



## CHAPTER 179

### An Act respecting the Cherrier-Sénécal Donation

[Assented to, the 11th of March, 1931]

**W**HEREAS Miss Marie Caroline Monk, spinster, of the Preamble. age of majority, and Frédéric Arthur Monk, agent, both of the city and district of Montreal, have, by their petition, represented:

That they are the irrevocable donees and absolute owners of certain immovable property described hereinafter and situated in the city of Montreal, under a deed of gift *inter vivos* made before M<sup>re</sup>. Hercule Gohier, notary, from Miss Philomène Charlotte Cherrier and Dame Marie Josephite Louise Cherrier, widow of Denis Henri Sénécal, in his lifetime, advocate, the said donees being the nephew and niece of the said Miss Philomène Charlotte Cherrier, and grandchildren of the said Dame Marie Josephite Louise Cherrier;

That the said deed of gift was duly registered in the registry office of the counties of Hochelaga and Jacques-Cartier, on the sixth of June, 1912, under No. 216284; in the registry office of the division of Montreal East, on the sixth of June, 1912, under No. 86387; and in the registry office of the division of Montreal West, on the sixth of June, 1912, under No. 153151;

That the immovable properties so given are as follows:

- (i) The lot known and designated on the official plan and book of reference of the East Ward of the city of Montreal, under No. 93, fronting on the north-west side of St. Amable street, and extending from Jacques-Cartier Square to St. Vincent street;
- (ii) The lot known and designated on the official plan and book of reference of the East Ward of the city of Montreal, known under No. 95, and fronting on

the southeast side of St. Amable street, and extending from Jacques-Cartier Square to St. Vincent street and St. Paul street;

- (iii) The lot known and designated on the official plan and book of reference of the East Ward of the city of Montreal, under No. 126, fronting on Gosford street, and extending from Notre-Dame Street East, to Champ de Mars street;
- (iv) The lot known and designated on the official plan and book of reference of the West Ward of the city of Montreal, under No. 133, fronting on St. François-Xavier street, and also fronting on Hospital street;
- (v) The lot known and designated on the official plan and book of reference of the Centre Ward, of the city of Montreal, under No. 22, at the southeast corner of St. Paul street and Custom House Square;
- (vi) The lot known and designated on the official plan and book of reference of St. James Ward, of the city of Montreal, under No. 209;
- (vii) The lots known and designated on the official plan and book of reference of the parish of St. Raphael de l'Ile Bizard, county of Jacques-Cartier, under Nos. 1 and 8, forming part of the seigniorial manor and domain of St. Raphael de l'Ile Bizard;

with all the buildings constructed on the said lots;

That the said donors died in Montreal, as follows: the said Dame Josephte Louise Cherrier, widow of Denis Henri Sénécal, on the 14th of January, 1917, and the said Miss Marie Philomène Charlotte Cherrier, on the 30th of April, 1924, and that the trustee appointed under the said deed of gift, the Honourable Frédéric Dabartzch Monk, father of the donees, died in Montreal, on the 15th of May, 1914, and consequently the trust established came to an end at that date, and since then, the said Miss Marie Caroline Monk, and the said Frédéric Arthur Monk, have been and are, by the terms of the said deed of gift, the absolute owners of the said immoveables, with right to dispose of the same as they may deem fit;

That the said gift was made subject to the said donees providing for the needs of their brother, James Deering Monk, (nephew and grandson of the donors), by paying for his board and maintenance, the said donors leaving it entirely in the discretion of the said donees what sum should be devoted and spent for the said James Deering Monk, the said alimentary obligation being guaranteed by hypothec affecting all the immoveables given;

That the said donees have always faithfully and punctually fulfilled their obligation to pay the cost of the board and maintenance of their said brother, and have contributed in the past years an average of three thousand dollars per annum;

That the said properties so given to the said Miss Marie Caroline Monk and the said Frédéric Arthur Monk are old, and the buildings thereon require yearly ever greater and more expensive repairs and need to be renovated and in some cases rebuilt in order to avoid their total depreciation, whilst on the other hand the lots increase slowly in value;

