

Laws of His Majesty's Province of Upper Canada, passed in the year 1857. Toronto: Stewart Derbshire & George Desbarats, 1857.

20 Victoria – Chapter 216

An Act to amend the Act to enable the inhabitants of the Parish of St. François du Lac better to regulate the Common of St. François. Assented to 10th June, 1857.

Whereas it is expedient to provide for the division of the Common of St. François du Lac among the co-proprietors thereof, in accordance with their respective rights therein that each one may be enabled separately to enjoy or dispose of his share in the said common, and for that purpose to grant more ample powers to the Chairman and Trustees of the said Common appointed in virtue of the Act of 1853, intituled, *An Act to enable the inhabitants of the Parish of St. François du Lac, better to regulate the Common of St. François*; Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

- I. It shall be the duty of the said Trustees, as soon as possible after the passing of this Act, to ascertain and determine by such means as they shall deem expedient, the exact number of the co-proprietors of the said common, and to establish the exact interest held by each such co-proprietor therein.
- II. The said Chairman and Trustees shall then proceed to nominate and appoint a sworn surveyor whose duty it shall be to make a plan of the said Common and to subdivide and apportion it as equally with reference to superficial area as possible, into as many lots as there shall be shares in the said Common, reserving such extent thereof for roads and thoroughfares as may be necessary for the use and convenience of the said co-proprietors: Provided always, that the boundaries and limits of the said Common as they are at present established and determined shall be the limits and boundaries of the said Common for all the purposes of this Act.
- III. Upon the completion of the said survey and the subdivision of the said common into lots, the said Chairman and Trustees shall call a meeting of the co-proprietors of the said Common, due notice whereof shall be given by advertisement posted up at the church doors of the Parishes of St. Thomas de Pierreville and St. François du Lac, upon two consecutive Sundays, and by public notice on two consecutive Sundays immediately after Divine Service in the Forenoon at the doors of the churches aforesaid; and a majority of the said co-proprietors present at such meeting shall proceed to appoint two disinterested persons to act as arbitrators, whose duty it shall be to estimate and determine the value of each lot respectively, into which the said Common shall have been so divided.
- IV. In case the said arbitrators shall not be able to agree, they may appoint a third, and their report, or that of any two of them, shall be final.
- V. The report of the said arbitrators shall set forth the separate value of each lot respectively, and the average value of all the lots in the said Common as calculated upon the separate value of each lot; the said report duly certified and sworn to before a Magistrate shall be delivered to the said Chairman and

Trustees, and thereupon it shall be their duty to give public notice in the manner hereinbefore provided, that on a certain day, at a certain place and hour to be stated in such notice, they will proceed in the presence of such of the said co-proprietors as may be present at such meeting, to determine by lot what lot or lots in the said Common shall thereafter belong to each of the said co-proprietors respectively, without favour or partiality, according to the general practice in like cases in Lower Canada, subject, however, to the following condition, that is to say, that such of the co-proprietors as shall by lot become the owners of lots the estimated value of which shall exceed the average value of all the lots, shall be bound to pay the excess over the average value, into the hands of the said Chairman and Trustees, and it shall be the duty of the said Chairman and Trustees to pay out of the said moneys to those of the co-proprietors the value of whose lots shall be less than the average value, the difference between the value of their lots respectively and the said average value.

VI. Upon the completion of the said division in the manner and subject to the conditions hereinbefore provided, the said Chairman and Trustees shall prepare a *procès-verbal* of the whole duly certified before witnesses, which shall be deposited in the office of a notary residing in one of the aforesaid Parishes, and the said *procès-verbal* shall for ever thereafter be a good and valid title to each of the said co-proprietors, for each share of the said common which shall be described in the said *procès-verbal* as having fallen to his share or lot; Provided, however, that any person who shall deem himself aggrieved by such division, or may be desirous of contesting the right or title of any of the said co-proprietors to their property in the said Common, may take proceedings and be heard in the matter before any Judge of the Superior Court for Lower Canada, or of the Circuit Court for the Circuit of Yamaska, and the Judge shall have full power, in a summary way and out of Court, to hear witnesses and the parties, order pleadings in writing and the production of papers, appoint *arbitres* and experts, and determine any matter or cause arising out of any proceedings taken under this Act.

VII. It shall be the duty of the said Chairman and Trustees to cause a just and exact apportionment to be made, determining the amount of the sum or sums which each of the proprietors shall be bound to pay, in order to the levying of the moneys which may be due to the surveyor employed by the said Chairman and Trustees for the purposes of this Act, and to defray the expenses incurred in and about the passing of this Act, and for arbitration and all other necessary expenses which the said Chairman and Trustees may incur in the execution of their duties in conformity with this Act, and all other just and lawful expenses whatsoever incurred in carrying this Act into effect.

VIII. The said co-proprietors shall pay to the said Chairman and Trustees at any time after the *procès-verbal* of the distribution of the lots shall have been prepared and deposited as aforesaid, the amount which each of the said proprietors shall be bound to pay, in accordance with the apportionment which shall have been made as aforesaid.

IX. In case any of the co-proprietors or parties interested shall refuse or neglect to pay any of the moneys which may become due to the said Chairman and Trustees under and by virtue of this Act, the said Chairman and Trustees shall be authorized to take proceedings before any Justice of the peace for the District residing in the County of Yamaska, for recovering the same, and such justice is hereby authorized to take cognizance of such proceedings and to give judgment therein, in a summary manner, and to issue his warrant for levying the amount recovered, with costs.

X. Nothing herein contained shall be construed to affect the rights of Her Majesty, Her Heirs and Successors; or of any body corporate or politic, or of any person, such only excepted as are herein mentioned.

XI. So much of the Act hereinbefore cited as is inconsistent with this Act shall be and the same is hereby repealed.

XII. This Act shall be deemed a Public Act.