



ANNO VICESIMO SEPTIMO & VICESIMO OCTAVO

# VICTORIÆ REGINÆ.

\*\*\*\*\*

## Cap. 13.

An Act for authorizing the Trustees of the Will of *John Arden* Esquire, deceased, to build a Family Mansion on Part of the Estates subject to the Limitations of the said Will; and for other Purposes. [29th July 1864.]

**W**HEREAS *John Arden*, late of *Harden* in the County of *Chester* and of *Pepper Hall* in the County of *York*, Esquire, deceased, by his last Will and Testament, dated the Eleventh Day of *September* One thousand eight hundred and twenty, after directing that all his just Debts, Funeral Expenses, and the Charge of the Probate of his Will should be paid and discharged by his Executors therein-after named, by and out of his Personal Estate, as soon as conveniently might be after his Decease, gave and bequeathed unto each of his Two Sisters, *Anna Maria Arden* and *Frances Arden*, during the Term of their respective natural Lives, One Annuity of Five hundred Pounds, issuing and payable from and out of his *Cheshire* Estates, which Annuities have since ceased by the Death of the said Annuitants, and subject thereto gave and devised all those his several Manors or Lordships or Parts or Shares of the several Manors or Lordships of *Tarporley*, *Utkinton*, *Eaton*, *Rushton*,  
[Private.]

Will of  
J. Arden,  
dated 11th  
Sept. 1820.



*Arden's Estate Act, 1864.*

*Kelsall, Alpraham, and Kingsley otherwise Kingsley Fee*, all in the County of *Chester*, and all and every his Capital and other Messuages, Mills, Farms, Lands, Tenements, Mines, Rents, and Hereditaments, situate, lying, being, and arising within the said several Manors or Lordships of *Tarporley, Utkinton, Eaton, Rushton, Kelsall, Alpraham* and *Kingsley otherwise Kingsley Fee*, and in the several other Manors or Lordships of *Ridley, Manly, Newton, Manley, Alvanly, Cuddington, Clotton, and Duddon*, all in the said County of *Chester*, and also his Two Fourth Parts or Shares and Turns of and in the Advowson of the Rectory of *Tarporley* aforesaid, and all other the Real Estates whatsoever in the said County of *Chester* of which he had Power to dispose, unto *Edward Bootle Wilbraham, Wilbraham Egerton, and Randle Wilbraham* the elder, their Heirs and Assigns, to the Use of them the said *Edward Bootle Wilbraham, Wilbraham Egerton, and Randle Wilbraham* the elder, their Heirs and Assigns, during the Life of the Testator's Nephew *William Lord Alvanley*, now deceased, in the first place upon Trust to support contingent Remainders, and upon certain further Trusts for Accumulation for the Term of Twenty-one Years next ensuing after the Testator's Death, in case the said *William Lord Alvanley* should so long live, in the Manner and for the Benefit of the Persons therein mentioned, and upon further Trust that from and after the End of the said Term of Twenty-one Years in the Lifetime of the said *William Lord Alvanley* the said Trustees or Trustee for the Time being should from Time to Time thenceforth during the Life of the said *William Lord Alvanley* as the Rents, Issues, and annual Profits should from Time to Time become due, pay and apply the same for the Maintenance, Support, and Subsistence of the said *William Lord Alvanley*, and any Wife, Children, or Child that he might have as therein mentioned, and from and after the Decease of the said *William Lord Alvanley* to the Use of the First and other Sons of the said *William Lord Alvanley* successively in Tail Male, with Remainder to *Richard Pepper Arden* (afterwards *Richard Pepper Lord Alvanley* and now deceased) and his Assigns for his Life, without Impeachment of Waste, other than wilful and permissive Waste in pulling down Houses or suffering them to run to Decay without repairing or rebuilding the same, with Remainder to Trustees to preserve contingent Remainders, with Remainder to the First and other Sons of the said *Richard Pepper Arden* successively in Tail Male, with Remainder to the First and other Sons of the said *William Lord Alvanley* successively in Tail General, with Remainder to the First and other Sons of the said *Richard Pepper Arden* successively in Tail General, with Remainder to the Daughters of the said *William Lord Alvanley* as Tenants in Common in Tail General, with cross Remainders between them in Tail General, with Remainder to the Daughters of the said *Richard Pepper Arden* as Tenants in Common in Tail General, with

and

cross



*Arden's Estate Act, 1864.*

cross Remainders between them in Tail General, with Remainder as to One undivided Moiety of the said Hereditaments to *Frances Henrietta Lady Warrender*, then *Frances Henrietta Arden*, and her Assigns during her Life, without Impeachment of Waste, except as aforesaid, with Remainder to Trustees to preserve contingent Remainders, with Remainders to her First and other Sons successively in Tail General, with Remainder to her Daughter and Daughters, and if more than One as Tenants in Common in Tail General, with divers Remainders over, with an ultimate Limitation to the right Heirs of the said Testator; and as to the other Moiety of the said Hereditaments, with Remainder to *Catherine Emma Arden* and her Assigns during her Life, without Impeachment of Waste, except as aforesaid, with Remainder to Trustees to preserve contingent Remainders, with Remainder to her First and other Sons successively in Tail General, with Remainder to her Daughter or Daughters, if more than One, as Tenants in Common in Tail General, with cross Remainders between them in Tail General, with Remainder to the said *Frances Henrietta Arden* and her Assigns during her Life, without Impeachment of Waste, except as aforesaid, with Remainder to Trustees to preserve contingent Remainders, with Remainder to her First and other Sons successively in Tail General, with Remainder to her Daughter and Daughters, if more than One, as Tenants in Common in Tail General, with divers Remainders over, with an ultimate Limitation to the Testator's right Heirs; and the said Will contained Powers of leasing, Powers of jointuring and charging with Portions, and Powers of Sale and Exchange relating to the aforesaid Hereditaments and Premises, and the said Testator by his said Will gave and devised all that his Capital Messuage or Mansion House of *Pepper Hall*, and all other his Messuages, Cottages, Lands, Tenements, and Hereditaments situate, standing, lying, and being in *South Cowton* and *Long Cowton*, otherwise *East Cowton* or elsewhere, in the said County of *York*, and all his Freehold Messuages, Cottages, Lands, and Tenements, and Hereditaments situate, lying, and being in and near *Darlington* in the County of *Durham*, and also all and every his Copyhold, Messuages, Lands, Tenements, and Hereditaments situate, standing, lying, and being in or near *Darlington* aforesaid, and at *Blackwell* in the said County of *Durham*, which he had theretofore surrendered to the Uses of his said Will, or which he had Power to dispose of, freed, exonerated, and discharged of and from all Sum and Sums of Money, or other Encumbrances then charged thereon, under and by virtue of the last Will and Codicil of his late Mother, *Sarah Arden*, deceased, in favour of the younger Children or otherwise, all which Sum and Sums of Money, Charges, and other Encumbrances, he directed should be paid off by his Executors therein-after named out of his Personal Estate, unto the said *Edward Bootle Wilbraham*, *Wilbraham Egerton*, and *Randle Wilbraham*,  
their



