



CHAPTER 151

An Act respecting the estate of the late Alfred Dalbec

[Assented to, the 17th of May, 1937]

WHEREAS Dame Hermine Dalbec, widow of the Preamble.

late Georges Tassé, in his lifetime, physician of the town of Iberville, district of Iberville; Dame Anita Dalbec, having her lawful domicile in the city of Montreal, widow of the late Iver Waagen, in his lifetime, broker, of the city of Oslo, Kingdom of Norway, the said Dame Anita Dalbec now absent from Montreal on a trip to Europe, represented for the purposes hereof by her attorney duly appointed by a special power of attorney, Gaston Laurendeau, editor, of the city of Montreal, under a power of attorney made on the 16th of June, 1933, at Montreal, before J. H. A. Bohémier, notary, whereof an authentic has been filed with the petition hereinafter mentioned; Hector Dalbec, advocate, of the city of Outremont, district of Montreal; Miss Lucrèce Dalbec, spinster of the age of majority, of the city and district of Montreal; Dame Eliane Dalbec, wife, separate as to property by marriage contract, of Théophile Viau, manufacturer, of the city of Outremont, district of Montreal, and the said Théophile Viau to authorize his said wife; Roméo Dalbec, gentleman, of the city of Montreal; and Alfred Blache Dalbec, manager, administrator and insurance agent, of the city of Outremont, district of Montreal; all seven institutes under the substitution created by the will of the late Alfred Dalbec, their father, in his lifetime, advocate, of the city of Montreal, made on the 25th of April, 1910, at Montreal, before Léandre Bélanger, notary, and another notary; Albert Paul

Dorais, advocate, of the city of Westmount, district of Montreal, herein acting in his capacity of testamentary executor appointed to the estate of the late Alfred Dalbec, under the will of the latter and in accordance with the terms of such will, by a judgment rendered in the Superior Court by Honourable Judge E. F. Surveyer, on the 17th of March, 1931; and Maurice Besette, gentleman, of the city of Outremont, district of Montreal, herein acting in his capacity of curator to the substitution created by the said will of the late Alfred Dalbec, under a deed of curatorship made on the 14th of December, 1928, and homologated by the prothonotary of the Superior Court for the district of Montreal have, by their petition, represented:

That Alfred Dalbec, the father, died on the 2nd of October, 1916, and by his will made before Léandre Bélanger, notary on the 25th of April, 1910, named his wife, Dame Cordélia Blache, as his testamentary executrix;

That the said Alfred Dalbec had also, by his marriage contract, granted to his wife the usufruct of all moveable and immoveable property left by him at his death;

That the said Dame Cordélia Blache died at Montreal on the 24th of December, 1930;

That by the will of the late Alfred Dalbec his children were appointed his heirs and universal legatees subject to substitution as to the share which each of them would receive in the substitution in favour of their legitimate children or descendants, and failing children in favour of their brothers and sisters subject to restitution in favour of their children or legitimate descendants;

That the seven children of the said late Alfred Dalbec still administer the said estate, as institutes, assisted by the curator to the substitution and a testamentary executor;

That all the moveable and immoveable property of the estate is still in common and it would be to the advantage of all concerned, institutes as well as substitutes, that the partition be not made now;

That the powers of the institutes and administrators for the administration of the said estate are restricted to the rules laid down in the Civil Code of the Province of Quebec, although the will stipulated that the testator's wife was to have absolute powers of management and administration;

That it would be to the advantage of all concerned, institutes and substitutes, that another, more rapid and more economical, mode of administering the said estate be provided;

That the revenues of the estate have decreased, especially through the decreased value of real estate, and that the present method of administration, owing to the necessary judicial costs, the legal requirements and the frequent absence of several of the institutes, is subject to delays prejudicial to the management of the estate;

That, in the opinion of those concerned, the method of administration contemplated by this act would simplify the procedure, assure greater revenue by the saving of costs and legal disbursements, and permit of rapid transactions and compromises deemed advantageous, whilst in no way neglecting the interests of the substitutes, who, on the contrary, would find their situation improved, and

Whereas it is expedient to grant their prayer;

Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

1. To administer and represent the estate of the late Alfred Dalbec above described, and to act for the purposes hereinafter mentioned, four testamentary executors of the estate, in addition to the executor already appointed under the terms of the will, shall be appointed by judgment of the Superior Court for the district of Montreal, acting through one of its judges, on the advice of a family council of the children who are institutes of the testator Alfred Dalbec. Two testamentary executors shall be chosen among the institutes and two among the substitutes.

