



ANNO DUODECIMO & DECIMO TERTIO

# VICTORIÆ REGINÆ.

\*\*\*\*\*

## Cap. 16.

An Act to enable the Trustees of the Will of the late Duke of *Cleveland* to raise certain Monies on the Trust Estates in the County of *Durham* by the said Will devised, and for the Management of the said Estates. [28th July 1849.]

**W**HEREAS by an Act passed in the Session of Parliament held in the Ninth and Tenth Years of Her present Majesty, intituled *An Act to give further Powers to the Trustees of the Will of the late Duke of Cleveland for the Management of the Trust Estates in the County of Durham by the said Will devised*, after reciting (among other things) that the Most Noble *William Harry* late Duke of *Cleveland* duly made, signed, and published his last Will and Testament in Writing, bearing Date on or about the Fifteenth Day of *June* One thousand eight hundred and thirty-six, and thereby (among other Devises) gave and devised all that his *Hardwick, Hart,* and *Hartlepool* Estates in the County of *Durham*, which had been purchased by him, and all his Messuages, Farms, Lands, Tenements, and

[Private.]

9 & 10 Vict.  
c. 30.

and Hereditaments, of what Nature or Kind soever, usually held or occupied with or as Part of the same Estates so purchased by him, and situate at or near *Hardwick, Hart, and Hartlepool* aforesaid, together with the Rights, Members, Incidents, and Appurtenances thereto belonging, unto and to the Use of *Henry Lord Brougham and Vaux, Thomas Metcalfe, and Gerard Blisson Wharton* (in the Will written "*Blissett*" *Wharton*), their Heirs and Assigns, for ever, upon the Trusts following; (that is to say,) in trust for *Frederick Acclom* (in the Will written "*Acklom*") *Milbank* (therein described) as the Second Son of the said Testator's Daughter *Lady Augusta Henrietta Milbank* (in the said Will called *Lady Augusta Milbank*) by *Mark Milbank* Esquire and his Assigns for his Life, without Impeachment of Waste, and immediately after his Decease in trust for the First and every other Son of the said *Frederick Acclom Milbank* and the Issue Male of every such Son, so that every elder Son and his Issue Male should be preferred to every younger Son and his Issue Male; and on Failure of such Issue in trust for *Henry John Milbank* (in the said Will described as the Third Son of the said *Lady Augusta Henrietta Milbank* by the said *Mark Milbank*) and his First and other Sons and their Issue Male, for the same Estates and in the same Order as were therein-before limited of the same last-mentioned Hereditaments for the said *Frederick Acclom Milbank* and his First and other Sons and their Issue Male respectively; and on Failure of such Issue in trust for *Augustus Sussex Milbank* (in the said Will called *Sussex Milbank*, and therein described as the Fourth Son of the said *Lady Augusta Henrietta Milbank* by the said *Mark Milbank*) and his First and other Sons and their Issue Male, for the same Estates and in the same Order as the same last-mentioned Hereditaments were therein-before limited for the said *Frederick Acclom Milbank* and his Sons and their Issue Male respectively; and on Failure of such Issue in trust for every other younger Son of the said Testator's Daughter the said *Lady Augusta Henrietta Milbank* by the said *Mark Milbank* born in the said Testator's Lifetime or in due Time after his Decease, and the First and every other Son of every such younger Son and his Issue Male, for the same Estates and in the same Order as the said Testator's said Hereditaments were therein-before limited for the said *Frederick Acclom Milbank* and his Sons and their Issue Male respectively, so that every elder of such younger Sons of the said Testator's Daughter *Lady Augusta Henrietta Milbank* by the said *Mark Milbank* and his Issue Male might be preferred to every younger of such Sons and his Issue Male; and in default of such Issue in trust for every Son of the said Testator's Daughter *Lady Augusta Henrietta Milbank* by the said *Mark Milbank* 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 might be preferred to every younger Son and his Issue Male; and on Failure of such Issue in trust for *Mark William Vane Milbank* (in the said Will called *Mark Milbank*, and therein described as the eldest Son of the said *Lady Augusta Henrietta Milbank* by the said *Mark Milbank*) and his First and other Sons and their Issue Male, for the same Estates and in the same Order as the same last-mentioned Hereditaments were therein-before

