

ELIZABETH II



1972 CHAPTER 1

An Act for enabling the Parliamentary Settlement of the Duke of Wellington to be terminated by the repeal of the Estate Acts; to provide for the Parliamentary Estate to be appropriated among the family; to provide for the establishment of new settlements and the powers and the duties of the respective trustees in connection with the property to be held on the new settlements; to provide for the retirement and the appointment of trustees; and for other purposes connected with that Settlement. [11th May 1972]

WHEREAS—

(1) By an Act of Parliament made and passed in the session of Parliament which began in the fifty-third year of the reign of 1812 c. 4. His late Majesty King George the Third intituled "An Act for granting a Sum of Money for purchasing an Estate for the Marquis of Wellington and his Heirs, in Consideration of the eminent and signal Services performed by the said Marquis of

Wellington to His Majesty and the Public ” (hereinafter referred to as “ the Act of 1812 ”) it was (amongst other things) enacted, that a Sum not exceeding the Sum of One hundred thousand pounds of lawful money of Great Britain should be granted out of the Consolidated Fund of Great Britain to the Speaker of the House of Commons, the Lord High Treasurer of Great Britain or the First Lord Commissioner of the Treasury, the Chancellor of the Exchequer for the time being respectively, the Right Honourable William Wellesley Pole, and the Honourable and Reverend Gerald Valerian Wellesley, Doctor of Divinity (hereinafter referred to as “ the trustees of the Parliamentary Estate ”), who were thereby required to invest the said Sum in the purchase of freehold manors, lands, tenements and hereditaments situate in Great Britain; and by the Act of 1812 the said manors, lands, tenements and hereditaments (hereinafter referred to as “ the Parliamentary Estate ”) should, when so purchased, be settled, conveyed and assured to the use of the said Marquis of Wellington, and to the heirs Male of the Body of the said Marquis of Wellington and to such other persons to whom the Title, Honour and Dignity of Marquis of Wellington should descend, pursuant to the Limitations of the Patent whereby the said Dignity was granted, and in default and in failure of the heirs Male of the Body of the said Marquis of Wellington, then to the Use of the heirs of the Body of the said Marquis of Wellington:

(2) The Act of 1812 contained divers powers, provisions and declarations respecting the Parliamentary Estate for, inter alia, the appointment by the Marquis of Wellington, for the time being, unto his wife for her Jointure, and in bar of Dower, of an Annuity out of the Parliamentary Estate, the granting of leases by any person in possession, the payment of damages for waste on the Parliamentary Estate, the management of timber and the application of moneys arising from the sale of timber and the appointment of new trustees; such powers, provisions and declarations to be exercised in accordance with the provisions therein contained:

1813 c. 133.

(3) By an Act of Parliament also made and passed in the session of Parliament which began in the fifty-third year of the reign of His said late Majesty King George the Third intituled “ An Act to amend an Act of the present Session of Parliament, for granting a Sum of Money for purchasing an estate for the Marquis of Wellington, and his Heirs, in Consideration of the eminent and signal Services performed by the said Marquis of Wellington to His Majesty and the Public ” (hereinafter referred to as “ the Act of 1813 ”) it was (amongst other things) enacted, that so long as the Title, Honour and Dignity of the Marquis of Wellington should endure, and until there should be a failure of issue of the Body of the said Marquis of Wellington, neither

the said Marquis of Wellington, nor any other Person to whom the manors, lands, tenements and hereditaments should or might descend or stand limited by virtue of the Limitations directed by the Act of 1812 should have any Power to bar or disinherit any Person or Persons to or upon whom the said manors, lands, tenements and hereditaments were by the Act of 1812 to be vested or limited except in exercise of the hereinbefore recited powers contained in the Act of 1812:

(4) His late Royal Highness the Prince Regent, acting in the Name and on behalf of His said late Majesty King George the Third, was pleased to confer upon the Marquis of Wellington the Title, Honour and Dignity of a Duke of the United Kingdom by Letters Patent dated the 11th day of May, eighteen hundred and fourteen:

(5) By an Act of Parliament made and passed in the session of Parliament which began in the fifty-fourth year of the reign of His said late Majesty King George the Third intitled "An Act for settling and securing an Annuity on Arthur Duke of Wellington and his Heirs; and for empowering the Lord High Treasurer, or Lords Commissioners of the Treasury to advance, out of the Consolidated Fund of Great Britain, a Sum of Money in lieu of such Annuity, to purchase an Estate in order to accompany the said Title, in Consideration of the eminent and signal Services performed by the said Duke of Wellington to His Majesty and to the Public; and for making further Provision for the disposal of a Sum of Money granted by an Act of the last Session of Parliament for purchasing an Estate for the said Duke, then Marquis of Wellington" (hereinafter referred to as "the Act of 1814") it was (amongst other things) enacted, that an Annuity of Thirteen thousand pounds of Money should be issued and paid out of the Consolidated Fund of Great Britain to Arthur Duke of Wellington and to the heirs Male of the Body of the said Duke of Wellington to whom the said Title, Honour and Dignity of Duke of Wellington should descend pursuant to the Limitation of the Patent whereby the said Dignity was granted; and it was further enacted that the Lord High Treasurer or the Lords Commissioners of the Treasury for the time being might at one time, or from time to time, advance to the trustees of the Parliamentary Estate out of the Consolidated Fund of Great Britain in lieu of the said Annuity any Sum or Sums not exceeding in the whole the Sum of Four hundred thousand pounds of Money, for the Purpose of enabling the said trustees to purchase manors, lands, tenements and hereditaments to be settled to the Use of the said Duke of Wellington and the heirs Male of the Body of the said Duke of Wellington to whom the said Title of Duke of Wellington should descend to support the Dignity and the dukedom; and it was further enacted that the

trustees of the Parliamentary Estate for the Purposes of the hereinbefore recited Acts should be the trustees for the Purposes of the Act of 1814 and should have all such Powers and Authorities and be entitled to all such Rights, Privileges and Exemptions and be subject to the same Provisions and Regulations in the Execution of the trusts reposed in the said trustees by the Act of 1814, as they had and were entitled to in relation to the trusts of the hereinbefore recited Acts; and it was further enacted that the Moneys from time to time arising out of the sale of timber should be paid to the said trustees and subject to the payment of certain charges and expenses the Moneys should be held upon trust for the benefit of the persons for the time being entitled to the same in accordance with the provisions therein contained; and it was further enacted that upon failure and in default of heirs Male of the Body of the said Duke of Wellington the Parliamentary Estate should be limited in favour of the heirs Female of his Body and in case of failure of the heirs of his Body the Parliamentary Estate should go and remain to the Use of the said Duke of Wellington and his heirs and assigns in accordance with the provisions therein contained:

1815 c. 186.

