CHAPTER 5.

An Act to confer upon the Trustees of the Family Estates settled by the Will of the Most Noble Francis Godolphin D'Arcy, seventh Duke of Leeds, powers of Sale and Exchange, and powers to raise moneys for the purposes of the Settled Estates; and for other purposes. A.D. 1880.

[26th August 1880.]

WHEREAS the Most Noble Francis Godolphin D'Arcy, seventh Duke of Leeds, being seized in fee simple of divers lands and hereditaments, situate in the north and west ridings in the county of York and in the county of Cornwall, duly made and executed his will, dated the 3rd day of August 1849, and thereby appointed the Right Honourable Thomas Alexander Frazer Lord Lovat, the Right Honourable John Douglas Scott, commonly called Lord John Scott (both since deceased), Mark Milbank, Esquire, and the Reverend George Townshend Hudson to be the trustees and executors of his said will, and after providing for the payment of his debts (other than mortgage debts), and of his legacies and funeral and testamentary expenses, out of his residuary personal estate, and if that should be insufficient out of his freehold, copyhold, and leasehold estates therein-after devised and bequeathed, devised all his freehold and copyhold manors, messuages, land, tenements, advowsons, and hereditaments whatsoever and wheresoever (except estates vested in him as mortgagee or trustee) which as owner of or in the execution of any power or otherwise he was competent to dispose of for an estate of inheritance, together with the rights, members, and appurtenances thereunto belonging, unto and to the use of the said Thomas Alexander Frazer Lord Lovat, Lord John Scott, Mark Milbank, and George Townshend Hudson, their heirs and assigns, for ever; as to certain parts of the said hereditaments situate in the north riding of the said county of York, upon certain trusts therein mentioned for the benefit of his wife, Catherine Louisa Duchess of Leeds, during her life and his mother, then the Dowager Duchess of Leeds, which trusts have since determined by

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their respective deaths; and subject to such trusts concerning the said hereditaments situate in the north riding aforesaid, the said testator declared that his said trustees should stand seized and possessed of the said hereditaments, and all other his freehold and copyhold hereditaments devised to them as aforesaid, upon the trusts therein mentioned for the benefit of his sons and their issue male, which trusts have failed by reason of his death without issue; and on failure of such issue upon trust out of the rents and profits of his said freehold and copyhold hereditaments, but not by mortgage or sale thereof, to raise and pay all moneys owing and secured upon or by virtue of any mortgage, charge, or other incumbrance affecting the said freehold and copyhold hereditaments; and subject as aforesaid as to all the said freehold and copyhold hereditaments, in trust for the Right Honourable Francis Lord Godolphin (since deceased), and his assigns, for his life, without impeachment of waste, and after the decease of the said Francis Lord Godolphin in trust for George Godolphin Osborne (since deceased), the eldest son of the said Francis Lord Godolphin, therein-after called George Godolphin Osborne the son (and who afterwards became eighth Duke of Leeds), and his assigns, for his life, without impeachment of waste; and after the decease of the said George Godolphin Osborne the son in trust for George Godolphin Osborne, the eldest son of the said George Godolphin Osborne the son (and who afterwards became and now is the ninth Duke of Leeds, and is herein-after referred to as the now Duke), and his assigns, for his life, without impeachment of waste; and after his decease upon trust for the first and every other son of the now Duke and the issue male of every such son, so that every elder son and his issue male might be preferred to every younger son and his issue male, and on failure of such issue in trust for Francis George Godolphin Osborne, in the said will called Francis Godolphin Osborne, the second son of the said George Godolphin Osborne the son, and his first and every other son and the issue male of every such son, for the same estates and in the same order as the said hereditaments were therein-before limited for the now Duke and his sons and their issue male respectively; and on failure of such issue in trust for William Godolphin Osborne, the fourth son of the said George Godolphin Osborne, in the said will referred to as the third son of the said George Godolphin Osborne the son, and his first and every son, and the issue male of every such son, for the same estates and in the same order as the said hereditaments were therein-before limited for the now Duke and his sons and their issue male respectively; and on failure of such issue in trust for every other son of the said George Godolphin Osborne the son born in the said testator's lifetime or in due time after his decease, and the first and

every other son of every such other son and his issue male, for the same estates and in the same order as the said hereditaments were therein-before limited for the now Duke and his sons and their issue male respectively, so that every elder of such other sons of the said George Godolphin Osborne the son and his issue male might be preferred to every younger of such other sons of the said George Godolphin Osborne the son and his issue male; and on failure of such issue in trust for every other son of the said George Godolphin Osborne the son not born in the said testator's lifetime or in due time after his decease, and the issue male of every such son, so that every elder son and his issue male be preferred to every younger son and his issue male; and on failure of such issue in trust for William Godolphin Osborne, the second son of the said Francis Lord Godolphin, and his assigns, for his life, without impeachment of waste; and immediately after the decease of the said William Godolphin Osborne in trust for the first and every other son born in the said testator's lifetime or in due time after his decease of the said William Godolphin Osborne, and the issue male of every such son, for the same estates and in the same order as the said hereditaments were therein-before limited for every son of the said George Godolphin Osborne the son born in the said testator's lifetime or in due time after his decease and his issue male respectively; and on failure of such issue in trust for every son of the said William Godolphin Osborne not born in the said testator's lifetime or in due time after his decease, and the issue male of every such son, for the same estates and in the same order as the said hereditaments were therein-before limited for every son of the said George Godolphin Osborne the son not born in the said testator's lifetime or in due time after his decease and his issue male respectively; and on failure of such issue in trust for the Reverend Lord Sydney Godolphin Osborne, the third son of the said Francis Lord Godolphin, and his assigns, for his life, without impeachment of waste; and immediately after the decease of the said Lord Sydney Godolphin Osborne in trust for Sydney Francis Godolphin Osborne, the eldest son of the said Lord Sydney Godolphin Osborne, and his first and every other son, and the issue male of every such son, for the same estates and in the same order as the said hereditaments were therein-before limited for the now Duke and his sons and their issue male respectively; and on failure of such issue in trust for Riversdale Brinsley Godolphin (in the said will referred to as the second son of the said Lord Sydney Godolphin Osborne, but not by name) and his first and every other son, and the issue male of every such son, for the same estates and in the same order as the said hereditaments were therein-before limited for the now Duke and his sons and their issue male respectively; and on failure of such issue in