That, considering these conditions, it is wise, fair and equitable to determine the amount of one or more hypothecs to guarantee the execution of the obligation to provide for the needs of the said James Deering Monk, and to limit such hypothecs to certain properties by liberating all the others, and further, to permit that such hypothecs be replaced by the deposit of fixed sums, either in money or in bonds in the hands of a trust company to remain there for the lifetime of James Deering Monk, in order to secure or guarantee the payment of his board and maintenance as desired by the donors under the said deed of gift;

That the properties known and described on the official plan and book of reference of the East Ward of the city of Montreal, under numbers 126, 95 and 93, valued, respectively, by the city of Montreal at sixty-nine thousand seven hundred dollars, fifty-nine thousand four hundred dollars, and forty-four thousand three hundred dollars, and which yield on an average a net annual revenue of seven thousand two hundred dollars, four thousand six hundred dollars, and four thousand eight hundred dollars, respectively, are immoveables received by the donees under the said deed of gift, and are ample security for the execution of the obligation to provide for the needs of the said James Deering Monk, as aforesaid;

That the Royal Trust Company is duly qualified and authorized by law to act as trustee for the purpose of receiving, holding and administering the sums which may be deposited in money or bonds in the place and stead of the said hypothecs, in the event of the said Miss Marie Caroline Monk and the said Frédéric Arthur Monk desiring at any time to replace the said hypothecs or any of them by such deposit as security;

Whereas the said James Deering Monk has, through his curator, contended that, if the amount of the hypothecary

guarantee is determined, the undetermined obligation created in his favour by the said deed of gift should be replaced by a fixed and irrevocable life-annuity at the rate of five thousand dollars per year;

Whereas it is expedient to grant his prayer and the prayer contained in the said petition;

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

Irrevocable  
annuity to  
James  
Deering  
Monk.

**1.** The undetermined obligation imposed upon the said Frédéric Arthur Monk and Marie Caroline Monk in favour of their brother James Deering Monk, by the deed of gift *inter vivos* from Miss Philomène Charlotte Cherrier and Dame Marie-Josephite Louise Charrier, widow of Denis Henri Sénécal, in their favour, made before Mtre. Hercule Gohier, notary, on the fourth of June, 1912, (registered in the registry office of the counties of Hochelaga and Jacques-Cartier, on the sixth of June, 1912, under number 216284; in the registry office of the division of Montreal East, on the sixth of June, 1912, under number 86387; in the registry office of the division of Montreal West, on the sixth of June, 1912, under number 153151) is, from the first of March, 1931, replaced by the joint, solidary and irrevocable obligation to pay him a fixed life-annuity at the rate of five thousand dollars (\$5,000.00) per year, due in monthly allowances of \$416.66 $\frac{2}{3}$  on or before the first of each month, said annuity always remaining alimentary as to its nature, and inalienable and not distrainable for whatever reason or cause.

Hypothec  
restricted to  
certain  
properties.

**2.** The hypothec guaranteeing the alimentary life rent of James Deering Monk is restricted and limited to the property known and designated on the official plan and book of reference of the East Ward of the city of Montreal under No. 126, with all the buildings thereon erected (fronting on Gosford street, and extending from Notre-Dame Street East to Champ de Mars Street), which remains affected and hypothecated as security for the said rent to the amount of forty thousand dollars, and to the property known and designated on the official plan and book of reference of the East Ward of the city of Montreal under No. 95, which remains charged and hypothecated as security for the said rent, for the amount of thirty-five thousand dollars, and to the property known and designated on the official plan and book of reference of the East Ward of the city of Montreal under No. 93, which remains charged

and hypothecated as security for the said rent, for the sum of twenty-five thousand dollars; and the following immoveables are liberated and discharged from the said hypothec guaranteeing the said rent under the said deed of gift, to wit:

The lot known and designated under No. 133, of the official plan and book of reference of the West Ward of the city of Montreal; <sup>Immoveables liberated.</sup>

The lot known and designated under No. 22, of the official plan and book of reference of the Centre Ward of the city of Montreal;

The lot known and designated under No. 209, of the official plan and book of reference of Jacques-Cartier Ward of the city of Montreal;

The lots known and designated under Nos. 1 and 8, of the official plan and book of reference of the parish of St. Raphael de l'Île Bizard, in the county of Jacques-Cartier.

