

as regards a rent of one hundred dollars per annum created by the said will in favor of Miss Marguerite Beaudry, a rent due to dame widow Jean Louis Beaudry, under her marriage contract, and the rent due Mrs. Starnes as aforesaid which shall be charged to Mrs. Roy and Mrs. Auger and the representatives of the late Guillaume Napoleon Leonidas Beaudry.

Property may
be sold to ex-
pedite wind-
ing up of
estate.

7. With a view of hastening the payment of the debts and of encouraging a settlement of the said estate, it shall be lawful for the said testamentary executors and administrators to dispose of, by sale or otherwise, upon advice of a family council, all or any of the said immoveables bequeathed by the said testator to his son the late William Napel  on Leonidas Beaudry ; but in such case it shall be the duty of the said testamentary executors and administrators to use the proceeds of such sales, either in paying off debts or in improving the immoveables of the said estate.

Coming into
force.

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

C A P. C I.

An Act to appoint a trustee to the estate of the late
Horace Dryden Clark.

[Assented to 21st March, 1889.]

Preamble.

WHEREAS the petition of Horace Clark of West Suffield, in the State of Connecticut, one of the United States of America, in his capacity as guardian duly appointed to the minor children of his father, the late Horace Dryden Clark, in his lifetime of Smyrna, in the State of Delaware, one of the United States of America, represents :

That his said father, Horace Dryden Clark, died at said city of Smyrna, on the 21st March, 1887, leaving a last will and testament made before witnesses at the city of Smyrna, on the 17th April, 1886, and duly probated before the register for Kent county, in said State of Delaware, on the 5th April, 1887, and also duly proved and deposited in the office of the prothonotary of the Superior Court for Lower Canada, at Montreal, Province of Quebec, on the 24th December, 1887, by order of one of the Honorable Judges of said court ;

That, in and by said last will and testament, a life interest in certain real property forming part of said testator's estate, and situate within the Province of Quebec and city of Montreal, was specifically devised to the testator's minor children, Mary M. Clark, Walter F. Clark, and Dryden O. Clark, under conditions detailed in the said will ;

That, in and by said will, trustees were named to act for said legatees holding the aforesaid life interest in the said real estate, but said trustees have formally renounced and refused to accept of said trust ;

That the said petitioner is desirous of carrying out the intention of said testator, as expressed in said will, and of appointing a trustee for the real estate in the Province of Quebec ;

That there are also six shares of the consolidated fund (class C, 4 per cent), of the city of Montreal, standing in the name of the said testator in trust for said minors, Mary M. Clark, Walter F. Clark, and Dryden O. Clark, and further fifty-six shares of the capital stock of the Bank of Montreal, also in said testator's name in trust ; the said shares in trust being all that can be ascertained to belong to said minors, as coming from the succession and estate of their late mother ;

That said Horace Clark, the petitioner, has accepted the office of guardian to said minors, as aforesaid ;

That it is necessary to appoint a trustee, with specially defined powers to administer said real estate, situate in said city of Montreal, in the interest of said legatees holding said life interest, and also in the interest of those who take said real estate after said legatees, and further to take control of the above mentioned stock in trust, on behalf of said minors ; the said trustee to receive a fixed annual remuneration :

That James Tasker, of the city of Montreal, accountant, has already acted as administrator of the said estate, and his appointment as trustee under this act would be satisfactory to all concerned ; and whereas it is advisable to interpret the terms of the said trust ; and it is expedient to grant the said petition ;

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

1. The said James Tasker, of the city of Montreal, ^{Trustee} accountant, is hereby named and appointed a trustee to ^{appointed to} take control of the real estate in the Province of Quebec, ^{estate H. D.} bequeathed by the said late Horace Dryden Clark, in his ^{Clark.} said last will and testament, as therein stated.

Powers of trustee as to administration.

2. The said trustee shall administer the said real estate, with full power to make all necessary contracts pertaining to a prudent management thereof, and specially he shall have the right to make renewals or repairs of any part or parts of the properties, the cost not to exceed in any one year the net income from the house or property repaired, except in case of evident necessity and with the authorization of a judge as obtained under section 13, and any leases made by him shall not exceed the term of three years

Power to institute legal proceedings.