*Arden's Estate Act, 1864.*

their Heirs and Assigns, to the Use of the said *Richard Pepper Arden* and his Assigns during his Life, without Impeachment of Waste, other than wilful and permissive Waste, in pulling down Houses or suffering the same to run to Decay, without repairing or rebuilding the same, with Remainder to Trustees to preserve contingent Remainders, with Remainder to his First and other Sons successively in Tail Male, with Remainder to the said *William Lord Alvanley* and his Assigns during his Life, without Impeachment of Waste, except as aforesaid, with Remainder to Trustees to preserve contingent Remainders, with Remainder to the First and other Sons of the said *William Lord Alvanley* successively in Tail Male, with Remainder to the First and other Sons of the said *Richard Pepper Arden* successively in Tail General, with Remainder to the First and other Sons of the said *William Lord Alvanley* successively in Tail General, with Remainder to the Daughters of the said *Richard Pepper Arden*, as Tenants in Common in Tail General, with cross Remainders between them in Tail General, with Remainder to the Daughters of the said *William Lord Alvanley*, as Tenants in Common in Tail General, with cross Remainders between them in Tail General, with Remainder as to One undivided Moiety of the said Hereditaments to the said *Frances Henrietta Arden* and her Assigns during her Life, without Impeachment of Waste, except as aforesaid, with Remainder to Trustees to preserve contingent Remainders, with Remainder to her First and other Sons successively in Tail General, with Remainder to her Daughter or Daughters, if more than One, as Tenants in Common in Tail General; and as to the other Moiety of the said Hereditaments, with Remainder to the said *Catherine Emma Arden*, and her Assigns during her Life, without Impeachment of Waste, except as aforesaid, with Remainder to Trustees to preserve contingent Remainders, with Remainder to her First and other Sons successively in Tail General, with Remainder to her Daughters as Tenants in Common in Tail General, with cross Remainders between them in Tail General, with Remainder to the said *Frances Henrietta Arden* and her Assigns during her Life, without Impeachment of Waste, except as aforesaid, with Remainder to her First and other Sons successively in Tail General, with Remainder to her Daughter and Daughters, if more than One, as Tenants in Common in Tail General, with an ultimate Limitation as to both Moieties to the Testator's right Heirs; and the said Will contained Powers of leasing the said last-mentioned Hereditaments, and also Powers of jointuring and charging Portions thereon; and it was by the said Will further declared that it should be lawful for the said *Richard Pepper Arden*, and also for the said *William Lord Alvanley*, and all and every other Person and Persons who, by virtue of the Limitations therein before contained, should come into and be in the actual Possession of the said last-mentioned Hereditaments and Premises in the said Counties



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of *York* and *Durham*, or be entitled to the yearly Rents and Profits thereof, when they should respectively be so in possession or entitled as aforesaid; and if and when of Age, by and with the Consent of the said *Edward Bootle Wilbraham, Wilbraham Egerton, and Randle Wilbraham*, and other Survivors and Survivor of them, and the Executors and Administrators of such Survivor, and also to and for the said *Edward Bootle Wilbraham, Wilbraham Egerton, and Randle Wilbraham*, and the Survivors or Survivor of them, and the Executors or Administrators of such Survivor during the Minority of any of the Persons aforesaid, of their or his own Authority, subject and without Prejudice nevertheless to such subsisting Leases as should have been made under the Power last therein before contained in that Behalf, to sell and dispose of, and to convey by way of absolute Sale or of Exchange, for other Messuages, Lands, and Hereditaments lying and being in *England*, all or any Part of the aforesaid Hereditaments in the said several Counties of *York* and *Durham* unto any Person or Persons whomsoever, either together or in Parcels, for such Price or Prices in Money or such other Equivalent in Lands or Hereditaments and Money for Equality of Exchange as should seem reasonable; so as that the Money to arise by such Sale or Sales, or to be received for such Equality of Exchange, should be paid to the said *Edward Bootle Wilbraham, Wilbraham Egerton, and Randle Wilbraham*, or the Survivors or Survivor of them, or the Executors or Administrators of such Survivors to be by them laid out and invested by and with the Consent and Approbation of the said *Richard Pepper Arden* and *William Lord Alvanley* respectively, or such other Person or Persons as should join in such Sale or as should then be in possession or entitled as aforesaid, testified by Writing under his and their Hand or Seal or Hands or Seals, in the Purchase of other Freehold Manors, Messuages, Lands, and Hereditaments in *England* aforesaid in Fee Simple in Possession, or of Copyhold Lands and Tenements of Inheritance, if any, lying contiguous thereto, and intermixed and proper to be purchased therewith, free from Incumbrances, except Quit or reserved Rents, and so as that immediately after such Purchase or Purchases, Exchange or Exchanges should be made, as aforesaid, the Messuages, Lands, Tenements, and Hereditaments so to be purchased or taken in exchange as aforesaid, should be conveyed, settled, limited, and assured to such and the same Uses, upon such and the same Trusts, and under and subject to such and the same Limitations, Powers, Provisoes, and Conditions as were therein before mentioned, created, provided, expressed, and declared of and concerning the Hereditaments which should be sold or exchanged as last aforesaid, or such and so many of them as should then be subsisting or capable of taking effect, or as near thereto as the Rules of Law and Equity would permit; and it was by the said Will further declared that the Receipts of the said

