

No. 91.

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

BILL.

An Act for recognizing for Civil purposes the canonical erection of Catholic Parishes, and to regulate the construction and repairing of Churches, Sacristies, Parsonage Houses and Church-yards, and for repealing certain Acts and Ordinances therein mentioned.

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Second Reading, Friday, 16th March, 1849.

Mr. CHABOT.

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An Act for recognizing for Civil purposes the canonical erection of Catholic Parishes, and to regulate the construction and repairing of Churches, Sacristies, Parsonage Houses, and Church-Yards, and for repealing certain Acts and Ordinances therein mentioned.

WHEREAS it is expedient to make new Preamble.
 and permanent provision for the recognition for Civil purposes of the Canonical erection of Roman Catholic Parishes, and to
 5 make regulations for the construction and repairing of Churches, Sacristies, Parsonages, and Burial Grounds and their dependencies in Lower Canada; Be it therefore enacted, &c. :

10 And it is hereby enacted by the authority of the same, That it shall be lawful for the Governor of this Province, in Her Majesty's name and by Commission under the Great Seal, to nominate and appoint in each of the
 15 Districts of Quebec, Montreal and Three Rivers, five persons duly qualified and resident therein,—and in each of the Districts of Gaspé and St. Francis and in every other District which may be hereafter established,
 20 as well as in that part of the Roman Catholic Diocese of Bytown lying within the limits of Lower Canada, three persons duly qualified and resident therein,—to be Commissioners for carrying this Act into effect,
 25 with power to remove all or any of them, and appoint others in their stead; and the said Commissioners or a majority of them shall have and exercise the powers, authority,
Governor may appoint Commissioners for carrying this Act into effect.
Majority of the Commissioners may act.

jurisdiction and attributes which are vested in them by this Act, until the express revocation of their Commission, which shall remain in force until such revocation, notwithstanding the demise of the Sovereign in whose name 5 it may have been issued.

Power of the Ecclesiastical authorities, as to alterations in the boundaries of Parishes or erection of new ones ; and upon what application it shall be exercised.

II. And be it enacted, That whenever it shall be requisite to erect any new Parish, to dismember or subdivide any Parish, or to alter and modify the bounds, limits or division 10 lines already established according to law, then upon the petition of a majority of the inhabitants, freeholders or lessees, interested in such proceeding, and resident within the extent of territory which it is intended to 15 form into a new Parish or to annex to a Parish already in existence, such petition being presented to the Roman Catholic Archbishop or Bishop or Administrator of the Diocese, the said Ecclesiastical authorities or 20 such person or persons as they may thereunto appoint and authorize, shall proceed according to the Ecclesiastical law and the and the practice of such Diocese, to the final decree for the canonical erection, subdivision, 25 or dismemberment of any Parish or the union of any Parishes, as the case may be : Provided always, and it is hereby enacted, that the Bishop or Administrator of the said Diocese of Bytown shall have for the purposes aforesaid, in and over that part of the said Diocese 30 lying within the limits of Lower Canada, all and every the powers and authority vested in the Ecclesiastical Authorities aforesaid in Lower Canada.

Proviso ; as to Diocese of Bytown.

In what manner parties interested shall be notified of the intended proceeding of the ecclesiastical authorities.

III. And be it enacted, That in all the 35 proceedings which may take place on the part of the Ecclesiastical Authorities mentioned in the next preceding section, sufficient notice shall be given to the persons interested, at least ten days previously, of the day 40 and place when and where the Archbishop, Bishop or Administrator or their delegate will proceed to the spot for the purposes men-

tioned in the petition presented as aforesaid, and such notice shall be read from the pulpit during Divine service in the Parishes or Missions in which the persons interested reside, during two consecutive Sundays, or publicly read and posted up during two consecutive Sundays immediately after Divine service in the forenoon, at the door of the Church or Chapel of each of the Parishes or Missions in which the persons interested reside, or if there be no Church or Chapel, then at the most public place in the locality where the persons interested reside, and also at the door of the Church or Chapel of the Parish or Mission whence they are ministered unto; but if one and the same priest be charged with the cure of several Parishes or Missions, the publications required by this Act may legally be made in that one of the Parishes or Missions where Divine service shall be performed in the forenoon.

