1871 as tenant for life or in tail in remainder next expectant on the death of the present Earl, or if such person be an infant then of his testamentary or other duly appointed guardian.

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3. The trustees may raise in the manner and for the purposes in and for which money was authorised by the Act of 1882 to be raised by mortgage of the settled estates therein mentioned, any sum or sums not exceeding £40,000 over and above the sums thereby authorised to be raised, and they shall accordingly raise such further sums within that limit as may from time to time be required for the purposes to which the mortgage moneys mentioned in the said Act are thereby directed to be applied, and the same shall be applied accordingly, and the Act of 1882 shall be read and construed as if the sum of £390,000 were substituted for the sum of £350,000, the limit of the sum thereby authorised to be raised by mortgage, wherever such last-mentioned sum is therein mentioned or referred to.

Power to raise £40,000 by mortgage in addition to amount authorised by Act of 1882.

4. The annual sum of £1,500 only, instead of the sum of £2,500 mentioned in section 34 of the Act of 1882, shall be paid year by year to the present Earl during his life as in pursuance of the purpose sixth in order of mention in section 34 of the Act of 1882, and that Act shall accordingly be read and construed as if the sum of £1,500 were substituted for the sum of £2,500 as the annual sum thereby directed to be applied for the purpose sixth in order of mention in the said section.

Annual allowance to present Earl reduced to £1,500.

5. The sum of £50,000 shall be substituted for the sum of £25,000, mentioned in section 37 of the Act of 1882, as the amount on which or on investments representing which in value being provided the accumulations for the sinking fund mentioned in the Act of 1882 are to cease, and when by means of the sinking fund payments shall have been made towards discharge of money raised by mortgage under the powers of the Act of 1882 and of this Act, so as (without regard to payments from any other source) to reduce the amount which is or which but for such other payments, would for the time being actually be due on account of money so raised to a sum not exceeding £350,000 (instead of to a sum not exceeding £325,000, as provided by section 37 of the Act of 1882), then the surplus annual income of the settled estates and the proceeds of timber and of working mines and minerals shall cease to

Sinking fund under Act of 1882 increased to £50,000.

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Provided always that for the purposes of section 37 of the Act of 1882, and of the present section of this Act, moneys arising as mentioned in section 30 of the Act of 1882 from enfranchisement, partition, sale, or exchange, and applied or to be applied by the trustees under the authority of the last-mentioned section shall be taken into account as if the same were money raised by mortgage under the powers of the Act of 1882 and of this Act.

Expenses of Act.

6. The costs, charges, and expenses of or incidental or preparatory to the obtaining or passing of this Act, including those of the said Charles Wightwick Finch, and also those of the said Henry Leigh Pemberton, as such guardian or protector as aforesaid, shall be deemed part of the costs, charges, and expenses provided for by the Act of 1882.

Persons bound by this Act.

7. The general saving in the Act of 1882 shall apply with regard to this Act, but all persons bound by the Act of 1882 and the Act of 1883, and also the said Heneage Greville Finch are and shall be bound by this Act.

Saving in favour of Daniel Harry Finch and his sons unless their consent in writing enrolled.

8. Provided always that whereas the Honourable Daniel Harry Finch is at present abroad, and his consent to this Act has not been proved, therefore this Act or anything therein contained shall not be of any effect as against him, or as against his sons (if any), or the heirs male of the respective bodies of such sons, unless and until the consent of the said Daniel Harry Finch (if living), on behalf of himself and his sons (if any) and the heirs male of the respective bodies of such sons, or, in case of his death, then the consent of the guardian or guardians for the time being of his infant sons (if any), shall be signified in writing under the hand of the person consenting, and such writing shall be attested by at least one witness, and shall be enrolled in the Central Office of the Supreme Court of Judicature in England within three years from the passing of this Act.

After the enrolment of any such consent the same shall be deemed part of this Act, and shall cause this Act to be as binding and conclusive upon the person or persons by whom and on whose behalf the consent is given as if such consent had been obtained and proved before the passing of this Act. And such consent may be in the form or to the effect following (that is to say):—

I, or we, [*here insert the name of the consenting party or parties, and if the consent be on behalf of his infant sons, add—*“on behalf

of myself and of all my sons (if any)" and if the consent be as guardian, add—"on behalf of the person or persons for whom I am authorised to consent"] do hereby consent to an Act of Parliament passed in the session held in the 47th and 48th years of the reign of Queen Victoria intituled "An Act to further amend the Earl of Aylesford's Estate Act, 1882."

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9. This Act shall not be a public Act, but shall be printed by the several printers to the Queen's most Excellent Majesty duly authorised to print the statutes of the United Kingdom, and a copy thereof so printed by any of them shall be admitted as evidence thereof by all judges, justices and others.

Act as
printed by
Queen's
Printers to
be evidence.

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Printers to the Queen's most Excellent Majesty. 1884.

