

the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

1. The testamentary executors and fiduciary administrators of the estate of the late Gaspard Archambault, senior, and those who successively replace them, are authorized to borrow, on the security of the immoveables of the estate, the sums necessary to repay the advances made by the said institutes and to hereafter pay the hypothecs when payment thereof becomes due. Authoriza-
tion to
borrow, etc.

2. The testamentary executors are authorized to borrow, by hypothecating the said immoveables, the sums required for gross repairs, and improvements and alterations which are useful and in the interest of the said estate. Idem.

3. The costs incurred for the passing of this act shall be paid by the estate. Payment of
costs.

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

C H A P. 144

An Act respecting the estates of Félix Lussier and Angélique Deschamps and of Albert Lussier and Marie Louise Massue

[Assented to, the 4th of March, 1925]

WHEREAS Paul Aimé Lussier, Régina Lussier, wife of separate as to property of Gaspard Bousquet, of Varennes, and Angélique Lussier, spinster of the age of majority, of the city of Outremont, have, by their petition, represented: Preamble.

That they are the only living children in the first degree, issue of the marriage of the late Albert Lussier, in his lifetime gentleman and former member of the Provincial Legislature, with the late Marie Louise Massue; and that the said late Albert Lussier was one of the children in the first degree issue of the marriage of the late Félix Lussier, in his lifetime seignior of Varennes, with the late Angélique Deschamps;

That the said late Félix Lussier and Angélique Deschamps, his wife, died over forty years ago, each leaving a last will executed in authentic form before E. A. Beaudry, notary, on the 5th of August, 1873, which wills have not been revoked and are in force;

That by their said wills the late Félix Lussier and Angélique Deschamps bequeathed to the said late Albert Lussier, among others, certain immoveables and property described therein, subject to a substitution, and that it is stipulated in said wills that, in the event of the death of any legatee without issue, the immoveables and certain moveables left to such legatee shall revert with substitution to the other legatees or their representatives;

That, by their wills, the late Félix Lussier and his wife expressed the wish that an act of the Legislature be passed to ratify and confirm the provisions of their wills, because they were disposing as owners of certain substituted properties, and they authorized their legatees to alienate in certain cases their immoveables and to make final divisions in the event of the death of any legatee;

That the following legatees named in such wills died without leaving a child or other descendant, namely: Cordélia Lussier, in May, 1879; Paul Lussier, on the 18th of October, 1894; Angélique Lussier, on the 29th of September, 1897; Louis Lussier, on the 7th of August, 1916, and that, according to the said wills, the immoveables and certain properties bequeathed to them by the said Félix Lussier and Angélique Lussier have been divided among those entitled to same, as appears by the following deeds of partition executed in authentic form, namely:

a. Before J. E. H. Lesage, notary, on the 23rd of April, 1895, under number 3015 of his minutes, for the immoveables bequeathed to the late Cordélia Lussier and to the late Paul Lussier;

b. Before J. E. H. Lesage, notary, on the 21st of October, 1897, under number 3840, for the immoveables bequeathed to the late Pauline Angélique Lussier;

c. Before Aimé Langlois, notary, on the 21st of December, 1916, under number 2138 of his minutes, for the immoveables bequeathed to the said late Louis Lussier;

That, wishing to use the powers granted to them by the said wills, the copartitioners made the partitions above as final partitions, and made between themselves, for their mutual benefit and for that of the substitutes in the substitutions, certain agreements and authorized certain exchanges of the lands described in said deeds of partition;

That under the wills and partitions above mentioned (saving that respecting the immoveables bequeathed to the late Louis Lussier), the said late Albert Lussier acquired certain immoveables which he disposed of in his will at the same time as he disposed of other immoveables which he had bought during his marriage with the late Marie Louise Massue to whom he was married under community of property;

That the said late Albert Lussier died at Varennes on the 18th of December, 1909, and his wife, the late Marie Louise Massue, died at Varennes on the 6th of February, 1909, both of them leaving their last will executed in authentic form before Mtre. Aimé Langlois, notary, on the 17th of February, 1908, which wills have not been revoked and are in force;