(6) By an Act of Parliament made and passed in the session of Parliament which began in the fifty-fifth year of the reign of His said late Majesty King George the Third intituled "An Act for granting an additional Sum of Money for providing a suitable Residence and Estate for the Duke of Wellington and his Heirs, in Consideration of the eminent and signal Services performed by the said Duke to His Majesty and the Public" (hereinafter called "the Act of 1815") it was (amongst other things) enacted, that a Sum not exceeding the Sum of Two hundred thousand pounds of lawful Money of Great Britain should be issued to the trustees of the Parliamentary Estate for the better enabling the said trustees to build or provide a suitable Residence and Estate for the said Duke of Wellington and his heirs and that the said trustees should be the trustees for the purposes of the Act of 1815 and should have all such Powers and Authorities and be entitled to all such Rights, Privileges and Exemptions and be subject to the same Provisions and Regulations in the Execution of the trusts reposed in the said trustees by the Act of 1815, as they had and were entitled to in relation to the trusts of the hereinbefore recited Acts:

1819 c. 21.

(7) By an Act of Parliament made and passed in the session of Parliament which began in the fifty-ninth year of the reign of His said late Majesty King George the Third intituled "An Act to amend several Acts for purchasing an Estate for the Duke of Wellington" (hereinafter called "the Act of 1819") it was (amongst other things) enacted, that the trustees of the Parliamentary Estate might apply the Residue of Money arising from

the Sale of Timber in the Purchase of additional manors, lands, tenements and hereditaments to be settled in such and the like manner to the same Uses and under and subject to the same Limitations, Powers, Authorities, Regulations, Restrictions and Provisions as were in the hereinbefore recited Acts contained as fully and effectually to all Intents and Purposes as if the same were severally repeated and re-enacted in the Act of 1819:

(8) By an Act of Parliament made and passed in the session of Parliament which began in the fifty-ninth year of the reign of His said late Majesty King George the Third intituled "An Act to explain an Act passed in the Fifty-fifth Year of His present Majesty, for purchasing an Estate for the Duke of Wellington" (hereinafter called "the second Act of 1819") it was (amongst other things) enacted, that, notwithstanding any thing to the contrary in the Act of 1815, the trustees of the Parliamentary Estate were authorised to pay all Interest which had arisen, and which might thereafter accrue, from Exchequer Bills or Government Securities to be purchased under the Provisions thereof to the said Duke of Wellington, or the Person for the time being entitled under the hereinbefore recited Acts to the Parliamentary Estate or to apply the same in such Manner from Time to Time as should be directed by the said Duke of Wellington, or such other Person as aforesaid: 1819 c. 63.

(9) By an Act of Parliament made and passed in the session of Parliament which began in the second year of the reign of Her late Majesty Queen Victoria intituled "An Act to alter the Powers of jointuring contained in several Acts for purchasing and providing a Residence and Estates for the Duke of Wellington, and to settle certain Articles to go as Heirlooms with the said Estates" (hereinafter called "the Act of 1839") it was (amongst other things) enacted, that it should be lawful for the Duke of Wellington for the time being either before or after the marriage of any Heir Apparent for the time being of the said Duke for the time being by any deed or deeds but subject and without prejudice to any subsisting Jointure or Jointures to grant, limit and appoint unto such Woman whom such Heir Apparent for the time being might marry an Annuity, for her Life and for her Jointure, and in bar of Dower, not exceeding in the whole the annual Sum of Two thousand five hundred pounds of Money for any one Woman to be issued and paid out of the Parliamentary Estate but subject to the Limitations and Provisions of the Act of 1839; and it was further enacted that all the Services of Plate and China, Jewels, Pictures, Statues and other Articles which should, by any deed or deeds executed by the said Duke of Wellington, be assigned by him to the trustees of the Parliamentary Estate should be held by the said trustees upon trust, so long as the said Title, Honour and Dignity of Duke of Wellington should 1839 c. 4.

endure to permit the same to go and be held and enjoyed with the Mansion House and Estates purchased by virtue of the Powers of the hereinbefore recited Acts by the Persons who for the time being should be entitled to such Mansion House and Estates under the Limitations directed by the said recited Acts and so long as aforesaid it should not be lawful for the Duke of Wellington for the time being to alienate, charge or dispose of the said Services of Plate and China, Jewels, Pictures, Statues and other Articles; or any of them, or any part thereof:

(10) The descendants of the said Arthur Wellesley, Duke of Wellington, have in a regular course of successions taken, held and enjoyed the Parliamentary Estate as tenants in tail and as hereinafter recited Arthur Valerian Wellesley eighth Duke of Wellington is now tenant in tail in possession thereof:

(11) The state of the family of the descendants of the said Arthur Wellesley, Duke of Wellington, so far as the same appears material for the purposes of this Act is as follows (that is to say):—

- (a) Arthur, first Duke of Wellington, died in the year eighteen hundred and fifty-two having had issue two children and no more namely, a son Arthur Richard, second Duke of Wellington, and a son Charles who died in the year eighteen hundred and fifty-eight having had issue (beside his first son who died in infancy without issue) five children and no more;
- (b) The said Arthur Richard, second Duke of Wellington, died in the year eighteen hundred and eighty-four without having had issue, and Henry (the second son of the said Charles), third Duke of Wellington succeeded on the death of Arthur Richard to the dukedom and to the Parliamentary Estate and died in the year nineteen hundred without having had issue;
- (c) On the death of the said Henry, third Duke of Wellington, Arthur Charles (the third son of the said Charles), fourth Duke of Wellington succeeded to the dukedom and to the Parliamentary Estate;
- (d) The said Arthur Charles, fourth Duke of Wellington, died in the year nineteen hundred and thirty-four having had issue six children and no more namely, two daughters Evelyn Kathleen and Eileen (both of whom are long since dead but had issue now living), a son Richard (also long since dead having had issue now living but no issue Male), a son Arthur Charles, fifth Duke of Wellington, a son Gerald and a son George who died in the year nineteen hundred and sixty-eight having had issue Male, one son Richard and no more;

- (e) On the death of his father the said Arthur Charles, fifth Duke of Wellington, succeeded to the dukedom and to the Parliamentary Estate and died in the year nineteen hundred and forty-one having had issue two children and no more namely, a daughter Anne Maud and a son Henry Valerian, sixth Duke of Wellington who on the death of his father succeeded to the dukedom and to the Parliamentary Estate and died unmarried in the year nineteen hundred and forty-three;
- (f) On the death of the said Henry Valerian, sixth Duke of Wellington, Gerald (the third son of the said Arthur Charles, the fourth Duke) succeeded to the dukedom and to the Parliamentary Estate;
- (g) The said Gerald, seventh Duke of Wellington died on the 4th January nineteen hundred and seventy-two during the consideration by Parliament of the Bill for this Act, having had issue two children and no more namely, a son Arthur Valerian and a daughter Elizabeth who has had issue three children and no more and on the death of his father the said Arthur Valerian eighth Duke of Wellington succeeded to the dukedom and to the Parliamentary Estate;
- (h) The said Arthur Valerian eighth Duke of Wellington is the present Duke who married Diana Ruth and has had issue five children namely, a son Arthur Charles Valerian unmarried Heir Apparent of the said Duke, a son Richard Gerald unmarried, and a daughter Caroline Jane unmarried and two sons John Henry and James Christopher Douglas infants and unmarried:

