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No. ~~218~~.261

1st Session, 6th Parliament, 21-2 Victoria, 1858.

BILL.

An Act to authorize a deviation from the
Laws of Lower Canada, as regards cer-
tain substitutions created by the Will
of the late Dame Ann Wragg.

As passed by the Legislative Council.

[Printed by order of the Legislative
Assembly.]

S. Derbishire & G. Desbarats, Queen's Printer.

B I L L .

[As passed by the Legislative Council.]

An Act to authorize a deviation from the Laws of Lower Canada, as regards certain substitutions created by the Will of the late Dame Ann Wragg.

WHEREAS George Platt, John Platt, Henrietta Geddes and Emma M. Crawford, all of the City of Montreal, have by their Petition set forth that the said George Platt is rightfully and lawfully seized of, and possesses and enjoys the properties hereinafter described as tenant in possession (being also executor) under the last Will and Testament of the late Dame Ann Wragg, widow of the late John Platt, of the City of Montreal, Esquire, bearing date the twelfth day of July, one thousand eight hundred and thirty-seven, and executed before I. J. Gibb and colleague, Notaries Public; and have prayed that legislative provision may be made for the sale of the said properties; And whereas it is expedient to grant the prayer of the said Petition, and for that purpose to authorize, in this particular case, a deviation from the laws of that part of the Province of Canada called Lower Canada, relating to substitutions, as regards the said properties, in order to give relief to the tenant in possession, and to afford him the means of support, as well as the means of support for the substitutes, as expressed and intended in and by the last Will and Testament creating such substitution: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. The following properties in the City of Montreal, together with their buildings, members and appurtenances, to wit: That certain property forming the north corner of Sherbrooke and Durocher Streets, and bounded on the south-east side by Sherbrooke Street aforesaid, on another side to the south-west by Durocher Street aforesaid, on another side to the north-west by property of John Frothingham, Esquire, and on the other side to the north-east by property of the Heirs Hutchison, and William Lunn, Esquire; and that certain other property forming the corner of Wellington and Grey Nuns Streets, St. Ann's Suburb, bounded on one side to the north-east by Grey Nuns street aforesaid, and on another side to the north-west by Wellington Street aforesaid, on another side to the south-east by representatives of J. H. Lambe, and on the other side to the south-west by Zeno Clarke, may be sold, hypothecated or exchanged, in whole or in part, to increase the revenues of the tenant in possession, and for the after benefit of the substitutes to the said property, to wit: the whole of either property, and with the proceeds thereof to build upon the other; or, any part

or portion of either or both of said properties, and with the proceeds thereof to build upon the other, or unsold part or portion of either or both of the said properties; or both the said properties, and with the proceeds thereof to buy another property or properties with or without buildings, and if without buildings to build thereon; and the said new property or properties, and the rents, issues, interests, revenues and profits thereof to be subject to the aforesaid last Will and Testament.

And to carry out the aforesaid purposes, a Petition shall be presented by the Tenant in possession, to one of the Judges of the Superior Court in the District of Montreal, who is hereby appointed to act in the premises, and hereby fully authorized for all and every the effects, intents and purposes hereof, praying him to call a meeting of the seven nearest relations of the substitutes born at and living at the time; or in default of relations or their failing to attend, of a similar number of the friends of the substitutes; the said relations or friends shall be summoned by an order of the Judge to that effect to meet at some particular place and time, and proof of such summons must be made by the return of a Bailiff of the Court in which the said Judge holds his seat, or of a Notary Public.

Upon the day appointed for holding the meeting of the relations or friends of the substitutes, if the seven relations or friends so summoned shall not attend and be present, it shall be and hereby is made lawful to supply the deficiency by calling in strangers; such strangers to be subject to the approval of or rejection by the said Judge; and when and after the number is completed, the Judge shall proceed to receive the advice of the meeting in the manner usual at meetings for the appointment of Tutors; and the said Judge is hereby invested with power sufficient to appoint a Tutor on behalf of and to act for the substitutes, and the said Judge shall be guided by the law for the ordinary appointment of Tutors. The Tenant in possession, being the Father, may be Tutor if recommended by the said *assemblée de parents*.

The Tutor so appointed shall be responsible for his management, and for any acts prejudicial to the substitutes, or any acts of negligence; and from the day of his acceptance of the Tutorship, a legal hypothec, special and general, shall exist upon his property; and in case of any refusal to accept such appointment of Tutor, or to act after acceptance thereof, the Tenant in possession is hereby named Tutor instead, without form and with all the powers.

Within ten days of the appointment of a Tutor, as in either case provided as aforesaid, the same shall be registered.

The Judge's decision shall set forth:

1. The extent and designation of the Real estate to be alienated, exchanged, hypothecated or sold;

2. The minimum price for which it may be so alienated, sold and hypothecated ;

3. The description of the improvements, and the maximum sum to be paid therefor ;

4. The length of time to be advertised, and in what newspapers.

The sale shall be public, and shall take place in a reasonable time after the date of the Judge's authorization and after duly advertising, and the property shall be sold to the highest bidder above the price mentioned by the Judge, for cash or on usual time ; and the sale shall be conducted in a similar manner and as customarily done in public sales of property.

The purchase money shall be paid to the Tutor and Tenant in possession, who shall grant receipt therefor.

2. This Act shall apply to the said properties or any part thereof, now holden by the Tenant in possession under the said Will, only until but not after the alienation, hypothecation, exchange or sale thereof, or any part thereof ; the sale hypothecation, exchange or alienation thereof or any part thereof, under and by authority of this Act, shall carry with it a clearance and release of and from the said substitution ; but in case of building up or improving said property or properties, the one with the proceeds of the other, or part or parts thereof, and when the same shall have been made, completed and finished, then the office, duties and responsibilities of the Tutor shall cease and determine, and the said property, as improved, altered and built up as aforesaid, or any new property bought with the proceeds of the sale of the aforesaid property or of any part thereof, with all the buildings, members and appurtenances, rents, issues and profits, shall be held and enjoyed by the Tenant in possession and his substitutes, and be subject to the same conditions, restrictions and limitations, as if held under and originally affected by the said Will and *contrat de mariage* of the said Tenant in possession.

3. This Act shall be deemed a Public Act.