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No. 106.

1th Session, 3d Parliament, 14 Victoria, 1851.

BILL.

An Act to made provision for the management of the Temporalities of the United Church of England and Ireland in the Diocese of Montreal, and for other purposes therein mentioned.

Received and read a first time, Tuesday, 10th
June, 1851.

Second Reading, Wednesday, 11th June, 1851.

Hon. Mr. BADGLEY.

TORONTO: PRINTED BY LOVELL AND GIBSON..

B I L L .

An Act to make provision for the management of the Temporalities of the United Church of England and Ireland in the Diocese of Montreal, in this Province, and for other purposes therein mentioned.

WHEREAS by an Act of the Parliament of this Province, made and passed in the sixth year of Her Majesty's Reign, intituled, "*An Act to make provision for the better management of the Temporalities of the United Church of England and Ireland, in the Diocese of Quebec, in this Province, and for other purposes therein mentioned,*" provision was made by law for the internal management, by the members of the said Church in the said Diocese of Quebec, of the Temporalities thereof, and for allowing the endowment thereof;

Preamble.
9. Vict. c. 32.

And whereas by Letters Patent, under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date the eighteenth day of July, one thousand eight hundred and fifty, so much of the said Diocese of Quebec as constitutes the District of Montreal in Lower Canada aforesaid, was and is erected into a separate See or Diocese under the name or style of the Bishoprick or Diocese of Montreal; and whereas it is in consequence desired, on behalf of the United Church of England and Ireland, in the said Diocese of Montreal, that separate provision should be made by law for the internal management, by the members of the said Church in the said Diocese of Montreal, 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, &c.

That from and after the passing of this Act, the soil and freehold of all Churches and Chapels of the communion of the said United Church of England and Ireland, now erected or hereafter to be erected in the said Diocese of Montreal, and of the church-yards and burying grounds attached or belonging thereto, respectively, shall be in the Parson or other Incumbent thereof 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

Freehold of Churches, &c. to vest in the Parson or Incumbent.

Proviso.

apart for the purposes of such Church or Chapel, church yard or burying ground: Provided always, that nothing in this section contained shall extend to affect the tenure of any Parsonage or Rectory now established by Letters Patent, or of any Proprietary Chapel.

5

Pew-holders to form the Vestry.

II. And be it enacted, That all pew-holders in such Churches or Chapels, whether holding the same by purchase or lease, and all persons holding sittings therein by the same being let to them by the Corporation of such Church or Chapel, and holding a certificate from such corporation of such sitting, shall form a Vestry for the purposes in this Act mentioned and declared; Provided that no such pew-holders or persons holding sittings shall be entitled to vote at any meeting of such Vestry, unless all the rent due and payable in respect of such pews or 15 sittings be paid in full.

Proviso: not to vote unless rents be paid up.

How and when the Churchwardens shall be appointed and elected.

III. And be it enacted, 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 Divine Service on the morning of Easter Sunday, for the purpose of appointing Church Wardens for the ensuing year, and that at such meeting one Churchwarden shall be nominated by the Rector or other Incumbent of the said Church or Chapel, 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 Rector or 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 of such Churchwardens shall, for the current year, be nominated by the Rector or 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, resignation, refusal to act, or change of Churchwardens, a Vestry meeting shall be thereupon called for the election of a new Churchwarden by the said Vestry, or for the nomination of a new Churchwarden by the Rector or Incumbent, in case the one deceased, resigned, refusing to act, or removed, had been nominated by the Incumbent.

Proviso.

Proviso.

Who may be elected a Church Warden.

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

Churchwardens' term of office.

V. And be it enacted, That such Church Wardens shall hold their office for one year from the time of their

50

appointment, or until the election of their successors, except in case of an appointment or nomination to fill up any vacancy occasioned by death, resignation, refusal to act or removal, as aforesaid, and in such case the person
5 so appointed or nominated, shall hold the said office until the next annual election, or until the election of a successor.

