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No. 72.

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

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## BILL.

An Act to incorporate "*The Minister  
and Trustees of St. Andrew's  
Church, Montreal.*"

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Received and Read a first time, Friday, 9th  
February, 1849.

Second Reading, Thursday, 15th February, 1849.

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MR. HOLMES.

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PRINTED BY LOVELL AND GIBSON.

72.

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## BILL.

An Act to incorporate "*The Minister  
and Trustees of St. Andrew's Church,  
Montreal.*"

**W**HEREAS the ground in St. Peter Preamble.  
Street, Montreal, upon which the Recital.  
Church for the Public Worship and exercise  
of the religion of the Church of Scotland, in  
5 the City of Montreal, commonly called St.  
Andrew's Church, was purchased by the late  
Alexander Rea and William Hunter, as Trus-  
tees for the Congregation worshipping in the  
said Church, under a Deed executed in their  
10 favour on the third day of May one thou-  
sand eight hundred and five, before Guy and  
Barron, Notaries Public, and held by them  
(the said Alexander Rea and William Hun-  
ter,) according to their declaration of date  
15 fourteenth of July, one thousand eight hun-  
dred and six, made before the aforesaid No-  
taries, for the benefit and behoof of the said  
Church and the Congregation thereof, and  
for no other purpose whatsoever, and parti-  
20 cularly described in the aforesaid Deed of  
sale and declaration: And whereas the said  
Congregation of the said Church, did on the  
twelfth day of May, one thousand eight hun-  
dred and thirty-five, in a General Meeting of  
25 the Congregation duly summoned from the  
Pulpit for the purpose of electing Trustees  
for holding the said property along with the  
said William Hunter, the then surviving Trus-  
tee, did duly elect, the Reverend Alexander  
30 Mathieson, Minister of the said Church, John  
Smith, William Ritchie, Donald Mackay, and  
James Fleming, and did declare that the  
aforesaid Reverend Alexander Mathieson,  
John Smith, William Ritchie, Donald Mac-  
35 kay and James Fleming, along with the afore-  
said William Hunter and their successors for

Deed of sale  
dated 3rd  
May, 1805,  
&c. cited.

ever, shall be constituted Trustees of the said Church and shall have a perpetual succession: And whereas the said Congregation of the said Church did, according to the provisions of the Constitution of the said Church, on the fifteenth day of June, one thousand eight hundred and forty, elect William Stewart Hunter to be a Trustee of the said Church in the room and stead of William Hunter, deceased; And whereas the said William Stewart Hunter and the said Donald Mackay have since their said appointment departed this life, and the said William Ritchie having removed from this Province, and the said James Fleming having left the City of Montreal, John Boston, William Edmonstone, John Frothingham and James Gilmour were according to the provisions of the Constitution of the said Church duly appointed Trustees for the purposes aforesaid, in the room and stead of the said William Stewart Hunter, Donald Mackay, William Ritchie and James Fleming, and are now, together with the said Reverend Alexander Mathieson and John Smith, Trustees of the said Church; And whereas the said Reverend Alexander Mathieson, John Smith, John Boston, William Edmonstone, John Frothingham and James Gilmour as such Trustees as aforesaid, by Deed passed before J. J. Gibb and colleague Notaries Public, bearing date at Montreal aforesaid, the fourth day of December, one thousand eight hundred and forty-seven, acquired by purchase from Mr. Edwin Atwater of the said City of Montreal, merchant, "Those certain two Lots of Land, situate, lying and being in the said City of Montreal; forming part of the 'Beaver Hall Property,' known and distinguished on the plan of the said Beaver Hall Property, as Lots numbers one and three, bounded in front by La-gauchetière Street, in rear by a new Street marked 'A.' on the said plan, on one side by Beaver Hall Terrace, and on the other side by property belonging to the heirs La-mothe; the boundary line on Beaver Hall

Description of certain lots of land.