Appointing
of testamentary
executors.

2. The five testamentary and fiduciary executors of the estate, unanimously with respect to immovables, or the majority of them with respect to movables, shall have power to alienate or sell by private sale without any judicial formality or the intervention of the legatees or heirs, or of a curator to the substitution, property of the estate, at the prices and on the conditions which they may deem good, and may receive the sale prices and all other property of the estate without judicial formalities, and the deposit with the Prothonotary of the Superior Court shall, in no case, be

Powers of
such executors.

required from the purchasers, and the executors shall not be bound to find an immediate employment for the sale prices, but may make the employment as the executors or the majority of them may find expedient.

How investments to be made.

3. The testamentary executors, by the majority of them, shall invest the property of the estate in accordance with article 981o of the Civil Code, without the intervention of a curator to the substitution or of any of the heirs or substitutes.

Representation of estate.

4. The executors, by the majority of them, shall represent the estate before the courts and may make any transaction or compromise or settlement which they shall deem expedient to make on behalf of the estate, and such settlements or compromises shall bind the heirs and the substitutes in the substitution and shall be final.

Decisions as to expenditures, etc.

5. The executors, by the majority of them, may decide in cases which are doubtful or subject to litigation, what sums collected or expended shall be attributed to capital or to revenue.

Effecting of partition of estate.

6. The executors, by the majority of them, may effect the partition of the property of the estate by liquidation or by composing lots with or without the assistance of experts, and may have such lots drawn for by the heirs or persons interested, such decision of the executors as to the partition to be final and binding upon the heirs and the substitutes in the substitution.

Restriction.

Nevertheless, the partition cannot be exacted or demanded by one or more of the substitutes then living, but whose parents are dead, nor take place on their demand, until the expiration of fifteen years after the coming into force of this act, without the consent of the executors or of the majority of them.

Binding decisions.

7. The executors, by the majority of them, may decide any question respecting the estate in the course of their administration, liquidation or partition, such decision to be binding upon the heirs and substitutes in the substitution.

Constituting of reserve fund.

8. The executors may reserve a part of the net revenue of the estate to provide for the foreseen and

unforeseen expense of administration, the total of such reserves not to exceed five per cent of the annual revenue, or in the aggregate five per cent of the capital of the estate, but always on the decision of the five executors or of the majority of them.

9. In the event of the resignation or death or inability to act of one or more executors after the forming of the first board of executors under this act, the other executors or the majority of them shall see to the appointment of another or others to replace him or them by a notarial deed, in the shortest possible delay. Replacing of executors.

If the testamentary executor to be replaced is an institute, his successor shall be chosen by the institutes, convened by the notary. If, on the other hand, the testamentary executor to be replaced is a substitute, his successor shall be chosen by the substitutes, convened by the notary and voting by root. Outsiders may be chosen as such testamentary executors, if the interested parties so desire. Idem, as to certain case.

10. With respect to the testamentary executor appointed under the will, if he ceases to act on account of death, resignation or otherwise, another executor shall be appointed under the formalities provided in the will. Such executor shall be an outsider and the family council to be called to give its advice shall be composed of the children of the testator in the first degree. In the event of the death of one or several of the institutes, their children, substitutes of age, may form part of the family council but shall vote by root only. Replacing of testamentary executor appointed under will.

11. In the absence or in the event of disagreement of one or of two executors, the others may act in every instance, after an eight days' notice to the absent or dissenting executor or executors. Acting, after certain notice.

12. In the case of investments made contrary to this act, only the executors who have acted shall be responsible. Responsibility.

13. The executor appointed according to the terms of the will or his successor shall take the place of curator to the substitution until after the making of the partition of the property of the estate. Curator to the substitution.

Keeping of
accounts.

14. The keeping of accounts of the affairs of the estate or the administration of the property or revenues may be entrusted to one of the executors or to other persons, for a remuneration which shall be paid out of the revenues and which the executors may grant to them for office expenses and services rendered.

Furnishing of
security in
certain case.

15. If the outsiders who become executors do not possess immoveable property of a net value of over five thousand dollars, they must furnish security for five thousand dollars, the premiums whereof shall be paid out of the revenues of the estate, but the heirs who become executors shall not be obliged to furnish such security.

Coming into
force.

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