

## C H A P . 142

## An Act respecting the estate of François Decary

*[Assented to 9th February, 1918]*

**W**HEREAS Arthur Gagnon, merchant, of Montreal, in Preamble.  
his capacity of fiduciary legatee of the late François Decary, in his lifetime of Montreal, has by his petition represented:

The he was instituted fiduciary legatee of François Decary, under the will of the latter made before Mr. A. C. Decary, N. P. and his colleague, Mr. J. A. Brunet, on the 13th September, 1892, with his duties extended until the full execution of the testator's will;

That the said François Decary died at Montreal on the 30th of December, 1894;

That, under the latter's will, the petitioner was seized of all the immoveable property and of the residue of the moveable property forming the testator's estate, to hold and administer them as trustee until the death of the survivor of the children born of the marriage of the said François Decary with his wife Dame Hélène Villeneuve, with power to sell by mutual agreement the moveables and vacant lots of land comprised in the estate, or to build on such vacant lots at his choice, without any judicial formality; the proceeds of such sales to be used in paying the debts or invested in hypothecs;

That it appears from the provisions of the said will that the testator wished to assure the subsistence of his wife and children out of the revenue of the immoveable properties constituting his estate;

That most of those properties are now so old that the revenue they yield is greatly diminished, and, on the other hand, considerable repairs are urgently needed, and in many cases total or partial rebuilding is necessary;

That the only way to meet the expenses necessitated by this state of affairs would be to contract a considerable loan by means of a hypothec on the immoveable properties of the estate;

That the interested parties have realized the need of such a loan, and have even authorized the petitioner to effect the same under an authorization duly homologated by the court on the 26th of November 1913, but that such loan could not be effected owing to doubts that then arose with reference to the sufficiency of the powers given by the testator to the fiduciary legatee;

That, under the circumstances, it would be in accordance

with the testator's will to borrow the moneys needed for the repairing and rebuilding and restoring necessitated by the present condition of the immoveable properties of the estate, in order to procure additional revenue for those whom the testator wished to benefit;

That, moreover, it would be carrying out the testator's real intentions, as resulting from the whole of the provisions of his will, to sell certain unproductive properties and acquire new ones, and also to erect revenue-bearing buildings on lots other than those left in his estate;

Whereas it is expedient to grant the prayer contained in 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:

Authoriza-  
tion to  
borrow, &c.

**1.** Notwithstanding any provision to the contrary in the will of the late François Decary, made on the 13th September 1892, before Mr. A. C. Decary, N. P. and his colleague, Mr. J. A. Brunet, the fiduciary legatee instituted or replaced under the aforesaid will may, without any judicial formality, borrow any sums of money required for repairing and rebuilding, wholly or partially, the properties belonging to the said François Decary, and also to acquire by purchase, exchange or otherwise, new lots of land for the purpose of erecting thereon revenue-bearing buildings and even immoveables with buildings already erected on them; and, to that end, the fiduciary legatee may hypothecate such immoveables as he may deem advisable, both those left by the testator at his death and those that may be acquired under the provisions of this act.

Authoriza-  
tion to  
alienate,  
&c.

**2.** The fiduciary legatee may likewise, on the advice of a family council duly homologated by the court, definitively alienate by sale, exchange or otherwise, the immoveables belonging to the said estate, and, in such case, the purchaser shall not be bound to see to the investment of the purchase price from the moment it has been employed by the fiduciary legatee in accordance with the provisions of paragraphs 3 and 4 of article 953a of the Civil Code, or has been deposited in the hands of the Prothonotary in accordance with paragraph 5 of the said article.

Coming into  
force.

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

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