CHAPTER 6.

An Act to amend and extend an Act passed in the year one thousand eight hundred and fifty-three, relative to the Estate devised by the Will of Sir Robert Holt Leigh, Baronet, deceased. [16th July 1874.]

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WHEREAS by an Act passed in the sixteenth and seventeenth years of the reign of Her present Majesty (chapter nine of the private Acts), intituled "An Act to authorise the granting of "building leases of parts of the estates devised by the will of Sir "Robert Holt Leigh, Baronet, deceased, and to extend the power "in the same will contained to grant mining leases, and to authorise "the sale of a share in the Wigan Waterworks, part of the estate "of the said Sir Robert Holt Leigh," it was amongst other things enacted (section one), that the person or persons who would for the time being be entitled under the said will to exercise the power therein contained of leasing for twenty-one years (in this Act referred to as "the authorised lessors") might, in the manner and subject to the conditions and restrictions in the said Act mentioned, demise the lands, messuages, and hereditaments comprised in the schedule to that Act (being lands, messuages, and hereditaments subject to the limitations of the said will) for any term not exceeding ninety-nine years, to take effect in possession and not in reversion or by way of future interest, and to commence or be computed from the date of the contract, agreement, or lease, for improving, repairing, or building purposes, and objects incidental thereto; with power (section two) to again lease the premises in case of re-entry by virtue of any condition of re-entry contained in the lease, and with power (section three) to enter into new contracts by way of addition to or alteration of the original contracts, and to do things necessary thereto or consequent thereon; and it was (section four) enacted that leases should be deemed duly made, though previous contracts should not have been in all respects duly observed; and (section five) that the authorised lessors might lay

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out and appropriate, or concur in laying out and appropriating, lands for streets, ways, avenues, squares, passages, sewers, or other conveniences for the improvement of the settled estates and the accommodation of tenants and occupiers; and (section six) that the authorised lessors might confirm leases which might be considered void or voidable by any technical error or informality; and (section eight) that the authorised lessors might, subject to the conditions and restrictions therein mentioned, lease the mines of coal and cannel under and within two hundred yards on each side of Hindley Hall, and also under and within the paddock belonging to the same, but not under Hindley Hall, or within fifty yards on each side of the hall, in the same manner as if they had not been excepted from the powers of granting leases of coal and cannel contained in the will; and (section nine) that the rents, royalties, and reservations to be received in respect of any mines wholly or partially leased under the new power should be received by the trustees, and (section ten), so far as regarded the portion arising from the exercise of the new power, should be paid as to three fourths to the tenant for life for the time being of the settled estates, and as to the remaining fourth, should be held and applied by the trustees for the purposes and subject to the provisions by the will declared concerning the ultimate residue of the testator's personal estate:

And whereas at the time of the passing of the said Act, Thomas Pemberton Leigh, Esquire, who was afterwards created Baron Kingsdown, was under the said will tenant for his life in possession of the settled estates, with remainder to Roger Leigh, Esquire, during his life, with remainder to the first and other sons of the said Roger Leigh successively according to seniority in tail male, with remainder to the first and other sons of the said Lord Kingsdown successively according to seniority in tail male, with remainder to such one person being in existence at the testator's death as the said Lord Kingsdown should by his will appoint, for the life of such nominee, with remainder to the first and other sons of such nominee successively according to seniority in tail male, with remainder to the several persons in the said Act named as being or representing collectively the right heirs of the testator, and with the usual limitation to trustees therein named and their heirs, interposed between the said several life estates and remainders in order to preserve the contingent remainders, but subject to a provision in the said will that if any son or sons of such nominee of Lord Kingsdown as aforesaid should be living at the time of the testator's decease or born in due time afterwards, then such son should take, in lieu of an estate in tail male, an estate for his life, with remainder to his first and other sons in tail male:

And whereas Lord Kingsdown died on the seventh of October one thousand eight hundred and sixty-seven a bachelor, having by his will, dated the thirty-first of August one thousand eight hundred and sixty-seven, and proved on the twenty-ninth of October one thousand eight hundred and sixty-seven, nominated his brother, Edward Leigh Pemberton, or, if his said brother should die in his lifetime, then his brother's eldest son, Edward Leigh Pemberton the younger, to be the person to succeed to the settled estates as such nominee as aforesaid:

And whereas the said Roger Leigh became on the death of Lord Kingsdown, and now is, the tenant for his life in possession of the settled estates, and he has no issue male:

And whereas the said Edward Leigh Pemberton and his eldest son, Edward Leigh Pemberton the younger, were living at the death of the testator Sir Robert Holt Leigh, and the said Edward Leigh Pemberton the younger has two sons, of whom the elder, Robert Leigh Pemberton, who has attained the age of twenty-one years, is the first tenant in tail in esse of the settled estates:

And whereas the Reverend James Hordern, who at the time of the passing of the said Act was one of the two trustees under the said will (Thomas Cooke Wright, Esquire, being the other trustee thereof), died in the month of May one thousand eight hundred and seventy-two, and the said Roger Leigh, pursuant to a power given to him by the said will, did, by a deed under his hand and seal dated the first day of July one thousand eight hundred and seventy-three, appoint Edward Johnston, Esquire, to be a trustee under the will in the room of the said James Hordern:

