



CHAPTER 129

An Act respecting the substitutions created by the will of
the late Louis Ovide Grothé

[Assented to, the 20th of April, 1934]

WHEREAS the Honourable Raoul Ovide Grothé, Legis- Preamble.
lative Councillor of this Province; Armand Albert
Grothé, manufacturer; Emile Louis Grothé, manufacturer;
Céline Grothé, wife of J. Wilfrid Jalbert, advocate, and
the said J. Wilfrid Jalbert, the last four of the city of Outremont, and Hector Grothé, of the city of Westmount, and John T. N. Hughes, accountant, of Montreal, all in the district of Montreal, have, by their petition, represented:

That by his will received on the 30th of May, 1911, before C. E. Leclerc, notary, at Montreal, the late Louis Ovide Grothé, manufacturer, bequeathed the residue of all his property to all his children numbering five, namely: Raoul, Armand, Hector, Emile and Céline Grothé, all petitioners above named, in equal shares, subject, however, in the case of the said Hector Grothé and Céline Grothé respectively, to substitution in favour of their respective children, or, failing children, in favour of their brothers and sister, or of the children of these latter by representation;

That the said Louis Ovide Grothé likewise ordered, by his will, as follows:

"I will and order that the partition of my property be made among my children in agreement with my testamentary executors without the assistance or participation of anyone, and without judicial authorization, the share of my son Hector and of my daughter Céline to be settled by such division.";

That the said testator ordered that the usufruct of the substituted property be unassignable;

That, after the death of the said Louis Ovide Grothé, the partition of property was made between the five children above mentioned by a deed of the 14th of June 1912, before the said C. E. Leclerc, at Montreal, and that thereafter the duties of the testamentary executors ceased;

That the said Céline Grothé has several living children and that the said Hector Grothé is married but has no child;

That, since the aforesaid partition, the said Hector Grothé has had, in the substitution in which he is institute, with the concurrence of the curator to the said substitution, to alienate or cede certain substituted properties, to invest the price from the alienation or substituted capital in acquiring immoveables and in assuming in connection with such acquisitions already-created hypothecs or vendor's privileges for the difference between the amount invested and the purchase prices, to again alienate property acquired as re-investment, and again invest the price under similar conditions, and to borrow upon substituted property to pay hypothecary debts affecting the property originally substituted or properties purchased by re-investment of the price of alienation of substituted property;

That, in these various operations, it has occurred that certain properties acquired as re-investment of the price of alienation of substituted property have been entered in the name of the said Hector Grothé personally and, on the other hand, personal moneys of the said Hector Grothé have served indiscriminately in paying the whole or part of the price of property acquired by the substitution as investment of the price of the alienation of substituted property;

That, through the above-cited operations, not only has serious danger resulted of contestations between the said Hector Grothé or his heirs and the substitution in which he is the institute, but also doubts as to the validity of certain deeds of alienation, assignment or purchase of property or of the debts therein contracted, which doubts may prevent future administration, endanger the property of the substitution and compromise the interests of third persons who have contracted with it;

That the petitioner John T. N. Hughes is now curator to each of the said substitutions;

That a deed of transaction between the said Hector Grothé personally and the substitution in which he is institute was entered into and passed on the 12th of March, 1934, before René Faribault, notary, at Montreal, after authorization granted by Honourable Judge Edouard

Fabre Surveyer, a judge of the Superior Court in Montreal, on the 10th of March, 1934, on the advice of a family council of which all the petitioners Grothé and the curator to the substitution formed part, and which was held in the presence of the said Notary René Faribault at Montreal on the 9th of March 1934, the whole for the purpose of preventing any litigation and definitely establishing the respective rights and obligations between the said Hector Grothé personally and the substitution in which he is institute;

That, according to the terms of the said deed of transaction, and pursuant to the advice of the family council and the aforesaid judicial authorization, an abstract was made of all the deeds passed since the original partition having reference to the said substitution, a just account and partition of the present properties of the said substitution and of the said Hector Grothé personally was determined, and the final attributing of the said properties was made to them respectively according to their just interests, with all necessary assignments of rights and obligations to give effect thereto;

That it is now expedient to validate and confirm, as far as need be, the said deed of transaction as well as the previous deeds mentioned therein, not merely to render justice to the said Hector Grothé and the substitution, but also to safeguard the rights of third parties;

That, seeing the confidence shown by the late Louis Ovide Grothé in his will in the judgment of his five children collectively, and for the best interests of both substitutions created by the said will, it is expedient to define the conditions under which the respective representatives of the said substitutions may, with the assent of the brothers and sister of the institutes, petitioners, administer the substituted property and dispose thereof; and

