

C H A P. 145

An Act respecting the estate of the late Joseph Aimé Massue

[Assented to, 21st of March, 1922]

Preamble.

WHEREAS Wilbrod Décarie, architect, residing in the town of Montreal West, sole testamentary executor, administrator and trustee of the estate of the late Joseph Aimé Massue, in his lifetime domiciled in the parish of St. Aimé, in the county and district of Richelieu, and seigneur of the fiefs and seigneuries of Bonsecours, Bourg-Marie-West, Bourchemin-West and of St. Charles, has, by his petition, represented:

That by his will, dated the 17th December, 1890, passed before J. E. O. Labadie and colleague, notaries, at Montreal, the said late Joseph Aimé Massue, after disposing of certain legacies, bequeathed and constituted in favour of Dame Eliza Massue, wife of Gustave Adolphe Drolet, esquire, advocate, an annual pension or rent of two thousand dollars, currency, during her lifetime, to be, at her death, continued and paid to her children, during their lifetime; and to each of his nephews and niece, children of Dame Eliza Massue, an annual pension or annuity during the lifetime of each of them, as follows, namely:

To his nephew Gustave Massue Drolet, (now Gustave Drolet Massue) an annual pension or annuity of fifteen hundred dollars;

To his nephew René Drolet, a similar annual pension or annuity of fifteen hundred dollars;

To his nephew Edmond Boileau Drolet, a similar annual pension or annuity of fifteen hundred dollars;

And to his niece Juliette Drolet, a similar annual pension or annuity of fifteen hundred dollars;

That the said Dame Eliza Massue has since died and her rent has been shared equally among each of her children, increasing their annual pension or annuity from fifteen hundred dollars which it was, to two thousand dollars each;

That the ownership of the said property was bequeathed by the testator to the legitimate children of his said nephews and niece, to be equally divided amongst them by roots, according to the order of succession at the date of the death of the last of his said nephews and niece;

That pending the date when the said partition should take place, the administrator of the property of the testator was confided to a testamentary executor, administrator and trustee in the manner mentioned in the said will;

That the said Joseph Aimé Massue died on the 10th

April 1891 and that a few years after his death, grand nephews and grand nieces were born and are now of the full age of majority;

That no provision was made by the testator for the grand nephews and grand nieces or in their favour, other than the legacy of the property, and that consequently the said grand nephews and grand nieces, whatever age they may have attained, cannot touch the property of the estate bequeathed to them not even the excess of the revenues of the said property, after the charges and rents are paid, and that this must continue until the partition of the estate has been effected, unless the powers of the testamentary executor are extended;

That the probable date for the partition of the estate is still far remote, the said nephews and niece having respectively attained only the following ages: Gustave Massue Drolet, (now Gustave Drolet Massue), fifty-two years; René Drolet, fifty years; Juliette Drolet, wife of Camille Laviolette, physician, forty-eight years; Edmond Boileau Drolet, forty-five years;

That among the grand nephews and grand nieces, there are some who are in need, and after the debts, charges and rents of the estate are paid, there will be a yearly excess of revenue which would enable the testamentary executor to come to their aid if he was empowered to do so;

That the revenues of the estate justify a request for the increase of the annual pension or annuity on the one part, and advances of capital by the estate to the heirs;

That owing to the high cost of living, it is expedient to grant the prayer contained in the said petition;

That by his solemn will, the late J. A. Massue, in the event of one of his nephews and niece dying without leaving legitimate children or descendants, disposed of the portion bequeathed to his said deceased nephew or niece;

That on the other hand in the event of one of his nephews or niece dying leaving legitimate children or descendants he has not disposed of the portion bequeathed to his said deceased nephew or niece;

That it is just and equitable to presume that the intention of the testator in the case of the death of one of his nephews or his niece leaving legitimate children or descendants, was to continue to pay the pension or annuity so bequeathed to his deceased nephew or niece to their legitimate children or descendants;

That the remuneration to the testamentary executor, administrator and trustee is not in proportion to the importance nor to the work required for the administration of this estate; and it is expedient to remedy this situation;

That the said pensioners and heirs of the estate of the late Joseph Aimé Massue have prayed the testamentary executor to obtain an act providing for an increase of pension and certain advances on their capital and also allowing of their making arrangements with him for his remuneration as testamentary executor as herein after mentioned; and

Whereas, it is expedient to grant such prayer;

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

Additional
annuity.

