

1774

An Act for divesting out of the Crown the Plantation and Estate of Ulysses Fitzmaurice Esquire, deceased, and for vesting the same in Trustees, to be fold for Payment of his Debts, and for other Purposes therein mentioned.

Find similar works at: <https://stars.library.ucf.edu/bwi-british-parliamentary-acts>

University of Central Florida Libraries <http://library.ucf.edu>

This Document is brought to you for free and open access by the Bryant West Indies at STARS. It has been accepted for inclusion in British Parliamentary Acts by an authorized administrator of STARS. For more information, please contact STARS@ucf.edu.

STARS Citation

"An Act for divesting out of the Crown the Plantation and Estate of Ulysses Fitzmaurice Esquire, deceased, and for vesting the same in Trustees, to be fold for Payment of his Debts, and for other Purposes therein mentioned." (1774). *British Parliamentary Acts*. 68.

<https://stars.library.ucf.edu/bwi-british-parliamentary-acts/68>



St Vincent

ANNO REGNI
GEORGI III.
REGIS

Magnæ Britanniae, Franciæ, & Hiberniæ,

DECIMO QUARTO.

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 Thirteenth Day of *January*, 1774; being the Seventh Session of the Thirteenth Parliament of *Great Britain*.



L O N D O N :

Printed by CHARLES EYRE and WILLIAM STRAHAN, Printers
to the King's most Excellent Majesty.

MDCCLXXIV.



ANNO DECIMO QUARTO

Georgii III. Regis.

C A P. XL.

An Act for divesting out of the Crown the Plantation and Estate of *Ulysses Fitzmaurice* Esquire, deceased, and for vesting the same in Trustees, to be sold for Payment of his Debts, and for other Purposes therein mentioned.

WHEREAS *Ulysses Fitzmaurice* Esquire, Preamble.
late Lieutenant-governor of the Island of Saint Vincent, deceased, was, in his Lifetime, and at the Time of his Decease, which happened in the Island of Grenada, on or about the Twenty-first Day of August, in the Year of our Lord One thousand seven hundred and seventy-two, seized, to him and his Heirs, of a Coffee Plantation, and Estate called Bowood, situate in the Parish of Saint Andrew, in the Island of Dominica, containing Four hundred Acres, or thereabouts, partly Wood Land, and partly planted with Coffee, and of divers Negroes and other Slaves, and a small Leasehold Estate in the County of Kerry, in the Kingdom of Ireland; and was also possessed of and intitled to, a personal Estate, which (including the Value of

the said Slaves) hath been estimated at the Sum of Three thousand four hundred and fifty-six Pounds, Eight Shillings and One Penny Halfpenny Sterling, or thereabouts, but will not, as it is apprehended, produce near that Sum: And whereas the said Ulysses Fitzmaurice was the natural or reputed Son of the late Right Honourable William Fitzmaurice Earl of Kerry, in the Kingdom of Ireland, deceased, and left several poor Relations on his Mother's Side, and a Brother of the Half-blood, the natural or reputed Son also of the said Earl of Kerry, *videlicet*, Aboan Fitzmaurice of Plumtree-street, in the Parish of Saint Giles in the Fields, in the County of Middlesex, Gentleman, for all or several of whom he intended to have made some Provision, particularly for the said Aboan Fitzmaurice, and also for James, Robert, and John Fitzmaurice, having given Instructions for a Will, whereby Legacies were intended them of Five hundred Pounds Sterling each, but died before the same was proceeded in, so far as to give Effect to his said Intention: And whereas the said Ulysses Fitzmaurice dying a Bachelor, and without Heirs, the said Coffee Plantation, and all other the real Estates of the said Ulysses Fitzmaurice, upon his Death escheated, and his personal Estate devolved or came to His Majesty, in Right of His Royal Prerogative: And whereas Letters of Administration of all and singular the Goods, Chattels, Rights, and Credits, of the said Ulysses Fitzmaurice, at the Time of his Death, have lately been granted, by the Prerogative Court of the Archbishop of Canterbury, unto the Right Honourable Isaac Barré, One of His Majesty's most Honourable Privy Council, the Honourable Thomas Fitzmaurice, and David Roberts Esquire, a Creditor of the said Deceased, for the Use and Benefit of His Majesty; and the said Isaac Barré, Thomas Fitzmaurice, and David Roberts, have given Security for duly administering the Estate and Effects of the said Ulysses Fitzmaurice, and for paying unto the Procurator General of His Majesty, for His Majesty's Use, the Sum of Ten Pounds of every Hundred Pounds Value of the clear Produce and Surplus of the said Estate and Effects, (after Payment of