before limited for the said *Frederick Acclom Milbank* and his Sons and their Issue Male respectively ; and on Failure of such Issue in trust for the Second and every younger Son of the said Testator's Daughter Lady *Laura Meyrick* by *William Henry Meyrick* Esquire (in the said Will called *William Meyrick*), born in the 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 last-mentioned Hereditaments were therein-before limited for every younger Son of his said Daughter Lady *Augusta Henrietta Milbank* by the said *Mark Milbank* born in his 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 his said Daughter Lady *Laura Meyrick* by the said *William Henry Meyrick* not born in the 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 his said last-mentioned Hereditaments were therein-before limited for every Son of his said Daughter Lady *Augusta Henrietta Milbank* not born in his Lifetime or in due Time after his Decease, and his Issue Male respectively ; and on Failure of such Issue in trust for *Augustus William Henry Meyrick*, therein described as the eldest Son of the said Lady *Laura Meyrick* by the said *William Henry Meyrick*, 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 Testator's last-mentioned Hereditaments were therein-before limited for the said *Frederick Acclom Milbank* and his Sons and their Issue Male respectively ; and on Failure of such Issue in trust for the Second and every other younger Son, if there should be more than One born in his Lifetime or in due Time after his Decease, of the said Testator's Daughter Lady *Arabella Arden* by the Honourable *Richard Pepper Arden* therein described, and the Issue Male of every such Son, for the same Estates and in the same Order as the said Testator's last therein-before mentioned Hereditaments were therein-before limited for every younger Son of his said Daughter Lady *Augusta Henrietta Milbank* born in his Lifetime or in due Time after his Decease ; and in default of such Issue in trust for every Son of the said Testator's Daughter Lady *Arabella Arden* by the said *Richard Pepper Arden* not born in his Lifetime or in due Time after his Decease (except an eldest Son), and the Issue Male of every such Son, for the same Estates and in the same Order as the said Testator's last-mentioned Hereditaments were therein-before limited for every Son of his said Daughter Lady *Augusta Henrietta Milbank* not born in his Lifetime or in due Time after his Decease, and his Issue Male respectively ; and in default of such Issue in trust for the eldest Son of the said Testator's Daughter Lady *Arabella Arden*, if he should be living at the Time of his Decease or born in due Time after his Decease, 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 Testator's last-mentioned Hereditaments were therein-before limited for the said *Frederick Acclom Milbank* and his Sons and their Issue Male respectively ; but in case such eldest Son of his said Daughter Lady *Arabella Arden* by the said *Richard Pepper Arden*

*Arden* should not be living at the Time of his Decease or born in due Time afterwards, but should be subsequently born, then in trust for such eldest Son and his Issue Male, for the same Estates and in the same Order as his said last-mentioned Hereditaments were therein-before limited for every Son of his said Daughter Lady *Augusta Henrietta Milbank* not born in his Lifetime nor in due Time after his Decease, and his Issue Male respectively; and on Failure of such Issue in trust for the Testator's own right Heirs for ever; and also reciting that the said Testator departed this Life on or about the Twenty-ninth Day of *January* One thousand eight hundred and forty-two without having revoked or altered his said Will (except so far as the same was altered by a Codicil thereto therein mentioned, but which did not affect the Limitations aforesaid), leaving *Henry* the present Duke of *Cleveland*, his eldest Son, him surviving, and that his said Will was soon after his Decease duly proved by the said *Henry Lord Brougham and Vaux, Thomas Metcalfe, and Gerard Blisson Wharton*, the Executors thereof, in the Prerogative Court of *York*, and that the said *Mark William Vane Milbank* and *Frederick Acclom Milbank* were both of them married, but that neither of them had any Male Issue then living, and that the said *Henry John Milbank, Augustus Sussex Milbank, and Augustus William Henry Meyrick* had never been married, and that the said *Mark William Vane Milbank, Frederick Acclom Milbank, and Henry John Milbank* had then attained the Age of Twenty-one Years, and that the said *Augustus Sussex Milbank* and *Augustus William Henry Meyrick* were then both under the Age of Twenty-one Years, and that the said Lady *Augusta Henrietta Milbank* had not had any other Sons by her said Husband than the said *Mark William Vane Milbank, Frederick Acclom Milbank, Henry John Milbank, and Augustus Sussex Milbank*, and that the said Lady *Laura Meyrick* had not had any other Son by her said Husband than the said *Augustus William Henry Meyrick*, and that the said Lady *Arabella Arden* had not had any Issue Male by her said Husband; and also reciting an Act of Parliament passed in the Fifth and Sixth Years of Her present Majesty, intituled *An Act to enable the Trustees of the late Duke of Cleveland to grant Mining, Building, and other Leases of the Trust Estates in the County of Durham devised by the Will of the Duke of Cleveland, and to sell or exchange Parts of the same Estates*, by which last-mentioned Act the Trustees of the Will of the said late Duke of *Cleveland* were authorized to grant Leases of the Hereditaments devised by the said Will, and to make Sales and Exchanges of Parts thereof as in the said Act is mentioned; and also reciting that it would be advantageous to the said *Frederick Acclom Milbank*, and other the Persons beneficially interested or to become beneficially interested in the said Estates so devised as aforesaid by the said *William Harry Duke of Cleveland*, that Powers to grant Building Leases for longer Terms of Years than the Term of Ninety-nine Years in the said Act of the Fifth and Sixth Years of Her present Majesty specified, and to enter into Contracts for granting Mining and other Leases, and to grant Waggon and Way Leaves over the Hereditaments devised by the said Will, and such further Powers for the Management of the same Estates as were