And whereas it is not customary in that part of Lancashire in which the lands and hereditaments settled by the said will are situate to take building or repairing leases for shorter terms than nine hundred and ninety-nine years or thereabouts, except under very rare circumstances, and accordingly very few building or repairing leases have been granted under the powers conferred by the said Act of leasing for ninety-nine years, and there is no probability that any more such leases will be applied for, and, so far as the powers of granting such leases are concerned, the objects and intentions of the said Act have failed to take effect to the extent anticipated, or to any appreciable extent:

And whereas the owners of certain estates adjoining and in the immediate neighbourhood of the lands and hereditaments in Lancashire settled by the said will (herein-after referred to as "the Settled Lancashire Estates") grant building and repairing leases for terms of nine hundred and ninety-nine years, and such leases are readily taken, and factories, dwelling-houses, and other buildings

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are erected upon the land so leased, and a large population is attracted thereto:

And whereas it would be for the benefit of the said Roger Leigh, and the persons entitled in remainder to the settled estates, if power were given to grant building and repairing leases of the Settled Lancashire Estates, and to prolong any existing building or repairing leases for terms not exceeding nine hundred and ninety-nine years:

And whereas in consequence of the establishment of collieries, smelting furnaces, ironworks, brick kilns, factories, and railways in the immediate neighbourhood of Hindley Hall, the hall has become and is wholly unsuited for the residence of the owner of the Settled Lancashire Estates, and can no longer be inhabited with comfort, or let to advantage, and neither Lord Kingsdown nor the said Roger Leigh ever occupied the hall as his residence:

And whereas the principal and most valuable of the coal and cannel mines in that part of the Settled Lancashire Estates which is in the neighbourhood of Hindley Hall have been or are being worked and got under leases duly granted, up to the boundaries of the area reserved from mining operations by the said Act, under and within fifty yards from Hindley Hall, and will be shortly worked out; and, inasmuch as the mines and minerals under and within the said reserved area could not be made a subject of a separate mining undertaking, the benefit of the last-mentioned mines and minerals will be wholly lost to the persons entitled under the said will, unless leases of the same mines and minerals be granted forthwith:

And whereas the said last-mentioned mines and minerals are believed to be of considerable value, and could be let immediately at high rents and royalties, and with advantage to the owners of the said settled estates, but the same cannot be let without the authority of Parliament:

And whereas doubts exist whether the provision in the power contained in the said will of granting leases of coal and cannel, to the effect that upon and by every such grant and demise there should be reserved a mine-rent, at a rate per acre for each acre as worked of not less than seventy pounds per foot thick per acre of the coal or cannel worked, authorises the granting of mining leases reserving a mine-rent calculated as a tonnage rate upon the coal or cannel worked, or in any other way than as a footage-rent per acre, and it is desirable that the authorised lessors should in future be at liberty to grant such leases at tonnage rates and otherwise as hereinafter provided:

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Wherefore Your Majesty's most dutiful and loyal subjects, Roger Leigh, Edward Leigh Pemberton, Edward Leigh Pemberton the younger, Robert Leigh Pemberton, Thomas Cooke Wright, and Edward Johnston, 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:

Short title.

1. For all purposes the recited Act may be cited as "Leigh's Estate Act, 1853," and this Act may be cited as "Leigh's Estate Act, 1874," and the two Acts jointly may be cited as "Leigh's Estate Acts, 1853 and 1874."

Recited Act and this Act to be read as one.

2. The recited Act as modified and altered by this Act, and this Act, shall be construed and operate as one Act, and the powers of leasing and incidental powers therein contained shall apply to and extend and be exerciseable over all the messuages, lands, tenements, and hereditaments in the county of Lancaster which by any means or in any manner now are or shall hereafter become subject at law or in equity to the limitations of the said will of the said Sir Robert Holt Leigh, including Hindley Hall, and the offices, paddock, gardens, pleasure-grounds, and appurtenances belonging to the same, and the mines of coal and cannel, and other mines and minerals within and under the same premises respectively.

Power to grant leases for 999 years.

3. The recited Act shall be construed and operate henceforth as if the words "nine hundred and ninety-nine years, to take effect in "possession, or within one year after the making of the demise or "lease," were substituted in the first section of that Act for the words "ninety-nine years, to take effect in possession and not in "reversion or by way of future interest, and to commence or be "computed from the date of such contract, agreement, or lease."

Power to accept surrender of existing leases and to grant fresh or extended lease.