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trust for every other son of the said Lord Sydney Godolphin Osborne born in the said testator's lifetime or in due time after his decease, and the first and every other son of every such other son and his issue male, for the same estates and in the same order as the said hereditaments were therein-before limited for the now Duke and his sons and their issue male respectively, so that every elder of such other sons of the said Lord Sydney Godolphin Osborne and his issue male might be preferred to every younger of such other sons of the said Lord Sydney Godolphin Osborne and his issue male; and on failure of such issue in trust for every other son of the said Lord Sydney Godolphin Osborne not born in the said testator's lifetime or in due time after his decease, and the issue male of every such other son, so that every elder son and his issue male might be preferred to every younger son and his issue male; and on failure of such issue in trust for the Right Honourable Sydney Godolphin Osborne, commonly called Lord Sydney Osborne, and his assigns, for his life, without impeachment of waste; and immediately after the decease of the same Lord Sydney Osborne in trust for the first and every other son born in the said testator's lifetime or in due time after his decease of the same Lord Sydney Osborne, and the issue male of every such son, for the same estates and in the same order as the said hereditaments were therein-before limited for every son of the said George Godolphin Osborne the son born in the said testator's lifetime or in due time after his decease and his issue male respectively; and on failure of such issue in trust for every son of the same Lord Sydney Osborne not born in the said testator's lifetime or in due time after his decease, and the issue male of every such son, for the same estates and in the same order as the said estates were therein-before limited for every son of the said George Godolphin Osborne the son not born in the said testator's lifetime or in due time after his decease and his issue male respectively; and on failure of such issue in trust for the right heirs of the said testator for ever; and the said testator gave to each male person who should become entitled to the actual possession of the said freehold and copyhold hereditaments power to appoint a yearly jointure rentcharge to or in favour of any woman he might marry, and during her life, not exceeding £1,500, with powers of distress and entry, and a term of years to secure the same, but so that all such jointure rentcharges should not at any one time exceed in the whole the yearly sum of £2,000, and to charge portions for the younger children of such male person not exceeding for one such younger child £10,000, and for two such younger children £20,000, and for three or more such younger children £24,000, and to limit a term of years for raising the same, but so that the said hereditaments

should not be liable at any one time to a larger principal sum than £24,000; and the said testator devised and bequeathed all the leasehold messuages, farms, lands, tenements, and hereditaments to which he might be entitled at his decease, whether held for lives or for years, absolute or determinable, subject and charged as aforesaid, unto the said Thomas Alexander Frazer Lord Lovat, Lord John Scott, Mark Milbank, and George Townshend Hudson, their executors, administrators, and assigns, upon the trusts therein mentioned, for the payment and performance of the several rents, reservations, and covenants contained in the leases of the same premises respectively, and for the renewal of the subsisting leases thereof; and he declared that the said leasehold hereditaments should, so far as the different nature of the property would admit, be held upon and for such and the same or the like trusts, intents, and purposes as were therein-before declared concerning his said freehold and copyhold hereditaments, except so far as the same trusts might operate to entitle his said wife and mother to the same leasehold hereditaments, or any of them, for their respective lives, and should, so far as the rules of law and equity would permit, go along with and be enjoyed by the same person and persons respectively as under the trusts aforesaid, except as aforesaid, should from time to time be entitled to the said freehold and copyhold hereditaments: Provided always, and the said testator declared, that no person who under the trusts and limitations aforesaid should be entitled as tenant in tail by purchase to the said freehold and copyhold hereditaments should, under the trusts aforesaid, be absolutely entitled to the said leasehold estates and hereditaments unless and until such tenant in tail should live to attain the age of twenty-one years; and in the said will are contained a power of leasing the said freehold, copyhold, and leasehold hereditaments (except the mansion house called Hornby Castle, with the park, garden, pleasure grounds, stables, buildings, and appurtenances thereto), in manner therein mentioned, for terms not exceeding twenty-one years, and also a power for the surviving or continuing trustees or trustee for the time being to appoint new trustees of the said will in the place of any trustees who should die or refuse, or become unable or unwilling, to act in the trusts of the said will, with the usual direction for vesting the trust estate in the surviving or continuing and new trustees:

And whereas the said testator duly made and executed a first codicil (dated the 4th day of August 1849) to his said will, and thereby (among other things) bequeathed an annuity of £1,500, to which he was entitled, payable out of the revenues of the post office, and all moneys which should or might be received for the redemption thereof, unto the said Thomas Alexander Frazer Lord Lovat, Lord John Scott, Mark Milbank, George Townshend Hudson, their

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executors, administrators, and assigns, to hold the same upon trust for his said wife, the Duchess of Leeds, for her life, and immediately after her decease upon trust for such person as should then be entitled to the barony of Conyers in tail general:

And whereas the said testator duly made and executed a second codicil (dated the 4th day of August 1849) to his said will, and thereby bequeathed to his niece, Marcia Frederica Isabella Lane Fox, a legacy of £30,000, which he charged and directed to be raised and paid out of all his freehold and copyhold estates devised to the trustees of his said will, whom he thereby authorised, by mortgage as therein mentioned, to raise and pay the said sum of £30,000 to his said niece within six months after his decease:

And whereas the said testator made a sixth codicil (dated the 3rd day of May 1859) to his said will, and thereby, after revoking the third codicil to his said will, ratified all the bequests and trusts contained in his said will for the benefit of his said wife, the Duchess of Leeds; and he directed that from and immediately after the death of his said wife the trustees or trustee for the time being of his said will should, out of the rents and profits of the freehold, copyhold, or leasehold manors, messuages, farms, lands, tenements, and hereditaments in the north riding of the county of York devised by his said will, set apart the net sum of £5,000 yearly for the term of twenty-one years from the time of the death of his said wife, or for such other term as should suffice for the objects and purposes therein-after expressed concerning the said yearly sum of £5,000, and as should be consistent with the rules of law; and he declared that the trustees or trustee for the time being should invest the said yearly sum of £5,000 in their names in manner therein mentioned, with power to vary and transpose such investments from time to time for others of the like nature, and should accumulate the dividends, interest, and annual income of the said stocks, funds, and securities for the purpose of discharging all sums of money secured by way of mortgage upon his hereditaments and premises in the county of York, or elsewhere in England; and subject to the said yearly sum of £5,000, the said testator directed that the said manors, messuages, farms, lands, tenements, and hereditaments should be held by the said trustees or trustee upon the trusts and for the intents and purposes thereof expressed and declared concerning the same by his said will, which trusts, intents, and purposes he thereby confirmed; and he declared that the said trustees or trustee should stand possessed of the said fund so to be accumulated as aforesaid upon trust to apply the same at any period or periods of such accumulation in reduction and eventual discharge of all principal sums due by way of mortgage upon his said hereditaments in the county of York, or elsewhere in England; and declared that

such trustees or trustee might from time to time deal with any person or persons for the time being entitled to such mortgage moneys for the transfer and release of their securities, or make such other arrangements respecting the same as such trustees or trustee should think expedient; and after reciting that by the said first codicil to his said will he had devised or bequeathed the said annuities or yearly sum of £1,500, to which he was entitled, payable out of the revenues of the Post Office, to or in trust for his said wife for her life, and after her decease in such manner as in the said codicil appears, the said testator thereby confirmed the devise or bequest of the said annuity to or in trust for his said wife, but he revoked the disposition thereof made after her decease, and bequeathed the same annuity after her decease unto and to the trustees or trustee of his said will for all his estate and interest therein, upon such trusts and for such intents and purposes as shall be subsisting of and concerning his freehold estates in the county of York under and by virtue of his said will or the codicil now in recital (other than and except the trust for accumulation therein contained); and he thereby declared that, notwithstanding the trusts therein-before declared respecting the said annuity, it should be lawful for the trustees or trustee for the time being of his said will, with the consent of his said wife during her life, and after her decease with the consent of the person for the time being beneficially entitled to the said annuity for his life, to sell and dispose of the same in manner therein mentioned; and he declared that the trustees or trustee for the time being of his said will should stand possessed of the money arising from the sale of the said annuity upon trust to lay out the same in the purchase of freehold or copyhold hereditaments situate in the county of York, which freehold or copyhold hereditaments, when purchased, should be conveyed or surrendered to such trustees or trustee, and be held by them or him upon trust to pay the rents and profits thereof to his said wife, or her assigns, during her life, and after her decease upon such trusts and for such intents and purposes as should be subsisting concerning the said freehold and copyhold estates in the said county of York devised by his said will under or by virtue of the same will or the codicil now in recital (other than and except the trust for accumulation therein contained); and he declared that until the money arising from the sale of the said annuity should be so laid out in the purchase of real estate as aforesaid the same should be laid out and invested, in the names of the trustees or trustee of his said will, in or upon stocks, funds, or securities of the nature specified in the clause or trust for accumulation therein contained, and that the interest, dividends, and income of such last-mentioned stocks, funds, or securities should be paid to the person or persons who, if the same money had been invested in the

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And whereas the said testator died on the 4th day of May 1859 without having revoked or altered his said will, except so far as the same was revoked or altered by the said codicils and other codicils which did not affect the said will so far as the same is herein-before recited, and without having revoked or altered the said codicils, except so far as the earlier of such codicils was revoked or altered by the later of such codicils, and the said will and codicils were, on the 1st day of July 1859, duly proved in the Principal Registry of Her Majesty's then Court of Probate by the executors therein named:

And whereas the said testator never had any issue male:

And whereas the said Francis Lord Godolphin died in the lifetime of the said testator:

And whereas the Dowager Duchess of Leeds, the mother of the said testator, also died in the lifetime of the said testator:

And whereas at the death of the said testator the hereditaments in the west riding of the said county of York, which were included in the devise of his freehold and copyhold hereditaments devised unto and to the use of the said trustees as aforesaid, were subject to a mortgage for the sum of £100,000, which was created by an indenture dated the 30th day of July 1840, and made between the said testator of the first part, the said Catherine Louisa Duchess of Leeds, then the wife of the said testator, of the second part, and Sir Charles Morgan, baronet, Richard Twining, Ralph Price, Henry Kemble, and William Samuel Jones of the other part, as mortgagees on a joint account:

And whereas by a decree of the High Court of Chancery, made on the 25th day of February 1860 by the Vice-Chancellor Sir Richard Torin Kindersley, in a cause wherein the said Thomas Alexander Frazer Lord Lovat and his said co-trustees were plaintiffs and the said Louisa Catherine, then Duchess Dowager of Leeds, and the said George Godolphin Osborne the son, then eighth Duke of Leeds, were defendants, it was (amongst other things) declared that the trusts of the said will and codicils of the said Francis Godolphin D'Arcy, seventh Duke of Leeds, deceased, ought to be performed and carried into execution, and the Court ordered and decreed the same accordingly, and by the said decree certain accounts and inquiries were directed to be taken and made:

And whereas the said Lord John Scott died in the month of January 1860:

And whereas by an order made in the said cause on the 26th day of March 1860, upon the application of the said Lord Lovat, Mark Milbank, and George Townshend Hudson, it was ordered that

the applicants should be at liberty to appoint Rear-Admiral the Honourable Frederick Thomas Pelham, C.B., as trustee of the will and codicils of the said Francis Godolphin D'Arcy, seventh Duke of Leeds, in substitution for the said Lord John Scott, deceased, and accordingly, by an indenture dated the 20th day of June 1860, and made between the said Thomas Alexander Frazer Lord Lovat, Mark Milbank, and George Townshend Hudson of the one part, and the said Frederick Thomas Pelham of the other part, in pursuance of the said order and of the said power in that behalf contained in the said will, the said Thomas Alexander Frazer Lord Lovat, Mark Milbank, and George Townshend Hudson appointed the said Frederick Thomas Pelham to be a trustee of the said will in the room of the said Lord John Scott, deceased, and by the same indenture all the said lands and hereditaments devised by the said will and codicils were duly conveyed unto the said Frederick Thomas Pelham and his heirs to the use of the said Thomas Alexander Frazer Lord Lovat, Mark Milbank, George Townshend Hudson, and Frederick Thomas Pelham, their heirs and assigns, upon the trusts and with and subject to the powers, provisoes, declarations, and agreements declared concerning the same respectively in and by the said will and codicils, or such of the same trusts, powers, provisoes, declarations, and agreements as were then subsisting and capable of taking effect:

And whereas the said Sir Charles Morgan died on the 5th day of December 1846, and the said Henry Kemble died on the 18th day of May 1857, and the said Richard Twining died on the 14th day of October 1857, and the said Ralph Price died on the 3rd day of April 1860:

And whereas by an indenture of transfer, dated the 29th day of August 1860 (indorsed on the said indenture of mortgage, dated the 30th day of July 1840), and made between the said William Samuel Jones of the one part, Charles Morgan Robinson Baron Tredegar and the said William Samuel Jones, Sir William Frederick Pollock, James Spicer, and John Alldin Moore of the other part, the said principal sum of £100,000, and the interest due and to become due for the same, and full benefit of all securities for the same, were duly assigned unto the said Charles Morgan Robinson Lord Tredegar, William Samuel Jones, Sir William Frederick Pollock, James Spicer, and John Alldin Moore, their executors, administrators, and assigns, and it was thereby declared that the said sum of £100,000 was money belonging to them upon a joint account; and by the same indenture the lands and hereditaments comprised in the said indenture of mortgage were duly conveyed to the use of the said Charles Morgan Robinson Lord Tredegar, William Samuel Jones, Sir William Frederick Pollock, James Spicer, and John Alldin Moore,

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their heirs and assigns, subject to such equity of redemption as was then subsisting therein:

And whereas the said William Samuel Jones died on the 16th day of February 1862, and the said Charles Morgan Robinson Baron Tredegar died on the 16th day of April 1875:

And whereas by means of payments made by the trustees for the time being of the said will and codicils since the death of the said Catherine Louisa Duchess of Leeds, pursuant to the direction in that behalf contained in the said sixth codicil to the said will, the principal sum secured by the said mortgage of the 30th day of July 1840 has been reduced to the sum of £70,000:

And whereas the said Frederick Thomas Pelham died on the 21st day of June 1861:

And whereas by an order dated the 2nd day of August 1862, and made on appeal from the order on further consideration in the said cause, it was (amongst other things) ordered that the said George Godolphin Osborne, eighth Duke of Leeds, should be let into possession of the freehold, copyhold, and leasehold estates in England of the said testator, Francis Godolphin D'Arcy, seventh Duke of Leeds (other than Hornby Castle and the lands appertaining thereto, and subject to the right of the said then Duchess Dowager of Leeds to the game on the estates or manors appertaining to the said castle), and into the receipt of the rents and profits thereof:

And whereas by an order made in the said cause on the 13th day of June 1862, upon the application of the said Lord Lovat, Mark Milbank, and George Townshend Hudson, it was ordered that the applicants should be at liberty to appoint the Right Honourable Granville George Earl Granville as trustee of the will and codicils of the said Francis Godolphin D'Arcy, Duke of Leeds, in substitution for the said Frederick Thomas Pelham, deceased, and accordingly, by an indenture dated the 12th day of August 1862, and made between the said Thomas Alexander Frazer Lord Lovat, Mark Milbank, and George Townshend Hudson of the one part, and the said Granville George Earl Granville of the other part, in pursuance of the said order of the 13th day of June 1862, and of the aforesaid power in that behalf, the said Thomas Alexander Frazer Lord Lovat, Mark Milbank, and George Townshend Hudson appointed the said Granville George Earl Granville to be a trustee of the said will in the room of the said Frederick Thomas Pelham, deceased. And by the same indenture all the lands and hereditaments which by the said will and codicils were devised to the trustees of the same will upon trusts were duly conveyed unto the said Granville George Earl Granville and his heirs to the use of the said Thomas Alexander Frazer Lord Lovat, Mark Milbank, George Townshend Hudson,

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and Granville George Earl Granville, their heirs and assigns, upon the trusts and with and subject to the powers, provisoes, declarations, and agreements declared concerning the same respectively in and by the said will and codicils, or such of the same trusts, powers, provisoes, declarations, and agreements as were then subsisting and capable of taking effect:

And whereas by an order dated the 11th day of July 1862, and made in the said cause, and in the matter of the Acts of Parliament for facilitating leases and sales of settled estates, and in the matter of an estate situate in several parishes in the heading of the said order specified in the county of Cornwall, and of several parishes also specified in the same heading in the west riding of the county of York, held upon the trusts of the will of the late Most Noble Francis Godolphin D'Arcy, Duke of Leeds, deceased, powers of granting a specified mining lease therein mentioned, and general powers of granting mining, building, and repairing leases of the said estates in the county of Cornwall, and of the said estate in the west riding of the county of York, were vested in the trustees or trustee for the time being of the said will, to be exercised with the consent of the said George Godolphin, eighth Duke of Leeds, during his life, and after his decease with the consent of the person in trust for whom the said estates were for the time being limited after the decease of the same Duke if such person should have attained the age of twenty-one years, and if such person should not then have attained that age then without such consent, but subject to the provisions or restrictions in the said order mentioned or referred to:

And whereas by an order dated the 8th day of December 1864, and made in the said cause, the last herein-before recited order was amended by striking out such parts thereof as required leases to be settled according to a model lease or model leases to be approved by the judge:

And whereas by an order made in the said cause on the 13th day of July 1866, upon the application of the said Lord Lovat, Mark Milbank, George Townshend Hudson, and Granville George Earl Granville, it was ordered that the applicants should be at liberty to appoint Henry John Milbank to be a new trustee of the will and codicils of the said Francis Godolphin D'Arcy, Duke of Leeds, in substitution for the said Thomas Alexander Frazer Lord Lovat, who was unwilling to act in the trusts of the said will and codicils, and accordingly, by an indenture dated the 12th day of November 1866, and made between the said Thomas Alexander Frazer Lord Lovat, Mark Milbank, George Townshend Hudson, and Granville George Earl Granville of the one part, and the said Henry John Milbank of