" Terrace consists of a curved line whose  
 " *radius* is about seventy-six feet four inches ;  
 " the range line of the Streets, Beaver Hall  
 " Terrace and Lagauchetière when carried  
 5 " out to their points of intersection, give on  
 " Beaver Hall Terrace, one hundred and  
 " sixty-three feet six inches, on Lagauche-  
 " tière Street one hundred and fifteen feet  
 " eight inches, on the line adjoining the pro-  
 10 " perty of the heirs Lamothe one hundred  
 " and eighty-three feet three inches, and on  
 " the new Street aforesaid, one hundred and  
 " fifteen feet four inches, the whole English  
 " measure, without warranty of precisemea-  
 15 " surement, together with a house thereon ;"  
 as described in the said Deed, - for the use  
 and behoof of the said Congregation of the said  
 Church, and on which there is now being  
 built a Church suitable for the increased num-  
 20 bers of the said Congregation : And whereas  
 the said Trustees are not a body corporate,  
 and have only a life estate in the said lots of  
 ground and buildings thereon erected, holden  
 by them as aforesaid, which is transmissible  
 25 to their successors, to be elected according  
 to the provisions of the Laws and Constitu-  
 tion of the said Church ; And whereas the  
 election of Successors to the said Trustees  
 from time to time on their death, removal or  
 30 necessary absence is subject to many diffi-  
 culties and delays, and is attended with much  
 expense ; And whereas the Reverend Alex-  
 ander Mathieson, Doctor in Divinity, Minis-  
 ter of the said Church of St. Andrews in  
 35 Montreal, John Smith, John Boston, William  
 Edmonstone, John Frothingham and James  
 Gilmour, Esquires, of the said City of Mon-  
 treal, Trustees of the said Church, by their  
 humble Petition have represented the incon-  
 40 veniences resulting from the want of a cor-  
 porate capacity in them the said Trustees to  
 enforce by legal process the payment of the  
 rents payable by the holders of Pews in the  
 said Church, and that it has now become  
 45 necessary to sell the present Church in St.  
 Peter Street aforesaid, and provide a larger

building for the accommodation of the said Congregation; Be it therefore enacted, &c.

Certain persons incorporated and certain corporate powers conferred on them.

And it is hereby enacted by the authority of the same, That the said Reverend Alexander Mathieson, John Smith, John Boston, William Edmonstone, John Frothingham and James Gilmour, and the successors for ever, of the said Reverend Alexander Mathieson, John Smith, John Boston, William Edmonstone, John Frothingham, and James Gilmour, to be elected in the manner hereinafter directed, shall be and they are hereby constituted and declared to be a body corporate and politic in name and in deed by the name and style of "*The Minister and Trustees of St. Andrew's Church, Montreal*" and shall be a perpetual corporation, and shall have perpetual succession, and a common seal, with power to break, change and alter the same from time to time at pleasure, shall be in law capable of suing and being sued, pleading or being impleaded, defending or being defended, answering or being answered unto, in all Courts of Judicature, in all manner of actions, suits, complaints, matters and causes whatsoever, and also of contracting and being contracted with, relative to the funds of the said corporation, and the business and purposes for which it is hereby now constituted as hereinafter declared; and may make, establish and put in execution, alter or repeal such by-laws, rules, ordinances and regulations, as shall not be contrary to the constitution and laws of this Province or to the provisions of this Act, or to the constitution of the Church of Scotland as in that part of the United Kingdom of Great Britain and Ireland called Scotland now by law established, and as may appear to the said corporation necessary or expedient for the interests thereof; Provided always that three of the members of the said Corporation shall form a *quorum* for all matters to be done and disposed of by the said Corporation.

Proviso; three members to form a *quorum*

II. And be it enacted, That the several Lots of ground, &c. held by Trustees vested in Corporation.

lots of ground aforesaid, together with the buildings thereon erected, held by the Trustees aforesaid, shall be holden by the said Corporation to stand and be possessed thereof forever to and for the several limitations, trusts, provisions and uses declared and expressed in respect of the same in and by the above referred to deeds of sale and declaration by the said Alexander Rea and William Hunter, as also by the terms under which the said Trustees are elected.

