ANNO QUADRAGESIMO TERTIO

GEORGII III. REGIS.

Cap. 41.

An Act for enabling the High Court of Chancery to authorize and empower the ſurviving Deviſee in Truſt named in the Will of *Thomas Batty*, heretofore of the Pariſh of *Saint George in the Eaſt*, in the County of *Middleſex*, Gentleman, deceaſed, to grant Building Leaſes of certain Ground at or near *Church Lane*, in the Pariſh of *Saint George in the Eaſt*, in the County of *Middleſex*, deviſed to him by the ſame Will; and to ſell and pull down an ancient Meſſuage ſtanding on Part of the ſaid Ground, and to apply the Monies to ariſe by ſuch Sale upon the Truſts of the ſaid Will. [17th *May* 1803.]

WHEREAS *Thomas Batty*, heretofore of the Pariſh of *Saint George in the Eaſt*, in the County of *Middleſex*, Gentleman, having been at the Time of making and publiſhing his laſt Will and Teſtament, and thence to the Time of his Deceaſe, ſeiſed for an Eſtate in Fee Simple of and in and well entitled in his own Right to a Meſſuage or Tenement, and a certain Piece of Ground formerly called *Piper's Cloſe*, but ſince converted into and now or lately uſed as Garden Ground, containing Four Acres Two Roods and Twenty-four Poles, formerly in the Pariſh of *Stepney* alias *Stebunheath*, but now of *Saint George in the Eaſt*, in the County of *Middleſex* aforeſaid (ſubject only to a Leaſe thereof made by the ſaid *Thomas Batty* unto *Charles Berner*, of *Church Lane*, in the Pariſh of *Saint Mary*, *Whitechapel*, in the County of *Middleſex*, Gardener, bearing

ing Date the Nineteenth Day of *July* One thouſand ſeven hundred and eighty-three, for a Term of Forty-one Years, from *Michaelmas* One thouſand ſeven hundred and eighty-three, at the Rent of Twenty Pounds *per Annum*, reſerved to the ſaid *Thomas Batty*, his Heirs and Aſſigns, with a Covenant on the Part of the ſaid *Thomas Batty* to renew ſuch Leaſe for a further Term of Twenty-one Years), did in and by his ſaid laſt Will and Teſtament in Writing, bearing Date the Twenty-ſecond Day of *April* One thouſand ſeven hundred and eighty-five, and executed in ſuch Manner as the Statute preſcribes for rendering valid the Deviſes of Freehold Eſtates, give and deviſe the ſame Meſſuage and Ground unto *Iſaac Ellis*, of *Whitechapel*, in the ſaid County of *Middleſex*, Wheelwright, and unto *John Flexney*, late of *South End*, in the County of *Kent*, Farmer, ſince dead, and their Heirs, to the Uſe of them and their Heirs during the natural Life of his (the Teſtator's) Niece, *Mary Jones* (then the Wife of *William Jones* ſince deceaſed) but now the Wife of the ſaid *Charles Berner* (the Leſſee aforeſaid) upon Truſt, to pay the Rents, Iſſues, and Profits thereof into the proper Hands of his (the Teſtator's) ſaid Niece, or to ſuch Perſon or Perſons as ſhe ſhould by any Writing under her Hand direct or appoint, for the Term of her Life, to and for her ſole and ſeparate Uſe and Benefit, excluſively of the ſaid *William Jones* her Huſband, or any Huſband ſhe might thenafter happen to marry; and the ſaid Teſtator did by his ſaid Will declare that the ſame ſhould not be ſubject or liable to the Debts, Controul, or Engagements, of the ſaid *William Jones*, or of any future Huſband in anywiſe, and that the Receipt or Receipts of the ſaid *Mary Jones*, ſigned by her alone, ſhould from Time to Time notwithſtanding her Coverture, or any future Coverture, be a good and ſufficient Diſcharge, and good and ſufficient Diſcharges to the ſaid *Iſaac Ellis* and *John Flexney*, their Heirs, Executors, and Adminiſtrators, for ſuch Rents, Iſſues, and Profits, or ſo much thereof as ſhould be therein acknowledged or expreſſed to be received; and from and immediately after the Deceaſe of the ſaid *Mary Jones*, the ſaid Teſtator did by his ſaid Will declare, that the ſaid Meſſuage or Tenement and Ground ſhould be divided into Two equal Parts or Shares, the One Half of which ſhould be conſidered as divided into as many Shares as there ſhould be Children of the ſaid *Mary Jones*, who ſhould be living at the Time of her Deceaſe, or dead having left any Child or Children who ſhould be living at the Time of the Deceaſe of the ſaid *Mary Jones*; and the ſaid Teſtator did thereby declare that each of the Children of the ſaid *Mary Jones*, who ſhould be living at the Time of her Deceaſe, ſhould have and be entitled to One of ſuch Shares; and that the Child and Children of every of them who ſhould have died leaving any Child or Children who ſhould be living at the Time of the Death of the ſaid *Mary Jones* ſhould have and be entitled to another of the ſaid Shares; and that if there ſhould happen to be Two or more who ſhould be entitled to any ſuch Share or Shares, or Parts or Diviſions thereof, they ſhould take the ſame as Tenants in Common and not as Joint Tenants; and that all and every ſuch Child or Children ſhould be entitled to ſuch Shares and the Parts and Diviſions thereof to them and their reſpective Heirs for ever; and the ſaid Teſtator did by his ſaid Will give and deviſe the ſaid Moiety of the ſaid Gardens, Houſe, and Ground, from and immediately after the Deceaſe of the ſaid *Mary Jones*, to ſuch her Child and Children, Grand Child and Grand Children, and their Heirs for ever, according to ſuch their reſpective Shares and Intereſts therein; and in caſe there ſhould be only One ſuch Child or Grand Child who ſhould be living

