



CHAPTER 1.

An Act for authorising the Trustees of the Settled Estates of the Marquess of Exeter to raise moneys on the security of the Settled Estates for the improvement thereof; and for other purposes. A.D. 1878.
[8th August 1878.]

WHEREAS by an indenture of settlement, dated the twenty-fourth day of April 1871, and made between the Most Honourable William Alleyne, Marquess of Exeter, and Brownlow Henry George Cecil, Esquire, commonly called Lord Burghley, his eldest son, of the first part, the Right Honourable Frederick Earl Beauchamp and the Right Honourable William Lygon, Earl of Longford and Baron Silchester, herein-after respectively referred to as the said Earl Beauchamp and Earl of Longford, of the second part, and Dudley Francis Stuart Ryder, Esquire, commonly called Viscount Sandon, and Henry Chaplin, Esquire, of the third part, certain estates in the counties of Leicester, Lincoln, Northampton, and Rutland (all which estates are in this Act referred to as "the settled estates") were limited and settled (subject to certain leases, mortgages, and other incumbrances) to the use of the said William Alleyne, Marquess of Exeter, and his assigns for life, sans waste, with remainder to the use of the said Brownlow Henry George Lord Burghley and his assigns for life, sans waste, with remainder to the use of the first and other sons of the said Brownlow Henry George Lord Burghley successively in tail male, with remainder to the use of Lord Francis Horace Pierrepont Cecil for life, sans waste, with remainder to the use of the first and other sons of the said Lord Francis Horace Pierrepont Cecil successively in tail male, with divers remainders over; and by the said indenture it was, among other things, provided that it should be lawful for the said Earl Beauchamp and Earl of Longford, or the survivor of them, or the executors or administrators of such survivor, at any time or times thereafter, at the request and by the direction of the person who under the limitations therein-before contained should be

Indenture of settlement, dated 24th April 1871.

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tenant for life in possession of the said estates, if such person should be of the age of twenty-one years (such request and direction to be testified by some deed or writing to be sealed and delivered by the person whose request and direction is for the time being made necessary, in the presence of and attested by two or more credible witnesses), to levy and raise any sum or sums of money for draining, inclosing, or in any way improving the said estates, or any of them, or any part thereof, which by the person or persons at whose request and by whose direction the same might be raised should be thought necessary for draining, inclosing, or otherwise improving the said estates, or any of them, or any part thereof, and also the costs, charges, and expenses of raising such sum or sums respectively, and to apply the sum or sums to be so respectively raised to the purposes for which the same should be so raised, and in manner therein mentioned to mortgage or charge the said estates, or any part thereof, for or with the sum or sums for the time being required to be raised for the above purposes, or any of them :

And whereas the said William Alleyne, Marquess of Exeter, is the present tenant for life in possession of the settled estates under the limitations of the said indenture :

And whereas the said Lord Burghley was on the seventh day of September one thousand eight hundred and seventy-five married to Isabella Whichcote, and their only son, William Cecil, is the present tenant in tail male in remainder of the settled estates :

And whereas the settled estates include a considerable part of the town and borough of Stamford, and for many years past all the water supplied within the said town and borough for domestic and sanitary purposes has been supplied by the said Marquess of Exeter and his predecessor in title from springs and other sources, and by means of works situate and constructed on the settled estates :

40 & 41 Vict.
c. xxiv.

And whereas for the purpose of improving both the quantity and quality of such supply, and of extending it to parts of the said town and borough which were then without a supply, the said Marquess of Exeter lately constructed on the settled estates additional works, and in the last session of Parliament obtained an Act "to provide for a constant supply of water within the town and borough of Stamford, and for other purposes," which Act is herein-after referred to as the Act of 1877 :

And whereas the total outlay up to the present time on the works so constructed by the said Marquess of Exeter amounts to the sum of seventeen thousand pounds :

Indentures,
dated 28th
July 1875,
12th Jan.

And whereas by three several indentures, dated respectively the twenty-eighth day of July 1875, the twelfth day of January 1877, and the ninth day of November 1877, the said Marquess of Exeter,

in pursuance of his said power, requested and directed the said Earl Beauchamp and Earl of Longford to raise (among other sums) sums amounting altogether to the said sum of seventeen thousand pounds for the construction of the said works, and also to raise the costs, charges, and expenses of raising the same, and to apply the same to the purposes for which they should be respectively so raised :

