

ANNO QUINTO & SEXTO

GULIELMI IV. REGIS.

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CAP. XLI.

An Act to amend the Law relating to Securities given for Considerations arising out of gaming, usurious, and certain other illegal Transactions.

[31st *August* 1835.]

WHEREAS by an Act passed in the Sixteenth Year of the Reign of His late Majesty King *Charles* the Second, and by an Act passed in the Parliament of *Ireland* in the Tenth Year of the Reign of His late Majesty King *William* the Third, each of such Acts being intituled *An Act against deceitful, disorderly, and excessive Gaming*, it was enacted, that all and singular Judgments, Statutes, Recognizances, Mortgages, Conveyances, Assurances, Bonds, Bills, Specialties, Promises, Covenants, Agreements, and other Acts, Deeds, and Securities whatsoever, which should be obtained, made, given, acknowledged, or entered into for Security or Satisfaction of or for any Money or other Thing lost at Play or otherwise as in the said Acts respectively is mentioned, or for any Part thereof, should be utterly void and of none effect: And whereas by an Act passed in the Ninth Year of the Reign of Her late Majesty Queen *Anne*, and also by an Act passed in the Parliament of *Ireland* in the Eleventh Year of the Reign of Her said late Majesty, each of such Acts being intituled *An Act for the better preventing of excessive and deceitful Gaming*, it was enacted, that from and after the several Days therein respectively mentioned all Notes, Bills, Bonds, Judgments, Mortgages, or other Securities or Conveyances whatsoever, given, granted, drawn, or entered into or executed by any Person or Persons whatsoever, where the Whole or any Part of the Consideration of such Conveyances or Securities should be for any Money or other valuable Thing whatsoever won by gaming or playing at Cards, Dice, Tables, Tennis, Bowls, or other Game or Games whatsoever, or by betting on the Sides or Hands of such as did game at any of the Games aforesaid, or for the reimbursing or repaying any Money knowingly lent or advanced for such gaming or betting as aforesaid, or lent or advanced at the Time and Place of such Play to any Person or Persons so gaming or betting as aforesaid, or that should, during such Play, so play or bet, should be utterly void, frustrate, and of none effect, to all Intents and Purposes whatsoever; and that where such Mortgages, Securities, or other Conveyances should be of Lands, Tenements, or Hereditaments, or should be such as should incumber or affect the same,

