

No. 47.

2nd Session, 3rd Parliament, 12 Victoria, 1849.

BILL.

An Act to provide for the Improvement
of the River *du Chêne* in the County
of Two Mountains.

Received and Read a first time, Thursday, 1st
February, 1849.

Second Reading, Thursday, 8th February, 1849.

MR. SCOTT, (Two Mountains.)

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47.

BILL.

An Act to provide for the improvement
of the River *du Chêne*, in the Coun-
ty of Two Mountains.

WHEREAS the inhabitants of the Preamble.
parishes of St. Eustache, St. Augustin, St. Benoit, and St. Scholastique, in the Recital.
County of Two Mountains, holding lands on
the banks and in the neighborhood of the
5 River *du Chêne*, in the said County, suffer
considerable damage in their meadows and
the cultivation of their lands, which they
find it impossible properly to work, by reason
10 of the overflowing of the waters of the said
river, which on account of its shallowness
and numerous sinuosities, is not sufficient for
the large quantity of water received from the
great number of drains and streams dischar-
15 ging themselves into it during its course;
And whereas the only remedy for those evils
is to remove all obstructions from the said
river, to deepen and widen its bed in the
rapids thereof and other places, and more
20 especially to straighten its course by a canal
to be cut in a more direct line, and more
sufficient for the easy flowing of its waters,
provided such Canal be not considered by
the Commissioners-hereinafter mentioned, to
25 be too expensive, and do not in their opinion
interfere too much with the division of pro-
perty, to the injury of the proprietors thereof;
And whereas a considerable number of the
inhabitants of the above mentioned parishes,
30 interested in the said works have, by their
petition; represented the hardships under
which they labor, and also that the costs and
expenses already incurred, and the attempts
made by them in order to attain so desirable
35 an object have been useless, as being on too

limited a scale, in consequence of the insufficiency of the laws now in force to provide for an improvement of such importance, and have prayed that a law be passed to enable them to proceed with the said works; and it is expedient to grant the prayer of the said petition: Be it therefore enacted, &c. &c. 5

Ten proprietors interested may call a meeting, and the proprietors present at such meeting may elect Commissioners for deepening the River, &c.

And it is hereby enacted by the authority of the same, That at any time within months from the date of the passing of this 10 Act, on a requisition signed by at least ten proprietors of lands in the parishes above mentioned, interested in the said canal or water course, such requisition being published and posted up in both languages at the church 15 doors of the said parishes after morning service, on two consecutive Sundays, the inhabitants of the said parishes interested in the said Works, that is to say: the proprietors of lands in shall 20 meet on the day and at the place mentioned in the said requisition, (with power to any ten of them to adjourn or to call another meeting in case at least fifty proprietors be not assembled to elect Commissioners as herein- 25 after provided,) and a majority of proprietors present at such meeting or at any adjourned or subsequent meeting, shall elect from among themselves twelve Commissioners, whose duty it shall be to proceed with the 30 works mentioned in the Preamble to this Act, in the manner hereinafter mentioned, and who for the purposes of this Act are hereby authorized to sue and be sued under the name of "*The Commissioners of the River 35 du Chêne Canal,*" without otherwise naming them or any of them.

Commissioners to elect a President and Secretary.

II. And be it enacted, That the said Commissioners shall elect from among themselves a President, and shall also appoint 40 from among themselves or the other interested parties, a Secretary-Treasurer, who shall be paid a reasonable salary at the discretion of the Commissioners, and shall

give good and sufficient security to the satisfaction of the majority of said Commissioners; and any writ, process or notice that may require to be served upon the said Commissioners shall be served upon the Secretary Treasurer of the said Commissioners, and such service thereof shall be deemed good and valid in law: And seven of the said Commissioners shall form a *quorum*, and may exercise all the powers of the said Commissioners, and may in case of any vacancy among the said Commissioners appoint another or others in their stead from among the proprietors interested as aforesaid; but the non-filling up of any such vacancy shall not in any way invalidate or affect any proceeding by or against the said Commissioners.

Quorum of Commissioners fixed.

III. And be it enacted, That the said Commissioners shall cause the said River *du Chêne* to be explored by a sworn Surveyor from its mouth at River *Jésus* or *Mille Isles*, in the Parish of St. Eustache, to its source, together with its tributaries and the streams which discharge themselves into it in its course through the North and South Concessions of the *Petite Rivière de la Grande Fresnière*, the Parish of St. Eustache, north and south of the *Petit Brulé*, the Parishes of St. Augustin, St. Benoit, St. Joachim, and on the north and south side of *la Belle Rivière*, in the Parish of St. Scholastique, and shall cause a plan to be made of the works necessary for the straightening and deepening of the said river, together with an estimate of the probable cost of the said undertaking.

Survey and plan to be made, &c.

IV. And be it enacted, That the said Commissioners shall give notice in the French and English languages during at least three weeks, in two newspapers published in the District of Montreal, of the time and place at which they will be ready to give out the said works in part or in whole, and they are hereby authorized to

Work to be given out by tender and contract.

Parties interested may be required to give work.

contract for the performance of the said works with the contractors and workmen whose tender shall to them seem most advantageous for the interests of the parties concerned in the said undertaking; and the said Commissioners are hereby authorised to require the said interested parties to furnish such assistance in labour as they shall deem necessary for the purpose of conducting the undertaking with as great economy as possible, making such labour part of the charge placed upon such parties respectively by the Repartition. 5 10

Estimate to be made; and parties to be assessed.

