

The Provincial Statutes of Lower-Canada, Being the second session of the eleventh Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1822.

2 George IV – Chapter 8

An Act For better regulating the Common of the Seigneurie of La Prairie de la Magdeleine. (18th February, 1822.)

Whereas certain of the Inhabitants of the Village and Seigneurie of La Prairie de la Magdeleine, in the County of Huntingdon, are in possession of a Common, containing about three thousand and sixty arpents of Land, situate and being in the said Seigneurie of La Prairie de la Magdeleine, in virtue of a title granted to them from the Reverend Fathers, the Jesuits, bearing date the nineteenth day of May, one thousand six hundred and ninety-four. And whereas the general benefit of the Proprietors of the said Common and of the Inhabitants of the said Village and Seigneurie of La Prairie de la Magdeleine would be materially promoted if provision were made for the well ordering of the said Common:—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, entitled, "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 for the Inhabitants of the said Village and Seigniorie of La Prairie de la Magdeleine, possessing houses and lots of ground within the said Seigniorie, of the annual value of forty shillings, sterling, and entitled to the benefit of the said Common, to assemble and meet at the Presbytère or Parsonage House of the Parish of La Prairie de la Magdeleine in the above-mentioned Seigniorie, on any day between the first day of the month of May and the first day of the month of July next, after the passing of this Act, between the hours of nine in the forenoon and three in the afternoon, then and there to choose by a majority of votes of the said Inhabitants of the aforesaid Village and Seigniorie, qualified as aforesaid, then present, a Chairman and four Trustees to manage and direct the business relating to the said Common in the manner hereinafter authorised and directed, and for the purposes of this Act and none other; and the said Chairman and Trustees so chosen, shall be, and they are hereby declared to be a body Politic and Corporate, by the name of "The Chairman and Trustees of the Common of La Prairie de la Magdeleine," and by that name shall have succession and may have a Common Seal, and shall and may in that name sue and be sued in all and every Court in this Province, as occasion may be, and shall and may do and execute all and every matter and thing relating to the trust reposed in them by virtue of this Act, in as full and ample a manner and form, as any body Politic and Corporate can or may as such lawfully do.

II. And be it further enacted by the authority aforesaid, 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, to nominate and appoint a fit and proper person to preside at the first meeting of the Inhabitants of the aforesaid Village and Seigniorie, to be held in virtue of this Act, for the purpose of choosing and appointing a Chairman and Trustees of the aforesaid Common, which person who shall

so preside, shall give public notice of the day and hour of which such meeting shall be holden during ten days previous to that fixed by causing such notice in writing to be potted up and causing the same to be published and read on a Sunday at the close of Divine Service in the morning at the Doors of the Church of the said Village of La Prairie and of the Churches of such Parishes as are partly within the limits of the said Seigneurie, and by writing under his hand and seal, shall declare who are the persons chosen and appointed to be Chairman and Trustees of the said Common and the persons so chosen and appointed, shall continue and remain in office until the first Monday in the month of June, which will be in the year one thousand eight hundred and twenty-four, and no longer, unless they shall be afterwards rechosen and appointed in the manner-herein after directed.

