



ANNO QUADRAGESIMO TERTIO

GEORGI II. REGIS.

Cap. 135.

An Act for vesting the descended Estates of the Most Honourable *Wills* late Marquis of *Downshire*, and *Arthur* late Marquis of *Downshire*, respectively deceased, in Trustees, in Trust, to be disposed of under the Directions of the High Court of Chancery, for Payment of their respective Debts.

[27th July 1803.]

WHEREAS by a Decree of His Majesty's High Court of Chancery of *Great Britain*, bearing Date the Tenth Day of *February* One thousand eight hundred and two, made in a Cause then and still depending, wherein *William Pink* and others, on Behalf of themselves, and all other the Specialty and Simple Contract Creditors of *Wills* late Marquis of *Downshire*, and *Arthur* late Marquis of *Downshire*, who should come in and contribute to the Expence of the Suit, are Plaintiffs, and the Most Honourable *Mary* Marchioness of *Downshire*, (Executrix of the last Will and Testament of the said *Arthur* late Marquis of *Downshire*, and also Administratrix *de bonis non*, with the Will annexed, of the said *Wills* late Marquis of *Downshire*) is Defendant, it was ordered and decreed, that it should be referred to Matter *Popbam* One of the Masters of the said Court, to take an Account of what was due to the Plaintiffs and other the Creditors of the said Testators, *Wills* Marquis of *Downshire*, and *Arthur* Marquis of *Downshire*, deceased respectively, and of their respective Funeral Expences, and to compute Interest on such of the Debts as carried Interest; and it was ordered that the said Master should cause Advertisements to be published for the respective Creditors of the said Testators respectively to

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come in before him and prove their Debts, and he was to fix a peremptory Day for that Purpose; and in Default of their coming in to prove their Debts by the Time so to be appointed, they were to be excluded from the Benefit of the said Decree: And it was further ordered, that the said Master should take an Account of the Personal Estate of the said *Wills Marquis of Downshire*, come to the Hands of the said *Arthur Marquis of Downshire*, his only acting Executor, or to the Hands of the said Defendant, *Mary Marchioness of Downshire*, the Sole Executrix of the said *Arthur Marquis of Downshire*, since his Decease; and it was ordered, that what upon the said Accounts should appear to have come to the Hands of the said *Arthur Marquis of Downshire*, in his Life-time, and not to have been applied by him in a due Course of Administration, should be answered by the Defendant, *Mary Marchioness of Downshire*, out of his Affets, in a Course of Administration; and in case she should not admit Affets of the said *Arthur Marquis of Downshire*, for that Purpose, it was ordered, that she should come to an Account before the said Master for his said Personal Estate come to her Hands; and that what upon the said Account should appear to have come to the Hands of the said Defendant, since the Decease of the said *Arthur Marquis of Downshire*, on Account of the Personal Estate of the said *Wills Marquis of Downshire*, should be answered by the Defendant, *Mary Marchioness of Downshire*, out of the Estate of the said Testator, *Arthur Marquis of Downshire*, and be applied in Payment of the unsatisfied Debts and Funeral Expences of the said *Wills Marquis of Downshire*, in a due Course of Administration; and that the said Master should also take an Account of the Personal Estate of the said *Arthur Marquis of Downshire*, come to the Hands of the Defendant, his Sole Executrix: And it was further ordered, that the said Testator, *Arthur Marquis of Downshire's* Personal Estate, should be applied in Payment of his Debts and Funeral Expences, in a Course of Administration; and the Court reserved the Consideration of the Costs of the said Suit, and of all further Directions, until after the said Master should have made his Report: And whereas by a Decree of the said Court, bearing Date the Twenty-second Day of *February* last, made on the hearing of a Cause, wherein the said *Mary Marchioness of Downshire*, the Right Honourable *Arthur Moses William Hill*, commonly called Lord *Arthur Moses William Hill*, an Infant, the Right Honourable *Charlotte Hill*, commonly called Lady *Charlotte Hill*, also an Infant, the Right Honourable *Mary Hill*, commonly called Lady *Mary Hill*, also an Infant, the Right Honourable *Arthur Marcus Cecil Hill*, commonly called Lord *Arthur Marcus Cecil Hill*, also an Infant, the Right Honourable *Arthur Augustus Edwin Hill*, commonly called Lord *Arthur Augustus Edwin Hill*, also an Infant, and the Right Honourable *George Augusta Hill*, commonly called Lord *George Augusta Hill*, also an Infant (being respectively the younger Children of the said *Arthur Marquis of Downshire*), by the said *Mary Marchioness of Downshire*, their Mother and next Friend, *Thomas Wyatt Esquire*, and *Thomas Handley Gentleman*, were Plaintiffs, and the Most Honourable *Arthur Blundell Sandys Trumbull Marquis of Downshire*, *Sir Clement Cottrell Dormer Knight*, *Lancelot Shadwell Esquire*, and *George Brooks*, were Defendants; and also of a Cause wherein the said *Arthur Blundell Sandys Trumbull Marquis of Downshire*, an Infant, by his next Friend, was Plaintiff, and the said *Mary Marchioness of Downshire*, the said Lord *Arthur Moses William Hill*, Lady *Charlotte Hill*, Lady *Mary Hill*, Lord *Arthur Marcus Cecil Hill*, Lord *Arthur Augustus Edwin Hill*, and Lord *George Augusta Hill*, Infants, by the said *Mary Marchioness of Downshire*, their Guardian, and the said *Sir Clement Cottrell Dormer*, *Lancelot Shadwell*, and *George Brooks*,
and

