



CHAPTER 150

An Act respecting the property of the estate of the late
Honourable Charles Séraphin Rodier

[Assented to, the 15th of March, 1928]

WHEREAS Dame Marie Ange Lemoyne de Martigny, Preamble.
residing in the city and district of Montreal, wife
separated by marriage contract of Rolland Préfontaine,
civil engineer, of the same place, and duly authorized by
her said husband; Dame Paule Lemoyne de Martigny,
residing in the city of Westmount, wife separated as to
property by marriage contract of Gustave Martin, trader,
of the same place, duly authorized by her said husband;
Miss Aline de Martigny, spinster, formerly residing in the
said city of Montreal, and now of Paris, France; and Rol-
land Préfontaine, civil engineer, of the city and district of
Montreal, in his capacity of testamentary executor of the
said estate, have, by their petition, represented :

That the Honourable Charles Séraphin Rodier, in his
lifetime, advocate and Legislative Councillor of the Prov-
ince of Quebec, residing in the city of Montreal, died there
in the year 1876, leaving a will and codicil, both passed
before Mtre. A. C. Décary, and colleague, notaries, at
Montreal, the said will on the 22nd of January, 1876, and
the said codicil on the 27th of the same month, in the same
year, by which, after making certain particular legacies,
establishing certain usufructs and life rents, he bequeathed
the residue of all his property, moveable and immoveable,
which he would leave at his death, to his great-grand-
children, to enjoy, use, do and dispose of the same, in full
and absolute ownership, by roots, constituting them his
sole and only universal legatees in ownership of such
residue of his property, subject to the said rents;

That in addition, by his will and codicil, the said
Honourable Charles Séraphin Rodier appointed a testa-

mentary executor to see to the administration of the property of the estate, and provided for the replacing of such testamentary executor, giving such testamentary executor in office power and seizin beyond a year and a day, and until the entire execution of his will and codicil;

That the testator left only two children, to wit: Dame Aurélie Rodier and Dame Elmina Rodier;

That one of the daughters of the testator, the said Dame Aurélie Rodier, died in Montreal on the 19th of October, 1882, and that she had three children, namely: 1. Frank Brown, junior, who died without children on the 17th of May, 1883; 2. Henry Julius, alias Harry Brown; 3. Albert Edward Brown, who died in Montreal on the 22nd of July, 1917, leaving two children surviving him, namely: the minors Albert Edward Barat Brown and Anita Orillia Brown;

That the other daughter of the testator, Dame Elmina Rodier, died in Montreal on the 25th of July, 1921, and also left three children, namely: 1. Jacques Lemoyne de Martigny, who died childless in Montreal on the 14th of March, 1895; 2. Charles Lemoyne de Martigny; 3. Alphonse Lemoyne de Martigny, who died in Montreal on the 16th of September, 1901, leaving five children, namely: the said Marie Ange Lemoyne de Martigny, Paule Lemoyne de Martigny, Aline Lemoyne de Martigny, Alphonse Lemoyne de Martigny and Maurice Lemoyne de Martigny;

That the said Charles Lemoyne de Martigny lives in France, and the children of the said late Alphonse Lemoyne de Martigny live partly in France and partly in Canada;

That the children of the said Henry Julius, alias Harry Brown, live in the United States;

That the children of the said late Alphonse Lemoyne de Martigny are now joint owners of the fourth of the property of the said estate and so also are the children of the said late Albert Brown;

That the owners of part of the estate are entitled to demand its partition;

That the property of the said estate consists chiefly of immoveables situate in the former wards of the city of Montreal, which wards are being altered;

That certain immoveables of the said estate have a considerable value, and that those interested would suffer damage if such immoveables were sold hastily by forced licitation in an action for partition;

That it is expedient and in the interest of the estate that certain immoveables of the estate be sold, but that such sales are rendered difficult and costly through the proceedings necessary for each sale, the delays resulting from

the distant places in which those interested live, and the different laws to which they are subject;

That further, the legatees in ownership of the roots Henry Julius, alias Harry Brown, and Charles Lemoyne de Martigny will be known only from the death respectively of these latter;

Whereas the petitioners have prayed for an act to facilitate such sales and partition, and 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. The testamentary executor in office of the estate of ^{Sale au-} the late Honourable Charles Séraphin Rodier is author-^{thorized.} ized to sell by private sale for cash or on terms, and upon the conditions which he deems suitable, the moveable and immoveable property of the said estate, in whole or in part, provided that in each case he obtain an order from the Superior Court granted on a petition, setting forth the conditions of sale, supported by the affidavits of two experts as to the value of the property sold, and having the authority of the majority of the following four persons or groups of persons, namely: 1. Henry Julius, alias Harry Brown, or, if he be dead, the majority of his children of age; 2. The majority of the children of age of Albert Edward Brown, and, as long as they are minors, their tutor (such tutor shall not require to be judicially authorized); 3. Charles Lemoyne de Martigny, or, if he be dead, the majority of his children of age, or, if they are minors, their tutor (such tutor shall not require to be judicially authorized); 4. The majority of the children of age of Alphonse Lemoyne de Martigny.

If one of the great-grandchildren of the testator dies, ^{Representa-} the majority of his legal representatives shall replace him ^{tion.} for the purpose of such authorization; the minors being represented by their tutors, without the latter requiring to be authorized judicially.

The price of sale in each case shall be paid to the General ^{Payment of} Administration Society or any other trust company author-^{price of sale.} ized to do business in the Province of Quebec which will administer the property of the said estate at the time of the sale, which is authorized to receive it and to grant a discharge therefor; but, if the investment of the purchase price is not made at the time, such price shall remain in the hands of the said trust company, or its substitute, which shall employ it under an order of a judge of the Superior Court upon a simple petition and according to the provisions of article 981^o of the Civil Code, without the

purchasers being obliged to see to the reinvestment of the moneys, and the sale so made by the testamentary executor shall constitute a valid title to such properties.

Partitions
authorized.

2. Provided that there always remains, in the hands of the testamentary executor in office of the said estate, property of a sufficient value to meet the non-extinguished life rents, one or more partial partitions or a complete partition of the property of the estate may be proceeded with at any time and then the testamentary executor is authorized to deliver the shares of such property to those to whom they are attributed, except as regards the shares which, by such partitions, go to the children of Henry Julius *alias* Harry Brown, and Charles Lemoyne de Martigny, which shall remain in the hands of the said testamentary executor who shall pay the revenues therefrom to their respective fathers, until their death, at which time he shall deliver the share of such properties to those entitled thereto.

Acts to be
made.

Proviso.

3. All acts necessary for the purpose of such partitions may be made as though all those interested therein were of the age of majority; provided the minors be represented by their tutors, who shall not require to be judicially authorized therefor, and after judicial authorization obtained on simple petition stating the facts, conditions and details of the said partitions, the partitions so made shall be final and valid.

Right of
action.

4. This act shall not do away with the right to take an action for partition.

Coming into
force.

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