ANNO QUADRAGESIMO PRIMO

GEORGII III. REGIS.

****

CAP. LX.

An Act to explain and amend an Act passed in the Thirty-fourth Year of the Reign of His present Majesty, intituled, *An Act to enable the Lords Commissioners of His Majesty's Treasury to ascertain what Sum shall be paid into His Majesty's Exchequer, in full Satisfaction of the Debt due on the Mortgage made by the late* John Gardner Kemeys *Esquire, in Trust for the late Right Honourable* Richard Rigby, *in case it shall appear to the said Lords Commissioners that it will be necessary to resort to the mortgaged Premises, in order to recover the Balance due from the said* Richard Rigby *to His Majesty.* [20th *June* 1801.]

Preamble recites Settlement on the Marriage of *John Gardner Kemeys* Esq.

WHEREAS by Indenture of Lease and Release dated the Thirteenth and Fourteenth Days of *April* One thousand seven hundred and fifty-six, the Release made between *John Gardner Kemeys* Esquire (since deceased) and *Jane* his Wife (also since deceased) of the First Part; the Right Honourable *John* Lord *Carysfort* and *Lilly Smith Anyscombe*, of the Second Part; and *Paul Fielde* and *Fran-*

tis Durouré, of the Third Part; after reciting the Marriage of the ſaid *John Gardner Kemeys* with the ſaid *Jane* his Wife, before either had attained Twenty-one, and that the ſaid *John Gardner Kemeys* was then ſeiſed in Fee of conſiderable Eſtates in the Iſland of *Jamaica*; and that the ſaid *Jane Gardner Kemeys* was alſo ſeiſed in Fee of a real Eſtate in the County of *Monmouth*, ſubject to a Term of One thouſand Years for raiſing and paying Three thouſand Pounds to her Three Siſters, *Anne Kemeys*, *Mary Kemeys*, and *Suſanna Audrey Kemeys*; and alſo ſubject to the Payment of Three hundred Pounds due on Mortgage, the undivided Moiety or Half Part of him the ſaid *John Gardner Kemeys*, of and in certain Lands or Plantations called *Plantain Garden River Plantation* in the Iſland of *Jamaica*, then, One Year with another, of the yearly Value of One thouſand two hundred Pounds Sterling and upwards, with the Negroes and other Appurtenances thereunto belonging, was, in purſuance of an Order of the Court of Chancery, ſettled and aſſured to the Uſe of the ſaid *John Gardner Kemeys* for Life, Remainder to Truſtees to preſerve contingent Remainders; Remainder to the Intent that the ſaid *Jane Gardner Kemeys* and her Aſſigns ſhould, during her Life, receive a clear Annuity of Five hundred Pounds Sterling; Remainder to the Uſe of Truſtees for Five hundred Years, upon Truſt, to raiſe, in the Event that happened, Four thouſand Pounds, for the Portions of the Daughters of the ſaid Marriage; Remainder to the Firſt and other Sons of the ſame Marriage ſucceſſively in Tail male; Remainder to the ſaid *John Gardner Kemeys* in Fee; and ſeveral Freehold Manors, Meſſuages, Farms, Lands, and Hereditaments in the County of *Monmouth*, deviſed to the ſaid *Jane Kemeys* by her Father's Will, were ſettled and aſſured (ſubject to the Incumbrances thereon) to the Uſe of the ſaid *John Gardner Kemeys* for Life, without Impeachment of Waſte; Remainder to Truſtees to preſerve contingent Remainders; Remainder to Truſtees for One thouſand Years for better ſecuring the Payment of the ſaid Annuity and Portions; Remainder to the Uſe of the Firſt and other Sons of the ſaid Marriage ſucceſſively in Tail male; Remainder to the ſaid *John Gardner Kemeys* in Fee: And whereas in the Year One thouſand ſeven hundred and ſeventy-two, the ſaid *John Gardner Kemeys* having involved himſelf in Debt, as well for Money borrowed at Intereſt as alſo taken up by Annuities which he granted to the Amount, as calculated, of Forty-four thouſand and twenty-ſix Pounds, applied to Parliament to open the Settlement and to make a Security for that Sum, in Preference to the Settlement, on a Pretence utterly unfounded, that a great Part of his Debts had been incurred for the Sums he had advanced, to add new Eſtates to and improve the ſaid ſettled Eſtates: And whereas, in Conſequence of the greateſt Impoſition on, and the moſt falſe Repreſentations to the Legiſlature, an Act of Parliament was paſſed in the Twelfth Year of the Reign of His preſent Majeſty, when the eldeſt Son of the ſaid *John Gardner Kemeys* was an Infant of about Fourteen Years of Age, intituled, *An Act for veſting the ſettled and unſettled Eſtates of* John Gardner Kemeys *Eſquire, in Truſtees in Truſt, by Sale or Mortgage, to raiſe Money to pay off Portions and Debts, and redeem Annuities charged upon and affecting the ſame, and for reſettling the Remainder thereof, and Lands to be purchaſed as in the Act is directed to the Uſes to which the ſaid ſettled Eſtates do now ſtand ſettled and limited*; whereby it was enacted, that all the aforeſaid ſettled and unſettled *Engliſh* and *Jamaica* Eſtates, being Part Freehold, Part Copyhold, and Part Chattel-

