

The Provincial Statutes of Lower-Canada, Being the first session of the fourteenth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1831.

1 William IV – Chapter 32

An Act to partition the Common of the Fief Gros Bois among the Co-proprietors thereof. (31st March, 1831.)

Whereas certain inhabitants of the Fief Gros Bois, situate in the Parish of Sainte Anne d'Ymachiche [Yamachiche], in the County of Saint Maurice, are Proprietors in common of a certain tract of Land in the said Fief, commonly called the Common of Gros Bois, and whereas the said Co-proprietors have, by petition, represented that it would be more for the benefit of all persons concerned in the said Common, that partition of the same should be made among them, according to their respective rights therein, and that each of them should hold and dispose of his ascertained and divided portion of the said Common, which they are unable to effect without the sanction of the Legislature: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North-America,' and to make further provision for the Government of the said Province;" And it is hereby enacted by the authority of the same, that it shall be the duty of the Trustees of the said Common, or in default of them, it shall be lawful for any five of the Co-proprietors thereof, to cause to be published at the doors of the Churches of Sainte Anne d'Ymachiche, and of Saint Leon Le Grand, after Divine Service in the forenoon, notice requiring the Co-proprietors of the said Common, to meet within a space of time, which shall not be less than fifteen days thereafter, at such place as shall by such notice be appointed, in order to proceed to choose a proper person as Commissioner for the purposes of this Act, not having any right in the said Common, nor being allied to any of the Co-proprietors thereof; and at such meeting, the Chairman for the time being of the Corporation erected by an Act passed in the sixth year of His late Majesty's Reign, intituled, "An Act to authorize the Inhabitants of the Fief Gros Bois, in the County of Saint Maurice, to make regulations for the Common of the said Fief," shall preside and shall draw up a Proces Verbal, signed by himself and by two witnesses present at such meeting, of the proceedings at such meeting, and shall deposit the same of record in the office of some Notary Public residing within the said County of Saint Maurice.

II. And be it further enacted by the authority aforesaid, that on the day and at the place so appointed by the said notice, it shall be lawful for the Co-proprietors in the said Common, as soon as a majority of them shall have been assembled; to proceed to choose the said Commissioner by a majority of votes, and it shall be the duty of such Notary in whose office

the Proces Verbal of the proceedings at the said meeting shall be deposited, to notify the person chosen as Commissioner of his election, pursuant to this Act.

III. And be it further enacted by the authority aforesaid, that in case the person elected at such meeting, as Commissioner, shall not accept of the charge, or accepting thereof, shall afterwards resign the same, or shall absent himself from the Province, or shall die, it shall then be lawful for the Co-proprietors of the said Common to proceed to the election of another Commissioner, in the manner herein above prescribed.

IV. And be it further enacted by the authority aforesaid, that it shall also be the duty of the said Commissioner, to give public notice within one month after the date of his appointment, by an advertisement posted at the Church doors of the Parishes of Sainte Anne d'Yamachiche and Saint Leon Le Grand, during at least two successive weeks, and by public notice on two successive Sundays, immediately after divine service in the forenoon, at the doors of the Churches aforesaid, of the place and days when and where he will hold his office, and to require all and every of the said Co-proprietors to exhibit at his office, within fifteen days after such notice, all the deeds of grant or judgments, or other titles establishing their respective rights in the said Common, in order that the said rights may be definitively ascertained in the manner hereinafter provided. Provided always that the Seignior of that part of the Fief Gros Bois within which the said Common is situated, shall not be bound to exhibit for the purposes aforesaid, any other evidence of his title in and to the said Fief than the last Acte of foy and homage by him rendered to His Majesty for the same.