the several Debts affecting such personal Estate, and the Expences attending the Administration), as usual in the like Cases: And whereas the Whole of the personal Estate and Effects of the said Ulysses Fitzmaurice will be exhausted in Payment of his just Debts and Funeral Expences, and the same will not be near sufficient for that Purpose, whereby the Creditors of the said Ulysses Fitzmaurice may be prevented from receiving their full Debts, and the poor Relations of the said Ulysses Fitzmaurice on his Mother's Side, and also the said Aboan, James, Robert, and John Fitzmaurice, will not receive any Benefit from his Estate and Effects, as was the Intention of the said Ulysses Fitzmaurice, in case he had lived to have carried the same into Execution, unless the said Plantation and Estate were to be sold, and the Money arising by Sale thereof applied for those respective Purposes, which cannot well be done without the Aid and Authority of Parliament; may it therefore please Your Majesty (at the humble Petition of the said Isaac Barré, Thomas Fitzmaurice, and David Roberts, and which said David Roberts is a Creditor of the said Ulysses Fitzmaurice) 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** all that the said Coffee Plantation and Estate called Bowwood, late of him the said Ulysses Fitzmaurice, situate, lying, and being in the said Parish of Saint Andrew, in the said Island of Dominica, containing by Estimation Four hundred Acres, or thereabouts, (be the same more or less), with all and singular the Messuages or Tenements, Erections and Buildings thereon; and all Woods, Underwoods, and Trees whatsoever growing, standing, or being in or upon the said Premises, or any Part thereof, and also all the Ground and Soil of the same Woods and Underwoods; and all Waters, Fishings, Fishing-places, Ways, void Grounds, Rights, Privileges, Profits, Commodities, Emoluments, Advantages, Hereditaments, and Appurtenances, of what Nature, Kind, Condition, or Property soever, or by whatsoever other

Estates vested
in Trustees;

Name or Names the same, or any of them, are, is, shall,
 or may be called or known, to the said Plantation, Lot,
 Pieces or Parcels of Ground, Hereditaments, and Pre-
 mises belonging, or in any-wise appertaining, or to or
 with the same, or any Part or Parcel thereof, now, or
 at any Time heretofore granted, demised, let, set, used,
 occupied, or enjoyed, or accepted, reputed, taken, deem-
 ed, or known, as Part, Parcel, or Member thereof,
 (other than and except the Quit and other Rents and
 Royalties reserved and made payable to His Majesty,
 His Heirs and Successors, in and by the Grant or Grants
 of the said Plantation, Lot, Parcel of Ground, and
 Premises), and the Reversion and Reversions, Remain-
 der and Remainders, yearly and other Rents, Issues,
 Profits, and Produce, of all and singular the said Pre-
 mises, and also all and every the Negro and other Slaves
 of the said Ulysses Fitzmaurice, and the said Leasehold
 Estate in the County of Kerry, shall, from and after the
 said Twenty-first Day of August, One thousand seven hun-
 dred and seventy-two, be settled upon, and vested in, and
 the same are hereby, from thenceforth, settled upon, and
 vested in, the said Isaac Barré, Thomas Fitzmaurice, and
 David Roberts, their Heirs, Executors, Administrators, and
 Assigns, according to the Nature of such Estates and Pre-
 mises, freed, and absolutely acquitted, exonerated, and
 discharged of, from, and against all Estate, Right, Title,
 Interest, or Claim, of His Majesty, His Heirs and Suc-
 cessors, (except as before excepted); but nevertheless upon
 the Trusts, and to and for the Ends, Intents, and Pur-
 poses, and subject to the Proviso's and Declarations
 herein-after mentioned, expressed, and declared, of and
 concerning the same; (that is to say), Upon Trust, that
 they the said Isaac Barré, Thomas Fitzmaurice, and David
 Roberts, or the Survivors or Survivor of them, or the
 Heirs, Executors, or Administrators, of such Survivor,
 shall and do, with all convenient Speed, either by pub-
 lick Auction or private Contract, absolutely sell, convey,
 and dispose of, all and singular the said Plantation,
 Estate, and Premises, hereby vested in them, or any Part
 or Parts thereof, either together or in Parcels, unto any
 Person

