ANNO PRIMO

VICTORIÆ REGINÆ.

Cap. 14.

An Act for authorizing the Investment of a Fund under the Will and Codicil of the Most Noble *Charles* late Duke of *Norfolk* in the Purchase of Estates in any Part of *England*.

[11th *June* 1838.]

Will of the late Duke of Norfolk, 25th November 1815.

WHEREAS the Most Noble *Charles* Duke of *Norfolk*, Earl Marshal and Hereditary Earl Marshal of *England*, by his last Will and Testament in Writing, bearing Date the Twenty-fifth Day of *November* One thousand eight hundred and fifteen, and executed and attested in the Manner required by Law for rendering valid Devises of Freehold Estates, did declare that *Henry Howard* of *Corby Castle* in the County of *Cumberland*, Esquire, (the Trustee therein named and appointed,) his Heirs, Executors, Administrators, or Assigns, should stand and be possessed of and interested in the Monies to arise or be received by or from the Sale, Disposition, calling in, and Conversion of his (the Testator's) residuary Personal Estate and Effects, and also all the net Monies which should arise or be produced by or from the Sale or Sales of his Freehold, Copyhold, and Leasehold Estates which should be sold and disposed of in pursuance of his said Will, and the Rents, Issues, and Profits of the said Estates in the meantime and until a Sale or Sales thereof, and which should not in the Opinion and Discretion of his said Trustee be necessary to be applied and disposed of for the Purposes therein mentioned, upon the Trusts therein and in part herein-after expressed; (that is to say,) as to Four Tenth Parts thereof upon Trust to lay out and invest the same in the Purchase of

of Freehold Lands of Inheritance in Fee Simple, and either with or without Leasehold, Copyhold, or other Customary Land convenient to be held therewith, to be situate in the County of *Surrey*, and, by such proper Deeds, Conveyances, and Assurances in the Law as Counsel should advise or think necessary in that Behalf, well and effectually to convey, settle, and assure the same, or to cause the same to be conveyed, settled, and assured, so and in such Way and Manner as that the same might go, remain, continue, and be to and for the several Uses, Intents, and Purposes next therein-after mentioned and directed, or as near thereto as the Nature of such and so many of those Estates as were of Copyhold or other Customary or Leasehold Tenure would admit of; (that is to say,) to the Use of Sir *Kenneth Alexander Howard* and his Assigns during his Life, without Impeachment of Waste, in strict Settlement; with Remainder to proper Trustees, and their Heirs, during his Life, to preserve the contingent Remainders; with Remainder to the Use of the First and other Sons of the said Sir *Kenneth Alexander Howard*, severally and successively in Tail Male, according to Priority of Birth; with Remainder to the Use of *Henry Charles Howard*, Son of *Bernard Edward Howard* Esquire, his Heirs, Executors, Administrators, and Assigns, according to the different Natures or Qualities of the said Estates and Premises; but the said Testator directed that in the said Settlement so to be made of the Lands, Tenements, and Hereditaments so to be purchased no Leasehold Lands or Tenements which might be comprised therein should be thereby made to vest absolutely and ultimately in any Son of the said Sir *Kenneth Alexander Howard* unless such Son should attain the Age of Twenty-one Years, or die under that Age, leaving Issue inheritable to the Estate Tail of such Son; and the said Testator's Will was, that in such intended Settlement of the said Lands, Hereditaments, and Premises so to be purchased there should be inserted a proper Power to enable the said Sir *Kenneth Alexander Howard*, as and when he should come into or be in possession of the Estates to be therein comprised, to limit or appoint, to or for the Benefit and as the Jointure of any Woman or Women he might marry, any yearly Rent-charge or yearly Rent-charges, not exceeding One Fifth Part of the gross yearly Income of such Estates at the Time of making such Charge or Charges; and also a Power for the said Sir *Kenneth Alexander Howard*, when in possession, to subject and charge the said Estates so to be purchased to and with the Payment of any Sum or Sums of Money for the Portion or Portions of his Child or Children, other than an eldest or only Son for the Time being entitled to the said Estates for an Estate in Tail Male in Remainder on the Decease of the said Sir *Kenneth Alexander Howard*, not exceeding in the whole One Tenth Part of the Purchase Money of such Estates, with Interest thereon at any Rate not exceeding Five Pounds *per Centum per Annum*, in such Way and Manner as to the said Sir *Kenneth Alexander Howard* should seem expedient; and also a Power to enable the said Sir *Kenneth Alexander Howard*, as and when he should be in possession, and the several Tenants in Tail Male under the said Settlement, and also the Trustees to Uses to be therein named during the Minority or respective Minorities of any Tenant in Tail for the Time being to be seised or entitled in possession under the Limitations aforesaid, to demise, lease, or grant any of the Estates therein to be comprised for any Term or Terms

