

NATIONAL ASSEMBLY

FIRST SESSION

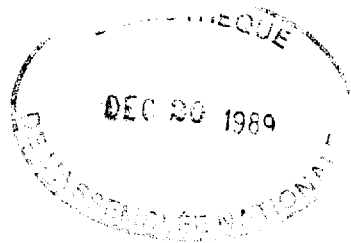
THIRTY-FOURTH LEGISLATURE

Bill 224
(Private)

An Act respecting the Alain Morin estate

Introduction

Introduced by
Mr Roger Paré
Member for Shefford



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Bill 224

(Private)

An Act respecting the Alain Morin estate

WHEREAS Alain Morin died on 26 October 1986 leaving a holograph will dated 15 March 1986, which was probated by virtue of a judgment rendered on 10 November 1986 and bearing number 460-14-000098-860 of the records of the Superior Court of the district of Bedford;

Whereas in the holograph will the testator appointed Bernard Laplante and Danielle Desjardins testamentary executors, both of whom are still acting as such;

Whereas the testator bequeathed, by particular title, the amount of \$25 000 to each of his three children, Martin, Guylaine and Jonathan Morin, born on 19 November 1970, on 9 June 1973 and on 12 February 1979, respectively;

Whereas, under the said will, the children are not entitled to receive the bequest before having attained the age of 21, unless they have attained the age of 18 and need the bequest to pursue their studies;

Whereas Alain Morin was divorced from Jocelyne Rousseau, the mother of his three children, and whereas at the time of his death she was receiving weekly support payments of \$90 for her three minor children;

Whereas Jocelyne Rousseau declares that she has only a meager income and needs, as tutor of her two minor children, a weekly amount of \$30 for each of them;

Whereas Martin Morin, of full age and a student, declares that he too needs such an amount;

Whereas the testamentary executors, although aware of the children's needs, are bound by the last will of the testator and have, thus, been unable to pay to Jocelyne Rousseau, in order to provide for the needs of her minor children, any portion whatever of the sums entrusted to their administration by the testator;

Whereas a petition was filed with the Superior Court of the district of Bedford under number 460-04-000087-872, seeking an order whereby the testamentary executors would be required to provide for at least part of the children's needs;

Whereas a judgment rendered on 25 May 1987 rejected the petition on the grounds that the court could not disregard the will of the testator;

Whereas the said judgment, which was appealed from, was upheld by the Court of Appeal on 19 January 1989;

Whereas there is no legal means, other than invoking pecuniary need relating to studies, to obtain judicial recognition of the right of the children to periodic payments from their father's estate;

Whereas it is in the obvious interest of the children of Alain Morin to be able to benefit, from the date of their father's death, from alimentary income derived from their bequests so as to satisfy their basic needs;

Whereas Jocelyne Rousseau was appointed tutor of her minor children by virtue of a judgment rendered on 12 December 1986 and bearing number 460-14-000108-867 of the records of the Superior Court of the district of Bedford;

Whereas Bernard Laplante and Danielle Desjardins, testamentary executors, have been specially informed of the introduction of this bill and are not opposed thereto;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Notwithstanding the will of Alain Morin made on 15 March 1986 and probated on 10 November 1986 under number 460-14-000098-860 of the records of the Superior Court of the district of Bedford, a weekly pension of \$30 shall be paid

(1) for each of his two minor children, Guyline Morin and Jonathan Morin, to their mother, Jocelyne Rousseau, as tutor, or to their tutor if Jocelyne Rousseau is replaced as tutor;

(2) to Martin Morin.

The pensions shall be paid out of the income and, if necessary, out of the capital of the share of each of Alain Morin's children in his estate.

2. The pensions shall be adjusted on 1 January each year, from 1 January 1990, in the manner prescribed in article 638 of the Civil Code of Québec.

3. Section 1 shall have effect from 1 January 1987.

Notwithstanding the foregoing, the pension payable to Martin Morin shall be paid to Jocelyne Rousseau, as tutor, as regards payments due for the period extending from 1 January 1987 to 18 November 1988 and to Martin Morin as regards payments due from 19 November 1988.

4. When a child who is presently a minor attains full age, the pension to which he is entitled shall be paid directly to him.

5. This Act shall not restrain the rights conferred by the will of Alain Morin on his children should they need the bequest that was made to them to pursue their studies.

6. This Act comes into force on *(insert here the date of assent to this Act)*.