were therein-after mentioned, should be given to the said *Henry Lord Brougham and Vaux, Thomas Metcalfe, and Gerard Blisson Wharton*, or other the Trustees or Trustee for the Time being of the said Will; it was by the said Act now in recital (among other things) enacted, that the said Trustees or Trustee for the Time being of the said Will should have such Powers of leasing and accepting Surrenders of Leases and other Powers for the Management of the said Estates devised by the said Will of the said late Duke of *Cleveland* as in the said Act now in recital are mentioned; and by the said Act now in recital, after reciting that the Piece of Land called the *Slake* in the Schedule thereto mentioned was covered with Water at high Tides, and that inasmuch as the said Piece of Land was adjoining to the *Hartlepool* Docks, it would be very beneficial to the Estates so devised by the said *William Harry* Duke of *Cleveland* as aforesaid if certain Parts of the said Piece of Land were excavated and deepened so as to admit Ships at all States of the Tide, and that the said *William Harry* Duke of *Cleveland* in his Lifetime entered into an Agreement with the *Hartlepool* Dock Company to excavate and deepen certain Parts of the said Piece of Land called the *Slake*, comprising about Thirty Acres, and that it was thereupon agreed that one Half of the Expense of such Excavation should be borne by the said Company, and the other Half thereof by the said *William Harry* Duke of *Cleveland*, and that by the said Agreement it was stipulated that the said Excavation should only be Twenty-five to Thirty Acres of the said *Slake* to the Depth of Low-water Mark of Neap Tides, which would give Twelve to Fourteen Feet Depth of Water in the *Slake*, and that for One Half of the Expense of such Excavation, according to the Terms of such Agreement, the Executors of the late Duke of *Cleveland* were willing to pay, but that the said Excavation to the Extent provided by the said Agreement might possibly be insufficient for the Works requisite to be done, and consequently would not make and complete the same in such a Manner as to yield to the then Tenant for Life, and all future Owners of the said *Hart* Estate, all the Benefit and Advantage they ought to have and receive from the same, and that the total Expense of such Excavation and the Works consequent thereon was estimated at the Sum of Eight thousand Pounds, and that therefore it was expedient that the Trustees or Trustee for the Time being of the said Will of the said late Duke should have a Power to raise by way of Mortgage on the said *Hart, Hardwick, and Hartlepool* Estate, or some Part thereof, such Sum not exceeding Four thousand Pounds as the High Court of Chancery should think fit, upon Petition to be preferred in a summary Way by the said Trustees or Trustee, to order for that Purpose, and which, together with the Sums to be paid as aforesaid by the Executors of the said late Duke and by the said *Hartlepool* Dock and Railway Company, would be sufficient to make and complete the Works of the said Excavation and the Matters consequent thereon in a complete and efficient Manner, it was by the said Act now in recital enacted, that it should be lawful for the said *Henry Lord Brougham and Vaux, Thomas Metcalfe, and Gerard Blisson Wharton*, or the Survivors or Survivor of them, or other the Trustees or Trustee for the Time being

[Private.]

