



CHAPTER 124

An Act dealing with the property in the estate of the late Christopher McEvoy, and the property owned by Dame Anne Ephime Thomson, widow of the late Christopher McEvoy, presently interdicted for insanity

[Assented to, the 24th of March, 1926]

WHEREAS John McEvoy, farmer, of the city and district of Montreal, has, by his petition, represented as follows: Preamble.

That the late Christopher McEvoy, in his lifetime of Côte St. Michel, presently in the city and district of Montreal, died on the ninth day of November, eighteen hundred and ninety-six, leaving as his estate:

“An undivided one-half interest in a farm known as the McEvoy farm, situated at Rosemount, forming part of lot number 206 (Pt. 206) on the official plan and book of reference of the incorporated village of Côte de la Visitation and also forming part of lot number 473 (Pt. 473) on the official plan and book of reference of the parish of Sault-au-Recollet”;

That under the terms of the will of the said late Christopher McEvoy, which will was entered into before the late H. B. Wright, Notary, on the twenty-eighth day of July, eighteen hundred and twenty-four, and was the last will and testament of the said late Christopher McEvoy, the latter granted to his surviving consort, Dame Anne Ephime Thomson, the usufruct of his estate, leaving the naked ownership of such property to the children born of the marriage between himself and the said Dame Anne Ephime Thomson, and in the event of the decease of such children leaving lawful issue, the shares of such deceased to go to such lawful issue;

That the terms of the said last will and testament of the said late Christopher McEvoy thereby created a substitution constituting his surviving consort, Dame Anne Ephime

Thomson, the institute, and the children born of his marriage with Dame Anne Ephime Thomson, or their issue, as substitutes;

That the said late Christopher McEvoy in order to carry out the terms of his said will appointed as executor, James King, Gentleman, of the city of Montreal, and, as executrix, his surviving consort, Dame Anne Ephime Thomson;

That the said James King, executor, is now deceased, and the said Dame Anne Ephime Thomson, executrix, and surviving consort of the late Christopher McEvoy, was interdicted for insanity by judgment of the Superior Court of the district of Montreal, on the nineteenth day of February, nineteen hundred and six, her son, Michael McEvoy, since deceased, being appointed curator:

That by judgment of the Superior Court of the district of Montreal, rendered on the twenty-fourth day of December, eighteen hundred and ninety-six, Joseph O'Brien, of the city of Montreal, was appointed curator to the substitution created by the will of the said Christopher McEvoy, and the said curator is still in office;

That, apart from her rights as usufructuary under the terms of the said will of her deceased husband, the late Christopher McEvoy, the said Dame Anne Ephime Thomson, widow of the late Christopher McEvoy, by reason of the community of property which existed between herself and her consort, is owner of an undivided one-half of the hereinabove described property;

That early in the year nineteen hundred and twenty-five, the late Michael McEvoy, curator to the interdict, Dame Anne Ephime Thomson, his mother, died and subsequently by judgment of the Superior Court of the district of Montreal, Mr. Patrick Haggerty, milkman, was appointed curator to the said interdict, Dame Anne Ephime Thomson;

That there were born issue of the marriage between the late Christopher McEvoy and his widow, presently interdicted, eight children, to wit:

a. The late Dame Anne McEvoy, in her lifetime wife of John Newman, farmer, of Huntingdon, in the Province of Quebec;

b. Dame Catherine McEvoy, second wife of John Newman, farmer, of Huntingdon, in the Province of Quebec, who at the time of his marriage with the said Dame Catherine McEvoy, was the widower of his previous marriage with her sister, the late Dame Anne McEvoy;

c. Six sons, being Patrick McEvoy, William McEvoy, Peter McEvoy, James McEvoy, John McEvoy, and the late Michael McEvoy;

That of the said lawful issue of the said marriage of the

late Christopher McEvoy and the said interdicted Dame Anne Ephime Thomson, two children, as heretofore set out, are presently deceased: the late Anne McEvoy, in her lifetime wife of John Newman, farmer; and the late Michael McEvoy;

That, of the marriage between John Newman and the late Dame Anne McEvoy, there were issue ten children, seven of whom at the time of the decease of their mother, were minors, and three were of the age of majority; John Newman, the surviving consort, was by judgment of the Superior Court appointed tutor to the surviving children; and there are still of the above-mentioned children three who are still minors and subject to the tutorship;

That the late Michael McEvoy at his death left two children lawful issue of his marriage with Dame Ferguson, which two children are minors, and over whom the said Dame Ferguson, widow of the said late Michael McEvoy, was appointed tutrix by judgment of the Superior Court of the district of Montreal;

That there are consequently presently interested as heirs in the said estate of the late Christopher McEvoy, six children, to wit: five sons and one daughter, as hereinbefore set out, and twelve grandchildren, seven of the age of majority and five minors, the children of the deceased son and daughter respectively as hereinbefore set out;