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the other part, in pursuance of the said order of the 13th day of July 1866, and the aforesaid power in that behalf, the said Mark Milbank, George Townshend Hudson, and Granville George Earl Granville appointed the said Henry John Milbank to be a trustee of the said will in the room of the said Thomas Alexander Frazer Lord Lovat; and by the same indenture all the said lands and hereditaments whatsoever which by the said will and codicils were devised to the trustees of the same will upon trusts were duly conveyed unto the said Henry John Milbank and his heirs to the use of the said Mark Milbank, George Townshend Hudson, Granville George Earl Granville, and Henry John Milbank, their heirs and assigns, upon the trusts and with and subject to the powers, provisoes, declarations, and agreements declared concerning the same respectively in and by the said will and codicils, or such of the same trusts, powers, provisoes, declarations, and agreements as were then subsisting and capable of taking effect:

And whereas the said Henry John Milbank died on the 4th day of June 1872:

And whereas the said George Godolphin, eighth Duke of Leeds, died on the 8th day of August 1872, and was succeeded in the title by his eldest son the now Duke:

And whereas the said Catherine Louisa Dowager Duchess of Leeds died on the 8th day of April 1874:

And whereas in pursuance of the power in that behalf contained in the said sixth codicil to the said will of the said testator, the trustees for the time being of his said will, with the consent of the now Duke, sold the said annuity of £1,500 so bequeathed by the said will and codicils as aforesaid, and invested the net proceeds of the said sale, as to part thereof in the purchase of a freehold estate in the north riding of the county of York, and as to the residue thereof in the purchase of the sum of £17,007 2*s.* 6*d.* India £4 per cent. stock, and that sum is now standing in the names of the said Mark Milbank, George Townshend Hudson, and Granville George Earl Granville as the present trustees of the said will:

And whereas by an indenture dated the 3rd day of September 1872, and expressed to be made between the now Duke of the first part, the Most Noble Fanny Georgiana Duchess of Leeds, hereinafter called the now Duchess, the wife of the now Duke of the second part, and George Arundel Stewart, since deceased, and Robert Manley Lowe of the third part, in exercise of the power limited to him by the said will of the said testator, the now Duke appointed unto the now Duchess, and her assigns, during her natural life, in case she should survive him, one yearly rentcharge of £1,500, to be charged on and issuing out of such of the hereditaments to which

the now Duke was or should become entitled under the said will of the said testator, or the codicils thereto, as were situate in the north and west ridings of the county of York, with powers of distress and entry for securing the payment thereof, and limited the hereditaments charged with the said jointure rentcharge (subject thereto, and to the powers and remedies for enforcing the payment thereof when in arrear) unto the said George Arundel Stewart and Robert Manley Lowe, their executors, administrators, and assigns, for the term of two hundred years, to commence from the death of the now Duke, upon the trusts therein mentioned for further securing the payment of the said jointure rentcharge:

And whereas the said George Arundel Stewart died on the 23rd day of February 1875, leaving the said Robert Manley Lowe him surviving:

And whereas by an indenture dated the 20th day of February 1873, and expressed to be made between the now Duke of the one part, and the Honourable Edward Frederick Leveson Gower and the Honourable D'Arcy Godolphin Osborne, commonly called Lord D'Arcy Godolphin Osborne, of the other part, in exercise of the power granted to him by the said will of the said testator, the now Duke appointed that such of the freehold and copyhold hereditaments devised by the said will of the said testator as were situate in the north and west ridings of the county of York (subject to any jointure rentcharge to be limited to any woman with whom the now Duke had intermarried or might thereafter intermarry) should remain and be to the use of the said Edward Frederick Leveson Gower and Lord D'Arcy Godolphin Osborne, their executors, administrators, and assigns, for the term of one thousand years, to commence from the day of the date of the indenture now in recital, upon the trusts therein mentioned for raising the sum of £24,000 for the children of the now Duke (other than and besides an eldest or only son for the time being entitled to the inheritance of the said hereditaments under the limitation contained in the said will of the said testator), to be shared and divided among such children in manner in the indenture now in recital mentioned, and to vest at the times and in manner therein mentioned, and upon further trust to raise such sums for maintenance of the said children as therein also mentioned:

And whereas the now Duke has issue male three sons only, namely, George Godolphin Osborne, commonly called Marquess of Carmarthen, who was born on the 18th day of September 1862, Francis Granville Godolphin Osborne, commonly called Lord Francis Granville Godolphin Osborne, who was born on or about the 11th day of March 1864, and Albert Edward Godolphin Osborne, com-

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monly called Lord Albert Edward Godolphin Osborne, who was born on the 10th day of April 1866:

And whereas the said Francis George Godolphin Osborne, the second son of the said George Godolphin Osborne the son, late eighth Duke of Leeds, has had issue male one son only, namely, George Granville Sydney Godolphin Osborne, who was born on the 3rd February 1857, and who died in the month of June 1857:

And whereas the said William Godolphin Osborne, the fourth son of the said George Godolphin Osborne the son, late eighth Duke of Leeds, has had issue male one son only, namely, William D'Arcy Godolphin Osborne, who was born on the 27th December 1860:

And whereas the said George Godolphin Osborne the son, late eighth Duke of Leeds, had one other son only, namely, D'Arcy Godolphin Osborne, and he was born on the 14th day of June 1834, in the lifetime of the said testator, and has had no issue male, never having been married:

And whereas William Godolphin Osborne, the second son of the said Francis Lord Godolphin, has no issue male:

And whereas the said Sydney Godolphin Osborne, the third son of the said Francis Lord Godolphin, has issue male two sons only, namely, Sydney Francis Godolphin Osborne, who was born on or before the 9th day of May 1835, and Riversdale Brinsley Godolphin Osborne, who was born on the 19th day of June 1847:

And whereas the said Sydney Francis Godolphin Osborne, the eldest son of the said Sydney Godolphin Osborne, has no issue male:

And whereas Riversdale Brinsley Godolphin Osborne, the second son of the said last-mentioned Sydney Godolphin Osborne, has no issue:

And whereas the said last-mentioned Sydney Godolphin Osborne had not any other son:

And whereas the said Lord Sydney Osborne died on the 15th day of April 1861 without having had any issue male:

And whereas the said Duke is the heir-at-law of the said testator:

And whereas there are no powers of sale and exchange, or of granting mining, or repairing, or building leases, in the said will and codicils of the said testator, and it would be for the advantage of the several persons interested in the said freehold, copyhold, and leasehold hereditaments so devised and bequeathed to the said trustees as aforesaid if such powers were conferred upon the trustees or trustee for the time being of the said will:

And whereas the freehold, copyhold, and leasehold estates situate in the north and west ridings respectively in the county of York

now subject to the trusts of the said will and codicils of the said testator, and at present constituting the settled estates, are specified in the schedule to this Act annexed:

And whereas when the now Duke succeeded to the title, and to the possession and receipt of the rents and profits of the said freehold, copyhold, and leasehold hereditaments devised to the said trustees by the said will of the said testator, the said mansion-house called Hornby Castle (which is the only mansion on the estates devised by the said will) was in a very dilapidated and ruinous state, the roof thereof requiring to be renewed to protect the same from the weather, and other repairs and additions being necessary to make it fit for residential purposes, and it became necessary to expend large sums of money for the purpose, and accordingly the now Duke, during the years 1875, 1876, 1877, 1878, and 1879 inclusive, expended the sum of £9,500, or thereabouts, in putting the said mansion-house into repair and making it fit for a family residence:

And whereas when the now Duke succeeded to the title, and to the possession and receipt of the rents and profits of the said hereditaments so devised by the said will of the testator as aforesaid, the houses, cottages, and buildings thereon were in a very dilapidated state, and it became necessary to pull down and rebuild many of them, and also to erect other and additional houses, cottages, and buildings, and accordingly the said George Townshend Hudson, as the acting trustee under the said will, and with the concurrence of the now Duke, from time to time, out of the rents and profits of the hereditaments devised by the said will, expended during the period aforesaid the sum of £17,800 or thereabouts in the erection of new houses, cottages, and buildings upon such of the said hereditaments as are situate in the north riding of the said county of York, and on repairs and reinstatement of old buildings thereon, and the sum of £15,000 or thereabouts in the erection of new houses, cottages, and buildings upon such of the said hereditaments as are situate in the west riding of the same county, and in repairs and reinstatement of old buildings thereon; such new houses, cottages, and buildings so erected, and the repairs and reinstatement of old buildings so effected as herein-before mentioned, being absolutely necessary in order to retain the tenants, who would otherwise have given up their tenancies, and the same have in fact added greatly to the permanent value of the property:

And whereas the moneys which were so expended by the now Duke and the said George Townshend Hudson, with his concurrence, were greatly in excess of what the tenant for life could be reasonably expected to provide for repairs and maintenance, and it is expedient that provision should be made for recouping the

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now Duke so much of such expenses, not exceeding the sum of £25,000, as he shall require:

And whereas it is expedient that the trustees of the said will should be authorised to make grants of parts of the settled estates as sites for churches, parsonages, schools, town halls, market places, and other public buildings and conveniences:

And whereas it would be more to the advantage of the now Duke and the several persons to become entitled after him to the settled estates that parts of the moneys subject to be invested in the purchase of lands, instead of being so invested, should be applied in or towards the making of roads, and the making and improving of sewers, drains, and other durable works and conveniences, in such parts of the settled estates as from time to time are appropriated for building purposes, and also in or towards the erection and improvement of and additions to farm buildings being part of the settled estates, and also in or about the fencing, draining, planting, and improving of lands being part of the settled estates:

And whereas under the powers granted by the said order of the 11th day of July 1862, as amended by a subsequent order dated the 8th day of December 1864, leases have been granted of the seam of coal called the Top Hard Coal under certain of the said lands situate in the west riding of the said county of York, and it is believed that valuable seams of coal lie under that seam, but at a considerable depth, and some of the lessees are willing to sink to a greater depth and prove such deep lying seams (if any) if the now Duke, or other the person or persons for the time being entitled in remainder expectant on his death to the said lands and the minerals thereunder, or the trustees or trustee for the time being of the said will, will contribute to the expense of such sinking, but there is no power in the said will or codicils to expend any moneys out of capital for that purpose, and if the present opportunity is not taken advantage of it is feared that such deep lying seams will not be proved, and that the inheritance of the said estates will be deprived of the full benefit of the said seams, and it is therefore advisable that provision should be made for raising and applying moneys for that purpose:

And whereas it would be for the benefit of the now Duke and the several persons to become entitled to the said settled estates that the several provisions made by this Act should be made:

And whereas the objects of this Act cannot be attained without the authority of Parliament: Wherefore Your Majesty's most dutiful and loyal subject George Godolphin, Duke of Leeds, doth 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, A.D. 1880.

Short title.

1. This Act may for all purposes be cited as the Duke of Leeds Estate Act, 1880.

Interpretation of terms.

2. In this Act the words and expressions following have the meanings following, unless excluded by the subject or context; that is to say,

(A.) The expression "trustees" means and includes the said Mark Milbank, George Townshend Hudson, and Granville George Earl Granville, and other the persons and person who under the said will and codicils of the said testator, Francis Godolphin D'Arcy, Duke of Leeds, deceased, are and is from time to time the trustees and trustee of the said will:

(B.) The expression "settled estates" means and includes all manors, messuages, farms, lands, and hereditaments, whether freehold, copyhold, or leasehold, which shall for the time being be in any manner subject to the trusts of the said will and codicils:

(C.) The expression "tenant for life" means and includes the now Duke during his life, and after his death the person who from time to time is under the trusts of the said will and codicils beneficially entitled as the tenant for life in possession to the rents and profits of such parts of the settled estates as from time to time are subject to the said will and codicils:

(D.) The expression "tenant in tail" means and includes the person who from time to time is under the trusts of the said will and codicils beneficially entitled as tenant in tail male in possession to the rents and profits of such parts of the settled estates as from time to time are subject to the trusts of the said will and codicils, being of full age:

(E.) The word "trust moneys" means and includes the said sum of £17,007 2*s.* 6*d.* India £4 per cent. stock, now standing in the names of the said Mark Milbank, George Townshend Hudson, and George Granville Earl Granville, and the moneys which may be from time to time raised by sales and exchanges, made under the power of sale and exchange herein-after conferred upon the trustees, of parts of the settled estates, and which, under the said will, are subject to be invested in the purchase of lands.