but neverthe-
 less upon
 Trust;

with Power to
 sell the said
 Estates.

Person or Persons who shall be willing to become the Purchaser or Purchasers thereof, or of any Part thereof, and his, her, or their Heirs, Executors, or Administrators, or to such other Person or Persons, and for such Uses, as any such Purchaser or Purchasers shall direct, for the most Money, and best Price or Prices, that, at the Time of such Sale or Sales, can be reasonably had or gotten for the same; and do and shall pay, apply, and dispose of, the Money arising and to be produced by such Sale or Sales, as aforesaid, and the Rents, Issues, Profits, and Produce, of the said Estates and Premises, in the mean Time, from the Decease of the said Ulysses Fitzmaurice, and until such Sale or Sales can be had, and also the Surplus (if any) of the personal Estate and Effects of the said Ulysses Fitzmaurice, which shall come to the Hands of the said Isaac Barré, Thomas Fitzmaurice, and David Roberts, by virtue of the Letters of Administration herein-before mentioned, and which shall remain after Payment of all the just Debts and funeral Expences of the said Ulysses Fitzmaurice, and the Charges incident to and attending the said Administration, and of the said Sum of Ten Pounds of every Hundred Pounds Value of the clear Produce and Surplus of the said Estate and Effects for the Use of His Majesty, as aforesaid, in Manner following; (that is to say), In the first Place, in paying and defraying the Charges and Expences incident to and attending the obtaining and passing this present Act, and completing such Sales and Conveyances as aforesaid, and also the Charges and Expences of getting in, selling, ordering, and managing, of the said Estates, and the Rents, Issues, Profits, and Produce thereof; and after Payment of the same, and subject thereto, then upon Trust, that they the said Isaac Barré, Thomas Fitzmaurice, and David Roberts, and the Survivors and Survivor of them, and the Heirs, Executors, or Administrators, of such Survivor, shall and do pay, satisfy, and discharge, all and every the Debts of the said Ulysses Fitzmaurice which were owing by him at the Time of his Death, (and which his personal Estate shall not prove sufficient to pay and satisfy), rateably and proportionably alike,

Application
of Monies.

alike, as far as the said Monies will extend to pay; and shall and do, in the next Place, pay to the said Aboan Fitzmaurice, James Fitzmaurice, Robert Fitzmaurice, and John Fitzmaurice, their Executors, Administrators, or Assigns respectively, the Sum of Five hundred Pounds each of lawful Money of Great Britain, in case there shall be a Surplus to that Amount, or a rateable Proportion of the same; and, after Payment thereof, in case a further Surplus shall still remain, then shall and do pay, distribute, and divide the same, unto and among all and every such other of the poor Relations, or next of Kin, of the said Ulysses Fitzmaurice, on his Mother's Side, in equal Degree, who shall, within Twelve Calendar Months next after Notice shall be given for that Purpose in the London Gazette, and One or more of the publick Newspapers printed and circulating in Ireland, appear and make out their said Kindred to the said Ulysses Fitzmaurice, in the same Shares, Proportions, Manner, and Form, as they would have been intitled to the Surplusage of the personal Estate of the said Ulysses Fitzmaurice, in case he had been a legitimate Child, and had died intestate, leaving them his next of Kin.

