

October 1910, before Jean B. Latour, N. P. is hereby ratified and declared valid to all intents and purposes.

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

C H A P . 1 2 2

An Act respecting the estate of the late Benjamin Décarie.

[Assented to 14th March, 1911]

Preamble.

WHEREAS François-Xavier Décarie, farmer, of the village of Côte St. Luc, district of Montreal, and Dame Domithilde Hurtubise, widow of the late Benjamin Décarie, junior, domiciled at the place aforesaid, acting in her capacity of duly appointed tutrix to Joseph Marc Décarie, her son, also of the village of Côte St. Luc, have, by their petition represented :

That, by the will of the late Benjamin Décarie, senior, in his lifetime farmer of Cote St. Luc, in the parish of Notre-Dame de Grâce, district of Montreal, made before Mr. Joseph Alphonse Brunet, notary, on the 8th January, 1893, he gave to the said François-Xavier Décarie and Joseph Marc Décarie: 1. A lot of land situate at said Côte St. Luc, containing two arpents and one perch in front by about thirty arpents in depth, being the southwest part of lot No. 69 of the official plan and book of reference of the municipality of the parish of Montreal, bounded in front by the Côte St. Luc road, in rear and on the southwest side by Gervais Décarie, and on the northeast side by the remainder of the said lot No. 69, with the buildings thereon erected ;

2. A lot of land situate in the said Côte St. Luc, containing two arpents and one perch in front by about six arpents in depth, being the northeast part of lot No. 70, of the official plan and book of reference of the said municipality of the parish of Montreal, bounded in front by the Côte St. Luc road ; in rear by Moïse Gougeon and widow François Xavier Gougeon ; on the northeast by the remainder of the said lot No. 70 ;—the said lots being divided between the two as follows : the northeast half of the immoveable hereinabove firstly described to the said François-Xavier Décarie and the southwest half of the same immoveable to the said Joseph Marc Décarie ; the southwest half of the immoveable hereinabove secondly described to the said François-Xavier Décarie and the northeast half of the same immoveable to the said Joseph Marc Décarie ;

That, by the said will, it was ordered that the said legatees therein mentioned were to take possession of their respective halves of the said property only after the wife of the testator, the late Catherine Lortie, should have had the enjoyment thereof during her lifetime or as long as she should remain a widow in the event of her surviving the said testator ;

That it was further stipulated that neither of the said legatees, to whom he bequeathed his said property in full and absolute ownership, could, during the lifetime of Romain Décarie, another of the said testator's sons, sell, exchange or otherwise alienate their respective halves of the immoveables otherwise than between themselves ;

That the legacy of the said immoveables was given subject to the condition that each of the said legatees should furnish and make over the sum of ten dollars per month, counting from the date of their taking possession of the said immoveables, to the said Romain Décarie, during his lifetime, and, moreover, that both should pay yearly fifty dollars to the said Romain Décarie for his clothes and for the other petty expenses of the said Romain Décarie ; and to secure and guarantee the payment of the said life rent and other charges above established in favour of the said Romain Décarie, the said will established a hypothec upon the immoveables above described to the amount of five thousand dollars ;

That the said testator further wished that in the event of the death of the said Joseph Marc Décarie while still a minor and without lawful issue, his elder brother, Benjamin Décarie, be substituted for him in the aforesaid legacy ;

That Dame Catherine Lortie is deceased but Romain Décarie is still living ;

That Dame Catherine Lortie who had rights in the above described property, did at the same time as her husband make her will dated the 8th day of January 1893, passed before Jos. A. Brunet, notary, in which she made the same legacies as her husband and imposed upon the legatees the same obligations. ;

That Joseph Marc Décarie is twenty years of age and unmarried ;

That owing to the continuous increase and growth of the city of Montreal, in whose vicinity the immoveables above described are situated, the latter will no longer be suitable for farms as their value is becoming too great in proportion to what they might yield as such ;

That the petitioners have received advantageous offers for the purchase of the said immoveables, which have been submitted to a meeting of the relatives of the said Joseph Marc Décarie and Romain Décarie and have been approved by them ;

