



ANNO QUADRAGESIMO SECUNDO

# GEORGI III. REGIS.

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## Cap. 67.

An Act for rectifying a Mistake in a Settlement, made by the Right Honourable *John* late Earl of *Bute*, and the Right Honourable *Mary Wortley* late Countess of *Bute* and Baroness *Mountstuart*, his Wife, both deceased. [24th May 1802.]

**W**HEREAS by Indentures of Lease and Release, bearing Date respectively the Seventh and Eighth Days of *February* in the Year One thousand seven hundred and seventy-seven, the Release being of Five Parts, and made between the Right Honourable *John* Earl of *Bute*, Knight of the Most Noble Order of the Garter, and One of His Majesty's Most Honourable Privy Council, and the Right Honourable *Mary Wortley* Countess of *Bute* and Baroness *Mountstuart* his Wife, and the Honourable *James Archibald Stuart Wortley*, by his then Name of *James Archibald Stuart*, Second Son of the said Countess, of the First Part; *Elborough Woodcock* Gentleman, of the Second Part; *Thomas Barnard* Gentleman, of the Third Part; the Right Honourable *James Stuart Mackenzie*, Lord Keeper of the Privy Seal in *Scotland*, and *Alexander*  
[Loc. & Per.] 12 X Wed.

Indentures dated Feb. 7 & 8, 1777, recited.



*Wedderburn* Esquire, His Majesty's then Solicitor General, now the Right Honourable *Alexander* Earl of *Rosslyn*, of the Fourth Part; and *Charles Medows* Esquire, and *Archibald Macdonald* Esquire, now Sir *Archibald Macdonald*, Knight, Lord Chief Baron of His Majesty's Court of Exchequer at *Westminster*, of the Fifth Part: They the said *John* Earl of *Bute*, and *Mary Wortley* Countess of *Bute* and Baroness *Mountstuart* his Wife, and *James Archibald Stuart Wortley*, for the Purposes and Consideration therein expressed, did grant, bargain, sell, release and confirm, unto the said *Elborough Woodcock*, and his Heirs, several Manors or Lordships, Capital and other Messuages, Farms, Lands, Tenements, Woods, Advowsons, undivided Parts or Shares, and other Hereditaments therein particularly described, situate, lying, and being in the West Riding and North Riding of the County of *York*, and in the Counties of *Nottingham* and *Devon*, the City of *Exeter*, and County of *Cornwall*; to hold the same unto and to the Use of the said *Elborough Woodcock*, his Heirs and Assigns (subject to the Payment of an Annuity or yearly Rent Charge of Three hundred Pounds, to the said *Mary Wortley* Countess of *Bute* and Baroness *Mountstuart*, for her Life), to the Intent that by virtue of the said Indentures, and of the Fine therein-after covenanted to be levied, the said *Elborough Woodcock* might become Tenant of the Freehold of the said Manors, Messuages, Lands, and Hereditaments, that Recoveries might be thereof suffered, in which the said *Thomas Barnard* was to be Demandant, the said *Elborough Woodcock* Tenant, and the said *James Archibald Stuart Wortley*, Vouchee: And it is by the said Indenture declared, that such Fine and Common Recoveries when levied and suffered, should enure (subject to the said yearly Rent Charge of Three hundred Pounds) to the Use and Intent that the said *James Archibald Stuart Wortley*, and his Assigns, should during the joint Lives of the said *Mary Wortley* Countess of *Bute* and Baroness *Mountstuart*, and him the said *James Archibald Stuart Wortley*, receive a yearly Rent Charge of Two thousand Pounds, to be issuing out of the said Manors, Lands, and Hereditaments, and subject thereto; to the Use of the said *Charles Medows* and *Archibald Macdonald*, their Executors, Administrators, and Assigns, for the Term of Ninety-nine Years, upon Trust, for better securing the said yearly Rent Charge of Two thousand Pounds; and subject to and charged with the Jointure for the then or any after taken Wife of the said *James Archibald Stuart*, during the Life of the said *Mary Wortley* Countess of *Bute* and Baroness *Mountstuart*, as therein-after mentioned; to the Use of the said *Charles Medows* and *Archibald Macdonald*, their Executors, Administrators, and Assigns, for the Term of One thousand Years, upon Trust, for raising the Sum of Twenty-five thousand Pounds, to be applied in such Manner as is therein expressed, and subject as aforesaid; to the Use of the said *James Stuart Mackenzie* and *Alexander Wedderburn*, and their Heirs during the Life of the said *Mary Wortley* Countess of *Bute* and Baroness *Mountstuart*, upon Trust, to pay unto her the Rents and Profits of the said Manors, Hereditaments, and Premises during her Life, for her separate Use, notwithstanding her Coverture; with Remainder to the Use of the said *James Archibald Stuart Wortley* and his Assigns, during his Life, without Impeachment of Waste; with Remainder to the Use of the said *James Stuart Mackenzie* and *Alexander Wedderburn*, and their Heirs, during the Life of the said *James Archibald Stuart Wortley*, upon Trust, to preserve the contingent Remainders; with Remainder to the Intent that *Margaret Stuart*, the then Wife of the

