

C H A P. 150

An Act respecting the estate of the late James Robinson

[Assented to, the 15th of February, 1924]

WHEREAS The Eastern Trust Company and Harold Preamble.

Campbell Moore, both of the city of Montreal, in their quality of executors of the will of the late James Robinson, in his lifetime of the city of Montreal, retired boot and shoe merchant, have by their petition, presented:

That by his will executed in the English form, at the city of Toronto, in the Province of Ontario, on the 28th of February, 1922, the late James Robinson bequeathed to his wife the usufruct of his estate, and upon her death, the ownership thereof to his three daughters, with the proviso that if any one of his said daughters should die before the extinction of his wife's usufruct, leaving lawful issue, such issue should take collectively their mother's share of said estate, and he directed his executors, to whom he gave the seizin and possession of all his estate with powers beyond the year and day limited by law, to advance to his wife, from time to time, out of the corpus of his estate, such sum or sums, as his wife may desire, in the event of her usufruct being insufficient for the proper and sufficient maintenance of his wife in her station of life, and he gave the executors power to sell all property, moveable or immoveable, real or personal, which may be found in the estate at the time of the death of the testator, without the necessity of any authorization of any court or judge; that the intent of the testator, as appears from the whole context of the will, was that his executors should be the trustees and administrators of his estate during the usufruct of his wife, but that his will as drafted by an Ontario solicitor failed to specify the necessary powers for such purpose in the said will as required by the laws of the Province of Quebec; that the said testator died on the 3rd of May, 1922, and judgment granting probate of his said will was rendered by the Superior Court of Montreal on the 23rd of May, 1922; that since said date the executors have, with the consent of the heirs, acted as trustees and administrators as well as executors of his estate; that the estate consists mainly of encumbered real estate and securities not presently saleable, the returns from which have not permitted the executors to make any payment out of the estate to the wife of the testator on account of her usufruct, but the executors have been obliged to advance to her their own monies for her maintenance; that the executors have been hampered in their administration by the absence of the

necessary powers in the said will, and that in order to conserve the interest of the legatees and to save the estate from sacrifice and loss and to continue the proper administration thereof, it is essential that the powers of the executors should be extended, and that provisions for their replacement be made;

Whereas, by the judgment rendered by the Superior Court at Montreal on the 23rd of May, 1922, The Eastern Trust Company was appointed as one of the executors of the said will in the place of Alexander M. A. Murphy, to act jointly with the other executor Harold Campbell Moore, named in the said will, and by judgment rendered by the Prothonotary of the said Court of Montreal on the 20th of November, 1923, Walter Binmore was appointed curator to the eventual substitution created by the said will;

Whereas the legatees, to wit: Dame Alice Mary Baird Robinson, the widow, and Dames Louise Fee Sargent, Lillian Seaner Moore and Alice Virginia Chamberlain, the daughters of the testator, authorized by their respective husbands, and Walter Binmore, the curator to the substitution created by the said will, duly authorized thereto, have all given their consent to the said petition;

And whereas it is expedient to grant such petition;

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

Powers conferred upon executors.

1. The executors of the last will and testament of the late James Robinson shall have the following powers, in addition to those mentioned in the said will, namely: the said executors and their successors in office, for the purpose of executing the said will and the trusts therein contained, shall also be the administrators and trustees of the said estate, with the powers conferred upon administrators and trustees by the law of this Province, and without limiting the generality of such powers, they shall have the right to borrow monies or either or both of them to advance their own monies for the purpose of paying any debts or obligations due or incurred by or on behalf of the estate, at a rate of interest not to exceed seven per cent per annum, or of paying the whole or any part of the legacies mentioned in the said will, instead of realizing upon the property and securities belonging to the estate, to pay or charge interest thereon, to give or take security therefor, or to arrange with the legatees or any of them in regard thereto, to sign, endorse and renew negotiable paper, to sell and dispose of, pledge, mortgage, alienate, exchange, or otherwise deal with the whole or any part of the property, real or personal, moveable or immoveable, forming part of the

estate, including shares, stocks and securities in any government, corporation, or syndicate, subject to the transferring or assuming of any privileges, hypothecs, pledges or liens thereon at such time or times and for such sums, prices and conditions, as they deem best in each case, to receive the consideration prices in whole or in part thereof, and grant acquittances therefor, to prosecute or defend to final judgment or to continue, discontinue, compromise, settle and adjust or waive any and every action or proceeding, claim or demand of, for or against the estate, to liquidate any matter pending at the time of the death of the testator, to act for the estate as a shareholder in any corporation or syndicate in which the estate may hold any stock or interest, and vote upon the same for all purposes as they may deem wise, and generally to deal with any business, contract, transaction, shares, stocks, bonds, securities or any other interest belonging to the estate, as the executors may deem best, without any personal responsibility on their part other than that imposed by law to administer with the care of a prudent administrator, to determine what receipts and disbursements shall be on account of capital or revenue or of both and in what proportion, to apportion the estate and trust property, and to give to each legatee or beneficiary his or her share therein, in accordance with the provisions of the said will, after such valuation as they may deem prudent and sufficient to ensure equality, and to sign and execute all deeds or instruments in writing which may be necessary to give effect to any of their acts in the execution of the said will. The said powers shall be considered as having been conferred by the said will, and all acts and things done by the said executors of the nature herein set forth are confirmed provided they have been done in virtue of one of the powers conferred by this act.

2. The extension of the powers of the said executors shall in no wise modify the other provisions of the will. Reservation.

3. In the event of the death, refusal, disqualification or incapacity to act of any of the said executors, the legatees of age, or the majority of them, with the curator to the substitution, are empowered by notarial deed to name one or two executors, as the case may be, to replace the one or both who may no longer act or be able to act, and in the event of failure to make such nomination, application may be made by any interested party by summary petition to a judge of the Superior Court at Montreal to name such executor or executors, who shall, after such notices as he may order, Nomination of new executors.

have all the powers conferred upon the executors by the said will and by this act, provided always that one of said executors shall be a trust company duly authorized to act as such in the Province of Quebec, and thus to continue until the final winding up of the estate. The said Eastern Trust Company, or any other trust company named or appointed in its place as executor, shall be the custodian of the securities, books, accounts and monies of the estate, and shall have the administration thereof, subject at all times to the approval of its co-executor.

Payment of costs. **4.** The estate shall pay the costs, disbursements and fees incurred in connection with the passing of this act.

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

CHAP. 151

An Act to authorize Napoléon Rosconi and Francis Rosconi of the city of Montreal to make a loan, giving as hypothecary security the immoveable property bequeathed to them by the late Francis Rosconi, Senior

[Assented to, the 15th of March, 1924]

Preamble. **W**HEREAS Francis Rosconi, gentleman, of the city of Montreal, and Napoléon Rosconi, commercial traveler, of the same place, have, by their petition, represented:

That on the 1st of March, 1913, before Mtre. Léandre Bélanger and Mtre. J. A. Emile Boileau, notaries, Francis Rosconi, Senior, made his will in the notarial form;

That the said Francis Rosconi, Senior, died on the 3rd of October, 1913;

That in and by his said will the said Francis Rosconi, Senior, gave and bequeathed to Francis Rosconi, his son, an immoveable property situated in Montreal on St. Catherine Street, at the corner of Wolfe Street, measuring thirty-nine and one-half feet in width by seventy-seven feet in depth, the whole English measure and more or less, with a house and other dependencies thereon erected, bearing the numbers 574, 576 and 580 of St. Catherine Street East, and numbers 300 and 306 of the said Wolfe Street; the said property consisting of the lot of land known and designated under the number six hundred and one