

ANNO QUARTO ET QUINTO.

VICTORIÆ REGINÆ.

AN ACT to make provision for the management of the Temporalities of the United Church of England and Ireland, in this Province, and for other purposes therein mentioned.

[Royal Assent Promulgated 3rd December, 1841.]

Whereas it is desired on behalf of the United Church of England and Ireland, in the Province of Upper Canada, that provision should be made by law for the internal management, by the members of the said Church, of the Temporalities thereof, and also for allowing the endowment thereof; and it is just and expedient that such provision should be made: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper 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, entitled '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 by the authority of the same, That from and after the passing of this Act, the soil and freehold of all Churches of the Communion of the said United Church of England and Ireland, now erected or hereafter to be erected in the said Province, and of the Churchyards and Burying-grounds attached or belonging thereto, respectively, shall be in the Parson or other Incumbent thereof, for the time being, and that the possession thereof shall be in the Incumbent for the time being, and the Churchwardens to be appointed as hereinafter is mentioned, by whatever title the same may now be held, whether vested in Trustees for the use of the Church, or whether the legal estate remains in the Crown, by reason of no patent having been issued, though set apart for the purpose of such Church, Churchyard or Burying-ground: Provided always, that nothing herein contained shall extend to affect the rights of any other Church, or Body of Christians, to any Landed Property, or Church now erected, but that the same shall remain as if this Act had not been passed.

II. And be it further enacted by the authority aforesaid, that all Pewholders in such Churches, whether holding the same by purchase or lease, and all persons holding sittings therein, by the same being let to them by Churchwardens, and holding a certificate from the Churchwardens of such sittings, shall form a vestry for the purposes in this Act mentioned and declared.

III. And be it further enacted by the authority aforesaid, that a meeting of such vestry shall be holden on Monday in Easter week, in each and every year, after due notice thereof given during the Divine Service on the morning of Easter Sunday, for the purpose of appointing churchwardens for the ensuing year; and that at such meeting one churchwarden shall be nominated by the Incumbent of the Parsonage or Rectory to which the said Church belongs, and the other shall be elected by a majority of those present, and entitled to vote at such vestry meeting as aforesaid: Provided, nevertheless, that in case of such Incumbent declining or neglecting to nominate a churchwarden, then both of the said churchwardens shall for the current year be elected in the manner aforesaid, and in case the members of

such Vestry shall neglect to elect a Churchwarden, then both such Churchwardens shall for the current year be nominated by the Incumbent: Provided always, that if from any cause a vestry meeting shall not take place at the time aforesaid, such appointment of Churchwardens may take place at any subsequent Vestry Meeting to be called in manner hereinafter provided; and in case of the death or change of residence to twenty miles or more from any such Church, of either of the said Churchwardens, a Vestry Meeting shall be thereupon called, for the election, by the said Vestry, of a new Churchwarden, in case the one deceased or removed had been elected by the Vestry, or for the nomination of a new Churchwarden by the Incumbent, in case the one deceased or removed had been nominated by the Incumbent.

IV. And be it further enacted by the authority aforesaid, That no person shall be eligible to the office of Churchwarden except members of the said Church of the full age of twenty-one years, and who shall also be Members of such a Vestry.

V. And be it further enacted by the authority aforesaid, That such Churchwardens shall hold their office for one year from the time of their appointment, or until the election of their Successors, except in case of an appointment or nomination to fill up any vacancy occasioned by death or removal as aforesaid, and in such case the person so appointed or nominated shall hold the said office until the next annual election.