Act 12 *Geo.* III,

hold

hold, ſhould, from the Twenty-fourth Day of *June* One thouſand ſeven and ſeventy-two, be veſted in and ſettled upon *James Clitherow* Eſquire, and *Paul Fielde* and *Joſeph Banks* Eſquires (both ſince deceaſed), and their Heirs and Aſſigns for ever, diſcharged from the Uſes and Truſts created by the before recited Settlement of the Fourteenth Day of *April* One thouſand ſeven hundred and fifty-ſix, upon Truſt for raiſing by Sale or Mortgage of the ſaid Eſtates, ſuch Sums as ſhould be neceſſary for paying the Coſts of the Act, and the Truſts thereby created, and the Portions, Debts, Sums of Money, and Incumbrances, and redeeming the Annuities ſpecified in a Schedule, and all Intereſt of the ſaid Debts and Incumbrances, and Arrears of the ſaid Annuities which ſhould be due at the Time of the Payment thereof; the Amount of all which Debts and Incumbrances, and of Arrears of Intereſt and Annuities, and of the Monies required to redeem the ſaid Annuities, are calculated in ſuch Schedule to amount to the Sum of Forty-four thouſand and twenty-ſix Pounds: And whereas in the ſaid Year One thouſand ſeven hundred and ſeventy-two, the late Right Honourable *Richard Rigby* advanced the Sum of Forty-eight thouſand Pounds on a Mortgage made by the Truſtees of the ſaid Act of Parliament; but it appearing that the Truſtees had exceeded their Power, the Principal of the ſaid Mortgage was afterwards reduced by a Decree of the Court of Chancery to Forty-one thouſand three hundred and eighty-ſix Pounds, Thirteen Shillings, and Sixpence: And whereas in the Month of *July* One thouſand ſeven hundred and ninety-three, the ſaid *John Gardner Kemeys* died inſolvent, leaving the ſaid *Jane Gardner Kemeys* his Widow, and *John Kemeys Gardner Kemeys* his only Son, and *Jane Gardner Kemeys*, now the Wife of *Providence Hanſard* Eſquire, and *Suſanna Margaret Gardner Kemeys*, his only Daughters, him ſurviving; and upon that Event the ſaid *John Kemeys Gardner Kemeys*, upon looking into his Affairs, found himſelf abſolutely ruined, his Eſtate taken from him, and not only himſelf, but alſo his Mother and his Two Siſters left entirely deſtitute of any Proviſion, they having no other Fortune but what was intended for them by the above Settlement; and it being ſuppoſed that the ſaid Mortgage of the ſaid *Richard Rigby* would exhauſt the whole Eſtate, as there was then due on that Mortgage about Fifty-four thouſand five hundred Pounds, for Principal, Intereſt, and Coſts; and it not being probable that both the ſettled and unſettled Eſtates would ſell for that Sum, the average nett yearly Income from the Whole, for the then laſt Seven Years, being no more than about One thouſand five hundred Pounds: And whereas, with a View to give Relief to the ſaid *John Kemeys Gardner Kemeys*, and his Family, in Conſideration of the Hardſhip of their Caſe, an Act of Parliament was paſſed in the Thirty-fourth Year of the Reign of His preſent Majeſty, intituled, *An Act to enable the Lords Commiſſioners of His Majeſty's Treaſury to aſcertain what Sum ſhall be paid into His Majeſty's Exchequer, in full Satisfaction of the Debt due on the Mortgage made by the late* John Gardner Kemeys *Eſquire, in Truſt for the late Right Honourable* Richard Rigby, *in caſe it ſhall appear to the ſaid Lords Commiſſioners that it will be neceſſary to reſort to the mortgaged Premiſes, in order to recover the Balance due from the ſaid* Richard Rigby *to His Majeſty*; whereby, after reciting to the Effect aforeſaid, and alſo reciting, that the aforeſaid *Richard Rigby*, the Mortgagee of the aforeſaid Eſtates, died indebted to the Crown in a very large Sum of Money, of which there was then One hundred and forty thouſand Pounds

