

*Laws of Her Majesty's Province of United Canada*, passed in the year 1854. Quebec: Stewart Derbyshire and George Desbarts, 1854.

18 Victoria – Chapter 124

**An Act to amend the law as to Dormant Equities. Assented, to 30th May, 1855.**

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 rates 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:

- I. No title to or interest in real estate which is \valid at law, shall henceforward be disturbed or otherwise affected in Equity by reason of any matter or upon any ground which arose before the passing of the said Act, or for the purpose of giving effect to any equitable claim, interest or estate, which arose before the passing of the said Act, unless there has been actual and positive fraud in the party whose title is sought to be disturbed or affected.
- II. In regard to any other equitable claim or right, which may have arisen before the passing of the said Act, the said Court shall have power and authority (subject to appeal) to make such Order and Decree as may appear to the said Court just and reasonable, under all the circumstances of the particular case, provided that the suit is brought within twenty years from the time when the right or claim arose; and no further time shall be allowed for bringing any such suit, notwithstanding any disability of the claimant or of any one through whom his right accrued.
- III. This Act shall not apply to any such claims or rights as aforesaid for which suits may now be pending in the said Court.