IV. And be it enacted, That whenever there shall have been rendered as aforesaid, according to the canonical laws and forms followed and in use in the said Dioceses respectively, any decree for the canonical erection of a new Parish or for the division, subdivision, dismemberment or union of any Parish or Parishes, or with regard to any alteration or modification of the bounds, limits and division lines of any Parishes already erected and established according to law, the said canonical decree shall be read and published during two consecutive Sundays from the pulpit of the Churches of the Parishes or Missions interested in the said dismemberment, separation, union, alteration, bounds and division lines, by the *curé*, vicar or priest performing the functions of the *curé* in the same, together with a public advertisement notifying the parties interested, that within thirty days, (or one day later if the thirtieth day be a Sunday or holyday,) from the last reading and publication of the said canonical decree, ten or more of the inhabitants (being freeholders)

How the canonical decree shall be notified to the parties interested.

mentioned in the petition presented to the Ecclesiastical Authority for obtaining the said canonical decree, will apply to the said Commissioners for the civil recognition of the same, and that all persons having or considering that they have any opposition or objection to make against the said civil recognition, must file and deposit them, before the expiration of the said thirty days, with the Clerk of the said Commissioners; and if within the period aforesaid no opposition is made to the civil recognition of the said canonical decree, and filed and deposited as aforesaid with the said Clerk, or if such opposition be made and filed and be rejected by the said Commissioners, the said canonical decree shall be confirmed according to the form and tenor thereof, and the said Commissioners shall make their report to the Governor of this Province for the time being conformably to the said canonical decree.

Oppositions.

Confirmation of decree if there be no opposition or it be rejected.

How oppositions shall be heard and determined.

V. And be it enacted, That whenever any opposition or objection to the civil recognition of any such canonical decree, shall be made and filed with the Clerk of the said Commissioners within the period aforesaid, and in the manner aforesaid, the said Commissioners shall hear, adjudge upon and determine the said opposition or objection, either on proof of the allegations thereof, made before them by witnesses or by affidavits produced in support of the same, (which affidavits may be sworn to before them or before a Commissioner of the Court of Superior Jurisdiction or before a Justice of the Peace, who are hereby respectively authorised to administer the requisite oath,) or by one or more of the said Commissioners, or one or more persons delegated by them for that purpose, proceeding in person to the spot, on the opposant or opposants depositing in the hands of the Clerk or Secretary of the said Commissioners such sum as may be sufficient to defray the expences to be incurred travelling to and remaining at the place; and the Commission-

ers or persons by them delegated, shall have power to hear witnesses brought before them by the parties interested, and of swearing them, and shall take down their depositions
 5 in writing ; and the said Commissioners shall proceed to establish the extent of the limits and division lines of the Parish, division, subdivision or union of Parishes, and may make inquiry into all that may have been done
 10 or ordered by the Ecclesiastical Authorities alone in that behalf, and as to the alterations and modifications by them made in the limits, bounds and division lines of the Parishes or subdivision of the Parishes already establish-
 15 ed and erected according to law, and shall make a report of the whole to the Governor of this Province for the time being, as afore-
 said ; in which Report they shall designate the bounds, limits and division lines of such
 20 Parishes or subdivision of Parishes, or the alterations and modifications to be made to the Parishes already established and erected according to law, setting forth moreover the limits, bounds and division lines which they
 25 may deem the most fitting to assign for the convenience of the inhabitants.

Commissioners to report their decision to the Governor.

VI. Provided always, and be it enacted, That in case it shall become necessary to make any alteration or modification in what
 30 may have been regulated and ordered by the canonical decree, it shall be the duty of the said Commissioners to consult the Ecclesiastical Authorities above mentioned, or such person as shall or may be appointed by them
 35 for that purpose, and thereupon to obtain their opinion in writing, which opinion the said Commissioners shall also refer to in their said report, together with all remonstrances and representations which any number of in-
 40 habitants may have thought it necessary to make to them, in writing, in support of their oppositions or objections.

Ecclesiastical authorities to be consulted before any alteration is made in their decree.

VII. And be it enacted, That nothing here-
 in contained with respect to the dismember-

As to Parishes which have

contracted
debts.

ment, division or subdivision of any Parishes already established and erected according to law, or to the union of two or more Parishes, or to the changing or altering the limits, boundaries or lines of demarcation of any such Parish, shall extend to any of the said Parishes which may have contracted debts for the erection of churches or parsonage houses in the said Parishes respectively, until the said debts shall be paid and satisfied, or at least until such of the inhabitants of the said Parishes as are to be dismembered shall have first paid their share of the said debts, or shall be discharged by the majority of the other parties interested, that is to say, by the majority of the parishioners of the Parish where the church has been erected.