of the said Will, to excavate or cause to be excavated, either alone or in conjunction with the said *Hartlepool Dock Company*; such Part or Parts of the said Piece of Land called the *Slake* as it should be necessary or expedient to excavate, as well for the Purpose of carrying into effect the Agreement in that Behalf so entered into by the said *William Harry* late Duke of *Cleveland* as aforesaid as to render the Excavation complete and beneficial, and generally to do and execute all Works, Matters, and Things which should be deemed necessary or expedient for fully effectuating the same; and it was thereby also enacted, that it should be lawful for the said *Henry Lord Brougham and Vaux, Thomas Metcalfe, and Gerard Blisson Wharton*, or the Survivors or Survivor of them, or other the Trustees or Trustee for the Time being of the Will aforesaid, to levy and raise by way of Mortgage as therein is mentioned of all or any Part of the Hereditaments comprised in the Schedule to the said Act now in recital such Sum or Sums of Money not exceeding in the whole the Sum of Four thousand Pounds as the said Court of Chancery should, on Petition to be preferred as aforesaid, order as necessary for defraying the Costs and Expenses of making and completing such Excavation and Works as aforesaid, after the Sums so to be provided by the Executors of the said late Duke of *Cleveland* and the said *Hartlepool Dock Company* should have been expended thereon or paid to the said Trustees or Trustee for that Purpose; but it was by the Act now in recital provided, that the said Trustees or Trustee for the Time being should, out of the yearly Rents and Profits arising out of the said Hereditaments comprised in the said Schedule thereto, in the first place pay all Interest which should from Time to Time become due in respect of such Sum or Sums of Money so to be raised as aforesaid, and in the next place should, out of the Rents and Profits aforesaid, yearly and every Year until the whole of the Monies so to be raised as aforesaid should be paid off, pay off One Twentieth Part of the Sum or Sums of Money so to be raised as aforesaid until the whole thereof should be discharged: And whereas since the passing of the said recited Act of the Ninth and Tenth Years of Her present Majesty the said *Frederick Acclom Milbank* hath had an eldest Son, *William Harry Vane Milbank*, who is now living, and of the Age of Six Months or thereabouts: And whereas the *Hartlepool Gas and Water Company* lately introduced a Bill into Parliament for the Purpose of obtaining Powers to enable them to lay down Pipes for the Objects for which the said Company was established, and inasmuch as by the Clauses of the Bill so introduced into Parliament the said *Hartlepool Gas and Water Company* proposed to take Powers to lay down Pipes through or along the said Piece of Land called the *Slake* which would have been very detrimental to the said Piece of Land called the *Slake* and the Property thereto adjoining, the said Trustees of the said Will of the late Duke of *Cleveland*, under the Advice of Counsel, opposed the passing of the said Bill both before the Committee of the House of Commons to whom the Consideration of the said Bill was referred, and before the Committee of the House of Lords to whom the Consideration of the said Bill was referred, and the said Trustees having been heard upon their Petition by Counsel before the last-mentioned Committee,

Committee, the said *Hartlepool Gas and Water Company* agreed to abandon the Line of Works contemplated in their said Bill which was deemed by the said Trustees injurious to the said Hereditaments by the said Will devised, and instead thereof have agreed to adopt a Line for the laying down of their Pipes in accordance with an Offer previously made to them by the said Trustees of the said Will, and which will not be prejudicial to the same Hereditaments by the said Will devised, and accordingly the said *Henry Lord Brougham and Vaux, Thomas Metcalfe, and Gerard Blisson Wharton*, in pursuance of the Powers contained in the herein-before recited Act, of the Ninth and Tenth Years of Her present Majesty, have agreed to grant to the said *Hartlepool Gas and Water Company* Liberty and Licence to lay down, maintain, and remove Pipes for the Waterworks in, under, or over the Land in the Direction agreed on in lieu of Pipes for the Waterworks by the said Bill proposed to be authorized to be made and constructed in, through, under, or along the said Piece of Land called the *Slake*, and the said Company have agreed not to exercise any of the compulsory Powers in the said Bill contained so far as relates to entering upon, taking, or using any of the said tidal Lands called the *Slake*, or the Embankments thereof; if the said Trustees and all other necessary Parties (if any) shall within Six Months from the Sixteenth Day of *May* last, by Deed grant Liberty and Licence to the Company for laying down their Pipes through other Part of the said Estates in the Direction agreed upon as aforesaid: And whereas the said *Henry Lord Brougham and Vaux, Thomas Metcalfe, and Gerard Blisson Wharton*, as such Trustees as aforesaid, had no Funds in hand to enable them to oppose the said Bill, and no Costs can by the Rules of the Houses of Parliament be allowed to Parties opposing Bills, and as it was for the Benefit of the Inheritance of the said Estate that the said Company should be prevented from obtaining the Powers by the said Bill sought to be obtained, it is just and right that the said Trustees should have the Power of raising the Sum of One thousand one hundred and twenty-nine Pounds Four Shillings and Five-pence (being the Costs and Expenses incurred by them in opposing the said Bill), and that they should also have the Power of raising the Costs of carrying the said Agreement into effect, and the Costs of procuring this present Act, and incidental and preparatory thereto, together with the Costs of raising all such Monies by a Charge on the said Hereditaments so devised by the Will of the said *William Harry* late Duke of *Cleveland* as aforesaid in manner after mentioned: And whereas no Part of the said tidal Lands called the *Slake* has yet been excavated, and hitherto the said *Hartlepool Dock and Railway Company* in the said Act of the Ninth and Tenth *Victoria*, called the *Hartlepool Dock Company*, have refused to carry into effect the said Agreement so entered into by the said *William Harry* late Duke of *Cleveland* with the said Company during his Lifetime as aforesaid, and there exist Difficulties as to determining what are the precise Terms of the said Contract, or the Mode of carrying the same into effect, and in order to avoid an expensive and probably protracted Litigation it is expedient that the Trustees or Trustee for the Time being of the Will of the said late Duke should,

