

No. 97.

4th Session, 8th Parliament, 29th Vic., 1865.

BILL.

An Act to amend and extend the provisions of the fifth section of chapter eighty-seven of the Consolidated Statutes for Upper Canada.

[No. 158 of 1865—1st Session.]

Mr. SMITH (Durham).

QUEBEC:
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An Act to amend and extend the provisions of the fifth section of chapter eighty-seven of the Consolidated Statutes for Upper Canada, respecting Mortgages of Real Estate.

HER MAJESTY, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows : Preamble.

1. The fifth section of chapter eighty-seven of the Consolidated Statutes for Upper Canada, intituled : " An Act respecting mortgages of real estate," is hereby repealed. Sect. 5 of Con Stat. U. C., c. 87 repealed.

2. The following section is substituted for and shall be read in place of the said fifth section hereby repealed : New section substituted.

"When any person entitled to any freehold or leasehold land by way of mortgage has departed this life, and his executor or administrator is entitled to the money secured by the mortgage, or has assented to a bequest thereof, or has assigned the mortgage debt, such executor or administrator, if the mortgage money was paid to the testator or intestate in his lifetime, or on payment of the principal money and interest due on the said mortgage, may release and discharge the said debt, and may sell and assign the said mortgage debt and security, and may sell, assign and convey the legal estate in the mortgaged land ; and such executor or administrator shall have the same power as to any portion of the lands on payment of some part of the mortgage debt, or on any arrangement for exonerating the whole or any part of the mortgaged lands without payment of money ; and such conveyance, release, assignment, or discharge shall be as effectual as if the same had been made by the person having the legal estate." Power of Executor, &c., of mortgage to discharge a mortgage.