(12) On the 2nd day of November nineteen hundred and seventy-one the following persons and their issue hereinafter in this recital named appeared to be the only living male descendants of the said Arthur Wellesley, tracing descent exclusively through his issue Male and so capable of inheriting both the Parliamentary Estate under the Limitations of the hereinbefore recited Acts and the Title, Honour and Dignity of Duke of Wellington pursuant to the Limitation of the Letters Patent, namely that to the heirs Male of the Body of the said Arthur Wellesley and such of the said descendants as were then under the age of eighteen years were born on the respective dates specified in this recital as follows (that is to say):—

- (a) Gerald, the seventh Duke of Wellington;
- (b) Arthur Valerian the eighth and present Duke, who has four sons, namely:—
 - (i) Arthur Charles Valerian;

(ii) Richard Gerald;

(iii) John Henry born on the 20th day of April nineteen hundred and fifty-four; and

(iv) James Christopher Douglas born on the 16th day of December nineteen hundred and sixty-five; and

(c) Richard Wellesley who is the cousin of the present Duke and who has two sons, namely:—

(i) Charles born on the 21st day of October nineteen hundred and fifty-five; and

(ii) John born on the 25th day of January nineteen hundred and sixty-two:

(13) (a) In pursuance of the powers contained in the Act of 1839 the said Gerald the seventh Duke by a deed dated the 18th day of November nineteen hundred and sixty-eight appointed an annuity of Two thousand five hundred pounds of Money to be paid to the said Diana Ruth during her widowhood if she survives the present Duke and the said Diana Ruth is the only person now entitled to a Jointure;

(b) Immediately prior to the death of the seventh Duke in accordance with the provisions of the Estate Acts the present Duke and his sister Elizabeth were the only persons then in existence who were beneficially interested in the Moneys arising from the sale of timber sold during the lifetime of the seventh Duke and in view of all the circumstances it was agreed that the said Elizabeth should receive the sum of £10,000 in lieu of her entitlement;

(c) In accordance with the provisions of the Estate Acts the present Duke and the said Richard Gerald, the said Caroline Jane the said John Henry and the said James Christopher Douglas are the only persons now in existence who are beneficially interested in the Moneys arising from the sale of timber which may be sold during the lifetime of the present Duke:

(14) It is expedient to make provision against the ultimate fragmentation of the Parliamentary Estate, to make it possible for the tenant for life to raise out of the said Estate the sums required for the improvement, modernisation and ordinary maintenance of the manors, lands, tenements and hereditaments comprised therein and to make it possible for the tenant for life to provide a jointure and portions for his widow and younger children. At present the expediencies hereinbefore referred to

cannot be achieved due to the restrictive provisions contained in the hereinbefore recited Acts, which are obsolete and unsuited to modern conditions:

(15) The Variation of Trusts Act 1958 empowered the court 1958 c. 53. *inter alia* to approve on behalf of any infant or any unborn person any arrangement varying or revoking all or any of the trusts of any settlement or enlarging the powers of the trustees of managing or administering any of the property subject to the trusts of such settlement, but by subsection (5) of section 1 of the said Act it was provided that the provisions thereof should not apply to trusts affecting property settled by Act of Parliament:

(16) It is believed that the proposals contained in this Act for the appropriation of the Parliamentary Estate would receive the approval of the court pursuant to the said Act of 1958 if—

- (a) the court had jurisdiction to approve such proposals; and
- (b) the restrictions contained in the hereinbefore recited Acts preventing the alienation of or the barring of the entail affecting the Parliamentary Estate were removed:

(17) It is further expedient that the said restrictions should be removed and that in order to preserve and enhance the Parliamentary Estate, the said Estate should be administered in accordance with such provisions as are in this Act provided:

(18) (a) The Wellington Museum Act 1947 provided, *inter alia*, that on any change taking place in the person holding office as the First Lord of the Treasury, the Chancellor of the Exchequer or the Speaker of the House of Commons the interest vested under or by virtue of the Estate Acts in the person who ceased to hold office should by virtue of section 9 of the said Act of 1947 devolve on his successor without the need for any vesting deed or other conveyance;

(b) The First Lord of the Treasury, the Chancellor of the Exchequer and the Speaker of the House of Commons have decided to retire as the trustees of the Parliamentary Estate and it is further expedient that such provision should be made for the retirement, and the appointment, of trustees as is hereinafter described and that the said section 9 should be repealed:

(19) It is further expedient for the better and more convenient management of the Duke's Settled Estate, the Duke's Personal Estate and the Resettled Estate (as hereinafter defined in this Act) that the powers set forth in this Act shall be applicable to the said Estates:

(20) The objects of this Act cannot be attained without the authority of Parliament:

Therefore Your Majesty's most dutiful and loyal subjects Arthur Valerian Wellesley and Arthur Charles Valerian Wellesley 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 (that is to say):—

- Short title. 1. This Act may be cited as the Wellington Estate Act 1972.
- Interpretation and application of enactments. 2.—(1) In this Act unless the context otherwise requires the expressions have the meanings hereby assigned to them respectively as follows (that is to say):—
- 1812 c. 4. “ the Act of 1812 ” means the recited Act of the fifty-third year of the reign of King George the Third;
- 1813 c. 133. “ the Act of 1813 ” means the second recited Act of the fifty-third year of the reign of King George the Third;
- 1814 c. 161. “ the Act of 1814 ” means the recited Act of the fifty-fourth year of the reign of King George the Third;
- 1815 c. 186. “ the Act of 1815 ” means the recited Act of the fifty-fifth year of the reign of King George the Third;
- 1819 c. 21. “ the Act of 1819 ” means the recited Act of the fifty-ninth year of the reign of King George the Third;
- 1819 c. 63. “ the second Act of 1819 ” means the second recited Act of the fifty-ninth year of the reign of King George the Third;
- 1839 c. 4. “ the Act of 1839 ” means the recited Act of the second year of the reign of Queen Victoria;
- “ the Duke's Settled Estate ” means the lands, buildings, powers, rights and the heirlooms as more particularly set out in Part I of Schedule 1 to this Act and the property for the time being representing the same;
- “ the Estate Acts ” means the Act of 1812, the Act of 1813, the Act of 1814, the Act of 1815, the Act of 1819, the second Act of 1819, and the Act of 1839 or any of them;
- “ the heirlooms ” means the Services of Plate and China, Jewels, Pictures, Statues and other Articles which are more particularly enumerated in schedule B;