That Benjamin Décarie, the institute in the conditional substitution created by the wills of the late Benjamin Décarie, and Catherine Lortie, consents to the property bequeathed to Joseph Marc Décarie being sold by his tutrix ;

That it is impossible for the petitioners to avail themselves of the offers above mentioned unless an act be passed authorizing them to sell the properties so bequeathed and to transfer to other immoveables the mortgages created thereon as security to Romain Décarie ;

That Henry Gervais Décarie, farmer of the parish of Cote St. Luc, was, on the 14th day of February 1911, appointed curator *ad hoc* to Romain Décarie, to receive from the petitioners or their assigns one or more mortgages upon other immovable property for securing the payment of the life rent as well as the other charges created by the testator in favour of said Romain Décarie, and to discharge the properties bequeathed, from the mortgage with which they are charged to secure the said life rent and such other charges.

That at a family council duly homologated by the prothonotary of the Superior Court at Montreal on 14th February 1911 the curator and curator *ad hoc* to Romain Décarie, the tutor to Joseph Marc Décarie, and Gervais Décarie insurance broker of Montreal and curator to the conditional substitution created above mentioned, have approved and ratified this act.

Whereas the petitioners have proved the allegations of their petition and it is expedient to grant their prayer ;

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

Sale of certain substituted property authorized.

1. François-Xavier Décarie and Dame Domithilde Hurtubise, the tutrix of Joseph Marc Décarie, with the concurrence of the curator of the substitution created with respect to the property bequeathed to Joseph Marc Décarie by the wills of the late Benjamin Décarie and his wife Catherine Lortie may, notwithstanding any provisions to the contrary in the said wills, sell their respective shares of the immoveables, Nos. 69 and 70 of the cadastre of the parish of Montreal and receive the proceeds of the sale and give good and valid acquittance thereof to the purchaser.

Hypothecs to secure price of sale.

2. The curator, or the curator *ad hoc*, as the case may be, of Romain Décarie, shall have the power to receive from F. X. Décarie, Dame Domithilde Hurtubise or their assigns, first mortgages for at least four thousand dollars for each, on real estate in the Province valued by the municipality in which they are situated at at least two-fifths more than the mortgages given to secure the payment of the life rent and the

faithful fulfilment of the other charges created in favour of the interdict by the testators or to be received in the lieu and place of any other security which may be considered sufficient by a judge of the Superior Court in the district where the interdict shall have his domicile, and he shall have the power to sign a discharge relieving all the immoveables given to F. X. Décarie and Joseph Marc Décarie by the said testators from the mortgage created by the latter to secure the said Romain Décarie.

3. The tutrix to Joseph Marc Décarie shall, upon receipt of the purchase price of the said property of her pupil, invest the same in accordance with paragraphs 3 and 4 of article 953a of the Civil Code or deposit the same with the prothonotary of the Superior Court at Montreal, under paragraph 5 of the same article; and no purchaser shall be bound to see to the application of the purchase price so soon as it is invested or deposited in the hands of the prothonotary by the said tutrix under the provisions of the said paragraphs of the said article.

4. The right to sell and to change the security of the said Romain Décarie, granted to Dame Domithilde Hurtubise in her quality of tutrix to Joseph Marc Décarie shall extend to the said Joseph Marc Décarie himself when he becomes of age.

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

C H A P . 1 2 3

An Act respecting the estate of Ernest Idler.

[Assented to 24th March, 1911]

WHEREAS William George Idler, senior, gentleman, of the city of Montreal; Ernest Idler, merchant, of the town of Franklin, Province of Manitoba; Edith Louise Idler, Lily Ernestine Idler and Sophia May Idler, all three unmarried, William George Idler, junior, clerk, Harold Johnston Idler, merchant and Muriel Franklin Idler, all of the city and district of Montreal, have, by their petition, represented:

That by his will made before Mr. J. E. O. Labadie, notary, on the 19th June, 1877 and its codicils, the late Ernest Idler, in his lifetime of the city and district of Montreal, instituted his children born of his marriage with Dame Anna Maria Keiser, his universal usufructuary legatees, to have the enjoy-