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No. 249.

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

BILL.

An Act to empower the School Commissioners for the Municipality of Lotbinière to sue for the recovery of a certain legacy for the education of children in the Parish of Lotbinière.

Received and read a first time Tuesday, 10th
April, 1849.

Second reading Monday, 16th April, 1849.

Mr. CHAUVEAU.

PRINTED BY LOVELL AND GIBSON.

BILL.

An Act to empower the School Commissioners for the Municipality of Lotbinière to obtain a decision of the Courts of Justice on a certain legacy.

WHEREAS the late Joseph Maurice Jean, *curé* of the Parish of Lotbinière, by his olograph will in the French language, dated the thirteenth day of January, one thousand eight hundred and nineteen, did leave to the late Ambroise de la Chevrotière; a certain legacy for the purpose expressed in the said will, in the following words, to wit:—“*Pour être employé à rachever les deux tours et la maison des sœurs, et à leur procurer les autres commodités nécessaires;*” And whereas the said Parish hath not been able to compel the execution of the said legacy by the heirs, executors, administrators or *ayans cause* of the said Ambroise de la Chevrotière, in consequence of its not being invested with corporate powers; And whereas it is desirable that a decision of the proper Tribunal be had upon the said legacy, in order that justice may be rendered to whom it shall appertain:—Be it therefore enacted, &c.

And it is hereby enacted by the authority of the same, That it shall be lawful for the School Commissioners of the Municipality of Lotbinière, and their successors in office, by their name of office as such without naming them personally, and they are hereby authorized to sue for the execution of the said legacy and the said Commissioners shall be deemed to represent the said Parish as interested in the due execution of the said will, and if final judgment be rendered in their favour they shall have full power to accept and take the said legacy and to give a valid discharge therefor, and to apply it to the purposes for which the Court rendering such judgment shall in its discretion and according to a true and legal interpretation of the said Will order it to be applied.

II, Provided always, and be it enacted, That it shall not be lawful for the said School Commissioners to institute any action against the said heirs, executors, administrators or *ayans cause* of the said Ambroise de la Chevrotière, until a meeting of the inhabitants of the said Parish, duly qualified to vote for the election of School Commissioners shall have been held in the said Parish; which said meeting shall be called by the said School Commission-

Proembla.

School Commissioners may sue for the legacy.

Before suing the School Commissioners must be authorised to do at a meeting of the inhabitants of the Parish.

ers by a notice under the hand of the President or of the Secretary of the said School Commissioners, stating the time and place of such meeting, to be read and posted up by any Bailiff or Sergeant of Militia, at the door of the Church of the said Parish, at the issue of divine service 5 in the morning, on some Sunday which shall be at least eight days before the day on which the said meeting shall take place; at which meeting the majority of the electors present shall determine whether it is in the interest of the inhabitants of the said Parish, to institute such action, and 10 if the opinion of such majority be in favour of the institution of such action, they shall thereupon authorize the said School Commissioners to proceed therein.

Who shall preside at the meeting, and record the proceedings, &c.

III. And be it enacted, That at the said meeting, the senior Justice of the Peace present, or in case there shall be no 15 Justice of the Peace present, the oldest of the electors present, shall preside; and the *procès verbal* of the said meeting, signed by the Chairman thereof, shall be *prima facie* evidence of the holding and of the proceedings of the said meeting, and that the same were regular and in 20 conformity to this Act; nor shall the regularity of such meeting and proceedings be liable to be questioned by the Defendant in any action brought by the School Commissioners under this Act.

When the meeting shall be held.

IV. Provided always, and be it enacted, That the said 25 meeting shall be holden within six months from and after the passing of this Act, and from its decision there shall be no appeal.

Commissioners to give security for the costs of such action.

V. And be it enacted, That before instituting any such action, the said Commissioners shall and they are here- 30 by required to furnish, as securities, two good and sufficient persons, being proprietors of real estate of not less than value, for the payment of the costs of such action, in case the said Commissioners shall fail therein; such security to be given before any 35 one of the Judges of the Court before which such action shall be brought.

Provision for the payment of the costs, if the Commissioners fail in their action.

VI. And be it enacted, That in case the said School Commissioners shall fail in the said action, it shall be lawful for them to levy by assessment upon all ratable 40 property within the said Municipality, a sum sufficient to cover the whole of the costs of such action, as well those of the said School Commissioners as those of the said Defendants, together with one twenty-fifth over and above the said costs, for the purpose of making good any defi- 45 ciency which may arise in the collection of the said assessment, and to cover the expenses of the collection, and the said School Commissioners shall have the same powers with respect to the recovery of the amount so assessed, as are vested in them with respect to the reco- 50

very of any assessment authorized under the Act passed in the ninth year of Her Majesty's Reign, and intituled, "*An Act to repeal certain Acts therein mentioned, and to make better provision for Elementary Instruction in Lower*"
 5 "*Canada,*" which said amount when so levied, shall be applied by the said School Commissioners to the payment of the said costs, and of the expenses of the said assessment, or to the reimbursement of the said securities, in case they shall have paid the said costs; Provided
 10 always, that nothing herein contained shall be construed to prevent the Defendants in such action, if judgment shall be given against the said School Commissioners, from recovering the said costs from the said securities, jointly and severally. Proviso.

15 VII. And be it enacted, That nothing herein contained shall prevent the heirs of the said Ambroise de la Chevrotière from pleading any matter whatsoever either in fact or in law to such action, which they might have pleaded had this Act not been passed, except and provided
 20 however, that it shall not be lawful for the said Defendants to plead the incompetence of the said School Commissioners to institute and maintain such action or do anything which by a fair and liberal construction of this Act, according to its intent and spirit, they are authorized to do. The Defendants may plead any defence to the action.
Exception.

25 VIII. And be it enacted, That this Act shall be a Public Act. Public Act.