

CAP. XLV.

An Act for the relief of Mortgagees.

[30th August, 1851.]

WHEREAS it is expedient that relief should be afforded to Mortgagees of freehold and leasehold property in certain cases in which they are not sufficiently protected by law: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That it shall and may be lawful for any Mortgagee of freehold or leasehold property, or any Assignee or Assignees of such Mortgagee, to take and receive from the Mortgagor or Assignee of such Mortgagor, a release of the equity of redemption in such property, or to purchase the same under any power of sale in his Mortgage, or any judgment or decree, without thereby merging the Mortgage debt as against any subsequent Mortgagee or registered judgment Creditor of the same property.

Preamble.

Mortgagee of freehold property, &c. may receive release of equity of redemption &c., without merger of his debt.

II. And be it enacted, That whenever any prior Mortgagee or Assignee or Assignees of such prior Mortgagee of such property as aforesaid, shall take a release of the equity of redemption of the Mortgagor or his Assignee in such Mortgaged property as aforesaid, or shall purchase the same under any power of sale in his Mortgage or any judgment or decree, no subsequent Mortgagee or his Assignee, or registered judgment Creditor shall be entitled to foreclose or sell such property without redeeming or selling subject to such prior Mortgagee or his Assignee, in the same manner as if such prior Mortgagee or his Assignee had not taken, received or purchased such equity of redemption of the Mortgagor or his Assignee.

When prior Mortgagee shall take release of equity of redemption, &c., subsequent Mortgagee, &c. not entitled to foreclose or sell property, without redeeming, &c.

III. And be it enacted, That nothing in this Act contained shall be construed to affect any priority or claim which any Mortgagee or judgment Creditor shall or may have or be entitled to under any Act in force relating to the registry of titles to land.

Priority of any Mortgagee not to be affected by this Act.

IV. And be it enacted, That on any proceeding for foreclosure by, or redemption against any Assignee or Assignees of any Mortgagee, the statement of the Mortgage account, under the oath of such Assignee or Assignees, shall be sufficient *prima facie* evidence of the state of such account, and no affidavit or oath shall be required from the Mortgagee or any intermediate Assignee denying any payment to such Mortgagee or intermediate Assignee, unless the Mortgagor or his Assignee, or the party proceeding to redeem, shall deny the correctness of such statement of account by oath or affidavit.

In proceedings for foreclosure, &c. state of Mortgage account may be proved *prima facie* by statement on oath of Assignee of Mortgagee.

V. And be it enacted, That this Act shall extend only to Upper Canada.

Extent of Act.

CAP. XLVI.

An Act for granting to Her Majesty certain sums required for defraying certain expenses of the Civil Government for the year one thousand eight hundred and fifty-one, and certain other expenses connected with the Public Service.

[30th August, 1851.]

MOST GRACIOUS SOVEREIGN:

WHEREAS by Messages from His Excellency the Right Honorable James, Earl of Elgin and Kincardine, Governor General of British North America, and Captain General and Governor in Chief in and over this Province of Canada, bearing date respectively the twenty-third day of June, and the sixth day of August, in the present year, one thousand eight hundred and fifty-one, and the Estimates accompanying the same, laid before both Houses of the Provincial Legislature, it appears that the

Preamble.

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