VI. And be it enacted, That such Churchwardens
so to be elected and appointed, as aforesaid shall, during
10 their term of office, together with the Rector or Incumbent, be a Corporation, under the name or style of
“The Rector (or Incumbent, as the case may be), and
“the Churchwardens of Church (or Chapel, as the
“case may be); *of the Parish of or of (naming the*
15 “*place, as the case may be,*) in the Diocese of Montreal,”
to represent the interest of such Church or Chapel 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 more particularly shall
20 and may sue for, recover and receive all arrears of rent
actually due and payable at the passing of this Act, in
respect of any pews or sittings in such Church or Chapel,
and may prosecute indictments, presentments, and other
criminal proceedings, for and in respect of such Churches,
25 Chapels and Church-yards, and all matters and things
appertaining thereto, and shall and may make and execute
faculties or conveyances, or other proper assurances
in the law, to all pew-holders holding their pews by purchase,
or lease to those holding the same by lease, and
30 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 charges of the person applying for the same;
and, further, it shall be the duty of such Corporation, from
35 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
40 other rent as may from time to time be rated and
assessed in respect thereof at such Vestry meeting.

Church-wardens and incumbent to form a corporation.

Name.

Power to sue for rents, &c.

To grant assurances to Pew-holders.

And to sell, lease or rent sittings.

Proviso.

VII. And be it enacted, That in case of the absolute
purchase of any pew in any such Church or Chapel as
aforesaid, the same shall be construed as a freehold of
45 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 Ireland, and such purchaser, provided the same be
50 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.

Pews absolutely purchased to be freehold of inheritance, &c.

Action given
for maintain-
ing rights of
Pew-holder.

VIII. And be it enacted, That any pew-holder, 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. 5

Church-
wardens to
account
yearly, and in
what manner.

IX. And be it enacted, 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, Chapel or Parish, in their hands as such Churchwardens, and of all moneys 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 authorised 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; 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, 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. 10 15 20 25 30 35

Manner in
which Vestry
meetings may
be called.

X. And be it enacted, That it shall be in the power of the Incumbent of any such Parsonage, Rectory, Parish or Chapel as aforesaid, or (in the absence of the Rector or Incumbent) of the Churchwardens thereof, to call a Vestry meeting whenever he or they shall think proper so to do, giving at least eight days' notice thereof, by proclaiming it in the usual manner in the Church or Chapel, and by notice affixed to the outer door or doors of the said Church or Chapel, as the case may be, 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, 40 45 50

Not. ec.

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 door or doors (where more than one) of such Church or Chapel, at least one week previous to such intended meeting.

And if the Churchwardens refuse. Notice.

XI. And be it enacted, That, at all Vestry meetings, the Rector or Incumbent of the Church or Chapel shall preside as Chairman when present; and, in his absence, such one of the Churchwardens as shall be present, and if more be present, then 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

Who shall preside at Vestry meetings.

Vestry Clerk, or he be absent, then such person as the Chairman shall name, shall be the Secretary of such Vestry meeting; and the minutes of the proceedings of such Vestry meetings shall be entered in a book to be kept for that purpose, and shall be signed by such Rector,

Who shall act as Clerk.

Incumbent, Churchwarden, or other person presiding as Chairman, and countersigned by such Vestry Clerk or Secretary, and shall be preserved in the custody of the Corporation of the said Church or Chapel; and such minutes so entered, signed and countersigned, or a copy thereof duly certified by such Rector or Incumbent, and countersigned by such Vestry Clerk, shall be *prima facie* evidence of the matters and things therein set forth, and that such meetings were regularly and legally held under the requirements of this Act, without proof of the signature of such Rector, Incumbent, and Vestry Clerk being required to be made.

Minute of proceedings.

How proved.

XII. And be it enacted, That the rent charge to be paid upon pews holden in freehold, and the rent to be paid for the pews and sittings in pews, leased or rented, shall be regulated from time to time by the majority of those present at such Vestry meetings as aforesaid: Provided nevertheless, that no alterations shall be made therein except at Vestry meetings called for such special purpose, and so expressed in the notice calling the same;

How rents, &c. shall be regulated.

and further, that the charges to be made in respect of such conveyances, leases and certificates, shall, in like manner, be regulated at such Vestry meetings as aforesaid.

Proviso.

As to charges, &c. for conveyances.

