ANNO TERTIO & QUARTO

VICTORIÆ REGINÆ.

****

C A P. XL.

An Act to amend Two Acts of His late Majesty King *William* the Fourth, for the Relief of certain of Her Majesty's Colonies and Plantations in the *West Indies*. [4th *August* 1840.]

WHEREAS by an Act passed in the Session of the Second and Third Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for enabling His* 2 & 3 W. 4.
Majesty to direct the Issue of Exchequer Bills to a limited Amount, c. 125.
for the Purposes and in the Manner therein mentioned; and for giving Relief to Trinidad, British Guiana, *and* Saint Lucie, it was amongst other things enacted, that it should be lawful for the Commissioners thereby named and appointed, or other the Commissioners for the Time being acting in the Execution of the said Act, or any Three of them, to advance and lend Exchequer Bills, to such Amount and in such Proportions as therein specified, to the Owners and Persons interested in Estates which had suffered Injuries from the Causes therein mentioned in the Islands of *Jamaica*, *Barbadoes*, *Saint Vincent*, and *Saint Lucie*, and in certain other of Her Majesty's Colonies and Plantations in the *West Indies*; and that the said Commissioners, or any Three of them, as therein mentioned, should take such Security or Securities as therein mentioned for the Repayment of any Advances or Loans made as therein mentioned, at or before the Expiration of

Ten Years from the Time of such Advances respectively, with Interest for the same in the meantime after the Rate of Four Pounds *per Centum per Annum*, such Interest to be paid in manner in the said Act mentioned; and it was further enacted, that if any Default should be made in the Repayment of all or any Part of such Loan or Advance for which any such Mortgage should be accepted or taken by the said Commissioners as a Security (but not otherwise), the said Commissioners, or their Attornies or Attorney, to be appointed for that Purpose by the proper Proceedings in the said Islands, upon Judgment to be entered up, should take possession of all or any Parts or Part of the said mortgaged Premises, and by Sale or Mortgage of the same, or a competent Part thereof, raise and levy such Sum or Sums of Money as should be sufficient to repay all Monies due upon or in respect of such Loan or Advance and the Interest thereof, and all Costs and Charges attending such Proceedings, and the Monies so recovered (the Costs and Charges as in the said Act mentioned excepted) should be paid and applied in reimbursement and satisfaction of the Sum due upon or in respect of such Loan or Advance, in like Manner as the Sums of Money to be recovered under the Proceedings authorized by the therein-recited Act, in default of Payment, were thereby directed to be paid and applied; and that the Receipt of such Persons or Person as the said Commissioners or any Three or more of them should nominate and appoint as their Attornies or Attorney in the said Islands or in *Great Britain* should alone be a full and sufficient Discharge to such Mortgagees or Purchasers, or Mortgagee or Purchaser, for the Monies or Money advanced on Mortgage, or for the Purchase Monies or Purchase Money of the respective Premises so mortgaged or sold, and such Mortgagees or Purchasers, or Mortgagee or Purchaser, should not be bound to see to the Application thereof, nor should be liable or in any Manner accountable for the Misapplication or Nonapplication of such Monies or Money by the Attornies or Agents of the said Commissioners, or any of them; and that the Attornies or Agents so to be appointed as aforesaid should give Security, by Obligations to His Majesty, with such Sureties as the said Commissioners or any Three or more of them should approve, duly to account to the said Commissioners for and to pay to the Cashiers of the Bank of *England*, when and as the said Commissioners or any Three or more of them should direct or appoint, all such Sum or Sums of Money as they should recover or receive under or by virtue of such Appointments, after deducting all Costs, Charges, and Expences which should or might be incurred in the Recovery thereof, and the Commission or Compensation to be paid or allowed to such Attornies or Agents for their Trouble, which Costs, Charges, and Expences, Commission or Compensation, should be examined and allowed by the said Commissioners or any Three or more of them in such Manner and to such Extent as they in their Discretion should think fit; and that the said Attornies or Agents to be appointed as aforesaid should alone be Accountants to His Majesty for such Sum and Sums of Money as they should recover under or by virtue of the now-reciting Act: And whereas by an Act passed in the Session of the Fifth and Sixth Years of the Reign of His said Majesty King *William* the Fourth, intituled *An Act for granting Relief to the Island of* Dominica, *and*

5 & 6 W. 4. c. 51.