- “ the Marquess ” means the Honourable Arthur Charles Valerian Wellesley commonly called the Marquess Douro;
- “ the Duke’s Personal Estate ” means that part of the Residuary Estate as more particularly set out in Part II of Schedule 1 to this Act, and the property for the time being representing the same;
- “ the Parliamentary Estate ” means the manors, lands, tenements and hereditaments together with the capital moneys, investments, the heirlooms and other property which immediately before the passing of this Act are comprised in or subject to the trusts of the Parliamentary Settlement;
- “ the Parliamentary Settlement ” means the Settlement subsisting by virtue of the Estate Acts;
- “ plan A ”, “ plan B ”, “ plan C ” means the plans marked A, B and C respectively and signed in triplicate by the Right Honourable the Earl of Listowel, Chairman of Committees of the House of Lords, and of each of which—
- (a) one copy has been deposited in the Office of the Clerk of the Parliaments House of Lords;
 - (b) one copy has been deposited in the Private Bill Office of the House of Commons;
 - (c) one copy has been retained by the present Duke and the Marquess;
- “ the present Duke ” means the Most Noble Arthur Valerian eighth Duke of Wellington;
- “ the Resettled Estate ” means the Residuary Estate, other than the Duke’s Personal Estate, as more particularly set out in Part III of Schedule 1 to this Act and the property for the time being representing the same;
- “ the Residuary Estate ” means the Parliamentary Estate, other than the Duke’s Settled Estate and the property for the time being representing the same;
- “ schedule A ”, “ schedule B ”, “ schedule C ”, “ schedule D ” means the schedules marked A, B, C and D respectively in the book of schedules each signed in triplicate by the Right Honourable the Earl of Listowel, Chairman of Committees of the House of Lords, and of each of which—
- (a) one copy has been deposited in the Office of the Clerk of the Parliaments House of Lords;
 - (b) one copy has been deposited in the Private Bill Office of the House of Commons;

(c) one copy has been retained by the present Duke and the Marquess;

“the trustees of the Duke’s Settled Estate” means the Honourable Peter Francis Walter Kerr, the Marquess of Lothian, the Honourable Charles Edward Peter Neil Wood commonly called Lord Irwin and John Rupert Colville or other the trustees or trustee for the time being of the Settlement of the Duke’s Settled Estate effected by section 4 (Settlements of the various Estates) of this Act;

“the trustees of the Duke’s Personal Estate” means the Honourable Peter Francis Walter Kerr, the Marquess of Lothian, the Honourable Charles Edward Peter Neil Wood commonly called Lord Irwin and John Rupert Colville or other the trustees or trustee for the time being of the Settlement of the Duke’s Personal Estate effected by section 4 (Settlements of the various Estates) of this Act;

“the trustees of the Parliamentary Estate” means the Prime Minister or the First Lord Commissioner of the Treasury, the Chancellor of the Exchequer, the Speaker of the House of Commons for the time being respectively, and Arthur Walter James or other the trustees or trustee for the time being of the Parliamentary Settlement;

“the trustees of the Resettled Estate” means the Honourable Peter Francis Walter Kerr, the Marquess of Lothian, the Honourable Charles Edward Peter Neil Wood commonly called Lord Irwin and John Rupert Colville or other the trustees or trustee for the time being of the Settlement of the Resettled Estate effected by section 4 (Settlements of the various Estates) of this Act.

1969 c. 46.

(2) Section 15 (1) of the Family Law Reform Act 1969 shall not apply to any dispositions made by this Act.

(3) Any reference in this Act to any Act shall be construed as a reference to that Act as applied, extended, amended or varied by or by virtue of any subsequent Act, including this Act.

Repeal of enactments.

3.—(1) The Estate Acts are hereby repealed and as from the passing of this Act the Parliamentary Estate shall be held upon the trusts set forth in this Act freed and discharged from the trusts previously subsisting under the Parliamentary Settlement

1947 c. 46.

(2) Section 9 of the Wellington Museum Act 1947 is hereby repealed.

4.—(1) As from the passing of this Act the Parliamentary Settlements Estate shall be partitioned and appropriated as follows (that is of the various Estates. to say):—

- (a) the Duke's Settled Estate shall be held upon the trusts and with and subject to the powers and provisions set forth in Schedule 2 to this Act;
- (b) the Duke's Personal Estate shall be held upon the trusts and with and subject to the powers and provisions set forth in Schedule 3 to this Act; and
- (c) the Resettled Estate shall be held upon the trusts and with and subject to the powers and provisions set forth in Schedule 4 to this Act:

Provided always that any income of the Parliamentary Estate or any part thereof accruing before but not received until after the passing of this Act shall be treated as accruing at the date of receipt and no part thereof shall be apportioned pursuant to the Apportionment Act 1870 or otherwise but nothing in this proviso shall affect the right of the present Duke to receive three-quarters of all royalties payable in respect of mines or minerals forming part of the Parliamentary Estate which accrued prior to the passing of this Act whensoever the same may be paid. 1870 c. 35.

(2) The provisions of section 18 of the Fines and Recoveries Act 1833 shall not apply to any tenant in tail of the Resettled Estate or any part thereof but the power of disposition conferred by section 15 of the said Act shall only be exercisable with the consent in writing of the Public Trustee who shall be entitled to act for this purpose and to charge and be paid his reasonable and proper costs and expenses for so acting. 1833 c. 74.

5.—(1) As from the passing of this Act the present trustees of the Parliamentary Estate shall be discharged from the trusteeship of the Parliamentary Settlement and the said trustees and any previous trustees thereof shall not be accountable for any estate duty tax or other fiscal impositions relating to the Parliamentary Estate or any part thereof and they are hereby released from any actions, proceedings, claims and demands arising out of or in any way connected with the administration of the Parliamentary Settlement. Provisions relating to trustees of the various Estates and their powers.

(2) As from the passing of this Act—

- (a) the trustees of the Duke's Settled Estate shall be the trustees of the Duke's Settled Estate for all the purposes of the trusts affecting the same (including the purposes of the Settled Land Act 1925); 1925 c. 18.
- (b) the trustees of the Duke's Personal Estate shall be the trustees of the Duke's Personal Estate for all the purposes of the trusts affecting the same;

(c) the trustees of the Resettled Estate shall be the trustees of the Resettled Estate for all the purposes of the trusts affecting the same.

(3) As from the passing of this Act the trustees of the Duke's Settled Estate, the trustees of the Duke's Personal Estate and the trustees of the Resettled Estate shall have the powers set forth in Schedule 5 to this Act in addition to or in extension of the powers conferred on them respectively by any other Act.

(4) On the passing of this Act all estates, interests and rights which immediately before such passing were vested in the trustees of the Parliamentary Estate as such shall vest in the trustees of the Duke's Settled Estate, the trustees of the Duke's Personal Estate or the trustees of the Resettled Estate as the case may be.

(5) The trustees of the Duke's Settled Estate, the trustees of the Duke's Personal Estate and the trustees of the Resettled Estate and each of them and their respective estates shall save harmless and keep indemnified the trustees of the Parliamentary Estate and each of them and their respective estates against all actions, proceedings, claims and demands whatsoever and from all costs, damages and expenses in respect of the property at the passing of this Act or at any time previously thereto subject to the trusts of the Parliamentary Settlement or any part thereof or anything done or omitted by the trustees of the Parliamentary Estate or any of them in the execution of the trusts of the Parliamentary Settlement or anything in anywise relating to the premises

Act not to affect title to dukedom, etc.

6. Nothing in this Act contained shall prejudice or affect—

- (a) the Title Name and Dignity of the Duke of Wellington which Title Name and Dignity shall continue to devolve under the limitations of the Letters Patent dated the 11th day of May eighteen hundred and fourteen whether or not the property by the Estate Acts expressed to be annexed to the said Title Name and Dignity of Duke of Wellington shall continue to be so annexed;
- (b) any obligation of the present Duke and his Heirs under section 9 of the Act of 1815 to render to Her Majesty Her Heirs and Successors, on the 18th day of June in every year at the Castle of Windsor, one tri-coloured flag for all manner of rents, services, exactions and demands whatever.

