

ANNO SECUNDO & TERTIO

VICTORIÆ REGINÆ.

****

CAP. LX.

An Act to explain and extend the Provisions of an Act passed in the First Year of His late Majesty King *William* the Fourth, intituled *An Act for consolidating and amending the Laws for facilitating the Payment of Debts out of Real Estate.*

[17th *August* 1839.]

WHEREAS by an Act passed in the First Year of the Reign His late Majesty King *William* the Fourth, intituled *An Act for consolidating and amending the Laws for facilitating the Payment of Debts out of Real Estate*, it was (amongst other things) enacted, that where any Suit had been or should be instituted in any Court of Equity for the Payment of any Debts of any Person or Persons deceased to which their Heir or Heirs, Devisee or Devisees might be subject or liable, and such Court of Equity should decree the Estates liable to such Debts or any of them to be sold for Satisfaction of such Debt or Debts, and by reason of the Infancy of any such Heir or Heirs, Devisee or Devisees an immediate Conveyance thereof could not, as the Law then stood, be compelled, in every such Case such Court should direct, and if necessary compel, such Infant or Infants to convey such Estates so to be sold (by all proper Assurances in the Law) to the Purchaser or Purchasers thereof, and in 11 G. 4. & 1 W. 4. c. 47.

in such Manner as the said Court should think proper and direct, and every such Infant should make such Conveyance accordingly, and every such Conveyance should be as valid and effectual to all Intents and Purposes as if such Person or Persons being an Infant or Infants was or were at the Time of executing the same of the full Age of Twenty-one Years; and it was also thereby further enacted, that where any Lands, Tenements, or Hereditaments had been or should be devised in Settlement by any Person or Persons whose Estate under the said Act now in recital or by Law, or by his or their Will or Wills, should be liable to the Payment of any of his or their Debts, and by such Devise should be vested in any Person or Persons for Life or other limited Interest, with any Remainder, Limitation, or Gift over which might not be vested, or might be vested in some Person or Persons from whom a Conveyance or other Assurance of the same could not be obtained, or by way of executory Devise, and a Decree should be made for the Sale thereof for the Payment of such Debts or any of them, it should be lawful for the Court by whom such Decree should be made to direct any such Tenant for Life or other Person having a limited Interest, or the first executory Devisee thereof, to convey, release, assign, surrender, or otherwise assure the Fee Simple or other the whole Interest or Interests so to be sold to the Purchaser or Purchasers, or in such Manner as the said Court should think proper; and every such Conveyance, Release, Surrender, Assignment, or other Assurance should be as effectual as if the Person who should make and execute the same were seised or possessed of the Fee Simple or other whole Estate so to be sold: And whereas Doubts are entertained whether the herein-before recited Provisions of the said Act extend to authorize Courts of Equity to direct Mortgages as well as Sales to be made of the Estates of such infant Heirs or Devisees, or of Lands, Tenements, or Hereditaments so devised in Settlement as aforesaid, and also to authorize such Sales and Mortgages to be made in Cases where such Tenant for Life or other Person having a limited Interest, or such first executory Devisee as aforesaid, is an Infant; and it is expedient that the said Provisions of the said Act should be so extended, and that further Provision should be made in relation thereto in manner herein-after mentioned: Be it therefore

Recited Provisions of 11 G. 4. & 1 W. 4. c. 47. extended to authorize Mortgages as well as Sales of Estates.

enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said herein-before recited Provisions of the said Act shall extend and the same are hereby extended to authorize Courts of Equity to direct Mortgages as well as Sales to be made of the Estates of such infant Heirs or Devisees, and also of Lands, Tenements, or Hereditaments so devised in Settlement as aforesaid, and to authorize such Sales and Mortgages to be made in Cases where such Tenant for Life or other Person having a limited Interest, or such first executory Devisee as aforesaid, is an Infant.

Surplus of Money arising from such Sale or Mortgage to descend in

II. And be it further enacted, That when any Sale or Mortgage shall be made in pursuance of the said recited Act or this Act, the Surplus (if any) of the Money raised by such Sale or Mortgage, which shall remain after answering the Purposes for which the same shall have been raised, and defraying all reasonable Costs and Ex-

pences, shall be considered in all respects of the same Nature, and descend or devolve in the same Manner, as the Estate, or the Lands, Tenements, or Hereditaments so sold or mortgaged, and shall belong to the same Persons, be subject to the same Limitations and Provisions, and be applicable to the same Purposes as such Estate or such Lands, Tenements, or Hereditaments would have belonged and been subject and applicable to in case no such Sale or Mortgage had been made. the same manner as the Estates so sold or mortgaged would have.

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