And whereas doubts being entertained whether the construction of the said works was a purpose for which any sum could properly be raised under the power in that behalf herein-before recited, it was arranged that the said Earl Beauchamp and Earl of Longford should raise the said sums upon the said Marquess of Exeter, Lord Burghley, and Lord Francis Cecil entering into covenants to indemnify the said Earl Beauchamp and Earl of Longford respectively, and accordingly the said Marquess of Exeter, Lord Burghley, and Lord Francis Cecil by an indenture bearing even date with the said indenture of the 28th day of July 1875, and the said Marquess of Exeter and Lord Burghley by two indentures bearing respectively even dates with the said indentures of the 12th day of January 1877 and the 9th day of November 1877, covenanted to indemnify the said Earl Beauchamp and Earl of Longford, and each of them, and their respective representatives and estates, against all actions, claims, and demands, or on account of the said sums so to be raised as aforesaid, and the costs of the same having been raised accordingly, on account of the application of the said sums in or towards constructing the said works, and the said Marquess of Exeter, Lord Burghley, and Lord Francis Cecil also covenanted that they respectively would use their best endeavours to obtain an Act of Parliament for the purpose of sanctioning the said works and the raising out of the said estates of the said sums and the costs of raising the same, and of such further sums, if any, as the tenant for life for the time being in possession of the settled estates might think necessary for completing the said works, as fully and effectually as if the raising out of the said estates of the said sums and costs, and of all such other sums, had by the said indenture of the twenty-fourth day of April 1871 been expressly authorised, and for the purpose of freeing and exonerating the said Earl Beauchamp and Earl of Longford and their respective representatives and estates, and the trustees for the time being of the said indenture of the twenty-fourth day of April 1871, from all questions and claims which might thereafter arise or be made regarding the necessity or propriety of the said works, or by reason of the raising or applying in manner aforesaid of the said sums and costs and of such other sums as aforesaid :

And whereas the said Earl Beauchamp and Earl of Longford having in their hands certain moneys (herein-after referred to as the

A.D. 1878.
1877, and
9th Nov.
1877.

Further
indentures,
dated 28th
July 1875,
12th Jan.
1877, and
9th Nov.
1877.

A.D. 1878. settled moneys), being the proceeds of the exercise from time to time of powers of sale and exchange of the settled estates, determined, in lieu of raising moneys for the purposes aforesaid, to apply and have applied out of the settled moneys in their hands sums amounting altogether to the said sum of seventeen thousand pounds for the construction of the said works :

And whereas for the purpose of further improving the supply of water to the said town and borough of Stamford further works on part of the settled estates have recently been undertaken by the said Marquess of Exeter at an estimated cost of two thousand three hundred pounds, and the outlay on the works already constructed and now in progress will be beneficial to the settled estates, and it is expedient that all doubts as to the application of the said sum of seventeen thousand pounds be removed, and that the said Earl Beauchamp and Earl of Longford, or other the trustees or trustee for the time being of the said power created by the said indenture of the twenty-fourth day of April 1871, be authorised for the purposes of the construction of the works already constructed or now in progress as aforesaid, and of the extension from time to time of mains, and of defraying the costs, charges, and expenses preliminary and of and incidental to the preparation, application for, and obtaining of the Act of 1877 and of this Act, and consequent thereon, to raise on the security of the settled estates or any part thereof, or to apply out of the settled moneys in their hands, such sum or sums as together with the said sums of seventeen thousand pounds and two thousand three hundred pounds will not exceed in the whole the sum of thirty thousand pounds, as if the raising and levying of such sum or sums out of the settled estates and the application of the settled moneys for those purposes had been expressly authorised by the said indenture of the twenty-fourth day of April 1871 :

And whereas the objects of this Act cannot be attained without the authority of Parliament :

Therefore Your Majesty's most dutiful and loyal subjects, William Alleyne, Marquess of Exeter, and Brownlow Henry George Cecil, commonly called Lord Burghley, do 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 ; (that is to say,)

Short title. 1. This Act may be cited for all purposes as *Lord Exeter's Estate Act, 1878.*

2. The powers of this Act shall be exercised by the said Earl Beauchamp and Earl of Longford, and the survivor of them, and the executors or administrators of such survivor, and other the trustees and trustee from time to time of the herein-before recited power created by the said firstly recited indenture of the twenty-fourth day of April 1871 (who are respectively comprised in the expression "the trustees" in this Act), but only at the request and by the direction of the person for the time being entitled to the actual possession or receipt of the rents and profits of the settled estates, and in the event of the minority of any such person, then at the discretion of the trustees.

A.D. 1878.
Trustees
under this
Act.