should, with the Sanction of the High Court of Chancery, have Power to enter into any Compromise with the said *Hartlepool Dock and Railway Company* and the Executors of the said late Duke as to the Mode of carrying the said Contract into effect: And whereas no Monies have yet been raised by virtue of the Powers for raising a Sum not exceeding Four thousand Pounds for the proposed Excavation of the *Slake*, in the said Act of the Ninth and Tenth Years of Her present Majesty contained and herein-before recited: And whereas such proposed Excavation will be a Work of a permanent Nature, and more likely to be greatly beneficial at a distant Time to the future Owners of the said *Hart, Hardwick, and Hartlepool Estates* than to the said *Frederick Acclom Milbank*, the present Tenant for Life thereof, but owing to the Provision in the said last-mentioned Act contained and herein-before recited, requiring the Principal of all Monies raised for such Excavation as aforesaid to be paid off by Instalments within Twenty Years, it is probable that the said *Frederick Acclom Milbank* (he being now of the Age of Twenty-nine Years or thereabouts) will in fact pay off the whole or the greater Part of such Principal Monies, as well as all the Interest for the same, and it is therefore just and reasonable that such last-mentioned Provision should be repealed: And whereas from the Situation of Parts of the said devised Estates, and the Proximity thereof to the Town and Port of *Hartlepool*, and the Docks, Railways, and other public Works connected therewith, and with the Docks, Railway, and other public Works at *West Hartlepool* immediately contiguous thereto, the said Estates have been and are likely to be frequently prejudicially interfered with by Schemes intended, with the Sanction of Parliament, to exercise compulsory Powers over the same Estates, and it would be therefore very advantageous to the said Estates, as in the before-mentioned Case with the Gas and Water Company, that such Schemes and public Undertakings which may be considered to be prejudicial to the Inheritance should be opposed by the said Trustees, with the Sanction of the Court of Chancery, and that the said Trustees should have Power, with the like Sanction, to mortgage or charge the said Estates for or with any Costs, Charges, and Expenses incurred in opposing such Schemes and Undertakings: And whereas Doubts exist whether the Powers to grant Leases and Agreements contained in the said Acts of the Fifth and Sixth and the Ninth and Tenth Years of Her present Majesty authorized the said Trustees as Grantors to enter into Covenants or Agreements to refer Matters in difference between the Lessors and the Lessees to Arbitration, and inasmuch as such Powers are usually and necessarily inserted in such Leases and Agreements as by the said Acts are authorized to be made, it is expedient that Powers should be given to the said *Henry Lord Brougham and Vaux, Thomas Metcalfe, and Gerard Blisson Wharton*, or other the Trustees or Trustee for the Time being of the Will of the said late Duke of *Cleveland* for that Purpose, and that any Leases or Agreements already granted, with such Powers as aforesaid, should be confirmed so far as any Difficulty may exist by reason of such Covenants or Agreements for Arbitration being therein contained; but none of the aforesaid Objects can be effected without the

Authority



Authority of Parliament: Wherefore Your Majesty's most dutiful and loyal Subjects the said *Henry Lord Brougham and Vaux, Thomas Metcalfe*, and *Gerard Blisson Wharton*, as such Trustees as aforesaid, and also the said *Frederick Acclom Milbank* as well on his own Behalf as on behalf of his said Infant Son *William Harry Vane Milbank*, 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, That it shall and may be lawful to and for the said *Henry Lord Brougham and Vaux, Thomas Metcalfe*, and *Gerard Blisson Wharton*, or the Survivors or Survivor of them, or other the Trustees or Trustee for the Time being of the said Will of the said *William Harry* late Duke of *Cleveland*, to levy and raise by way of Mortgage, either in Fee or for any Term or Terms of Years, of all or any Part of the Hereditaments comprised in the Schedule to the herein-before recited Act of the Ninth and Tenth Years of Her present Majesty, the said Sum of One thousand one hundred and twenty-nine Pounds Four Shillings and Five-pence, being the Amount of the Costs and Expenses so incurred by them in opposing the said Gas and Water Bill as aforesaid, and also such other Sum or Sums of Money as the High Court of Chancery, on Petition to be presented in a summary Way, shall or may authorize to be raised as and for the Costs, Charges, and Expenses of carrying the aforesaid Agreement entered into with the said *Hartlepool* Gas and Water Company into effect, and enforcing the Performance of the same Agreement, and also the Costs, Charges, and Expenses of procuring this present Act, and preparatory and incidental thereto, together with all the Costs, Charges, and Expenses of or incidental to the levying and raising the Monies hereby authorized to be raised, and every Part thereof, and from Time to Time of paying off the same if called in, and of effecting any new or other Security instead thereof, and to pay and apply such Sum or Sums of Money so to be raised accordingly, and for securing the Repayment thereof, together with Interest for the same at such Rate as the said Trustees or Trustee for the Time being of the said Will shall think proper, by any Indenture or Indentures to be executed by them or him in the Presence of and attested by One or more than One Witness to convey and assure in Fee Simple, or to demise for any Term or Terms of Years, all or any Part of the said Hereditaments comprised in the said Schedule to the said recited Act of the Ninth and Tenth Years of Her present Majesty to any Person or Persons whomsoever by way of Mortgage.