and *Thomas Wyatt* and *Thomas Handley*, were Defendants, the Court ordered the Bill in the First Cause of the Marchioness of *Downshire* against the Marquis of *Downshire* and others to be dismissed; and in the Second mentioned Cause of the Marquis of *Downshire* against the Marchioness of *Downshire* and others, the Court declared that the said Marquis of *Downshire*, as the Heir at Law of his late Father, was entitled to the Benefit of the Contract in the Pleadings mentioned to have been entered into by his said late Father for the Purchase of the Premises comprised in the said Contract, and that the Sum of Twenty-one thousand five hundred Pounds (the Purchase-Money for the said Premises) ought to be paid out of the Personal Estate of the said Testator, and ordered and decreed the same accordingly: And whereas by an Order of the said Court of Chancery made in the said Cause, wherein the said *William Pink* and others were Plaintiffs, and the said *Mary* Marchioness of *Downshire*, was Defendant, bearing Date the Twenty-sixth Day of *March* last, stating that the said Defendant had presented her Petition to the Lord High Chancellor, setting forth the filing of the Bill of the said Plaintiffs, and the said Decree made on the Hearing of the said Cause, on the Tenth Day of *February* One thousand eight hundred and two; and that in pursuance of Advertisements inserted by the said Master in the *London Gazette*, and other publick Papers, as directed by the said Decree, most of the Creditors, Annuitants, and Legatees of the said Testators, *Wills* Marquis of *Downshire* and *Arthur* Marquis of *Downshire*, whose Claims were not charged on the settled Estates of the said Marquises, had brought in their Claims and proved their Debts before the said Master, which Claims, together with others delivered to the said Marchioness, or her Agents, and not then proved, amounted to the several Sums therein mentioned; and that it was apprehended there might be some other Claims on the said Assets of the said Marquises not then delivered, though not of large Amount; and that the said Marchioness was informed and believed that the Personal Estate of which the said *Wills* Marquis of *Downshire* died possessed, and which came to the Hands of his sole acting Executor, the said *Arthur* late Marquis of *Downshire*, and whose Personal Estate therefore was answerable for the same, amounted in Value to the Sum therein mentioned, or thereabouts; and that the Personal Estate of the said *Arthur* late Marquis of *Downshire*, exclusive of that of his said Father possessed by him as aforesaid, amounted in Value to the Sum therein mentioned, or as near that Amount as could then be computed; and that the Personal Assets of the said Marquises respectively would be greatly insufficient to pay and satisfy the before mentioned Debts and Demands due therefrom; and that as the Personal Estates of the said Marquises comprized a great Number of Articles of Property, and being very much dispersed in *England* and *Ireland*, the said Marchioness had not then been able to get in, nor satisfactorily to ascertain, nor to convert the same; nor to account for the same before the said Master; but she hoped she should be enabled by the Month of *June* then next to put in her Examination before the said Master, and to account for such Personal Estates; and that the said *Wills*, Marquis of *Downshire* and *Arthur* Marquis of *Downshire*, severally died seised of unsettled Real Estates, which had descended on her Son the present Marquis of *Downshire* (a Minor of the Age of Fourteen Years), as their Heir at Law, subject to their respective Debts; and that she had by the said Court been appointed Guardian of the Person and Estates of her said Son, and that the Personal Estate of the said Testators being insufficient for the Payment of their Debts, the said Marchioness was advised that their said descended Real Estates, or so much thereof as might be necessary, must be sold to answer the Deficiency, but