3. The construction of the said works on the settled estates for supplying water to the town and borough of Stamford shall be deemed to be a purpose for which money may be properly raised and levied under the herein-before recited power created by the said indenture of the twenty-fourth day of April 1871, and for which settled moneys in the hands of the trustees may properly be applied, and the trustees shall be deemed always to have been authorised to apply and are hereby indemnified for having applied the said sum of seventeen thousand pounds, part of the settled moneys, for the purpose of the construction of the said works, and may from time to time levy and raise under the herein-before recited power, or apply out of the settled moneys in their hands, the sum of two thousand three hundred pounds, and such further sums as together with the said sums of seventeen thousand pounds and two thousand three hundred pounds will not exceed in the whole the sum of thirty thousand pounds, for the purposes of the construction of the said works, and of the extension from time to time of mains, and of defraying the costs, charges, and expenses of levying and raising the said sums, and of and incidental to the preparation, application for, and obtaining of the Act of 1877 and this Act, and consequent thereon, as on the request of the tenant for life for the time being in possession of the settled estates they think proper.

Power of
trustees to
raise and
apply
moneys.

4. In order to replace the principal of the settled moneys which has been or may be applied by the trustees as aforesaid, the trustees shall, as regards the principal sum of seventeen thousand pounds applied as aforesaid, from and after the passing of this Act, and as regards any principal sums which may after the passing of this Act be applied as aforesaid, from and after the application thereof, in every year appropriate out of the income arising from the investment of the settled moneys for the time being in their hands, or out of the rents and profits of the settled estates, such a sum, and as nearly as may be of the same amount in every year, as, being accumulated at

Sinking fund
to replace
settled
moneys
applied for
purposes of
Act.

A.D. 1878. — compound interest in manner directed by this Act, may be sufficient to replace in fifty years the principal sums so applied as aforesaid respectively, and the sums so from time to time appropriated shall form a sinking fund to be applied accordingly.

Sinking fund to pay off moneys borrowed on mortgage.

5. In order to discharge the principal moneys secured by any mortgage authorised by this Act the trustees shall, from and after the date of each such mortgage, in every year appropriate out of the income arising from the investments of the settled moneys for the time being in their hands, or out of the rents and profits of the settled estates, such a sum, and as nearly as conveniently may be of the same amount in every year, as, being accumulated at compound interest in manner directed by this Act, may be sufficient to pay off in fifty years the principal sum so secured, and if any part of that principal sum be paid off by means of the sinking fund the trustees shall thenceforward, until the whole of the principal moneys so secured have been paid off, pay into the sinking fund every year, in addition to the other sums herein-before required to be appropriated, a sum equal to the annual interest of the principal money so paid off: Provided that whenever and so long as the yearly income arising from the sinking fund shall be equal to the annual interest of the principal moneys then due, the trustees may, in lieu of investing the said yearly income, apply the same in payment of such interest, and may during such periods discontinue the payment to the sinking fund of the yearly sums herein-before required to be paid thereto.

Investment of sinking fund.

6. The trustees shall from time to time invest the moneys appropriated to a sinking fund under this Act in or upon any securities authorised by the said indenture of the twenty-fourth day of April 1871 for the investment of moneys arising under the powers of sale and exchange contained in that indenture, to be increased by accumulation in the way of compound interest, or otherwise, until the same is of sufficient amount to replace or pay off the principal money, for the replacement or paying off of which the sinking fund is applicable.

Power for trustees to re-borrow.

7. If and whenever the trustees are required or think fit to pay off the money secured by any mortgage authorised by this Act, or any part thereof, they may re-borrow for the purpose, on the security of all or any parts of the settled estates, but subject to the terms and charges affecting the same, the sum originally secured, and in order to secure the repayment of the principal sums so re-borrowed, with interest, may mortgage the hereditaments to be charged therewith to the persons advancing the same, or their respective nominees: Provided that the trustees shall not re-borrow any sum

which is paid off by means of a sinking fund under the provisions of this Act, but on any sum secured by any mortgage authorised by this Act being paid off by means of a sinking fund the powers of the trustees for borrowing and re-borrowing under this Act shall to that extent wholly cease.

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8. The trustees may from time to time make and concur in all such transfers and other dealings with any mortgage authorised by this Act, and may procure all such releases or reconveyances of the hereditaments comprised therein or any part thereof, and may make, concur in, and procure all such other dealings with and dispositions of the mortgage or the hereditaments comprised therein or any part thereof, as the trustees from time to time think expedient.

Trustees may concur in transfer.

9. Every mortgage authorised by this Act shall be and be made redeemable by the person from time to time entitled to the actual possession or to the receipt of the rents and profits of the mortgaged hereditaments.

Mortgages to be redeemable.