Power to Trustees to raise by Mortgage certain Sums of Money.

II. And be it enacted, That in case the said *Henry Lord Brougham and Vaux, Thomas Metcalfe*, and *Gerard Blisson Wharton*, or the Survivors or Survivor of them, or other the Trustees or Trustee for the Time being of the said Will, shall at any Time or Times hereafter lay out, expend, or incur any Sum or Sums of Money in opposing the passing of any Bill or Bills in either of the Houses of Parliament which in their or his Judgment shall or may prejudicially affect any Part of the said Hereditaments comprised in the Schedule to the

[Private.]

Power to Trustees, with Consent of Court of Chancery, to oppose public Schemes prejudicial to the Inheritance.

aforesaid Act of the Ninth and Tenth Years of Her present Majesty (the Leave of the High Court of Chancery for such Opposition having been previously obtained upon a Petition to be presented in a summary Way to the said Court), then it shall and may be lawful for the said Trustees or Trustee for the Time being, by the Ways and Means aforesaid, but with the Consent of the said High Court of Chancery, to be applied for by Petition in a summary Way as aforesaid, first had and obtained, to levy and raise any Sum or Sums of Money so laid out, expended, or incurred as last aforesaid, (together with all the Costs of raising the same, and of effecting any new or other Security or Securities in respect thereof,) and to apply the same accordingly.

Power to Trustees, with Consent of Court of Chancery, to compromise with the Hartlepool Dock and Railway Company, and with the Executors and Residuary Legatees of the late Duke.

III. And be it enacted, That it shall and may be lawful for the said Trustees or Trustee for the Time being of the said Will, as they or he may think fit, but with the Consent of the said Court of Chancery, to be obtained on Petition in a summary Way as aforesaid, to modify, add to, or alter the said Agreement for the Excavation of the said tidal Lands called the *Slake* so entered into with the said *Hartlepool Dock and Railway Company* by the said *William Harry* late Duke of *Cleveland* during his Life as aforesaid, or any Part thereof, or altogether to rescind and make void the said Agreement or any Part thereof, and to enter into a new Agreement for the same or the like Purposes, and also to enter into any Compromise or Agreement relating to the said Contract or to the Performance thereof, or any Modification thereof, with the Executors of the said *William Harry* late Duke of *Cleveland*, or with the Persons for the Time being beneficially entitled to his residuary Personal Estate: Provided always, that nothing in this present Act contained shall extend or be construed to extend to alter or affect the Rights or Liabilities of the said *Hartlepool Dock and Railway Company* now subsisting, under or by virtue of the said Agreement so made by the said *William Harry* late Duke of *Cleveland* during his Lifetime as aforesaid, so far as relates to the Amount or Proportion of Monies to be contributed towards such Excavation as aforesaid, or any Costs or Expenses in anywise relating to the said Contract, nor to alter or affect the Powers for raising Monies for the same Purpose in the said Act of the Ninth and Tenth Years of Her present Majesty contained; and that it shall be lawful for the said Trustees or Trustee for the Time being of the said Will, by the Ways and Means aforesaid, but with the Consent of the said Court of Chancery, to be obtained as aforesaid, to levy and raise all Costs and Expenses to be by them or him incurred, or which they or he may incur or become liable to pay, either in enforcing or attempting to enforce the Performance of the said Agreement, or in or about any such Modification or Alteration of the said Agreement, or the rescinding of the same, and the making of any new Agreement as aforesaid, and in or about all Matters preliminary or in anywise relating thereto, together with all the Costs of raising such Costs and Expenses, in the same Manner as is herein-before provided with respect to the other Monies hereby authorized to be raised: Provided also, that nothing herein contained shall extend to release the

the Executors of the Personal Estate of the said *William Harry* late Duke of *Cleveland* from any Costs or Monies which they or the said Personal Estate shall or may or otherwise would or might be or become liable to pay in respect of carrying into effect and enforcing the said Agreement, or otherwise in relation thereto, but that the same Liability, if any, shall remain in all respects in force as if this present Act had not been passed.

