

The Provincial Statutes of Lower-Canada, Being the third session of the fourteenth Provincial Parliament of Lower-Canada. Quebec: John Carleton Fisher & William Kemble, Law Printer to the King's Most Excellent Majesty, 1833.

3 William IV – Chapter 24

An Act for the Partition of the Common of the Fief Saint Antoine de la Riviere du Loup, among the Co-proprietors thereof. (3d April, 1833)

Whereas divers inhabitants of the Fief Saint Antoine, in the Parish of Saint Antoine of Rivière du Loup, 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 the said Fief Saint Antoine, and whereas the said Co-proprietors have by their Petition represented that it would be more beneficial to all the persons interested in the said Common, for the same to be divided amongst them agreeably to their respective rights thereto and that each of them were enabled to enjoy and dispose of individually his share of the said Common which they cannot do without the authority 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 five of the Co-proprietors of the said Common, to cause to be published at the Church door of the said Parish of Saint Antoine of Rivière du Loup immediately after Divine Service in the forenoon, on two Sundays or holidays, a notice, requiring the Co-proprietors of the said Common to meet within a period not exceeding fifteen days at such place as shall be appointed to proceed to choose by a majority of votes a proper person to be Commissioner, for carrying this Act into effect, and the senior Magistrate of the Parish of Riviere du Loup, shall preside at the said meeting, and shall draw up a proces verbal signed by himself and by two witnesses present at the said meeting of the proceedings had thereat, and such proces verbal shall be by him deposited in the office of one of the Notaries Public in the County of Saint Maurice.

II. And be it further enacted by the authority aforesaid, that if the person chosen as Commissioner shall not accept the said Office, or having accepted it shall afterwards resign it or shall absent himself from the Province, or shall happen to die, it shall in such cases' be lawful for the Co-proprietors of the said Common to proceed to the election of another Commissioner in the manner herein above prescribed.

III. And be it further enacted by the authority aforesaid, that it shall be the duty of the said Commissioner to give public notice within two months after his appointment, immediately after Divine Service in the forenoon, on two Sundays or holidays at the door of the said Church of the place where and of the days on which his office will be open, and to require

each and every of the said Co-proprietors to exhibit at his said office within the fifteen days following such notice, all the deeds by concessions, judgments or other acts whereby their respective rights in the said Common are established, after the expiration of which said fifteen days the said Commissioner shall not receive any such title.

IV. Provided always and be it further enacted by the authority aforesaid, that if it shall appear to the Commissioner who shall be appointed under this Act, that an agreement or convention has been made and passed between the Proprietors of the Seigniorie [Seigneurie] in which the said Common is situated, and a majority of the Co-proprietors interested in the said Common, determining the rights of the said Seigniors [Seigneurs], he shall be guided by the said agreement or convention with respect to the rights of the said Seigniors in the partition of the said Common to be made by him by virtue of this Act, but if there be no agreement or convention, he shall be guided in respect to the rights of the parties by what they may appear to him to be according to the titles that may have been exhibited by him and the statements of the parties who are interested in such rights, which the said Commissioner shall be empowered to require if he thinks proper to do so when thereunto requested by any person who may have claims to any such rights in the said Common.

V. And be it further enacted by the authority aforesaid, that it shall be the duty of the said Commissioner after the expiration of the period appointed for the exhibition of the titles in virtue whereof the persons who have exhibited them claim to have a right in the said Common to examine the same and to proceed to determine and establish the number of undivided rights and the persons possessing them, whether the same be by deeds of concession, judgments or of any other legal title by which property may be conveyed, of all which it shall be the duty of the said Commissioner to draw up a detailed report, together with his reasons for admitting or rejecting the titles against which contradictory claims shall have been set up, and he shall afterwards deposit the said Report in the Prothonotary's office of the Court of King's Bench for the District of Three Rivers [Trois-Rivières], and shall proceed to the homologation thereof, in the Inferior Term of the said Court, or in vacation, in conformity with the rules of practice of the said Court, and it shall be lawful for the resident Judge of the said Court, to order the homologation, amendment or rejection of the said report according to the nature and circumstances of the case, and in as summary a manner as possible, with power to the said resident Judge, to pronounce judgment in vacation if he shall think proper.

VI. And be it further enacted by the authority aforesaid, that when the said Commissioner shall have completed his report it shall be his duty to give notice on two Sundays or holidays immediately after Divine Service in the forenoon, at the door of the Church of the said Parish, that his report is compiled and closed, and that he has deposited it in the said Prothonotary's Office of the Court of King's Bench for the District of Three Rivers, in order that all persons who may consider themselves aggrieved by the partition made by the said Report or by the omission of their rights in or claims upon the said Common or in any other manner whatsoever may, if they think proper, oppose the homologation of said Report, and

obtain justice in that behalf on the day or days which shall be appointed for the homologation of such Report.