General saving.

7. Saving always to the Queen's most Excellent Majesty Her heirs and successors and to all persons and bodies politic and corporate and their respective heirs successors executors and administrators (other than and except the persons mentioned in section 8 (Exceptions from general saving) of this Act) all such

estates right title interest claim and demand whatsoever of in to or out of the Parliamentary Estate as they or any of them had before the passing of this Act or could or might have enjoyed if this Act had not been passed.

8. The following persons are excepted from the general saving aforesaid that is to say:—

Exceptions
from general
saving.

- (1) the present Duke;
- (2) the Marquess;
- (3) the Honourable Richard Gerald Wellesley;
- (4) the Honourable Caroline Jane Wellesley;
- (5) the Honourable John Henry Wellesley;
- (6) the Honourable James Christopher Douglas Wellesley;
- (7) the Honourable Diana Ruth Wellesley, the wife of the present Duke;
- (8) any child hereafter born of the present Duke;
- (9) the Honourable Elizabeth Clyde;
- (10) all others the heirs of the body of Arthur Wellesley first Duke of Wellington and all others his heirs and assigns;
- (11) the trustees of the Parliamentary Estate, the trustees of the Duke's Settled Estate, the trustees of the Duke's Personal Estate and the trustees of the Resettled Estate;
- (12) any person entitled under the Will of the said first Duke of Wellington to any interest in the Parliamentary Estate.

9. This Act shall not be a public Act but shall be printed by the several printers to the Queen's most Excellent Majesty duly authorised to print the statutes of the United Kingdom and a copy thereof so printed by any of them shall be admitted to evidence thereof by all judges justices and others.

Act not
public but to
be evidence.

10. The trustees of the Duke's Personal Estate shall raise pay and defray out of the Duke's Personal Estate the costs charges and expenses of all parties concerned of and incidental to the negotiations for, preparation of and applying for and obtaining this Act and of carrying this Act into effect.

Costs of
Act out of
Duke's
Personal
Estate.

SCHEDULES

Section 2.

SCHEDULE 1**PART I****PROPERTY COMPRISING THE DUKE'S SETTLED ESTATE**

The Duke's Settled Estate comprises all those pieces of land which are more particularly enumerated and described as the Duke's Estate in schedule A and are by way of further identification delineated and described as the Duke's Estate on plan A and thereon edged with a red verge line and coloured pink together with the Mansion House known as Stratfield Saye House and the other buildings and erections on the said pieces of land subject nevertheless to the right for the person or persons from time to time entitled to possession of the Residuary Estate and all persons authorised by him or them to pass and repass at all times (and with or without animals or vehicles) over and along all roads drives and paths comprised in the said property hereinbefore described in this Schedule and Together also with all advowsons and rights of presentation of which the present Duke was tenant in tail Male under or by virtue of or by reference to the Estate Acts or assurances to the uses upon the trusts or for the purposes of the Estate Acts and together also with the heirlooms.

PART II**PROPERTY COMPRISING THE DUKE'S PERSONAL ESTATE**

The Duke's Personal Estate comprises the property which is more particularly enumerated and described as the Marquess's Estate in schedule C and which in the case of land is by way of further identification delineated and described as the Marquess's Estate on plan B and thereon edged with a blue verge line and coloured blue.

PART III**PROPERTY COMPRISING THE RESETTLED ESTATE**

The Resettled Estate comprises—

- (a) the property which is more particularly enumerated in schedule D and which in the case of land is by way of further identification delineated on plan C and thereon edged with a green verge line and coloured green: and
- (b) all other (if any) the property comprised in the Parliamentary Estate which is not enumerated in any of the said schedules A, B, C and D.

SCHEDULE 2

Section 4.

SETTLEMENT OF THE DUKE'S SETTLED ESTATE

1. In this Schedule the expression "the trustees" means the trustees of the Duke's Settled Estate or, where the context so requires, the trustees of the Resettled Estate.

2. As from the passing of this Act the Duke's Settled Estate shall be held upon the trusts, as follows, that is to say:—

(a) upon trust for the present Duke during his life without impeachment for waste, and from and after his death;

(b) upon trust to transfer the Duke's Settled Estate to the trustees of the Resettled Estate to the intent that the same shall thenceforth form part of the Resettled Estate and be held upon the trusts and with and subject to the powers and provisions declared in Schedule 4 to this Act concerning the Resettled Estate so far as such trusts powers and provisions are then subsisting.

3. The heirlooms shall not be subject to any power of charging conferred by this Act.

4. During the life of the present Duke, a sale of the heirlooms or any of them and a purchase of other chattels may be made by the present Duke with the consent of the trustees without any order of the court and after the death of the present Duke any such sale or purchase may be made by the trustees without the consent of any other person and without any order of the court.

5. The present Duke during his life with the consent of the trustees and after the death of the present Duke, the trustees in their absolute discretion may make such arrangements for the custody insurance and repair of the heirlooms as he or they may think fit and he or they shall be in no way liable for any loss damage or depreciation which may result from any exercise of his or their powers hereunder and any expenses incurred in connection with the exercise of such powers may be paid out of the capital or income of the Duke's Settled Estate or the Resettled Estate (as the case may be) as the trustees shall think fit.

6. The power of appointing a new trustee or new trustees of the Duke's Settled Estate shall be vested in the present Duke during his life.

Section 4.

SCHEDULE 3

SETTLEMENT OF THE DUKE'S PERSONAL ESTATE

1. In this Schedule the expressions have the meanings hereby assigned to them respectively as follows (that is to say):—

“ the Honourable Diana Ruth Wellesley's fund ” means the sum of £20,000 specified in sub-paragraph (b) of paragraph 2 of this Schedule and the property for the time being representing the same;

“ the Honourable Elizabeth Clyde's fund ” means the sum of £10,000 specified in sub-paragraph (c) of paragraph 2 of this Schedule and the property for the time being representing the same;

“ the Duke's Personal fund ” means the Duke's Personal Estate other than the present Duke's younger children's fund, the Honourable Diana Ruth Wellesley's fund and the Honourable Elizabeth Clyde's fund and the property for the time being representing the same;

“ the present Duke's younger children ” means the children of the present Duke whether born before or after the passing of this Act but excluding the Marquess;

“ the present Duke's younger children's fund ” means the sum of £20,000 specified in sub-paragraph (a) of paragraph 2 of this Schedule together with any accumulations which may be added thereto pursuant to paragraph 3 of Schedule 4 to this Act and the property for the time being representing the same respectively;

“ the trustees ” means the trustees of the Duke's Personal Estate or, in sub-paragraph (b) of paragraph 7 of this Schedule, the trustees of the Resettled Estate.

2. On or as soon as practicable after the passing of this Act the trustees shall raise out of the Duke's Personal Estate the following (that is to say):—

(a) a sum of £20,000 clear of all deductions to constitute the present Duke's younger children's fund;

(b) a sum of £20,000 clear of all deductions to constitute the Honourable Diana Ruth Wellesley's fund; and

(c) a sum of £10,000 clear of all deductions to constitute the Honourable Elizabeth Clyde's fund.