Powers of sale and exchange.

3. The trustees shall have a general power of sale and exchange over the settled estates or any of them, or any part thereof respectively, and for that purpose shall have all the powers conferred upon

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trustees, with a power of sale and exchange by the Act of the 23rd and 24th Victoria, chapter 145, except that the power conferred by the fifth section of that Act shall not be exercised so as to affect the rights and liabilities of the several persons from time to time entitled under the limitations or trusts of the said will and codicils under the trust in the said sixth codicil contained for the application of an annual sum of five thousand pounds for discharging the incumbrances on the settled estates, but such trust shall continue in operation notwithstanding this present Act.

Sale and exchange to be made with or without reserving minerals.

4. The trustees, if and when they think fit, in the exercise of the powers of sale and exchange hereby created, may reserve any minerals, rights, easements, or privileges whatsoever out of, in, through, over, upon, or underneath all or any parts of the lands sold or disposed of, and may sell or dispose of the surface of any land part of the settled estates apart from or with any part of the minerals thereunder, and may sell or dispose of the minerals of any land part of the settled estates apart from or with any part of the surface thereof, and may sell or dispose of any estate or interest, less than the entire fee simple, in any land part of the settled estates.

Power of granting mining, building, and repairing leases.

5. The trustees shall have the same power of leasing all or any parts of the settled estates and the minerals thereunder as by the said order of the eleventh day of July one thousand eight hundred and sixty-two in the said cause, as amended by the said order of the eighth day of December one thousand eight hundred and sixty-four, is conferred upon them over the parts of the same estates to which such orders relate, and the power to grant leases conferred by the said order and this Act shall extend to authorise preliminary contracts to grant any such leases, and any of the terms of such contracts may be varied in the leases or before the granting thereof by the trustees.

Power to raise money by sale or mortgage.

6. The trustees may from time to time raise by sale or mortgage any sum or sums of money not exceeding in the whole the sum of one hundred and thirty-five thousand pounds, and every mortgage made under the power may be for an estate in fee simple, or any less estate, and may contain a power of sale and such other powers as the trustees shall think proper, and no purchaser paying any money and no mortgagee advancing money upon any mortgage purporting to be made under this power shall be bound to see that such sale is necessary, or that money is wanted, or that no more than is wanted is raised, and it shall be incumbent upon the trustees, at the request in writing of the now Duke, to exercise the said power for the purpose of raising any moneys payable to him, his executors, administrators, or assigns, under section 8, sub-section A.

Sale, exchange, and mortgage not to affect incumbrances.

7. No sale, exchange, or mortgage made under the powers by this Act conferred shall in any manner affect any mortgage or incumbrance upon any part of the settled estates.

Application of trust moneys.

8. The trustees, out of the trust moneys, may and shall pay all the costs, charges, and expenses of and incident to the preparing and applying for and the obtaining and passing of this Act, and from time to time may, and as regards the sum or sums mentioned in sub-section A. shall, apply such further parts as they think fit of the trust moneys for all or any of the purposes following; (that is to say,)

(A.) The recouping to the now Duke, his executors, administrators, or assigns, so much of the herein-before mentioned expenses as he shall by writing under his hand, not being a will or codicil, require, not exceeding in the whole the sum hereinafter mentioned:

(B.) The making of roads, streets, and ways, sewers, and drains, and incidental works and conveniences in such parts of the settled estates as already or from time to time hereafter are laid out or appropriated for building purposes, so that the same be of a permanent nature:

(C.) The making of permanent improvements of any of the roads, streets, or ways, sewers or drains, or incidental works or conveniences in the parts of the settled estates mentioned in sub-section B.:

(D.) The contributing towards the expenses of permanent improvements of any roads, streets, or ways, sewers or drains, or incidental works or conveniences within the limits of the estates devised by the will of the sixth Duke of Leeds, and commonly known as the Conyers Estate, lying intermixed with the settled estates:

(E.) The erection of labourers cottages, farm houses, and other buildings required for farm purposes, and the improvement of and additions to labourers cottages, farm houses, and other buildings for farm purposes already or to be hereafter erected on the settled estates, and the expense of which improvement or additions is not a necessary burden on the tenant for life, so as such improvement or additions be of a permanent nature:

(F.) The fencing, levelling, draining, planting, making roads and ways in and otherwise improving of lands from time to time forming part of the settled estates not mentioned in sub-sections B. and C., so that such works or improvements be of a permanent nature, and that the expense thereof is not a necessary burden on the tenant for life:

(G.) The contributing towards the expense of sinking to and

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proving the deep lying seams of coal and other minerals lying under the top hard seam of coal:

(ii.) The purchasing of other lands and hereditaments contiguous to or intermixed with, or convenient to be held with, any part of the settled estates.

Limit of expenditure by trustees.

9. Provided that the amounts which the trustees may so apply under the last preceding section for the purposes following shall not exceed the amounts following:

(a.) For the purposes mentioned in sub-section A., twenty-five thousand pounds:

(b.) For the purposes mentioned in sub-sections B., C., D., E., and F., sixty thousand pounds:

(c.) For the purposes mentioned in sub-section G., seven thousand pounds:

(d.) For the purposes mentioned in sub-section H., forty-three thousand pounds.

Trustees may appropriate parts of settled estates for sites of churches, &c.

10. The trustees from time to time may appropriate such parts as they think fit of the settled estates for all or any of the purposes following; (that is to say,)

(a.) For the sites of and approaches to churches and churchyards, but not exceeding for that purpose in any one case two acres;

(b.) For the sites and curtilages of and approaches to parsonage houses, but not exceeding for that purpose in any one case two acres;

(c.) For the sites and curtilages of and approaches to parochial or national schools, but not exceeding for that purpose in any one case two acres;

(d.) For the sites of and approaches to town halls and buildings for municipal purposes, but not exceeding in any case more than is reasonably requisite;

(e.) For the sites of and approaches to market houses and market places, and buildings and offices connected therewith, where the markets or the tolls thereof are part of the settled estates, but not exceeding in any case more than is reasonably requisite;

(f.) For the sites of and approaches to other public buildings or conveniences, but not exceeding in any case more than is reasonably requisite;

And may convey the lands so from time to time appropriated, either for valuable consideration or as a free gift, to such persons and upon such trusts for securing the continued appropriation thereof accordingly as the trustees think proper.