3. The said James Tasker shall institute in his own name, as trustee, any legal proceedings he may deem advisable in connection with his said administration, and may also defend or oppose in his name, as trustee, any legal proceedings which may be taken affecting said real estate during the continuance of the trust.

Trustee to pay over rents, &c., after deduction of expenses of management.

4. The said trustee shall, after deduction of the costs of administration and management, pay over, every three months, the rents, issues and profits arising from said real estate to the said legatees, the minor children of said Horace Dryden Clark, or their legal representatives, in accordance with the terms of said will.

Trust to lapse in certain event.

5. Upon the death of either of said legatees, Mary M. Clark, Walter F. Clark or Dryden O. Clark, to whom the life interest in said real estate is devised by the will of the said Horace Dryden Clark, leaving issue living, the said trust shall lapse and terminate, in so far as concerns the share of the said legatee so deceased.

Proviso as to death of one of legatees.

Upon the death of either of said legatees without issue living, the trust as to his or her share shall continue until all of said three legatees are dead; the said third share of income in the meantime being paid over to any living child or children born or to be born of the other two legatees in equal shares.

Division of income after death of all legatees.

After the death of all said three legatees, the real estate, the income from which said legatee so dying without issue was entitled during his lifetime to receive, shall be divided equally between the child or children of the survivor or survivors of the said three legatees.

Disposal of property in certain event.

If there shall not be any such child or children living at the time of the death of the last survivor of said three legatees, then the real estate shall go as provided in the will for such an event.

When trust to lapse.

When all of said legatees, Mary M. Clark, Walter F. Clark and Dryden O. Clark, holding said life interest, are deceased, the said trust shall entirely lapse and terminate.

6. The said trustee shall assume control of the stock standing in trust in the books of the city of Montreal, and the Bank of Montreal, to wit :—6 shares of the consolidated fund four per cent stock of the city of Montreal standing in the name of Horace D. Clark in trust for Mary, Walter and Dryden Clark, and fifty-six shares of capital stock standing in the books of the Bank of Montreal, in the name of said Horace D. Clark, in trust.

Trustee to assume control of certain stock.

7. The said trustee shall draw the dividends, issues and profits of and from said stock and shall pay the same over, in accordance with the law of this Province and the terms of said will, to the legal guardian of said minor children, Mary M. Clark, Walter Clark and Dryden O. Clark, during the minority of each of said minors; and upon the majority of each of said minors, said trustee shall transfer to him or her a third share in said stocks, to be by said transferee held in absolute ownership, and said trust shall lapse and terminate, in so far as regards said third share so transferred.

Power of trustee to draw dividends, &c., and pay over, &c.

When all of said three minors have come to majority, and have received their said portions as aforesaid, said trust as to said stocks shall altogether lapse and terminate.

When trust as to stocks to lapse.

The said city of Montreal and Bank of Montreal are hereby empowered and enjoined to transfer said stocks as is provided in above section 6 and the present section.

Power given to city and Bank of Montreal to transfer stock.

8. Upon the majority of said minors, the said trustee shall render a full and exact account of his administration up to that time, and thereafter the said trustee shall render said accounts annually, as regards the management of said real estate, unless otherwise required by said minors or their representatives.

Account to be rendered by trustee.

9. A duplicate of said accounts shall be furnished on or before each period of time designated in the preceding section 8 to each of said legatees, Mary M. Clark, Walter B. Clark and Dryden O. Clark, or their legal representatives, and at the same time a copy thereof shall be deposited and filed by said trustee in the office of the prothonotary of the Superior Court for Lower Canada, sitting in and for the District of Montreal in the Tutelle Department of said office, and, after the expiry of three months from the date when said account is so filed, the said trustee shall, if mutual satisfaction is not sooner given, in a summary manner, by petition to a judge of said Superior Court, and notice duly served upon said legatees, or their legal repre-

Duplicate to be furnished and copy deposited in prothonotary's office.