Commissioners to award costs for and against the proper parties, &c.

VIII. And be it enacted, That the said Commissioners shall have the right of taxing and awarding costs to the party or parties succeeding either in the demand for the civil recognition of the decree of canonical erection, or on any opposition or objection to the said recognition; and that in case no opposition or objection shall be made with reference to the civil recognition of the decree of canonical erection, the costs and expenses incurred in obtaining the said civil recognition shall be paid by the petitioners.

Commissioners empowered to summon witnesses. &c.

IX. And be it enacted, That in all cases the said Commissioners, or the persons delegated by them, shall have the right and power to send for and examine all papers, documents and plans relating to any limits, divisions, dismemberment or reunion of Parishes or subdivision of Parishes which may be in the possession of any person whomsoever and to take copies thereof if they think fit; and that in case any individual shall refuse to produce to the said Commissioners, or their delegates, any documents in his possession or to permit them to take copies of the same, he shall incur a fine of *ten pounds* currency, to be recovered by civil action, in the name of the Commis-

Penalty for not attending.

sioners, in any Court of competent civil jurisdiction.

X. And be it enacted, That on the *procès verbal* of the said Commissioners, containing their Report as aforesaid, it shall be lawful for the Governor or Lieutenant Governor or Person administering the Government of this Province, to issue a proclamation under the great seal of the Province erecting the Parish or Parishes for civil purposes, and confirming, establishing and recognizing the limits and boundaries thereof; and such proclamation shall avail as a legal erection and confirmation for all civil purposes of the Parish or Parishes or subdivisions of Parishes therein designated, as well of those which may have been formed by the dismemberment, reunion or subdivision of Parishes erected and recognized by the *arrêt* of His Most Christian Majesty, bearing date the third day of March, one thousand seven hundred and twenty-two, or by any other subsequent letters patent or proclamation, as for every erection, union or dismemberment of Parishes which may take place hereafter in Lower Canada; any law, custom or usage to the contrary notwithstanding: Provided that it shall be the duty of the Secretary of this Province to address two copies of the said proclamation to the Archbishop or to the Bishop or Administrator of the Diocese, one of which shall be kept among the archives of the Bishopric and the other transmitted to the newly erected Parish to be kept therein; and one copy, moreover, shall be addressed to the Commissioners by whom the Report shall have been made, to be deposited among the archives of the Commission.

On the report of the Commissioners a proclamation shall issue in accordance therewith.

Proviso; a copy of the proclamation to be forwarded to the Parish, and to the Commissioners.

X. And be it enacted, That whenever in any Parish or Mission, it shall be intended to construct and erect any parish-church or chapel, or chapel of ease, sacristy and other dependencies, or a burial ground, or to alter or repair any such buildings, in every such

Proceedings by the Ecclesiastical authorities for the erection or repair of any church, chapel, &c.

case, on the petition of a majority of the inhabitants (being freeholders or tenants,) interested in the construction or erection of, or in any alterations and repairs to any church, chapel, sacristy, parsonage or burial ground as aforesaid, the said petition being presented to the Roman Catholic Archbishop or Bishop or Administrator of the Diocese, the said Ecclesiastical Authorities or such other person or persons as they may appoint and authorise for the purposes aforesaid, shall proceed according to the ecclesiastical law and the practice of the Diocese to the final order or decree which shall definitely determine the location or construction of such new parish-church, chapel, chapel of ease, or sacristy, parsonage or burial ground, and the principal dimensions thereof, or the alterations and repairs to be made in and to any such building or burial ground, as the case may be.

Notice to be given to the parties interested.

XII. And be it enacted, That in all the proceedings which may take place relative to the construction or repair of churches, parsonages, sacristies, burial grounds and other dependencies, or to any alterations, repairs or modifications to be made to the same, sufficient notice shall be given to the persons interested, at least ten days previously, of the day and place when and where the Archbishop, Bishop, Administrator or delegate will proceed to the spot mentioned in the said petition; and such notice shall be read from the pulpit during Divine service in the Parish or Mission where the work is to be done, or if there be no Divine service there, then from the pulpit during Divine service in the place where the Parishoners of the said Parish or Mission are ministered unto, or shall be publicly read and posted up during two consecutive Sundays immediately after Divine service in the forenoon, at the door of the church or chapel of the Parish or Mission interested, or if there be no church or chapel in the said Parish or Mission, the said notice shall be read, published and posted

up at the door of the church and chapel of the Parish or Mission where the persons interested are ministered unto, and shall be also posted up in the most public spot in the place where they reside.

