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[REDACTED]

2nd Session, 4th Parliament, 17 & 18 Vict., 1854.

B I L L .

An Act to make better provision for the
appropriation of Monies arising from
the Sale of the Clergy Reserves.

Received and Read first time,

Second Reading,

HON. MR. HINCKS.

S. Derbshire & G. Desbarats, Queen's Printer.

(137)

BILL.

An Act to make better provision for the appropriation of
Monies arising from the Sale of the Clergy Reserves.

WHEREAS by the Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the thirty-first year of the Reign of His Majesty King George the Third, and intituled, *An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, "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,"* it is among other things enacted, that it shall and may be lawful for His Majesty, His Heirs or Successors, to authorize the Governor or Lieutenant Governor of each of the Provinces of Upper Canada and of Lower Canada respectively, or the person administering the Government therein, to make from out of the Lands of the Crown within such Provinces, such allotment and appropriation of lands as therein mentioned, for the support and maintenance of a Protestant Clergy within the same; and it was further enacted, that all and every the rents, profits and emoluments which might at any time arise from such lands so allotted and appropriated as aforesaid, should be applicable solely for the maintenance and support of a Protestant Clergy within the Province in which the same should be situated, and to no other purpose whatever. And whereas in pursuance of the said Act, such allotments and appropriations of land as aforesaid, have been from time to time reserved for the purposes therein mentioned, which lands are known in this Province by the name of *The Clergy Reserves*; And whereas by another Act of the said Parliament passed in the Session held in the seventh and eighth years of the Reign of His late Majesty King George the Fourth, and intituled, *An Act to authorize the Sale of a part of the Clergy Reserves in the Provinces of Upper and Lower Canada*, the Governor, Lieutenant Governor or Person administering the Government of the said Provinces, or either of them, was empowered with the consent of the Executive Council of such Province, and in pursuance of His Majesty's instructions, to sell and convey in fee simple or for any less estate or interest, a part of the said Clergy Reserves in each of the said Provinces, not exceeding in either Province one fourth part of the Reserves within the same, nor exceeding one hundred thousand acres in either of them in any one year, and it was enacted that the proceeds of such sales should, by the proper officers, be invested in the Public Funds of the United Kingdom, and that the Dividends and Interest of the monies so invested should be appropriated in the manner provided by the said last mentioned

Act ; and further, that it should be lawful for the Governor, Lieutenant Governor or person administering the Government of either of the said Provinces, with the consent of the Executive Council thereof, and in pursuance of His Majesty's instructions, to give or grant in exchange for any part of the said Clergy Reserves any lands within the said Province, of equal value with such Clergy Reserves so to be taken in exchange, or to accept in exchange for any such Clergy Reserves from any person or persons any lands of equal value, and that any lands so taken in exchange for any such Clergy Reserves should be held by the Crown in trust for the purposes to which the Clergy Reserves were appropriated by the Acts firstly and secondly above cited : And whereas by another Act of the said Parliament, passed in the Session held in the third and fourth years of Her Majesty's Reign, intituled, *An Act to provide for the sale of the Clergy Reserves in the Province of Canada, and for the distribution of the proceeds thereof*, other and further provision is made for the sale of the whole of the said Clergy Reserves, and for the investment of the proceeds of such sale and the distribution of the Interest and Dividends on such investments, and of the Interest on sales of Clergy Reserves on credit or rents arising from Clergy Reserves demised for a term of years, subject to the provision that the quantity of the said Clergy Reserves so to be sold in any one year, shall not in the whole exceed One Hundred Thousand Acres, without the previous approbation in writing of one of Her Majesty's Provincial Secretaries of State, and to other the restrictions and conditions in the said Act mentioned and imposed ; and so much of the Act herein first cited as relates to any reservations of land to be made after the passing of the Act herein last cited in Upper Canada or Lower Canada, for the support and maintenance of a Protestant Clergy, is repealed : And whereas by another Act of the said Parliament passed in the sixteenth year of Her Majesty's Reign, and intituled, *An Act to authorize the Legislature of the Province of Canada to make provision concerning the Clergy Reserves in that Province, and the proceeds thereof*, it is in effect enacted that it shall be lawful for the Legislature of the Province of Canada, from time to time, by any Act or Acts to be for that purpose made and enacted in the manner and subject to the conditions required by the Act of the said Parliament passed in the Session thereof held in the third and fourth years of Her Majesty's Reign, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, sections thirty-seven, thirty-eight and thirty-nine, in respect of Acts made and enacted by the said Legislature to vary or repeal all or any of the provisions of the Act herein last above cited for or concerning the sale, alienation or disposal of the said Clergy Reserves, and for or concerning the investment of the proceeds of all sales therein made or thereafter to be made of such Reserves, and for or concerning the appropriation and application of such proceeds and invest-