That the property which comprises the said estate of the late Christopher McEvoy, and the property of the said interdicted Dame Anne Ephime Thomson, widow of the late Christopher McEvoy, is at the present time in a most serious and highly precarious position;

That the said property is not at the present time producing sufficient revenue, nor can it possibly produce sufficient revenue under present conditions to pay the ordinary running expenses occasioned by the upkeep of the said property. It not only does not produce sufficient revenue to provide for the payment of the upkeep of the said Dame Anne Ephime Thomson, interdicted widow of the late Christopher McEvoy, in the St. Jean de Dieu Asylum, but does not even produce sufficient revenue to pay the taxes which become due from year to year on the said property;

That the late Michael McEvoy, one of the heirs and curator to his interdicted mother, at one time carried the property by personally paying taxes and other charges so much so that, apart from the other rights registered against the property, there is due to the estate of the late Michael McEvoy a sum in excess of twenty-one thousand dollars on the property constituting the estate of the late Christopher McEvoy and the property of Dame Anne Ephime

Thomson, interdicted widow of the said late Christopher McEvoy:

That the condition of affairs as regards the property is so bad that it was necessary for those interested to obtain this year, 1925, a very special extension from both the city of Montreal and the Catholic School Commission of Montreal, for payment of overdue taxes, as otherwise the property would have been sold to pay the same;

That there is a considerable equity for the various heirs in the property could it be sold or realized upon, but under present conditions the said property will be lost to the heirs by reason of their not being able to make any disposition of same;

That, in view of the involved position, the property being owned for an undivided one-half by the interdicted Dame Anne Ephime Thomson, widow of the late Christopher McEvoy, and being owned for the other half by the estate of the late Christopher McEvoy, who by his will established a substitution, giving his surviving consort an usufruct, and under the terms of the said will there being various minors presently having rights, it is impossible under any provision of law to give any title to any one, and consequently the interested parties in this estate cannot sell any of the property in order to save the balance by paying accrued taxes and charges, nor can they sell the entire property in order to realize their equity;

That it is in the interest of all the parties having rights of any kind, type, sort or nature in the said estate to petition the Legislature of the Province of Quebec to pass a special law to permit or authorize the proper parties to sell the said property in whole or in part and to take the steps necessary for any subdivision of same, or any other dealings in any fashion whatsoever, with the same force and effect as though those parties held the property as an ordinary proprietor without any special conditions attaching to same;

That your petitioner is one of the heirs of the said property, being one of the children issue of the marriage of the late Christopher McEvoy and his surviving consort, Dame Anne Ephime Thomson, presently interdicted;

That no one whatsoever has any interest in interfering with or preventing the passing of such a special law by the Legislature of the Province of Quebec, but it will avail to the interest of every one, including the interdicted Dame Anne Ephime Thomson, in her quality as usufruct in an undivided one-half of the property, and also as owner of the undivided one-half of the property, as well as all the

other heirs, both those of majority and minors, and all persons having rights or claims against the property;

That the proper parties to be vested with the entire rights of ownership in dealing with the property, and the subdividing, hypothecating, disposing of, or otherwise dealing with same, should be the curator to the interdicted Dame Anne Ephime Thomson, Mr. Patrick Haggerty, and the curator to the substitution created by the will of the late Christopher McEvoy, Mr. Joseph O'Brien, both of the city and district of Montreal;

That these parties, the said Patrick Haggerty and the said Joseph O'Brien have no interest whatsoever in doing anything that would not be of the greatest possible advantage to the interdicted usufructuary, to the heirs and to all others interested in the said estate with whom they are presently on most friendly terms, and consequently there cannot by any question of any advantage taken of any one having rights in the property;

Whereas the petitioner has prayed for an act dealing with the property in the estate of the late Christopher McEvoy, and the property owned by Dame Anne Ephime Thomson, widow of the late Christopher McEvoy, presently interdicted for insanity; and

Whereas it is expedient to grant his prayer;

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

1. Patrick Haggerty, curator to the said interdicted Dame Anne Ephime Thomson, widow of the late Christopher McEvoy, and Joseph O'Brien, curator to the substitution created by the will of the late Christopher McEvoy, or their successors in office, are empowered, in their respective qualities, to deal with the same for the general benefit of the usufructuary and the heirs of the estate, in the same fashion as though they themselves were the owners, and, with the advice of a family council and the authorization of the court, to subdivide, and—or to sell said property in whole or in part as in their best judgment seems fit by private sale or otherwise, provided the price of sale shall at no time be less than a minimum of one thousand dollars (\$1,000.00) per arpent, to pay all charges of any nature on the property at the present time, or which may become due thereon, or which are in any way connected with their dealings with the said property, including all charges in connection with the passing of this act, and

Powers of
curators in
McEvoy
estate.

subsequently to deal with the residue from any sale of the said property, hereinbefore more fully described, as the rights of the parties may appear, saving only the obligation of rendering account and the requirements of article 981o of the Civil Code insofar as this may apply.

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