[Private.] Trustees

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Trustees or Trustee for the Time being should be effectual Discharges for the Purchase Money, or Money received for Equality of Exchange, and the said Will contained usual Powers of interim Investment of all such Monies upon real and Government Securities in the meantime and until the said Monies should be re-invested in the Purchase of other Hereditaments, and a Discretion to pay the Dividends and Interest of such interim Investments, unto or otherwise permit the same to be received by such Person or Persons as would for the Time being be entitled to the Rents, Issues, and Profits of the Manors, Messuages, Lands, Tenements, and Hereditaments, so directed to be purchased in case the same were purchased and settled pursuant to the now stating Will; and the said Testator bequeathed the Residue of his personal Estate and Effects whatsoever, except certain Portions thereof therein-after excepted, unto the said *Edward Bootle Wilbraham, Wilbraham Egerton, and Randle Wilbraham*, their Executors, Administrators, and Assigns, upon Trust, by and out of the same, and by and out of the several Principal Sums and Interest owing to him on Mortgage, to pay off all such Sums of Money, Charges, and other Incumbrances as then remained due and owing on his said *Yorkshire* and *Durham* Estates, or either of them, under and by virtue of his said Mother's last Will and Testament, and Codicil thereto in favour of her younger Children, or otherwise howsoever; and also to pay all the Testator's Debts, Funeral Expenses, and the several Legacies by him therein-after given, or by any Codicil or Memorandum in Writing to be by him given, and subject thereto his Will was that the said Residue should be divided into Seven equal Parts or Shares, One Seventh equal Part or Share whereof he thereby bequeathed unto the said *William Lord Alvanley*, his Executors, Administrators, and Assigns, Two other Seventh equal Parts or Shares thereof he thereby bequeathed unto the said *Richard Pepper Arden*, his Executors, Administrators, and Assigns, Two other Seventh equal Parts or Shares thereof he bequeathed unto the said *Frances Henrietta Arden*, her Executors, Administrators, and Assigns, and the remaining Two Seventh equal Parts or Shares thereof he bequeathed unto the said *Catherine Emma Arden*, her Executors, Administrators, and Assigns; and after bequeathing certain Legacies, including an Annuity of One hundred Pounds, which has since ceased, and making certain specific Bequests, the said Testator appointed the said *Edward Bootle Wilbraham, Wilbraham Egerton, and Randle Wilbraham* the elder Executors of his said Will. And whereas the Testator by the First Codicil to his said Will, which Codicil was dated the Twentieth Day of *December* One thousand eight hundred and twenty-one, devised One undivided Sixth Part or Share of and in the Manors or Lordships or reputed Manors or Lordships of *Utkinton* and *Tarporley* respectively, in the said County of *Chester*, with the Rights, Royalties, Members, and Appurtenances thereto respectively belonging; and also several

Messuages,

First Codicil,  
dated 20th  
Dec. 1821.



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Messuages, Cottages, Farms, Lands, Tenements, and Hereditaments situate, lying, and being at *Utkinton* and *Tarporley* aforesaid, or in one of them, containing together by a late Admeasurement Three hundred and twenty-seven Statute Acres of Land or thereabouts, be the same more or less, and then in the several Tenures, Holdings, and Occupations of *Henry Johnson*, *Ralph Arden* and others, as Tenants thereof, which he had purchased since the Date of his said Will, to the said *Edward Bootle Wilbraham*, *Wilbraham Egerton*, and *Randle Wilbraham* the elder, their Heirs and Assigns, to and for the several Uses, Ends, Intents, and Purposes, upon the several Trusts, and with, under, and subject to the several Powers, Provisoes, Limitations, and Declarations to which in and by his last Will and Testament he had devised to them, their Heirs and Assigns, his several Estates in the said County of *Chester*, and which at the Time of his Decease should be subsisting, undetermined, and capable of taking effect; and he, by the Codicil now in recital, ratified and confirmed all and every the Devises, Annuities, Legacies, and Bequests in and by his said last Will and Testament made and given, and not then and thereby altered or revoked: And whereas the said Testator, by the Second Codicil to his said Will, which last mentioned Codicil was dated the Fifth Day of *August* One thousand eight hundred and twenty-two, revoked a Legacy of Ten thousand Pounds given by his said Will and bequeathed certain other Legacies; and the said Testator thereby ratified and confirmed all and every the Devises and Bequests in his said last Will and Testament and First Codicil thereto made and contained, and not by his said First Codicil lost by his said Second Codicil altered or revoked: And whereas by the Third Codicil to his said Will, which last mentioned Codicil was dated the Nineteenth Day of *December* One thousand eight hundred and twenty-two, the said Testator devised all that Messuage, Barn, and Tenement, with the several Closes, Fields, and Parcels of Land thereunto belonging, and then occupied and enjoyed therewith, situate, lying, and being in the Township of *East Cowton* otherwise *Long Cowton* in the said County of *York*, then in the Holding and Occupation of *James Atkinson* as Tenant and Farmer thereof, to or under *George Waffles*, with all Liberties, Privileges, and Appurtenances thereunto belonging, which he had purchased since he signed and published his said Will and Testament and the said two Codicils thereto, unto the said *Edward Bootle Wilbraham*, *Wilbraham Egerton*, and *Randle Wilbraham* the elder, their Heirs and Assigns, to and for the several Uses, Ends, Intents, and Purposes, upon the several Trusts, and with, under, and subject to the several Powers, Provisoes, and Declarations to which, in and by his said last Will and Testament, he had devised his several Estates in the said several Counties of *York* and *Dunham*, and which, at the Time of his Decease, should be subsisting undetermined and capable of taking effect; and the Testator, by his

Second  
Codicil,  
dated 5th  
Aug. 1822.

Third  
Codicil,  
dated 19th  
Dec. 1822.

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J. G. & J. S.  
1864.



