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3rd Session, 6th Parliament, 23 Vic., 1860.

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**BILL.**

An Act to incorporate the "Common of  
Berthier."

(LOCAL BILL.)

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Received and read, first time, Tuesday, 20th  
March, 1860.

Second reading, Wednesday, 21st March, 1860.

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Mr. PICHÉ.

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QUEBEC:

PRINTED BY THOMPSON & CO., STE. URSULE STREET.

## An Act to incorporate the Common of Berthier.

WHEREAS divers inhabitants of the Parish of Berthier, in the County of Berthier, interested as joint proprietors in the Common known as the "Common of Berthier," consisting of *l'Isle Rondin*, or *Randin*, situated in the River St. Lawrence, within the limits of the said Parish of Berthier, have, by their petition to the Legislature, represented that for want of an Act of Incorporation to regulate the affairs of the said Common, they are exposed to encroachments of all kinds, to inconvenience, and to heavy losses; Therefore, Her Majesty, &c., enacts as follows:—

Preamble.

10 I. Within six months after the passing of this Act, it shall be lawful for the inhabitants interested in the said Common of Berthier to meet, after public notice of such meeting shall have been given by three or more of the parties interested in the said Common, and posted up and published during three consecutive Sundays at the door of the Parish Church  
15 of the said Parish of Berthier, at the issue of divine service in the morning, which said notice shall contain the place, day and hour of such meeting, for the purpose of electing, by the majority of the votes of the parties interested in the said Common then and there present, a President and four Trustees to manage the affairs of the said Common, and  
20 the said President and Trustees, so elected at the said first meeting, or at any other subsequent meeting in virtue of this Act, shall be, and they are hereby declared to be a corporation under the name of the *President and Trustees of the Common of Berthier*, and under that name they shall have perpetual succession while this Act remains in force, and a common seal, and may sue and be sued in all Courts of Justice, and validly  
25 take all proceedings in relation to the execution of the duties imposed upon them by this Act.

First meeting for the election of a President and four Trustees.

II. The said first meeting to be held in virtue of this Act, and all other subsequent meetings shall be presided over by such persons present as the meeting may select, by the majority of the votes of the  
30 parties interested in the said Common, then and there present: Provided always, that if the said first meeting be not held at the place, day and hour appointed in the said notice for any reason whatsoever, another meeting of the parties interested may be called, presided over,  
35 held and conducted in the same manner and for the same purpose, either during the six or during the twelve months next after the passing of this Act; And provided also, that in case the election of the said President and Trustees, or of any one of them, be declared null by any competent judicial authority, it shall be lawful for the said parties interested  
40 in the said Common to meet again, after notice to that effect shall have been given in the form prescribed by the first section, for the purpose of replacing the President or Trustees, or Trustee whose election shall have been annulled as aforesaid.

Who shall preside at first meeting.           
Proviso.

Term of office  
of president  
and trustees.

III. The President and Trustees, elected in virtue of this Act, shall remain in office for two years from the time of their election, and at the end of that time they shall be replaced by an equal number of persons to be selected at a meeting of the parties interested in the said Common from amongst the parties so interested; the said meeting shall be called by the retiring President by public notice, posted up and published in the manner provided in the first section of this Act. 5

President and  
trustees to  
make By-  
laws.

IV. The President and Trustees, or the majority of them, shall draw up and prepare such By-laws concerning the said Common as they shall think necessary; but such By-laws shall not take effect until they shall be approved by the Superior Court sitting for the district within which the said Parish of Berthier is included; the application for the ratification and homologation of the By-laws shall be made to the said Court in the name of the said Corporation, after public notice duly given of such application, and posted and published at the doors of the parish churches of the said Parish of Berthier, during the three Sundays preceding the day of such application, at the issue of divine service in the morning, setting forth the day on which the said By-laws are to be submitted to the Court for ratification, in order that any persons having a right so to do, may then and there submit to the said Court their reasons for opposing the homologation of the said By-laws; Provided always, that nothing contained in this Act shall be deemed to derogate from or prejudice the rights of the seigniors of the seigniori of Berthier. 10 15 20

Penalty for  
contravention  
of By-laws.

V. The President and Trustees, or a majority of them, may, in and by the said By-laws, impose such penalties not exceeding ten dollars currency, as they shall deem just and expedient against all parties contravening the said By-laws; such penalties may be sued for and recovered by summary process before one or more Justices of the Peace, in the said County of Berthier, in the name of the said Corporation, and shall be levied by a seizure and sale of the moveables of the offender and paid over to the President of the said Corporation, who shall apply the same for the use and benefit of the said Common, and in default of payment of the said penalty within the period prescribed, or of the sufficiency of moveable property to satisfy the said judgment, the said offender may be imprisoned for any period not exceeding one month. 25 30 35

Further powers  
of president  
and trustees.