16 Car. 2. c. 7.

10 Will. 3. (I.)

9 Ann. c. 14.

11 Ann. (I.)

same, such Mortgages, Securities, or other Conveyances should enure and be to and for the sole Use and Benefit of and should devolve upon such Person or Persons as should or might have or be entitled to such Lands or Hereditaments in case the said Grantor or Grantors thereof, or the Person or Persons so incumbering the same, had been naturally dead, and as if such Mortgages, Securities, or other Conveyances had been made to such Person or Persons so to be entitled after the Decease of the Person or Persons so encumbering the same; and that all Grants or Conveyances to be made for the preventing of such Lands, Tenements, or Hereditaments from coming to or devolving upon such Person or Persons thereby intended to enjoy the same as aforesaid should be deemed fraudulent and void and of none effect, to all Intents and Purposes whatsoever: And whereas by an Act passed in the Twelfth Year of the Reign of Her said late Majesty Queen *Anne*, intituled *An Act to reduce the Rate of Interest without any Prejudice to Parliamentary Securities*, it was enacted, that all Bonds, Contracts, and Assurances whatsoever made after the Twenty-ninth Day of *September* One thousand seven hundred and fourteen for Payment of any Principal or Money to be lent or covenanted to be performed upon or for any Usury, whereupon or whereby there should be reserved or taken above the Rate of Five Pounds in the Hundred, as therein mentioned, should be utterly void: And whereas by an Act passed in the Parliament of *Ireland* in the Fifth Year of the Reign of His late Majesty King *George* the Second, intituled *An Act for reducing the Interest of Money to Six* per Cent., it was enacted, that all Bonds, Contracts, and Assurances whatsoever made after the First Day of *May* One thousand seven hundred and thirty-two for Payment of any Principal or Money to be lent or Covenant to be performed upon or for any Loan, whereupon or whereby there should be taken or reserved above the Rate of Six Pounds in the Hundred, should be utterly void: And whereas by an Act passed in the Fifty-eighth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act to afford Relief to the* bonâ fide *Holders of negotiable Securities without Notice that they were given for a usurious Consideration*, it was enacted, that no Bill of Exchange or Promissory Note that should be drawn or made after the passing of that Act should, though it might have been given for a usurious Consideration or upon a usurious Contract, be void in the Hands of an Indorsee for valuable Consideration, unless such Indorsee had at the Time of discounting or paying such Consideration for the same actual Notice that such Bill of Exchange or Promissory Note had been originally given for a usurious Consideration or upon a usurious Contract: And whereas by an Act passed in the Parliament of *Ireland* in the Eleventh and Twelfth Years of the Reign of His said late Majesty King *George* the Third, intituled *An Act to prevent Frauds committed by Bankrupts*, it was enacted, that every Bond, Bill, Note, Contract, Agreement, or other Security whatsoever to be made or given by any Bankrupt or by any other Person unto or to the Use of or in Trust for any Creditor or Creditors, or for the Security of the Payment of any Debt or Sum of Money due from such Bankrupt at the Time of his becoming bankrupt, or any Part thereof, between the Time of his becoming bankrupt and such Bankrupt's Discharge, as a Consideration or to the Intent to persuade him, her, or them to consent to or sign any such Allowance or Certificate, should be wholly void and of no effect, and the Monies there secured or agreed to be paid should not be recovered or re-

12 Ann. st. 2. c. 16.

5 G. 2. (I.)

58 G. 3. c. 93.

11 & 12 G. 3. (I.)

coverable: And whereas by an Act passed in the Forty-fifth Year of the Reign of His said late Majesty King *George* the Third, intituled *An Act for the Encouragement of Seamen, and for the better and more effectually manning His Majesty's Navy during the present War*, it was enacted, that all Contracts and Agreements which should be entered into, and all Bills, Notes, and other Securities which should be given, by any Person or Persons for Ransom of any Ship or Vessel, or of any Merchandize or Goods on board the same, contrary to that Act, should be absolutely null and void in Law, and of no effect whatsoever: And whereas by an Act passed in the Sixth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to amend the Laws relating to Bankrupts*, it was enacted, that any Contract or Security made or given by any Bankrupt or other Person unto or in Trust for any Creditor, or for securing the Payment of any Money due by such Bankrupt, at his Bankruptcy, as a Consideration or with Intent to persuade such Creditor to consent to or sign the Certificate of any such Bankrupt, should be void, and the Money thereby secured or agreed to be paid should not be recoverable, and the Party sued on such Contract or Security might plead the General Issue, and give that Act and the special Matter in Evidence: And whereas Securities and Instruments made void by virtue of the several herein-before recited Acts of the Sixteenth Year of the Reign of His said late Majesty King *Charles* the Second, the Tenth Year of the Reign of His said late Majesty King *William* the Third, the Ninth and Eleventh Years of the Reign of Her said late Majesty Queen *Anne*, the Eleventh and Twelfth Years of the Reign of His said late Majesty King *George* the Third, the Forty-fifth Year of the Reign of His said late Majesty King *George* the Third, and the Sixth Year of the Reign of His said late Majesty King *George* the Fourth, and Securities and Instruments made void by virtue of the said Act of the Twelfth Year of the Reign of Her said late Majesty Queen *Anne* and the Fifth Year of the Reign of His said late Majesty King *George* the Second, other than Bills of Exchange or Promissory Notes made valid by the said Act of the Fifty-eighth Year of the Reign of His said late Majesty King *George* the Third, are sometimes indorsed, transferred, assigned, or conveyed to Purchasers or other Persons for a valuable Consideration, without Notice of the original Consideration for which such Securities or Instruments were given; and the Avoidance of such Securities or Instruments in the Hands of such Purchasers or other Persons is often attended with great Hardship and Injustice: For Remedy thereof 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 so much of the herein-before recited Acts of the Sixteenth Year of the Reign of His said late Majesty King *Charles* the Second, the Tenth Year of the Reign of His said late Majesty King *William* the Third, the Ninth, Eleventh, and Twelfth Years of the Reign of Her said late Majesty Queen *Anne*, the Fifth Year of the Reign of His said late Majesty King *George* the Second, the Eleventh and Twelfth and the Forty-fifth Years of the Reign of His said late Majesty King *George* the Third, and the Sixth Year of the Reign of His said late Majesty King *George* the Fourth, as enacts that any Note, Bill, or Mortgage shall be absolutely void, shall be and the same is hereby repealed; but nevertheless every Note, Bill, or Mortgage which if this Act had not been passed would, by virtue of the said several lastly herein-before mentioned