of

of Years not exceeding Twenty-one Years in possession, at and under the most improved yearly Rent or Rents that could be reasonably obtained, and under the usual and proper Covenants, Conditions, and Restrictions, and without taking any Fine or Income for the granting of any such Lease or Leases; and likewise a Power or Authority (in the usual Form of Words) to enable the Trustees to Uses therein to be named, with the Consent of the said Sir *Kenneth Alexander Howard*, or of the Tenant in Tail in possession, if of full Age, or otherwise of his Guardian or Guardians, to make sale of or to exchange all or any of the said Estates, so that the Money to arise by or from such Sale or Sales should be laid out in the Purchase of other Messuages, Lands, and Hereditaments in *England*, and as well the Messuages, Lands, and Hereditaments so to be purchased, as those to be received by way of Exchange, should be respectively conveyed, settled, and assured to the same Uses; and the said Testator's Will also was, that in such intended Settlement as aforesaid there should be inserted all such other proper Provisoes, Clauses, Declarations, and Agreements for effectuating the Intentions of that his said Will as were usually inserted in Settlements of the like Nature, and as his said Trustee should by his Counsel be advised were necessary or expedient in that Behalf; and he did thereby direct that in the meantime after his Decease, until the said Money therein-before directed to be invested or laid out in the Purchase of Lands, Tenements, or Hereditaments should be so invested, the same should be laid out and invested, by and in the Name of his said Trustee, his Executors or Administrators, in such of the Public Stocks or Funds or upon Real Securities in *England* as he or they might deem expedient, and that such Stocks, Funds, and Securities should and might be altered and varied as he or they might think proper, and that the Interest, Dividends, and annual Produce of such Stocks, Funds, or Securities from the Time of his Decease should go and be paid and applied to such Person and Persons, to and for such Uses, Intents, and Purposes, and in such Manner, as the Rents and Profits of the Lands, Tenements, and Hereditaments so as aforesaid directed to be purchased would go and be payable and applicable to in case such Purchase or Purchases were then actually made; and he did thereby declare that his said Trustee, his Executors and Administrators, should, subject to the Trusts therein-before thereof declared, stand and be possessed of and interested in the Sum or Sums of Money therein-before directed to be appropriated by him for answering and satisfying the said several Annuities, Pensions, and Provisions therein-before directed to be paid and authorized to be made by him, upon the same or the like Trusts, and to and for the same or the like Ends, Intents, and Purposes, and in such Parts, Shares, and Proportions as were therein-before mentioned, expressed, and declared of and concerning the ultimate Residue of the Money which should arise and be produced from his the said Testator's residuary Personal Estate, and Powers were therein contained for the Addition and Appointment of new Trustees; and the said Testator appointed the said *Henry Howard* sole Executor of his said Will: And whereas the said *Charles* Duke of *Norfolk* by a Codicil to his said Will, which Codicil bears Date the Thirtieth Day of *November* One thousand eight hundred and fifteen, and was executed and attested as aforesaid, after reciting that he had by his last Will and Testament in Writing, bearing Date the Twenty-fifth Day of