XIII. And be it enacted, That the Clerk of the Church, the Organist, the Vestry Clerk, the Sexton, and other subordinate servants of the Church or Chapel, shall be nominated and appointed by the Corporation of such Church or Chapel, and that their salary and wages shall be brought into the general account, to be rendered as aforesaid by such Churchwardens.

Appointment of subordinate officers.

Fees on
marriages, &c.
how regulated.

XIV. And be it enacted, That the fees on marriages, baptisms, and other services of the Church of the like nature, and the charges payable on breaking the ground in the cemeteries or church-yards and in the said Churches or Chapels for burying the dead, shall be regulated by the Bishop of the Diocese, or such other person as he may appoint as ordinary. 5

What may be
done at
meetings of
the corpora-
tion.

XV. And be it enacted, That at all meetings of the said Corporation, any business whatsoever may be legally transacted by the majority of those present, but no business connected with their duties shall be transacted, except at a meeting duly convened by the Rector or Incumbent. 10

By-laws to be
made by the
Vestry and
Corporation.

XVI. And be it enacted, That it shall be in the power of the members of such Vestries, and of the said Corporation, by the majority of those present at any meetings as aforesaid, to make By-laws for the regulation of their proceedings and the management of the Temporalities of the Church, Chapel or Parish to which they belong, so as that the same be not repugnant to this Act, nor contrary to the canons of the said United Church of England and Ireland. 15 20

Authority of
Bishop of
Quebec under
6 Geo. 4, and
other powers
vested in
Bishop of
Montreal.

XVII. And be it enacted, That all duties, powers and authority conferred upon the Bishop of Quebec, for the time being, by an Act of the Parliament of Great Britain and Ireland, passed in the sixth year of the Reign of His late Majesty, George the Fourth, intituled "An Act to provide for the extinction of Feudal and Signiorial rights and burdens on lands held *à titre de Fief* and *à titre de cens* in the Province of Lower Canada, and for the gradual conversion of those Tenures into the Tenure of free and common soccage, and for other purposes relating to the said Province," so far as the provisions of the same have reference to lands situated within the said Diocese of Montreal; and all duties, powers and authority relating to matters within the said Diocese of Montreal conferred upon the Bishop of Quebec by any other Act or Acts, or by any authority whatever, and all or any office or offices within the said Diocese of Montreal conferred upon the Bishop of Quebec and his successors in office, in his and their official capacities, by any Act or Acts, charter or charters, or by any authority whatever, shall devolve upon, and be exercised and held by the Bishop of Montreal and his successors in office; and all acts done and performed by the Bishop of Montreal or his successors in office, in the performance of such duties, in the exercise of such power and authority, or in the performance of the duties of such office or offices, shall be valid and effectual in as full and ample a manner as if he were Bishop of Quebec aforesaid. 25 30 35 40 45 50

XVIII. And be it enacted, That any deed, or conveyance of land, or of personalty that may be made to any Bishop of the said Church, in the said Diocese, and to his successors, for the endowment of his See, or for the general uses of the said Church, as such Bishop may appoint, or otherwise, or for the use of any particular Church then erected, or thereafter to be erected, or for the endowment of a parsonage, rectory, or living, or for other uses or purposes appurtenant to such Church in general, or to any particular Church, Chapel, or Parish to be named in such deed, and any such deed or conveyance to any Parson or Rector, or other Incumbent and his successors, for the endowment of such parsonage, rectory or living, or for other uses or purposes appurtenant thereto, shall be valid and effectual to the uses and purposes in such deed or conveyance to be mentioned and set forth, the Acts of Parliament commonly called the Statutes of Mortmain, or other Acts, laws or usages to the contrary thereof notwithstanding.

Grants of land, &c. to any church or for any purpose relative to a Church, &c. to be valid.

