



CHAPTER 171

An Act to declare the rights of Dame Margaret Dale Learmont under the last will and testament of the late Joseph B. Learmont

[Assented to, the 6th of March, 1935]

WHEREAS the late Joseph Bowles Learmont, in his Preamble. lifetime of the city of Montreal, merchant, died in the said city on the 12th day of March, 1914, leaving his last will and testament in authentic form, executed before Henry Fry and colleague, notaries, on the 20th day of July, 1911, duly registered in the Registration Division of Montreal West, on the 31st day of March, 1914, under No. 156942; and

Whereas in sections 13, 14 and 15 of the said last will, the said testator provided as follows:

"Thirteenthly. Upon the death of my wife I desire and direct that seven-tenths of the net annual revenue of my estate shall be paid to my son during the remainder of his lifetime, or to his widow, if he should be dead, leaving a widow, and this for their alimentary support and for the support, maintenance and education of his children, the remaining three-tenths of such net revenue to be held by my executors as a rest account to provide for contingencies or reduction in revenue which may arise from low rate of interest for safe investments or any other cause which might reduce the revenue, but my executors will have the right to pay the said three-tenths or any part thereof, or any part of the sum so accumulated, to my son if, in their discretion, they think any such payment necessary for his support or benefit, and I leave it entirely in the discretion of my executors what portion, if any, of the said three-tenths is to be paid him from time to time, and any part of such rest account not paid him or used for his benefit shall be added to the capital of my estate.

Fourteenthly. Upon the death of the survivor of my wife, my son, and any widow whom he may leave, I give, devise and bequeath the capital of my estate and any accumulated revenue to the child or children lawfully begotten of my said son Holton Hamilton Learmont to be divided between them equally by roots only when the youngest of his children attains majority; the revenues, in the meantime, to be used for their respective maintenance and education, or otherwise for their benefit while minors, and paid to those of them who may be of age.

Fifteenthly. Should, however, my son leave no children or should the residue of my estate be in any way not disposed of under the foregoing terms of this my will I give, devise and bequeath the residue of my estate to such persons as would be my heirs-at-law according to the law of the Province of Quebec were I to die intestate at the time the residue is to be disposed of, unless my wife without having remarried should survive my son, his widow and any child he may have, for if she should remain my widow and be the survivor she will have the right to dispose of the capital of my estate by her last will and testament in such manner as she may see fit.”; and

Whereas Dame Charlotte Smithers, wife and then widow of the said Joseph B. Learmont, died at the city of Montreal, on the 2nd day of July, 1934; and

Whereas the said Holton H. Learmont, only child of the said Joseph B. Learmont, predeceased said Dame Charlotte Smithers on the 20th day of March, 1930, and is survived only by Dame Margaret Barclay Dale, of the city of Westmount in the district of Montreal, his widow, whom he had married on the 14th of June, 1910, there being no children issue of his marriage with her; and

Whereas doubts have arisen as to the right of the said Dame Margaret Barclay Dale, widow of the said Holton H. Learmont, to remarry without forfeiting the bequest made to her in the said will of the said Joseph B. Learmont and, more particularly, in section 13 thereof, aforesaid; and

Whereas it is expedient to quiet the said doubts and to declare the right of the said Dame Margaret Barclay Dale, widow of the said Holton H. Learmont, to remarry should she so desire, without forfeiting or jeopardizing any of her rights under the said will and, more particularly, section 13 thereof, and she has prayed for the passage of an act accordingly;

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

1. It is hereby declared that Dame Margaret Barclay Dale, of the city of Westmount in the district of Montreal, widow of the late Holton H. Learmont, is free to remarry, should she so wish, without in any way jeopardizing or forfeiting the bequest made to her under the thirteenth section of the last will and testament of Joseph Bowles Learmont, of the city of Montreal, merchant, passed before Henry Fry and colleague, notaries, on the 20th day of July, 1911; and even should she remarry, the said Dame Margaret Barclay Dale shall be entitled to continue to enjoy the seven-tenths of the net annual revenue of the estate of the said Joseph Bowles Learmont during the remainder of her lifetime, as bequeathed to her in the said section 13 of his said last will and testament.

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

Coming into
force.