Will of *Thomas Batty.*

living at the Time of the Deceaſe of the ſaid *Mary Jones*, then the ſaid Teſtator did by his ſaid Will give and deviſe the ſame Moiety to ſuch Child or Grand Child, and to his or her Heirs abſolutely for ever; and in caſe the ſaid *Mary Jones* ſhould happen to depart this Life without leaving any Child or Grand Child living at the Time of her Deceaſe, then (after deviſing the ſame Moiety unto the ſaid *William Jones* (ſince deceaſed) for his Life, and after his Deceaſe unto his (the Teſtator's) Nephew, *Robert Goodyer* (ſince alſo deceaſed) for his Life, and after his Deceaſe unto or for the Benefit of his (the ſaid *Robert Goodyer*'s) Children and Grand Children, but which ſaid *Robert Goodyer* died without Iſſue) the ſaid Teſtator did by his ſaid Will, give and deviſe the ſaid Moiety of the ſaid Garden, Houſe, and Ground, unto the ſaid *Iſaac Ellis* and *John Flexney*, and to their Heirs, to the Uſe of ſuch Perſon and Perſons, for ſuch Eſtate and Eſtates, in ſuch Shares and Proportions, at ſuch Time and Times, and with, under, and ſubject to ſuch Powers, Proviſoes, Limitations, and Reſtrictions, and in ſuch Manner and Form as the ſaid *Mary Jones* (notwithſtanding her then Coverture, or any future Coverture) ſhould by any Deed or Deeds in Writing to be by her executed in the Manner therein mentioned, or by her laſt Will and Teſtament in Writing, or any Writing in the Nature of or purporting to be her laſt Will and Teſtament, to be by her ſigned, ſealed, and publiſhed in the Manner therein expreſſed, direct, limit or appoint, and ſubject thereto, to the Uſe of the right Heirs of the ſaid *Mary Jones* for ever; and as to the other or remaining Half Part of and in the ſaid Premiſes, the ſaid Teſtator did by his ſaid Will give and deviſe the ſame from and after the Deceaſe of the ſaid *Mary Jones*, and alſo after the Deceaſe of his Nephew *John Batty*, and in an Event which hath happened by Reaſon of his Death, without leaving any Child or Grand Child living at that Time, unto his (the Teſtator's) Nephew *Abraham Batty* and his Heirs for ever: And whereas the ſaid *Thomas Batty* the Teſtator departed this Life ſoon after publiſhing his ſaid Will without having revoked or altered the ſame, leaving the ſaid *William Jones*, and *Mary* his then Wife and his (the Teſtator's) Nephews the ſaid *Robert Goodyer* and *John Batty*, him ſurviving: And whereas the ſaid *William Jones* departed this Life ſoon after the Death of the ſaid Teſtator, leaving his ſaid Wife (but no Iſſue by her) him ſurviving: And whereas the ſaid *Robert Goodyer* and *John Batty* have both departed this Life without Iſſue, and the ſaid *John Flexney*, One of the aforeſaid Truſtees, hath alſo departed this Life: And whereas the ſaid *Mary Jones* hath intermarried with the ſaid *Charles Berner*, by whom ſhe hath Iſſue now living Four Children all Infants, (namely) *Elizabeth Berner*, now of the Age of Eight Years and upwards; *Robert Berner*, now of the Age of Seven Years and upwards; *Louiſa Berner*, now of the Age of Five Years and upwards; and *Mary Berner*, now of the Age of One Year and upwards: And whereas in conſequence of the new Road about to be made from the *Weſt India Docks*, in the *Iſle of Dogs* in the ſaid County of *Middleſex*, to *Church Street*, *Whitechapel* aforeſaid, under an Act of Parliament lately paſſed, and which Road will croſs Part of the ſaid Garden Ground and Hereditaments ſo deviſed in and by the ſaid Will as aforeſaid, it is become a very deſirable Object on the Part of all Perſons in anywiſe intereſted in thoſe Hereditaments to let the Ground on building Leaſes for Terms of Ninety-nine Years, or ſuch other Terms of Years as may be judged expedient; and that the ſaid Meſſuage now on the Ground being exceedingly ancient and of little Value, and ſtanding in the Way or Line of the intended new Street, it would be proper