but that the same could not be sold or conveyed during the Minority of her said Son without the Aid of Parliament, for the Reasons in the said Petition mentioned, the said Marchioness conceived it might be advantageous to the Estates and Creditors of the said Testators as well as to her said Son, that such Sale should take place as soon as properly might be, and was therefore desirous of causing immediate Application to be made for an Act for the Purpose aforesaid; but that inasmuch, as she was advised that she could not properly cause Application to be made for the said Act without the Sanction and Authority of the said Court, therefore praying (among other Things) that she might be at Liberty to cause immediate Application to be made to the Legislature for an Act to vest as well the Estates agreed to be purchased from the said Sir *Clement Cottrell Dormer*, and his Trustees as aforesaid, as the said Real Estates of the said *Wills* Marquis of *Downshire* and *Arthur* Marquis of *Downshire*, which had descended on her Son, the said present Marquis of *Downshire*, as their Heir subject to their Debts respectively, in Trustees, so that the same, or a competent Part thereof, might be sold for the Payment of their Debts in such Manner as the said Court should direct, the Court ordered that the said Marchioness should be at Liberty to apply to the Legislature for an Act of Parliament to vest as well the Estates agreed to be purchased from the said Sir *Clement Cottrell Dormer*, and his Trustees in the Petition mentioned, as the said Real Estates of the said late *Wills* Marquis of *Downshire*, and *Arthur* Marquis of *Downshire*, which had descended on her Son the present Marquis of *Downshire*, as their Heir, subject to their Debts respectively, in Trustees, so that the same, or a competent Part thereof, might be sold for the Payment of their Debts in such Manner as the said Court should direct: Wherefore Your Majesty's most dutiful and loyal Subject the said *Mary* Marchioness of *Downshire*, doth for herself, and on Behalf of the said *Arthur* now Marquis of *Downshire* her Infant Son, 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 all and singular the Honours, Castles, Manors, Towns, Messuages, Lands, Tenements, and other Hereditaments situate within *England* and *Ireland*, which upon or after the Decease of the said *Arthur* late Marquis of *Downshire*, descended on the said *Arthur* now Marquis of *Downshire*, as Heir at Law of the said *Arthur* late Marquis of *Downshire*, or of the said *Wills* late Marquis of *Downshire*, and which are or may by the said Court of Chancery be declared to be Assets for Payment of the Debts of the said Marquises or either of them, and the Reversion and Reversions, Remainder and Remainders, Rents, Issues, and Profits of all and singular the same Premises, shall, from and after the passing of this Act, be settled upon and vested in, and the same Premises are hereby settled upon and vested in the Reverend *James Burton* Doctor in Divinity, Canon of *Christ Church, Oxford*, and *Thomas Handley* of *Clerkenwell*, in the County of *Middlesex*, Esquire, and their Heirs, to the Use of them the said *James Burton* and *Thomas Handley*, their Heirs and Assigns, and that the said Estates so contracted to be purchased of the said Sir *Clement Cottrell Dormer*, and his Trustees as aforesaid, shall (upon Payment of the said Sum of Twenty, one thousand and five hundred Pounds into the Bank of *England*, in the Name and with the Privity of the Accountant General of the said Court of Chancery, in pursuance of any Order or Orders of the said Court of Chancery in the said Cause of the Marquis of *Downshire* against the Marchioness of *Downshire*, and others, or otherwise as the said Court shall direct) be conveyed

