

C H A P . 165

An Act to authorize the sale of property left by the late Mrs Marie Adine Pemberton, notwithstanding the substitution created by her will, and for other purposes

[Assented to 27th April, 1909]

WHEREAS Mr. Siméon Lesage and his children : Jules Preamble.
Siméon Lesage, Marie Lesage, Isabelle Lesage, all three of age and unmarried, and Adine Lesage, wife separated as to property by marriage contract of Roquebrune LaRocque and the latter authorizing his wife for the purposes hereof in so far as the same is necessary, have, by their petition, represented :

That, by her will dated the tenth of May, 1873, Dame Marie Adine Pemberton, wife of Mr. Siméon Lesage, bequeathed all her property to her husband to enjoy the same in usufruct during his lifetime with the obligation of keeping the said property and transferring the full ownership thereof when his enjoyment should cease at his death, to the children of the testatrix and other descendants in the order of legitimate succession who might be then living and who were to share the same equally and by roots ; and in the event of the testatrix leaving no descendant of the first or further degree, then she declared that her husband should remain the absolute owner of all her property.

That by the fifth clause of her will, the testatrix added the following :

“ None of my children or descendants shall during the enjoyment and usufruct of the said Siméon Lesage, sell, convey, hypothecate or otherwise alienate the shares and rights they may expect to have in my property during such enjoyment and if any attempt be made or carried out by deed to that effect, the same shall entail the forfeiture of their said shares and rights, which shares and rights shall accrue to the other co-heirs of the one disobeying the present prohibition and this always according to the order of legitimate successions.”

That Mrs Lesage, died on the twentieth of November, 1879, without having altered her will which was duly registered and that she left four children issue of her marriage with Mr. Lesage, to wit : Jules Siméon Lesage, Marie Lesage, Isabelle Lesage all three of age and unmarried and Adine Lesage also of age and married under the *regime* of separation as to property to Mr. Roquebrune LaRocque, who unanimously join their father in asking for authority to alienate ;

That the usufruct of part of the property bequeathed as aforesaid has always been and is still more onerous than

profitable and that Mr. Lesage, the father, renounced the same in favour of his children by deed passed at Quebec on the ninth of June, 1905, before Mr. C. Tessier, notary ;

That three of the immoveables comprised in such usufruct, to wit : lot No. 428 of the official cadastre of St. James Ward, of the city of Montreal, the south half of lot No. 219 of the official cadastre of the same ward, and the property known under the name of Bois-Brillant situate in the parish of Ste-Foy, county of Quebec, consisting of lots Nos 162, 167 and 169 and of part of lot No. 166 of the official cadastre of the said parish of Ste. Foye, have acquired considerable value without, however, bringing in a corresponding revenue, and that it would be advantageous for the substitutes to dispose of the same by private sale whenever a favorable opportunity presents itself ;

That the clause prohibiting a sale, contained in Mrs. Lesage's will should be interpreted solely as a warranty in favor of the institute that, during his lifetime, his children should not alienate the property, the ownership whereof is bequeathed to them, since the previous clause says that in the event of the testatrix leaving no descendant of the first degree or further degree, that is to say that if they all died before the institute the latter would be the final owner of the said property ;

That, as the institute has renounced the usufruct of the said property and consents to its alienation it is not contrary to the presumed intentions of the testatrix to allow her children, the substitutes, who are all of age, to alienate the said immoveables ;

That, owing to the prohibitory clause aforesaid, a serious doubt has arisen as to the validity of the sale of the said immoveables if it were effected under the procedure authorized and established by article 953*a* of the Civil Code ;

Whereas the petitioners have prayed for the passing of an act to authorize them to alienate the property left by the testatrix notwithstanding the prohibition to alienate and notwithstanding the substitution created by her will ;

Whereas the curator has taken cognizance of the bill and has approved of it, and the family council has also approved of it ;

And 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 :

Private sale of certain immoveable, authorized.

1. The private sale of the following immoveables, to wit : lot No. 428 of the official cadastre of St. James Ward, of the city of Montreal, the south half of lot No. 219 of the official cadastre of the same ward and the property known under

the name of Bois Brillant and situate in the parish of St. Foye, county of Quebec, consisting of lots Nos 162, 167, 169 and part of lot 166 of the official cadastre of the said parish left by the late Mrs Lesage—is authorized provided the moneys derived from such sale be re-invested according to the provisions of the Civil Code on the advice of a family council and with the consent of the curator to the substitution, the latter to be a party to the contract of sale, and the acquittance given by the institute and substitutes on payment of the price of sale, of each of such immoveables, shall be good and valid without the purchaser being obliged to see to the investment of such price of sale.

Re-investment of price of sale, &c.

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

Coming into force.

CHAP. 166

An Act respecting the estate of the late John Henry Wilson

[Assented to 7th May, 1909]

WHEREAS William Olier Wilson, merchant ; Wilfrid Meloche, accountant ; Elvina *alias* Albani Wilson, spinster, in their capacity of testamentary executors of the late John Henry Wilson, in his lifetime, hardware merchant, of the city of Montreal, the said William Olier Wilson, the said Elvina *alias* Albani Wilson, Joseph Henri Wilson, clerk ; Henriette Wilson, widow of the late Donatien Rolland, ; Hortense Wilson, widow of the late Adolphe Brossard ; Blanche Wilson, wife of Emile Globensky, gentleman, and the latter for the purpose of authorizing his wife, and May-Adèle *alias* Mammy Wilson, wife of Arthur Benoit, civic employee, and the latter for the purpose of authorizing his wife, all of the city of Montreal, have, by their petition, represented :

That by his will made at Montreal, before N. Pérodeau and colleague, notaries, on the twenty-fifth of January, 1900, the said late J. H. Wilson, after bequeathing certain special legacies, created a life rent of twenty dollars per month in favor of his two sisters, Flora and Louise Wilson, an annual life rent of three hundred and sixty dollars in favor of his sister-in-law, Mathilde Asselin, bequeathed the remainder and residue of all his moveable and immoveable property in full ownership to his children, born of his marriage with the late Elvina Asselin and appointed the said William Olier Wilson, Wilfrid Meloche and Elvina *alias* Albani Wilson his testamentary executors, and at the same time administrators of the property and affairs