Death of *Thomas Batty*.

Death of *William Jones*.

Death of *Robert Goodyer* and *John Batty*.

Children of *Mary Jones* by *Charles Berner* her now Huſband.

Power to grant long Leaſes of the Premiſes now become deſirable.

proper to take down ſuch Meſſuage and to build on the Scite thereof, in order to preſerve an Uniformity in the Appearance of the intended Buildings, and the ſaid *Charles Berner* and *Mary* his Wife, and alſo the ſaid *Abraham Batty*, are accordingly very deſirous of having this done; but on account of the Infancy of the Children of the ſaid *Mary Berner* now born, and the Uncertainty as to what Children and Grand Children ſhe may leave at the Time of her Deceaſe, it appears impracticable to grant Leaſes of the Moiety which by the ſaid Will is ſo directed to be divided among ſuch her Children and Grand Children, for ſuch Terms of Years as Perſons willing to build on the Land would expect to have therein, neither would it be lawful to take down the ſaid ancient Meſſuage without the Aid and Authority of Parliament: Wherefore Your Majeſty's moſt dutiful and loyal Subjects, the ſaid *Charles Berner* and *Mary* his Wife, for themſelves and their ſaid Four Infant Children, and alſo the ſaid *Abraham Batty* being deſirous that the ſaid *Iſaac Ellis* the ſurviving Truſtee aforeſaid, his Executors and Adminiſtrators, conjointly with the ſaid *Charles Berner*, his Executors, Adminiſtrators, and Aſſigns, during the Continuance of his Term and Intereſt in the ſaid Premiſes under the ſaid Leaſe ſo granted unto him as aforeſaid, and afterwards that the ſaid *Iſaac Ellis*, his Executors and Adminiſtrators alone, may be authorized and empowered to take down the ſaid Meſſuage, and to diſpoſe of the Materials thereof, and to grant Building Leaſes of the ſaid Garden Ground, and alſo of the Scite whereon the ſaid Meſſuage now ſtands, under the Direction of the High Court of Chancery, in ſuch Manner as is herein-after mentioned; 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 paſſing this Act, it ſhall and may be lawful to and for the High Court of Chancery, in a ſummary Way, upon a Petition, to authorize and empower the ſaid *Iſaac Ellis*, his Executors, and Adminiſtrators, conjointly with the ſaid *Charles Berner*, his Executors, Adminiſtrators, and Aſſigns, during the Continuance of his and their Term and Intereſt in the ſaid Premiſes, under the ſaid Leaſe ſo granted unto him the ſaid *Charles Berner* as aforeſaid, and afterwards for the ſaid *Iſaac Ellis*, his Executors, and Adminiſtrators alone, to take down the ſaid Meſſuage, and from Time to Time by Indenture or Indentures under their or his (as the Caſe may be) Hands and Seals, or Hand and Seal, to make any Demiſe or Leaſe, Demiſes or Leaſes, of all or any Part of the ſaid Ground and Hereditaments, and alſo of the Scite of the ſaid Meſſuage when taken down, to any Perſon or Perſons whomſoever who ſhall be willing to erect or build any new Meſſuage or Meſſuages, Erections or Buildings thereon, or on any Part thereof, for any ſuch Term or Number of Years not exceeding Ninety-nine Years in Poſſeſſion, and upon ſuch Conditions, as to the ſaid Court ſhall ſeem reaſonable; ſo as the reſpective Leſſees do ſeverally ſeal and deliver Counterparts of their reſpective Leaſes, with ſuch Covenants therein as the ſaid Court ſhall direct; and ſo as ſuch Leſſees do pay and ſatisfy all the Expences attending the making and granting their reſpective Leaſes and Counterparts; and ſo as the ſaid *Charles Berner*, his Executors, Adminiſtrators, or Aſſigns, do defray the Coſts and Charges of obtaining and paſſing this Act, and of the Petition and other Proceedings in the ſaid Court of Chancery neceſſary previouſly to executing ſuch Leaſes.