XIII. And be it enacted, That whenever any order or decree shall have been made by the Ecclesiastical Authorities, for the location, erection and construction, alteration, removal or repair of any parish-church or chapel, chapel of ease, parsonage or burial ground or dependencies, as hereinabove mentioned, the said order or decree shall be read and published by the *curé*, vicar, or priest ministering or performing the functions of the *curé* from the pulpit of the church; or chapel of the Parish or Mission interested, during two consecutive Sundays, giving notice to the persons interested that the said decree or order will be presented by the petitioners or ten of them, to the said Commissioners for confirmation, thirty days after the date of the last reading and publication, and that if any persons interested desire to oppose the said confirmation, their oppositions or objections must be filed with the Clerk of the said Commissioners before the expiration of the said thirty days.

How the Ecclesiastical decree shall be published.

XIV. And be it enacted, That if within the said period of thirty days from the last reading or publication of the said decree or order as aforesaid, no opposition is made to the confirmation of the same by the said Commissioners, or if the oppositions which shall be made are dismissed or set aside by the said Commissioners, the said decree or order shall be confirmed according to its form and tenor; and if such opposition is maintained the said decree shall have no civil effect or force.

If there be no opposition or the opposition be rejected the decree shall be confirmed.

Otherwise if an opposition be maintained.

XV. And be it enacted, That if any oppositions or opposition is or are made and filed as aforesaid to the confirmation of the canonical

How oppositions shall be determined upon.

cal decree within the delay aforesaid, the said Commissioners shall hear, adjudge upon and determine the said opposition or oppositions or objections, on the evidence to be give neither by witnesses brought before them, or by affidavits sworn before them or before a Justice of the Peace or Commissioner of the Superior Court, (and they are respectively authorised and required to administer the requisite oaths,) or on personal inspection by one or more of the said Commissioners or by one or more persons deputed by them for that purpose; and any such Commissioner or delegate shall have the right of hearing the witnesses of the persons interested, and of swearing them, and of taking down and reducing their evidence to writing.

Commissioners may award costs.

XVI. And be it enacted, That the said Commissioners shall have the right of taxing and awarding costs for or against the persons opposing, or of making each party pay their own.

Syndics to be elected after the decree is confirmed.

XVII. And be it enacted, That as soon as the canonical decree shall have been confirmed, the Commissioners shall make an order for the election of seven syndics, to carry into effect the said decree or order, which election shall be notified and had in the manner and form hereinafter mentioned.

Notice to be given of the time and place for the Election of Syndics.

XVIII. And be it enacted, That the *curé*, priest or minister of the Parish interested in such construction or repair, shall give notice on two consecutive Sundays, from the pulpit of the church or chapel of the Parish interested, or if there be no church or chapel in the said Parish, then from the pulpit of the church or chapel of the Mission from whence the persons interested are ministered unto, that a meeting of the inhabitants (being freeholders or lessees,) will be held, and will take place on the Sunday immediately following the last publication, directly after Divine service in the forenoon, at the sacristy or par-

sonage or other fitting place in such Parish or Mission, for the purpose of proceeding to the election of seven Syndics to carry into effect the said order or decree.

5 XIX. And be it enacted, That at the meeting for the election of Syndics, the *curé*, priest, vicar or minister of the said Parish or Mission shall preside, or in his absence such person as the meeting may choose; and that the
 10 said syndics shall be named by the majority of the votes of the said inhabitants (being freeholders or lessees,) present at the said meeting; and that the president shall have the right of voting, in the event of an equal
 15 division of votes only; and an authentic record of all the proceedings shall be made in due form either by a notary or by the said President.

Who shall
preside at the
Election.

Record to be
kept.

XX. And be it enacted, That if the inhabi-
 20 tants (being freeholders or lessees) interested in such construction or repair of any churches, parsonages, burial-grounds and dependencies, neglect or refuse to attend the said meeting called in the manner and
 25 form aforesaid, or neglect or refuse to make such election,—then, upon a petition to be presented to them by the *curé*, priest, or minister who shall have called the said meeting, or by any other person interested, such
 30 petition being accompanied by a copy of the said notices and publications, and also by the certificate of the said *curé*, rector or minister, setting forth that the said meeting was duly convoked, and that the said meeting did
 35 not take place, or that the persons interested neglected or refused to make such election,—the said Commissioners are authorized to nominate *ex officio* the said Syndics who shall have the same rights as if they had been
 40 nominated and elected by the persons interested, and shall be subject to the same penalties in case of refusal to accept the said office, and notice shall be given to them of their nomination by the Clerk of the said
 45 Commissioners.

