

## C A P. L X.

An Act to amend the Law of Lower Canada as regards the District or Circuit in which actions or proceedings affecting real property may be brought, and to make further provision as to cases in which Absentees may be parties.

[ 30th August, 1851. ]

**W**HEREAS it is expedient to make better provision as to the District or Circuit in which any real or mixed action may be brought in Lower Canada; and whereas it is also necessary to make more effective provision with regard to suits *en licitation* and *en partage*, and to proceedings in actions against Absentees: 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 in all real or mixed actions in Lower Canada, the cause of such actions respectively shall be held to have arisen in the District or Circuit, as the case may be, wherein the real property in question in such actions respectively is situate.

Preamble.

The cause of action held to have arisen in the District or Circuit wherein the real property is situated.

II. And be it enacted, That whenever any real property shall be situate partly in one District or Circuit and partly in another, it shall be lawful for the Plaintiff to bring any real or mixed action in regard to such real property in either of the said Districts or Circuits at his option, and the whole of such real property may be partitioned (*partagé*) or sold by licitation (*licité*) or seized and sold under judgment obtained in any such action, in the same manner as if the said real property were wholly situate in the District or Circuit in which any such judgment shall have been rendered, and this provision shall apply to any Judgment rendered for any cause whatsoever against a Defendant possessing any real property situate partly in one District or Circuit and partly in another, and any proceeding for confirmation of title, (*demande en ratification*) *en licitation* or *en partage*, may be commenced, prosecuted, allowed and carried into effect in one or the other of the Districts or Circuits in which the real property in question may be partly situate at the option of the applicant, as if such real property were wholly situate in the District or Circuit in which the applicant shall have chosen to commence his proceedings.

Real or mixed actions, when the property is situate partly in one District or Circuit, and partly in another, may be brought in either, and judgment executed accordingly.

III. And be it enacted, That in all actions brought in conformity with the ninety-fourth section of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to amend the Laws relative to the Courts of Original Civil Jurisdiction in Lower Canada*, against any absent party, all notices or proceedings subsequent to the advertisement required by way of Summons to appear and required by Law or by any Rule of Practice, in order to obtain or execute any Judgment against such absent party, or for appealing from any such Judgment, or determining and trying any opposition or contestation arising in such action, or for giving effect to any Judgment rendered against such absent party in any action *en partage* or *en licitation*, may be lawfully made and notified at the office of the Prothonotary or Clerk of the Court in which such action may be pending; and whenever it shall be necessary in any such action *en partage* or *en licitation* against any absent party to appoint arbitrators or *experts* to examine the real property to which such action relates, and to determine whether the same can be partitioned with advantage, it shall be lawful for the Court before which such action shall be brought during Term, or for any one of the Judges thereof in vacation, to appoint, for such absent party, one or more arbitrators or *experts* to act conjointly with the arbitrator or *experts* appointed by the other party or parties to the said action.

Proceedings against Absentees to be notified at the Prothonotary's Office, in certain cases.

Judges empowered to appoint Arbitrators or *experts* for absentees.