*Arden's Estate Act, 1864.*

his said Third Codicil, ratified and confirmed all and every the Devises, Legacies, Annuities, and Bequests in and by his said last Will and Testament and Two Codicils thereto made and given, and not before, or then, or thereby altered or revoked: And whereas on the Nineteenth Day of *July* One thousand eight hundred and twenty-three the said *John Arden* died without having altered or revoked his said Will, save so far as the same was altered by the said Codicils, and without having revoked or altered the said Codicils: And whereas on the Eleventh Day of *February* One thousand eight hundred and twenty-four the said Will and Codicils were duly proved by the said *Edward Bootle Wilbraham* and *Wilbraham Egerton*, and *Randle Wilbraham* the elder, in the Prerogative Court of the Archbishop of *York*: And whereas on the Twenty-fifth Day of *June* One thousand eight hundred and thirty-one the said *Frances Henrietta Arden* intermarried with Sir *John Warrender* Baronet: And whereas on the Ninth Day of *November* One thousand eight hundred and forty-nine the said *William Lord Alvanley* died a Bachelor: And whereas the Title of Lord *Alvanley* thereupon descended on the said *Richard Pepper Arden*, and he also became entitled in possession to the *Cheshire* Estates devised by the said Will, as well as the said *Yorkshire* and *Durham* Estates thereby devised, as Tenant for Life thereof under the said Will: And whereas on the Twentieth Day of *February* One thousand eight hundred and fifty-two the said *Frances Henrietta Lady Warrender* died leaving One Child only, and no other Issue, namely, *Helen Catherine Warrender* now *Lady Binning*: And whereas in the Month of *April* One thousand eight hundred and fifty-three the said *Edward Bootle Wilbraham*, then Lord *Skelmersdale*, died: And whereas on the Seventeenth Day of *October* One thousand eight hundred and fifty-four the said *Helen Catherine Warrender*, then an Infant, intermarried with *George Lord Binning* then *George Baillie* the younger, and who has since assumed the Surnames of *Arden* and *Hamilton*: And whereas on the Fourth Day of *February* One thousand eight hundred and fifty-five the said *Helen Catherine Lady Binning* attained the Age of Twenty-one Years: And whereas by an Indenture dated the Sixteenth Day of *October* One thousand eight hundred and fifty-four, and duly made and executed between and by the said *George Lord Binning*, therein described as *George Baillie* the younger, of the First Part, the said Sir *John Warrender* and *Helen Catherine Warrender*, then an Infant of the Age of Twenty Years and upwards, of the Second Part, the said *Richard Pepper Lord Alvanley* of the Third Part, and *George Warrender* the younger and *Charles Balfour* of the Fourth Part, in contemplation of a Marriage which had been agreed upon and with the Privity and Consent of the said Sir *John Warrender* (testified by his executing the Indenture now in recital) was intended to be shortly solemnized between the said

Indenture,  
dated 16th  
Oct. 1854.



*Arden's Estate Act, 1864.*

said *George Lord Binning* and the said *Helen Catherine Warrender*, and by an Indenture endorsed on the said last-mentioned Indenture, dated the Second Day of *March* One thousand eight hundred and fifty-five, and made and duly executed between and by the said *Richard Pepper Lord Alvanley* of the First Part, the said *George Baillie* and *Helen Catherine*, then his Wife, of the Second Part, and the said *George Warrender* and *Charles Balfour* of the Third Part, and which was duly acknowledged by the said *Helen Catherine Lady Binning*, and was also enrolled under the Provisions of the Act made and passed in the Third and Fourth Years of the Reign of His late Majesty *William* the Fourth, intituled *An Act for the Abolition of Fines and Recoveries, and for the Substitution of more simple Modes of Assurance*, the said Manors, Messuages, Lands, Hereditaments, and Real Estates in the Counties of *Chester* and *York*, devised by the said Will and Codicils of the said *John Arden*, and all other Estates, if any, to which under the said Will of the said *John Arden*, the said *Helen Catherine Lady Binning* was or might be entitled, for any Estate in Tail, in possession or remainder, with their Appurtenances, were conveyed and assured or covenanted so to be, to the said *George Warrender* and *Charles Balfour*, their Heirs and Assigns, freed from the respective Estates Tail of the said *Helen Catherine Lady Binning*, and all Estates to take effect after the Determination, or in defeazance of the same Estates Tail respectively, but subject to the Estates by the said Will limited, antecedent to the same Estates Tail respectively and to the Powers and Authorities to such antecedent Estates annexed and to the Estates created or to be created by virtue of such Powers or Authorities, or any of them, to the Use of the said *George Warrender* and *Charles Balfour* and their Executors and Administrators during the joint Lives of the said *George Lord Binning* and *Helen Catherine* his Wife, without Impeachment of Waste, upon trust for the said *Helen Catherine Lady Binning*, for her separate Use, without Power of Anticipation, and after the Decease of either of them the said *George Lord Binning* and *Helen Catherine* his Wife, to the Use of the Survivor of them during his or her Life without Impeachment of Waste, and from and after the Decease of such Survivor to the Use of the First and other Sons of the said *Helen Catherine Lady Binning* by the said *George Lord Binning* successively in Tail Male, with Remainder to the First and other Sons of the said *Helen Catherine Lady Binning*, by any Husband she might marry other than and besides the said *George Lord Binning* successively in Tail General, with Remainder to the First and other Daughters of the said *Helen Catherine Lady Binning* by the said *George Lord Binning* or any other Husband she might marry successively in Tail General, with Remainder to the said *Helen Catherine Lady Binning* her Heirs and Assigns for ever; and the Indenture now in recital contained a Proviso that if any Person or Persons being

[Private.]

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a Son,



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a Son, or the Issue of any Son of the said *Helen Catherine Lady Binning* by the said *George Lord Binning* who, under or by virtue of the Limitations therein-before contained, should, for the Time being, be entitled to the Receipt of the yearly Rents, Issues, and Profits of the Hereditaments and Premises thereby covenanted to be settled, or any Part or Parts thereof, should also become entitled to the Possession or to the Receipt of the yearly Rents, Issues, and Profits of certain Estates in *Scotland* which were expected to devolve on the said *George Lord Binning* upon the Death of the Earl of *Haddington* and *George Baillie* Esquire the Father of the said *George Lord Binning*, and any other Son or Sons of the said *Helen Catherine Lady Binning* by the said *George Lord Binning* her then intended Husband, or any other Husband or Husbands whom she might marry, or the Issue of any such Son or Sons should be then living, then and in every such Case, and when and so often as the same should happen, the Use and Estate or Uses and Estates therein-before limited in the said Hereditaments and Premises thereby covenanted to be settled, or in any Part or Parts thereof, to the Son who or whose Issue should so become entitled as aforesaid, should absolutely cease, and then and thenceforth the said Hereditaments and Premises thereby covenanted to be settled, or such Part or Parts thereof, as the Case might be, should immediately go and remain to the Uses upon and for the Trusts, Intents, and Purposes, and with, under, and subject to the Powers, Provisoes, Agreements, and Declarations to, upon, for, with, under, and subject to which the same would have gone and remained under or by virtue of the Limitations therein-before contained, in case the Person or Persons so becoming entitled as aforesaid was or were then actually dead, without Heirs entitled or inheritable under the Entail created by virtue of the Limitations therein-before contained; and the said Indenture contained a further Proviso, that if by virtue of the Proviso lastly therein-before contained, the said Hereditaments and Premises thereby covenanted to be settled, or any Part or Parts thereof, should have shifted to any such other Son or Sons, or to the Issue of any such other Son or Sons of the said *Helen Catherine Lady Binning* by the said *George Lord Binning*, or any other Husband or Husbands whom she might marry, and there should afterwards be a Failure of all such other Sons and their Issue, then and in such Case the same Hereditaments and Premises, or Part or Parts thereof which should have so shifted, should return to and remain to the Uses upon and for the Trusts, Intents, and Purposes, and with, under, and subject to the Powers, Provisoes, Agreements, and Declarations to, upon, for, with, under, and subject to which the same would have gone in case the Proviso lastly therein-before contained had not been contained in that Indenture; and the Indenture now in recital contained Powers, which have since been exercised of appointing One Moiety of the Rents, Issues, and Profits to which the said *Helen Catherine Lady Binning* has become entitled

