ANNO DECIMO TERTIO

Georgii III. Regis.

CAP. XIV.

An Act to encourage the Subjects of Foreign States to lend Money upon the Security of Freehold or Leaſehold Eſtates, in any of His Majeſty's Colonies in the *Weſt Indies*; and to render the Securities granted to ſuch Aliens effectual for recovering Payment of the Money ſo to be lent, by Sale of ſuch Freehold or Leaſehold Eſtates.

WHEREAS the Cultivation and Improvement of Eſtates in His Majeſty's Colonies in the Weſt Indies, and the erecting of Sugar Works and other neceſſary Buildings thereon, are attended with great Expence; and the Proprietors of ſuch Eſtates are often obliged to borrow large Sums of Money for theſe Purpoſes, upon the Credit of ſuch Eſtates: And whereas it has been found Preamble.

difficult to procure sufficient Loans from the Subjects of this Kingdom, and it would tend greatly to the Improvement of such Estates, and to the publick Benefit, if Money could be borrowed at a reasonable Rate of Interest, from the Subjects of Foreign States, for the Purposes aforesaid; but Doubts have arisen, whether, as the Law now stands, any Security, in the Nature of a Mortgage granted to a Foreigner, or Alien, or to any Person in Trust for him, can be made effectual against such Estates, for recovering the Money lent thereon: And whereas no Foreigner or Alien, as the Law now stands, can bring or prosecute any Suit, for the Recovery of Money, in any Court of Law or Equity within His Majesty's Dominions, at a Time when the State, of which such Alien is a natural-born Subject, is at War with this Kingdom: In order to remove such Doubts, and to encourage Foreigners, or Aliens, to lend Money upon the Security of such Estates; 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 after the passing of this Act, it shall and may be lawful to and for all and every Person and Persons, being Foreigners, or Aliens, to lend Money, at a Rate of Interest not exceeding Five Pounds per Centum per Annum, upon the Security of any Freehold or Leasehold Estate, in any of His Majesty's Colonies in the West Indies, and to hold the same as an effectual Security for the Money lent, and to prosecute any Suit or Suits for recovering the same, as herein-after mentioned, whether the Foreign State, of which such Alien is a natural-born Subject, be at War with this Kingdom or not.

After the passing of this Act, Foreigners may lend Money at Interest, not exceeding 5 *l. per Cent.* on the Security of Freehold Estates in the *West Indies.*

And be it enacted by the Authority aforesaid, That in case of Non-payment of the Money lent upon any such Security, at the Time therein stipulated and agreed upon; it shall and may be lawful to and for all and every such Foreigners, or Aliens, to bring and prosecute, by themselves or their lawful Attorneys respectively, any Suit or Suits at

In case of Non-payment, Suits may be brought at Common Law, for recovery of Demands;

at Common Law for the Recovery of their Demands, on any Bond, or other collateral Security, given or entered into, or on any Covenant on the Part of the Borrower, contained in any such Mortgage, Deed, or Deeds; and also his, her, or their Bill or Bills in the Court of Chancery of the Colony, where the Estate, on which such Security shall have been granted, lies, praying a Decree of Sale of the said mortgaged Premises, for Payment of the Debt due thereon; in which said Suit or Suits the Plaintiff or Plaintiffs shall be intitled to like Remedy and Remedies, for Recovery of his Debt and Costs due, as any British Subject now may or can have; except the being intitled to have or obtain, directly or indirectly, the actual Possession of any such mortgaged Premises, by any Proofs of Execution whatsoever at the Common Law; or to foreclose the Equity of Redemption of such mortgaged Premises by any Decree or Order of any Court of Equity whatsoever.

or in the Court of Chancery for the Colony;

and the Plaintiff be intitled to the like Remedy for Recovery, as *British* Subjects.

And be it enacted by the Authority aforesaid, That the said Court of Chancery, where such Bill or Bills shall be brought, may and shall direct and order the Sale of such mortgaed Premises, in the same Manner as in Cases where the Mortgager hath consented to a Sale of the same; any Law, Usage, or Practice to the Contrary thereof in any wise notwithstanding.

Court of Chancery to order the Sale of mortgaged Premises as in Cases where the Mortgager hath consented to a Sale.

And whereas upon Bills brought for the Redemption of such Mortgages, Inconveniencies may arise from the Want of Means to compel such Foreigners, or Aliens, or their Representatives, to appear to such Bills, who may reside out of the Jurisdiction of the Court where such Bills may be brought; be it enacted by the Authority aforesaid, That, in all such Cases, Service of any Writ or Process of such Court, upon the known Attorney or Agent of such Foreigners or Aliens residing within the Jurisdiction of the said Court respectively, shall be deemed good Service of such Writ or Process upon any such Foreigner or Alien: And in case the Defendant or Defendants shall be absent, and have no such Attorney or Agent resident within the Jurisdiction of the Court, upon

Inconveniencies arising from the want of Means to compel Foreigners to appear to such Bills, how to be prevented.

