

CAP LXXXVI.

An Act respecting the property of the late François-Xavier Beaudry, bequeathed for charitable purposes.

[Assented to 21st December, 1895.]

WHEREAS the Reverend Alfred Léon Sentenne, priest, the Honorable Louis A. Jetté, judge of the Superior Court, and François St. Germain, real estate agent, testamentary executors appointed, the two former by the will hereinafter mentioned, and the third by the two others in virtue of the powers conferred upon them by the said will, have, by petition, represented :

That by his will, dated the twenty-seventh of February, eighteen hundred and eighty-five, the late François-Xavier Beaudry bequeathed a portion of his property to the Seminary of St. Sulpice of Montreal, to be employed (in addition to certain charges) in establishing and maintaining an orphan asylum for poor children, with prohibition to alienate such property ;

That, nevertheless, by a codicil dated the twenty-third of March of the same year, the said testator declared that, as the prohibition to alienate contained in his will with reference to the property aforesaid might be prejudicial and opposed to the object he had in view, he meant that, if it were considered prudent by his testamentary executors, either on account of a change in the value of the property or of any other circumstance, to sell any of the properties so bequeathed, such alienation might be effected, provided the proceeds thereof were employed in purchasing other immoveables ;

That, by the act 57 Victoria, chapter 91, the said testamentary executors were afterwards permitted to employ the proceeds of such sales in paying the cost of buildings and improvements made to other immoveables constituting a portion of the said legacy ;

That, at the time of the passing of the said act, the said testamentary executors had, in the course of their administration of the property belonging to the said estate, borrowed moneys for such buildings and improvements of immoveables belonging to the said estate ;

That, for some years, there has been a considerable depreciation in the value of real estate in the city of Montreal ; that there is reason, however, to believe that such depreciation will only be temporary ; that, accordingly, it might be more advantageous, for the purposes of the said legacy, to hypothecate the property of the said estate instead of selling the same, to pay and reimburse the cost of the said buildings and improvements made by the said testamentary ex-

ecutors, and that it would be expedient that they be authorized to that effect ;

That the said testator further declared by the said codicil that, in the event of the Seminary of Montreal not accepting the legacy given to it, as aforesaid, he directed his testamentary executors to see to the carrying out of his will, stating however that, in default of such legacy and the charges connected therewith being accepted, it was his desire that his intentions with respect to the said asylum or orphanage should, by preference, be executed by a religious community ;

That the conditions, charges and restrictions imposed by the said will have prevented the acceptance of the legacy by a religious community, and it is expedient, in order to obtain such acceptance and thereby fulfil the intentions of the executor, to modify the tenure of such property, to permit of its being more easily disposed of and of its being mortgaged under definite conditions ;

And whereas the said testamentary executors have further represented :

That, by the act 56 Victoria, chapter 93, it was, amongst other things, enacted that the share of the property bequeathed by the said late François-Xavier Beaudry to his natural heirs should, in future, be completely separate from that devoted to charitable purposes, and that the administration thereof should be transferred, by the said Reverend Mr. Sentenne and the Honorable Louis A. Jetté, to the three heirs of the testator then of the full age of majority (the consort of the testator's grand-daughter being for that purpose considered one of the heirs), and that, from and after such separation, the said Reverend Mr. Sentenne and the Honorable Louis A. Jetté should, as regards their administration of that portion of the property given to the heirs, be discharged from all responsibility, for the future, and the statement of accounts of their administration of the property was to be rendered to the heirs who had become testamentary executors in their stead for such portion, but that sufficient provision was not made for the acquittance to be given to the said former testamentary executors by the new ones ;

And whereas the said petitioners have prayed that their petition be granted, and it is expedient to grant their prayer ;

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

Provision for sale of part of estate, if religious community undertakes execution of will.

1. In the event of a religious community, agreed upon by the testamentary executors of the said property bequeathed by the said late François-Xavier Beaudry for charitable purposes, accepting the said legacy and undertaking to see to its execution, it shall be lawful for the said community, for the purpose of providing for the settlement of the affairs

of the said estate and of paying off the charges imposed thereon, to alienate, sell or hypothecate the said property on a simple resolution to that effect of the chapter or council of the said religious community, approved in the form usually followed in the case of property possessed by the said community.

2. If, within six months from the sanctioning of this act, the testamentary executors of the said property have not succeeded in transferring such property to a religious community, as above provided, it shall be lawful for them to hypothecate the said property and to employ the proceeds of such portions as they deem expedient to sell in securing, in the first place, the execution of the particular charges imposed by the testator, and afterwards, in guaranteeing or repaying the sums expended on the buildings and improvements made by the said executors upon other immovables forming part of the said legacy.

Executors may sell, if religious community cannot be induced to accept.

In the latter case, that is to say, if during the six months mentioned, arrangements are not made with any religious community, Rodolphe Beaudry shall be joined to the present testamentary executors for that portion of the estate devoted to charitable purposes, for the future administration of the said property jointly with those now in office.

R. Beaudry in such case to become executor jointly with others for that portion of estate devoted to charitable purposes.

3. Section 7 of the act 56 Victoria, chapter 93, is amended by adding the following thereto:

56 V., c. 93, s. 7, amended.

“And, after an account shall have been rendered by the said testamentary executors appointed by the will to the said heirs who have become testamentary executors in their stead for that portion of the property given to the heirs, the discharge obtained from the said heirs, who are testamentary executors, by the testamentary executors appointed by the will, shall be final, and shall free the latter from all future responsibility whatsoever, on account of their administration, either towards the institutes or the substitutes in the substitution, their heirs and assigns.”

Discharge to executors by heirs to be final after account rendered.

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

Coming into force.