XIX. And be it enacted, That in the event of any person or persons, bodies politic or corporate, desiring to erect and found a Church or Churches, Chapel or Chapels, and to endow the same with a sufficiency for the maintenance of such Church or Chapel, and of Divine Service therein according to the rites of the said Church of England and Ireland, it shall and may be lawful for him or them to do so upon procuring the license of the Bishop under his hand and seal for that purpose; and thereupon, after the erection of a suitable Church or Chapel, and the appropriation by the founder thereof of such Church or Chapel so erected, and of lands and hereditaments, or other property adequate to the maintenance thereof and of an Incumbent, and adequate to the usual and ordinary charges attendant upon such Church or Chapel, such provision being made to the satisfaction of the Bishop, such founder, his heirs and assigns, being members of the said Church of England, or such body politic or corporate, as the case may be, shall have the right of presentation to such Church or Chapel as an advowson in fee presentative, according to the rules and canons of the said United Church of England and Ireland.

How Churches may be founded and endowed.

Bishop's licence.

Founder to have the Fee presentative.

XX. And be it enacted, That all lands or personalty heretofore in any manner or way conveyed to any Bishop of the said Church for the use or benefit of any particular Parish, Church or Chapel, then erected or thereafter to be erected within the said Diocese of Montreal, or for the endowment of any Parsonage, rectory or living within the said Diocese of Montreal, or for other uses or purposes appurtenant to any Church, Chapel, or Parish within the said Diocese, and all lands situated within the said Diocese of Montreal heretofore in any manner or way

Lands or personalty conveyed to Bishop or particular Church to be vested in him for the purposes thereof and of such grant.

conveyed to any Bishop of the said Church for the general uses of the said Church, or for uses or purposes appurtenant thereto in general, shall be, and they are hereby vested in the said Bishop of Montreal and his successors in office, for the uses and purposes mentioned and set forth in the several deeds or conveyances thereof respectively. 5

Admin-
istration of
such lands to
be in said
Bishop.

XXI. And be it enacted, That the Bishop of the said Church, in the said Diocese, for the time being, shall have the administration of all lands and personalty vested in 10 him or his predecessors in office, by virtue of this Act, or conveyed to him or them for the endowment of his See, or for the general uses of the said Church, or for the use of any particular Church or Chapel then erected or there- 15 after to be erected, or for the endowment of any parsonage, Rectory, Church, Chapel, or living, or for other uses or purposes appurtenant to such Church in general, or to any particular Church or Parish, and shall have power to sell, alien and transfer any lands or personalty 20 vested in, or conveyed to him as aforesaid for the general uses or purposes of the said See or of the said Church, and shall also have power, by and with the consent and participation of the Rector or Incumbent of the Parish wherein the same may be situate, to sell, alien and trans- 25 fer any land or personalty vested in or conveyed to him as aforesaid, for the endowment of any Parsonage, Rectory or living, or for uses or purposes appurtenant to any particular Church, Chapel or Parish; and the Parson, Rector, or other incumbent of any Parsonage, Rectory, 30 Church, Chapel, or living, to whom any lands or personalty shall have been, or may be conveyed for the endowment of such Parsonage, Rectory, Church, Chapel or living, or for other uses or purposes appurtenant thereto, shall have power to sell, alienate or transfer the same 35 by and with the consent and participation of the Bishop of the said Church in the said Diocese, for the time being; Provided always, that the price or consideration of such sale, alienation or transfer be applied to the uses and purposes for which the land or personalty so sold, 40 aliened or transferred was conveyed; and Provided, also, that such sale, alienation, or transfer be not inconsistent with, or contrary to the conditions of the deed of conveyance to the said Church, or to any Bishop thereof, or to such Parson, Rector, or incumbent, as the 45 case may be, of the land or personalty so to be sold, aliened or transferred.

No ecclesiastical rights conferred by this Act.

XXII. And be it enacted, That nothing in this Act contained shall extend or be construed to extend in any manner to confer any spiritual jurisdiction or ecclesiastical rights whatsoever, upon any Bishop or Bishops, or other 50 ecclesiastical person of the said Church, in the said Diocese of Montreal.

XXIII. And be it enacted, That from and after the passing of this Act, the said Act so made and passed, as aforesaid, in the sixth year of Her Majesty's Reign, shall cease to have any force and effect whatever, in respect of the said Diocese of Montreal.

Recited Act
not to affect
the Diocese
of Montreal.

B¹¹⁰