to

to amend an Act of the Second and Third Years of His present Majesty, for enabling His Majesty to direct the Issue of Exchequer Bills to a limited Amount for the Purposes therein mentioned, it was amongst other things enacted as therein mentioned, that it should be lawful for the Commissioners acting in the Execution of the said recited Act to advance Exchequer Bills to a certain Amount to the Owners of and Persons interested in the Estates and Property in the said Island of *Dominica* which had suffered Injury from the Causes therein mentioned, and that all such Advances should be made in such and the same Manner, and under and subject to such and the same Conditions, Provisions, and Restrictions, and on such Securities, and in all respects whatsoever, as was provided and directed by the said recited Act with regard to Advances to be made to Owners and Persons interested in the Estates in the said Islands of *Jamaica*, *Barbadoes*, *Saint Vincent*, and *Saint Lucie*, and in all respects whatsoever, so far as the same could be made applicable and were not varied by the said Act now in recital, as if the said Island of *Dominica* had been included in the said Act as one of the Islands to be relieved: And whereas it is expedient that the Powers and Provisions contained in the firstly herein-before recited Act with respect to any Extension or Enlargement of Time for the Repayment of any Loans made or to be made in pursuance of the said Acts should be altered and enlarged as after mentioned: Be it therefore enacted by the Queen'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 be lawful for the said Commissioners for the Time being acting in the Execution of the said recited Acts, or any Three of them, with the Consent in Writing of the Lord High Treasurer for the Time being, or of any Three or more of the Commissioners of Her Majesty's Treasury of the United Kingdom of *Great Britain* and *Ireland* for the Time being, upon any Application made to them at any Time before the passing of this Act, or upon any Application hereafter to be made, and which Application is hereby authorized to be made notwithstanding the Period for making such Application shall have elapsed, to grant any Extension or Enlargement of the Time limited for the Repayment of any Loan or Advance which shall have been or shall be made under the Provisions or Authority of the said herein-before recited Acts of the Second and Third and of the Fifth and Sixth Years of the Reign of His said late Majesty King *William* the Fourth, or any Part of such Loan or Advance, for any Period not exceeding Ten Years from the Day originally fixed for the Repayment thereof or the last Instalment thereof, together with Interest for the same in the meantime after the Rate of Four Pounds *per Centum per Annum*, to be computed from the Day on which such Extension or Enlargement of Time shall be granted, so as every such Extension of Time be made in every Case on Condition that the Loan shall be paid by equal annual Instalments, not exceeding Ten in Number, and the first Instalment to be made at the End of One Year from the Expiration of the Time originally fixed for the Repayment of the said Loan or the last Instalment thereof, and so as no such Extension of Time be granted except on Condition that an absolute Power of Sale be vested in Her Majesty

Commissioners, with Consent of Treasury, to grant Extension of Time limited for Repayment of Loans, not exceeding Ten Years, on certain Conditions.

Majesty, Her Heirs and Successors, of the Hereditaments and Premises charged with such Loan, in all Cases where any Hereditaments or Premises are so charged, in case Default shall be made in Payment of any One of the said annual Instalments, or of any One Year's Interest on the said Loan, or such Part as shall be due, or any Part thereof respectively, for Six Calendar Months after the same shall be due: Provided always, that no such Sale shall be made as aforesaid unless for at least Three Calendar Months previously to any such Sale there shall have been inserted in the *London Gazette*, and in such public Newspaper or Newspapers in the Colony where the Property shall be situated as the said Commissioners shall direct, a Notice of the Intention of the Commissioners to exercise their Power of Sale in pursuance of the Powers vested in them to make such Sale; and any such Sale may be made at any Time after such Three Months Notice shall have been given, and any such Sale may be made by the said Commissioners, subject to such special Conditions as to the Title, or the Deeds, Copies, or other Evidences to be produced, the Evidence relating to the Identity of the Property sold, and the Mode and Times of Payment of the Money, and any Contract for Sale may be altered or rescinded by the said Commissioners in such Manner and in all respects as they shall think fit: Provided also, that every such Application shall be made not less than One Year before such Time or Times so limited as aforesaid shall arrive.

Parties by whom the Estates charged under recited Acts empowered to apply for Extension, and to give the required Power of Sale.

III. And be it enacted, That every Person who by the herein-before recited Acts were authorized to charge any Plantations or Hereditaments for the Purpose of securing any Loan to be made in pursuance of the said Acts, their Representatives or Assigns, shall and may and are hereby authorized to apply for such Extension of Time, and also to grant and assure to Her said Majesty, Her Heirs and Successors, such Power of Sale as is herein-before provided; and such Power of Sale, when granted, shall have such and the like Priorities in all respects as if the Person or Persons having made the original Charge under the said Acts had been authorized under the said Acts to grant such absolute Power of Sale with such Priority as by the said Acts is provided, and had actually granted the same in the original Charge or Mortgage.

Commissioners may require further Security for Extension of Time.

III. And be it enacted, That it shall be lawful for the said Commissioners, with such Consent as aforesaid, to require any further Security to be granted and given to Her Majesty, Her Heirs and Successors, as a Consideration for the Extension of such Time as aforesaid.

Power of Sale may, in case of Default, be exercised by the Commissioners or their Attorney.