Codicil to the Duke's Will, 30th November 1815.

of the said then instant Month of *November*, directed that his Trustee therein named and appointed, his Heirs, Executors, Administrators, or Assigns, should stand and be possessed of and interested in the ultimate Residue of the Monies to arise or be received by or from such Sale, Disposition, calling in, and Conversion of his residuary Personal Estate and Effects, as therein was directed, and also of all the Trust Monies which should arise or be produced by or from the Sale or Sales of his Freehold, Copyhold, and Leasehold Estates which should be sold and disposed of in pursuance of his said Will, and of the Rents, Issues, and Profits of the said Estates in the meantime and until a Sale or Sales thereof, upon Trust, as to Four Tenth Parts thereof, to lay out and invest the same in the Purchase of Freehold Lands of Inheritance in Fee Simple, and either with or without Leasehold, Copyhold, or Customary Land convenient to be held therewith, to be situate in the County of *Surrey*, and, by such proper Deeds, Conveyances, and Assurances in the Law as Counsel should advise or think necessary in that Behalf, well and effectually to convey, settle, and assure the same, or cause the same to be conveyed, settled, and assured, so and in such Way and Manner as that the same might go, remain, continue, and be to and for the several Uses, Intents, and Purposes next therein-after mentioned and directed, or as near thereto as the Nature of such and so many of those Estates as were of Copyhold or other Customary or Leasehold Tenure would admit of; (that is to say,) to the Use of Sir *Kenneth Alexander Howard* and his Assigns during his Life, without Impeachment of Waste, in strict Settlement; with Remainder to proper Trustees, and their Heirs, during his Life, to preserve the contingent Remainders; with Remainder to the Use of the First and other Sons of the said Sir *Kenneth Alexander Howard*, severally and successively in Tail Male, according to Priority of Birth; with Remainder to the Use of *Henry Charles Howard*, Son of *Bernard Edward Howard* Esquire, his Heirs, Executors, Administrators, and Assigns, according to the different Natures or Qualities of the same Estates and Premises; and that he the said Testator had by his said Will further declared that his said Trustee, his Executors and Administrators, should, subject to the Trusts therein-before thereof declared, stand and be possessed of and interested in the Sum or Sums of Money therein directed to be appropriated by him for answering and satisfying the several Annuities, Pensions, and Provisions therein-before directed to be paid and authorized to be made by him, upon the same or the like Trusts, and to and for the same or the like Ends, Intents, and Purposes, and in such Parts, Shares, and Proportions as were therein-before mentioned, expressed, and declared of and concerning the ultimate Residue of the Money which should arise and be produced from his said residuary Personal Estate; he the said Testator, being desirous of altering his said Will with respect to the Limitations therein contained, or directed by his said Will to be contained in such Settlement as aforesaid, did therefore make the Writing now in recital, which he did will and direct to be annexed as a Codicil to his said Will, and taken as Part thereof; and he did thereby revoke, annul, and make void all the said several Uses, Estates, Trusts, or Limitations by his said Will limited, created, or declared, or directed so to be, of and concerning the said Four Tenth Parts of his said residuary Estate, and directed that his said Trustee, his Heirs, Executors, Administrators,