in



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in Possession under the aforesaid Will to the said *George Lord Binning* until certain Estates in *Scotland* shall devolve upon him, and to charge Portions for younger Children not exceeding Eight thousand Pounds for each such Child, and a Power for the said *Helen Catherine Lady Binning* to grant an Annuity to any future Husband or to limit the said Hereditaments to a future Husband for his Life, and also Powers of Leasing; and it was by the Indenture now in recital agreed and declared that after any of the Limitations therein-before contained should take effect in Possession, it should be lawful for the said *George Warrender* and *Charles Balfour*, and the Survivor of them, and the Executors and Administrators of such Survivor at any Time or Times thereafter, at the Request and by the Direction of the said *George Lord Binning* and *Helen Catherine* his Wife during their joint Lives, or after the Decease of either of them, then at the Request and by the Direction of the Survivor of them during his or her Life, to be signified in Writing under their, his, or her Hand and Seal, and attested by Two or more Witnesses, and after the Decease of such Survivor, then at the Request and by the Direction of any Husband, if any, to whom the said *Helen Catherine Lady Binning* should have appointed the said Hereditaments for his Life, under the Power therein-before contained when in possession or entitled to the Receipt of the Rents, Issues, and Profits of the said Hereditaments and Premises, and after his Decease (if there should be any such Husband), but if not, then after the Decease of the Survivor of the said *George Lord Binning* and *Helen Catherine* his Wife, for the said Trustees and Trustee during the Minority of any Tenant in Tail, in possession under the Limitations therein-before contained, with the Consent in Writing of the Guardian or Guardians of such Tenant in Tail, to make sale and dispose of either by Public Auction or Private Contract for any Sum or Sums of Money, or to convey in exchange for and in lieu of other Freehold and Copyhold Lands, Tenements, and Hereditaments to be situate in *England* or *Wales*, or make Partition with any Person or Persons for the Time being entitled to any other Part or Parts thereof, all or any Part or Parts of the said Hereditaments and Premises thereby settled and assured, and the Inheritance thereof in Fee Simple, and with or without any Sum or Sums of Money by way of Equality of Exchange or Partition as to them, the said *George Warrender* and *Charles Balfour*, or the Survivor of them or the Executors or Administrators of such Survivor, should seem reasonable; and that for the Purpose of effectuating such Sale, Exchange, or Partition it should be lawful for the said *George Warrender* and *Charles Balfour*, and the Survivor of them, and the Executors and Administrators of such Survivor, at such Request, by such Direction, or with such Consent as aforesaid, by any Deed or Deeds sealed and delivered by them or him in the Presence of and attested by Two or more Witnesses, absolutely to revoke, determine, and make void all and every or any of the Uses, Trusts,



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Trusts, Powers, and Provisions by the Indenture now in recital, limited, declared, and expressed of or concerning the said Hereditaments, thereby assured, or any Part or Parts thereof, and by the same or any other Deeds or Deed, Instruments or Instrument, in Writing, to limit, declare, and appoint any Use or Uses, Estate or Estates, Trust or Trusts, of the said Hereditaments, and Premises or any Part or Parts thereof, which it should be thought necessary or expedient to limit, declare, or appoint, in order to effectuate such Sales, Exchanges, Partitions, or Conveyances as aforesaid; And it was by the Indenture now in recital declared that the Receipts of the said Trustees or Trustee for the Time being should be effectual Discharges for any Money arising from such Sales, Exchanges, or Partitions as aforesaid, and that every Sum of Money to arise by such Sale or Sales, or to be received for Equality of Exchange or Partition as aforesaid, might either be applied so far as the same would extend in the Payment and Discharge of any Mortgages or Mortgage, Incumbrances or Incumbrance for the Time being, affecting the whole or any Part of the Hereditaments thereby settled, or might be invested by the said *George Warrender* and *Charles Balfour* or the Survivor of them, or the Executors or Administrators of such Survivor, at such Request and by such Direction, or with such Consent respectively, as were therein before required for the Sale and Conveyance or Exchange or Partition of the Hereditaments from which the same Money should have arisen in the Purchase of other Freehold or Copyhold Hereditaments, free from Incumbrances (except Quitrents or Copyhold Rents and Services) to be situate or arising in *England* or *Wales*, and that as well the Hereditaments so to be purchased as last mentioned as those to be taken in Exchange or Partition as aforesaid, should be conveyed to such and the same Uses, upon such and the same Trusts, and for such and the same Intents and Purposes, and subject to such and the same Powers, Provisions, Declarations, and Agreements as were in and by the Indenture now in recital limited or expressed, or as and under or by virtue of any of the Powers therein contained should or might happen to have been limited or created, concerning the Hereditaments thereby settled, as should be so sold, exchanged, or partitioned as aforesaid, or as near thereto as the Deaths of Parties or other Contingencies would admit of, nor should apply such Monies partly in discharging Incumbrances and partly in such Purchase as aforesaid; and it was by the Indenture now in recital further declared, that in the meantime and until the Monies arising by any such Sale, or to be received for Equality of Exchange or Partition as aforesaid, should be invested in a Purchase as aforesaid, it should be lawful for the said Trustees or Trustee, Donees or Donee of the said Power of Sale, thereby given at such Request, and by such Direction, or with such Consent as aforesaid, as the Case might be, to place out such Monies at Interest in their or his Names or Name, either in the Public Stocks or Funds of the