If the inhabi-
tants neglect
or refuse to
appoint Syn-
dics, they may
be appointed
by the Com-
missioners.

Qualification
of Syndics.

They shall be
bound to act.

Penalty for
not acting.

Distribution
and recovery.

Vacancies
among the
Syndics, how
filled.

XXI. And be it enacted, That the Syndics so elected by the said meeting or nominated by the said Commissioners shall be freeholders resident in the Parish or Mission interested, and shall be bound to accept the said office ; and the fact of his having five or more children shall not be a valid excuse to exempt any person from serving as Syndic,—and if any Syndic or Syndics thus elected is not or are not present at the said meeting at the time of the election, it shall be incumbent on the President of the said meeting to give him or them notice in writing, within eight days of their said election ; and every such Syndic thus elected and notified, who shall refuse to accept, after such election and notification, or to take the oath required by this Act within eight days after the said election and notification, or who having accepted shall refuse to act as such Syndic, shall thereby incur a penalty of currency, one third of which shall belong to the plaintiff, and the remaining two thirds shall be paid over to the Syndics, to be by them employed in the works of construction or repair which they are required to perform ; and such penalty may be recovered with costs before any civil court of competent jurisdiction.

XXII. And be it enacted, That in case of the death of any one of the said Syndics, or in case of his serious illness, insanity or lunacy, or if any Syndic should cease to reside in the Parish or Mission for which he shall have been elected, or in case of sufficient excuse and legal exemption, of which and exemption the said Commissioners shall be the sole judges, or finally in case of refusal or neglect to accept the office of Syndic or to take the oath required by this Act, such Syndic shall be replaced by another, to be elected in the manner and form hereinbefore prescribed for the election and appointment of Syndics, on an order of the Commissioners to be made by them on a summary petition on the part of any one of the persons inter-

ested : Provided, that if five of the Syndics elected accept the said office and act as such, it shall not be necessary to elect others to replace those who are either exempted
 5 therefrom as aforesaid or who shall refuse or neglect to accept the said office ; and in any case it shall not be necessary to proceed to such election of Syndics while five of the Syndics shall act as such.

Proviso ; no vacancy need be filled while there are five acting.

10 XXIII. And be it enacted, That the Syndics or the majority of the Syndics thus elected shall proceed to draw up a specification of the work to be done, a detailed estimate of the expenses foreseen and unforeseen,
 15 which shall be deemed necessary by the said Syndics, for the constructions or repairs in question, and also a correct statement of all the lands and other immovable property situate in the Parish or Mission (excepting the
 20 property of any Fabrique or Church and the property of schools and communities, that is to say, their establishment or place of residence, which shall not be subject to such assessment,) shewing the value of each lot with its
 25 dependencies, and the names of the proprietors or of those having possession as proprietors, whether resident or not in the said Parish or Mission.

Syndics to make an estimate of the work and expenses.

And a property roll.

30 XXIV. And be it enacted, That after the amount of the cost of the work shall have been thus determined by the said Syndics, they shall proceed to draw up an act of assessment, in which act of assessment shall
 35 be included the cost of the proceedings or part thereof, as determined by the said Commissioners, and which shall set forth the names of the proprietors or persons in possession as such, and shall fix the proportional sum of money (and the quantity of materials,
 40 if any,) which they shall have assessed upon each lot, towards the necessary expenses of such construction or repairs : and such act of assessment, after it shall have been made and completed as aforesaid, by the said

Act of assessment to be made.

To be deposited for public inspection.

