



CHAPTER 172

An Act respecting the estate of the late Joseph Aimé Massue

[Assented to, the 11th of April, 1935]

WHEREAS Wilbrod Décarie, accountant, residing in the Preamble.
city of Montreal, sole testamentary executor, administrator and trustee of the estate of the late Joseph Aimé Massue, in his lifetime domiciled in the parish of St. Aimé, in the county and district of Richelieu, and seigneur of the fiefs and seigneuries of Bonsecours, Bourg-Marie West, Bourchemin West and of St. Charles, has, by his petition, represented:

That by his will, dated the 17th of December, 1890, passed before J. E. O. Labadie and colleague, notaries, at Montreal, the said late Joseph Aimée Massue, the testator, who died on the 10th of April, 1891, bequeathed to his nephews and nieces an annual pension or annuity during their lifetime, to be paid according to his will, and, to his grand nephews and nieces, the ownership of the principal to be divided among them at the death of the last of the said nephews and nieces, leaving until such date the administration of his estate to his testamentary executor, administrator and trustee;

That he gave to his testamentary executor, administrator and trustee the most extended powers, amongst others, those of selling, purchasing, compounding, etc., except that of borrowing or of hypothecating;

That, until lately, the estate has enjoyed the general prosperity but, through the depression in the real estate market in Montreal, the revenues of the estate which consist almost entirely of rents from the immoveable property of the said estate have been considerably reduced, to such an extent that they are now insufficient to permit of the testamentary executor, administrator and trustee

paying in full the annuities which the testator bequeathed to his nephews and nieces, amounting, for each of them, according to the terms of the will, to a sum of fifteen hundred dollars, increased to two thousand dollars for each on the death of their mother, the late Dame Eliza Massue Drolet;

That, in the year 1922, by the act 12 George V, chapter 145, the revenues of the estate being then sufficient, the testamentary executor, administrator and trustee was authorized to make advances out of the said revenues to each of the children of the nephews and nieces of the testator who, by the above-mentioned will, are owners of the estate, of a sum not to exceed three thousand eight hundred dollars per annum, and to increase the annuities of the nephews and nieces of the above-mentioned testator by an additional sum not exceeding eighteen hundred dollars per annum;

That, considering the revenues which the property of the estate then produced, the testamentary executor, administrator and trustee made such advances and increased such annuities in the manner above mentioned, until recently, when, owing to the circumstances above related, he was obliged to cease entirely making advances to the children of the said nephews and nieces of the testator, and diminish the annuity fixed by the will, for each of the said nephews and nieces of the testator, by half;

That, however, by making such payments, arrears of municipal taxes accumulated on the property of the estate, for an approximate amount of twenty-seven thousand dollars, as well as accounts of suppliers;

That, in addition, he owes to four of the heirs a sum of about five thousand and seventy-four dollars and fifty-eight cents, with interest, from the 19th of December, 1934, representing the price of sale of a land which has been retroceded to the estate by the Fabrique de St. Aimé, which amount is now exigible and must be paid out of the first loan hereinafter mentioned;

That, such sum was not paid at the time to the said heirs because the testamentary executor considered it as revenue of the estate and employed it as such, and that it was only after a judgment rendered on the controversy which arose respecting same that such amount was adjudged to the said four heirs only;

That, in addition to the costs taxed against the plaintiffs personally, there are also other unpaid costs, occasioned by a suit by certain of the heirs against the testamentary

executor, which was dismissed, and also other incidental expenses to these proceedings, which costs are exigible and must be paid out of the said first loan;

That all these claims cannot be met, except by means of a loan or loans;

That several of the immoveables of the estate could be hypothecated to secure the reimbursement of such loans and of the interest thereon;

That it would also be expedient that the testamentary executor, administrator and trustee of the estate be empowered to exchange immoveables of the estate for others which would give a better yield, but, in order to do so, balances may have to be paid by the estate, and to be able to pay them, it is necessary that the estate be able to borrow and to guarantee such loans by hypothec, if need be;

That certain properties belonging to the estate of J. A. Massue, built upon clayey soil, need alterations and repairs, which it is urgent to execute, in order to avoid too great a depreciation of the capital of the estate; and

Whereas it is expedient to grant his prayer;

Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

1. The testamentary executor, administrator and trustee of the estate of the late Joseph Aimé Massue, above described at length, is authorized to borrow, from time to time, and in one or more loans, if need there be, any sum which he may need for the various purposes above mentioned, up to an amount of seventy-five thousand dollars, and to grant hypothecs on the properties of the estate, to guarantee the payment of the interest of such sums and the reimbursement thereof, and to give any other security which he may agree upon with the lenders, provided that each loan to be so contracted has been previously authorized by a judge of the Superior Court, sitting in and for the district of Montreal, application therefor to be made by a mere petition which must be served upon all the heirs and annuitants residing in the district of Montreal, at least five days before its presentation, and, for any heir or annuitant not residing in the said district of Montreal, such service shall be made in the manner indicated by a judge of the Superior Court.

Loans by
testamen-
tary execu-
tor author-
ized.

Proviso.

2. The testamentary executor, administrator and trustee of the estate is authorized to pay out of the ordinary revenues of the estate or the monies or loans above pro-

Payment of
certain
costs, etc.,
by testa-

mentary
executor au-
thorized.

vided for, the total costs, expenses, disbursements, etc., which he has incurred and made in his aforesaid capacities, on the occasion of the action taken against him by certain heirs of the estate to remove him from his office, of which mention is made in the above preamble, which action was dismissed, as well as the taxed costs, incidental costs, and other costs and disbursements of the two parties to the litigation. Such costs and disbursements shall be so paid in full by the testamentary executor. Such sums so paid, recognized as costs for each of them, as well as the interest thereon, at the rate of three per cent per annum, capitalized each year, shall be imputed on his share of the property of the said testator, and shall be calculated and deducted from his said share at the time of the division of the said property, and, in the event of the death of any of them before the partition, the sums so advanced and the interest thereon shall be imputed and deducted from the share of the survivors of the same root, at the time of the partition, who were plaintiffs in the said action.

Costs of act.

3. The testamentary executor, administrator and trustee of the estate is authorized to pay, out of the monies or loans above mentioned, the costs, disbursements and fees incurred for the passing of this act, and to impute the sum or sums so paid to the capital of the estate.

Coming into
force.

4. This act shall come into force on the day of its sanction.