

The Provincial Statutes of Lower-Canada, Being the first session of the Third Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1801.

41 George III – Chapter 4

An Act to explain and amend the Law respecting Last Wills and Testaments. (8th April, 1801)

Whereas by the Act of the Fourteenth year of His Majesty's Reign, intituled, "An Act for making more effectual Provision for the Government of the Province of Quebec in North America," it is enacted, that every owner of Lands, Goods or Credits in the said Province, who has a right to alienate the said Lands, Goods, or Credits in his or her life time, by Deed of Sale, Gift or otherwise, may devise or bequeath the same at his or her Death, by his or her Last Will and Testament, any Law, Usage or Custom, heretofore or now prevailing in the said Province to the contrary hereof in any wise notwithstanding, such Will being executed, either according to the Laws of Canada, or according to the forms prescribed by the Laws of England. And Whereas doubts and difficulties have arisen in this Province, touching the true intent and meaning of the said Act, in this respect: Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of and under the authority of an Act, passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of this Province of Quebec in North America, and to make further provision for the Government of the said Province,'" And it is hereby enacted by the Authority of the same, that it shall and may be lawful, for all and every Person or Persons, of sound intellect and of age, having the legal exercise of their rights, to devise or bequeath by Last Will and Testament, whether the same be made by a Husband or Wife, in favor of each other, or in favor of one or more of their Children, as they shall see meet, or in favor of any other Person or Persons whatsoever, all and every his or her Lands, Goods or credits, whatever be the tenure of such Lands, and whether they be, Propres, Acquets or Conquets, without reserve, restriction or limitation whatsoever, any Law, Usage or Custom to the contrary hereof in any wise notwithstanding. Provided always, that it shall not be lawful for a Husband or Wife, making such Last Will and Testament, to devise or bequeath more than his or her part or share of their Community, or other Property and Estate, which he or she may hold, or thereby to prejudice the rights of the survivor, or the customary or settled Dower of the Children. Provided also, that the said right of devising, as above specified and declared, shall not be construed to extend to a devise by Will and Testament, in favor of any Corporation or other Persons in Mortmain, unless the said Corporation or Persons be by Law, intituled to accept thereof.

II. And whereas doubts have arisen touching the method now followed of proving Last Wills and Testaments, made and executed according to the forms prescribed by the Laws of England, before one or more of the Judges of the Courts of Civil Jurisdiction in this Province:

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Be it therefore further enacted, that such proof, shall have the same force and effect, as if made and taken before a Court of Probate.