III. And be it further enacted by the authority aforesaid, that it shall and may be lawful for the Inhabitants of the aforesaid Village and Seigneurie, qualified as aforesaid, to assemble and meet on the first Monday in the month of June, which will be in the said year one thousand eight hundred and twenty-four, between the hour of nine in the forenoon, and three in the afternoon, for the choice and appointment of a Chairman and four Trustees of the aforesaid Common to succeed the Chairman and Trustees who shall have gone out of office and the Inhabitants aforesaid of the said Village and Seigneurie then present and qualified, as herein before mentioned, shall and may at such time and place choose and appoint, as herein before directed, a Chairman and four Trustees of the aforesaid Common, who shall continue in office until the first Monday in June, which will be in the second succeeding year at which meetings of the Proprietors, the Chairman, or in his absence, one of the Trustees elected at the last general meeting, shall preside and declare by writing under His Hand and the seal of the Corporation, who are the persons chosen and appointed to the office of the Chairman and Trustees of the said Common for the two next succeeding years, and so in every second succeeding year, the Inhabitants of the said Village and Seigneurie of La Prairie de la Magdeleine, qualified as Herein-before mentioned, shall on the first Monday in June, choose and appoint a Chairman and four Trustees of the aforesaid Common in the manner herein before set forth; and in case that the Chairman or two or more of the said Trustees of the said Common shall die or remove from and settle out of the said Seigneurie of La Prairie de la Magdeleine, while he or they are in the said office the Inhabitants aforesaid, qualified as aforesaid, shall choose and appoint in manner herein before set forth, another or other persons as the case may require, to fill such vacancy or vacancies until the time of the then next general session of a Chairman and Trustees, as by this Act it is directed and provided.

IV. Provided always and be it further enacted by the authority aforesaid, that no person who is not qualified to vote for the Election of such Chairman and Trustees as aforesaid shall be capable of being elected as Chairman or Trustee for the aforesaid Common of La Prairie de la Magdeleine and the person and persons who shall as aforesaid have been duly elected as Chairman and Trustees shall in case of refusal to serve as such incur a penalty and forfeiture of forty shillings current money of this Province, which penalty and forfeiture shall by Bill, Plaint or information be sued for and recovered in His Majesty's Court of King's Bench for the District of Montreal, and shall go to and be applied for the uses of the said Common of La Prairie de la Magdeleine.

V. Provided also and be it further enacted by the authority aforesaid, that if at any time the Elections of the said Chairman and Trustees should not take place at the time when, according to this Act, the

same ought to have taken place, the said Corporation shall not be taken or deemed to be dissolved, but it shall be lawful for the said Inhabitants of the aforesaid Village and Seigneurie of La Prairie de la Magdeleine, qualified as aforesaid, to assemble and choose a new Chairman and Trustees, in manner as aforesaid, which Chairman and Trustees when so chosen and appointed, and declared in writing under his hand and the seal of the said Corporation, shall to all intents and purposes be vested with the same authority as if they had been chosen and elected at the time or times fixed by this Act.

VI. And be it further enacted by the authority aforesaid, that the Chairman and Trustees of the said Common of La Prairie de la Magdeleine shall, from and after the passing of this Act, have power and authority to cause the said Common to be measured and surveyed, and to cause the limits thereof to be ascertained and fixed by such Surveyor or Surveyors as may be agreed upon by and between the said Chairman and Trustees and the several Proprietors of the Lots of Lands adjoining the aforesaid Common, and to establish metes and bounds as aforesaid, and if necessary to contract, agree and conclude with the said Proprietors of the adjacent Lots or Lands aforesaid, concerning the boundary lines of the said Common, in such other manner as they the said Chairman and Trustees may judge expedient; and in order to effect all or any the aforesaid purposes, they the said Chairman and Trustees are hereby authorised and empowered to institute and maintain such suit or suits, action or actions at Law, as they may deem fit and expedient, any Law, usage or custom to the contrary in any wise notwithstanding.