V. And be it further enacted by the authority aforesaid, that it shall be the duty of the said Commissioner immediately after the expiration of the time appointed for the delivery of the said Titles to him, to transmit the same to the resident Judge of the District of Three-Rivers [Trois-Rivières], who is hereby authorized and required to examine the same and to pronounce a judgment either in term or in vacation, declaring the validity or invalidity of every such Title respectively, and to give notice to the Commissioner, of the day on which such judgment will be rendered, and to order a Plan of the said Common to be made by a sworn Land Surveyor, if the majority of the Co-proprietors shall require it, at a meeting called in the same manner as that herein before mentioned for the election of the said Commissioner, and at which the same person shall preside, and of which a Proces Verbal shall in like manner be made and deposited; Provided always, that the limits and boundaries of the said Common as ascertained and fixed by the Surveyor employed by the said Corporation, under the authority of the eighth section of the Act herein before cited, shall be the limits and boundaries of the said Common for all the purposes of this Act.

VI. And be it further enacted by the authority aforesaid, that on receiving such notice from the said resident Judge, the said Commissioner shall immediately give notice of the time appointed for rendering such judgment, by notice in writing posted on the doors of the Churches of Sainte Anne d'Yamachiche and Saint Leon Le Grand, on the preceding Sunday after Divine Service in the forenoon, in order that all persons interested may, if they deem it advisable, be thereat, and shall after such judgment shall have been rendered proceed to

ascertain and establish the number of persons entitled to shares in the said Common, and the share to which each Co-proprietor is entitled therein, and ought to have in the partition thereof, and this by virtue either of the Deeds of Concession of the Lands of which the said Co-proprietors shall then be in possession, or of any judgment establishing such right, or of any other title, conveying to them such property according to Law, of all which it shall be the duty of the said Commissioner to make a detailed report.

VII. Provided always, and be it further enacted by the authority aforesaid, that if it shall appear to the Commissioner who shall be appointed by virtue of this Act, that any agreement or convention has been heretofore made and entered into between the Seigneur within whose Seigniority the said Common is situated and a majority of the Co-proprietors interested in the said Common, fixing or establishing the rights of the said Seigneur, he shall in the partition of the said Common, to be by him made pursuant to this Act, be guided with respect to the rights of the said Seigneur by such agreement or convention; but if there shall have been no such agreement or convention, then he shall be guided by the rights of the parties, as they may appear to him to exist, according to the titles declared to be valid by the judgment rendered by the said resident Judge.

VIII. And be it further enacted by the authority aforesaid, that when the said Commissioner shall have made his report as aforesaid, it shall be his duty, after giving sufficient notice thereof to the persons interested as hereinafter-mentioned, to deposit and file the said Report and Plan (if any shall have been required and made) in the office of the Court of King's Bench, for the District of Three-Rivers, and to sue for and obtain the ratification and confirmation thereof at any of the Inferior Terms of the said Court, or during vacation, according to the rules of proceeding in the said Court, and it shall be lawful for the resident Judge of the said District, to order the ratification, amendment or rejection of the said Report according to the nature and circumstances of the case and in as summary a mode as possible, with power to the said resident Judge to give judgment in vacation, if necessary.

X. And be it further enacted by the authority aforesaid, that it shall be the duty of the Commissioner aforesaid, before proceeding to prosecute the ratification of the said Report, to cause to be posted up and read at the Church door of Sainte Anne d'Yamachiche and Saint Leon Le Grand, on two successive Sundays, a notice informing all persons interested in the partition of the said Common, of the day when the said Report and Plan (if any shall have been required and made) is to be by him filed and deposited in the office of the said Court of King's Bench, to the end that all persons deeming themselves aggrieved either in the partition or apportionment of the said Common, to them respectively made by the said Report, or by omission of their respective rights or claims in the said Common, or in any other way whatsoever, may if they see fit, have an opportunity of opposing the ratification of the said Report and obtaining justice respecting the same.

