

*The Provincial Statutes of Lower-Canada, Being the third session of the ninth Provincial Parliament of Lower-Canada.* Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1819.

59 George III – Chapter 3

**An Act to secure the Inhabitants of the Inferior District of Gaspé in the possession and enjoyment of their Lands. (24th April, 1819.)**

MOST GRACIOUS SOVEREIGN,

Whereas His Grace the Governor in Chief hath, by His Message to both Houses of the Provincial Parliament, been graciously pleased to recommend to their attention the general state of the Inferior District of Gaspé, with a view to secure the Inhabitants of the said District in the possession and enjoyment of their Lands, which in the most instances have, from a wilderness, been cleared and improved to an advanced state of Agriculture, and whereas it is expedient to secure such persons in the possession and enjoyment of their Lands in the said Inferior District of Gaspé as have in good faith cleared and improved the same. May it therefore please Your Majesty that it may be enacted, and be it 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 and may be lawful to and for the Governor, Lieutenant Governor, or person administering the Government of the Province for the time being, at any time during the space of three years from the passing of this Act, to issue such and so many Commissions under the Great Seal of this Province as he shall think proper, to nominate three or more persons to be Commissioners, one of whom shall be President of each of the said Commissions; which said Commissioners shall have power and authority to hear and determine all applications that shall or may be made to them by persons holding or claiming to hold Lands as aforesaid for Grants thereof under the Great Seal of this Province, in like manner as the same might be heard and determined by His Majesty's Executive Council.

II. And be it further enacted by the authority aforesaid, that it shall and may be lawful to and for the persons holding or claiming to hold as aforesaid, to come before the said Commissioners, either in person or by their agents, and to produce to the said Commissioners the several Documents, Vouchers and other evidences on which they severally found their said claims, and the said Commissioners or any two of them, one of whom shall be the President, shall proceed to hear, decide and report thereon in manner herein after mentioned, and shall for that purpose have full power and authority to administer such oaths and also, by Warrant under their hands or the hand of one of them, to compel the attendance of all such persons and also the production of all such Books, papers and other evidence as they in their discretion shall think necessary or proper.

III. And be it further enacted by the authority aforesaid, that in hearing and deciding all such claims, whether the same be between subject and subject, or between the subject and the Crown, the said Commissioners shall be guided by the real justice and good conference of the case, without regard to legal forms and solemnities, and shall direct themselves by the best evidence that they can procure or that is laid before them, whether the same be such evidence as the Law would require in other cases or not, and in case they or the major part of them shall be satisfied that the person or persons so holding or claiming to hold the said lands as aforesaid, is, or are entitled in equity and good conscience to hold or have the said Lands, they the said Commissioners, shall report the same in the manner herein-after provided.

IV. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, it shall and may be lawful for the Governor, Lieutenant Governor or person administering the Government of this Province, for the time being, to notify and require by Proclamation, all persons holding or claiming to hold Lands in the said Inferior District of Gaspé, to present their claims thereto before the Commissioners who shall have been so as aforesaid appointed in virtue of this Act, within fifteen months next after the date of such Proclamation, at such place or places as may be in the said Proclamation specified, to the end that such claims may be heard and determined; of which Proclamation a printed copy shall immediately after the issuing thereof, be transmitted to each and every Minister, Missionary or person exercising clerical functions, Justice of the Peace, Militia and Peace Officer residing within the said Inferior District of Gaspé, who are hereby required and enjoined to publish or cause the same to be published in the most public places nearest their residences, respectively.

V. And be it further enacted by the authority aforesaid, that when any claim or claims are fyled or lodged with the said Commissioners, they shall cause Public notice to be given, by at least three Advertisements during three months in the Quebec Gazette, that such claim or claims has or have been fyled, with a description of the land or lands claimed and the Township or place in which the same are situated, and requiring all and every person and persons having any pretensions to the lands so advertized, to present their claims or pretensions thereto in the course of two months thereafter, and that in default thereof, all claims and pretensions to such land or lands will be barred and extinguished, except the claims and pretensions then fyled, and if within two months after such notification, no other claim or pretension is fyled before the said Commissioners in opposition to the claim so as aforesaid notified, the same shall, by the said Commissioners, on receiving satisfactory proof of the possession and occupation of such Land or Lands so claimed as by this Act is provided, be adjudged to be good and valid to all intents and purposes, and the Land or Lands so as aforesaid claimed, shall be held and considered as the property of such claimant or claimants. Provided always, that the expense of such notification as aforesaid shall, if requited, be paid in advance, or a sum to be deposited with the Secretary of the said Commissioners sufficient to defray the probable expense of such notification in the said Gazette, and in case any opposition to such claim or claims shall be fyled, the said Commissioners shall, as speedily as circumstances will permit, receive and record all such written and verbal evidence as the parties are able to produce in support of such respective claims, and shall decide in favor of the party whose claim or claims shall be found best supported by the evidence adduced.

VI. And be it further enacted by the authority aforesaid, that when any person claiming Landor Lands in the said Inferior District of Gaspé, or person opposing such claim or claims, shall be desirous of being heard, either in person or by Attorney, by the said Commissioners with respect to such claim or claims, or opposition thereto, the said Commissioners shall fix a day for hearing the same, and on the day appointed, such parties shall be heard, either in person or by Attorney, by the said Commissioners, the party applying for such hearing having previously given due notice to the adverse party of the day and place when they are to be heard, as above-mentioned.