3. The trustees shall invest the present Duke's younger children's fund in or upon any of the investments authorised by Schedule 5 to this Act.

4. The trustees shall stand possessed of the present Duke's younger children's fund and the income thereof upon the like trusts as are by sub-paragraphs (b) (c) (d) and (e) of paragraph 5 of Schedule 4 to this Act declared as if such trusts were herein repeated with the substitution of references to the present Duke for references to the parent.

5. The trustees shall stand possessed of the Honourable Diana Ruth Wellesley's fund in trust for the present Duke's wife, the said the Honourable Diana Ruth Wellesley absolutely.

6. The trustees shall stand possessed of the Honourable Elizabeth Clyde's fund in trust for the present Duke's sister, the said the Honourable Elizabeth Clyde absolutely.

7. The trustees shall stand possessed of the Duke's Personal fund upon the trusts and with and subject to the powers and provisions as follows (that is to say):—

(a) the trustees shall stand possessed of the Duke's Personal fund upon trust to sell the same (but during the life of the present Duke only with his consent in writing) with full power to postpone such sale and to invest the net proceeds of any such sale in or upon any of the investments authorised by Schedule 5 to this Act:

(b) if the present Duke shall on or within three months after the passing of this Act effect at his own expense a single premium policy of assurance in the names of the trustees with insurers and in a form approved by the trustees assuring the payment to the trustees in the event of the death of the present Duke within a period of seven years after the date when such policy shall be effected of the sums as follows (that is to say):—

(i) if such death shall occur within the first four years of such period the sum of £775,000;

(ii) if such death shall occur within the fifth year of such period the sum of £650,000;

(iii) if such death shall occur within the sixth year of such period the sum of £530,000;

(iv) if such death shall occur within the seventh year of such period the sum of £310,000;

and a further single premium policy of assurance in the names of the trustees with insurers and in a form approved by the trustees assuring the payment to the trustees on the death of the Marquess, in the event of his pre-deceasing the present Duke of the sum of £450,000 then, as from the date on which the second of such policies to be effected is so effected, the trustees shall stand possessed of the Duke's Personal fund subject to the payment thereof of the costs charges and expenses of this Act in accordance with section 10 (Costs of Act out of Duke's Personal Estate) of this Act upon trust for the present Duke absolutely:

(c) in default of and subject to and until both of such policies shall have been so effected the Duke's Personal fund shall be held:—

(i) upon trust to raise thereout and pay to the present Duke the certified cost of all authorised improvements or other works on any land comprised in the Duke's Personal Estate which have been or shall be paid for by the present Duke and in respect of which the present Duke has not received any payment from the trustees of the Parliamentary Estate:

SCH. 3
—cont.

Provided always that the present Duke shall account to the trustees for all sums received or to be received by him (otherwise than from the trustees) pursuant to any statute in respect of such improvements or works;

(ii) subject thereto upon trust for the present Duke during his life without impeachment of waste;

(iii) subject thereto upon the trusts which under Schedule 4 to this Act are for the time being applicable to the Resettled Estate:

- (d) the two said policies of assurance and the income (if any) thereof respectively shall be held upon the trusts and with and subject to the powers and provisions set out in Schedule 4 to this Act concerning the Resettled Estate and the income thereof.

Section 4.

SCHEDULE 4

SETTLEMENT OF THE RESETTLED ESTATE

1. In this Schedule the expressions have the meanings hereby assigned to them respectively as follows (that is to say):—

“annual date” means the 1st day of January in any year;

“life tenant” means the person who under the trusts hereinafter contained is for the time being (or would be apart from any assignment surrender release or other disposition of his or her interest) entitled in possession as tenant for life or tenant in tail to the rents profits or income (so far as not accumulated) of the Resettled Estate;

“the present Duke’s younger children’s fund” means the present Duke’s younger children’s fund as defined in Schedule 3 to this Act;

“the net income of the Resettled Estate” for any period means the rents profits or income of the Resettled Estate (excluding any part of the Duke’s Settled Estate which may for the time being form part of the Resettled Estate) received or receivable by the trustees during that period after deducting the outgoings paid or payable during the said period and provided always that as regards any part of the Resettled Estate (excluding as aforesaid) which may for the time being be in hand the trustees shall be deemed to have received a rent equal to the full market rental as certified by a competent surveyor instructed for this purpose by the trustees;

“outgoings” means such of the following items as shall between the life tenant and the persons entitled in remainder be properly charged against the rents profits or income of the Resettled Estate (excluding any part of the Duke’s Settled Estate which may for the time being form part of the Resettled Estate) namely all interest and annual charges and payments which are or shall be charged on the capital of the Resettled Estate (excluding as aforesaid) or any part thereof and also all rates taxes and assessments (other than income tax and surtax) payable on or in respect of the Resettled Estate (excluding as aforesaid) and all expenses incurred for repairs

insurance or preservation of the Resettled Estate (excluding as aforesaid) including reasonable expenses of management;

“ the trustees ” means the trustees of the Resettled Estate;

“ younger child ” or “ younger children ” means any child or children (as the case may be) other than any and every son who before attaining the age of 21 years shall inherit, or be or become heir apparent to, the Dukedom of Wellington.

SCH. 4
—cont.

2. The trustees shall stand possessed of the Resettled Estate upon trust to sell the same with full power to postpone such sale and shall invest the net proceeds of any such sale in any investments authorised by this Act.

3. As from the passing of this Act the trustees shall (subject as hereinafter provided) accumulate one-tenth of the net income of the Resettled Estate in the way of compound interest by investing the same and the resulting income thereof in or upon any investments authorised by this Act and shall hold such accumulations and the property for the time being representing the same (hereinafter called “ the portions accumulations fund ”) upon trust to raise thereout in manner hereinafter directed portions for the following persons in the following order of priority:—

- (a) a portion of £55,000 to be paid and transferred to the present Duke's younger children's fund;
- (b) portions of £75,000 for the younger children of each life tenant, the younger children of each life tenant having priority over the younger children of his successors as life tenant.

4. If and so often as on any annual date the portions accumulations fund (after providing for the sum of £55,000 mentioned in paragraph 3 of this Schedule) shall have a value of £75,000 or more the trustees shall raise thereout the sum of £75,000 as a portion for the younger children of the first life tenant for whose younger children a portion has not already been raised and shall hold the same upon the trusts declared by paragraph 5 of this Schedule.

5. The trustees shall hold the portion of the younger children of a life tenant (hereinafter in this paragraph called “ the parent ”) upon trust to invest the same in or upon any investments authorised by this Act and shall hold the same and the income thereof upon the following trusts:—

- (a) if and so long during the lifetime of the parent as he shall have no younger child living and no younger child shall have died after attaining a vested interest, upon trust to accumulate the income thereof in the way of compound interest by investing the same and the resulting income thereof and to hold such accumulations as an accretion to the capital thereof;
- (b) subject thereto upon trust for all or such one or more exclusively of the others or other of the younger children of the parent or their respective issue at such age or time or respective ages or times if more than one in such shares and with such trusts for their respective benefit and such provisions for their respective advancement (either after the death of the parent

SCH. 4
—cont.

or during his life with his consent) and maintenance and education at the discretion of the trustees or of any other person or persons as the parent shall by any deed or deeds revocable or irrevocable or by will or codicil appoint;

(c) subject to and in default of and until any such appointment in trust for such of the younger children of the parent as have attained or shall attain the age of 21 years or have married or shall marry under that age and if more than one in equal shares;

(d) no younger child who or whose issue shall take any part of the portion under an appointment by virtue of the power hereinbefore contained shall in default of appointment to the contrary be entitled to any share of the portion without bringing the share or shares appointed to him or her or to his or her issue into hotchpot and accounting for the same accordingly;

1925 c. 19.