and 34 Geo. III, Cap. 66.

Pounds and upwards due: And further reciting, that inaſmuch as the grievous Misfortune of the ſaid *John Kemeys Gardner Kemeys*, and of his Mother and Siſters, had been occaſioned by the extraordinary Interpoſition of the Legiſlature in ſetting aſide the Settlement which would have inſured Competence and Affluence to him the ſaid *John Kemeys Gardner Kemeys*, and which Interpoſition was founded on a groſs Miſrepreſentation of Facts, and made at a Time when his tender Years rendered it impoſſible for him to take any Steps to prevent his Eſtate from being injuriouſly taken from him; and as it then happened, from the Circumſtances of the Money due to the Crown from the Eſtate of the ſaid *Richard Rigby* not having yet been paid, that the ſaid *John Kemeys Gardner Kemeys* and his Family might be relieved from the cruel Injuſtice they had ſuffered, without interfering with the private Intereſt of Individuals, or the Application of Money already appropriated to the publick Service, if it ſhould be thought the Hardſhip of their Caſe entitled them to hope for Relief: And alſo reciting, that it had been propoſed, that the Crown ſhould, as between itſelf and the Repreſentatives and private Creditors of the ſaid *Richard Rigby*, be conſidered as entitled to the whole Benefit of the aforeſaid Mortgage and the ſaid mortgaged Eſtates, being as aforeſaid eſtimated to be of the Value of Forty thouſand Pounds, it had been further propoſed, that the Eſtate of the ſaid *Richard Rigby* ſhould be diſcharged from the Sum of Forty thouſand Pounds, Part of the aforeſaid Debt due therefrom to the Crown; which Propoſal being apprehended to be highly beneficial to the Repreſentatives and private Creditors of the ſaid *Richard Rigby*, the ſame would be agreed to on their Parts: And alſo reciting, That the ſaid *John Kemeys Gardner Kemeys* was deſirous of having the ſaid mortgaged Eſtates veſted in Truſt for himſelf and his Family upon his procuring to be paid into his Majeſty's Exchequer ſuch Sum of Money as, under the aggravated Diſtreſs of his Caſe, attended with all its peculiar Circumſtances, Parliament in their Wiſdom and Humanity ſhould think reaſonable; and in order thereto, he the ſaid *John Kemeys Gardner Kemeys* humbly propoſed, that it might be referred to the Lord Commiſſioners of the Treaſury to inquire into and aſcertain what Sum was reaſonable and proper to be ſo paid into the Exchequer, and that, upon ſuch Payment being made, the real and perſonal Repreſentatives of the ſaid *Richard Rigby* ſhould convey the ſaid mortgaged Eſtates to proper Perſons diſcharged from all Claims of the perſonal Repreſentatives and private Creditors of the ſaid *Richard Rigby*, and alſo from all Claims of the Crown in reſpect of the ſame Eſtates, and alſo diſcharged from the Truſts of the aforeſaid Settlement and Act of Parliament; but ſubject, nevertheleſs, in the Firſt Place, to ſecure the Sum ſo to be paid into the Exchequer to the Lender thereof, with Intereſt, and then to ſecure to the Mother and Siſters of him the ſaid *John Kemeys Gardner Kemeys*, ſuch proportionable Proviſion as they ſhould be entitled to, in reſpect of the ſaid Jointure and Portions originally ſecured to them upon the ſaid ſettled Eſtates, and ſubject thereto, in Truſt for him the ſaid *John Kemeys Gardner Kemeys*, in Fee Simple; it was enacted, That in caſe it ſhould appear to the Lords Commiſſioners of His Majeſty's Treaſury, that it would be neceſſary to reſort to the ſaid mortgaged Premiſes in order to recover the Balance due from the ſaid *Richard Rigby* to His Majeſty, it ſhould and might be lawful to and for the Lords Commiſſioners for executing the Office of Treaſurer of His Majeſty's Exchequer for the Time being, or