That by their wills, the late Albert Lussier and the late Marie Louise Massue divided their immoveables among the petitioners with substitution to the second degree, and, following in this the family traditions, immoveables which were acquired under the wills of Félix Lussier and his wife and the deeds of partition previously cited;

That it is practically impossible to retrace the property which formed part of the community between Albert Lussier and Marie Louise Massue, which has been confused with other immoveables derived from the estates of Félix Lussier and his wife;

That, in view of the irregularities contained in certain clauses of the will of the late Félix Lussier and that of the late Angélique Deschamps, his wife, as well as in the partition of the 21st of December, 1916, above mentioned, irregularities which appear from the above citation of the facts, it is in the interest of the petitioners, the only ones interested, who have accepted the clauses of the said wills and of the wills of Albert Lussier and of Marie Louise Massue, his wife, that the latter wills be declared valid and legal and that the petitioners be recognized as having a perfect title to the property so bequeathed to them, subject, however, to the substitution therein created;

That it is also expedient to validate the partition of the 21st of December, 1916, granting the copartitioners the right to give a perfect title to the property allotted to them under the said deed, always in their capacity of institutes and subject to the substitution;

That these various deeds have been accepted by all those interested and, since their passing, have always been executed and followed according to their form and tenor, and acknowledged as just, and the estates mentioned have been accepted;

That the intention of the late Albert Lussier and of his wife, in ordering the retaining of their properties and of those of their ancestors, was to assure, as far as possible, provision for their children and some inheritance for their descendants; but that the petitioners, desirous that all the substitutions have their effect, find it impossible to retain in kind the immoveables, which were bequeathed to them or have fallen to them in the partition, because they have

not sufficient funds to provide for their living expenses and the expenses which the immoveables occasion;

That one of the petitioners, Paul Aimé Lussier, was obliged, under the wills of his father and mother, to pay the balance of the purchase price of lot bearing official number 284 of the parish of Varennes, amounting to \$333.1-3, and has not yet been able to make such payment; that the said Paul Aimé Lussier has in addition had to make the necessary expenditures for rebuilding on his immoveables for over two thousand dollars, which expenditure he is not obliged to make as institute, but which was necessary to enable him to use his immoveables, and has been settled by notes or is still due on accounts which the said Paul Aimé Lussier is unable to pay out of his revenues;

That certain immoveables belong to the petitioners jointly, and the administration of such immoveables by several interested parties is very difficult; that these immoveables cannot be divided in kind and that a definite sale thereof is necessary;

That, amongst such properties, the petitioners have the joint-ownership of a certain immovable which was not disposed of by particular legacy either in Albert Lussier's will or in that of his wife Marie Louise Massue, this land with the buildings forming part of the lot known and designated under the number 82 of the official plan and book of reference of the parish of Varennes, of irregular shape, containing about seventeen arpents in area, and bounded in front by the public highway, in rear by the river St. Charles, on one side by part of lot official number 78, and on the other side by the remainder of said lot 82 at the place where the division fence is for the piece of land called "*morceau du moulin*"; but this lot has actually been in the possession of one of the petitioners, Paul Aimé Lussier, as forming part of the land reunited into one single exploitation composed of lots numbers 83, 104 and 105 of the cadastre of the parish of Varennes and this in the sight and with the knowledge and consent of the other petitioners;

That it will be necessary, in the near future, to make considerable expenditure for repairs to the buildings belonging to the petitioners which cannot be paid out of the present revenues alone of the petitioners;

That it is to the advantage of the institutes and of the substitutes in the substitutions created by the late Albert Lussier and Marie Louise Massue, his wife, that the petitioners be authorized to sell their substituted immoveables with the consent of the curator to the substitution, and that the price of each sale be disposed of in accordance with the general law, save the right of the said Paul Aimé

Lussier to collect the sums above mentioned to pay the debts upon his substituted property;