4. The authorised lessors may accept a surrender of any existing lease for the time being of any of the messuages, lands, tenements, and hereditaments mentioned in the second section of this Act, whether granted under the provisions of sections one to seven, both inclusive, of the recited Act or otherwise, and may, under the provisions of those sections and of this Act, demise and lease the surrendered hereditaments and premises as if the surrendered lease had not been granted, or they may, in the case of leases granted under those sections or any of them, by a memorandum endorsed upon such lease and the counterpart thereof, and executed by the authorised lessors and the lessee for the time being possessed of the

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demised premises under the said lease, in like manner as is required in the case of the execution of a lease and counterpart thereof under the provisions of the last-mentioned sections, provide and declare that the term of years then subsisting under such lease shall be prolonged for any period agreed on between them, not exceeding nine hundred and ninety-nine years from the date of the existing lease, in consideration of an equivalent increase, as from the date and time of execution of such memorandum and for the whole residue of the extended term, of the yearly rent reserved by the said lease, without taking anything in the nature of a fine or premium, and thereupon and thenceforth the said lease, and all the covenants and provisions therein contained, shall operate and enure so as to give full effect to the intention of the parties expressed in such memorandum, and as if the same had been expressed and embodied in the lease itself.

Power to lease mines under Hindley Hall and within 50 yards of Hindley Hall.

5. Section eight of the recited Act shall be construed and operate as if the mines of coal and cannel within and under fifty yards on each side of Hindley Hall had been included in instead of being excepted from the power thereby conferred of granting leases of mines of coal and cannel; and it shall not be necessary that any such demise or lease shall contain a clause restraining the lessees from working the mines and minerals in such a manner as may damage the surface.

Capitalisation of income arising from extended power of leasing mines.

6. The rents, royalties, and reservations and other income arising or reserved from the exercise of the extended power of granting leases of mines of coal and cannel conferred by the last preceding section shall be received by the said Thomas Cooke Wright and Edward Johnston, or the survivor of them, or other the trustees or trustee for the time being acting in the execution of the trusts of the said will (whose receipt shall be a sufficient discharge for the same), and shall be held and applied by them or him upon the trusts and with the powers by and in the said will declared and contained concerning the ultimate residue of the testator's personal estate thereby directed to be laid out in the purchase of land to be settled, and they and he shall in appropriate cases of leases granted under the last preceding section of this Act have a power of apportioning rents, royalties, and other reservations similar to the power in that behalf contained in section ten of the recited Act: Nevertheless, nothing herein contained shall prejudice or affect the power of re-entry, or any other remedies of the person or persons entitled in reversion expectant on any lease granted under the power of leasing last herein-before contained for compelling payment of the rents, royalties, or reservations.

As to rent and reservations under mining leases.

7. The authorised lessors may, in and by any lease hereafter to be made by them, under the provisions of the will and the recited Act and this Act respectively, of any mines of coal and cannel, or either of them, reserve and make payable, yearly or oftener during the continuance of the lease, the best or most improved yearly or other rent, either in money or in tolls, duties, royalties, and reservations, or partly in money and partly in tolls, duties, royalties, and reservations, that can at the time of making such lease, and considering the nature and circumstances of the case and the responsibility of the proposed tenant, be reasonably had or obtained for or in respect of such mines: Provided always, that the authorised lessors shall not take in respect of the making of such lease anything in the nature of a fine or premium, and that the consideration for such lease shall in no case be less than would be yielded by a reservation of a rent or royalty after the rate of seventy pounds per foot thick per Cheshire acre of the coal or cannel worked according to the provision in that behalf contained in the power of leasing coal and cannel conferred by the said will.

Trustees empowered to pay expenses of Act, &c.

8. The said Thomas Cooke Wright and Edward Johnston and other the trustees or trustee for the time being acting in the execution of the trusts of the said will may, by and out of the moneys which shall come to their or his hands or hand under the said will, or under the recited Act or this Act, pay all the costs and expenses incurred in applying for, obtaining, and passing this Act.

General saving.

9. Saving always to the Queen's most Excellent Majesty, her heirs and successors, and to all and every other person and persons, body and bodies corporate, collegiate, or politic, his, her, or their heirs, successors, executors, and administrators (other than and except the several persons who are by this Act expressly excepted out of this general saving), all such estate, right, title, property, claim, and demand whatsoever of, into, out of, or upon the settled estates, or any part thereof, as they or any of them had before the passing of this Act, or could or might have had in case this Act had not been passed.

Persons bound by Act.

10. The following persons, and their respective appointees, heirs, executors, administrators, and assigns, are excepted out of the general saving in this Act contained, and accordingly are the only persons bound by this Act:

(A.) The said Roger Leigh and his first and other sons:

(B.) The said Edward Leigh Pemberton, Edward Leigh Pemberton the younger, and Robert Leigh Pemberton:

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(C.) The second and every subsequently born son of the said Edward Leigh Pemberton the younger:

(D.) The second, third, and every other son of the said Edward Leigh Pemberton, and their respective first and other sons:

(E.) The right heirs of the said Sir Robert Holt Leigh, and every other person to whom any estate, right, title, or interest in the settled estates was devised and limited has descended or devolved or shall descend or devolve under or by virtue of his will, or of the said testamentary appointment by Lord Kingsdown:

(F.) The said Thomas Cooke Wright and Edward Johnston as such trustees as aforesaid:

(G.) Every person hereafter being a trustee under the will.

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

11. 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.

LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1874.