ments, the interests and dividends accruing on Sales on Credit of such Reserves, the Rent of such Reserves for the time being unsold, and all other the profits of or accruing from such Reserves, and (notwithstanding the said Act herein last above cited) to make such other provisions for or concerning the sale, alienation or disposal of the said Clergy Reserves, and such investments as aforesaid, and for or concerning the appropriation and application of such Clergy Reserves, proceeds, investments, interests, dividends, rents and profits as to the said Legislature may seem meet; subject to the proviso that it shall not be lawful for the said Legislature by any Act or Acts thereof as aforesaid, to annul, suspend or reduce any of the annual stipends or allowances which have been already assigned and given to the Clergy of the Churches of England and Scotland, or to any other religious bodies or denominations of Christians in Canada, (and to which the faith of the Crown is pledged) during the natural lives or incumbencies of the parties now receiving the same, or to appropriate or apply to any other purposes, such part of the said proceeds, investments, interests, dividends, rents and profits as may be required to provide for the payment of such stipends and allowances during such lives and incumbencies: And whereas it is expedient to alter in certain particulars the provisions of the Act thirdly above cited, touching the matters subjected by the Act last above cited to the control of the Legislature of this Province: 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 the monies arising from the Clergy Reserves in Upper Canada shall continue to form a Fund to be called The Upper Canada Clergy Reserves Fund, and the monies arising from the Clergy Reserves in Lower Canada shall continue to form a Fund to be called The Lower Canada Clergy Reserves Fund:

Each of the said Funds shall continue to be divided into two separate Funds, the one to be called The Upper (or Lower) Canada Clergy Reserves Investment Fund; and the other The Upper (or Lower) Canada Clergy Reserves Distribution Fund:

The Clergy Reserves Investment Fund for each section of the Province shall consist of all monies arising from the sale of Clergy Reserves in that section of the Province, whether now funded or invested either in the United Kingdom or in this Province, or remaining uninvested, or hereafter to arise from such sales, and not being monies forming part of the Distribution Fund hereinafter mentioned: and all monies

forming part of either of such Investment Funds shall be invested by the Receiver General in Public British Securities, or in any Provincial Debentures or Securities which under the Act to establish freedom of Banking or any Act amending the same, may be accepted by the Receiver General in exchange for registered Bank notes, as the Governor in Council shall from time to time direct; and the Receiver General, being thereunto authorized by order of the Governor in Council, shall have full power to dispose of any Securities in which such monies are or shall be invested, and to invest the proceeds in any other such Securities as aforesaid:

The Clergy Reserves Distribution Fund for each section of the Province shall consist of the Interest and Dividends of monies forming part of the Clergy Reserves Investment Fund for that section of the Province, the interest upon sales of Clergy Reserves therein on credit, and rents, issues and profits arising from Clergy Reserves therein demised or to be demised for any term of years, and other casual and periodical incomes arising from Clergy Reserves therein, after deducting therefrom the actual and necessary expenses attending the sales of the said Clergy Reserves and of managing the same; and the Funds aforesaid; and the monies forming the said Distribution Fund shall be paid into the hands of the Receiver General and shall be by him paid out for the purposes hereinafter mentioned, under any General or Special order or orders to be made by the Governor in Council.

II. And be it enacted, That the annual stipends or allowances which had been before the passing of the Act of the Parliament of the United Kingdom last cited in the Preamble to this Act, assigned or given to the Clergy of the Churches of England and Scotland, or to any other Religious Bodies or denominations of Christians in either Section of the Province, and chargeable under the Act of the said Parliament on the Clergy Reserves in such Section, (and to which the faith of the Crown is pledged) shall, during the natural lives or incumbencies of the parties now receiving the same, be the first charge on the Clergy Reserves Distribution Fund for that Section of the Province, and shall be paid out of the same in preference to all other charges or expenses whatever. Provided always, that in any case where such annual allowance as aforesaid is payable, not to an individual but to a Religious Body or Denomination, such allowance shall continue to be payable during the _____ years next after the passing of this Act, and no longer.

III. And be it enacted, That the amount of the Clergy Reserves Distribution Fund in either Section of the Province remaining unexpended and unappropriated under the foregoing provisions of this Act, on the thirty-first day of December in each year, shall, by the Receiver General, be apportioned

equally among the several County and City Municipalities in the same Section of the Province, in proportion to the population of such Municipalities respectively according to the then last Census ; and the portion thereof coming to each Municipality shall be paid over by the Receiver General to the Treasurer, Chamberlain or other Officer having the legal custody of the monies of such Municipality, without other authority than this Act, and shall make part of the General Funds of the Municipality, and be applicable to any purpose to which such Funds are applicable : Provided always, that if at the time when such payment is to be made, any sum of money shall be payable by any such Municipality to the Receiver General for any cause whatever, and shall be overdue, he may retain in his hands in satisfaction or part satisfaction thereof the sum which would otherwise be payable to such Municipality, or so much thereof as may be equal to the sum so payable to him by the Municipality and overdue, and shall deliver to the Treasurer, Chamberlain or other Officer as aforesaid, a discharge in favor of the Municipality for a sum equal to that so retained by him, and for the purposes of this section, each Municipality into which any County in Lower Canada, may be at the time divided, and each Union of Counties for Municipal purposes in Upper or Lower Canada, shall be taken to be a County Municipality.

IV. And be it enacted, That so much of the Act thirdly cited in the Preamble of this Act as limits the quantity of lands forming part of the Clergy Reserves which may be sold in any one year without the previous approbation in writing of one of Her Majesty's Principal Secretaries of State, and so much of the said Act as makes any appropriation of any monies forming part of the Clergy Reserves Fund, or arising from the sale of Clergy Reserves, other than such as is made by this Act, or as may be in any way inconsistent with this Act, shall be and so much of the said Act is hereby repealed.

V. And be it enacted, That any lands which may have been under the authority of the Acts hereinbefore cited, or any of them, accepted in exchange for lands originally forming part of the Clergy Reserves in any part of this Province, shall be deemed to be Clergy Reserves for all the purposes of this Act.