

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1832. Fredericton, NB: John Simpson, Printer to the King's Most Excellent Majesty, 1832.

2 William IV – Chapter 23 Session 1

An Act to improve the Law relating to Mortgages. Passed 9th March 1832.

'Whereas the existing Law relating to Mortgages needs Amendment in certain Respects;'

I. Be it enacted by the Lieutenant Governor, Council, and Assembly, That from and after the passing of this Act, any Mortgage already registered, or which may hereafter be registered, under the Provisions of the Acts in force for the public registering of Deeds and Conveyances, may be discharged by a Certificate, under the Hand and Seal of the Mortgagee, his Executors, Administrators, or Assigns, declaring that all the Monies due upon the Mortgage have been paid, or that the Mortgage has been otherwise satisfied and discharged; which Certificate shall be duly acknowledged or proved in like Manner as a Deed or Conveyance under the Provisions of the said Registry Acts, and shall be registered at full Length, with the Acknowledgment or Proof thereof in the Registry Book in the Office where the Mortgage is registered; and the Register shall make an Entry in the Margin of the Registry of the Mortgage, that such Mortgage is satisfied and discharged, which Entry shall refer to the Book and Page where such Certificate is registered; and such Certificate shall also be filed in the Registry Office.

II. And be it declared and enacted, that every Discharge of Mortgage duly made and entered in the Registry Book according to the Provisions of the Seventeenth Section of an Act made and passed in the Twenty sixth Year of the Reign of King George the Third, intituled *An Act for the public registering of all Deeds, Conveyances, and Wills*, and other Incumbrances which shall be made of, or that may affect, any Lands, Tenements or Hereditaments within this Province, or according to the Provisions of this Act, shall be valid and effectual to discharge and release the Mortgage to all Intents and Purposes, as well at Law as in Equity, from the Time when such Entry is made, and to revest the legal Estate in the Mortgagor, his Heirs, Executors, Administrators or Assigns, without any Reconveyance thereof.

III. And be it enacted, That where any Action shall be brought on any Contract or Obligation for Payment of the Money secured by a Mortgage; or upon, any Covenant in the Mortgage Deed, for Payment of such Money, or where any Action of Ejectment shall be brought for the Recovery of any mortgaged Lands, Tenements or Hereditaments, and no Suit shall be then depending in the Court of Chancery of this Province for or touching the foreclosing or redeeming of such mortgaged Lands, Tenements or Hereditaments, if the Person or Persons having Right to redeem such mortgaged Lands, Tenements or Hereditaments, and who shall appear and become Defendant or Defendants in such Action, shall at any Time pending such Action pay unto such Mortgagee or Mortgagees, or in case of his, her or their Refusal shall bring into the Court where such Action shall be depending, all the principal Monies and Interest due on such Mortgage, and also all such Costs as have been expended in any Suit or Suits at Law or in Equity upon such Mortgage (such Money for Principal, Interest and Costs to be ascertained and computed by the Court where such Action is

or shall be depending, or by the proper Officer by such Court to be appointed for that Purpose), the Monies so paid to such Mortgagee or Mortgagees, or brought into such Court, shall be deemed and taken to be in full Satisfaction and Discharge of such Mortgage; and the Court shall and may discharge every such Mortgagor or Defendant of and from the same accordingly, and shall and may by Rule or Rules of the same Court compel such Mortgagee or Mortgagees, at the Costs and Charges of such Mortgagor or Mortgagors, either to discharge the Mortgage in the Manner and Form provided by Act of Assembly for that Purpose, or else (at the Option of such Mortgagor or Mortgagors) to assign, surrender or reconvey such mortgaged Lands, Tenements and Hereditaments, and such Estate and Interest as such Mortgagee or Mortgagees have or hath therein, and also in either Case to deliver up all Deeds, Evidences and Writings in his, her or their Custody, relating to the Title of such mortgaged Lands, Tenements and Hereditaments, unto such Mortgagor or Mortgagors who shall have paid or brought such Monies into the Court, his, her or their Heirs, Executors or Administrators, or to such other Person or Persons as he, she or they shall for that Purpose nominate or appoint.

IV. And be it enacted, That hereafter in any Action of Ejectment brought by a Mortgagor or Mortgagors, his, her or their Heirs, Executors, Administrators or Assigns, to recover Possession of any Lands, Tenements or Hereditaments under Mortgage, no Defendant other than the Mortgagee or Mortgagees, his, her or their Heirs, Executors, Administrators or Assigns, shall be permitted to set up the Mortgage to bar the Right of Recovery, or to defeat the Title of such Mortgagor or Mortgagors, his, her or their Heirs, Executors, Administrators or Assigns; any Law or Usage to the contrary notwithstanding.