

## C H A P. 131

An Act concerning the estate of the late Walter Kavanagh

[Assented to 19th February, 1914]

**W**HEREAS Mary Louisa Cecilia Doherty, widow of Preamble.

the late Walter Kavanagh, and her son Joseph Kavanagh, both of the city of Montreal, and her daughter Mary Elizabeth Kavanagh, wife of John Moore McAdam, of the city of New-York, in the State of New-York, one of the United States of America, have, by their petition, represented that, according to their titles, they are the owners and are in possession of the following immoveable property, situate in the city of Montreal, to wit:

a. The lots of land known and designated on the official plan and book of reference of Saint Ann's ward of the city of Montreal under the Nos. 1302 and 1303;

b. The immoveable property consisting of a strip of land of irregular shape situate on Notre-Dame street, in the said Saint Ann's ward, lying immediately between the southwest gable of the brick house erected on the lot No. 1306, and the northeast gable of a two story wooden building; the said strip of land forming part of the lot of land known and designated on the said official plan and book of reference of Saint Ann's ward under the No. 1305, and the said strip measuring one foot, more or less, in front, and thence going to a point at a depth of thirty-four feet, as the whole now appears enclosed on the front of the said Notre-Dame street;

c. That part of the lot of land known and designated on the said official plan and book of reference under the No. 1307, bounded in front by Notre-Dame street, in rear by the said No. 1302 and by the remainder of the said official lot No. 1307, on one side by the said official lots 1306, 1305, 1303 and 1302, and on the other side by the official lot No. 1308 of the said official plan and book of reference;—the whole with the buildings thereon erected, forming one and the same establishment, to wit: an abat-toir, a salting house and accessories fronting and having an entrance on Notre-Dame street, in the city of Montreal;

That the whole of the said immoveable property, with a larger extent, belonged in 1844 to Joseph Gareau, senior, and his wife Agathe Pilon, and that, on examination of the title of the petitioners' *auteurs*, it appears that some small undivided part of said immoveables may still be affected by substitutions created by the wills of said late Joseph Gareau, senior, and his wife Agathe Pilon;

That the said Joseph Gareau, senior, was first married

to Marie Louise Juillet and by his second marriage on the 13th January, 1802, he was married to his second wife the said Agathe Pilon;

That of his first marriage there were born two children namely: Joseph and François, and of his second marriage eleven children were born, namely: (1) Claire Gareau, wife of Nicholas Barré; (2) Benjamin Gareau, long since absent and now presumed to be dead; (3) François Xavier Gareau; (4) Euphrosine Gareau, wife of Louis Crevier; (5) Adelaïde Gareau, wife of François Monet; (6) Edouard Gareau; (7) Charles Gareau; (8) Felix Gareau; (9) Léon Gareau, (who predeceased his father); (10) Philippe Gareau and (11) Louis A. Gareau;

That the said Joseph Gareau, senior, died on the 16th of April, 1850, and the said Agathe Pilon died on the 10th of December, 1857, having previously made donations of different parts of the immoveable property belonging to them, including the greater part of the immoveable property hereinabove described, and that in said deeds of donation the lots conveyed thereby were described by numbers on a plan said to have been attached to one of the said deeds, but which plan has disappeared;

That the only donations by the said Joseph Gareau and Agathe Pilon insinuated or registered are the following, namely:

1. A donation—18th December 1844—to Philippe Gareau, with substitution in favor of his children;

2. A donation—19th December 1844—to Charles Gareau, with substitution in favor of his children;

3. A donation—17th December 1844—to Louis A. Gareau, with substitution in favor of his children;

4. A donation—23rd December 1844—to Benjamin Gareau, (then an absentee), with substitution in favor of his children;

5. A donation—18th December 1844—to Felix Gareau, with substitution in favor of his children;

6. A donation—20th December 1844—to Edouard Gareau, with substitution in favor of his children;

7. A donation—23rd December 1844—to Marie Claire Gareau, wife of Nicholas Barré, with substitution in favor of her children;

8. A donation—23rd December 1844—to Euphrosine Gareau, wife of Louis Crevier, with substitution in favor of her children;

9. A donation—18th December 1844—to François-Xavier Gareau, with substitution in favor of his children;

10. Two donations—17th December 1844 and 6th April

1850—to Adelaide Gareau, wife of François Monet, with substitution in favor of her children;

11. A donation—25th March 1845—to Felix Gareau, and François-Xavier Gareau, but apparently this donation cannot affect any of the property in question;

That the said Joseph Gareau, senior, made his will on the 3rd of July, 1849, and bequeathed the remainder of his property in eleven equal shares, to each of the following:

1. The two children of his son François Gareau; 2. Joseph Gareau; 3. Claire Gareau; 4. Benjamin Gareau (then an absentee); 5. François-Xavier Gareau; 6. Euphrosine Gareau; 7. Adelaïde Gareau; 8. Edouard Gareau; 9. Charles Gareau; 10. Félix Gareau; 11. The two children of his son Léon Gareau (then deceased) with substitution in favor of the children of each of the said legatees;

