

LENNOX, J.

MARCH 30TH, 1918.

RE MAILLOUX.

Will—Construction—Specific Devises of Different Portions of one Farm—Descriptions in Will—Oral Evidence—Conflicting Instructions—Rational and Convenient Disposition.

By an order of the Court of the 23rd January, 1917, under Rule 606 (1), the following questions were directed to be tried on oral evidence:—

(1) What part of lot 122 in the 1st concession of the township of Sandwich East did the testator Hypolite P. Mailloux give and devise to his daughter Rose St. Louis and her sons, by his will dated the 10th April, 1909?

(2) What portion of lot 122 does Eugene Mailloux, the son of the testator, take under the will?

These questions were tried without a jury at Sandwich.

T. Mercer Morton, for Rose St. Clair and her infant sons.

A. St. G. Ellis, for the executors and the Official Guardian, representing certain infants.

LENNOX, J., in a written judgment, set out the relevant portions of the will as follows:—

"I give and devise to my daughter Rose, wife of Joseph St. Louis, the use for her life of . . . that part of lot 122 in the 1st concession . . . where I now reside, having a frontage of 80 feet and lying between the channel bank of the river Detroit on the northerly end and the street-car track on the southerly end (excepting thereout the house and the adjoining lands herein-after bequeathed to my wife and Patrick (Teddy) Mailloux) and from and after her death to her sons their heirs and assigns forever in equal shares as tenants in common . . . I give and devise to my son Eugene Mailloux the use for his life of that part of lot 122 . . . owned by me and not hereinbefore or hereinafter bequeathed containing about 80 acres . . . and from and after his death to his sons and their heirs and assigns forever in equal shares as tenants in common. . . . I give and devise to my wife Archange Mailloux the use for her life of my present residence, being a part of lot 122 . . . having a frontage on the Detroit river of 100 feet and running back to a line 150 feet south of the south limit of Sandwich street, and from and after her death to my grandson Teddy Mailloux, now residing with me, his heirs and assigns forever."