All the Estates situate in *England* and *Ireland*, which, upon the Decease of *Arthur* late Marquis of *Downshire*, descended on the present Marquis, which are or may by the Court be declared to be Assets for Payment of Debts of the said Marquises, shall be vested in the Rev. *James Burton*, D. D. and *Thomas Handley* Esquire, in Trust for the Purposes herein mentioned.

conveyed unto and to the Use of the said *James Burton* and *Thomas Handley*, their Heirs and Assigns, upon and for the Trusts, Intents, and Purposes, and, with, under, and subject to the Provisoes and Declarations herein-after expressed of and concerning the Hereditaments and Premises so hereby vested in, and directed to be conveyed to the said *James Burton* and *Thomas Handley*, and their Heirs as aforesaid respectively; (that is to say), upon Trust, that they the said *James Burton* and *Thomas Handley*, and the Survivor of them, and the Heirs and Assigns of such Survivor, do and shall (upon Payment in the Manner herein-after mentioned of the Purchase Money for all or any of the said Hereditaments and Premises) convey the same, or so much and such Part or Parts thereof as shall be by the said Court ordered to be sold for the Purposes aforesaid, to such Person or Persons as shall be allowed by the said Court to be the Purchaser or Purchasers thereof, his, her, or their Heirs and Assigns, or as he, she, or they respectively shall direct; and shall convey such (if any) of the said Hereditaments and Premises as the said Court shall not think necessary to be sold for the Purposes aforesaid, in such Manner as the said Court shall direct.

II. And be it hereby further enacted and declared, That, from and after Payment by the Purchaser or Purchasers of all or any Part or Parts of the said Hereditaments and Premises hereby vested in and directed to be conveyed unto the said *James Burton* and *Thomas Handley*, and their Heirs in Trust as aforesaid, of his, her, or their Purchase Monies into the Bank of *England*, in the Name and with the Privity of the Accountant General of the said Court, to the Credit of the said Cause of *Pink* and others against the Marchioness of *Downshire*, in pursuance of such Order or Orders as the said Court shall think fit to make in that Behalf, or otherwise, as the said Court shall direct, such respective Purchasers, their Heirs and Assigns, shall and may have, hold, and enjoy, such of the said Hereditaments and Premises as shall have been purchased by him, her, or them, as aforesaid, freed and absolutely discharged of and from all the Estate, Right, Title, Claim, and Interest whatsoever, of the Heirs of either the said *Arthur* late Marquis, or the said *Wills* late Marquis of *Downshire*, respectively deceased.

After Payment of the Purchase Monies into the Bank, the Purchasers shall hold the Hereditaments so purchased by them, freed of all Claim of the Marquis of *Downshire*.

III. And be it further enacted, That the Certificate or Certificates of the said Accountant General of the Payment of the Money arising from such Sale or Sales into the Bank as aforesaid, shall be a good and sufficient Discharge to any Person or Persons who shall be allowed by the said Court to be such Purchaser or Purchasers as aforesaid, and to his, her, or their respective Heirs and Assigns for so much Money as in such Certificate or Certificates shall be certified to be paid; and that such Person or Persons having paid his, her, or their Purchase Money, and obtained such Certificate as aforesaid, shall not, nor shall his, her, or their Heirs or Assigns be liable to see to the Application of such Monies, nor be answerable or accountable for any Loss, Misapplication, or Non-application of the same.

The Certificates of the Accountant General of Payment of the Money arising by such Sale to be sufficient Discharges to the Purchasers.

IV. And be it further enacted, That until the said Hereditaments and Premises shall be sold or conveyed, in pursuance of this Act, the said *James Burton* and *Thomas Handley*, and the Survivor of them, and the Heirs and Assigns of such Survivor, shall permit the said Hereditaments and Premises, to be held and enjoyed; and the Rents, Issues, and Profits thereof to be received and applied by and for the Benefit of such Person or Persons as would have been entitled to and ought to have held and enjoyed and received the same respectively, in case this Act had not been made.