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the said *James Archibald Stuart Wortley*, in case she should survive her said Husband, should notwithstanding the said Countess of *Bute* and Baroness *Mountstuart*, should be then living, receive from and after the Death of the said *James Archibald Stuart Wortley*, for her Life, for her Jointure, and in Bar of Dower, a yearly Rent Charge of Eight hundred Pounds, in Case the said Countess of *Bute* and Baroness *Mounstuart* should be living at the Death of the said *James Archibald Stuart Wortley*; but if she should be then dead, or should afterwards die in the Life Time of the said *Margaret Stuart*, then the yearly Rent Charge of One thousand Pounds instead of the said yearly Rent Charge of Eight hundred Pounds; with Remainder to the said *Charles Medows* and *Archibald Macdonald*, their Executors, Administrators, and Assigns, for the Term of Five hundred Years, upon Trust, for raising Portions for the younger Children of the said *James Archibald Stuart Wortley*; with Remainder to the Use of *John Stuart Stuart*, the eldest Son of the said *James Archibald Stuart Wortley*, and his Assigns during his Life, without Impeachment of Waste; with Remainder to the said *James Stuart Mackenzie* and *Alexander Wedderburn*, and their Heirs during the Life of the said *John Stuart Stuart*, upon Trust to preserve contingent Remainders; with Remainder to the First and other Sons of the said *John Stuart Stuart* successively in Tail Male; Remainder to the Use of *James Archibald Stuart Stuart*, now *James Archibald Stuart Wortley* the younger, Second Son of the said *James Archibald Stuart Wortley*, and his Assigns during his Life, without Impeachment of Waste; with Remainder to the Use of the said *James Stuart Mackenzie* and *Alexander Wedderburn*, and their Heirs, during the Life of the said *James Archibald Stuart Wortley* the younger, upon Trust to preserve contingent Remainders; with Remainder to the Use of the First and other Sons of the said *James Archibald Stuart Wortley* the younger, successively in Tail Male; with Remainder to all and every other the Son and Sons of the said *James Archibald Stuart Wortley*, the elder, successively in Tail Male; Remainder to the Honourable *Frederick Stuart*, Third Son of the said Countess of *Bute* and Baroness *Mounstuart*, and his Assigns during his Life, without Impeachment of Waste; with Remainder to the said *James Stuart Mackenzie* and *Alexander Wedderburn*, and their Heirs during the Life of the said *Frederick Stuart*, upon Trust to preserve contingent Remainders; with Remainder to the First and other Sons of the said *Frederick Stuart*, successively in Tail Male; with Remainder to the Honourable *Charles Stuart*, afterwards Sir *Charles Stuart*, the Fourth Son of the said Countess of *Bute* and Baroness *Mountstuart*, and his Assigns during his Life, without Impeachment of Waste; with Remainder to the said *James Stuart Mackenzie*, and *Alexander Wedderburn*, and their Heirs during the Life of the said *Charles Stuart*, upon Trust to preserve contingent Remainders; with Remainder to the First and other Sons of the said *Charles Stuart* successively in Tail Male; with divers Remainders over: And in the said Indenture are contained Powers for the said *John Stuart Stuart* to jointure and make a Provision for younger Children, in the Words or to the Effect following; (that is to say), ' Provided always, and it is hereby further agreed and declared, by  
' and between the several Parties to these Presents, that it shall and may  
' be lawful to and for the said *John Stuart Stuart*, the eldest Son of the  
' said *James Archibald Stuart*, after he shall have attained his Age of  
' Twenty-one Years, and in the Life Time of his Father, and by and  
' with his Consent and Approbation, testified by Writing under his Hand