VI. The said President and Trustees, in addition to the powers heretofore accorded to them, may proceed in law in the name of the said Corporation, before any Court of competent jurisdiction, against any person or persons who shall encroach on the said Common, commit any act of violence therein, or who shall unlawfully claim the exercise of any right therein, for the recovery of damages from such persons or for the disallowance of any right claimed by them within the said Common. 40

Assessment  
for defraying  
expenses of  
management  
of common.

VII. Whenever it shall be necessary to incur expenses for the management, maintaining or improvement of the said Common, or for the doing of any act or thing, or the payment of any expenses in relation thereto, an estimate of such expenses shall be first drawn up by the said President and Trustees, or the majority of them; and they, or the majority of them, shall have power to impose and levy the amount of such estimate, and apportion the same among the proprietors or parties interested in the said Common in proportion to the rights or shares of each one therein; and in default of payment of any amount to be apportioned as aforesaid, the same shall be recoverable by summary process in 45 50

the name of the President and Trustees of the said common before one or more Justices of the Peace within the said County of Berthier; and such Justice is hereby authorized to try, hear and determine and decide the said action, and issue execution against the goods and chattels of the defendant, for the payment of the amount of the judgment and costs of suit, and other subsequent costs; Provided always that such execution shall not issue before the expiration of eight days at least from the rendering of the judgment.

VIII. Whenever it shall be necessary to ascertain the persons who have, or pretend to have, a right in the said Common, and the rights or shares which each one now holds or hereafter may hold, for the purpose of making any apportionment of the costs and expenses which may be now or hereafter incurred, as provided in the foregoing section, or for any other object, it shall be lawful for the said President and Trustees, or the majority of them, to require all such persons to produce and exhibit their respective titles to such rights or shares, or to make known their rights as aforesaid, at the time and place which they shall appoint, public notice having been given by them for that purpose, and posted up and published on the two consecutive Sundays preceding the day so appointed, at the door of the Parish Church of the said Parish of Berthier, at the issue of divine service in the morning; and if any person interested in the said Common shall refuse or neglect to produce and exhibit his titles at the time and place mentioned or to give information as to how and in what manner and under what title these rights or shares came into his possession, he shall incur a penalty of two dollars currency, and twenty cents currency for each day on which he shall refuse or neglect so to do; the said penalties to be sued for and recovered by the said President and Trustees in the manner prescribed in the fifth section of this Act.

Exhibition of titles to common.

Penalty for default.

IX. If any person who shall be lawfully called upon to accept any office or perform any duty under this Act, shall refuse to accept such office or neglect to perform such duty, or shall in any manner contravene the provisions of this Act, he shall incur, for every such offence, whether of commission or omission, a penalty of eight dollars currency, which shall be recoverable by any person who shall prosecute, either in his own name or in the name of the said Corporation, in the manner prescribed in the fifth section of this Act, and one half of the said penalty shall belong to the prosecutor, and the other half to the Corporation, to be employed for the use and benefit of the said Common.

Penalty for refusal to accept office, &c.

X. In case of the death or absence for any period longer than three months from the County of Berthier, either of the President or of any of the Trustees, their offices shall become vacant, and the President and remaining Trustees, or the remaining Trustees, as the case may be, shall select and appoint, by a vote of the majority, one from amongst the parties interested in the said Common, to replace the President or Trustee, as the case may be.

Vacancies by death or absence how filled up.

XI. At each general election, the retiring President and Trustees shall, at the meeting called for the said election, and before the election of their successors, present a clear and detailed statement of their administration, showing the receipts and expenditure; and they shall hand over to their successors any balance remaining in their possession at that time, together with all books, titles, plans and papers whatsoever, having reference to the said Common, then in their possession,

Statement of the accounts by retiring president and trustees.

and if they fail to pay the said balance or to hand over the said books, titles, plans and papers, in the manner above mentioned, they shall be liable to a prosecution before any Court of competent jurisdiction, jointly and severally by the said President and Trustees, their successors, in the name of the Corporation, in order that judgement may be obtained compelling them to pay the said balance to the Corporation, together with costs, and interest, or to deliver up as above the said books, titles, plans and papers. 5.

Public Act. XII. This Act shall be deemed a Public Act.