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*Ardén's Estate Act, 1864.*

United Kingdom, or upon Real Securities in *England* at Interest, and also at such Request and by such Direction or with such Consent as aforesaid, as the Case might be, to call in the Principal Money so as aforesaid placed out, or to sell or dispose of the Funds whereupon the same shall for the Time being be invested, and to place out the Monies thereby arising in or upon such new or other Stocks, Funds, or Securities of the same or the like Nature as the said Trustees or Trustee should think proper; and that the Interest and Produce arising from such Stocks, Funds, or Securities should be paid and applied to such Person or Persons, and in such Manner as the Rents and Profits of the Hereditaments therein before directed to be purchased, would be payable and applicable in case any such Purchase or Purchases and Settlement thereof were then actually made: And whereas there has been Issue of the said Marriage of the said *Helen Catherine Lady Binning* five Children only, (that is to say,) *George Baillie Arden Hamilton, Ruth Baillie Arden Hamilton, Richard Baillie Arden Hamilton, Grisel Baillie Arden Hamilton, and Henry Robert Baillie Arden Hamilton*: And whereas in the Month of *April* One thousand eight hundred and fifty-six the said *Wilbraham Egerton* died: And whereas before the Death of *Richard Pepper Lord Alvanley* the said Estates in the County of *Durham* were sold under the Power of Sale contained in the said Will, and some Time before the Sale of the *Yorkshire* Estates herein-after mentioned the Proceeds of the Sale of the said *Durham* Estates were invested partly in the Funds and partly in the Purchase of certain Hereditaments in the County of *York*, which were conveyed to the Uses and upon the Trusts by the said Wills and Codicils declared of the said *Yorkshire* and *Durham* Estates therein comprised: And whereas on the Twenty-fourth Day of *June* One thousand eight hundred and fifty-seven the said *Richard Pepper Lord Alvanley* died without leaving any Issue: And whereas on the Death of the said *Richard Pepper Lord Alvanley* the Trustees of the said Indenture of Settlement became entitled in possession to One Moiety of the said *Yorkshire* and *Cheshires* Estates to the Uses and upon the Trusts declared thereof by such Indentures, and the other Moiety of such Estates devolved upon the said *Catherine Emma Arden*, and she became Tenant for Life thereof in possession under and by virtue of the said Will: And whereas the said *Catherine Emma Arden* has never been married: And whereas, subject to the said Life Estate of the said *Catherine Emma Arden*, and to the Estates Tail limited by the said Will, to any Issue whom she may have, the last-mentioned Moiety is now subject to the Uses and Trusts declared by the said Indentures of Settlement: And whereas in the Month of *January* One thousand eight hundred and sixty-one, the said *Randle Wilbraham*, the last surviving Trustee of the said Will and Codicils of the said *John Arden* died: And whereas the aforesaid Mansion House of *Pepper Hall* and the other Hereditaments to [Private.]



*Arden's Estate Act, 1864.*

ments in the County of *York* respectively mentioned in and devised by the said Will, together with the other Hereditaments in the said County of *York* so purchased as herein-before mentioned, have recently been sold for the Sum of One hundred and four thousand three hundred and seventy-two Pounds, and such last-mentioned Mansion and Hereditaments have been duly conveyed to the Purchaser thereof, One Moiety of such last-mentioned Hereditaments was sold under the Power of Sale contained in the said Will, and One Moiety of such Purchase Money is subject to the aforesaid Trusts for Investment contained in the said Will, and the other Moiety of the said Hereditaments was sold under the aforesaid Powers of Sale contained in the herein-before recited Indentures of Settlement, and the other Moiety of the said Purchase Money is subject to the aforesaid Trusts for Investment contained in the same Indentures of Settlement: And whereas on the Eighteenth Day of *April* One thousand eight hundred and sixty-three, by an Order of that Date made on the Petition of the said *Catherine Emma Arden*, *George Lord Binning*, and *Helen Catherine* his Wife, and *George Bailhe Arden* their eldest Son, *Charles Philip Wilbraham*, *Wilbraham Egerton*, and *Thomas William Tatton* were appointed Trustees of the said Will and Codicils of the said *John Arden* deceased, in place of the said *Edward Bootle Wilbraham*, *Wilbraham Egerton*, and *Randle Wilbraham* deceased, and the Hereditaments and Money in the Nature of Real Estate then subject to the Uses and Trusts of the last-mentioned Will and Codicils were respectively vested in and transferred to the said new Trustees, for all the Estate and Interest therein of the said original Trustees, to such of the Uses, upon such of the Trusts, and with, under, and subject to such of the Powers and Provisions contained in the said last-mentioned Will and Codicils as were then subsisting; and the Right to transfer any Stock, and to sue for, recover, and receive any Dividends, Interest, and Income, and any other Chose in Action of any kind, then subject to the Trusts of the said last-mentioned Will and Codicils, was thereby also vested in the said new Trustees: And whereas a Portion of the said Purchase Monies, amounting to about Forty thousand Pounds, has been re-invested in the Purchase of Hereditaments in the County of *Chester*, adjoining the *Cheshire* Estates devised by the said Will: And whereas the Property which is now subject to the subsisting Uses and Trusts of the said Will and Codicils of the said *John Arden* consists of the following Particulars, (that is to say,) One undivided Moiety of the Manors, Messuages, Lands, Tenements, and Hereditaments situate in the said County of *Chester*, mentioned in the said last-mentioned Will and Codicils, except only certain Portions of such Hereditaments which have been sold or exchanged under the Powers of Sale and Exchange contained in the said last-mentioned Will, and except that  
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*Arden's Estate Act, 1864.*