Syndics or a majority of them, shall be deposited during fifteen days in the parsonage, or, if there be none, at the house of some notary or well-known inhabitant of the place, in order that all persons interested may take cognizance thereof during the term aforesaid, at any time between eight o'clock in the forenoon and five in the afternoon; and the said Syndics shall cause public notice to be given by a notice in writing, read publicly, and posted at the door of the church or chapel of the Parish (or in default of such parish-church or chapel at the most public place, and at the door of the church of the Parish whence the inhabitants of the Parish or Mission in question are ministered unto) on three successive Sundays, immediately after Divine Service in the forenoon; the said notice setting forth the place in which the act of assessment is deposited, and also the day, hour and place when and where the Syndics will move for its homologation before the Commissioners: Provided also, that each of the said Syndics shall be required, before proceeding further after his election, to take an oath to fulfil his office of Syndic faithfully and impartially, before one of the said Commissioners, or before any Justice of the Peace, who are hereby authorised and required to administer the said oath; and that all proceedings had by the said Syndics without their having all previously taken the oath required of them by this Act, shall be absolutely null and of no effect, and the said Syndics shall be condemned jointly and severally to pay the expenses incurred on the said proceedings, on an action being brought against them in any civil court of competent jurisdiction, by any of the persons interested.

And published.

Proviso; Syndics to take an oath of office, on pain of nullity.

How building lots may be assessed, &c.

XXV. And be it enacted, That the Syndics may assess the lessees of building lots and other immovable property situate in the Parish or Mission for which they shall have been elected, in proportion to the capital re-

presented by the rent paid by them, or the principal of the rent reserved for one or more years, in such manner as they may find just and reasonable; and such lessees shall enjoy the same rights as are vested in freeholders by the preceding sections.

XXVI. And be it enacted, That on the day appointed, for proceeding to the consideration of the said act of assessment, the said Syndics or the majority of them, shall present the said act to the said Commissioners for homologation, and shall accompany it by one or more affidavits, sworn to before one of the said Commissioners or a Justice of the Peace (who are hereby authorised to administer the requisite oath), of the deposit thereof which shall have been made, and of the publication and posting up of the notice as hereinbefore mentioned: and the said Commissioners shall have full jurisdiction, power and authority to hear the witnesses produced by the parties interested, and to adjudge and determine between them and the Syndics, by rejecting, modifying or confirming the said act of assessment, altogether or in part, as they may find it just and reasonable to do, or to order a new act of assessment, and to condemn the party or parties failing to pay the costs.

Oppositions to act of assessment to be heard and determined by the Commissioners.

XXVII. And be it enacted, That no opposition or objection shall in any case be received by the said Commissioners unless it be accompanied by a deposition in writing of the opposant or opposants, received and sworn to before one of the said Commissioners or a Justice of the Peace, setting forth that the facts stated in the said opposition are true and well-founded, and that such opposition or objection is not made for the purpose of causing vexatious delay to the proceedings therein referred to.

No opposition to be received, unless sworn to.

XXVIII. And be it enacted, That when the act of assessment shall have been ho-

Syndics may recover the

amount of assessments. homologated by the said Commissioners, the Syndics shall have a right to demand from those assessed the payment of their rates or assessments; and if such payment be refused, the same may be recovered before any civil court of competent jurisdiction according to the amount thereof; and the said act of assessment with the judgment of the Commissioners homologating it shall be held to be sufficient proof that the amount claimed either in money or materials and therein mentioned is due, and of the regularity of the proceedings thereunto relating, as shall also copy of the said act of assessment and judgment certified by the Clerk of the said Commissioners.

Commissioners may award costs. **XXIX.** And be it enacted, That in pronouncing judgment on any petition, opposition or objection presented to the said Commissioners, they may condemn the party against whom judgment shall have been given; to pay all or such part of the costs incurred on the said petition and opposition and the contestation of the same, as they may deem just and reasonable, which costs shall be them or one of them allowed and taxed.

How costs may be levied, if not paid. **XXX.** And be it enacted, That in default of payment of the costs and expenses allowed by the said Commissioners in all cases brought before them under this Act, the said Commissioners may, thirty days after such condemnation, issue an order of seizure in execution, in the same manner as the Superior Courts of civil jurisdiction in Lower Canada; and such orders of seizure in execution shall be returnable before the Superior Court of civil jurisdiction in the District sitting in superior term, which Court shall proceed on the said orders and all matters incidental thereto in the same manner as on executions issuing out of the said Court; and the said Court may issue orders or new writs, if required, in all respects as if the judgment had been rendered by the said Court.

XXXI. And be it enacted, That the said Commissioners may for the purpose of this Act, compel any witness to appear before them or their delegates, and may administer an oath to the witnesses adduced by the parties; and in case of refusal or negligence on the part of the said witnesses to appear, or refusal to take the oath or to answer, the said witnesses shall be condemned to pay a penalty of £ and detained in the common gaol until payment of the same; Provided always, that the said imprisonment shall not continue longer than three months: and any such witness or any person making on oath any deposition or affidavit whatsoever under this Act; who shall be convicted of having therein sworn falsely, shall be liable to the punishment inflicted by law on persons guilty of perjury.