That the said Agathe Pilon bequeathed the remainder of her property in nine equal parts to each of the following: 1. Claire; 2. Benjamin (then an absentee); 3. François Xavier; 4. Euphrosine; 5. Adélaïde; 6. Edouard; 7. Charles; 8. Félix; and 9. the two children of her deceased son Léon, with substitution in favor of the children of each of said legatees;

That the late Walter Kavanagh was common as to property with Mary Louisa Cecilia Doherty, his wife, in virtue of their marriage contract executed at Sherbrooke, in the Province of Quebec, before J. A. Archambault, notary, on the 9th day of July, 1879;

That the said Walter Kavanagh died intestate at Montreal, on the 22nd day of November, 1905, leaving as his sole heirs his two children Mary and Joseph, and that declaration to this effect was made by his widow, the said Mary Louisa Cecilia Doherty, before A. D. Jobin, notary, on the 28th day of June, 1906, registered on the 24th November, 1906, in the Registry office of Montreal West under the No. 143193;

That the said immovable property was acquired by the late Walter Kavanagh on the 10th of April, 1902, at a sale by the Sheriff of the district of Montreal, as appears by deed of sale dated the 10th April, 1905, registered in the Registration Division of Montreal West under No. B 140,536;

That it is impossible to say whether this sale has wiped out the substitution created by the wills of the said Joseph Gareau and his wife in favor of one of the children of their son Leon Gareau (deceased) and of the said child's children, seeing that notwithstanding the most careful search it is impossible to establish if this child ever existed, and if so, whether it had died before the 10th of April, 1902;

That the only information that it has been possible to secure is to the effect that such a child did exist and died in the United States before 1857, while still young;

That no mention is made of the said child nor of its children in any of the numerous deeds registered against the said properties;

That by a deed of partition executed on the 23rd of December, 1858, before Mtre E. MacIntosh, N. P. the apparent heirs of the said Joseph Gareau and of the said Agathe Pilon, his wife, declared that the balance of the immoveable property composing the succession of the two last mentioned persons was disposed of by two deeds of sale dated the 29th of April 1858, executed before E. MacIntosh, N. P.;

That it is however doubtful whether two strips of land forming part of lot No. 1302 reserved for the proposed extension of Barré street and of another proposed street coming from Griffintown have been disposed of; that it is possible that the said strips of land may have fallen into the testamentary estate of Joseph Gareau and Agathe Pilon;

That these strips of land have an area of seven thousand seven hundred and fifty feet, the value of which as established by experts and by the municipal valuation does not exceed one dollar a foot;

That if the said substitution still exists and has not been purged by the sheriff's sale, the children of this unknown child of Leon Gareau are entitled to one forty-fourth and one thirty-sixth of these strips of land by virtue of the wills of Joseph Gareau and of his wife Agathe Pilon, being equivalent to three hundred and ninety-one feet and forty-one hundredths feet of land;

And whereas the object of this act is to free such immoveables from this substitution created in favor of unknown substitutes whose existence and whose rights in virtue thereof are improbable, in order to give clear titles to the owners of the said immoveables, while at the same time reserving a guarantee of their rights to possible substitutes;

Whereas a petition has been presented to this effect and that it is advisable to comply therewith;

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

Immoveable  
to be free  
from certain  
substitution  
after a cer-

**1.** Dame Mary Louisa Cecilia Doherty, widow of the late Walter Kavanagh, Mary Elizabeth Kavanagh, his daughter, and Joseph Kavanagh, his son, may deposit with the Provincial Treasurer, in accordance with arti-

cles 1484 and following of the Revised Statutes, 1909, an amount of three hundred and forty-one dollars and ninety-one cents and shall give notice of such deposit in the *Quebec Official Gazette*, and from and after the notice of such deposit, the immoveables above described in paragraphs *a*, *b* and *c* of the preamble of this act shall be discharged and freed from such substitution created by the wills of Joseph Gareau and Dame Agathe Pilon, his wife, in favour of the unknown child of the said Léon Gareau and his children. tain deposit is made.

2. The Provincial Treasurer shall, five years after the date of the publication of this notice of deposit, return the said sum to the said petitioners, Dame Mary Louisa Cecilia Doherty, widow of the late Walter Kavanagh, Mary Elizabeth Kavanagh, his daughter, and Joseph Kavanagh, his son, if no substitute has appeared and claimed his rights, or if, having appeared and having claimed within the required period, he cannot establish his said rights. Money to be returned if no substitute appears in five years.

3. Nothing in this act shall be considered as an admission by the said petitioners of the rights which the substitutes, descendants of Léon Gareau, might claim in the said immoveables, or a renunciation on behalf of the said petitioners to the prescription acquired by them and their *auteurs*, or of other legal means which they might or will be able to oppose to the claims of the said possible substitutes, and neither shall anything in this act affect the rights or claims of the heirs Gareau or any of them to the ownership of any portion of the said immoveables under any other title than that of institute in the said substitution in favour of the descendants of the said Léon Gareau. Not to be considered as admission or a renunciation of prescription.

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

## CHAP. 132

An Act concerning a certain substitution created by the will of the late Colin Campbell.

[Assented to 19th February, 1914]

**W**HEREAS Dame Elizabeth King, of the city of Westmount, Province of Quebec, has by her petition represented: Preamble.

That by the will of the late Colin Campbell, in his lifetime of the city of Montreal, made and passed at Montreal,