10. Every person who from time to time, after the making of any mortgage authorised by this Act, and subject thereto, is entitled to the actual possession or the receipt of the rents and profits of the mortgaged hereditaments, shall be liable to pay and shall pay the interest secured by the mortgage, and the yearly sums to be appropriated as a sinking fund which shall fall due during the time of his being so entitled, and his personal representatives shall be liable to pay and shall pay a proportionate part of the interest, and the yearly sums to be appropriated as a sinking fund which shall accrue from the last half-yearly or yearly day of payment thereof up to the day of his death; and if and whenever any person or his representatives so liable to pay any interest or yearly sums, or a proportionate part thereof, as the case may be, fail so to do, and it is paid by any other person, the person so paying it or his representatives may recover the amount so paid, with interest at the rate of four pounds per centum per annum thereon, from the person or his representatives liable to pay it.

Persons entitled to possession, &c. of mortgaged hereditaments to pay interest on mortgages.

11. Every mortgage authorised by this Act shall be subject and without prejudice to all leases now affecting the mortgaged premises, or any part thereof, and to all leases to be made in accordance with the above-recited indenture of the twenty-fourth day of April 1871 of the same, whether such leases be made before or after the making of the said mortgage, and to the leasing powers conferred by the said indenture.

Mortgages to be subject to leasing powers.

12. Every receipt from time to time given by the trustees for any money received by the trustees under this Act shall be a

Trustees receipt to be a discharge.

A.D. 1878.

discharge for the same, and from all liability, claims, and demands in respect thereof.

Application
of purchase
money on
sale of works.

13. If the works constructed for supplying with water the said borough of Stamford as aforesaid are sold, the trustees shall apply the purchase moneys as follows; that is to say,

First. In replacing or discharging such of the said principal moneys as have not been at the time of the completion of the sale replaced or discharged by means of sinking funds under this Act or otherwise.

Secondly. Any surplus which shall remain shall be applied in reimbursing rateably to the tenant for life for the time being in possession of the settled estates, and to the personal representatives of any deceased tenant for life of those estates, who has contributed any sums to a sinking fund under this Act, all sums so contributed by each such tenant for life, together with the accumulations thereon, at compound interest, under this Act.

Thirdly, and subject as aforesaid, the purchase moneys received by the trustees shall be held by them on such trusts, and subject to such powers, provisoes, and declarations, as moneys arising from the exercise of the subsisting powers of sale and exchange of the settled estates are held on and subject to.

Consent of
the Mar-
quess of
Exeter to
this Act to
be obtained.

14. And whereas the said William Alleyne, Marquess of Exeter, is now abroad, and his consent to this Act has not been proved, therefore this Act shall not be of any avail as against the said William Alleyne, Marquess of Exeter, or his assigns, unless or until he, the said William Alleyne, Marquess of Exeter, signifies his consent to this Act by writing under his hand, attested by at least one witness, such writing to be enrolled in the Chancery Division of the High Court of Justice within three years after the passing of this Act, and after the enrolment of the consent of the said William Alleyne, Marquess of Exeter, such consent shall be deemed part of this Act, and be as binding and conclusive upon him and his assigns as if the consent had been obtained before the passing of this Act, and the consent may be given in the form or to the effect following (to wit):

“ I, William Alleyne, Marquess of Exeter, do hereby
“ consent to the Lord Exeter's Estate Act, 1878.”

General
saving.

15. Saving always to the Queen's most Excellent Majesty, her heirs and successors, and to every other person and body politic and corporate, and their respective heirs, successors, executors, administrators, and assigns (other than and except the several persons who are by this Act expressly excepted out of this general saving), all

such estate, right, title, interest, claim, and demand whatsoever of, into, upon, or with respect to the settled estates as they or any of them had before the passing of this Act, or could or might have had or enjoyed if this Act had not passed. A.D. 1878.

16. Provided that the following persons are excepted out of the general saving aforesaid, and accordingly are the only persons bound by this Act; (that is to say,) Exceptions from general saving.

First. William Alleyne, Marquess of Exeter, and his assigns :

Secondly. Brownlow Henry George Cecil, commonly called Lord Burghley, and his assigns :

Thirdly. William Cecil and the heirs male of his body :

Fourthly. The Right Honourable Frederick Earl Beauchamp and the Right Honourable William Lygon, Earl of Longford and Baron Silchester, or other the trustees or trustee for the time being of the herein-before recited power created by the said indenture of the twenty-fourth day of April one thousand eight hundred and seventy-one :

Fifthly. All and every the person and persons to become entitled under the limitations of the said indenture to take effect after the limitation to the use of the said William Cecil, and the heirs male of his body, therein contained.

17. 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 the Queen's printers to be evidence.

LONDON : Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1878.