

NATIONAL ASSEMBLY
Thirty-fourth Legislature, second session

1993, chapter 96
**AN ACT RESPECTING THE CORA FRANCES DUNKERLEY
ESTATE**

Bill 207

Introduced by Mr André J. Hamel, Member for Sherbrooke

Introduced 12 May 1992

Passage in principle 10 December 1993

Passage 10 December 1993

Assented to 13 December 1993

Coming into force: 13 December 1993

Act amended: None



CHAPTER 96

An Act respecting the Cora Frances Dunkerley estate

[Assented to 13 December 1993]

Preamble

WHEREAS, by her will made on 10 October 1959, probated by the Superior Court on 17 January 1962 (number 1155 of the records of the Superior Court for the district of Arthabaska) and registered in the registry office of the registration division of Richmond under number 73164, Cora Frances Dunkerley, having died on 31 December 1961, bequeathed all her property to her trustees, J. Gordon Smith and Ralston M. Graham, on condition that they use the income of her estate for the purposes and in the manner described in the will;

Whereas Ralston M. Graham, one of the fiduciary legatees, died on 1 January 1963, leaving J. Gordon Smith as the sole fiduciary legatee of the Cora Frances Dunkerley estate;

Whereas following a petition filed by J. Gordon Smith, the current petitioner, Richard Eugène Saint-Dizier, by virtue of a judgment dated 26 January 1976 and bearing number 450-14-000038-76 of the records of the Superior Court for the district of Saint-François, replaced J. Gordon Smith;

Whereas the property bequeathed in trust by Cora Frances Dunkerley includes an immovable situated in Ulverton, Québec;

Whereas the will of Cora Frances Dunkerley contains a clause stipulating that the immovable and the house erected thereon must not be sold since the house can be converted into a two-dwelling income-producing immovable;

Whereas the clause prohibiting the sale seems to have been included only to ensure the “Stewards of the Ulverton United Church” of an income;

Whereas the income derived from the lease of the immovable is insufficient to cover the high cost of the maintenance and repairs constantly needed by the immovable;

Whereas it is expedient and in the interest of the executor of the Cora Frances Dunkerley estate and of the beneficiaries of the income of the estate that the fiduciary executor of the estate be authorized to sell the immovable and to use the income derived from the proceeds of the sale according to the provisions of the will;

Whereas it has been impossible to find persons related to Cora Frances Dunkerley;

Whereas the beneficiaries of the income, the “Stewards of the Ulverton United Church”, have been informed of the introduction of this bill and they consent to both its introduction and passage;

Whereas for the past several years, residents of Ulverton and the surrounding area have used a part of the immovable bequeathed by Cora Frances Dunkerley and an adjacent immovable for recreational purposes and whereas at a general meeting held on 14 June 1990, the congregation of the Ulverton United Church agreed to donate to the municipality of Ulverton the part of the land bequeathed by Mrs. Dunkerley that is so used on the condition, however, that the municipality assume the legal costs entailed by the gift;

Whereas the municipality of Ulverton, by a resolution of its council passed on 8 September 1992, declared that it did not oppose the passage of this Act provided that it could acquire by gratuitous title the part of the bequeathed land used for recreational purposes;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

Authoriza-
tion to sell
immovable

1. Notwithstanding the prohibition to sell stipulated in the will of Cora Frances Dunkerley, dated 10 October 1959, probated by the Superior Court on 17 January 1962 (number 1155 of the records of the Superior Court for the district of Arthabaska) and registered in the registry office of the registration division of Richmond under number 73164, the fiduciary executor of the estate is authorized to sell the immovable concerned and hereinafter described:

“A certain immovable situated in the municipality of Ulverton, known and designated as lots number 106 and number 107 in the official plan and book of reference for the township of Durham, excluding, however, the part of the immovable already sold to James

Mills by virtue of a deed of sale registered in the registry office of the registration division of Richmond under number 29945 of Volume B-41, and also excluding the strips of land acquired by expropriation by the municipal corporation of Ulverton and described in the deeds registered in the registry office of the registration division of Richmond under numbers 157769 and 169640.

With constructions erected thereon, buildings and appurtenances.”

Acquisition
of immov-
able

2. The municipality of Ulverton may, on or before 31 December 1995, acquire the following immovable for the sum of one dollar:

“An immovable comprising, in reference to the cadastre for the township of Durham, part of lot 107, of irregular shape and bounded on the northeast over 76.62 m by a former public road, on the southeast over 75.57 m by lot 113, on the southwest over 76.83 m by another part of lot 107 and on the northwest over 72.37 m by part of lot 119.”

Fees and
registration

The professional fees and registration costs shall be borne by the municipality.

Cessation of
application

3. Section 2 ceases to apply and any interested person may apply for the cancellation of its registration in either of the following events:

(1) if the municipality consents thereto;

(2) if the time limit fixed in section 2 expires without the municipality having acquired the immovable referred to in that section.

Use of
income

4. The fiduciary executor of the Cora Frances Dunkerley estate shall use the income derived from the proceeds of the sale of the immovable contemplated by section 1 in accordance with the provisions of the will.

Registration

5. Registration of a certified copy of this Act shall be made by deposit; however, if such document is not registered before 1 January 1994, publication thereof shall be effected by means of a summary pursuant in particular to articles 2982 and 3005 of the Civil Code of Québec.

Reimburse-
ment of
expenses

6. The fiduciary executor may be reimbursed, out of the proceeds of the sale of the immovable contemplated by section 1, for

any expenses he incurs for the passage of this Act, the obtaining of a certified copy thereof, the registration of the document and the carrying out of the sale.

Coming into
force

7. This Act comes into force on 13 December 1993.