Upon the presentation and deposit of a certified copy of this act the registrar of any registration division in which <sup>Duty of registrar.</sup> any of the said properties is situated shall cancel the said hypothec from said properties except only as regards the lots known and designated under Nos. 126, 95 and 93, in the said official plan and book of reference of the East Ward of the city of Montreal, which shall remain charged and hypothecated within the limit determined above and the hypothec thus modified with respect to the said lots Nos. 126, 95 and 93 shall keep the same rank as the hypothec resulting from the said deed of gift and its registration.

**3.** The said immoveables Nos. 126, 95 and 93 shall be, <sup>Administration by Royal Trust Company.</sup> from the sanction of this act, managed and administered by the Royal Trust Company, as trustee, for the lifetime of the said James Deering Monk or until they are sold. In case of any of the said immoveables being sold before the death of the said James Deering Monk, the price of sale, <sup>In case of sale.</sup> up to forty thousand dollars for the immoveable No. 126, thirty-five thousand dollars for the immoveable No. 95 and twenty-five thousand dollars for the immoveable No. 93, shall be payable and shall be handed to the Royal Trust Company which shall be trustee for the said sums and which must invest them in accordance with article 981<sup>o</sup> of the Civil Code. This trusteeship shall cease upon the death of the said James Deering Monk.

It shall, however, be lawful for the said Frédéric Arthur Monk and Marie Caroline Monk to release at any time <sup>Certain deposits to give release from hypothec.</sup> from the trusteeship and the said hypothec any of the said immoveables by depositing at the Royal Trust Company

the sum of forty thousand dollars, or the sum of thirty-five thousand dollars, or the sum of twenty-five thousand dollars, as the case may be, and any sum thus deposited shall be subject to the said trusteeship.

Deposits not  
distrain-  
able.

Any sum thus deposited at the Royal Trust Company in virtue of this act shall guarantee the payment of the said annuity and shall not be distrainable for the lifetime of the said James Deering Monk.

Deposit of  
certificate.

**4.** Upon the deposit and registration in the registry office of the registration division of Montreal of a certificate of the Royal Trust Company, establishing that it has received, in money or in bonds, of the Dominion of Canada or of the Province of Quebec, either as price of sale or otherwise, the sum of forty thousand dollars, or the sum of thirty-five thousand dollars, or the sum of twenty-five thousand dollars, to guarantee the rent payable to the said James Deering Monk, for his lifetime, the hypothec hereby restricted to the said lot 126 of the official plan and book of reference of the East Ward of the city of Montreal, or the hypothec hereby restricted to the said lot 95 of the official plan and book of reference of the East Ward of the city of Montreal, or the hypothec hereby restricted to the said lot 93 of the official plan and book of reference of the East Ward of the city of Montreal, as the case may be, shall be extinguished and shall disappear.

Extinction  
of certain  
hypothees.

Payment of  
annuity.

**5.** The said Frédéric Arthur Monk and Marie Caroline Monk shall be entitled to the income of the said immovables Nos. 126, 95 and 93 or of the sums deposited at the Royal Trust Company in virtue of this act as long as they regularly perform the duties of the said annuity. In case of default in the payment of the said annuity as determined above, the Royal Trust Company shall pay it out of the said income, and, in case of insufficiency, out of the capital; in such case the said annual income, up to the amount of the said annuity, shall not be distrainable.

Insuring of  
immovea-  
bles.

**6.** The said Miss Marie Caroline Monk and the said Frédéric Arthur Monk shall constantly keep insured against fire, in favour of the Royal Trust Company as trustee, the properties charged and hypothecated in guarantee of the said annuity, by virtue of this act, up to the amount for which each is hypothecated as aforesaid, in an insurance company or insurance companies approved by the said Royal Trust Company, and, upon their failing so to do, the said Royal Trust Company, as trustee, is authorized to

provide therefor in their stead and at their expense; in case of fire, the proceeds of the insurance shall be used by the said trustee to repair and rebuild the burnt buildings, or shall be retained by the trustee as a deposit for the purposes provided for in this act.

**7.** This act shall come into force on the day of its <sup>Coming into</sup> sanction. <sub>force.</sub>