and Seal, and to be by him executed in the Presence of Two or more credible Witnesses; but if the said *James Archibald Stuart*, shall be then dead, then when and so soon as the said *John Stuart Stuart* the Son, shall by virtue of the Limitation made to him as aforesaid, come to and be in the actual Possession of the said several Manors or Lordships, or reputed Manors or Lordships, capital Messuages or Mansion Houses, and other the Messuages, Cottages, Mills, Parks, Chases, Farms, Lands, Tenements, and Hereditaments, and Parts and Shares of Manors, Messuages, Farms, Lands, Tenements and Hereditaments, and Premises herein-before mentioned, and hereby granted and released, by any Deed or Deeds, Writing or Writings, to be sealed and delivered by him, in the Presence of, and to be attested by Two or more credible Witnesses, but subject and without Prejudice to such of the Trusts herein-before declared of and concerning the said several and respective Terms of Ninety-nine Years, One thousand Years, and Five hundred Years, as shall be then subsisting, and also to such annual Sum or yearly Rent Charge, herein-before granted, limited, and appointed to the said *Margaret Stuart*, the present Wife of the said *James Archibald Stuart*, or to such other annual Sum or yearly Rent Charge, which the said *James Archibald Stuart*, pursuant to the Power herein-before given or reserved to him for that Purpose, may have then granted, limited, and appointed to or for the Benefit of any Woman or Women he may marry after the Death of his present Wife, and which may be then in being or subsisting, to grant, limit, or appoint to or for the Use of any Woman or Women he may happen to marry, for her or their Life or Lives, either before or after the Time of such Marriage or Marriages respectively, in Full or in Part of, or by Way of Jointure or Jointures of any such Wife or Wives, any annual Sum or yearly Rent Charge, not exceeding the yearly Sum of One thousand Pounds, free and clear of and from all Taxes and Deductions whatsoever, to be issuing out of and chargeable upon all or any Part of the said several Manors, and Parts and Shares of Manors and Premises, and with such Powers and Remedies for the recovering and receiving such annual Sum or yearly Rent Charge, when in Arrear, and such Term or Terms of Years, for the better securing the due Payment thereof, to take Effect immediately after the Decease of the said *John Stuart Stuart*, but subject and without Prejudice as aforesaid, as to him shall seem meet: Provided also, and it is hereby further agreed and declared, that it shall and may be lawful to and for the said *John Stuart Stuart*, in the Life Time of the said *James Archibald Stuart* his Father, and with his Consent and Approbation, testified in such Manner as is before last-mentioned; but if he shall be then dead, then when and so soon as the said *John Stuart Stuart*, by virtue of or under the Limitation made to him as aforesaid, shall come to and be in the actual Possession of the said Manors, and Parts and Shares of Manors and Premises (but subject and without Prejudice to such previous Charges and Trusts last mentioned, as shall be then existing) by any Deed or Deeds, Writing or Writings, either with or without Power of Revocation to be by him sealed and delivered in the Presence of, and to be attested by Two or more credible Witnesses, or by his last Will and Testament in Writing, to be signed, sealed, published, and declared by him, in the Presence of, and to be attested by Three or more credible Witnesses, to charge all and every of the said several Manors, or Parts and Shares of Manors and Premises, or any Part thereof, with any Sum or Sums of Money not exceeding in the