trators, or Assigns, should stand and be possessed of and interested in the same Four Tenth Parts of his said residuary Estate upon Trust to lay out and invest the same in the Purchase of Freehold Lands of Inheritance in Fee Simple, and either with or without Leasehold, Copyhold, or Customary Land convenient to be held therewith, to be situate in the County of *Surrey*, and, by such proper Deeds, Conveyances, and Assurances in the Law as Counsel should advise or think necessary in that Behalf; well and effectually to convey, settle, and assure the same, or to cause the same to be conveyed, settled, and assured, so and in such Way and Manner as that the same might go, remain, continue, and be to and for the several Uses, Intents, and Purposes next therein-after mentioned and directed, or as near thereto as the Nature of such and so many of those Estates as were of Copyhold or other Customary or Leasehold Tenure would admit of; that was to say, to the Use of *Henry Howard*, his Trustee named in his said Will, his Executors, Administrators, and Assigns, for the full End and Term of Two hundred Years, to commence and be computed from the Date of such Settlement, without Impeachment of Waste, but upon the Trusts therein-after declared or directed to be declared concerning the same Term; and, subject thereto, to the Use of the said Sir *Kenneth Alexander Howard* and his Assigns during his Life, without Impeachment of Waste, in strict Settlement; with Remainder to proper Trustees, and their Heirs, during his Life, to preserve the contingent Remainders; with Remainder to the Use of *Howard*, the eldest Son of the said Sir *Kenneth Alexander Howard*, and his Assigns, during his Life, without Impeachment of Waste, in like strict Settlement; with Remainder to proper Trustees, and their Heirs, during his Life, to preserve the contingent Remainders; with Remainder to the Use of the First and every other Son and Sons of the Body of the said *Howard*, severally and successively in Tail Male, according to Priority of Birth; with Remainder to the Use of *Howard*, Second Son of the said Sir *Kenneth Alexander Howard*, and his Assigns, during his Life, without Impeachment of Waste, in like strict Settlement; with Remainder to proper Trustees, and their Heirs, during his Life, to preserve the contingent Remainders; with Remainder to the Use of the First and every other Son and Sons of the Body of the said *Howard*, severally and successively in Tail Male, according to Priority of Birth; with Remainder to the Use of *Howard*, Third Son of the said Sir *Kenneth Alexander Howard*, and his Assigns, during his Life, without Impeachment of Waste, in like strict Settlement; with Remainder to proper Trustees, and their Heirs, during his Life, to preserve the contingent Remainders; with Remainder to the Use of the First and every other Son and Sons of the Body of the said last-mentioned *Howard*, severally and successively in Tail Male, according to Priority of Birth; with Remainder to the Use of the said *Henry Charles Howard*, Son of the said *Bernard Edward Howard*, his Heirs, Executors, Administrators, and Assigns, according to the different Natures or Qualities of the same Estates and Premises; and the said Testator did direct that in such intended Settlement so to be made as aforesaid the said Term of Two hundred Years so thereby directed to be limited to the said *Henry Howard*, his Executors, Administrators, and Assigns, as aforesaid, should, by apt and proper Words, be declared to be so limited to him and them upon Trust by and out of the Rents and Profits of the Premises

