



CHAPTER 168

An Act respecting the estate of the late Colonel Hector Prévost

[Assented to, the 29th of March, 1933]

WHEREAS Dame Alice Fraser, of the city of Outremont, district of Montreal, widow of the late Colonel Hector Prévost, has, by her petition, represented:

That Colonel Hector Prévost died in Montreal on the 25th of October, 1932, without posterity, but leaving a wife and collaterals;

That, by his will, received before J. Oscar Lévesque, and Jean Léon Deschênes, notaries, on the 25th of September, 1929, under No. 8007 of the repertory of the deeds of the said J. Oscar Lévesque, the said Hector Prévost disposed of his property, and for the execution of his will he appointed his wife, Alice Fraser, his nephews, De St. Denys Prévost and Paul Garneau, his joint testamentary executors and fiduciary administrators, the said Alice Fraser to appoint a trustee or trust and administration company to manage and administer, jointly with them and under their control, the property of his estate, the said Alice Fraser to have, however, the sole administration of the revenues and their distribution, according to the terms of the said will;

That the said Hector Prévost had devoted, for charitable and educational purposes, certain sums of money which he had placed in a savings account, at the head office of the Banque Canadienne Nationale, at Montreal, in the name of the said Alice Fraser, in trust, which sums amounted, at the death of the said Hector Prévost, to thirty-one thousand, forty-two dollars and fifteen cents, and another sum of six thousand dollars, which the said Hector Prévost had,

through the Montreal Trust Company, loaned to Louis Philippe Lizotte, in his capacity of curator to Archibald A. S. Fraser, under deed of loan, before J. Oscar Lévesque, notary, on the 18th of October, 1927, under No. 6242 of his repertory, registered under No. 71252, the said sum bearing interest at the rate of six per cent per annum; such sum of six thousand dollars becoming due on the 18th of October, 1932, and, by deed under private writing, dated the 23rd of May, 1932, an additional delay of five years being granted to the said debtor;

That the said Hector Prévost, by his will, instituted as universal legatees, with substitution to the last degree permitted by law, the children of his brothers and sisters, and, in addition, made certain particular legacies in favour of his wife and other persons, and, specially, the following particular legacy which is contained in the said will under article 8, in the following terms:

“I leave to my said wife the charge of distributing, for charitable and educational purposes, all sums which I may have specified to her, or determined, either verbally or in writing, before my death”;

That the desire and wish of the said Hector Prévost to employ such sums of money for charitable and educational purposes were well known, and specially by the Montreal Trust Company, the Banque Canadienne Nationale and the said Alice Fraser;

That there is a difference of opinion among legal men who have been consulted, as to whether the legacy mentioned in said article 8 is valid, and, in order to relieve her from personal responsibility, the said Alice Fraser desires to have the fiduciary legacy made to her by the said article 8 confirmed;

That, by his said will, the said Hector Prévost declares that there would be no necessity for appointing a curator to the substitution, but that the substitutes and others interested would be represented in all matters by his testamentary executors;

That the testamentary executors and fiduciary administrators appointed by the said testator, and the Montreal Trust Company, appointed by the said Alice Fraser, are in favour of the present act; and

Whereas the petitioner has proved the allegations of her petition, and it is expedient to grant her prayer;

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

1. Article 8 of the will of the late Colonel Hector Prévost, received before J. Oscar Lévesque and Jean Léon Deschênes, notaries, on the 25th of September, 1929, under No. 8007 of the repertory of the deeds of the said J. Oscar Lévesque, which reads as follows: Certain condition in will deemed valid fiduciary legacy.

"I leave to my said wife the charge of distributing, for charitable and educational purposes, all sums which I may have specified to her, or determined, either verbally or in writing, before my death", constitutes a valid fiduciary legacy in favour of Alice Fraser, wife of the said Hector Prévost, who is hereby authorized to dispose of the said sums of money, at her discretion, for the purposes mentioned in the said article 8, the said legacy consisting, at the death of the said testator, in a sum of money of thirty-one thousand and forty-two dollars and fifteen cents, in principal and accrued interest, deposited in the head office of the Banque Canadienne Nationale, in Montreal, in the name of the said Alice Fraser, in trust, and in a hypothecary claim of six thousand dollars, that the said Hector Prévost had, through the Montreal Trust Company, loaned to Louis Philippe Lizotte, in his capacity of curator to Archibald A. S. Fraser, under a deed of loan, before J. Oscar Lévesque, notary, on the 18th of October, 1927, under No. 6242 of his repertory, and registered under No. 71252, the said sum bearing interest at the rate of six per cent per annum.

Any portion of the said legacy which the said Alice Fraser shall not have distributed in her lifetime must be employed for the same object by the testamentary executors of the said testator, at their discretion, who are hereby constituted fiduciary legatees of whatever remains of the said legacy, at the death of the said Alice Fraser. Distributing of any remaining portion of legacy.

2. The expenses incurred for the passing of this act, as well as the succession duties, if any, upon the said legacy, shall be charged to the said legacy. Costs of act, etc.

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