



ANNO DECIMO ET UNDECIMO
VICTORIÆ REGINÆ.

CAP. XXII.

An Act to remove all doubts as to the validity of certain Instruments and Documents executed before Notaries in Lower Canada.

[28th July, 1847.]

WHEREAS since the establishment of the Notarial Profession in that part of the Province of Canada which heretofore constituted Lower Canada, divers Notarial *Actes* and other Instruments have been executed in the aforesaid part of the Province, in which *Actes* the Notaries by and before whom they were passed, have styled themselves Notaries for the Province of Quebec, Notaries for the Town and District of Montreal, or Public Notaries residing in such a Parish or the undersigned Public Notaries, or have committed other errors of style of the same nature in the introduction, title or *intitulé* of their Notarial Acts; and whereas doubts have existed as to the validity, and as to the requisite legal formalities of such Notarial *Actes* and other Instruments and Documents, and it is necessary to remove all doubts as to the validity of the same, and to secure the Rights, Titles and Interest of the persons concerned therein: 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 all *Actes*, Instruments and Documents whatsoever, which, since the establishment of the Notarial Profession in that part of the Province of Canada which heretofore constituted the Province of Lower Canada, have been executed before two Notaries, or before one Notary and two witnesses in the said part of the Province, and wherein the Notaries before whom they were respectively executed, being Notaries for the part of the Province last above mentioned, have styled themselves Notaries for the Province of Quebec, Notaries for the Town and District of Montreal, or Notaries Public residing in such a Parish, or the undersigned Public Notaries, or taken any other title or description generally whatsoever in the introduction, title or *intitulé* of their Notarial *Actes*, or have omitted to specify or have incorrectly specified the part of the Province for which they were respectively authorized to act as Public Notaries, shall nevertheless be considered as valid and binding in law to all intents and purposes whatsoever, as if the said Notaries had styled themselves "Notaries Public for the Province of Lower Canada," or "Notaries Public for that part of this Province which formerly constituted the Province of Lower Canada;" and notwithstanding that

Preamble.

Certain Notarial *Actes*, Instruments and Documents declared valid although the Notaries may have wrongly stated their quality in the introductory part.

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And notwithstanding any judgment to the contrary in any case.

No exception of *res judicata* to be founded on such judgments.

Such judgments to be annulled on memorial to Court which pronounced them.

Proviso: nothing in this Act to affect the rights of third parties, acquired by reason of any such judgment.

Nor to affect costs awarded by any such judgment.

Style to be taken by Notaries hereafter in *actes* passed before them.

Such style to be a sufficient statement of their quality.

any such *Actes*, Instruments and Documents have already been declared to be unauthentic, invalid and of none effect by reason of the aforesaid informalities, by any judgment rendered or pronounced before the passing of this Act, in any of Her Majesty's Courts of Law, or in any other Court in that part of this Province which formerly constituted the Province of Lower Canada, in any action or suit brought before any of the said Courts with regard to such *Actes*, Instruments and Documents, or on any opposition, intervention, exception or other proceeding founded on any such *Actes*, Instruments and Documents; and that no exception of *chose jugée* (*res judicata*) with respect to any such *Actes*, Instruments or Documents, shall in any case be pleaded against any party bringing any such action after the passing of this Act, on any such *Actes*, Instruments and Documents so declared unauthentic or invalid by any judgment already rendered in any of the said Courts; any law, usage, or custom to the contrary in anywise notwithstanding.

II. And be it enacted, That it shall and may be lawful for the parties against whom any such judgment as aforesaid shall have been rendered, or their legal heirs or representatives, to present a memorial to the Court by which any such judgment may have been rendered, pleading therein the present Act and praying that the benefit thereof be granted to such parties; and thereupon, after a reasonable notice shall have been given to all the parties interested in the matter of the said memorial, such judgment shall be considered as revoked, and shall be null and of none effect whatever, and is hereby annulled, set aside and quashed, and the said parties shall be and are hereby reinstated in all their legal rights, claims and demands, as if such judgment had never been rendered: Provided always, that nothing in this Act contained shall affect, alter or prejudice the rights of any party or parties other than the party or parties to any such *Actes*, Instruments or Documents, his, her or their legal heirs or representatives, in all or any of the cases in which such rights may have been acquired to any third party or parties, by reason of any judgment already rendered in and by any of the said Courts, and not otherwise; and nothing in this Act contained shall be considered as affecting any condemnation to pay costs by and in virtue of any judgment rendered by reason of any informalities in any of the cases mentioned in the present Act.

III. And in order to avoid all difficulties as to the title, style and addition of Notaries for the aforesaid part of this Province, Be it enacted, That the Notaries for that part of the Province of Canada which heretofore constituted the Province of Lower Canada, who shall in their Notarial *Actes* have stated or shall state their qualities of Notaries and the place in which their *Actes* have been executed, such place being within their limits for which they were or are authorized to act as Notaries, shall for all legal purposes be held and taken to have sufficiently set forth their official capacity and to have complied with all the requirements of law with regard to the statement of their qualities as Notaries in *Actes* passed by or before them.