Commissioners may compel the appearance of witnesses.

Provida

False swearing to be perjury.

XXXII. And be it enacted, That within six months after the completion of the works, the said Syndics shall be bound to render an account of the funds, money and materials by them received; before seven persons, (four of whom shall form a *quorum*;) chosen at a meeting of the freeholders and lessees of the Parish or Mission interested, notice of which meeting, as also of the hour and place and of the day on and at which it is to be held, shall be given on two consecutive Sundays from the pulpit of the Church or Chapel by the *curé*, missionary or minister: the said Syndics shall also be bound, in case there shall remain materials not employed, to sell them by public sale, and to pay the proceeds, as well as moneys remaining in their hands, to the Treasurer of the *Fabrique*, and the amount thus paid shall remain at the disposal of the Parish, which may afterwards employ it in any work to be done about the church, chapel or parsonage, and their dependencies: and if the majority of the seven persons thus named shall find the accounts correct they shall give a legal discharge and quittance therefor to the said Trustees; and if they shall find them

Syndics to account to persons to be elected as auditors.

Other duties of Syndics after completing the work.

Quittance if the accounts are correct.

Proceedings if they are incorrect.

incorrect they shall make a Report thereof at a public meeting of the persons interested, to be called and held as aforesaid, and the majority of the said meeting shall receive and approve the said accounts or shall disapprove of them, and in case of disapproval, the parties interested, composing the said majority, may in their own names sue the said Trustees in an action of account before any Court of competent jurisdiction.

Governor to appoint a Clerk to the Commissioners.

XXXIII. And be it enacted, That the Governor of the Province may, on the recommendation of the Commissioners or of the majority of them, name and appoint a fitting person to act as Clerk of the said Commission in each District, which Clerk shall be entitled only to the fees and expenses to be stated in the Tariff to be drawn up by the said Commissioners; and in case the said Clerk shall exact any other and higher costs or fees than those mentioned in the said Tariff, he shall be liable to pay to Her Majesty, Her Heir or Successors a penalty of £ which shall be recoverable by action of debt before any civil Court having competent jurisdiction.

His fees, &c.

Commissioners to make a Tariff of Fees and Rules of practice.

XXXIV. And be it enacted, That the said Commissioners or any of three of them in each District, may, for the better conduct and regularity of the proceedings to be had under this Act, draw up a Tariff of Fees and such Rules of Practice as they may deem fit, provided they are not contrary to the provisions this Act, and may change and modify the said Tariff and the said Rules whenever they may judge it necessary: Provided always, that the said Tariff shall not be in force until it has been sanctioned by the Superior Civil Court of the District: And provided also, that until the said Rules of Practice be made, and the said Tariff drawn up and confirmed as aforesaid, the Rules of Practice and the Tariff now in use shall be observed and followed.

Provido.

Provido.

XXXV. And whereas there have resulted abuses of a grave character and very prejudicial in their effects, from the fact that the proceedings of the Commissioners named as
 5 aforesaid were not preserved of record, be it enacted, That from and after the passing of this Act, the said Commissioners in each of the said Districts shall form and constitute a Court of Record, which Court shall have all the
 10 privileges and rights conferred by law on the Courts of Record in Lower Canada, and all orders emanating from the said Court shall issue in the name of Her Majesty, and shall be sealed with the particular seal of the said
 15 Court, (which seal shall remain in the hands of the Clerk of the same) and shall be signed by the said Clerk.

Commissioners' Court to be a Court of Record, &c.

XXXVI. And be it enacted, That it shall be the duty of the Clerk to keep and pre-
 20 serve in a safe place all the records and papers of all the proceedings which shall take place before the Commissioners, and to enregister in a book kept for that purpose all the proceedings, judgments and orders of
 25 the said Commissioners; and the said Clerk may, under his hand and the seal of the said Court, give certified copies of the said proceedings, judgments, orders and all other documents in his keeping as aforesaid, and such
 30 copies shall be received as evidence in any Court of Justice in Lower Canada.

Clerk to keep the papers and Records of the Commission,-- give copies &c.

