

under the authority of this Act, had formed part of the sum to be raised under the provisions of the said recited Act.

IV. The Interpretation Act shall apply to this Act.

Interpretation-

C A P. C X X I I I .

An Act to explain and amend the Act establishing the Court of Error and Appeal in Upper Canada.

[Assented to 30th May, 1855.]

WHEREAS in appeals under the Act passed in the twelfth year of the reign of Her Majesty Queen Victoria, and intitled, *An Act to make further provision for the administration of Justice, by the establishment of an additional Superior Court of Common Law, and also a Court of Error and Appeal in Upper Canada, and for other purposes*, from judgments, orders or decrees directing the payment of money, the perfecting of the security for such appeal may be deemed, notwithstanding the provisions of the said Act, not to be a stay of execution in the original cause, if execution shall have issued and a levy shall have been made by the Sheriff under the same, before the said security shall be perfected as directed by the said Act; And whereas it is proper that the perfecting of such security should operate to save the party or parties so appealing and desiring to stay execution, from being compelled to pay the said judgments, orders or decrees in the meantime: 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 intitled, *An Act to re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows:

I. So soon as the security for appeal from judgments, orders or decrees directing the payment of money, shall be perfected according to the said Act and the rules of Court framed under the same, and such security shall have been allowed as thereby directed, it shall and may be lawful for the Appellant or Appellants, his or their Attorney, to apply to any Judge of either of the Superior Courts of Common Law or of the Court of Chancery of Upper Canada, and upon proof before such Judge that such security has been allowed under the said rules, it shall be lawful for such Judge, in his discretion, to issue his *fiat* to the Sheriff to whom any such execution may have issued, to stay the execution thereof, and the said execution shall thereby be deemed to be stayed whether a levy shall have been made under it or not.

On completion of Security, Appellant may obtain a Judge's order to stay execution.

If the money has been made but not paid over, it shall be paid to Appellant.

II. If, at the time of the receipt by such Sheriff of such *fiat* or a copy thereof, the money shall have been made or received by him under any execution in such original cause as aforesaid, but not paid over by him to the party who issued the execution, his Attorney or Agent, it shall be lawful for the party or parties so appealing and desiring to stay such execution, to demand back from such Sheriff the amount he may have made or received under such execution, or so much thereof as may be in his hands not paid over as aforesaid, and in default of payment by the said Sheriff upon such demand, to recover the same from him in an action for money had and received.

Commencement of Act: It shall not affect suits now pending.

III. This Act shall take effect from and after the first day of June next after its passing, and shall not in any manner affect any suit at Law or in Equity instituted before its passing.

C A P . C X X I V .

An Act to amend the law as to Dormant Equities.

[Assented to 30th May, 1855.]

Preamble.

WHEREAS by the Act to establish a Court of Chancery in Upper Canada, it was provided that the rules of decision in the said Court should be the same as governed the Court of Chancery in England; And whereas in regard to Mortgages under which, before the passing of the said Act, the estate had become absolute in law by failure in performing the condition, the said Act, after reciting that from the want of an equitable jurisdiction, a strict application to such cases of the rules established in England might be attended with injustice, did in effect enact that the Court so established should have power and authority to make such Order and Decree as to the said Court might appear just and reasonable under all the circumstances of the case, subject to the appeal thereby provided; And whereas in regard to claims upon or interests in real estate, arising before the passing of the said Act, it is just to restrict the future application of the said rules of decision to cases of fraud, and in regard to other cases, it is expedient to extend thereto in manner hereinafter provided, the power and authority so given as aforesaid to the said Court in cases of Mortgages: 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, as follows:

Title, &c., at Law without

I. No title to or interest in real estate which is valid at law, shall henceforward be disturbed or otherwise affected in Equity by