Affidavit thereof made by the Person or Persons seeking such Relief, or by his, her, or their Attorney, duly constituted to the Satisfaction of the Court out of which such Writ or Process shall issue, (in which Affidavit shall be expressed the Place of Residence of such Foreigner, according to the best of the Deponent's Information and Belief), it shall be lawful for such Court to issue a Commission under Seal to Commissioners therein to be named, authorising such Commissioners to take Affidavit of the Service of such Writ or Process on the Defendant or Defendants personally, or his, her, or their usual Place of Residence, and to certify the same; and such Affidavit, returned with such Commission into the said Court, shall be competent Evidence of the Service of such Writ or Process; any Law, Custom, or Usage to the Contrary in any-wise notwithstanding: And if the Defendant or Defendants shall not, within Six Months after Service of the said Writ or Process, upon the Attorney or Agent in the Colony, or upon the Defendant or Defendants abroad, appear to the said Bill, either in Person, or by some Attorney or Attorneys for that Purpose, lawfully to be appointed under Hand and Seal, or according to the Usage of the Country to which the Defendant belongs; then, and in such Case, the Court of Chancery in which such Suit shall be brought is hereby authorised and required to take the Bill pro confesso, and to order and decree an Account to be taken, by One of the Masters of the said Court, of what is due to the Defendant or Defendants for Principal and Interest, and also for Costs, if any; in taking of which Account, the Complainant or Complainants shall be obliged to shew or produce, before the Master, proper Vouchers for all Credits that he, she, or they shall claim: And the said Court is hereby further authorised, on the Coming in of the Master's Report, to make a final Decree, appointing a Time and Place for Payment of the Sum, which, by such Report, shall appear to be due to the Defendant or Defendants, together with Interest on the said principal Sum, until tendered as hereinafter

Court of Chancery may on the Coming in of the Master's Report, make a final Decree for Payment.

after mentioned, and adjudging a Redemption of the mortgaged Premiſes, upon the Payment of the ſaid Principal and Intereſt, and Coſts, if any, either to the Defendant or Defendants, or to his, her, or their lawful Attorney or Attorneys, to be conſtituted as aforeſaid, or into the Bank of England, as herein-after preſcribed.

Mortgagees refuſing to receive the Sum tendered, the Mortgager is to pay the ſame into the Bank of *England.*

And be it further enacted, That, after a Time and Place for Redemption of any ſuch Mortgage, and the Sum of Money to be paid for ſuch Redemption ſhall be aſcertained by the ſaid Court, according to the uſual Courſe of Proceeding in Caſes of Redemption of Mortgages, if the Sum of Money ſo to be paid ſhall be then and there lawfully tendered, and if ſuch Mortgagee or Mortgagees, or his or their Repreſentative or Repreſentatives, Attorney or Attorneys, ſhall refuſe to receive the ſame, or ſhall not attend for that Purpoſe; then, and in either of ſuch Caſes, it ſhall be lawful for the Mortgager or Mortgagers, or his or their legal Repreſentative or Repreſentatives, or his, her, or their Attorney or Attorneys, to pay ſuch Sum of Money into the Bank of England, in the Name, and with the Privity of the Accountant-general of the High Court of Chancery of England, to be placed to his Account there ex parte, the Mortgager or Mortgagers, or his or their Repreſentative or Repreſentatives, purſuant to the Method preſcribed by the Act of the Twelfth Year of the Reign of His late Majeſty King George the Firſt, (intituled, An Act for better ſecuring the Moneys and Effects of the Suitors of the Court of Chancery, and to prevent the counterfeiting of *Eaſt India* Bonds and Indorſements thereon, as likewiſe Indorſements on *South Sea* Bonds), and the General Rules and Orders of the ſaid Court, and without Fee or Reward, according to the Act of the Twelfth Year of the Reign of His late Majeſty King George the Second, (intituled, An Act to impower the High Court of Chancery to lay out, upon proper Securities, any Moneys not exceeding a Sum therein limited, out of the Common and

purſuant to Act 12 *Geo.* I.

and according to the General Rules of Court, and Act 12 *Geo.* II.

and General Cash in the Bank of *England* belonging to the Suitors of the said Court, for the Ease of the said Suitors, by applying the Interest arising therefrom for answering the Charges of the Office of the Accountant-general of the said Court), there to remain for the Benefit of the Mortgagee or Mortgagees, their Executors, Administrators, or Assigns, and to be laid out on Government or Parliamentary Securities, as hereinafter mentioned, until he, she, or they shall, upon a Petition to be preferred to the High Court of Chancery, in a summary Way, at his, her, or their Expence, obtain an Order of that Court for the Payment thereof, and of all Interest, Profits, and Dividends arising therefrom.

for the Benefit of the Mortgagees.

