

Laws of Her Majesty's Province of Upper Canada, passed in the year 1850. Toronto: Stewart Derbshire & George Desbarats, 1850.

13 & 14 Victoria – Chapter 104

An Act to transfer to the Municipal Council of the Municipality of the Town of Three-Rivers, the administration of the Common of the said Town, and for other purposes. 24th July, 1850.

Whereas the inhabitants of the Town of Three-Rivers [Trois-Rivières] by their Petition to the Legislature, have prayed that the management of the Common of the Town of Three-Rivers be transferred to the Municipal Council of the Municipality of the Town of Three-Rivers, and it is of great advantage to the said Petitioners that the prayer of the said Petitioners should be granted to them: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, no Chairman or Trustees of the Common of the Town of Three-Rivers shall be hereafter chosen; and all and every the powers, functions, authority and duties vested in and to be performed by the Chairman and Trustees of the said Common, or the Chairman alone, or the Chairman and three or less of the said Trustees, or four or less of the said Trustees, under the following Acts of the Legislature of the late Province of Lower Canada, to wit: the Act passed in the forty-first year of the Reign of His late Majesty King George the Third, and intituled, *An Act for better regulating the Common belonging to the Town of Three-Rivers*; and the Act passed in the fifty-seventh year of the same Reign, and intituled, *An Act to amend an Act passed in the forty-first year of His Majesty's Reign, intituled, 'An Act for better regulating the Common belonging to the Town of Three-Rivers'*; and the Act passed in the sixth year of the Reign of His late Majesty King George the Fourth, and intituled, *An Act to authorize the Chairman and Trustees of the Common of Three-Rivers to acquire and grant certain lots of ground therein mentioned*, shall be vested in and exercised by the said Municipal Council of the Municipality of the Town of Three-Rivers to all intents and purposes whatsoever, in as large and ample a manner as if the said Municipal Council were specially named in the said Acts, instead of the Chairman and Trustees of the Common of the said Town of Three-Rivers, or of the Chairman and Trustees of the said Common, or of the Chairman alone, or of the Chairman and three or less of the said Trustees, or of four or less of the said Trustees, or otherwise.

II. And whereas no election of Chairman and Trustees of the said Common has taken place since the first Monday in April, one thousand eight hundred and forty-one, Be it therefore enacted, That each and every of the Acts above cited shall be and remain in full force and vigour as if the said Chairman and Trustees had been regularly elected and chosen at the periods fixed by the Act first above cited, excepting such parts of the said first cited Act as are hereinafter repealed.

III. And be it enacted, That the second, third, fourth, fifth, ninth, eleventh, twelfth and thirteenth Sections of the said first recited Act shall be and are hereby repealed.

IV. And be it enacted, That the said Municipal Council of the Municipality of the Town of Three-Rivers, may direct and manage the said Common and all the property and affairs thereof, in the same manner and with the same powers and authority as the other property, affairs and things which are now or hereafter may be under the control and jurisdiction of the said Municipal Council, under the provisions of the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, intituled, *An Act to medic better provision for the establishment of 'Municipal Authorities in Lower Canada;* which said powers so conferred by the said Act shall extend to and apply to the said Common and the property and affairs thereof, and it shall be lawful for the said Municipal Council to make By-laws and regulations for carrying into effect such laws as it shall be their duty to enforce, and for the good management of the said Common and the property and affairs thereof, and to amend, modify, alter or repeal the same when and so often as they shall deem it expedient, and to impose fines or penalties on parties contravening such rules and regulations; provided, however, that such fines and penalties shall not, in any case, exceed Two pounds ten shillings currency.

V. And be it enacted, That it shall not be necessary to affix a seal to the deeds, titles, contracts, orders, By-laws and regulations, minutes of proceedings, documents or papers of any nature whatsoever, touching the said Common or the property and affairs thereof; nor to make use of the seal of the Corporation of the said Common or of any other seal whatsoever, with respect to the same; any law, usage or custom to the contrary notwithstanding.

VI. And be it enacted, That it shall be lawful for the said Municipal Council to concede lots on the said Common at the accustomed *cens et rentes*, dues, conditions, reservations and servitudes, without being required to cause the said lots to be fixed and determined at a General Meeting of the inhabitants of the Town; it shall also he lawful for the said Municipal Council in the same manner to lease or farm out a part of the said Common, to one or more persons, by one or more leases for rent, or to farm, for any period not exceeding nine years, on such conditions, charges, clauses and reservations as they shall think fit: Provided always, that they shall not concede a greater extent of the ground of the said Common than is determined by the said above recited Act, intituled, *An Act to authorize the Chairman and Trustees of the Common of Three-Rivers to acquire and grant certain lots of ground therein mentioned:* Provided further, that the said Municipal Council shall not lease or farm out the whole of the said Common, but shall leave and keep a sufficient portion thereof untilled, so as to allow the animals belonging to the inhabitants of the Town of Three-Rivers to graze thereon.