mises to be therein comprised, or by the Fall and Sale of Timber growing thereon, or by Mortgage of any competent Part or Parts of the same Premises, or by other effectual Ways or Means, to levy and raise and pay yearly and every Year during their respective natural Lives unto *Mary Howard* of *Arundel* in the County of *Sussex*, Widow, Mother of the said Sir *Kenneth Alexander Howard*, and *Mary Howard* of the same Place, Spinster, Sister of the said Sir *Kenneth Alexander Howard*, in exoneration of the rest of his the said Testator's Estate, the several Annuities or yearly Allowances which he then made and paid to them respectively, and which he directed should be made a Charge upon the said Estate when purchased, and be payable thereout, and in the meantime should be payable and paid by his said Trustee out of the Interest, Dividends, and annual Produce of the Stocks, Funds, or Securities in or upon which such Four Tenth Parts of his said residuary Estate might be invested after such Investment should take place, and until such Purchase and Settlement could be made; and he did further direct, that after such Payment as aforesaid the Residue of the Interest, Dividends, and annual Produce of such Stocks, Funds, or Securities, from the Time of such Investment of the said Four Tenth Parts of his said residuary Estate, should go and be paid and payable to such Person and Persons, to and for such Uses, Intents, and Purposes, and in such Manner, as the Rents and Profits of the Lands, Tenements, and Hereditaments so as aforesaid directed to be purchased would go and be payable or applicable to in case such Purchase or Purchases were then actually made; and in the said intended Settlement so thereby directed to be made there should be contained a Proviso directing the said Term to cease when the said Trusts therein-before declared or directed to be declared thereof should have been fully performed and satisfied, or have become incapable of taking effect; and the said Testator did further direct, that in the said Settlement so to be made as aforesaid there should be contained the same or the like Powers and Authorities to and in favour of, and the same or the like Restrictions upon, the several Tenants for Life in such Settlement to be named respectively, and their several and respective First and other Sons in Tail Male, when and as they should respectively come into and be in possession of the said Estates, as were in and by his said Will directed to be inserted in respect of the said Sir *Kenneth Alexander Howard*, and his First and other Sons, and their Issue Male, and the Estates thereby limited or created, or directed to be limited or created in his and their Favour; and after certain Dispositions which did not affect the aforesaid Four Tenths of the said Trust Monies and Premises, or the Appointment of the said *Henry Howard* to be the Executor of his said Will, the said Testator did ratify and confirm his said Will in every thing except where the same was thereby revoked and altered as aforesaid: And whereas the said *Charles* Duke of *Norfolk* died without having revoked or altered his said Will other than by the said Codicil, and without having revoked or altered the said Codicil, and the said Will and Codicil were proved by the said *Henry Howard* in the Prerogative Court of the Archbishop of *Canterbury* on the Fifteenth Day of *February* One thousand eight hundred and sixteen: And whereas the said *Mary Howard* Widow, in the said Will named, died in or about the Month of *January* One thousand eight hundred and twenty-six; and the said *Mary Howard*

Spinster, in the said Will also named, died in or about the Month of *December* One thousand eight hundred and thirty-three, and the Trusts of the said Term of Two hundred Years have been fully satisfied: And whereas the said *Kenneth Alexander Howard*, named in the said Will and Codicil, is now Earl of *Effingham*, and he has Issue the Three Sons named in the said Codicil to the said Will of the said *Charles* Duke of *Norfolk* only, *videlicet*, the Honourable *Henry Howard* commonly called Lord *Howard* his eldest Son, the Honourable *Charles Howard* his Second Son, and the Honourable *William Howard* his Third Son, and all of them the said *Henry* Lord *Howard* and *Charles Howard* and *William Howard* have attained the Age of Twenty-one Years: And whereas the said *Henry* Lord *Howard* about the Eighteenth Day of *August* One thousand eight hundred and thirty-two intermarried with *Eliza Drummond* Spinster, and has Issue Male an only Son named *Henry*: And whereas neither of them the said *Charles Howard* and *William Howard* hath married: And whereas the said *Henry Charles Howard* named in the said Will and Codicil is commonly called Earl of *Surrey*, as only Son of the said *Bernard Edward Howard*, also named in the said Will and Codicil, and who is now Duke of *Norfolk*: And whereas the Fund which by virtue of the said Will and Codicil of the said *Charles* Duke of *Norfolk* is to be laid out in Real Estate in the County of *Surrey*, for the Benefit of the said *Kenneth Alexander* Earl of *Effingham* for his Life, with Remainders over as aforesaid, is of considerable Amount, and it is desirable, that, instead of being necessarily so laid out as aforesaid in the first instance, a Power should be given to lay out the said Funds in the Purchase of Freehold Lands, Tenements, and Hereditaments of Inheritance in Fee Simple, and either with or without Leasehold, Copyhold, or other Customary Land convenient to be held therewith, in any Part of *England*, but (although the said Will authorizes the Sale and Exchange of the Estates in the County of *Surrey* to be purchased in pursuance thereof, and the Monies arising thereby to be laid out in the Purchase of Messuages, Lands, and Hereditaments in *England* generally) it is apprehended that a Purchase in the first instance of Real Estates which should not be situate in the County of *Surrey* would not be a valid Purchase according to the Provisions of the said Will and Codicil; and that on account of the strict Limitations therein contained, and directed to be inserted in the Settlement of the Estates to be purchased as aforesaid, the Object aforesaid cannot be effected without the Aid of Parliament: Wherefore Your Majesty's most dutiful and loyal Subjects, the said *Kenneth Alexander* Earl of *Effingham*, the said *Henry Howard* commonly called Lord *Howard*, the said *Charles Howard*, the said *William Howard*, Sons of the said Earl of *Effingham*, and the said *Henry Charles Howard* commonly called Earl of *Surrey*, 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 be lawful for the said *Henry Howard*, (the Trustee named in the said Will and Codicil of the said *Charles* Duke of *Norfolk*,) his Heirs, Executors, Administrators, or Assigns, or other the Trustees or Trustee for the Time being under the same Will and Codicil, with the Consent in Writing of the said *Kenneth Alexander* Earl of *Effingham* during his Life, and after his Decease of the Person who under or by virtue of the said Will