And it is hereby further enacted by the Authority aforesaid, That a Certificate or Certificates of the Accountant-general, under his Hand, (which he is hereby directed to give without Fee or Reward, as well to the Mortgager or Mortgagers, his, her, or their Heirs, as to the Mortgagee or Mortgagees, his, her, or their Executors, Administrators, or Assigns, upon Application made to him for that Purpose), that the Mortgager or Mortgagers, or his, her, or their Heirs or Representatives, Attorney or Attorneys, have paid such Sum into the Bank of England, shall be a good and effectual Discharge to the Mortgager or Mortgagers, or his, her, or their Heirs; and that after such Certificate shall be so given, the Mortgager or Mortgagers, his, her, or their Heirs or Assigns, and all and every other Person and Persons who shall or may be Surety or Sureties for the Payment of the Sum originally lent, or the Interest thereof, shall be, and are hereby absolutely acquitted, released, and discharged of and from the same; and that the legal Estate, and all other the Interest of the Mortgagee or Mortgagees, or of his, her, or their Representative or Representatives, in the mortgaged Premises, shall be, and is hereby declared to be, from and after the granting such Certificate or Certificates, vested in the Mortgager or Mortgagers, or his, her,

A Certificate of the Accountant-general for the Payment, to be an effectual Discharge to the Mortgager.

or their Heirs respectively, or in whom he, she, or they shall respectively appoint.

Before Application to Chancery for an Order to receive the Sum, the Accountant is to place it out on Government Security.

And be it further enacted by the Authority aforesaid, That, in the mean Time, and until the Mortgagee or Mortgagees, or his, her, or their legal Representative or Representatives, shall apply by Petition to the High Court of Chancery for an Order to receive the said Sum, the said Accountant-general shall, and he is hereby directed and impowered to place out the same on Government or Parliamentary Securities; and shall pay the Interest, Dividends, or Profits therefrom arising, from Time to Time, as the same shall become due and payable, unto the Person or Persons who shall be intitled to the Sum so paid into the said Bank.

Court of Chancery to order Payment of Money paid into the Bank, &c. on Application in a summary Way by the Mortgagee.

And be it further enacted by the Authority aforesaid, That the said High Court of Chancery shall, and is hereby required and authorised to make an Order for the Payment of the Sum that shall be so paid into the said Bank as aforesaid, and of all Dividends, Profits, and Interest therefrom arising, to the Person or Persons intitled thereto, upon an Application made to the said Court by Petition, in a summary Way, by the Mortgagee or Mortgagees, his, her, or their Executors, Administrators, or Assigns; on hearing of which Petition it shall be sufficient for the Petitioner or Petitioners to prove, to the Satisfaction of the Court, that he, she, or they, is or are the Person or Persons for whose Use or Benefit the Money was so paid into the said Bank, or that he, she, or they, are the legal Representative or Representatives of such Person or Persons, without requiring any of the Proceedings in the Court of Chancery of the Colony in the Cause to be transmitted hither; and upon producing such Order to the Accountant-general, the Money shall be paid to the Person specified in such Order, or to his, her, or their lawful Attorney or Attorneys, without Fee or Reward.

Publick Act. And be it enacted by the Authority aforesaid, That this Act shall be deemed, adjudged, and taken to be a Publick Act; and shall be judicially taken Notice of as such by all Judges, Justices, and other Persons whomsoever, without being specially pleaded.

FINIS.

ANNO REGNI

GEORGII III.

REGIS

Magnæ Britanniæ, Franciæ, & Hiberniæ,

DECIMO TERTIO.

At the Parliament begun and holden at *Weſtminſter*, the Tenth Day of *May*, *Anno Domini* 1768, in the Eighth Year of the Reign of our Sovereign Lord GEORGE the Third, by the Grace of God, of *Great Britain*, *France*, and *Ireland*, King, Defender of the Faith, *&c.*

And from thence continued, by ſeveral Prorogations, to the Twenty-ſixth Day of *November*, 1772; being the Sixth Seſſion of the Thirteenth Parliament of *Great Britain*.



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MDCCLXXIII.

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