(e) sections 31 and 32 of the Trustee Act 1925 shall apply to the portion;

(f) subject thereto upon the trusts declared by paragraph 11 of this Schedule concerning the Resettled Estate.

6.—(a) The trustees shall have power with the consent of the life tenant to raise any portion authorised by paragraph 3 (b) of this Schedule by raising from the capital of the Resettled Estate such sum as when added to the property then comprised in the portions accumulations fund is sufficient to satisfy such portion and shall forthwith hold such portion on the trusts declared by paragraph 5 of this Schedule.

(b) When and so often as the power contained in sub-paragraph (a) of this paragraph is exercised the trustees shall thereafter instead of accumulating the same apply the one-tenth of the net income of the Resettled Estate mentioned in paragraph 3 of this Schedule in recouping to the capital of the Resettled Estate the sum raised thereout until such sum has been wholly repaid (but without interest).

7. If at any time portions have been raised for the younger children of all life tenants who have been in possession of the Resettled Estate (including the life tenant then in possession) the accumulation directed by paragraph 3 of this Schedule shall cease until the death of the person who is at that time life tenant in possession.

8. In the event of the execution by a tenant in tail of a disentailing deed effective to bar his or her entailed interest in the Resettled Estate—

(a) the accumulation directed by paragraph 3 of this Schedule shall cease except so far as necessary to provide a portion or portions for younger children of a life tenant or life tenants having priority to the younger children of the person so disentailing; and

(b) any property remaining in the portions accumulations fund and not required to satisfy the portion or portions of younger children having such priority as aforesaid shall fall into the capital of the Resettled Estate and be held upon the trusts for the time being applicable thereto.

9. Subject as aforesaid the trustees shall hold the Resettled Estate upon the trusts as follows (that is to say):—

SCH. 4
—cont.

- (a) upon trust to raise thereout and pay all costs, charges and expenses of the trustees of the Parliamentary Estate relating to the administration of that Estate which have not been paid before the passing of this Act;
- (b) subject thereto upon trust to raise thereout and pay to the present Duke the certified cost of all authorised improvements or other works on any land comprised in the Resettled Estate which have been or shall be paid for by the present Duke and in respect of which the present Duke has not received any payment from the trustees of the Parliamentary Estate:

Provided always that the present Duke shall account to the trustees for all sums received or to be received by him (otherwise than from the trustees) pursuant to any statute in respect of such improvements or works.

10. Subject as aforesaid the trustees may at any time or times prior to the expiration of 21 years from the passing of this Act accumulate the whole or any part of the income of the Resettled Estate in the way of compound interest by investing the same and the resulting income thereof from time to time in any investments authorised by this Act and so that all such accumulations shall be held as if the same were capital moneys arising from a sale of part of the Resettled Estate and as an accretion to the capital thereof.

11. Subject as aforesaid, the Resettled Estate shall be held upon the trusts and with and subject to the powers and provisions as follows (that is to say):—

- (a) upon trust for the Marquess during his life;
- (b) subject as aforesaid upon trust for the first and other sons of the Marquess who shall attain the age of 21 years or marry under that age successively according to seniority in tail Male;
- (c) subject as aforesaid upon trust for the Honourable Richard Gerald Wellesley during his life;
- (d) subject as aforesaid upon trust for the first and other sons of the Honourable Richard Gerald Wellesley who shall attain the age of 21 years or marry under that age successively according to seniority in tail Male;
- (e) subject as aforesaid upon trust for the Honourable John Henry Wellesley during his life;
- (f) subject as aforesaid upon trust for the first and other sons of the Honourable John Henry Wellesley who shall attain the age of 21 years or marry under that age successively according to seniority in tail Male;
- (g) subject as aforesaid upon trust for the Honourable James Christopher Douglas Wellesley during his life;
- (h) subject as aforesaid upon trust for the first and other sons of the Honourable James Christopher Douglas Wellesley who shall attain the age of 21 years or marry under that age successively according to seniority in tail Male;

SCH. 4
—cont.

- (i) subject as aforesaid upon trust for the fifth and every other son of the present Duke successively according to seniority in tail Male;
- (j) subject as aforesaid upon trust for Richard Wellesley during his life;
- (k) subject as aforesaid upon trust for Charles Wellesley during his life;
- (l) subject as aforesaid upon trust for the first and other sons of Charles Wellesley who shall attain the age of 21 years or marry under that age successively according to seniority in tail Male;
- (m) subject as aforesaid upon trust for John Wellesley during his life;
- (n) subject as aforesaid upon trust for the first and other sons of John Wellesley who shall attain the age of 21 years or marry under that age successively according to seniority in tail Male;
- (o) subject as aforesaid upon trust for the third and every other son of Richard Wellesley successively according to seniority in tail Male;
- (p) subject as aforesaid upon trust for all or any such daughters or daughter of any heir male of the body of Arthur Wellesley first Duke of Wellington or all or any the descendant or descendants of such daughters who shall be living at the time of the failure of the limitations hereinbefore contained and who shall attain or who have attained the age of 21 years or being female shall marry or have married under that age as tenants in common in tail with cross remainders between such daughters or descendants if more than one and if there shall be only one such daughter or descendant then in trust for such daughter or descendant absolutely;
- (q) subject as aforesaid upon trust that the Resettled Estate shall devolve as if it had formed part of the real estate of the said first Duke of Wellington at his death.

12. The trustees shall have power in their discretion from time to time during the lifetime of the Marquess and upon his request in writing to raise out of the capital of the Resettled Estate and pay to him for his own use and benefit any sum or sums not exceeding in aggregate the sum of £125,000.

13.—(a) It shall be lawful for each life tenant either before or after he shall become entitled in possession (but subject to all interests and powers having priority to or overreaching his life interest and subject also as hereinafter provided) at any time or times either before or after his marriage or remarriage by any deed or deeds revocable or irrevocable or by will or codicil to appoint to or for the benefit of any

woman who shall be his wife at his death during her life after his death or any less period and subject to any condition or restriction which he may think fit an annuity or annuities not exceeding in the whole in any calendar year the maximum annual sum as hereinafter defined.

SCH. 4
—cont.