IV. Provided always, and be it enacted, That notwithstanding any such Modification or Alteration of the said Agreement, or any Act, Matter, or Thing to be done in pursuance of the Powers in this Act contained, the Rights and Interests of the Parties entitled to and interested in the Real and Personal Estate of the said *William Harry* late Duke of *Cleveland* shall, as well with reference to the Existence or Nonexistence of any Contract or Agreement binding the Personal Estate of the said Testator, and the Liability or Nonliability of such Personal Estate for the Fulfilment of such Contract, if any, as in all other respects, stand and be upon the same Footing in every respect as if such Modification or Alteration had not been entered into, except the Parties respectively for the Time being beneficially entitled to the residuary Personal Estate of the said late Duke shall direct to the contrary, or shall concur in or agree to any such Modification or Alteration so to be made as aforesaid.

Rights and Interests of the Parties interested in the Real and Personal Estates of the said late Duke not to be prejudiced.

V. And be it enacted, That the Receipt or Receipts in Writing of the said Trustees or Trustee for the Time being of the said Will of the said *William Harry* late Duke of *Cleveland* for any Monies to be raised by them or him under or by virtue of the Powers in this Act contained, shall be a good and sufficient Discharge and good and sufficient Discharges to the Person or Persons paying the same for all Monies therein expressed to be received, and such Person or Persons shall not be bound to see to the Application or be in anywise answerable for the Misapplication or Nonapplication of the same, nor be bound to inquire whether more than the Amount authorized to be raised has been raised.

Trustees Receipts good Discharges.

VI. And be it enacted, That so much of the said Act of the Ninth and Tenth Years of Her present Majesty as enacts that the Trustees or Trustee for the Time being of the said Will of the said late Duke of *Cleveland* shall, out of the yearly Rents and Profits of the Hereditaments comprised in the Schedule thereto, or any Part thereof, in the first place pay all Interest which from Time to Time shall become due in respect of any Sum or Sums of Money to be raised for the Excavation of the *Slake* aforesaid by virtue of the Powers in that Behalf therein contained, or so much thereof as for the Time being shall remain due, and in the next place shall, by and out of the Rents and Profits last aforesaid, yearly and every Year until the whole of the Monies so to be raised shall be paid off, pay off One Twentieth Part of the Sum or Sums of Money so to be raised as aforesaid until the whole thereof shall be discharged, shall be and the same is hereby repealed.

The Power to pay off in Twenty Years the 4,000*l.* authorized to be raised by 9 & 10 Vict. c. 30. repealed.

VII. And

Interest of all Monies raised by Mortgage to be kept down by the Party beneficially entitled to the Rents.

VII. And be it enacted, That the Interest of all Monies hereby authorized to be raised by Mortgage, and also the Interest of all Monies which may at any Time hereafter be raised for the Purpose of excavating the *Slake* aforesaid, in pursuance of the aforesaid Power in that Behalf in the said Act of the Ninth and Tenth Years of Her present Majesty contained, shall be paid and kept down by the Party for the Time being beneficially entitled to the Rents and Profits of the Hereditaments comprised in any such Mortgage.

Mortgagee not entitled to recover more than One Year's Interest from the Estates after Death of Tenant for Life.

VIII. Provided always, and be it enacted, That after the Decease of any Person who shall be entitled under the said Will or Codicil to the Receipt of the Rents and Profits of the Hereditaments to be comprised in any Mortgage made in pursuance of this Act, or of the said Act of the Ninth and Tenth Years of Her present Majesty as aforesaid, for the Life only of such Person, and after the Decease of any Person who shall be so entitled in Tail Male or in Tail, and who shall die under the Age of Twenty-one Years, no Person or Persons claiming under any Mortgage made in pursuance of this Act, or of the said last-mentioned Act as aforesaid, shall be entitled to recover as against the Hereditaments comprised in such Mortgage more than One Year's Arrear of Interest which may have accrued before such Decease in respect of any Principal Sum secured by such Mortgage.

Heirs, Executors, or Administrators of Tenant for Life to pay Proportion of Interest up to Death.