the Testator's Interests in the Advowson therein mentioned was Two Sixths only, and not Two Fourths as therein assumed, and also certain other Hereditaments situate in the said County of *Chester*, which have since been purchased or taken in exchange under the aforesaid Powers contained in the said last-mentioned Will and Codicil; (2.) One Moiety of the Sum of Nine thousand and Twenty-five Pounds Nineteen Shillings and Ninepence Bank Three Pounds *per Centum* Consolidated Annuities, now standing in the Names of the said *Charles Philip Wilbraham, Wilbraham Egerton, and Thomas William Tatton*; (3.) One Moiety of the Residue of the Purchase Money for the said *Yorkshire* and *Durham* Estates, which amounts, after deducting therefrom the said Sum of Fourteen thousand Pounds so retained by the Purchaser as aforesaid, and the said Sum of Forty thousand Pounds, and certain Expenses attendant on the Sale, to the Sum of Forty-four thousand six hundred and eighty-five Pounds Thirteen Shillings and Fourpence, or thereabouts: And whereas the Property which is now subject to the Uses and Trusts of the said Indenture of Settlement of the Second Day of *March* One thousand eight hundred and fifty-five, consists of the other undivided Moiety of the said last-mentioned Lands and Monies respectively: And whereas there was only One Family Mansion on the Estates devised by the said Will and Codicils of the said *John Arden*, namely *Pepper Hall*, in the said County of *York*, which has been now sold, as aforesaid: And whereas it would be greatly to the Advantage of the Persons who now are or may become interested under the Limitations contained in the said Will and Settlements, and the said *Catherine Emma Arden, George Lord Binning, and Helen Catherine* his Wife (being all the Persons interested under the said Will and Settlements who are now in Existence and capable of consenting), are desirous that a competent Part of the Monies arising from the Sale of the said *Yorkshire* and *Durham* Estates should be applied in the Erection of a Messuage or Family Mansion on a suitable Part of the Lands in the County of *Chester* which are subject to the Limitations of the said Will and Settlements; and that such Provision as is herein-after contained should be made for the Repayment of the Monies which shall be so applied: And whereas the beneficial Object (and Purposes) aforesaid cannot be effected without the Aid and Authority of Parliament: Wherefore Your Majesty's most dutiful and loyal Subjects, the said *Catherine Emma Arden, George Lord Binning, and Helen Catherine* his Wife, 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:

1. This



Arden's Estate Act, 1864.

Short Title.

1. This Act may be cited for any Purpose as "Arden's Estate Act, 1864."

Power to Trustees to erect a Mansion.

2. It shall be lawful for the said Charles Philip Wilbraham, Wilbraham Egerton, and Thomas William Tatton, and the Survivors and Survivor of them or other the Trustees or Trustee for the Time being of the Will of the said John Arden, within Ten Years after the passing of this Act, to cause to be erected, built, made, laid out, and completed upon some suitable Plot of the Lands in the County of Chester, which or One Moiety of which are, or is, or for the Time being, shall be subject to the Limitations of the herein-before recited Will or Settlements, a Messuage or Family Mansion, and all such Offices, Outbuildings, Yards, Gardens, and Pleasure Grounds as shall be proper and suitable to be held and occupied with the said Messuage or Family Mansion, and for effecting the Purposes aforesaid to retain, hire, or employ all such Persons as they or he shall think fit, and at such Salaries and Wages as they or he shall deem reasonable, and for all or any of the Purposes aforesaid to enter into such Contract or Contracts as they or he shall deem advisable: Provided always, that the Costs, Charges, and Expenses to be incurred by the said Trustees in erecting, building, making, laying out, and completing the said Messuage or Family Mansion House, Offices, Outbuildings, Yards, Gardens, and Pleasure Grounds hereby authorized to be erected, built, made, laid out, and completed, including the Costs of and incident to the obtaining of this Act, shall not exceed the Sum of Twenty thousand Pounds.

Trustees to pay Costs of Mansion and of this Act.

3. It shall be lawful for the said Charles Philip Wilbraham, Wilbraham Egerton, and Thomas William Tatton, and the Survivors and Survivor of them, or other the Trustees or Trustee for the Time being of the Will of the said John Arden, to pay all the Costs, Charges, and Expenses to be incurred in erecting, building, making, laying out, altering, improving, and completing the said Messuage or Family Mansion, Offices, Outbuildings, Yards, Gardens, and Pleasure Grounds hereby authorized to be erected, built, made, laid out, and completed, and all the Costs, Charges, and Expenses of or attending the obtaining of and procuring this Act, out of the Monies which have arisen from the herein-before recited Sale of the said Estates in the County of York.

Lands to vest in Trustees for Term of 99 Years.

4. The said Lands in the County of Chester which, or One Moiety of which, are or is now subject to the Limitations of the herein-before recited Will or Settlements, shall vest for a legal Estate in Possession in the said Charles Philip Wilbraham, Wilbraham Egerton, and Thomas William Tatton, their Executors, Administrators, and Assigns,



*Arden's Estate Act, 1864.*

Assigns, for a Term of Ninety-nine Years, to be computed from the Day of the passing of this Act, and to take effect as to one Moiety of the said Lands in priority to the Estate by the said Indenture of the Sixteenth Day of October One thousand eight hundred and fifty-four, limited to the Use of the said *George Warrender* and *Charles Balfour*, and their Executors and Administrators, during the joint Lives of the said *George Lord Binning* and *Helen Catherine* his Wife, and as to the other Moiety thereof, in priority to the Life Estate by the said Will limited to the said *Catherine Emma Arden*.

5. The said *Charles Philip Wilbraham*, *Wilbraham Egerton*, and *Thomas William Tatton*, their Executors, Administrators, and Assigns, shall be possessed of the said Term of Ninety-nine Years, upon trust that they and the Survivors and Survivor of them, and the Executors or Administrators of such Survivor, or other the Trustees or Trustee for the Time being of the said Term (hereinafter called the said Trustees or Trustee), shall enter into and upon the Lands and Hereditaments comprised in the said Term, and shall receive and take the Rents, Issues, and Profits thereof, or a competent Part thereof, and shall thereout annually levy and raise, free and clear of all Deductions whatsoever, not less than One Twenty-fifth Part of the Amount which shall have been from Time to Time expended by the said Trustees in the Erection of the Mansion House and Premises hereby authorized, and apply the same to the Reduction of the Amount which shall have been so expended by the said Trustees as aforesaid, to the end that the whole of such Sum may be repaid out of the said Rents, Profits, and Income within or at the Expiration of the Period of Twenty-five Years from the Time the same shall have been so laid out and expended as aforesaid, and not later than Twenty-six Years from the passing of this Act; and further, that from and after such Money shall have been so expended as aforesaid, and until the Repayment thereof, or until there is a Tenant in Tail in Possession of the said Mansion House and Premises, the Trustees or Trustee for the Time being of the said Term shall, by and out of the Rents and Profits of the Estate, keep the said Mansion House, Offices, Buildings, and Premises insured against Loss or Damage by Fire, in their or his Names or Name, to the full Value thereof, for the Time being, in some public Insurance Office in *London* or *Westminster*, and that all Monies to become due on such Insurance, in the event of any Fire taking place, shall be forthwith applied by the said Trustees or Trustee to the Reconstruction or Repair of the Mansion House, Buildings, or of any Part thereof which shall have been so consumed or damaged.