(b) For the purposes of the power lastly hereinbefore contained the maximum annual sum shall mean (subject as hereinafter provided) a sum certified by a qualified accountant instructed for this purpose by the trustees to be equal to 20 per centum of the average net annual income of the Resettled Estate during the three calendar years immediately preceding the year during which such annuity is payable or during such part of the said three-year period as falls after the passing of this Act:

Provided always that—

(a) the maximum annual sum shall in any event not be less than £3,500; and

(b) the Resettled Estate or any part thereof shall not be at any one time subject to annuities appointed under the power hereinbefore contained which in the whole shall be in excess of an annual sum equal to 30 per centum of the average net annual income of the Resettled Estate during the three calendar years immediately preceding the year in which such annuities are payable or during such part of the said three-year period as falls after the passing of this Act and any annuity or part of an annuity which but for this proviso would from time to time have occasioned or formed such excess shall not during the continuance of such excess be raisable out of the Resettled Estate or any part thereof and the several annuities appointed shall have the like priority as the interests of the appointors thereof.

14. No jointure appointed by any person under the power conferred by paragraph 13 of this Schedule shall take effect unless and until either the person appointing the same shall be or become or some issue of such person shall become or if of full age would have become the life tenant.

15. The trustees shall be the trustees for all purposes of this Settlement of the Resettled Estate and while there shall be any life tenant of full age the statutory power of appointing new trustees of the said Settlement shall apply and be vested in such life tenant.

16. Notwithstanding anything hereinbefore contained if the policies mentioned in paragraph 7 (b) of Schedule 3 to this Act shall not be effected within three months of the passing of this Act the Resettled Estate shall be held upon the trusts declared by paragraph 9 of this Schedule and subject thereto upon trust for the present Duke during his life without impeachment of waste and subject thereto upon the trusts which under this Schedule are for the time being applicable to the Resettled Estate other than and except the power contained in paragraph 12 of this Schedule.

17. Notwithstanding subsection (5) thereof, the provisions of section 1 of the Variation of Trusts Act 1958 shall apply to the trusts, powers and provisions set forth in this Schedule, 1958 c. 53.

Section 5.

SCHEDULE 5

FURTHER POWERS OF THE TRUSTEES OF THE ESTATES

1. In this Schedule the expression "the trustees" in relation to the Duke's Settled Estate, the Duke's Personal Estate and the Resettled Estate means the trustees of those Estates respectively.

2.—(1) Any moneys requiring investment may at the discretion of the trustees be invested or applied in the purchase of or at interest on the security of such stocks funds shares securities policies of assurance life or other interests annuities or other investments or property (real or personal) of whatsoever nature and wheresoever and whether involving liability or not or upon such personal credit with or without security as the trustees shall in their absolute discretion think fit to the intent that the trustees shall have the same full and unrestricted powers of investing and transposing investments in all respects as if they were absolutely entitled thereto beneficially and so that—

- (a) any investments may be held by the trustees either in their own names or in the name or names of any nominee or nominees; and
- (b) no person beneficially interested shall be entitled to compel the trustees to realise any investments or property not for the time being producing income.

(2) Without prejudice either to the generality of the power conferred on the trustees by sub-paragraph (1) of this paragraph or to the exercise of any other power by law conferred upon them it is hereby declared that the trustees may at any time or times and from time to time—

- (a) apply any part of the capital or income of the Duke's Settled Estate, the Duke's Personal Estate or the Resettled Estate as the case may be (including accumulations of income) in effecting or enabling any person beneficially interested to effect any policy or policies of assurance (including any policy or policies on the life of any person or against any contingency or any endowment or sinking fund policy or policies and so that any such policy or policies shall be assigned to the trustees if not originally effected by them) and in maintaining any such policy or policies as aforesaid and so that the trustees shall have all such powers of surrendering exchanging or otherwise dealing with any such policy or policies as if they were absolutely and beneficially entitled thereto and all moneys assured by such policy or policies or received on the surrender or exchange thereof shall be treated as money forming part of the capital of the property out of which (or out of the income of which) the premium or premiums paid in respect of such policy were provided;
- (b) apply any part of the Duke's Personal Estate or the Resettled Estate as the case may be in the purchase of any house farm or other landed property in any part of the world (whether freehold or leasehold or of any other tenure and whether as an investment or for occupation by any person beneficially

interested in possession) or in furnishing redecorating or altering any such house or in stocking any such farm and so that the trustees may permit any such person to occupy the whole or any part of such property rent free or on such terms and conditions as the trustees may think fit and so that any land purchased by the trustees pursuant hereto shall so far as practicable be held by them upon trust for sale with power to postpone such sale;

SCH. 5
—cont.

- (c) borrow money on such terms as to interest repayment and otherwise as they may think fit and for that purpose charge by way of security the whole or any part of the Duke's Personal Estate or the Resettled Estate as the case may be;
- (d) permit any property forming part of the Duke's Personal Estate or the Resettled Estate as the case may be to be vested in any person or persons (whether or not being or including one or more of the trustees) in any part of the world as nominee or nominees for the trustees;
- (e) appropriate any property subject to the trusts of the Duke's Personal Estate or the Resettled Estate as the case may be in its actual condition or state of investment at the time of appropriation in or towards satisfaction of any share or interest in the Duke's Personal Estate or the Resettled Estate as the case may be as to the trustees may seem just and reasonable and for the purposes of any such appropriation ascertain and fix the value of any property so subject in such manner in all respects as they shall think fit.

3. In relation to any freehold or leasehold or other immovable property which or the proceeds of sale and net rents and profits until sale of which is or are for the time being subject to the trusts of the Duke's Personal Estate or the Resettled Estate the trustees shall have and may exercise all such powers of selling mortgaging leasing or otherwise disposing of and managing repairing improving developing or otherwise dealing with the same or any part thereof as would be available to an absolute owner beneficially entitled and so that the trustees may pay any expenses incurred by them in the exercise of their powers under this paragraph out of the capital or income as the trustees think fit of the Duke's Personal Estate or the Resettled Estate as the case may be.

4. The trustees shall not nor shall any of them be accountable for any remuneration or other benefit received by them or any of them (whether as director, auditor or other officer or otherwise) from any company in which shares stock debentures or other securities are for the time being held by the trustees as trustees hereof except to the extent (if any) to which such remuneration or other benefit is received by the trustees or any of them by reason of such shares stock debentures or other securities being in the name of the trustees as trustees hereof and the trustees shall not be bound or required to interfere in the management or conduct of the business of any such company.

5. Any trustee for the time being being a solicitor or other person engaged in any profession or business shall be entitled to charge and be paid all usual professional charges for business done by him or her or his or her firm in relation to the trusts hereof and also his or

SCH. 5
—cont.

her reasonable charges in addition to disbursements for all other work and business done and all time spent by him or her or his or her firm in connection with matters arising in the premises including matters which might or should have been attended to in person by a trustee not being a solicitor or other professional person but which such trustee might reasonably require to be done by a solicitor or other professional person and any trustee being a Trust Corporation shall be entitled to remuneration for its services as trustee in accordance with its scale of fees in force at the date of its appointment as trustee and may act as banker and transact any banking or allied business on behalf of the trust on the same terms as would be made with a customer in the ordinary course of business and without being liable to account for any profit thereby made.

6. The trustees or any of them shall not be liable or responsible for any breach of duty or trust whatsoever whether by way of commission or omission unless it shall be proved to have been made, done or omitted in personal conscious bad faith on the part of such trustee or trustees.

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Wellington Estate Act 1972

CHAPTER 1

ARRANGEMENT OF SECTIONS

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