any Three or more of them, or the Lord High Treaſurer for the Time being, and they and he were and was thereby authorized and required, at any Time or Times after the paſſing of that Act, to inquire and aſcertain what Sum of Money would be reaſonable and proper, under the Circumſtances of the Caſe, to be paid into the Receipt of His Majeſty's Exchequer, in Conſideration of the Crown's releaſing and diſcharging the Eſtate of the ſaid *Richard Rigby* from the Sum of Forty thouſand Pounds, Part of the Debt due to the Crown from the ſaid Eſtate, and alſo in Conſideration of the ſaid mortgaged Eſtates being veſted in proper Perſons for the Purpoſes aforeſaid, diſcharged of all Claims on the Part of the Crown: And Proviſion is made by the ſaid Act for effectuating the other Purpoſes mentioned in the Recitals thereof: And whereas the Whole of the perſonal Eſtate of the ſaid *Richard Rigby*, except the mortgaged Property in Queſtion, has been applied towards Satisfaction of the ſaid *Richard Rigby*'s Debt to the Crown, which is thereby reduced to the Sum of Ninety thouſand Pounds, or thereabouts; but inaſmuch as the real Eſtate of the ſaid *Richard Rigby* are found to be more than ſufficient to diſcharge the Reſidue of his ſaid Debt to the Crown, and therefore that it will not be neceſſary to reſort to the ſaid mortgaged Premiſes to recover the Balance ſo due, whereby the ſaid *John Kemeys Gardner Kemeys* and his Family find themſelves deprived of any Relief under the ſaid late Act of Parliament, which he cannot but preſume it was the Intention of the Legiſlature to afford them, notwithſtanding the Condition above recited, which he apprehends was introduced by Miſtake, as being contrary to the Object of the Petition, on which the ſaid Act was founded, and the Principle on which it was favourably received by Parliament: Your Majeſty's moſt dutiful and loyal Subject the ſaid *John Kemeys Gardner Kemeys*, on Behalf of himſelf and his ſaid Two Siſters, doth 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 it ſhall and may be lawful to and for the Lords Commiſſioners for executing the Office of Treaſurer of His Majeſty's Exchequer for the Time being, or any Three or more of them, or the Lord High Treaſurer for the Time being, and they and he are and is hereby authorized and required, at any Time or Times after the paſſing of this Act, to inquire and aſcertain what Sum of Money will be reaſonable and proper, under the Circumſtances of the Caſe, to be paid into the Receipt of His Majeſty's Exchequer in Conſideration of the Crown's releaſing and diſcharging the Eſtate of the ſaid *Richard Rigby* from the Sum of Forty thouſand Pounds, Part of the Debt due to the Crown from the ſaid Eſtate, and alſo in Conſideration of the ſaid mortgaged Eſtates being veſted in proper Perſons for the Purpoſes aforeſaid, diſcharged of all Claims on the Part of the Crown, and thereupon to receive for His Majeſty's Uſe the Sum of Money ſo to be aſcertained; and upon Payment thereof, the ſaid Lords Commiſſioners, or any Three or more of them, or the Lord High Treaſurer for the Time being, ſhall deliver unto the Perſon or Perſons making ſuch Payment a Certificate or Certificates of the ſame having been made.

The Treaſury ſhall aſcertain the Sum to be paid into the Exchequer on the Crown's releaſing the Eſtate of Mr. *Rigby* of 40,000 *l.* and on the mortgaged Eſtate of Mr. *Kemeys* being veſted in Truſtees for certain Purpoſes.

II. And be it further enacted, That if, upon Payment into the Exchequer of the ſaid Sum ſo to be aſcertained as aforeſaid, the real and perſonal Repreſentatives

On Payment of the Sums ſo fixed, mort-

gaged Eſtates to be conveyed in Truſt for the Purpoſes herein expreſſed.