Upon trust to raise the Amount expended on Mansion, &c. by Instalments, during a Period of 26 Years.

6. When all the Trusts hereby declared of the said Term of Ninety-nine Years shall have been fully discharged, and every

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Trustee



*Arden's Estate Act, 1864.*

ance of its Trusts, and for the Application of the surplus Rents during the Term.

Trustee shall have been repaid all Costs and Expenses incurred by him in or about the Execution of the Trusts thereof, then the said Term shall cease and determine, and in the meantime all the surplus Rents, Issues, and Profits arising from the Hereditaments therein comprised, and which shall not be required for answering any of the Purposes aforesaid, shall be receivable by or belong beneficially to the Person or Persons who would for the Time being have been entitled to the same if the said Trust Term had not been created.

Tenants for Life to keep in Repair after Expenditure under the Act.

7. Notwithstanding any Provisions of the Will of the said *John Arden* deceased, under which his Devisees for the Term of Life are or might otherwise claim to be free from Impeachment of Waste, all Parties who shall from Time to Time be beneficially entitled to the Possession of the said Mansion House and Premises shall afterwards keep the same in good tenantable Repair and Condition during all their respective Estates or Interests therein, so long as any Money expended under the Powers of this Act shall remain unpaid; and the said Parties respectively, and their Real and Personal Representatives, to the full Extent of their Assets, shall be answerable to all Parties entitled to or interested in the Premises, in Remainder or Reversion, for the full Performance of the Duty hereby reposed in them.

Provision for the Renewal of the Trustees, and for the Sufficiency of their Receipts.

8. If the said Trustees or any or either of them, or any Trustee or Trustees to be appointed under the following Provisions, shall die or refuse or desire to be discharged from or become incapable to act in the Trusts created by this Act while the same Trusts or any of them shall be subsisting, then and in every such Case it shall be lawful for the Court of Chancery, on Application by the Owner for the Time being in possession of the said Trust Estates, under the Limitations aforesaid, being of full Age, or of the Guardian or Guardians of such Owner being a Minor, to appoint any new Trustees or Trustee in the place of the Trustees or Trustee so dying, refusing, desiring to be discharged, or becoming incapable as aforesaid, and in every such Case all the Trust Estates to which such new Trustees or Trustee shall be appointed shall be assigned and transferred in such Manner that the same may be effectually vested in the acting Trustees or Trustee for the Time being and upon the subsisting Trusts thereof, and that every such new Trustee shall have all the Powers and Authorities of the Trustees hereby appointed, and for whom he shall, whether immediately or otherwise, be substituted, and further that the written Receipts of the Trustees or a Trustee for the Time being acting under the Authority of this Act shall be conclusive Discharges for all Monies whatsoever paid to them or him under the Provisions or for any Purposes of the same Act.

9. Pro-



*Arden's Estate Act, 1864.*

9. Provided always, That the said Trustees, or the Person or Persons to be appointed a Trustee or Trustees as aforesaid, and each and every of them, and the Heirs, Executors, Administrators, and Assigns of them, each and every of them, shall be charged and chargeable respectively for such Monies only as they respectively shall actually receive by virtue of this Act, notwithstanding their or any of their giving or signing, or joining in giving or signing, any Receipt or Receipts for the sake of Conformity; and any One or more of them shall not be answerable or accountable for the other or others of them, or for involuntary Losses; and also, that it shall be lawful for them, with and out of the Rents and Profits which shall come to their respective Hands by virtue of this Act, to retain to and reimburse themselves respectively, and also to allow to the other or others of them all Costs, Charges, Damages, and Expenses which they or any of them shall or may suffer, sustain, expend, disburse, be at, or put unto, in or about the Execution of the Powers of this Act or in relation thereunto.

General Indemnity to Trustees.

10. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to every other Person, Body Politic and Corporate, and their respective Heirs, Successors, Executors, and Administrators (other than and except the several Persons by this Act expressly excepted out of this general Saving), all such Estate, Right, Title, Interest, Claim, and Demand whatsoever, of, in, to, or out of the several Lands and Monies to which the Provisions of this Act are intended to apply, or any of them, or any Part thereof respectively, as they or any of them had before the passing of this Act, or would, could, or might have or enjoy if this Act were not passed.

General Saving.

11. The following Persons are excepted out of the general Saving in this Act contained; that is to say, the said *Catherine Emma Arden* and her Children and other Issue, the said *George Lord Binning*, the said *Helen Catherine Lady Binning* and her Children and other Issue, the said *Charles Philip Wilbraham*, *Wilbraham Egerton*, and *Thomas William Tatton*, their Heirs, Executors, Administrators, and Assigns, in their Capacity only of Trustees of the Will and Codicils of the said *John Arden* deceased; the said *George Warrender*, and *Charles Balfour*, their Heirs, Executors, Administrators, and Assigns, in their Capacity only as Trustees of the herein-before recited Indentures of Settlement, and all other Persons who or upon whom any Estate, Right, Title, or Interest, Claim and Demand at Law or in Equity, of, in, to, out of, or affecting the Lands and Monies to which the Powers and Provisions of this Act are intended to apply, or any of them or any Part thereof, has been devised or limited, or has descended or devolved, or shall descend or devolve,

Persons excepted from general Saving.



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*Arden's Estate Act, 1864.*

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devolve, under or by virtue of the herein-before recited Will and Codicils of the said *John Arden* or under or by virtue of the herein-before recited Indentures of Settlement.

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

**12.** This Act shall not be a Public Act, but shall be printed by the several Printers to the Queen's most Excellent Majesty duly authorized 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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Printers to the Queen's most Excellent Majesty. 1864.