*Saving Clause
in favour of
John Fitzmaurice,
an Infant.*

Provided always, and it is hereby further enacted and declared by the Authority aforesaid, That in making such last-mentioned Distribution and Division, the said Trustees shall pay and distribute unto John Fitzmaurice, now an Infant, the Son of Caliph Fitzmaurice deceased, a Brother of the said Ulysses Fitzmaurice of the Half Blood, and the natural or reputed Son also of the said Earl of Kerry, the same Share and Proportion of such last mentioned Surplus as the said John Fitzmaurice would be intitled to have and receive by virtue of this Act, in case he had been One of the poor Relations, or next of Kin, in equal Degree, of the said Ulysses Fitzmaurice, on his Mother's Side; any Thing herein contained to the Contrary thereof in any-wise notwithstanding.

*How the Surplus is to be divided, in case it affords a larger Sum than that of 500*l.* to each of the distant Relations.*

Provided always, and it is hereby further enacted and declared by the Authority aforesaid, That in case such last-mentioned Surplus shall be more than sufficient to pay unto the said poor Relations, or next of Kin, of the said

said Ulysses Fitzmaurice and the said John Fitzmaurice the Infant, the Sum of Five hundred Pounds each; that then, and in such Case, the Surplus which shall remain, after paying unto each of them the Sum of Five hundred Pounds, shall be equally paid, distributed, and divided, unto and among the said Aboan Fitzmaurice, James Fitzmaurice, Robert Fitzmaurice, and John Fitzmaurice, their Executors, Administrators, or Assigns; and also all and every such other of the poor Relations or next of Kin of the said Ulysses Fitzmaurice, on his Mother's Side, in equal Degree, who shall appear and make out their Kindred in Manner as aforesaid, and the said John Fitzmaurice the Infant, equally between them, Part and Share alike; any Thing herein contained to the Contrary thereof in any-wise notwithstanding.

Provided always, That it shall and may be lawful to and for the said Trustees to give and assure unto Gilbert Hillock Esquire, in Trust for his Son Gilbert Douglas Hillock, a Minor, the Negro Boy late belonging to the said Ulysses Fitzmaurice, called Romeo; and also to give and assure unto the Negro Woman, late belonging to the said Ulysses Fitzmaurice, called Penelope, her Freedom, according to the Intention of the said Ulysses Fitzmaurice, as expressed in the Instructions by him given for making his Will, as herein-before is mentioned; any Thing herein contained to the Contrary thereof in any-wise notwithstanding.

A Negro Woman and Boy to be settled according to the Instructions of the Will.

And, for promoting and facilitating the Sale of the said Estates and Premises for the Purposes of this Act, it is hereby further enacted and declared by the Authority aforesaid, That all and every Person and Persons to whom the said Isaac Barré, Thomas Fitzmaurice, and David Roberts, or the Survivors or Survivor of them, or the Heirs of such Survivor, shall, by virtue of this Act, make any Sale or Conveyance of all or any Part of the said Plantation, Estate, Hereditaments, and Premises, hereby vested in them, to be sold as aforesaid, and the Heirs, Executors, Administrators, and Assigns, of such Purchaser or Purchasers respectively, shall and may, upon Payment of their respective Purchase-moneys

After-Payment of Purchase money the Estates to be free from all Claims and Trusts.