III. And be it enacted, That it shall and may Corporation may accept real estate to a certain amount.

be lawful for the said Corporation to accept any real estate, which hereafter may be gratuitously given, granted or bequeathed, for the use of the said Church, as shall not together with that already holden by the said Trustees as aforesaid, exceed in value, and yield at any time more than a clear nett yearly income of one thousand pounds; and that the said Corporation be and are hereby authorised and empowered to sell the lot of land and buildings thereon, situated in St. Peter Street aforesaid, and the price or purchase money thereof to apply to the completion and paying for the lot of land and the Church now building as aforesaid on the said lot of land situated on Beaver Hall, and in the preamble hereof lastly above described; and further that the said Corporation shall be empowered to sell or alienate the whole or any portion of the property held in trust by them, but, they shall not be empowered to alienate or sell the property or any part thereof, except on a requisition signed by three-fourths of the proprietors of pews in St. Andrew's Church aforesaid of at least one year's standing, not in arrear of rent, and at the time residing within the Parish of Montreal; and no sale or alienation shall be valid, unless sanctioned by three-fourths of the proprietors, qualified as aforesaid; the proceeds of any sale or alienation, so made and sanctioned, shall be the property of the Church and Con-

Proviso.

gregation, and solely applicable to the maintenance of the public worship of God according to the form of the Established Church of Scotland, or the erection and endowment of a school or schools in connection with the said Church;—Provided always, that no portion of real estate belonging to the said Congregation, shall be disposed of for the purpose of secular education, until such time as the nett annual income of the said Church shall amount to at least three hundred pounds, current money of this Province. 5 10

Provison with respect to certain vacancies in Corporation.

IV. And be it enacted, That when any vacancy or vacancies shall happen in the said Corporation by death, or the removal or change of residence of any of the members thereof from the Parish of Montreal, or otherwise, the said vacancies shall be supplied in the manner hereinafter mentioned, as follows, to wit: when a vacancy shall happen by the death, removal or change of residence, or otherwise, of the said Reverend Alexander Mathieson or his successor in the ministry of the said Church, from the said Parish, District or otherwise, the same shall be supplied by his successor, Minister of the said Church; and when a vacancy or vacancies shall happen by the death, or removal, or change of residence of the said Reverend Alexander Mathieson, John Smith, John Boston, William Edmonstone, John Frothingham, and James Gilmour, or of their successors from the said Parish, or otherwise, from time to time, shall be supplied by such person or persons as shall be elected to fill the same, by a majority of the votes of the proprietors of one year's standing, to wit, of pews in the said Church, not in arrear of pew rent, at a meeting to be convened as hereinafter mentioned. 20 25 30 35 40

Vacancy in office of minister of the Church how to be filled.

V. And be it enacted, That whenever a vacancy shall happen by the death, or removal, or change of residence of the Minister of the said Church, it shall be the duty of



the Kirk Session, within eight days from the time of every such vacancy happening, to require by a notice or requisition to be published as the said Session shall determine, 5 a meeting of the proprietors, pew holders, and members of the said Church, not in arrear of rent, to assemble in the said Church on a day not more than eight days after the day of such notification, at a convenient hour 10 for the purpose of taking the steps necessary for supplying such vacancy as aforesaid, by electing a Committee of nine, by a plurality of votes, (seven to form a *quorum*,), of whom six shall be proprietors of at least one year's 15 standing, and in full communion with the said Church, and the remaining three may be pew holders who have paid rent for three years preceding their election, and are in full communion with the said Church, who 20 shall have full power to take such steps as to them may seem best adapted for speedily obtaining to be Minister of the said Church, a regularly ordained Minister or Licentiate of the Church of Scotland or of the Presbyte- 25 rian Church of Canada in connection with the Church of Scotland; and at which meeting the senior member of the Session, if not prevented by illness or other cause, shall preside, or if so prevented, then the senior 30 of the other members of the Session present shall preside thereat; and if at any such election there shall be an equality of votes, the Member of the Session so presiding shall have the casting vote.