Until the Hereditaments shall be sold, the same to be enjoyed by the Persons entitled thereto.

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Court of Chancery may make an Order for taxing the Costs and Expences of obtaining this Act and for the Application of the Residue of the Purchase Money.

V. And be it further enacted, That it shall be lawful for the said Court to make such Order or Orders as such Court shall think fit, touching the taxing the Costs and Expences attending the obtaining this Act, or of carrying the Trusts thereof into Execution and Payment (either out of the Money to arise by Sale of the said Hereditaments and Premises, or any other Money to be paid into the Bank, in the Name of the Accountant General, to the Credit of the said Cause of *Pink* and others against the Marchioness of *Downshire*), of all or any of such Costs and Expences, or of the Costs of the said Causes, or any of them, and touching the Application of the Surplus of such Monies respectively, in or towards discharging such of the Debts of the said *Wills* late Marquis of *Downshire* and *Arthur* late Marquis of *Downshire*, or either of them, as in the Judgement of the said Court ought to be paid thereout; and also to make such Order or Orders, touching the Application of the Residue of such Money (if any shall remain unapplied for the Purposes aforesaid), as to the said Court shall seem just.

Power of appointing new Trustees.

VI. And be it further enacted, That in case the said *James Burton* and *Thomas Handley*, or either of them, or any Trustee or Trustees to be appointed as herein-after is mentioned, shall happen to die or be desirous to be discharged, or decline to act or become incapable of acting in the Trusts hereby in them reposed, or to be reposed in pursuance of this Act, then and in such Case, and when and so often as it shall so happen, the surviving or other Trustee, his Heirs, Executors, or Administrators, shall, within the Space of Six Calendar Months after any of the said Trustees shall die, desire to be discharged, decline to act, or become incapable of acting as aforesaid (with the Consent and Approbation of the Heir or Heirs of the said *Arthur* late Marquis of *Downshire*, if such Heir or Heirs shall be of full Age, or otherwise, with the Consent and Approbation of his, her, or their Guardians, testified in Writing) nominate and appoint some other Person or Persons to be a Trustee or Trustees in the Place and Stead of him or them so dying, desiring to be discharged, declining to act, or becoming incapable of acting as aforesaid; and when and so often as any new Trustee or Trustees shall be so nominated and appointed as aforesaid (in case such Nomination and Appointment shall be approved by the said Court of Chancery, an Order in which Behalf the said Court is hereby authorized to make upon Petition in a summary Way), all and every the Trust Estates and Premises, or so much thereof as shall then remain undisposed of shall be conveyed, so as that the same may be legally and effectually vested in such new Trustee or Trustees, in Conjunction with the surviving or continuing Trustee, or in such new Trustee or Trustees only, as the Case may be, upon the same Trusts as are herein-before declared concerning the same, or such of them as shall be then subsisting.

General Saving.

VII. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and to all and every other Person and Persons, and all Bodies Politick and Corporate, and their respective Heirs, Successors, Executors, and Administrators (other than and except the Heirs of the said *Wills* late Marquis of *Downshire*, and *Arthur* late Marquis of *Downshire*), all such Estate, Right, Title, Property, Claim, and Demand whatsoever, of, in, to, or out of the said Hereditaments and Premises hereby vested in or directed to be conveyed to the said *James Burton* and *Thomas Handley*, and their Heirs, in Trust as aforesaid, as they, every, or any of them, had before

before the passing of this Act, or could or might have had, held, or enjoyed, in case this Act had not been made.

VIII. And be it further enacted, That this Act shall be printed by the Printer to the King's most Excellent Majesty, and may be given in Evidence in all Courts of Justice, and before all Judges and Justices, who shall take judicial Notice thereof, in like Manner as if the same had been declared to be a publick Act.

For printing
the Act by
the King's
Printer.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN,
Printers to the King's most Excellent Majesty. 1803.