45 G. 3. c. 72.

6 G. 4. c. 16.

Securities given for Considerations arising out of illegal Transactions not to be void, but to be deemed to have been given for an illega Consideration.

mentioned Acts or any of them, have been absolutely void, shall be deemed and taken to have been made, drawn, accepted, given, or executed for an illegal Consideration, and the said several Acts shall have the same Force and Effect which they would respectively have had if instead of enacting that any such Note, Bill, or Mortgage should be absolutely void, such Acts had respectively provided that every such Note, Bill, or Mortgage should be deemed and taken to have been made, drawn, accepted, given, or executed for an illegal Consideration: Provided always, that nothing herein contained shall prejudice or affect any Note, Bill, or Mortgage which would have been good and valid if this Act had not been passed.

Money paid to the Holder of such Securities shall be deemed to be paid on account of the Person to whom the same was originally given.

II. And be it further enacted, That in case any Person shall, after the passing of this Act, make, draw, give, or execute any Note, Bill, or Mortgage for any Consideration on account of which the same is by the herein-before recited Acts of the Sixteenth Year of the Reign of His said late Majesty King *Charles* the Second, the Tenth Year of the Reign of His said late Majesty King *William* the Third, and the Ninth and Eleventh Years of the Reign of Her said late Majesty Queen *Anne*, or by any one or more of such Acts, declared to be void, and such Person shall actually pay to any Indorsee, Holder, or Assignee of such Note, Bill, or Mortgage the Amount of the Money thereby secured, or any Part thereof, such Money so paid shall be deemed and taken to have been paid for and on account of the Person to whom such Note, Bill, or Mortgage was originally given upon such illegal Consideration as aforesaid, and shall be deemed and taken to be a Debt due and owing from such last-named Person to the Person who shall so have paid such Money, and shall accordingly be recoverable by Action at Law in any of His Majesty's Courts of Record.

Repealing so much of recited Acts of 9 & 11 Ann. as enacts that Securities shall enure for the Benefit of Parties in Remainder.

III. And be it further enacted, That so much of the said Acts of the Ninth and Eleventh Years of the Reign of Her said late Majesty Queen *Anne* as enacts that where such Mortgages, Securities, or other Conveyances as therein mentioned should be of Lands, Tenements, or Hereditaments, or should be such as should incumber or affect the same, such Mortgages, Securities, or other Conveyances should enure and be to and for the sole Use and Benefit of and should devolve upon such Person or Persons as should or might have or be entitled to such Lands or Hereditaments in case the Grantor or Grantors thereof, or the Person or Persons incumbering the same, had been naturally dead, and as if such Mortgages, Securities, or other Conveyances had been made to such Person or Persons so to be entitled after the Decease of the Person or Persons so incumbering the same, and that all Grants or Conveyances to be made for the preventing of such Lands, Tenements, or Hereditaments from coming to or devolving upon such Person or Persons thereby intended to enjoy the same as aforesaid, should be deemed fraudulent and void and of none effect, to all Intents and Purposes whatsoever, shall be and the same is hereby repealed; saving to all Persons all Rights acquired by virtue thereof previously to the passing of this Act.

Act may be altered this Session.

IV. And be it further enacted, That this Act may be altered or repealed by any other Act during this present Session of Parliament.

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