

CAP. XCVI.

An Act to authorize the testamentary executors of the estates of Abraham Hamel and Marie Cécile Roy to sell the immoveables of the said estates by voluntary sale.

[Assented to 27th February, 1893.]

WHEREAS Auguste Hamel, of the city of Quebec, physician, and Abraham Alphonse Hamel, of the same place, civil service employee, have, by petition, represented : Preamble.

That the said Auguste Hamel is joint executor of the estate of Abraham Hamel, in his lifetime of the city of Quebec, burgess, and the said Abraham Alphonse Hamel is joint executor of the same estate and is sole executor of the estate of Marie Cécile Roy, in her lifetime, wife of the said Abraham Hamel, both appointed by authentic wills of the said Abraham Hamel and Marie Cécile Roy ;

That, by their respective wills, the consorts Abraham Hamel and Marie Cécile Roy bequeathed :

1. By particular legacy, to their sons Abraham Alphonse Hamel and Théophile Adolphe Hamel, the undivided half of number two thousand two hundred and twenty-six (2226) of the official cadastre of the city of Quebec ;

2. To their son Abraham Alphonse Hamel, number two thousand nine hundred and sixty-nine-six (2969-6) of the cadastre ;

3. To their son Théophile Adolphe Hamel, number two thousand nine hundred and sixty-nine-seven (2969-7) ;

4. By universal residuary legacy, to their children Eugène, Auguste, Séphora and Eugénie Hamel, numbers two thousand five hundred and seventy-six (2576), two thousand nine hundred and sixty-nine-one (2969-1), two thousand nine hundred and sixty-nine-two (2969-2), two thousand nine hundred and sixty-nine-three (2969-3), two thousand nine hundred and sixty-nine-four (2969-4), two thousand nine hundred and sixty-nine-five (2969-5), two thousand nine hundred and sixty-nine-eight (2969-8), and two thousand nine hundred and sixty-nine-nine (2969-9) of the said official cadastre, of which said immoveables the said testators were owners each for one undivided half ;

That, by his will, the said Abraham Hamel bequeathed, by particular legacy, to Abraham Alphonse Hamel, number four thousand four hundred and thirty-seven-nine-one (4437-9-1) ; to Théophile Adolphe Hamel numbers four thousand four hundred and thirty-seven-nine-two (4437-9-2), and four thousand four hundred and thirty-seven-ten-one (4437-10-1) ; to Eugène Hamel numbers four thousand four hundred and thirty-seven-ten-two (4437-10-2), and four thousand four hundred and thirty-seven-eleven-one

(4437-11-1) ; to Auguste Hamel, numbers four thousand four hundred and thirty-seven-eleven-two (4437-11-2), and four thousand four hundred and thirty-seven-twelve-one (4437-12-1) ; to Dame Séphora Hamel, numbers four thousand four hundred and thirty-seven-twelve-two (4437-12-2), and four thousand four hundred and thirty-seven-thirteen-one (4437-13-1) ; to Dame Eugénie Hamel, number four thousand four hundred and thirty-seven-thirteen-two (4437-13-2), of the said official cadastre ;

That, by their said wills, the said testators specially hypothecated all the immoveables bequeathed to the said Abraham Alphonse and Théophile Adolphe Hamel, to secure the payment of the sum of fifty thousand dollars which is due them by the latter, and which they bequeathed to their children Eugène, Auguste, Séphora and Eugénie Hamel ;

That the said Théophile Adolphe Hamel died on the twenty-fifth of November, one thousand eight hundred and eighty-six ;

That, as the realization of the personal estate of the said Théophile Adolphe Hamel yielded an amount insufficient to pay the debts thereof, and as Abraham Alphonse Hamel has no other property than the immoveables above designated, and which are attributed to him, there remains a balance of thirty thousand dollars due on the said sum of fifty thousand dollars ;

That such balance cannot be paid without selling the immoveables bequeathed to the said Théophile Adolphe Hamel and Abraham Alphonse Hamel, and that in all probability the proceeds of the sale of such immoveables will not suffice to pay the whole of such balance ;

Whereas the estates of the said Abraham Hamel and Marie Cécile Roy are still indebted to the amount of thirty-three thousand dollars, which consists of debts most of which are exigible and even pressing, and which, to fulfill the wishes of the testators, the executors must endeavour to settle without delay ;

Whereas it is impossible to attain this object without selling some of the immoveables hereinabove described, and they should be sold by voluntary and non-judicial sale ;

Whereas the revenues of the said immoveables do not suffice to pay the interest on the debts and the other annual charges on the said estates, and to pay for the repairs required for the proper administration of such immoveables ;

Whereas it appears by the wills aforesaid that the legatees above-mentioned cannot take possession of the property, respectively given to them, until all the debts are paid ;

Whereas all the immoveables above mentioned are still under control of the said executors, who manage and administer them as such ;

Whereas, from the general tenor of the said wills there appears to be a formal, if not an expressed desire on the part of the testators, that the immoveables of their estates should not be disposed of, and

Whereas it has been prayed by the said petition that power be given to sell the said immoveables, and it is expedient to grant such prayer ;

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

1. The said Auguste Hamel, joint executor of the estate of Abraham Hamel, and Abraham Alphonse Hamel, joint executor of the said estate, and sole executor of the estate of Marie Cécile Roy, or their successors, may, with the consent of the legatees, or after notice to them, sell, on the authorization of the court or judge, by voluntary sale, and give validity thereof to the purchaser or purchasers, the above described immoveables, except those bequeathed by particular legacy to Eugène, Auguste, Séphora and Eugénie Hamel, by observing as much as possible the following order :

Certain property may, on compliance with certain formalities, be sold.

Order of sale.

1. The immoveables bequeathed to Abraham Alphonse Hamel and to Théophile Adolphe Hamel ;

2. The immoveables bequeathed by residuary or universal legacy.

2. The proceeds of the sale of the said immoveables, or of any of them, shall be employed :

Application of proceeds.

1. In paying the costs and expenses incurred by the testamentary executors and residuary or universal legatees, as well as those incurred by Madame Hamel, in obtaining the passing of this act and the costs of the sale ;

2. To pay hypothecary and other privileged debts upon the immovable or immoveables sold ;

3. To pay the chirographic debts of the said estates and the expenses of the urgent repairs to the unsold immoveables ;

4. To pay the hypothecary and other privileged debts upon the unsold immoveables.

This disposal of the moneys derived from the sale of the said immoveables shall not affect the provisions of the aforesaid wills or of the marriage contract of the said late Abraham Hamel and Dame Amélie Girard as regards the various pensions therein stipulated.

Certain provisions respecting pensions not affected.

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

Coming into force.