

where authorization is required, shall be valid, provided they are otherwise legal, if a special permit relating thereto, as provided by the act 8 George V, chapter 77, or if the general permit mentioned in paragraph *b* of section 2 of the said act, is issued in virtue of the provisions thereof.

**2.** Every permit, either special or general, issued after the 9th of February, 1918, but before the coming into force of this act, in accordance with the provisions of the said act 8 George V, chapter 77 shall cover every acquisition or alienation of immoveable property and every hypothec made or granted by a person in mortmain or by a corporation, since the 9th of February, 1918, but before the issue of a permit, special, or general, as the case may be.

**3.** The validations enacted by sections 1 and 2 shall not, however, affect pending cases, as regards costs.

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

## CHAP. 90

An Act respecting the seizin of certain beneficiaries

[Assented to, the 21st of March, 1922]

**HIS MAJESTY**, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

**1.** Notwithstanding any law to the contrary, the lawful heir domiciled or resident ordinarily outside of the Province, to whom there is transmitted, by the death of any person domiciled in this Province, the ownership, usufruct or enjoyment of moveable property locally situate outside the Province at the time of such death,—is not seized by law alone of the ownership, usufruct or enjoyment of the property transmitted to him by such death, whether such property be locally situate within or without the Province, but he must have himself put in possession, in the manner hereinafter provided.

**2.** Notwithstanding any law to the contrary, the legatee domiciled or resident ordinarily outside of the Province, to whom there is transmitted, by the death of any person

Proviso.

Effect of permit.

Costs in pending cases not affected. Coming into force.

Lawful heir domiciled, etc., outside the Province not seized by law alone of certain property transmitted, in certain cases.

Putting in possession.

Legatee domiciled, etc., outside the Province not

seized by law alone of certain bequests, etc. domiciled in this Province, the ownership, usufruct or enjoyment of moveable property locally situate outside the Province at the time of such death,—is not seized of the right to the thing bequeathed, whether it be locally situate within or without the Province, nor of the dependencies forming part of such bequest, nor of the right to obtain payment thereof, nor to prosecute claims resulting from his legacy, unless he obtain legal delivery thereof, in the manner hereinafter provided.

Legal delivery.

Declaration to precede application. **3.** The application for putting into possession and that for legal delivery, as the case may be, must be preceded by a declaration under oath, setting forth:

Contents

- a. The name, surname, domicile or ordinary residence of the heir or legatee, and his relationship to the deceased, if related;
- b. The name and surname of the *de cujus* or of the testator, the place and the date of his death, and the place of his domicile, at such date;
- c. The description, situation and real value of the property so transmitted, distinguishing that locally situate within from that locally situate without the Province;
- d. The total value of the property of the succession and the amount of its debts and charges existing at the time of the death.

How made and delivered. Such declaration must be made by the heir, or by the legatee or by any other person acting for him, and must be delivered to the Comptroller of Provincial Revenue together with, in the case of a testamentary succession, the will, etc., to accompany. will and all other documents containing dispositions in contemplation of death.

Declaration by one heir or legatee dispenses others, in certain cases. **4.** If such declaration, made by or for the heir or the legatee, contains all the information necessary to determine the amount of the fee to be paid upon such putting into possession or for such legal delivery, it dispenses the other heirs or legatees, if any exist in the same situation, from the obligation of making another declaration.

Court fee. **5.** The putting into possession or the legal delivery can be had only after payment by the heir or legatee of a court fee calculated on the real value of the moveable property locally situate outside of the Province, at the following rates:

How calculated. Rates.

If the transmission is in the direct line, descending or ascending; between consorts; between father- or mother-in-law and son- or daughter-in-law . . . . . 3%

If the transmission is in the collateral line within the heritable degrees..... 9%

If the transmission is neither in the direct line, descending or ascending; nor in the collateral line within the heritable degrees; nor between consorts; nor between father- or mother-in-law and son- or daughter-in-law..... 15%.

**6.** Such payment is established by the production of a Certificate of the Comptroller of Provincial Revenue showing that the court fee required by this act for the putting into possession or the legal delivery, as the case may be, of the property, described therein, has been paid to the Provincial Treasurer, and the judgment granting such putting into possession or such legal delivery, as the case may be, must describe the same property, and no other.

**7.** The putting into possession or the legal delivery is applied for by petition to a judge of the Superior Court in the district where the deceased had his last domicile.

The petition must describe all the property forming the share of such heir or legatee, whether it be locally situated within or without the Province.

Upon presentation of such petition, the judge may require that it be served, in the manner he may indicate, upon every person that he considers interested, with a notice of the day that he fixes for taking it into consideration, or he may, after such oral or written proof under oath that he deems proper, grant the application.

**8.** The judge's order upon the petition is not susceptible of appeal but grants merely the putting into possession or the delivery of the legacy, as the case may be, and does not prejudice the rights of any person who subsequently lays claim to the same property, or part thereof, as lawful heir or legatee or for any other lawful cause.

**9.** This act shall not apply to successions devolved before its coming into force.

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