VII. Provided always and be it further enacted by the authority aforesaid, that before proceeding to appoint or agree upon the choice of such Surveyor or Surveyors, the said Chairman and Trustees shall give, and they are hereby authorised and required to give notice of their intention of proceeding to such appointment and choice to the Person or Persons appointed or to be appointed Commissioners for the care and management of the Estates heretofore belonging to the late order of Jesuits, who shall have the option and authority, if they shall judge it expedient, either to appoint a Surveyor or Surveyors to act jointly in making such Survey with the Surveyor or Surveyors to be appointed in manner aforesaid by the said Chairman, Trustees and Proprietors, or to appoint a Procurator and an Agent to assist and Superintend the Surveyor or Surveyors so as aforesaid to be appointed by the said Chairman, Trustees and Proprietors, and no such survey to be jointly made as aforesaid by Surveyors on the part of the said Commissioners and of the said Chairman, Trustees and Proprietors, or to be made under the superintendance of a Procurator and Agent, to be appointed as aforesaid by the said Commissioners, nor any agreement or other act made or done by the said Chairman and Trustees, and the Surveyor or Surveyors on their part shall be valid, binding or Sufficient to any purpose whatsoever, unless the same shall have been agreed to and ratified by such Surveyor or Surveyors, or Procurator and Agent appointed by the said Commissioners, or by the said Commissioners themselves. Provided further, that if the said Commissioners shall not appoint such Surveyor or Procurator and Agent within one Calendar Month after such notice shall have been given them as aforesaid, by the said Chairman and Trustees, it shall and may be lawful for the said Chairman and Trustees forthwith to cause such survey to be made by Surveyors to be appointed for that purpose by them and the Proprietors of Land adjoining the said Common, in manner herein-before directed.

VIII. And be it further enacted by the authority aforesaid, that it shall be the duty of the Chairman and Trustees of the aforesaid Common of La Prairie de la Magdeleine, forthwith after their Election, to

cause Public Notice in writing posted up and read one Sunday after Morning Service at the Church door of the said Parish of La Prairie de la Magdeleine, and at the doors of such other Churches as may be within the said Seigneurie, to be given to all persons having any pretensions to right of Common in the said Common of La Prairie de la Magdeleine, to notify and exhibit to the said Chairman and Trustees their claims to the exercise of that right, between the first day of January and the first day of March each year, to the end that the Corporation may determine what shall be the whole number of Cattle which it will allow to pasture on the said Common, during the ensuing season, within six months next after the first publication of such notice, and that in default so to do at the time herein-before fixed, the Persons in default shall be deprived of the exercise of their right to allow any animal to pasture there during the same.

IX. And be it further enacted by the authority aforesaid, that it shall and may be lawful to and for the Chairman and Trustees, or any three of them, and they are hereby authorised and empowered to receive, levy and sue for such sum or sums of money as may hereafter become due, owing and payable to or for the use of the Inhabitants of the said Village or Seigneurie of La Prairie de la Magdeleine, qualified as aforesaid, by reason of charges, profits or other cause, matter or thing belonging or appertaining to the aforesaid Common, or thereon depending, and to give sufficient discharges and acquittances for the same, and also to exact and enforce the performance of all and every condition, service or other obligation to which any person or persons may be bound in virtue or by reason of his, her, or their holding, enjoying or occupying any land adjoining to the aforesaid Common.

X. And be it further enacted by the authority aforesaid, that it shall and may be lawful to and for the Trustees aforesaid, or any three or more of them, to lay out and expend, or cause to be laid out and expended, all and every sum or sums of money which shall come into their hands, possession or power, for rent or profit of the said Common, or from any other cause arising out of or depending thereon in clearing, fencing or draining the said Common, for the general benefit of the Inhabitants of the said Village and Seigneurie of La Prairie de la Magdeleine, qualified as aforesaid.

XI. And be it further enacted by the authority aforesaid, that the surplus monies of the income of the said Corporation, after the aforesaid improvements of the said Common shall have been carried into execution, shall be applied under the direction of the said Chairman and Trustees for the general benefit and further improvement of the said Common of the said Seigneurie of La Prairie de la Magdeleine.

XII. And be it further enacted by the authority aforesaid, that it shall and may be lawful to and for the chairman and Trustees aforesaid, or any three of them to fix and determine annually the number and kind of horses, cows, oxen and other cattle, or any or either of them, which it shall and may be lawful for every Inhabitant of the said Village and Seigneurie of La Prairie de la Magdeleine to put to graze on the said Common, as also to fix and determine the day on which the said Common shall be opened for the reception of cattle to graze thereon in every year and again shut up, and they shall give notice thereof by an advertisement posted up and read at the door of the Church in the said Village of La Prairie de la Magdeleine, and at the doors of the Churches of such Parishes as may be partly within the said Seigneurie after Morning Service on the two Sundays immediately preceding the day on which the

said Common is to be opened or shut up. Provided always, that every Inhabitant, qualified as aforesaid, of the said Village and Seigneurie shall have the right to put the number of cattle so determined on to graze on the said Common, and no more.