VII. And be it enacted, That within the space of one month after the passing of this Act, the persons who last held the offices of Chairman and Trustees of the said Common, to which said offices they were elected in the year one thousand eight hundred and forty-one, shall render to the said Municipal Council a clear and faithful account to be sworn to before a Justice of the Peace, of the revenue and expenditure of all the moneys or other things by them or any of them received, disbursed or expended, in the exercise of their duties, and of every thing which may be due and payable, and which they shall not have received, with the vouchers for such account; and shall pay and hand over to the said Municipal Council the moneys which they have or ought to

have in their hands, as well as all registers, entry books, account books, land-rolls, rent-rolls and other books, orders or regulations, titles, deeds, contracts and all other papers and documents, seals, moveable property and effects whatsoever, appertaining and relative to the said Common and to the property and affairs thereof; and in default thereof they may be compelled so to do by all legal means and proceedings at law.

VIII. And be it enacted, That all moneys arising from *cens et rentes*, ground rents, *lods et ventes*, dues, profits, leases, farm rents, or from any other source now due, or which may hereafter become due to the said Common, for or by reason of the lots, land or property held, thereon, or of any part of the said Common, leased or farmed, shall be employed and expended by the said Municipal Council, in maintaining, clearing and improving the said Common and the property thereof, as well as for the general wants of the said Municipal Council, and for the improvement and advantage of the said Town of Three-Rivers, in the same manner as other moneys received by them, and which they may dispose of; any law to the contrary notwithstanding: Provided always, that all debts which may be due on the said Common when this Act shall come into force, shall be discharged and paid by the said Municipal Council, who may be compelled so to do by all legal means and proceedings at law.

IX. And whereas a great number of inhabitants holding lots of land and houses on the said Common have suffered damage by the floods which have taken place during the last years, and the majority of them are indebted in arrears of *cens et rentes* and other dues, as well as *lods et ventes*, which, if exacted, would ruin many of the said inhabitants, and considerably impoverish a great number of others: Be it therefore enacted, That the said Municipal Council shall have power and authority to remit to the *censitaires* and tenants of, and other persons indebted to the said Common, all arrears of *cens et rentes*, ground rents, dues, *lods et ventes*, and profits by them, owing to the said Common, for or in respect of the lots, ground or property which they may have held, or which they now hold on the said Common, and which shall be due and payable on the day on which this Act shall come into force, or part of the said *cens et rentes*, ground rents, dues, *lods et ventes* and profits, on such conditions as the said Municipal Council shall deem just and equitable, or even without any conditions, if they shall think proper.

X. And be it enacted, That the said Municipal Council shall not in any case, nor for any cause whatsoever, sell, alienate, nor hypothecate the said Common nor any portion thereof, nor the property belonging to the said Common, nor any portion thereof; and that the *cens et rentes*, ground rents, dues, *lods et ventes*, profits, leases, farm rents or other revenues of the said Common or of any property thereunto appertaining now due and payable, or which may be hereafter due and payable, shall not in any case, nor for any cause whatsoever, be seized nor arrested, the whole on pain of nullity; any law, usage or custom to the contrary notwithstanding, save and except however as regards debts contracted or incurred by the said Common before this Act shall come into force.

XI. And whereas several *censitaires* of the said Common abandon the lots and grounds held by them thereon, while others neglect, during several years, to pay the *cens et rentes* and other annual dues, which they owe to the said Common, so as to cause them to be lost for the past and

for the future, (inasmuch as the said lots or grounds are of too little value to warrant the incurring of the costs of selling them under execution,) and retard the increase and prosperity of the Town of Three-Rivers, by depriving honest and industrious persons of the power of setting thereon and enhancing the value thereof: Be it therefore enacted, That after the expiration of at least two years after the abandonment of any lot or ground on the said Common by the proprietor thereof, or after five years arrears of *cens et rentes* or other annual dues shall be owing on any lot or ground on the said Common, it shall be lawful for the said Municipal Council, in either case, to present a petition to the Circuit Court in the Three-Rivers Circuit alleging the debt, the causes thereof and the abandonment of the lot or ground, or the default of payment of the *cens et rentes* and other annual dues, as the case may be, and praying judgment for the amount due and claimed, with interest and costs, and in default of payment thereof within two months from the date of the judgment, the proprietor shall lose all his right in the said lot or ground, and the said lot or ground shall merge in the domain of the said Common; and the said petition, together with a notice of the day on which it is to be presented, shall be served upon such proprietor in person, or at his place of residence, at least five clear days before the day appointed for presenting the same, allowing one additional day for every five leagues over and above the first five leagues out of the said Town; and if such proprietor cannot be found, or has no domicile in the District of Three-Rivers, the said Court, on the return or certificate of service thereof to be made by the Bailiff charged with the service of the same, may order that such proprietor be required, by and advertisement in the English and French languages, to be inserted twice at least, during the course of a month, in a newspaper published in the said District, and if there be none there published, then in some newspaper published in the District of Montreal or of Quebec, to appear before the said Court, or at the office of the Clerk of the said Court, within two months from the last publication, and to plead in answer to the said petition; and in default of his appearing within the said delay, or after appearing, to plead in answer to the said petition, he shall be foreclosed from his right so to do, and leave shall be granted to the said Municipal Council to proceed to final judgment on the said petition, as in cases by default: Provided always, that the said Municipal Council may, at the same time claim in the said petition all *lods et ventes*, profits and other rights which may be due in addition to the *cens et rentes* and other annual dues, for or in respect of any such lot or ground.