Repayment to the trustees of

11. If and whenever the trustees shall, at the request in writing of the now Duke, raise any sum of money for his benefit under the

provisions of section 6 and section 8, sub-section A., the person from time to time entitled in possession under the said will and codicils of the said testator, Francis Godolphin D'Arcy, seventh Duke of Leeds, deceased, to the rents and profits of such parts of the settled estates as from time to time are subject to the trusts of the said will and codicils shall, out of such rents and profits, pay in every year to the trustees such proportionate part of the amount so raised as will by equal annual instalments, dating from the time of raising the same, repay the amount so raised at the expiration of twenty-five years from the passing of this Act, and so as that every amount so raised shall by the means aforesaid be repaid at the expiration of such twenty-five years, and the moneys so from time to time repaid to the trustees shall be held, invested, applied, and disposed of by them as if the same had been moneys which had arisen by the exercise of the power of sale herein-before conferred upon them.

moneys raised on the request of the present Duke.

12. The respective yearly sums so payable to the Trustees shall be paid to them by the successive persons in possession under the trusts of the said will and codicils of such parts of the settled estates as from time to time are subject to such trusts, and in proportion to the duration of their respective estates and interest therein, and all arrears (if any) of the said yearly sums left unpaid by any person liable to the payment thereof shall be paid to the trustees by his real or personal representatives out of his estate in a due course of administration.

Yearly payments to be made by the persons successively entitled.

13. Except only as is by this Act otherwise expressly provided, the several powers and discretions by this Act conferred upon the trustees shall be exercised only with the consent in writing of the tenant for life or tenant in tail, as the case may be; provided that any such consent may be in general terms sanctioning, either absolutely or subject to any terms or conditions, the exercise by the trustees, at their discretion, of their powers and discretions under this Act or any of them.

Powers, &c. to be exercised with consent of tenant for life or tenant in tail.

14. 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 in, upon, to, or with respect to the settled estates or the trust moneys, or any part thereof respectively, as they, every, or any of them had before the passing of this Act, or could or might have or enjoy in case this Act were not passed.

General saving.

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Persons bound by Act.

15. The persons following, and their respective heirs, executors, administrators, appointees, and assigns, are excepted out of the general saving in this Act contained, and accordingly are the only persons bound by this Act; (that is to say,)

The now Duke;

The now Duchess;

George Godolphin Osborne, Marquess of Carmarthen, and the heirs male of his body;

Lord Francis Granville Godolphin Osborne and the heirs male of his body;

Lord Albert Edward Godolphin Osborne and the heirs male of his body;

The fourth and every other son of the now Duke and the heirs male of their respective bodies;

Lord Francis George Godolphin Osborne;

The first and every subsequent born son of the said Lord Francis Godolphin Osborne and the heirs male of their respective bodies;

Lord William Godolphin Osborne;

William D'Arcy Godolphin Osborne and the heirs male of his body;

The second and every subsequent born son of the said Lord William Godolphin Osborne and the heirs male of their respective bodies;

Lord D'Arcy Godolphin Osborne;

The first and every other son of the said Lord D'Arcy Godolphin Osborne and the heirs male of their respective bodies;

Lord William Godolphin Osborne, the second son of the late Francis Lord Godolphin;

The first and every subsequent born son of the said last-mentioned Lord William Godolphin Osborne and the heirs male of their respective bodies;

The Reverend Lord Sydney Godolphin Osborne;

Sydney Francis Godolphin Osborne and the heirs male of his body;

Riversdale Brinsley Godolphin Osborne and the heirs male of his body;

The first and every subsequent born son of the said Sydney Francis Godolphin Osborne and the heirs male of their respective bodies;

The first and every subsequent born son of the said Riversdale Brinsley Godolphin Osborne, the second son of the said Sydney Godolphin Osborne, and the heirs male of their respective bodies;

The third and every subsequent born son of the said Reverend Lord Sydney Godolphin Osborne and the heirs male of their respective bodies;

Robert Manley Lowe and other the trustees or trustee for the time being of the said jointure deed of 3rd September 1872;

Edward Frederick Leveson Gower and Lord D'Arcy Godolphin Osborne and other the trustees or trustee for the time being of the said indenture of 20th February 1873;

Every person to or upon whom, under any limitation of the said will and codicils of the said Francis Godolphin D'Arcy, seventh Duke of Leeds, or under any exercise of any powers contained in the said will and codicils or any of them, any estate, right, title, interest, claim, or demand whatsoever in, upon, to, or with respect to the settled estates or the trust moneys, or any part thereof respectively, has already devolved, descended, or accrued, or hereafter devolves, descends, or accrues;

Mark Milbank, George Townshend Hudson, Granville George Earl Granville, and every other trustee under the said will.

Consent of Lord William Godolphin Osborne to be obtained to this Act.

16. And whereas Lord William Godolphin Osborne 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 Lord William Godolphin Osborne or his sons, or the heirs male of their respective bodies, or his or their respective assigns, or any of them, unless or until he the said Lord William Godolphin Osborne signifies his consent to this Act by writing under his hand, attested by at least one witness, and the writing 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 Lord William Godolphin Osborne such consent shall be deemed part of this Act, and be as binding and conclusive upon him and his sons hereafter to be born, and the heirs of their respective bodies, and his and their respective 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, Lord William Godolphin "Osborne, do hereby consent to the Duke of Leeds Estate Act, "1880."

Evidence of Act.

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.

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The SCHEDULE referred to in the foregoing Act.

THE SETTLED ESTATES.

Divers messuages, lands, tenements, and hereditaments in the north and west ridings respectively of the county of York, now being parts of the family estates of the now Duke subject to the trusts of the said will and codicils, in the parishes and townships following:

North Riding.—Hornby, Hackforth, Langthorne, Arrathorne, Patrick Brompton, West Appleton, and East Appleton.

West Riding.—Harthill, Killamarsh, Woodall, Wales, Todwick, North Anston, South Anston, Woodsetts and Deepcarrs, Bramley, and Thorp Salvin.

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Printers to the Queen's most Excellent Majesty. 1880.