Repreſentatives of the ſaid *Richard Rigby*, and all Perſons intereſted in Truſt for them, ſhall convey the ſaid mortgaged *Engliſh* and *Jamaica* Eſtates, as well Freehold and Copyhold, as Chattelhold, to One or more Perſon or Perſons, to be approved of by the ſaid *John Kemeys Gardner Kemeys*, his Heirs or Aſſigns, and to the Heirs, Executors, Adminiſtrators, and Aſſigns of ſuch Perſon or Perſons, according to the Nature and Quality of the ſame Premiſes reſpectively, upon the Truſts, and for the Intents and Purpoſes hereinafter expreſſed, then and in ſuch Caſe, and from thenceforth, the real and perſonal Eſtate of the ſaid *Richard Rigby*, and his Heirs, Executors, and Adminiſtrators, ſhall be releaſed and diſcharged of and from the Sum of Forty thouſand Pounds, Part of the ſaid Debt due from his Eſtate to the Crown, and then alſo and from thenceforth, the ſaid mortgaged Eſtates in *England* and *Jamaica* ſhall be and remain veſted in the Perſon or Perſons to whom the ſame ſhall be conveyed as aforeſaid, freed and diſcharged of and from all Claims and Demands of the real and perſonal Repreſentatives and Creditors of the ſaid *Richard Rigby*, on Account of the ſaid Mortgage, or the Coſts of the aforeſaid Suits in Law and Equity, or otherwiſe reſpecting the ſame; and alſo of and from all Claims and Demands of His Majeſty, His Heirs and Succeſſors, for or on Account of the Debt due to the Crown from the Eſtate of the ſaid *Richard Rigby*; and alſo of and from all and ſingular the Uſes and Truſts, Entails and Limitations limited or declared by the aforeſaid recited Indenture of Settlement of the Fourteenth Day of *April* One thouſand ſeven hundred and fifty-ſix, and Act of Parliament, or either of them; but nevertheleſs, to the Intent and Purpoſe to ſecure the Repayment of the Sum of Money ſo to be paid into the Exchequer as aforeſaid, to the Perſon or Perſons advancing and paying the ſame, with lawful Intereſt, and ſubject thereto, in Truſt for ſecuring ſuch proportionable Proviſion for the ſaid *Jane Gardner Hanſard*, and *Suſanna Margaret Gardner Kemeys*, as they ſhall be entitled to in reſpect of the aforeſaid Portions originally ſecured upon the aforeſaid ſettled Eſtates; and ſubject as aforeſaid in Truſt for the ſaid *John Kemeys Gardner Kemeys*, and His Heirs, Executors, Adminiſtrators and Aſſigns, abſolutely and for ever, according to the Nature and Quality of the ſame Eſtates and Premiſes reſpectively.

Not to prevent the Tenant in Tail recovering Poſſeſſion of the mortgaged Eſtates.

III. Provided always, and be it further enacted, That nothing herein contained ſhall extend or be conſtrued to extend in any Degree to prevent or hinder the ſaid *John Kemeys Gardner Kemeys*, or his Heirs, from proceeding at Law or in Equity, or in any other Way he or they ſhall be adviſed, to recover the Poſſeſſion of the Eſtates ſo ſettled on the Marriage of his Father and Mother as aforeſaid, and to which he became entitled as Tenant in Tail as aforeſaid; any Thing herein-before contained to the contrary thereof in anywiſe notwithſtanding.

General Saving.

IV. Saving always, to all and every Perſon and Perſons, Bodies politic and corporate, and his, her, or their Heirs, Succeſſors, Executors, and Adminiſtrators (other than and except His preſent Majeſty, his Heirs and Succeſſors), and the Heirs, Executors, and Adminiſtrators of, and all other Perſons claiming under, or in Truſt for the ſaid *Richard Rigby* deceaſed, and the ſaid *John Kemeys Gardner Kemeys*, *Providence Hanſard* and *Jane* his Wife, and *Suſanna Margaret Gardner Kemeys*, and their reſpective Heirs, Executors, Adminiſtrators, and Aſſigns, and all and

and every other Perſon and Perſons having or claiming any Eſtate, Right, Title, or Intereſt, Property, Claim, or Demand whatſoever, of, in, to, or out of all or any Part of the ſaid mortgaged Eſtates and Premiſes, under or by virtue of the aforeſaid recited Indentures and Act of Parliament, or any of them, all ſuch Eſtate, Right, Title, Intereſt, Claim, and Demand whatſoever, of, into, or out of the ſame mortgaged Eſtates and Premiſes, as they, every, or any of them had, before the paſſing of this Act, or could or might have had, held, or enjoyed, in caſe this Act had not been made.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's moſt Excellent Majeſty. 1801.