



CHAPTER 155

An Act respecting the Estate Ovila Stanislas Perrault

[Assented to, the 16th of March, 1939]

WHEREAS Hugues Lemoyne de Martigny, manager, of Preamble.
the city of Montreal, in his capacity of tutor to his minor children Michel and Huguette; Paul Drolet-Massue, public employee, of the city of Quebec, in his capacity of tutor to his minor child, Pierre Paul Gustave Drolet-Massue; Gérard Perrault, bookbinder, of the city of Montreal, in his capacity of tutor to his minor child Robert; Dame Marie Louise Eglantine Bastien, of the city of Montreal, widow following her first marriage with Ovila Stanislas Perrault, in his lifetime industrialist of the same place, and following her second marriage with L. H. Painchaud, in his lifetime insurance broker of the same place; and The Sun Trust, Limited, a lawfully constituted corporation having its corporate seat in the city and district of Montreal, in its capacity of sole testamentary executor, administrator and trustee of the said late Ovila Stanislas Perrault, have, by their petition represented:

That the late Ovila Stanislas Perrault, in his lifetime industrialist of the city of Montreal, died there on the 15th of April, 1928;

That by his will executed before Maître Lucien Morin, on the 8th of March, 1923, under the number 1306 of his repertory, the said Ovila Stanislas Perrault bequeathed, subject to the administration in the interval by his executors and fiduciary administrators, all his property to his grandchildren to be born in lawful marriage, the partition to be made only when the youngest grandchild attained, the age of twenty-one years;

That the said Ovila Stanislas Perrault appointed, by his will, as testamentary executors and fiduciary administrators Herbert A. Williams, industrialist of the city of Westmount and J. W. Thomas, industrialist of Montreal, and The Sun Trust Limited, one of the above named petitioners;

That the said Herbert A. Williams and J. W. Thomas are now dead and, under the said will, the said Sun Trust Limited is now acting as sole testamentary executor and fiduciary administrator of the said late Ovila Stanislas Perrault and is entitled to exercise all the powers conferred by the said will upon the testamentary executors and fiduciary administrators;

That the said Ovila Stanislas Perrault was married to Dame Marie Louise Eglantine Bastien, one of the above-named petitioners, under the regime of separation of property, under the terms of marriage contract passed on the 6th of October, 1892, before Maître J. N. Lefebvre;

That, by the terms of the said marriage contract, the said Ovila Stanislas Perrault gave, in the event of survivorship but on condition of remaining a widow, the usufruct of all his property to his wife the said Dame Marie Louise Eglantine Bastien;

That, after the death of the said Ovila Stanislas Perrault, difficulties arose respecting certain shares of capital stock of the Imperial Tobacco Co. of Canada Limited, which were the chief asset of his estate and the right which his widow, the said Dame Marie Louise Eglantine Bastien, might claim therein;

That following a lawsuit respecting the said shares, a transaction was entered into on the 11th of October, 1929, between the said Dame Marie Louise Eglantine Bastien and the testamentary executors and fiduciary administrators of the said Ovila Stanislas Perrault, whereby the said shares were to be registered in the name of the said Dame Marie Louise Eglantine Bastien during her lifetime, as usufructuary, and the dividends on five-sixths of these shares were to be paid to the said Dame Marie Louise Eglantine Bastien and the dividends on the other sixth were to be paid to the testamentary executors and fiduciary administrators of the said Ovila Stanislas Perrault, subject in the latter case to certain conditions;

That doubts have since arisen which it is expedient to remove with respect to the legality of this transaction;

That the shares of the Imperial Tobacco Co. of Canada Limited, the dividends on which were, as above mentioned, to be paid to the testamentary executors and fiduciary trustees of the said Ovila Stanislas Perrault, were subsequently sold to pay certain debts of his estate;

That after her second marriage with L. H. Painchaud, now deceased, the said Dame Marie Louise Eglantine Bastien renounced her usufruct of the property of the estate of the late Ovila Stanislas Perrault, except in respect to the said shares of Imperial Tobacco Co. of Canada, Limited, the dividends whereof were to be paid to her under the above-mentioned transaction;

That by the will of the said Ovila Stanislas Perrault, his testamentary executors and fiduciary administrators have power, at their discretion, to take the necessary sums out of the revenues of his property to provide for the education of his grandchildren;

That the grandchildren of the said Ovila Stanislas Perrault need for their maintenance and education additional resources than those of their parents;

That the partition of the property of the estate of the said late Ovila Stanislas Perrault cannot take place until after the death of all his children and after the youngest grandchild now born or to be born shall have attained the full age of twenty-one years;

That in the circumstances the will has become practically impossible to execute and in its application at least conflicts with the testator's wishes and expectations;

That the testamentary executor and fiduciary administrator, The Sun Trust Limited, will, to meet certain debts of the estate, have to borrow money and although the will empowers it to borrow, there is occasion to remove all doubt as to the power of the said testamentary executor and fiduciary administrator to make the necessary advances itself to the estate;

That it is necessary to pass an act to remedy the conditions above set forth; and

Whereas it is expedient to grant the prayer contained in 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:

Validation of
certain trans-
action.

1. The transaction entered into on the 11th of October, 1929, between Dame Marie Louise Eglantine Bastien and the testamentary executors and fiduciary administrators of the estate of Ovila Stanislas Perrault is confirmed and ratified for all legal purposes.

Appointing,
etc. of testa-
mentary exe-
cutor, etc.

2. One of the tutors of the grandchildren of the said Ovila Stanislas Perrault, or a grandchild who has attained the age of majority, may, at any time, be appointed a testamentary executor and fiduciary administrator of the said estate by a judge of the Superior Court, after notice to the interested persons, and the said testamentary executor and fiduciary administrator may act jointly, but without remuneration, with The Sun Trust, Limited, or its successor.

Date for par-
tition of
property.

3. The partition of the property of the estate of the late Ovila Stanislas Perrault shall be made on the first of April, 1953, by the testamentary executors and fiduciary administrators then in office, or, if at that date the said Dame Marie Louise Eglantine Bastien is still living, on the expiration of the three months following her death; and the property of the said estate shall then be divided in equal shares and per head among the grandchildren of the said Ovila Stanislas Perrault then living, the share of any such grandchild deceased before the partition, but leaving children, to be delivered to the latter.

Distributing
of net re-
venue.

4. Until the partition of the property of the estate of the late Ovila Stanislas Perrault the net revenue from such property, subject to the usufructuary rights of the said Dame Marie Louise Eglantine Bastien, shall be distributed in equal shares among the grandchildren of the said Ovila Stanislas Perrault, the share in such net revenue of any such grandchild deceased, but leaving children, to be paid to the latter.

Costs of act.

5. The costs incurred for the passing of this act shall be borne by the estate.

Coming into
force.

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