Ratification of account.

Decision by
judge, if
opposition
thereto.

sentatives, obtain the ratification and confirmation of his said account; and if any opposition be made to the ratification of any or all the items in said account or to the balance of said account, the same shall be decided by said judge in a summary manner, after hearing the parties, provided always that said trustee shall not be held to more than ordinary care and prudence in said management and administration, and his personal and private estate shall not be held liable or responsible for any default in his said administration, unless he be shewn to have acted in bad faith or with negligence.

Provision for
replacing
trustee.

10. In the event of the death of said James Tasker, during the continuance of this trust, or in the event of the said James Tasker wishing to be relieved from said trust, or in the event of the parties interested being desirous of replacing said James Tasker by another person, who should act as such trustee under the provisions of this act, in the place and stead of said James Tasker, it is hereby enacted that:

1. The legal guardian of the said minors, Mary M. Clark, Walter F. Clark and Dryden O. Clark, may at any time during the minority of said minors, and

2. After the coming of age of said minors, the said Mary M. Clark, Walter F. Clark and Dryden O. Clark, jointly, or a majority of them, and

3. Any person, who may at a future time and after the death of the said Mary M. Clark, Walter F. Clark and Dryden O. Clark, come to have an interest in said real estate, and

4. The said James Tasker or any other trustee substituted in his stead, as hereinafter provided,

Application to
judge for that
purpose.

May present a petition to a judge of said Superior Court for Lower Canada, sitting in and for the district of Montreal, asking for the appointment of a new trustee, in place of the one then holding said trust; and the said judge, provided due notice shall have been given to all parties interested, may, for cause shewn, and in his discretion, name and appoint a new trustee to take the place of said James Tasker or other trustee, to be named under this provision, in his stead, and to administer said real estate under the provisions of this act, and said judge may on petition, at any time in his discretion, order said trustee to give good and sufficient security for the due performance of his duties under this act.

Appointment
by judge.

Remunera-
tion of trust-
tee.

11. The said trustee shall take annually, to be computed from and after the date of the death of said Horace Dryden Clark, the sum of four hundred dollars as remuneration in

full for his services as such trustee, said sum to be payable in quarterly instalments, one third from the share of each of said legatees in the rents, issues and profits of said real estate.

12. The said trustee shall insure said real estate against fire, in his name as trustee, and the loss, if any, shall be payable to said trustee; and, in the event of a loss by fire, the said trustee shall apply the insurance money received for the same to restoring the part of the said real estate damaged or destroyed:—unless in case of total loss by fire of either house, he deems it advisable to invest the said money otherwise, in which case he may apply by petition to a judge as provided in the next following section.

Property to be insured against fire by trustee.
Application of insurance money in event of loss.

13. Whenever any doubts arise as to the extent of the powers of said trustee, with reference to any particular act or acts, whether of reinvestment or otherwise, which he may consider it advisable to perform in the interest of those for whom he is administering said estate, the said trustee, may, by petition to a judge of said Superior Court, after due notice to all parties interested, obtain from said judge such order thereon as the judge may deem it advisable, in the interest of the *cestui que* trust, to grant, and such orders shall be a sufficient authority for the said act: provided always that said trustee shall in no case alienate any part of said real estate, and that such order shall not be contrary to, or inconsistent with the terms of the said will and the provisions of this act.

Power of trustee to apply by petition to judge when in doubt as to his powers.
Decision of judge to be sufficient authority. Trustee not to alienate real estate.

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

Coming into force.

CAP. CII.

An act to authorize the sale of certain properties belonging to the Estate of the late Honorable Elzear Henri Juchereau Duchesnay.

[Assented to 21st March, 1889.]

WHEREAS Maurice Juchereau Duchesnay, notary, heretofore of the parish of Ste. Marie de la Beauce, and now belonging to the North-West Mounted Police, and Edmond Juchereau Duchesnay, Civil Engineer, residing at Chapleau, in the County of Algoma, in the Province of Ontario, personally, as well as in their quality of institutes under the will of the late Miss Agnès Adèle

Preamble.