Deviſee in Truſt, and *Charles Berner*, empowered, under the Direction of the Court of Chancery, to take down the Meſſuage and grant Leaſes of the Scite thereof, as well as of the Ground.

II. And

II. And be it further enacted, That it shall and may be lawful to and for the High Court of Chancery, in a summary Way, upon a Petition, to authorize and empower the said *Isaac Ellis*, his Executors, and Administrators, to cause the said ancient Messuage, and the Offices and other the Buildings thereunto belonging, now on the said Ground, to be sold by publick Auction, and taken down; so as the Purchaser or Purchasers thereof do defray the Expences of taking down and carrying away the same, and the Materials be removed from off the Ground within Twenty-one Days next after the Sale thereof; and so as the clear Produce of such Sale, after paying the necessary Expences thereof, be without Delay paid into the Bank of *England*, in the Name and with the Privity of the Accountant General of the said Court of Chancery, to be placed to his Account there *ex parte* the said *Charles Berner* and *Mary* his Wife, and her Children and Grand Children living at the Time of her Decease, and also the said *Abraham Batty*, pursuant to the Method prescribed by the Act of the Twelfth of *George* the First, Chapter Thirty-two, and the General Orders of the said Court, and without Fee or Reward, according to the Act of the Twelfth of *George* the Second, Chapter Twenty-four; and such Produce having been so paid in, be with all practicable Speed laid out in the Purchase of Navy or Victualling or Exchequer Bills; and the Interest to arise from the Money so to be laid out, and also the Money to be received for such Navy or Victualling or Exchequer Bills, when paid off by Government, laid out in the like Manner, in the Name of the said Accountant General, in the Purchase of other Navy or Victualling or Exchequer Bills; all which said Bills so to be purchased shall be deposited in the Bank in the Name of the said Accountant General, and shall there remain until upon a Petition to be preferred to the said Court of Chancery in a summary Way, by the said *Charles Berner* and *Mary* his Wife, or such other Person or Persons as for the Time being would be entitled to the Rents and Profits of the said ancient Messuage and Building so to be taken down in pursuance of this Act, such Bills shall be ordered to be sold by the said Accountant General, in order to apply the Monies to arise by the Sale thereof in building on the said Ground, or some Part thereof, or otherwise as the same Court shall direct.

Premises to be sold by publick Auction and Purchase Money paid into the Bank under the Direction of the Court of Chancery.

III. Saving always to the King's most Excellent Majesty, His Heirs and Successors, and also unto the said *Charles Berner*, his Executors, Administrators, and Assigns, and to all and every other Person or Persons, Bodies Politick and Corporate, his, her, and their respective Heirs, Executors, Administrators, and Assigns (other than and except the said *Mary Berner* the Mother, and also the said *Elizabeth Berner*, *Robert Berner*, *Louisa Berner*, and *Mary Berner* the Daughter, and all other the Children, and also the Grand Children, of her the said *Mary Berner* the Mother, living at the Time of her Decease, and also the said *Abraham Batty*, and their several and respective Heirs, Executors, Administrators, Appointees, and Assigns, and all and every other Person and Persons that shall or may eventually become beneficially entitled unto or interested in the said Premises under or by virtue of the said Will of the said *Thomas Batty* deceased, their Heirs, Executors, Administrators, and Assigns), all such Estates, Right, Interest, Claim, and Demand whatsoever, of, to, in, or out of the said Premises, as they, every, or any of them had or enjoyed before the passing of this Act, or could or might have had or enjoyed in case this Act had not been made.

General Saving.

Publick Act.

IV. 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.

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