XII. And be it enacted, That upon sufficient proof of the allegations of the petition, the said Court shall render its judgment by which it may grant the conclusions of the said petition, and the said Circuit Court shall have full jurisdiction in the matter, whatever be the amount claimed and the value of the lot or ground or lots or grounds the merging whereof in the domain of the Common shall be prayed for, as well as of the buildings and improvements thereon, and shall also have power and authority to cause the said judgment to be executed by all ordinary means as in other matters within its jurisdiction, and to cause the said Municipal Council to be put in possession of any lot or ground or lots or grounds which shall be declared to be merged in the domain of the said Common; and the proceedings on such petition, except where defined by this Act, shall be had according to the rules and forms established by law or by the rules of practice of the said Court, as in causes and matters in which the amount claimed shall exceed fifteen pounds currency: Provided always, that an appeal from such judgment shall lie to the Superior Court

sitting in the said District of Three-Rivers, under the conditions and according to the formalities prescribed in cases of appeal from other judgments of the said Circuit Court.

XIII. And be it enacted, That all the powers and authority by this Act vested in and all the duties imposed upon the said Municipal Council of the Municipality of the Town of Three-Rivers, shall be exercised and performed by every other Municipal Corporation of the said Town which may be established therein by any Law or Act to be passed in the present or any future Session of the Legislature, whether in lieu of the Corporation existing under the Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to divide the Municipalities of Hochelaga and of Three-Rivers respectively, into distinct Municipalities, and further to provide for the support of Schools and the management of local affairs therein*, and the said above mentioned Act, intituled, *An Act to make better provision for the establishment of Municipal Authorities in Lower Canada*, or in lieu of one another, or otherwise, in the same manner as if such other Municipal Corporations were specially named in this Act, and invested with the said powers and authority, and required to fulfil the said duties.

XIV. And be it enacted, That if the Municipal Corporation established under the Acts mentioned in the thirteenth Section of this Act, or any other Municipal Corporation of the said Town should cease to exist by the repeal or expiration of the Laws or Acts establishing the same, without any special or general Act or Law being passed to reestablish the same, then this Act shall be repealed with the exception of the proviso hereafter contained in this Section and the Sections of the above-mentioned Act, intituled, *An Act for better regulating the Common belonging to the Town of Three-Rivers*, repealed by the third Section of this Act, shall revive and be in full force and vigour as if this Act had not been passed; Provided always, that in such case the election of a Chairman and four Trustees of the said Common may take place within the three months following the cessation of the said Municipal Corporation, in the same manner and according to the same formalities as are prescribed by the Act specially cited in the present Section of this Act, except as regards the period of such election; and the said Chairman and Trustees shall go out of office at the end of three years to be computed from the first Monday in April immediately following their election, so that all subsequent elections shall take place every four years, at the period fixed by the said Act.

XV. And be it enacted, That all prosecutions for fines and penalties imposed under the provisions of this Act, shall be brought in the name of the said Municipal Council of the Municipality of the Town of Three-Rivers, or in the name of any other Municipal Corporation of the said Town which may be then in existence, by the Secretary-Treasurer of the said Municipal Council, or by the Secretary or Clerk or Secretary-Treasurer of any other Municipal Corporation of the said Town, in the course of the month following the contravention for which such fines and penalties shall have been incurred, and not later, before a Justice of the Peace residing in the said Town, who shall hear and determine the case in a summary manner and on the oath of one credible witness, whether he be or be not an officer of the Municipal Council or of any Municipal Corporation of the said Town; and such Justice of the Peace shall cause the fine or penalty, with costs of suit and of execution, to be levied by seizure and sale of the moveables of the contravening party; and the whole of the said fine or penalty shall be applied to the general purposes of the Municipality of the

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said Town: Provided that the said Justice of the Peace shall not be related nor allied to the party
sued within the degrees prohibited by law.

XVI. And be it enacted, That this Act shall be a Public Act.