

ANNO DECIMO NONO

VICTORIÆ REGINÆ.

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No. I.

MORTGAGE DEBTS.

An Act to amend the Law relating to the Administration of the Estates of Deceased Persons. [18th July, 1855.]

Preamble.

WHEREAS it is expedient that the Law whereunder the Real and Personal Assets of Deceased Persons are administered should be amended Be it enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof as follows:—

Heir or devisee of real estate not to claim payment of mortgage out of personal assets.

When any person shall after the thirty-first of December one thousand eight hundred and fifty-five die seised of or entitled to any estate or interest in any land or other hereditaments which shall at the time of his death be charged with the payment of any sum or sums of money by way of mortgage and such person shall not by his will or deed or other document have signified any contrary or other intention the heir or devisee to whom such land or hereditaments shall descend or be devised shall not be entitled to have the mortgage debt discharged or satisfied out of the personal estate or any other real estate of such person but the land or hereditaments so charged shall as between the different persons claiming through or under the deceased person be primarily liable to the payment of all mortgage debts with which the same shall be charged every part thereof according to its value bearing a proportionate part of the mortgage debts charged on the whole thereof Provided always that nothing herein contained shall affect or diminish any right of the mortgagee on such lands or hereditaments to obtain full payment or satisfaction of his mortgage debt either out of the personal estate of the person so dying as aforesaid or otherwise Provided also that nothing herein contained shall affect the rights of any person claiming under or by virtue of any will deed or document already made or to be made before the first day of January one thousand eight hundred and fifty-six.

Not to affect rights claimed under any will &c. before 1st January 1856.