VII. Provided always, and be it further enacted by the authority aforesaid, that ten years peaceable and uninterrupted possession and occupation of any Land or Lands by any person or persons, or by their auteur or auteurs, in the said Inferior District of Gaspé, with a written title, although the same may not have been made and executed in due and legal form, and although such possession may have been disputed, without an Action having been actually instituted at Law to dispossess such possessor and occupier, or twenty years peaceable and uninterrupted possession as aforesaid of such Land or Lands, without any other title or titles whatsoever, shall by the Commissioners who shall be appointed in virtue of this Act, be taken and considered as sufficient to entitle all and every the possessors and occupiers of such land or lands as aforesaid respectively to have, hold, possess and enjoy the same as owners and proprietors thereof, any Law, usage or Custom in any wise to the contrary notwithstanding. Provided always, that nothing in this Act contained, shall extend or be construed to extend to prejudice any person or persons against whom, by the Laws of this Province, prescription may not legally be set up and pleaded.

VIII. Provided always, and be it further enacted by the authority aforesaid, that it shall be the duty of the perform who shall be appointed Commissioners as aforesaid, to cause a Register and Duplicate of the same to be kept by such person as the Governor, Lieutenant-Governor, or person administering the Government of the Province for the time being, shall appoint as Registrar to the said Commissioners, to which Register all and every person and persons shall, as often as they, may require, have access, without paying any fee or reward whatever, which Register and duplicate shall, so soon as the duties of the said Commissioners, in pursuance of this Act, shall be terminated, be deposited in the office of His Majesty's Executive Council for this Province, and all and every person and persons shall and may, as often as they may so require, have access to the same, and may take copies and extracts therefrom upon paying the sum of one shilling, currency, to the Clerk of the said Executive Council, and at the rate of six pence, currency, for every hundred words, for every copy of such extract or copy which they may officially certify.

IX. And be it further enacted by the authority aforesaid, that the said Commissioners shall, from time to time, transmit to the Clerk of the Executive Council of this Province, a report of all such claims as they shall have examined and decided, and the person or persons in whose favor they shall have, reported, shall be, considered as entitled to have a grant or grants, under the Great Seal of the Province, of the lands in respect of which such report shall be made, and the same shall issue to such person or persons, or to his or their heir or, heirs, assignee or assignees accordingly.

X. And be it further enacted by the authority aforesaid, that when any person or persons may be aggrieved by any proceeding or decision of the said Commissioners, it shall be lawful for the person or

persons aggrieved, to appeal therefrom by Petition to the Executive Council of this Province, and the said Commissioners or any two of them, or the President of the said Commissioners shall, upon due service upon them or him, of an order by any three Members of the said Executive Council, return under their or his hands or hand and Seal, a true and exact copy of all such documents and proceedings relative to the decision complained of, as may have been produced and offered to them the said Commissioners, which decision or decisions the said Executive Council or any five of them, are hereby authorised and empowered to revise and correct in case of error, as to law and equity it shall seem expedient. Provided always, that no such appeal shall be allowed, unless the appellant shall give notice to the said Commissioners, within twelve Calendar months after their decision, of his intention to appeal therefrom, and shall also, at the same time, give security to the satisfaction of the said Commissioners, in a sum not exceeding thirty pounds, currency, that he will prosecute his appeal with effect, or in default thereof, will pay such costs to the person or persons in whose favor such report shall have been made, as the said Council in its discretion, shall award.

XI. And be it further enacted by the authority aforesaid, that the powers given to the Commissioners who shall be named in virtue of this Act, shall, at the expiration of three years, after the date of their nomination and appointment, wholly cease and determine.

XII. And be it further enacted by the authority aforesaid, that all Hypothèques and Judgments which would have bound the said Lands, or any part of them, in case Grants thereof had been given under the Great Seal of the Province, before such Hypothèques or Judgments were made or given, shall have the same force and effect, with respect to such Lands, as if the same had been granted as aforesaid, previous to the dates of such Hypothèques or Judgments as aforesaid, any Law to the contrary in any wise notwithstanding.

XIII. And be it further enacted by the authority aforesaid, that it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the Government of the Province, for the time being, out of any of the unappropriated monies which now are, or which hereafter shall come into the Hands of the Receiver General, to advance for the purposes of this Act, a sum not exceeding two thousand pounds, current money of this Province.

XIV. And be it further enacted by the authority aforesaid, that the due application of the monies which may be paid and advanced to pursuance of this Act, shall be accounted for to His Majesty, His Heirs and Successors, through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct.

XV. And be it further enacted by the authority aforesaid, that during the continuance of this Act, the said Commissioners shall make report to the Governor, Lieutenant Governor, or Person administering the Government of this Province, for the time being, and to both Houses of the Provincial Parliament, in the first fifteen days of each Session, containing an abstract of their proceedings during the foregoing year, the names of the Persons who shall have made claims, the situation and extent of the Lands claimed, and the names of the persons in whose favor they shall have reported, with what other remarks they may think proper.

XVI. And be it further enacted by the authority aforesaid, that nothing in this Act contained shall be construed, in any manner or way, to affect the rights of His Majesty, his Heirs and Successors, or of any person or persons, body or bodies politic or corporate, such only excepted as are mentioned in this Act.

XVII. And be it further enacted by the authority aforesaid, that this Act shall be deemed and considered as a public Act, and as such shall judicially be taken notice of by all Judges, Justices of the Peace and others whom it may concern, without being specially pleaded.