IX. Provided always, and be it enacted, That upon the Decease of any Person who shall be entitled as aforesaid to the Receipt of the Rents and Profits of the Hereditaments to be comprised in any Mortgage made in pursuance of this Act, or of the said Act of the Ninth and Tenth Years of Her present Majesty as aforesaid, for the Life only of such Person, and after the Decease of any Person who shall be so entitled as Tenant in Tail Male or in Tail, and who shall die under the Age of Twenty-one Years, the Heirs, Executors, or Administrators of the Tenant for Life or Tenant in Tail Male or in Tail who shall so die shall pay so much of the accruing Interest upon the Money secured by any such Mortgage, and not actually paid at the Time of the Decease of such Tenant for Life in Tail Male or in Tail, as shall be in proportion to the Time which such Person shall have lived of the then current Half Year; and in every Mortgage to be made in pursuance of the Powers of this Act a Power of Distress and Entry for the Recovery of the Interest of the Principal Monies so to be secured may be granted to the Mortgagee or Mortgagees.

Court of Chancery to make Orders for Taxation of Costs of Applications.

X. And be it enacted, That it shall be lawful for the said Court of Chancery, upon Petition to be preferred in a summary Way as aforesaid, from Time to Time to make such Orders as the said Court shall think expedient, just, and reasonable, for allowing, taxing, and settling all Costs, Charges, and Expenses which shall be from Time to Time incurred by the said Trustees in the Exercise of any of the Powers herein-before contained, and in making the several Applications to the said Court hereby directed or authorized to be made.

XI. And

XI. And be it enacted, That in any Lease or Agreement for a Lease which shall at any Time hereafter be granted or entered into by the Trustees or Trustee for the Time being of the said Will of the said *William Harry* late Duke of *Cleveland*, in pursuance of the Powers in the said Acts of the Fifth and Sixth and the Ninth and Tenth Years of Her present Majesty respectively contained, or of any of them, it shall be lawful for such Trustees or Trustee, if they or he shall think fit, to enter into any Covenants or Agreements for referring to Arbitration any Disputes that may arise in relation to such Lease or Agreement; and further, that no Lease or Agreement made or purporting to be made in pursuance of the Powers aforesaid, or of any of them, shall be in anywise invalidated, affected, or made void or voidable by reason only that it contains any such Covenant or Agreement for Reference to Arbitration as last aforesaid.

Leases or Agreements granted pursuant to 5 & 6 and 9 & 10 Vict. may contain Covenants for Reference to Arbitration.

No existing Lease invalidated, &c. by reason of such Covenant.

XII. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to all Persons and Bodies Corporate, and their respective Heirs, Successors, Executors, and Administrators, (other than and except the said *Frederick Acclom Milbank*, the said *William Harry Vane Milbank* and the Heirs Male of his Body, and all other the Sons of the said *Frederick Acclom Milbank* and the Heirs Male of their respective Bodies, the said *Henry John Milbank*, *Augustus Sussex Milbank*, *Mark William Vane Milbank*, and *Augustus William Henry Meyrick*, and their respective Sons and the Heirs Male of the respective Bodies of such Sons, and all and every other the Sons of the said Lady *Augusta Henrietta Milbank* by the said *Mark Milbank*, and of the said Lady *Laura Meyrick* by the said *William Henry Meyrick*, and also the several Sons of the said Lady *Arabella Arden* by the said *Richard Pepper Arden* and the Heirs Male of the respective Bodies of such Sons, and the said *Henry Duke of Cleveland*, and the said *Henry Lord Brougham and Vaux*, *Thomas Metcalfe*, and *Gerard Blisson Wharton*, in their Capacity of such Trustees as aforesaid, or other the Trustees or Trustee for the Time being of the said Will of the said *William Harry* late Duke of *Cleveland*, and all and every other Person and Persons to whom any Estate, Right, Title, or Interest at Law or in Equity of, in, to, or out of the said Hereditaments comprised in the said Schedule to the said Act of the Ninth and Tenth Years of Her present Majesty hereinbefore recited, or any of them, or any Part thereof, under or by virtue of the said Will of the said *William Harry* late Duke of *Cleveland*, or the aforesaid Codicil thereto, are, is, or shall have been devised or limited, or shall have descended or devolved or shall descend or devolve,) all such Estate, Right, Title, Interest, Claim, and Demand whatsoever of, in, to, or out of the said Hereditaments comprised in the said Schedule, or any Part thereof, as they or any of them had before the passing of this Act, or would or could or might have had or enjoyed in case this Act had not been passed.

General Saving.

XIII. And be it enacted, That this Act shall be printed by the several Printers to the Queen's most Excellent Majesty duly authorized

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

[Private.]

[5 x]

rized 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. 1849.