

Ms. No. 537 of 91, Schell



ANNO VICESIMO OCTAVO ET VICESIMO NONO

VICTORIÆ REGINÆ.

A.D. 1865.

Ms. No. 1573

No. 5.

*In Eng 17 & 18 V. c. 113: for the King's
But see Construction Act,
30 & 31 V. c. 69.*

An Act to amend the Law relating to the administration of the Estates of Deceased Persons.

[Assented to, 4th August, 1865.]

WHEREAS it is expedient that the law whereunder the real and personal assets of deceased persons are administered should be amended—Be it therefore Enacted, by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

1. When any person shall, after the thirty-first day of December, one thousand eight hundred and sixty-five, die, seised of or entitled to any estate or interest in any land or other hereditaments in the said Province, 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

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

*In the books
March 9 & 8
17*

Deceased Persons Estates Act.—1865.

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 sixty-six.

Not to affect rights
claimed under any
will, &c., before 1st
January, 1866.

v Perry 32 L.C. 471
ms Enchs 1574-5, note 90

In the name and on behalf of the Queen I hereby assent to
this Act.

D. DALY, Governor.