1. The testamentary executor of the estate of the late Joseph Aimé Massue may, out of the excess revenues of the estate over expenditure (including accumulated revenues) and after providing for an annual reserve fund of at least ten per cent on the net revenue of the estate, pay as an additional annuity to each of the nephews and niece of the testator, hereinafter named, children of Dame Eliza Massue, issue of her marriage with the said Mr. Gustave Adolphe Drolet, namely: Gustave Massue Drolet, (now Gustave Drolet Massue), René Drolet, Juliette Drolet, wife of Camille Laviolette, and Edmond Boileau Drolet, in addition to their annuity of two thousand dollars, a sum not exceeding twelve hundred dollars a year, for the first sixteen months beginning from the first of January, 1922, and, to continue thereafter to pay to the said nephews and niece, a sum, less, by at least four hundred dollars, than the sum which will be advanced to each of the grand nephews and grand nieces, as hereinafter, and such additional annuity not to exceed, for each of the nephews and niece, the sum of one thousand eight hundred dollars per annum; such additional annuity to be payable by equal monthly instalments, on the first of each month, and shall not be transferable or liable to seizure, as being an alimentary pension, and shall cease at the death of each of the said nephews and niece.

Advance to
certain
persons.

2. The testamentary executors of the estate of the late Joseph Aimé Massue, out of the excess revenues of the estate (including accumulated revenues,) after the charges and annuities have been paid, and the reserve fund mentioned in the preceding section having been set aside, may advance to each of the children of the said nephews and niece of the testator, born and to be born in lawful wedlock, the sum not exceeding twelve hundred dollars a year for the first sixteen months, beginning from the first of January, 1922, and to continue thereafter to advance to each of them an equal amount up to the sum of three

thousand eight hundred dollars per annum, payable in equal monthly instalments, on the first of each month, and in the case of the decease of any of them leaving children such advance to be continued by roots. Such advance shall not be transferable nor liable to seizure, as being an alimentary pension. Each sum so paid to each of them, as well as the interest thereon at the rate of three per cent per annum, capitalized every year, shall be charged to his or her share of the property of the said testator and shall be computed and deducted, when the partition of the property takes place, and in case of the death of any of them before the partition, the sums thus advanced and interest thereon shall be imputed and deducted from the share of the survivors of the same root at the time of the partition.

Advance not transferable, etc.

Imputation of payments

3. The testamentary executor shall not make any payment to the nephews and niece in the case and on the terms and conditions mentioned in section 1, without at the same time making payments to the heirs under section 2.

Payments subjected to certain condition.

4. The testamentary executor, administrator and trustee of the estate of the late Joseph Aimé Massue shall, at the death of any of the said nephews or the said niece, leaving children or descendants, born in lawful wedlock, continue to pay the pension, bequeathed under the will to such deceased nephew or niece, to his or her legitimate children or descendants, equally among them by roots, until the death of the last of the children, issue of the marriage of Eliza Massue and Gustave Adolphe Drolet.

Pension, upon the death of nephews and niece.

5. The estate shall pay the costs, disbursements and fees incurred for the passing of this act and the testamentary executor shall charge the same to the capital of the estate.

Costs, etc., how paid and charged.

6. The testamentary executor is authorized to make any agreement with the pensioners and heirs, as regards the additional annual remuneration to be allowed him for his services provided the total annual remuneration does not exceed two thousand five hundred dollars and any agreement already made on the subject is valid.

Remuneration of testamentary executor.

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

Coming into force.