XIII. And be it further enacted by the authority aforesaid, that it shall and may be lawful to and for the Chairman, appointed as herein-before directed for the time being, or in the absence or sickness of such Chairman, for the oldest of the said Trustees, to summon and call such Meeting or Meetings of the said Chairman and Trustees concerning the trust by this Act reposed in them as to him may appear necessary, or as may at any prior meeting have been determined, or as he may be thereto required in writing under the hand of any three of the Trustees.

XIV. And be it further enacted by the authority aforesaid, that it shall and may be lawful to and for the Chairman and Trustees aforesaid, or any three or more of them by writing under their hands and the Seal of the said Corporation, to nominate and appoint a fit and proper person to be their Clerk and to allow to him out of the Funds of the Corporation, such annual Salary as shall have been fixed on in the manner herein-after directed, and such appointment at their pleasure to revoke and annul, and another fit and proper person to nominate and appoint in the place of the person whose appointment shall have been so revoked, and the Chairman and Trustees who are to go out of office so often as the case shall require, shall at their general meeting of the Inhabitants of the said Village and Seigneurie of La Prairie de la Magdeleine, to be held in pursuance of this Act, for choosing a Chairman and Trustees as their successors, lay before such meeting, a full and clear account of all monies or other things received and disbursed or expended by them in the execution of their office under the authority of this Act, and shall deliver over to their Successors in office whatever monies or other things which may be then remaining in their hands, together with all Books of Accounts, Books of Entry, or other Books kept by them or by their Clerk under their direction, touching and concerning the business of the said Common, as also all titles and papers thereto relating and appertaining, which may be in their possession as Chairman and Trustees of the aforesaid Common.

XV. And be it further enacted by the authority aforesaid, that it shall and may be lawful to and for the Inhabitants of the said Village and Seigneurie of La Prairie de la Magdeleine, at any general Meeting held for the purposes of this Act, to fix and determine in the manner herein-before directed, what shall be the annual Salary of the Clerk, of the Chairman and Trustees who shall be by them appointed in the manner and form herein-before directed.

XVI. And be it further enacted by the authority aforesaid, that it shall and may be lawful to and for the said Chairman and Trustees appointed as herein before directed, or any three or more of them by writing under their hands and the seal of the said Corporation, to make and establish rules and orders for the ordering and well governing of the said Common of La Prairie de la Magdeleine, and the same to amend or revoke, and other Rules and Orders to make and establish in the place thereof, which Rules and Orders and every of them shall be read on one Sunday after Morning Service and published and polled up at the door of the Church of the said Village and Parish of La Prairie de la Magdeleine, and at the doors of the Churches of such Parishes as may be partly within the said Seigneurie at least two Sundays before they shall have force and effect, and shall thereafter be binding on all and every person and persons having right of Common in the aforesaid Common, in so far as regards the said

Common, and being specially pleaded shall be taken notice of all Courts and by all Justices and Judges in this Province. Provided always, that no penalty by such Rules or Orders imposed, shall exceed ten shillings current money of this Province.

XVII. And be it further enacted by the authority aforesaid, that nothing herein contained, shall extend or be construed to extend in any manner whatsoever to affect the rights of His Majesty, His Heirs or Successors, or of any person or persons, or Body Politic or Corporate, except such as are hereby especially affected.

XVIII. And be it further enacted by the authority aforesaid, that this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace and other persons, without specially pleading the same.

XIX. And be it further enacted by the authority aforesaid, that this Act and the powers and authorities conferred by and in virtue of the same, shall continue and be in force until the first day of May, which will be in the year one thousand eight hundred and forty three, and no longer.