XI. And be it further enacted by the authority aforesaid, that as soon as the said Report shall have been ratified, it shall be the duty of the said Commissioner to convene a meeting of the Co-proprietors of the said Common, by a notice which shall be read and published at

the door of the Church of the Parish of Sainte Anne d'Yamachiche and Saint Leon Le Grand, on a Sunday or Holiday immediately after Divine Service in the morning, and which shall state the day, hour and place at which such meeting is to be holden, and the reason of the same, and that as soon as the Co-proprietors or a majority of them shall so have met, the said Commissioner shall call upon them to agree among themselves upon the manner in which the said Common shall be divided into as many lots as it shall appear that there are shares in the said Common, and upon the local situation of the several lots, and also upon the number, position, and extent of the highways or bye-roads which it may be necessary to reserve for the use and convenience of the said Proprietors, of all which doings the said Commissioner shall draw up a Proces Verbal, duly witnessed as aforesaid, which Proces Verbal shall be deposited of record in the Office of a Notary Public residing within the said County of Saint Maurice. Provided always, that the said Commissioner may, if he shall deem it necessary, be assisted by a sworn Land Surveyor whom he may cause to attend at the said Meeting, and the expence of such assistance shall form part of the expences to be reimbursed to the said Commissioner by the Co-proprietors of the said Common in the manner hereinafter set forth.

XII. And be it further enacted by the authority aforesaid, that as soon as a majority of the said Co-proprietors present at the said meeing, shall have agreed upon the manner in which the said Common shall be divided, the said Commissioner shall immediately proceed to determine by lot in the presence of the Co-proprietors present at the said Meeting, or of as many of them as shall think proper to remain for that purpose at the place of meeting, the lot or lots which shall become the sole property of each of the said Co-proprietors respectively, without favor or partiality, and in the manner commonly used in like cases in this Province, and shall draw up a Proces Verbal thereof, duly witnessed, and shall deposit the same in the office of a Notary Public residing in the said County of Saint Maurice, and the said Proces Verbal shall be forever a good and valid title to each of the said now Co-proprietors for such portion of the said Common as shall therein be described as having fallen to him in the said division by lot.

XII. And be it further enacted by the authority aforesaid, that nothing in this Act contained shall extend or be construed to extend to prevent the Seignior of Gros Bois, or his heirs and assigns, from demanding, having, and exercising all and every the rights, Cens et Rentes, Lods et Ventres, Corve'es, Retrait, and other rights to him due and owing, or which may become due by virtue of the original Deed of Grant of the said Common, or by virtue of the Deeds of Grant of the lands or dwellings of the said Proprietors, or by virtue of the Deed of Grant of the said Seignior generally; all and every of which rights whatsoever they may be, are hereby wholly reserved, and which reservation shall be expressly stipulated in the Proces Verbal of the said division by lot, which shall be drawn up and deposited as aforesaid pursuant to this Act.

XIII. And be it further enacted by the authority aforesaid, that it shall be the duty of the said Commissioner, to cause to be made a just and correct distribution, fixing the proportion of the sum or sums which the said Proprietors shall be held to pay, as well for the purpose of

collecting such sum or sums of money as may become due to the Surveyor or Surveyors, who shall be employed by the said Commissioner for the purposes of this Act, as for defraying every other necessary expence and disbursement which the said Commissioner may, in the prosecution of His duties pursuant to this Act, incur, as well as the expences of prosecuting the homologation of his report when the said expences of ratification shall have been duly taxed, and all other just and lawful expences whatsoever incurred in the execution of this Act.

XIV. And be it further enacted by the authority aforesaid, that the said Proprietors shall pay to the said Commissioner on demand, at any time after the said Proces Verbal of the division by lot is duly drawn up and deposited as aforesaid, the proportion or proportions which each of the said Proprietors shall be held to pay according to the distribution which shall be made in the manner above mentioned.

XV. And be it further enacted by the authority aforesaid, that nothing in this Act contained, shall extend or be construed to weaken, diminish or extinguish the rights and privileges of His Majesty, His Heirs and Successors, nor of any person or persons, body politic or corporate, except such as are immediately affected by the provisions of this Act.

XVI. And be it further enacted by the authority aforesaid, that this Act shall be deemed a Public Act, and as such shall be judicially taken notice of by all Judges, Justices of the Peace, and all other persons whomsoever, without being specially pleaded.