Whole



Whole the Sum of Ten thousand Pounds of like lawful Money, for the  
 Portion and Portions of all and every the younger Child and Children  
 of the said *John Stuart Stuart*, to be paid and payable in his Life Time,  
 or after his Decease, in such Manner and Form; and at such Time and  
 Times, and in such Parts, Shares, or Proportions, as he the said *John  
 Stuart Stuart* shall from Time to Time, by such Deed or Deeds, Writ-  
 ing or Writings, or by such his last Will and Testament, to be respec-  
 tively executed by him, and attested as aforesaid, direct or appoint,  
 together with Interest for such Sum or Sums of Money, or Portion or  
 Portions, from the Decease of the said *John Stuart Stuart*, until the  
 same shall respectively become due or payable at and after the Rate of  
 Three Pounds by the Year for each One hundred Pounds thereof, for  
 the Maintenance and Education of such younger Child or Children;  
 and in Default of such Direction or Appointment, to be paid or di-  
 vided between or among all the said younger Children of the said *John  
 Stuart Stuart*, in Case there shall be more than One such younger Child,  
 at the Days and Times after mentioned, (that is to say), to be paid to  
 such of them as shall be a Son or Sons, at his or their respective Age  
 or Ages of Twenty-one Years, in Case the same shall happen after the  
 Decease of the said *John Stuart Stuart*, and to be paid to such of them  
 as shall be a Daughter or Daughters, at her or their respective Age or  
 Ages of Twenty-one Years, or on the Day or Days of their respective  
 Marriages, which shall first happen, in Case they shall respectively attain  
 such Ages, or marry after the Death of the said *John Stuart Stuart*;  
 but if any of such Sons or Daughters respectively attain such Ages,  
 or marry in the Life Time of the said *John Stuart Stuart*, then to be  
 paid to and divided between or amongst them, if more than One,  
 at the End of Six Calendar Months after the Decease of the said *John  
 Stuart Stuart*, with such Interest for the same, from the Time of the  
 Decease of their Father as aforesaid; but in Case there shall be only  
 One such younger Child, then to be paid to such only younger Child,  
 at such Age or Time after the Decease of the said *John Stuart Stuart*,  
 with such Interest for the same, in such Manner respectively as is herein-  
 before directed, with Regard to the said several younger Children:

And in the said Indenture of Settlement are contained Powers enabling  
 the said *James Archibald Stuart Wortley* the younger, the Second Son of  
 the said *James Archibald Stuart Wortley* the elder, when and so soon as he  
 should by virtue of the Limitation made to him as aforesaid, come to and  
 be in the actual Possession of the said several Manors and Premises, to limit  
 and appoint such Jointure or Jointures out of the same Premises, to or  
 for any Wife or Wives he might marry; and also to charge the same  
 Premises with such Portion or Portions for his younger Children, as the  
 said *John Stuart Stuart*, the eldest Son of the said *James Archibald Stuart  
 Wortley* the elder, is thereby authorized to limit, or appoint and charge,  
 to and for the Benefit of his Wife and younger Children: And whereas  
 the Fine and Recoveries covenanted by the said Indentures to be levied  
 and suffered, were duly levied and suffered accordingly: And whereas  
 the said *John Earl of Bute*, and the said *Mary Wortley* Countess of *Bute*  
 and Baroness *Mountstuart*, and the said *John Stuart Stuart*, the eldest Son  
 of the said *James Archibald Stuart Wortley* the elder, are dead, and the  
 said *John Stuart Stuart* died a Bachelor, whereupon the said *James Archi-  
 bald Stuart Wortley* the younger became an eldest Son in his Stead; and  
 he the said *James Archibald Stuart Wortley* the younger, hath inter-