That the general law provides for the sale of substituted immoveables in cases of necessity and to the advantage of the institutes and of the substitutes, but that it is impossible for the petitioners to avail themselves of this law for the following reasons: (a) the titles of their immoveables are defective as regards third parties; (b) the putting up to public auction of a large number of their immoveables would lower the price; (c) the procedure with its long delays prescribed by the Civil Code would, in several instances, prevent them from taking advantage of what purchasers presented themselves; (d) the costs of the proceedings for each immoveable would be very considerable;

That certain immoveables belonging to the petitioners are situated in the centre of the village of Varennes, and their sale would help the development of the said village;

That it is in the interest of the petitioners, of the substitutes to the substitutions with which they are charged, and, in certain respects, of the village of Varennes, that an act be passed to authorize the sale, by private sale, of the immoveables bequeathed to the petitioners by the late Albert Lussier and the late Marie Louise Massue, and of the immoveables allotted to the petitioners under the wills of the late Félix Lussier and of the late Angélique Deschamps;

Whereas it is expedient to grant the prayer of the said petition;

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

1. The partition made in authentic form before Mtre. Aimé Langlois, notary, on the 21st of December, 1916, under the number 2138 of his minutes, of the immoveables and certain moveables bequeathed to the late Louis Lussier, is declared final between the parties and as regards all the other institutes and substitutes in the substitutions, and the said deed of partition (*acte de partage*) is ratified and validated in its entirety. Partition declared final and ratified.

2. The wills of the late Albert Lussier and Marie Louise Massue, his wife, executed in authentic form before Mtre. Aimé Langlois, notary, on the 17th of February, 1908, under the numbers 349 and 350 of his minutes, are ratified and validated in their entirety, subject however to the correction hereinafter made in the description of lot number 471, which lot should be described as follows: "A wood lot forming part of the lot known and described under the number 471 of the official plan and book of reference of the parish Wills ratified and validated.

Description of lot corrected.

of Varennes, containing two arpents in width by a depth of forty-two arpents, bounded in front by lot official number 313, in rear by the boundary line of the parishes of Varennes and Ste. Julie, on one side by lot official number 472 and on the other side by the remainder of said lot number 471”.

Authoriza-
tion to cer-
tain persons
to exercise
certain
powers.
Paul Aimé
Lussier.

3. With the consent of the curator to the substitutions created by Albert Lussier and his wife, the following powers may be exercised, namely:

a. The said Paul Aimé Lussier is authorized to sell at any time, by private sale and in whole or by parts, the following immoveables bequeathed to him by his father and mother, namely;

1. The immoveables known and designated under the official numbers one, three, three-A, six and eight, (1, 3, 3-A, 6, 8) of the official plan and book of reference of the village of Varennes;

2. The immoveables known and described under the numbers 87, 88, 89, 90, 92, 93, 94, 95, 83, 104, 105, 612 of the official plan and book of reference of the parish of Varennes; and

The following part of the lot known and designated under the number 471 of the official plan and book of reference of the parish of Varennes, being a wood lot containing two arpents in width by a depth of forty-two arpents, bounded in front by lot official number 313, in rear by the boundary line of the parishes of Varennes and Ste. Julie, on one side by lot official No. 472 and on the other side by the remainder of said lot No. 471;

3. The immoveable known and designated under No. 197 of the official plan and book of reference of the parish of Repentigny;

4. Two wood lots known and designated as Nos. 82 and 540 of the official plan and book of reference of the parish of Ste. Julie;

Régina
Lussier.

b. The said Dame Régina Lussier, authorized by her husband, is authorized to sell at any time, by private sale, in whole or by parts, the following immoveables bequeathed to her by her father and mother, namely:

1. The immoveable known and designated under the numbers 284 and 285 of the official plan and book of reference of the parish of Varennes;

2. The undivided half of a wood lot known and designated under the number 472 of the official plan and book of reference of the parish of Varennes;

Angélique
Lussier.

c. The said Angélique Lussier is authorized to sell at any time, by private sale, in whole or by parts, the following immoveables bequeathed to her by her father and mother, namely:

1. The immoveable known and designated under the numbers 297 and 499 of the official plan and book of reference of the parish of Varennes;

2. The undivided half of a wood lot known and designated under the number 472 of the official plan and book of reference of the parish of Varennes;

d. The said Paul Aimé Lussier, Régina Lussier authorized by her husband, and Angélique Lussier, are jointly authorized to sell by private sale or voluntary licitation, without judicial authorization, at any time, in whole or by parts, the following immoveables bequeathed to them by their father and mother under the universal legacy contained in their wills, namely: Paul Aimé Lussier, Régina Lussier and Angélique Lussier, jointly.

1. A vacant lot known and designated under the number 98 of the official plan and book of reference of the village of Varennes, containing one hundred and one feet in front and one hundred and five feet in rear, on a depth of about one hundred and sixteen feet;

2. A lot with buildings, forming part of the lot known and designated under number 82 of the official plan and book of reference of the parish of Varennes, of irregular shape, containing an area of about seventeen arpents and bounded in front by the public road, in rear by the river St. Charles, on one side by part of lot official number 78 and on the other side by the remainder of said lot No. 82 at the place where the division fence is for the piece of land called "*morceau du moulin*";

e. The said Paul Aimé Lussier, Régina Lussier authorized by her husband, and Angélique Lussier are jointly empowered to sell by private sale or voluntary licitation, with judicial authorization, obtained upon petition to the judge, at any time, in whole or by parts, the following immoveables allotted to them by the partition after the death of the late Louis Lussier, by deed before Aimé Langlois, notary, on the 21st of December, 1916, under number 2138 of his minutes, namely: Idem.

1. The lots known and designated under the numbers 88 and 96 of the official plan and book of reference of the village of Varennes;

2. The lots known and designated under the numbers 74 and 602 of the official plan and book of reference of the parish of Varennes, less however the buildings erected on said lot No. 74 near the southwest line of lot official number 73 and intended for the exploitation of the latter lot.

4. Each sale made under this act shall be effected by notarial deed, and the price of each such sale shall be paid by the purchaser, either in cash or by instalments, into the hands Formalities upon sales.

of the prothonotary of the Superior Court for the district of Montreal, who is authorized to give a valid discharge for same, which shall be authority for the registrar of the county of Verchères to make the necessary radiation. The prices of such sales shall be subject to the substitutions created for the said immoveables from which the same are derived, and the investment of the said prices, after their payment into the hands of the prothonotary, shall be made in accordance with article 953a of the Civil Code respecting the investment of the prices of sales of substituted immoveables sold under judicial authorization. Such investments shall be under specific deeds showing the substitution and not in investments payable to bearer. Each institute shall be entitled to invest his share of the price of sales, separately.

Portion
of price.

The vendor may stipulate in each sale, that the purchaser shall retain in his hands, for a fixed delay, as an investment, a portion of the price not over three-fifths of the municipal valuation of the immoveable sold, and guaranteed by first hypothec on the immoveable, and he shall subsequently pay the same into the prothonotary's hands in the delay fixed, as already prescribed.

Special
payment
to P. A.
Lussier.

The price of sale of the said part of lot No. 82 of the official cadastre of the parish of Varennes shall be paid in the manner above indicated for the benefit of the said Paul Aimé Lussier alone as institute in the substitution.

Certain col-
lection au-
thorized.

5. The said Paul Aimé Lussier is authorized to collect from the prothonotary of the district of Montreal, on a petition to that effect, out of the prices from the sale of his immoveables, the total amount of two thousand three hundred and thirty-three and one-third dollars, to be used by the said Paul Aimé Lussier in the payment of the debts already mentioned as affecting his substituted property, providing he establishes to the satisfaction of a judge of the Superior Court that such expenditure was made in the interest of the substitutes.

Proviso.

Perfect
title.]

6. The sales made under and in accordance with this act shall confer upon the purchaser a perfect title of ownership of the immoveables so acquired.

Coming into
force.

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