XXXVII. And be it enacted, That the enactments in this Act, shall not be so construed as to prevent the parties interested,
 35 whatever may be their number, in any parish legally erected by the ecclesiastical and civil authorities, or which may be so erected hereafter, or in any mission, from constructing, or repairing their church, sacristy, parsonage,
 40 burial ground, by common consent and without recourse to the said Commissioners, but without any right of compelling the parishioners not consenting thereto, to contribute to such construction and repair, or of depriving them

Act not to prevent Churches, &c. being erected by common consent, without application to the Commissioners.

of their common and equal enjoyment of the said constructions and repairs: Provided always, that the said constructions and repairs shall have been previously approved by ecclesiastical authority; And provided also that the said churches thus constructed shall be public and parochial for all purposes whatsoever.

None but Roman Catholics to be assessed under this Act. XXXVIII. Provided always and be it enacted, That nothing in this Act contained shall be construed to render any one of Her Majesty's subjects of any class of Protestants whatsoever, or any persons whomsoever, other than Her Majesty's subjects professing the Roman Catholic religion, liable to be assessed or taxed in any manner whatsoever, for the purposes of this Act.

Case of the Commissioners being interested, provided for. XXXIX. And be it enacted, That whenever in any of the said Districts, more than two of the said Commissioners shall be interested in the civil erection of any parish or dismemberment of a parish or in the construction and repair of any building for the performance of Divine Service, then and in that case, on a representation being made in that behalf, it shall be lawful for the Governor of the Province to nominate by special commission one or more Commissioners not interested, to act in such case conjointly with those of the Commissioners not interested therein; Provided always, that the enactments of this section shall not extend to the case of any construction or repair in the parish wherein the said Commissioners reside; Provided also, that the of one or more of the Commissioners to one or more of the persons interested shall not be a cause of exception or incompetence.

Recital. XL. And whereas the Commissioners appointed in the different Districts of this Province under the aforesaid Ordinance relating to the construction and repair of churches, parsonages and burial grounds; have

from time to time rendered divers judgments and opinions, and had various proceedings on the subject of acts of assessment for the erection, construction and repair of churches, parsonages and burial grounds for certain parishes existing and solely established and recognized by the ecclesiastical authorities, without the consent and express co-operation of the civil authority; And whereas it is expedient to prevent and avoid the questions and difficulties which might arise as to the validity of the said judgments, opinions and other proceedings on this subject; be it therefore enacted, That the abovementioned judgments, opinions and proceedings shall be as valid, and shall be carried out and executed in the same manner as if the said parishes had been legally established.

Provision as to certain proceedings of former Commissioners.

XLI. And be it enacted, That from and after the passing of this Act, a certain Ordinance, &c., (31 Geo. III, ch. 6,) an Act of His Majesty William IV. &c., (1 Will. IV. ch. 51,) an Ordinance of the Special Council, &c., (2 Vict. ch. 29,) and an Act, &c. (6 Vict. ch. 11, sec. 7,) which continues the preceding, and another Ordinance of the Special Council, &c., (4 Vict. ch. 23,) shall be and they are hereby repealed; Provided always, that the Commissioners appointed under the Ordinance of the Special Council, mentioned in the first place, may continue up to final judgment, all proceedings commenced before them in as valid a manner as if the present Act had never been passed; And provided also, that all proceedings which may have taken place under the Ordinance of the Special Council last mentioned, shall not be in any way affected by the repeal of the said Ordinance; And provided always, that the Acts, Ordinances and Laws repealed by those which are repealed by this section, shall nevertheless remain repealed.

Certain Acts and ordinances repealed.

Proviso: former Commissioners may continue proceedings commenced by them.

Proviso.

Proviso.

XLII. And be it enacted, That the enactments of this Act shall extend fully and en-

This Act to extend to certain parishes.

tirely to the Parishes erected by canonical decree before the passing thereof, according to the ecclesiastical laws and forms followed and in use in the different Dioceses in Lower Canada, and to every dismemberment or division of Parishes. 5

Rights of the
Crown, &c.
saved.

XLIII. And be it enacted, That nothing in this Act contained shall be construed to affect in any manner the rights of Her Majesty, Her Heirs and Successors, or of any person 10 or body politic or corporate such only excepted as are mentioned in this Act.

Interpretation
clause.

XLIV. And be it enacted, That the words "Governor of this Province" wherever they occur in this Act, shall apply to the Lieu- 15 tenant Governor or Person administering the Government; and the words "Lower Canada" shall be understood to mean all that part of this Province which formerly constituted the Province of Lower Canada. 20