VI. And be it further enacted by the authority aforesaid, That such Churchwardens so to be elected and appointed as aforesaid, shall, during their term of office, be as a Corporation to represent the interest of such Church, and of the members thereof, and shall and may sue and be sued, answer and be answered unto, in all manner of suits and actions whatsoever, and may prosecute indictments, presentments and other criminal proceedings, for and in respect of such Churches and Churchyards, and all matters and things appertaining thereto, and shall and may in conjunction with the Rector or Incumbent, make and execute fealties or conveyances, or other proper assurances in the Law, to all Pewholders holding their Pews by purchase, or leases to those holding the same by lease, and shall and may grant certificates to those who shall have rented sittings; such Conveyances, Leases and Certificates, to be given within a reasonable time after demand made, and at the charge of the person applying for the same; and further, it shall be the duty of such Churchwardens from time to time to sell, lease and rent, Pews and Sittings, upon such terms as may be settled and appointed at Vestry meetings to be holden for that purpose as hereinafter provided: Provided always, that any such sale, lease or renting, shall be subject to such rent-charge or other rent as may from time to time be rated and assessed in respect thereof, at such Vestry meetings.

VII. And be it further enacted by the authority aforesaid, That in case of the absolute purchase of any Pew in any such Church as aforesaid, the same shall be construed as a Freehold of Inheritance not subject to forfeiture by change of residence or by discontinuing to frequent the same, and the same may be bargained, sold and assigned to any purchaser thereof, being a member of the Church of England; and such purchaser, provided the same be duly assigned and conveyed to him, shall hold the same with the same rights, and

subject to the same duties and charges, as the original purchaser thereof.

VIII. And be it enacted by the authority aforesaid, That any Pewholder, whether by purchase or lease, and any person renting a Pew or Sitting, shall and may during their rightful possession of such Pew or Sitting, have a right of action against any person injuring the same, or disturbing him or his family in the possession thereof.

IX. And be it further enacted by the authority aforesaid, That such Churchwardens so to be appointed as aforesaid, shall yearly and every year, within fourteen days after other Churchwardens shall be nominated and appointed to succeed them, deliver in to such succeeding Churchwardens a just, true, and perfect account in writing (fairly entered in a book or books to be kept for that purpose, and signed by the said Churchwardens,) of all sums of money by them received, and of all sums rated or assessed, or otherwise due and not received, and also of all goods, chattels, and other property of such Church or Parish in their hands as such Churchwardens, and of all monies paid by such Churchwardens so accounting, and of all other things concerning their said office, and shall also pay and deliver over all sums of money, goods, chattels, and other things, which shall be in their hands, unto such succeeding Churchwardens; which said account shall be verified by oath before one or more of Her Majesty's Justices of the Peace, who are hereby authorized to administer the same; and the said book or books shall be carefully preserved by such Churchwardens, and they shall and are hereby required to permit any member of such Vestry as aforesaid, to inspect the same at all reasonable times, paying one shilling for such inspection, and in case such Churchwardens shall make default in yielding such account as aforesaid, or in delivering over such money, goods, or other things as aforesaid, it shall be in the power of the succeeding Churchwardens to proceed against them at Law for such default, or to file a bill in equity for discovery and relief; and in case of the re-appointment of the same Churchwardens, then such account as aforesaid, shall in like manner as is aforesaid, be made and rendered before an adjourned meeting of such Vestry, fourteen days after such re-appointment.

X. And be it further enacted by the authority aforesaid, That it shall be in the power of the Incumbent of any such Parsonage, Rectory, or Parish as aforesaid, or of the Churchwardens thereof, to call a Vestry Meeting whenever he or they shall think proper so to do, and it shall be his and their duty so to do, upon application being made for that purpose in writing by six at least of the members of such Vestry as aforesaid; and in case upon such written application being made as aforesaid, such Incumbent and Churchwardens shall refuse to call such meeting, then one week after such demand made, it shall be in the power of any six of such members of the vestry to call the same by notice to be affixed on the outer Church door (or Church doors where more than one), at least one week previous to such intended meeting.

XI. And be it further enacted by the authority aforesaid, That in all Vestry Meetings, the Rector or Incumbent of the Church shall preside as Chairman when present, and in his absence, such person as the majority present at such meeting shall name; and the Vestry Clerk, when there is one, and present, or in case there be no Vestry Clerk or he be absent, then such person as the Chairman shall name, shall