IV. And be it enacted, That the Power of Sale so to be granted to Her Majesty, Her Heirs and Successors, as aforesaid, may, in case of any Default being made in the Payment of any Instalment of the said Loan, or the Interest thereon, or any Part thereof respectively, be exercised by the Commissioners for the Time being acting in the Execution of the said Acts, or any Three of them, or by any Attorney or Attornies by them or any Three of them appointed for that Purpose by Deed under their Hands and Seals; and that the Receipt of the said Commissioners or any Three of them, or of any such

Receipts of Commissioners or their

Attorney

Attorney or Attornies so appointed as aforesaid, for the Monies to arise from the Sale of the said Hereditaments and Premises, and from the Rents and Profits of the said Hereditaments and Premises, before Sale and after any such Default as aforesaid, shall be good and sufficient Discharges for the same to the Persons paying the same; and that the said Commissioners or any Three of them, or their said Attorney or Attornies, may, on behalf of Her said Majesty, Her Heirs and Successors, convey and assure the Hereditaments which may be so sold to any Purchaser or Purchasers, or as he, she, or they may direct, and in all repects as Her Majesty, Her Heirs and Successors, could do under the said Power of Sale.

Attornies to be effectual Discharges.

Commissioners or their Attorney may convey.

V. And be it enacted, That it shall be lawful for the said Commissioners, or their said Attorney or Attornies, after retaining and paying all Monies due on any such Security as aforesaid, and all Expences in anywise relating to the said Sales, or the making out the Title to the Property sold, to pay over the Surplus, if any, of the said Purchase Monies to the Party or Parties entitled to the same, or, at the Discretion of the said Commissioners, without any special Order for that Purpose or other Authority than this Act, to pay the same into the Bank of *England* in the Name and with the Privity of the Accountant General of Her Majesty's High Court of Chancery in *England*, to be placed to his Account there "*Ex parte* the *West Indian* Islands Relief Commission," or into such Court in the Colony in which the Property sold may be situate as by the Law of the said Colony may be authorized to receive as Deposits Money involved in or the Subject of any Suit; and the said Court of Chancery, or such other Court into which such Monies may be paid, may, on Petition of any Parties claiming to be interested therein, make such Order for the Investment of the said Monies, and for the Payment thereof to the Parties who shall appear to be entitled thereto, as such Court may think proper; and after any such Payment as aforesaid by the said Commissioners, Her Majesty, Her Heirs and Successors, and the said Commissioners, and such Attorney or Attornies as aforesaid, shall be freed from all Responsibility as to the Payment or Application of such Monies.

Commissioners or their Attorney may pay Surplus of Purchase Monies, after Payment of Expences, to Parties entitled, or into the Court of Chancery, or Court in the Island.

Courts may make Order for Investment or Payment thereof.

Payment into Court to exonerate from Responsibility.

VI. And be it enacted, That the Monies to be secured by any such further Security or any such Extension of Time as aforesaid shall be paid in such Manner as by the said first-recited Act is mentioned and provided; and any Attorney or Attornies to be appointed for the Purposes of any such Sale or Sales shall give such Security as in the said first-recited Act is mentioned; and for effecting such Sale as aforesaid the said Commissioners shall not be obliged to enter up any Judgment or Judgments, or take any other preliminary legal Proceedings against the Person or Persons making such Default as aforesaid, his, her, or their Representatives or Assigns, any thing in the said first-recited Act to the contrary contained in anywise notwithstanding.

Monies secured to be paid as under recited Act.

Attornies.

Commissioners not obliged to enter up any Judgment for effecting Sales.

VII. And be it enacted, That, notwithstanding any such Extension of Time as aforesaid, the same shall not be in anywise taken to prejudice the Right, Estate, Interest, or Powers of Her Majesty, Her Heirs or Successors, under the original Security or Securities which may have been

Extension of Time not to prejudice Powers under original Securities if

Default made in the meantime in Payment of Interest.

been granted to Her Majesty, Her Heirs and Successors, in case Default shall be made, before the Period of such Extension of Time shall arrive, in the Payment of the Interest on any such Loans as aforesaid, but that such Right, Estate, Interest, and Power shall continue in full Force in all respects as if such Extension of Time had not been granted.

Assent of Incumbrancers, &c. who assented to Loans not required to Extension of Time for Repayment.

VIII. Provided always, and be it enacted, That, notwithstanding the Assent or Concurrence of any Person or Persons having or claiming to have any Estate, Interest, Incumbrance, Lien, Claim, or Demand on any Property comprised in any Security or Securities taken or to be taken by the said Commissioners for the Purposes of the said recited Acts may have been procured or taken on the making such Security or Securities, it shall not be necessary for the said Commissioners to obtain or require any such Concurrence or Assent to any further Security or Securities to be made on any such Extension of Time as aforesaid under the Provisions of this Act.

Powers of former Acts extended to Securities under this Act.

IX. And be it enacted, That all and every the several Clauses, Powers, Provisoes, Enactments, Penalties, and Restrictions in the said recited Acts contained, so far as the same can be made applicable, and are not varied by this Act, shall be taken to extend to this Act, and to every thing to be done and the further Securities to be taken in pursuance of this Act, and in all respects as if such Extension of Time and further Security had been granted and made in pursuance of the Provisions of this Act.

Act may be amended this Session.

X. And be it enacted, That this Act may be altered or repealed by any Act to be passed in this Session of Parliament.

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