VII. And be it further enacted by the authority aforesaid, that as soon the said report or any other report which the said resident Judge shall have ordered to be made, (if the first report shall be rejected) shall have been homologated it shall be the duty of the said Commissioner to cause a meeting of the Co-proprietors of the said Common, to be held by notice which shall be given and published at the Church door of the said Parish on two Sundays or holidays immediately after Divine Service in the forenoon, appointing the day, the hour and the place of the meeting at which the said Commissioner shall preside, as at all others which shall be held in virtue of this Act, after his appointment, and he shall there and then call upon the Co-proprietors who may be present, to agree together as to the manner in which the said Common shall be divided, the extent of the roads and by-roads, and of the water courses which by the said meeting may be deemed necessary, and the places where they shall be made for the use and convenience of the said Co-proprietors, and also in the appointment of a sworn Surveyor, by whom the said Common shall be divided into as many partitions or lots as there appear to be undivided claims thereunto, and in case any portion of the said Common shall be of better quality than others, and that the majority of the Co-proprietors present at the said meeting, shall desire that arbiters or experts be appointed to value the lots after they shall have been divided by the said Surveyor, and to fix the sum to be paid by those who shall obtain the better lots to those whose lots shall be of inferior quality, it shall then be the duty of the said Commissioner to require the said meeting to appoint two arbiters (who shall not be interested nor related to any of those interested) to make such valuation and determine the lots on or for which compensation shall be paid or received, and in case of disagreement in opinion such arbiters or experts shall have the right of naming a third, and shall execute a Notarial act of the valuation by them made, and shall produce a copy thereof before the Commissioner before he shall proceed to make the said partition, of all which proceedings the said Commissioner shall draw up a proces verbal which lie shall cause to be signed by the persons then present who are able to write, and shall take the marks of those who cannot write, and shall afterwards deposit the said proces verbal in the office of one of the Notaries Public for the said County of Saint Maurice.

VIII. And be it further enacted by the authority aforesaid, that after the said Co-proprietors shall have determined upon the manner in which the said partition shall be made, and upon the roads, by-roads and water-courses which may have been considered necessary by the meeting mentioned in the preceding section, and shall have received the valuation of the said arbiters in case that the majority of the Co-proprietors present at the meeting shall have required the appointment of arbiters, the said Commissioners shall again give public notice, on two Sundays or holidays, and after the said Common shall have been laid out by the said Surveyor, at the Church door of the said Parish, immediately after Divine Service, in the forenoon, appointing the place, day and hour of a meeting, in order that the proprietors of each undivided share of the said Common, or any of them, may determine by Lot which shall be the share or shares of each of the said Co-proprietors respectively, without favor or partiality, and in the mode commonly used in such cases in this Province, and shall draw up a

proces verbal of the whole which he shall deposit in the office of the Notary Public of the said County of Saint Maurice, and the said proces verbal shall always be a good and valid title to each of the said present Coproprietors for that part of the said Common which shall be mentioned in the said proces verbal as having fallen to his share by Lot.

IX. And be it further enacted by the authority aforesaid, that none of the provisions of this Act shall extend or be construed to extend to prevent the Seigniors of the Fief Saint Antoine, or their assigns, from demanding possession and exercising all and every of the rights of cens et rentes, lods et rentes, corvees, retrait, and other rights due to them or which may become due in pursuance of the deed of concession for the said Common, or in pursuance of the deeds of concession of the lands of the said Proprietors, or finally in pursuance of the deed of concession of the said Seigniory, each and every of which rights whatever they may be are hereby reserved.

X. And be it further enacted by the authority aforesaid, that it shall be the duty of the said Commissioner to make or cause to be made a fair and correct apportionment, fixing the sum or sums of money which each of the said Co-proprietors is to pay, as well for the fees due to the Surveyor or Surveyors who are or may be employed by the said Commissioner as aforesaid, for the purposes of this Act, and as to the Arbiter, if any shall have been appointed, as for the defraying all the other necessary costs and expences which the said Commissioner shall incur in the execution of his duty, and also the costs of the proceedings of the homologation of his report, and all other just and legal charges incurred by virtue of this Act.

XI. And be it further enacted by the authority aforesaid, that the said Commissioner shall and may include in such apportionment all other costs and expences which may then be lawfully due by the President and Trustees of the said Common, appointed by an Act Intituled "An Act to regulate the Common of the Parish of Saint Antoine, of the Riviere du Loup, in the County of Saint Maurice," and that the said Co-proprietors to whom shares shall have fallen by the partition above mentioned, shall on demand pay to the said Commissioner (after the publishing of the said apportionment comprising all the costs and sums due as beforementioned, at the Church door of the said Parish, on two Sundays or holidays immediately after Divine Service in the forenoon) the sum or sums which are or shall become due for each lot or share of the said Common.

XII. And be it further enacted by the authority aforesaid, that nothing in this contained shall extend or be construed to extend to affect, diminish or destroy the rights and privileges of His Majesty, His Heirs and Successors, nor of any other person or persons, society or corporate body, excepting only such as this Act specially affects.