35 VI. And be it enacted, That when any vacancy or vacancies shall happen in the said Corporation by death, or the removal or change of residence of any of the members thereof from the Parish of Montreal, or otherwise, 40 other than in respect of the Minister of the said Church for the time being, it shall be the duty of the said Minister, within three calendar months from the time of every such vacancy happening, to require by a notice or 45 requisition from the pulpit of the said Church,

Vacancies among other members how to be supplied.

on two successive Sundays, to be published at such time in the forenoon service as he shall see fit, a meeting of the proprietors (not in arrear of rent) to assemble in the said Church at a convenient hour on a day not exceeding ten days after the day of such publication, for the purpose of supplying such vacancy or vacancies as aforesaid, by a person or persons who are proprietors in communion with the said Church, and who shall cease to be members of the said Corporation, if ever they cease to be members of the said Church by joining in communion with any other church or religious society; at which meeting the said Minister, if not prevented by illness or other cause, shall preside, or, if so prevented, then the senior of the other members of the said Corporation present, shall preside thereat, and if at any such election there shall be an equality of votes, the minister or other member so presiding, shall have the casting vote.

Calling of  
Public Meeting  
of Pew-  
holders.

VII. And be it enacted, That on a requisition signed by twenty proprietors or pewholders, specifying the object they have in view, it shall be the duty of the said Session to call a Public Meeting of proprietors or pewholders, to be held in the Church, within ten days after the receipt of the said requisition.

A Register to  
be kept for  
recording pro-  
ceedings, &c.  
of Corporati-  
on.

VIII. And be it enacted, That there shall be opened and kept by the said Corporation a Register in which shall be entered and recorded, from time to time, the proceedings and transactions of the said Corporation, and which Register shall be open to the inspection of every proprietor or pewholder not in arrear of rent, at all seasonable times; and that on every election to supply such vacancies as aforesaid, the same shall be declared by an instrument to be forthwith made and executed under the hands of the member presiding thereat, and three of the members of the said meeting, which said instrument decla-

ratory of such election shall at the diligence of the person elected at such meeting be caused to be enregistered in the Office of the Prothonotary of the Court of Queen's Bench  
 5 for the District of Montreal, within one calendar month from the day of such election, which enregistration the said Prothonotary is hereby required to make at the request of the bearer of the said instrument; and for  
 10 which enregistration and the certificate thereof, the said Prothonotary shall be entitled to demand and receive the sum of *two shillings and six pence*, currency, and no more; And in default of the enregistration of the said  
 15 instrument within the time aforesaid, the said election shall be absolutely null and void, and the said Corporation shall proceed *de novo* to another election, and in the same manner as if no such election had taken  
 20 place.

IX. And be it enacted, That all deeds of gift and conveyance of real estate, which shall be made to the said Corporation, shall be enregistered within twelve calendar  
 25 months after the execution thereof respectively, in the Office of the Prothonotary of the Court of Queen's Bench for the District, and also in the Registry Office of the District where such real estate shall be situated;  
 30 which enregistration the said Prothonotary is hereby required to make at the request of the bearers of such deeds respectively, and for every such enregistration the said Prothonotary shall be entitled to demand and  
 35 receive at and after the rate of *six pence*, currency, for every hundred words that the said deeds shall respectively contain, together with *two shillings and six pence* currency, for the certificate of such enregistration, and  
 40 no more; and in default of such enregistration as aforesaid, of any such deed or deeds as aforesaid, within the time aforesaid, the same shall be absolutely null and void, and of no more force or effect than if the same  
 45 had not been made and executed.

Deeds of gift, &c. to Corporation to be enregistered within 12 months after execution thereof.

Her Majesty's  
Rights saved.

X. And be it enacted, That nothing herein contained shall affect or be construed to affect in any manner or way the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any body politic or corporate, such only excepted as are herein mentioned.

Public Act.

XI. And be it enacted, That this Act shall be deemed a Public Act, and shall be judicially taken notice of as such by all Judges, 10 Justices of the Peace, and Ministers of Justice and other persons whomsoever, without being specially pleaded.