



## CHAPTER 178

An Act respecting the succession of the late John Dwane

*[Assented to, the 11th of March, 1931]*

**W**hereas Alice Frances Dwane, of the city of Outremont, **Preamble.**  
in the district of Montreal, wife separate as to property by contract of marriage passed before J. C. B. Walsh, notary, at Montreal, on the 10th of October, 1914, of James Richard Ross Elliott, Esquire, of the same place, and the said James Richard Ross Elliott for the purpose of authorizing his said wife, and also insofar as the same may be necessary, acting in his capacity of tutor to Alicia Dwane Elliott, born on the 2nd day of November, 1917, Marita Conway Elliott, born on the 24th day of December, 1922, and Jean Gertrude Elliott, born on the 3rd day of July, 1924, minor children issue of his marriage with the said Alice Frances Dwane, and as such tutor appointed on the advice of a family council duly homologated in the Superior Court of the Province of Quebec, for the district of Montreal, on the 13th day of November, 1930, have, by their petition, represented:

That John Dwane, in his lifetime of the said city of Outremont, merchant, father of the said Alice Frances Dwane, died at the said city of Montreal on the 19th day of February, 1917, leaving his last will and testament which was executed before J. C. B. Walsh and colleague, notaries, at Montreal, on the 13th day of February, 1917;

That under the terms of the said last will and testament the said late John Dwane named his wife, Mary Conway, his daughter, the said Alice Frances Dwane, and The Royal Trust Company, as executors and trustees, with the stipulation that the said The Royal Trust Company shall not act until after the death of his said wife and daughter unless either of them, his said wife or daughter, or the survivor of them, should desire such appointment to take

effect prior thereto; that the said The Royal Trust Company has not yet been called upon to act as executor and trustee;

That under the terms of the said last will and testament, after making certain special legacies, the said late John Dwane directed that the sum of five thousand dollars per annum be paid to his wife, the said Mary Conway, during her natural lifetime, and the sum of one thousand dollars per annum to his said daughter, the said Alice Frances Dwane, until the date of the death of his said wife, with the stipulation that after the death of his said wife the said sum of five thousand dollars per annum was to be paid to his said daughter and after the death of his said daughter the revenue accruing to her under the said last will shall be paid to her child or children in equal shares or to the issue of any of her children who may be deceased, *par souche*, until the final winding up of his estate; that the capital and surplus revenue of his estate, after the payment of the said legacies, taxes and other charges, be invested in first mortgages or hypothec on improved real estate in the city of Montreal, Westmount or Outremont, the whole for the benefit of the great-grandchildren of the said John Dwane, who are constituted residuary legatees share and share alike, *par tête et non par souche*; the division of the estate to take place when the youngest of his said great-grandchildren shall have attained the age of twenty-one years, and this only in the event of his said wife and daughter and all his grandchildren being deceased;

That at the time the said last will and testament was executed and at the time of the death of the said late John Dwane, there was only one grandchild, who has since died;

That there are now three grandchildren;

That the said Mary Conway, wife of the said John Dwane, died on the 28th day of February, 1930;

That at the time of the death of the said late John Dwane the approximate value of his estate was the sum of three hundred and twenty-three thousand dollars as appears by the declaration fyled at the time with the Collector of Succession Duties for the district of Montreal;

That by careful management the capital investment of the said estate now represents approximately the sum of four hundred and eighty-seven thousand dollars, without taking into consideration the amounts spent for maintaining and repairing the real estate which has at all times been kept in excellent condition;

That since the date of the death of the said late John Dwane the said estate, as appears from the foregoing, has prospered greatly, and the revenues of the said estate have increased to such an extent that they are now more than one hundred per cent greater than at the time of the death of the said John Dwane;

That the said Alice Frances Dwane is now receiving only the sum of five thousand dollars per annum, which, in view of the increased cost of living and her added responsibility to her family, is utterly insufficient for her needs and for the purpose of educating her children and in making for them the position in life which they ought to occupy;

That the said James Richard Ross Elliott, husband of the said Alice Frances Dwane, is obliged to devote all of his time to the management of said estate;

That the said estate is quite capable of paying out of revenue to the said Alice Frances Dwane, and at her death to her children and grandchildren, in accordance with the terms of the said last will and testament, the sum of fifteen thousand dollars per annum, which would enable them to be maintained in the manner in which their position calls for;

That no other persons are interested in the said estate with the exception of the said Alice Frances Dwane and her descendants;

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.** From the 1st day of January, 1931, providing that at all times the revenues of the estate, after the payment of all expenses, permit the same, the executor and trustee shall: Powers of executor and trustee.

*a.* Increase by the sum of ten thousand dollars the annuity now payable to the said Alice Frances Dwane, wife of James Richard Ross Elliott, and at her death to the persons entitled thereto under the terms of the will and as provided under paragraphs 3 and 4 of clause fourth of the last will and testament of the late John Dwane passed before J. C. B. Walsh and colleague, notaries, on the 13th day of February, 1917. Increase of annuity to Alice F. Dwane.

The increased amount payable hereunder is made for the alimentary support and maintenance of the various legatees and shall not be liable to seizure or attachment for any of their debts, and as regards female legatees the same Amount not liable to seizure.

shall be for their own separate use and enjoyment free from the control of any husband they may have or may hereafter marry.

Cost of act.     *b.* Charge the legal and other expenses of obtaining this legislation and relief to the mass of the estate.

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