

The Provincial Statutes of Lower-Canada, Being the fifth session of the Special Council, begun and holden at the City of Quebec, in the said Province of Lower Canada, the eleventh day of November, 1839. Quebec: John Carleton Fisher & William Kemble, Law Printer to the Queen's Most Excellent Majesty, 1839.

3 Victoria – Chapter 5 (Session 5)

An Ordinance to provide permanently for the want of Notaries in the Inferior District of Gaspé, and to remove doubts therein mentioned.

Whereas in and by the tenth Section of a certain Act made and passed in the fourth year of the Reign of His Majesty King George the Fourth, intituled, "An Act to render valid certain Acts, agreements in writing, and Contracts of Marriage, Contrats de Manage sous seing prive, heretofore executed in the Inferior District of Gaspé, and to provide for the want of Notaries in the said Inferior District," it is enacted that certain Deeds and Acts, and legal Instruments and Documents in writing therein specified, shall if executed in the said Inferior District, within the period and in the manner provided by the said Section, and if all the provisions and requirements thereof be complied with, in regard to the same, have the same effect in certain respects therein mentioned as if the same had been executed before Notaries, and whereas the period so fixed by the said Act was intended to be extended by divers other Acts until the first day of May, one thousand eight hundred and thirty-five, when it expired and was afterwards again intended to be renewed and extended by the Act passed in the sixth year of the Reign of His late Majesty, intituled, "An Act further to provide, during a limited time, for the want of Notaries in the Inferior District of Gaspé," from the day of the passing of the said Act, until the first day of May, one thousand eight hundred and forty, but it was in effect provided in and by the said last mentioned Act, that the extension of the period in the said Section mentioned, should cease whenever there should be Notaries Public resident and practising at Carlton, New Richmond and New Carlisle, in the County of Bonaventure, and at Perce, and La Grande Greve or Gaspé Basin, in the County of Gaspé, and whereas doubts have arisen and may arise as to the true intent and meaning of the provision last above cited, and as to the legal construction of the terms used in the Acts whereby the said period was intended to be extended as aforesaid, and whereas divers Deeds, Acts and Legal Instruments and Documents in writing may have been executed in the manner by the said Section provided, between the first day of May, one thousand eight hundred and thirty-five, and the passing of the Act herein last above cited, to which it is desirable to give effect as if the same had been so executed during the period in the said Section mentioned; therefore and to remove all such doubts as aforesaid, and to make permanent provision for the want of Notaries in the said Inferior District:—Be it therefore Ordained and Enacted by His Excellency the Governor of this Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this Province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great-Britain and Ireland, passed in the first year of the Reign of Her present Majesty, intituled, "An Act to make temporary provision for the Government of Lower Canada," and also by virtue and under the authority of a certain other Act of the same

Parliament, passed in the Session held in the second and third years of the Reign of Her present Majesty, intituled, "An Act to amend an Act of the last Session of Parliament, for making temporary provision for the Government of Lower Canada;" and it is hereby Declared and Enacted by the authority of the said Acts of Parliament, that any Will, Act, or Agreement in writing, Inventory, Partage, Donation, or Contract of Marriage, Contrat de Mariage, which may or shall have been executed within the said Inferior District of Gaspé, between the time of the passing of the Provincial Act herein first above cited, and the first day of May, one thousand eight hundred and forty, in the manner prescribed by the tenth Section of the Act last mentioned, and with regard to which all the requirements of the said Section may or shall have been complied with, has borne and shall bear Hypothec, and has had and shall have the same legal effect according to its tenor, as if it had been executed before Notaries, and shall, as well, as the copies thereof duly certified, be taken and received as valid and authentic in all Her Majesty's Courts of Law in this Province, as if executed before Notaries, any Law, Statute, or usage to the contrary notwithstanding.

II. And be it further Ordained and Enacted by the authority aforesaid, that any Will, Act, or Agreement in writing, Inventory, Partage, Donation, or Contract of Marriage, executed within the said Inferior District of Gaspé, after the said first day of May, one thousand eight hundred and forty, in the manner prescribed by the tenth Section of the Act last mentioned, and with regard to which all the requirements of the said Section shall have been complied with, shall bear Hypothec, and shall have the same legal effect, according to its tenor, as if it had been executed before Notaries, and shall as well as the copies thereof, duly certified, be taken and received as valid and authentic in all Her Majesty's Courts of Law in this Province as if executed before Notaries: Provided always, that this Section shall have no force or effect with regard to any Will, Act, or Agreement in writing, Inventory, Partage, Donation, or Contract of Marriage so executed, if there shall have been two Notaries resident and practising in the County in which the same shall have been executed at the time of the execution thereof, and during two months before that time, but the proof that there were two Notaries so residing and practising shall in all cases be upon the party disputing the validity of any such Act or Instrument as aforesaid, and if such proof be not adduced, it shall be held and considered that there were not two Notaries so resident and practising at the time such Act or Instrument was executed.

C. POULETT THOMSON.

Ordained and Enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House, in the City of Montreal, the Thirtieth day of April, in the third year of the Reign of Our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of Our Lord, one thousand eight hundred and forty.

By His Excellency's Command,
W. B. LINDSAY,
Clerk Special Council.