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married



married with the Right Honourable Lady *Caroline Elizabeth Mary Creighton*, by whom he has One Son, an Infant, of the Age of Eight Months or thereabouts: And whereas the said *James Archibald Stuart Wortley* the elder, has Issue One other Son *George Stuart Wortley*, an Infant of the Age of Nineteen Years or thereabouts: And whereas the said *Frederick Stuart* hath no Issue, and the said *Sir Charles Stuart* is dead, having left *Charles* his eldest Son, who hath attained the Age of Twenty-one Years: And whereas it was the Intention of the Parties to the said Settlement, that the eldest Son of the said *James Archibald Stuart Wortley* the elder, for the Time being, should be at Liberty, in the Life Time of the said *James Archibald Stuart Wortley* the elder, with his Consent, to exercise the Powers of jointuring and charging the said Manors, Lands, and Hereditaments, with Portions for younger Children; but inasmuch as the said Settlement does not authorize the said *James Archibald Stuart Wortley* the younger, who is now become the eldest Son of the said *James Archibald Stuart Wortley* the elder, to exercise such Powers until he shall come to and be in the actual Possession of the said settled Estates, the Intention of the said Parties will in that Respect be liable to be defeated, in Case the said *James Archibald Stuart Wortley* the younger, shall die before his said Father, unless the Omission in the said Settlement, in that Behalf, which happened by Mistake, shall be supplied by the Aid and Authority of Parliament: Wherefore Your Majesty's most dutiful and loyal Subjects, the said *James Archibald Stuart Wortley* the elder, on Behalf of himself and his said Infant Son *George Stuart Wortley*, and also the said *James Archibald Stuart Wortley* the younger, on Behalf of himself and his said Infant Son, and also the said *Frederick Stuart*, and *Charles Stuart*, do most humbly beseech Your Majesty that it may be enacted; and be it enacted by the King'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, from and immediately after the passing of this Act, it shall and may be lawful to and for the said *James Archibald Stuart Wortley* the younger, in the Life Time of his Father the said *James Archibald Stuart Wortley* the elder, and with his Consent and Approbation, testified by Writing, to be by him sealed and delivered in the Presence of, and to be attested by Two or more credible Witnesses, to exercise the Powers, which in and by the said herein-before recited Indenture of Release and Settlement were given to him the said *James Archibald Stuart Wortley* the younger, to be exercised when and so soon as he should, by virtue of the Limitations made to him as aforesaid, come to and be in the actual Possession of the said several Manors and Premises, of granting, limiting, or appointing any annual Sum, or yearly Rent Charge, to be issuing out of the said Manors, Lands, and Hereditaments therein comprised, or any Part or Parts thereof, by Way of Jointure, and with such Powers and Remedies, and Term or Terms of Years, for securing Payment thereof, and of charging the same Manors, Lands, and Hereditaments, or any Part or Parts thereof, with Portions for younger Children with Interest.

Power given to *J. A. Stuart Wortley* to charge the Manors, etc. with Jointure and Portions to younger Children.

Conditions on which Portions are to be charged.

II. Provided always, and it is hereby enacted, That in case the said *James Archibald Stuart Wortley* the younger, shall exercise the Power herein-before given to him as aforesaid, of charging the same Manors, Lands, and Hereditaments, or any Part or Parts thereof, with any Portion or Portions, it shall and may be lawful to and for him, the said *James Archibald*



*chibald Stuart Wortley* the younger (but subject and without Prejudice to the aforesaid Terms of Ninety-nine Years, One thousand Years, and Five hundred Years, and such of the Trusts thereof as shall be then subsisting), to limit and appoint the Premises so to be charged, with such Portion or Portions to any Person or Persons whomsoever, for any Term or Number of Years, for better securing the Sum or Sums so to be charged with Interest; and also to limit and appoint such Portion or Portions, to be paid unto, or between, and amongst all and every or any One or more Child or Children of him the said *James Archibald Stuart Wortley* the younger (other than and except an eldest or only Son, or a younger Son becoming an eldest or only Son, and the Heir Male or Heir Male Apparent of him the said *James Archibald Stuart Wortley* the younger.

III. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, Bodies Politick and Corporate, and his, her, and their respective Heirs, Successors, Executors, and Administrators (other than and except the said *James Archibald Stuart Wortley* the elder, and his Heirs, and the said *James Archibald Stuart Wortley* the younger, and the said *John Stuart Wortley*, and the Heirs Male of his Body, and the Second and every other Son of the said *James Archibald Stuart Wortley* the younger, and the Heirs Male of the Body and respective Bodies of such Second and every other Son, and the said *George Stuart Wortley*, and the Heirs Male of his Body, and all and every other the Son and Sons of the said *James Archibald Stuart Wortley* the elder, and the Heirs Male of the Body and respective Bodies of all and every such Son and Sons, and the said *Frederick Stuart*, and his First and other Sons, and the Heirs Male of the Body and respective Bodies of such First and other Sons, and the said *Charles Stuart*, and the Heirs Male of his Body, and all and every other Person and Persons whomsoever, claiming or to claim any Estate, Right, Title, or Interest of, in, to, or out of all or any of the said Manors and other Hereditaments comprised in the said recited Indentures of Lease and Release), all such Estate, Right, Title, Interest, Use, Trust, Claim, and Demand whatsoever, of, in, to, or out of the same Manors and other Hereditaments, as they or any of them had before the passing of this Act, or could or might have had, held, or enjoyed, or been intitled to in Case this Act had not been made.

IV. And be it further enacted, That this Act shall be and be deemed <sup>Publick Act,</sup> and taken to be a publick Act, and shall be judicially taken Notice of and allowed as such by all Judges, Justices, and other Persons, without specially pleading the same.

