

CAP. XCII.

An Act to authorize Jean Lukin Leprohon to hypothecate or sell a substituted property.

[Assented to 9th January, 1897.]

WHEREAS, by a deed of gift *inter vivos*, passed at Montreal, Preamble.
on the 5th of February, 1861, before J. B. Houlé, notary, Francis Mullins and his wife, Rosanna Connolly, gave to Jean Lukin Leprohon and his wife, Rosanna Eléonore Mullins, their son-in-law and daughter, present and accepting a certain property described in the said deed as follows:

A lot of land situate in St. Anne's ward of the city of Montreal, bounded in front by St. Patrick street, in rear by the remaining property of the donors, on one side by St. Columban street, and on the other side by the property of Angus McDonnell, with a two story brick house, a small brick building behind the said house and a shed; the said lot measuring forty-nine feet seven inches on St. Patrick street, fifty-five feet on St. Columban street, and one hundred and eight feet seven inches on the line bounding it in rear, which property is now known as No. 577 of the cadastre of St. Anne's ward;

Whereas such gift was made with substitution in favor of the children of the donees after the death of the latter;

Whereas, after the death of the survivor of the donors, who had reserved the right of enjoying the property so donated during their life-time, which said death took place on or about the 22nd of November, 1876, the donees entered into possession of the said immoveable; whereas the donee Rosanna Eléonore Mullins died on the 20th September, 1879, leaving several children issue of her marriage with the donee, Jean Lukin Leprohon;

Whereas the buildings on the said lot, when the donees took possession thereof, were so old that they could no longer be rented or repaired to advantage;

Whereas in 1887-88 the donee put up new buildings on the said lot, the cost whereof he defrayed out of his own moneys, to wit: four brick houses, each containing two lodgings, with accessory buildings; the cost and value of such new buildings being six thousand five hundred dollars, while the value of the land does not exceed fifteen hundred dollars;

Whereas the donee now needs to be repaid for the moneys he advanced for the said buildings, and the children, issue of his marriage with his said wife, the institutes in the substitution established by the said deed of gift, who are all of age, together with the curator to the substitution,

have, jointly with him, the said donee, prayed the Legislature, after setting forth the above facts, for authority to hypothecate or sell the said property for the said purpose ;

And whereas it is expedient to grant the prayer of the said petition ;

Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

Sale of certain property authorized.

1. Jean Lukin Leprohon is authorized to hypothecate or sell the property known under the number five hundred and seventy-seven of the cadastre of St. Anne's Ward of the city of Montreal, and described at length in the preamble of this act, subject to the conditions hereinafter set forth.

Valuation before sale.

2. Two experts, to be appointed by a judge of the Superior Court, shall make a valuation, on oath, of the said property, establishing the value of the land separately from that of the buildings erected thereon by the said Jean Lukin Leprohon. The amount borrowed, for which the said property may be hypothecated, shall not exceed either the cost or the value of the said buildings.

Property not to be sold under valuation.

If the property be sold, the price shall not be lower than that estimated by the experts, and the said Jean Lukin Leprohon shall receive or employ, for his own use, only the amount representing the cost and value of the said buildings. As to the sum representing the value of the land, it may remain in the hands of the purchaser, with the privilege of *bailleur de fonds*, or be paid to the institute and curator jointly, to be by them invested in the name of the substitution, in accordance with articles 981*a* and following of the Civil Code, as contained in article 5803 of the Revised Statutes, or be employed in purchasing one or more properties considered as advantageous to the institute.

Sum representing value of land to remain in hands of purchasers.

Approval of sale required, &c.

The loan or sale shall be made subject to the approval and with the assistance of the curator.

Coming into force.

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

CAP. XCIII.

An Act respecting the estate of the late William Frederick Kay.

[Assented to 9th January, 1897.]

Preamble.

WHEREAS Harriet Newell Jenkins, of the city and district of Montreal, widow of the late William Frederick Kay, in his lifetime of the same place, gentleman, both personally and in her quality of tutrix to her minor

children, Alice Kay and William Frederick Kay, hereto duly authorized, and in her quality of executrix under the last will of her late husband; Sir Henry Seymour King, member of Parliament, Knight-Commander of the Indian Empire, of the city of London, in the Realm of England, in his quality of executor, under the last will of the said late William Frederick Kay; and Harriet Evelyn Kay, of the city of Montreal, daughter of the late William Frederick Kay and the said Harriet Newell Jenkins, have, by their petition, represented:

That the said late William Frederick Kay departed this life on the twenty-fifth day of March, eighteen hundred and ninety-three, at the city of London, England, leaving a will, executed in notarial form, at the city of Montreal, on the twenty-seventh day of August, eighteen hundred and eighty-nine, and a codicil thereto, executed, in holograph form, at the city of London aforesaid, on the twentieth day of February, eighteen hundred and ninety-three, which said will and codicil thereto were duly probated at the city of London aforesaid, on the fifth day of May, eighteen hundred and ninety-three, and the said judgment was duly confirmed by judgment of the Superior Court, for the district of Montreal, on the third day of June, eighteen hundred and ninety-three:

That, by his said last will, the said late William Frederick Kay created a substitution in favor of his wife, as institute, and his children as substitutes;

That, by the said will, the said late William Frederick Kay appointed his said wife and others, therein named, executors of his said last will, thereby extending their powers as such, beyond the year and day limited by law, with full power to his executors to sell or otherwise dispose of all or any of his real estate, bank or other stocks, but without the power of mortgaging the same or any part thereof, to receive the consideration of money therefor, and give and grant good and sufficient releases and discharges for the same, to invest the proceeds thereof in good and safe securities, and to sign and execute all deeds of sale, transfer and conveyance, and all other instruments in writing that might be necessary in due execution of the said will;

That, by the said codicil, the late William Frederick Kay appointed his said wife, Harriet Newell Jenkins, his said son, William Frederick Kay, and the said Sir Henry Seymour King, executors of his last will and testament, and he thereby cancelled and revoked all clauses relating to executors in his previous will or codicils;

That it was evidently the intention of the said late William Frederick Kay, by the said codicil, to appoint the executors named therein, in the room and place of the executors appointed by his said last will, with all the powers thereby granted to the latter;

That it is essential to the proper management of the said estate and the said substitution that the said executors should possess all the powers mentioned in the said will, and should further be granted the power to mortgage the property of the said estate, for the purpose of improving and maintaining the same;

Whereas it is prayed that it be declared that the executors of the late William Frederick Kay legally and validly hold the said quality, that they possess all the powers mentioned in the said will, and that they be granted the power to mortgage the property of the said estate, for the purpose of improving and maintaining the same;

Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows:

Extension of powers of executors under will.

1. The executors named in the codicil to the will of the late William Frederick Kay are hereby declared to hold the quality of executors, under the said last will, beyond the year and day limited by law, in accordance with and to the full extent provided by the said will, until the final winding up of the said estate.

Powers of executors under will.

2. The said executors are hereby declared to have possessed and to possess all the powers enumerated and set forth in the said last will and testament of the late William Frederick Kay.

Further powers.

3. The said executors are hereby further empowered to hypothecate, upon the authorization of a judge of the Superior Court, granted on the advice of a family council and with the consent of the curator to the substitution until such time as all the substitutes can legally consent thereto, the property of the said estate solely for the maintenance and improvement thereof; but the mortgagees, under such hypothecs as may be so created, shall not be responsible for the application of the proceeds of the same.

Coming into force.

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