The Trustees under the Will and Codicil of the late Duke of Norfolk, with Consent of the Person for the Time

beneficially entitled, may invest the Fund under the Duke's Will in the Purchase of Estates in any Part of England.

Will and Codicil, or of any Settlement to be made in pursuance thereof, shall for the Time being be beneficially entitled in possession to the Estates to be purchased with the Four Tenths by the same Will and Codicil directed to be laid out in the Purchase of Real Estates, and settled on the said Earl of *Effingham* for his Life, with Remainders over as aforesaid, of and in the Trust Fund arising from the said residuary Real and Personal Estate of the said *Charles* Duke of *Norfolk*, and if such Person shall be under the Age of Twenty-one Years, then with the Consent in Writing of his Guardian or Guardians, to lay out and invest the said Four Tenths of the said Trust Fund or any Part or Parts thereof in the Purchase of Freehold Lands, Tenements, and Hereditaments of Inheritance in Fee Simple, to be situate in any Part of *England*, and either with or without Leasehold, Copyhold, or other Customary Land convenient to be held therewith, free from Incumbrances, except Fee Farm Rents, Chief and Quit Rents, and other Services; and that the Lands, Tenements, and Hereditaments so to be purchased shall be conveyed, surrendered, and assured to and for the several Uses, Estates, and Purposes, and with, under, and subject to the same Powers, Provisoes, and Declarations, to, for, with, under, and subject to which the Hereditaments purchased with the said Four Tenths of the said Trust Fund ought in pursuance of the said Will and Codicil of the said *Charles* Duke of *Norfolk* to be conveyed, settled, and assured.

Such Estates to be settled to the Uses directed by the Duke's Will and Codicil.

Saving Clause.

II. Saving always to the Queen's most Excellent Majesty, Her Heirs and Successors, and to all and every other Persons and Person, Bodies Politic and Corporate, his, her, or their respective Heirs, Successors, Executors, and Administrators, (other than and except the said *Kenneth Alexander* Earl of *Effingham*, the said *Henry* Lord *Howard*, the said *Charles Howard* and *William Howard*, and all the Sons of the said *Henry* Lord *Howard*, *Charles Howard*, and *William Howard*, and the Heirs Male of the respective Bodies of all such Sons, and also the said *Henry Charles* Earl of *Surrey*, his Heirs, Executors, Administrators, and Assigns, and all other Persons and Person having or claiming, or who shall or may have or claim, any Estate, Right, Title, Trust, or Benefit under or by virtue of the said Will and Codicil of the said *Charles* Duke of *Norfolk*, or either of them,) all such Estate, Right, Title, Interest, Use, Trust, Claim, and Demand whatsoever as they, every or any of them had before the passing of this Act, or could or might have had, held, enjoyed, or been entitled to in case this Act had not been passed.

Act as printed by the Queen's Printer to be Evidence.

III. And be it further enacted, That this Act 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.

LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1838.