Whereas it is expedient to grant the prayer of the petitioners;

Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

1. The final alienation, in whole or in part, of the substituted properties forming the object of the residuary legacies to Hector Grothé and Céline Grothé in the will of the late Louis Ovide Grothé, made in Montreal, on the 30th of May, 1911, before Notary C. E. Leclerc, under No. 19529 of his repertory, and attributed to each of them respectively by deed of partition passed at Montreal on

Final alienation of substituted properties of Estate Louis Ovide Grothé.

	the 14th day of June, 1912, before the said Notary C. E. Leclerc, under No. 20045 of his repertory, or the final alienation of the properties acquired since or which may be acquired hereafter by investment of the capital or price of sale of the substituted properties, may, in addition to and independently of the means authorized by the Civil Code, validly take place before the opening, in each of the two substitutions respectively, by notarial deed <i>en minute</i> , entered into by the institute and the curator to the substitution concerned, upon the conditions determined by them, provided that:
Proviso.	
Minimum price.	a. the minimum price at which such alienation may be effected has been previously authorized by a judge of the Superior Court at Montreal, on the petition of the said institute and curator, and that
Approval thereof.	aa. with regard to the one or the other of the said substitutions, such judge has received, with such petition, the approval in writing of the said price of alienation by the institute and the curator and by the majority of the brothers and sister living of the institute in question, and that
Representation of certain substitution.	ab. respecting the substitution with which Hector Grothé is charged, and in the event of the death of any of his brothers and sister, the deceased may be represented, by root, for the purposes mentioned in sub-paragraph aa above, by the majority of his or her children having the exercise of their rights, and that
Idem.	ac. respecting the substitution with which Céline Grothé is charged, the judge has received the approval in writing of the said price of alienation by the husband of the institute and by the majority of her children having the exercise of their rights; and provided that
Investment of price of alienation.	b. the price of alienation be invested in accordance with paragraphs 3, 4, 5, 6, 7, 8 and 9 of Article 953a of the Civil Code, and that
Deposit of purchase price, etc.	ba. in the cases contemplated by paragraphs 5 and 7 of the said Article 953a of the Civil Code, the deposit of the purchase price or of the repayment of capital be made either in the hands of the prothonotary of the Superior Court in Montreal, or of the Administration and Trust Company, or of the <i>Société Nationale de Fiducie</i> , which corporations, in such case, shall replace the said prothonotary for all the special purposes mentioned in paragraphs 5, 7 and 8 of the said Article 953a of the Civil Code, and that
Investment of price of alienation, etc.	bb. the investment of the price of alienation or of the capital derived from such investment be effected by notarial deed <i>en minute</i> , entered into by the institute and

the curator to the substitution after authorization, upon their petition, by a judge of the Superior Court of the district of Montreal.

2. The deed of transaction between Hector Grothé personally, on the one part, and the said Hector Grothé and John T. Hughes, the two last in their respective capacity of institute and curator to the substitution therein set forth, on the other part, entered into at Montreal on the 12th of March, 1934, before Notary René Faribault, under No. 11108 of his repertory, following upon the authorization granted by a judge of the Superior Court in Montreal, on the 10th of March, 1934, on the advice of a family council held at Montreal, on the 9th of March, 1934, before the said Notary René Faribault, is, in so far as need be, declared valid and confirmed in its entirety; and, subject to the said deed of transaction and more especially to the definitive adjustments, assignments and attributions therein made of the properties, rights, charges and obligations mentioned therein, all the deeds cited in the said deed of transaction having reference to the properties and rights originally substituted in either of the said substitutions, or to the properties and rights since acquired by the said Hector Grothé, either personally or as institute, by investment wholly or in part of the capital or price of the alienation of the substituted properties or of properties acquired for such investment, or relating to any acquisition, alienation or assignment of such properties and rights, or relating to any obligation entered into or assumed by or in favour of any person with regard to such properties, are, in so far as need be, declared valid and confirmed in their entirety.

Validation
of certain
deeds of
transaction.

3. The institute and the curator in the one or the other substitution are jointly authorized to borrow, by granting a hypothec on the substituted properties or otherwise, the necessary monies to pay and reimburse the hypothecary or privileged debts affecting the originally substituted properties at the time of the partition on the 14th of June, 1912, or entered into or assumed upon the properties since acquired for investment as aforesaid.

Joint au-
thorization
to borrow.

4. The costs incurred for the passing of this act shall be borne, two-thirds by the substitution with which the said Hector Grothé is charged, and one-third by the substitution with which the said Céline Grothé is charged.

Costs of act.

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

Coming into
force.