V. And be it enacted, That the said Commissioners shall make an exact estimate of all the expenses to be incurred in the construction of the said works, and of the work to be done by the parties entrusted as aforesaid, and shall assess the interested parties for the payment of the same and assign them respectively portions of the said work, according to the advantages to be derived by each one, and the obligations under which he may lie with regard to the other proprietors interested, according to the situation of his property, and the laws and customs in force in this country, and not merely according to the value of the properties assessed: the whole in such a manner as to the said Commissioners shall appear most equitable; and the said Commissioners or a *quorum* thereof shall make a Repartition and *procès verbal* accordingly, which shall bind all the parties mentioned therein or their *ayant cause* respectively proprietors of the same lands, upon which the sums assessed upon them and the value of the work allotted to them in respect of such lands, (such value being mentioned in the Repartition and *procès verbal*) shall be a charge bearing hypothec, dating from the time of registration of the Repartition and *procès verbal*, which after being confirmed as hereinafter provided shall not be controvertible or liable to be set aside or questioned in any Court of law or elsewhere. 15 20 25 30 35 40 45

Repartition and *procès verbal* to be made.

Assessment, &c. to be a charge upon the lands assessed; effect of the Repartition.

VI. And be it enacted, That after the said estimate of the expenses, and the assessment or repartition and *procès verbal* shall have been made by the Commissioners, they shall give notice by an advertisement in both languages, to be posted up and published at the Church doors of the said Parishes, after morning service during two consecutive Sundays, of the time and place at which they will hear the claims of such parties as shall consider themselves aggrieved by the said assessment or repartition.

Commissioners to hear parties deeming themselves aggrieved.

VII. And in order that all parties interested in the performance of the said works may take cognizance of the assessment or repartition and *procès verbal* aforesaid, a copy thereof signed by the President, Secretary and Treasurer of the said Commissioners, shall be deposited in some public office to be designated in the said Notices, and whereat all or any of the interested parties may take free communication thereof, and make such observations thereon or oppositions thereto, as they may think fit and reasonable.

Repartition, &c. to lie for a certain time open for inspection.

VIII. And be it enacted, That the Commissioners shall give their final decision with respect to the said assessment or repartition and *procès verbal* within a period of not less than fifteen days from the last publication thereof, and shall then confirm the same with such alterations (if any) as they may think proper to make thereto.

Commissioners may amend and confirm the Repartition, &c.

IX. And be it enacted, That the said assessment or repartition and *procès verbal*, when finally confirmed as aforesaid, shall be deposited by the said Commissioners, or a *quorum* of them, in the hands of some Notary in one of the said Parishes, who may deliver authentic copies thereof to all parties interested; and shall be registered at full length in the Registry Office of the County.

Repartition, &c. to be deposited with a Notary.

And registered.

How the pay-
ment of monies
and the per-
formance of
work may be
enforced.

X. And be it enacted, That every per-
son who shall be assessed in and by the said
assessment or repartition and *procès verbal*, as
finally amended and confirmed by the Com-
missioners, shall pay into the hands of the 5
Treasurer of the said Commissioners within
the delays by them therein prescribed, the
amount for which he shall be assessed, and in
default thereof such payment may be reco-
vered before any Court having jurisdiction 10
in civil cases to the amount, and he shall
perform the work by them assigned to him
at the times appointed by the assessment, or
repartition and *procès verbal* aforesaid, or in
default the value of such work, as therein fix- 15
ed, may be recovered from him as aforesaid.

Commission-
ers may make
regulations as
to the said
River, &c.

XI. And be it enacted, That the said
Commissioners are hereby authorized to
make such rules and regulations as they shall
deem necessary for the preservation and 20
keeping in order of the said canal, and from
time to time to alter and amend the same ;
and such rules and regulations and amend-
ments or repeal thereof shall be deposited
with some Notary in one of the said parishes: 25
Provided always, that as soon as the said in-
tended works shall be completed and paid for,
the powers and authority hereby granted to
the said Commissioners shall cease and deter-
mine ; and the said River and canal shall 30
thereafter be and remain under the direction
of the local authorities established for the
making of ditches and water courses in the
country parts of this Province, saving always,
that the said works shall always continue to 35
be kept up and repaired according to the rules
and regulations then last made by the said
Commissioners, an authentic copy whereof
shall be deposited in the office of the Municipal
Council of the County, and any copy 40
thereof certified by the Clerk or Officer hav-
ing the custody of such authentic copy shall
be deemed authentic and received in evidence
accordingly, and for any certified copy there-
of, the said clerk or officer shall be paid at 45

Proviso ;
when the pow-
ers of the
Commission-
ers shall
cease.
The River to
come then
under the
local authori-
ties, &c.

the rate of *six-pence* currency per hundred words.

XII. And be it enacted, That as soon as the said canal shall be completed, the said Commissioners shall render a true and faithful account of the monies levied by them, and of the application thereof, before a Committee of twelve members to be chosen from among the interested parties, at a General Meeting to be called in the manner provided for the calling of the first above mentioned meeting ; And the said Committee shall have authority to bring any action *en reddition de compte* or for any matter relative to the administration of the said Commissioners under the name of "*The Committee for auditing the Accounts of the Commissioners of the River du Chêne Canal.*"

Account to be rendered by the Commissioners and to whom.

XIII. And be it enacted, That all papers relative to the rendering of the above mentioned accounts, plans, estimate, assessment and other documents which shall have been in the possession of the Commissioners, and more especially the rules and regulations made for the keeping in repair of the said canal shall be deposited by them in the office of the Municipal Council of the County of Two Mountains for the use of all persons interested in the said work.

Deposit of papers, plans, &c.

XIV. And be it enacted, That the works above mentioned, for the construction of the said canal shall be completed within six years from the publication of the Act, otherwise the persons so interested as aforesaid shall not be entitled to any of the advantages granted by this Act.

When the works must be completed.

XV. And be it enacted, That this Act shall be a public Act, and judicially noticed accordingly.

Public Act.