to the said Isaac Barré, Thomas Fitzmaurice, and David Roberts, or the Survivors or Survivor of them, or the Heirs of such Survivor, have, hold, and enjoy, the Lands, Hereditaments, and Premises, by them respectively to be purchased, freed, and absolutely discharged, of and from all Estate, Right, Title, Claim, and Interest of His Majesty, His Heirs and Successors, (except as herein-before is excepted); and also of and from all and every the Trusts herein-before provided, expressed, and declared, of and concerning the Money to arise by such Sale or Sales; and that the Receipt or Receipts of the said Isaac Barré, Thomas Fitzmaurice, and David Roberts, or the Survivors or Survivor of them, or the Heirs of such Survivor, under their or his Hands or Hand respectively, shall, from Time to Time, be a good and effectual Discharge to the Purchaser or Purchasers of the same Premises, or any Part thereof, his, her, and their Heirs, Executors, Administrators, and Assigns, for so much of the said Purchase-money as in such Receipt shall be expressed to be received; and after such Receipt and Receipts shall be given as aforesaid, such Purchaser and Purchasers shall be, and he, she, and they respectively, is and are hereby absolutely acquitted and discharged of and from the same, and shall not be answerable or accountable for any Loss, Misapplication, or Non-application of the said Purchase-money, or any Part thereof.

Money arising
by the Sale of
the Premises
to be deposited
in the Bank.

And it is hereby further enacted and declared by the Authority aforesaid, That after any Sale or Conveyance of the Premises mentioned to be sold as aforesaid, and until the Money arising by such Sale or Sales shall be paid, distributed, and divided, pursuant to this Act, they the said Isaac Barré, Thomas Fitzmaurice, and David Roberts, and the Survivors and Survivor of them, and the Heirs, Executors, or Administrators of such Survivor, shall, as soon as such Monies, or any Part thereof, shall come to their or any of their Hands, or be received by them, deposit the same in the Bank of England, in the Names of all the said Trustees, which shall there remain, and shall not be removed or taken from thence without all their Consents, and that for the Purpose only of
paying,

paying, dividing, and distributing, the same, pursuant to this Act.

And it is hereby further enacted and declared by the Authority aforesaid, That the said Isaac Barré, Thomas Fitzmaurice, and David Roberts, shall not, nor shall either of them, nor the Heirs, Executors, or Administrators, of them, or either of them, be answerable or accountable for any Deficiency, Damage, or Loss of Money, to be received by virtue of or under the Trusts hereby in them reposed, or for any Agent, Attorney, or other Person, to be retained or employed by them in the Sale of the said Estate and Premises, or in depositing any such Sum or Sums of Money as aforesaid, or any otherwise relating to the Trusts hereby in them reposed, without his or their own wilful Neglect or Default; and that neither of them shall be answerable or accountable for the Acts, Receipts, Neglects, or Defaults, of the other or others of them, but each for his own Act, Receipt, Neglect, or Default only; and also that the said Trustees, and each of them, their and each of their respective Heirs, Executors, and Administrators, shall and may, by and out of the said Trust-moneys and Premises, retain to and reimburse themselves all Costs, Charges, and Expences, that they respectively shall and may sustain, expend, or be put unto, in and about the Execution of the Trusts hereby in them reposed, and the Execution and Management thereof, or any-ways touching or concerning the same.

Trustees not to be answerable for the Acts of each other.

Saving always to all and every Person and Persons, Bodies Politick and Corporate, his, her, and their Heirs, Successors, Executors, and Administrators, (other than and except His Majesty, His Heirs and Successors), all such Estate, Right, Title, Interest, Benefit, Property, Claim, and Demand whatsoever, of, in, to, or out of the said Estates and Premises hereby vested as aforesaid, every or any Part thereof, as they, every or any of them, had before the passing this Act, or could or might have had and enjoyed in case this Act had not been made.

Saving of Rights to Bodies Politick, &c.

And

Publick Act.

And be it further enacted, That this Act shall be adjudged, deemed, 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 specially pleading the same.

P I N I S.