

## C H A P . 143

An Act respecting the estate of the late Honourable Joseph Masson

[Assented to 9th February, 1918]

**W**HEREAS François de Sales Bastien, advocate and King's Counsel; Guillaume N. Moncel, manager; Raoul Masson, physician, and Albert Pancrace Lespérance, bank manager, all four of the city of Montreal, acting in their capacity of testamentary executors and trustees of the late Honourable Joseph Masson, in his lifetime of the city of Montreal, merchant, have, by their petition, represented:

That the late Honourable Joseph Masson, by his will made before C. E. Belle and A. Desmarais, notaries, on the 25th December 1845, ordered that, as regards the execution of his said will, the property of his estate should, throughout the duration of the substitution or trust created by him, be managed and administered by testamentary executors and trustees appointed by him, and who, in the event of resignation, infirmity, absence or death, were to be replaced by qualified and competent persons who, as stated in the will, shall be chosen by the court if possible and, if not, by the majority of the trustees remaining in office;

That the execution of the said will is not yet completed, as the testator established a substitution or trust in favour of his descendants, which is to last indefinitely or so long as the law permits;

That as the testator ordered that the replacing of his executors and trustees be made by the courts if possible, and, if not, by the remainder of the said trustees remaining in office, the testamentary executors and trustees, on each occasion when a vacancy occurred necessitating the appointment of another testamentary executor and trustee, applied to a judge of the Superior Court in Montreal to obtain such appointment, but, except in a few instances, the judge refused to make the appointment, considering that he had no jurisdiction for doing so, and the appointment was then made by the testamentary executors and trustees remaining in office;

That, particularly in the case of the present petitioners, two of them, namely: Messrs. Bastien and Moncel, were appointed by the testamentary executors and trustees on the refusal of the judge to make such appointment, and the two others, namely: Messrs. Masson and Lespé-

rance were appointed by the testamentary executors and trustees after a petition asking for such appointment had been presented to a judge of the Superior Court, without any final judgment being given on such petition;

That Honourable Justice Louis Onésime Loranger, one of the testamentary executors and trustees of the said estate, died some months ago and has not been replaced;

That doubts have arisen as to whether, according to the proper interpretation of the said will, the testamentary executors and trustees must, in the case of a vacancy occurring, be appointed by a judge of the Superior Court or by the testamentary executors or trustees remaining in office, and that it is expedient to dispel such doubts and to confirm all the appointments made either by a judge or by the testamentary executors themselves, and also to enact a method of appointing testamentary executors and trustees for the future;

That a great many of the legatees of the said estate live abroad, and it is likewise expedient to determine the manner of summoning them when a testamentary executor has to be appointed;

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

Testa-  
mentary ex-  
ecutors to  
be appoint-  
ed by judge  
of Superior  
Court after  
notice.

**1.** According to the proper interpretation of the will of the late Honourable Joseph Masson, made before C. E. Belle and A. Desmarais, notaries, on the 25th December, 1845, the appointments of testamentary executors and trustees of the said estate shall be made by a judge of the Superior Court sitting at Montreal, on a summary petition presented to him at any time and even during vacation; and, previous to the presentation of such petition, notice that such petition is to be presented shall be given to the curator to the substitution and to the legatees of the estate who, at the time of the appointment, have the right to receive revenues from the same, by registered letters deposited in the Montreal post-office at least thirty days before the presentation of the petition and addressed to the curator and the said legatees to their present addresses as entered in the books of the estate. The curator and legatees may be represented by counsel when the said petition is presented.

Past ap-  
pointments  
ratified.

**2.** All the appointments of testamentary executors and trustees of the estate made before the coming into force of this act, are declared to be and to have always been valid, whether such appointments were made by a judge

of the Superior Court or by the testamentary executors or trustees remaining in office.

**3.** The costs incurred for the passing of this act shall be at the charge of the estate, and may be paid out of the capital of the same. Costs to be charged to capital of estate.

**4.** This act shall apply to the proceedings now pending for the appointment of an executor to replace the late Honourable Judge Louis Onezime Loranger. Application.

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

## C H A P . 144

An Act respecting the estate of the late Samuel Finley

[Assented to 9th February, 1918]

**W**HEREAS Frederick Gault Finley, Doctor of Medicine; Preamble.

Frank Dawson Adams, Ph. D., Dean of the Faculty of Applied Science, McGill University, and William Copeland Finley, merchant, all of the city and district of Montreal, in their quality of executors and trustees under the last will and testament of the late Samuel Finley, in his life-time merchant, of the same place, passed before C. Cushing, and colleague, notaries public, on the 21st day of May, 1902, have by their petition represented:

That the said Samuel Finley died at Montreal aforesaid on the 1st day of September, 1903, without having revoked or modified in any way his said last will and testament;

That by article numbered five of his said last will and testament, the said late Samuel Finley bequeathed to his sister, Matilda Finley, widow of the late Reverend G. W. Patchell of South Australia, an annuity of three hundred pounds sterling and, after her death, the interest on four thousand pounds sterling to her family at the rate of six per centum per annum, giving his executors the right, at their discretion, to pay a portion, not exceeding one thousand pounds, of the said capital, should Mrs. Patchell or her family show that it would be greatly to their advantage to have such portion, and, in the event of such payment, giving his nieces, to wit: the daughters of the said Mrs. Patchell, the right to dispose by last will and testament of one-third each of the balance of said capital of four thousand pounds, and in default of so doing, the