

No. 68.

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

BILL.

An Act to incorporate the Members of
“ *The Presbyterian Church of Canada*
“ *in connection with the Church of*
“ *Scotland.*”

Received and Read a first time, Thursday, 8th
February, 1849.

Second Reading, Thursday, 15th February, 1849.

HON. MR. BADGLEY.

BILL.

An Act to Incorporate the Members of
 “*The Presbyterian Church of Canada,*
 “*in connection with the Church of Scot-*
 “*land.*”

WHEREAS it is expedient to Incorporate the Members of the Presbyterian Church of Canada in connection with the Church of Scotland, and to grant them
 5 such powers as may be requisite to enable them to manage the temporal affairs of the said Church; Be it therefore enacted, &c.

Preamble.

And it is hereby enacted by the authority of the same, That the now members of the
 10 Presbyterian Church of Canada in connection with the Church of Scotland, and their successors who may be and become members of the said Church, shall be, and are hereby declared to be a body
 15 corporate and politic, in name and in deed, by the name of “*The Presbyterian Church of Canada in connection with the Church of Scotland,*” and by the said name,
 shall have perpetual succession and a com-
 20 mon seal, with power to change, alter, break, or make new the same, as often as they shall deem expedient, and by the same name to sue and be sued, implead or be impleaded,
 25 answer or be answered unto, in any court of Record or other place of judicature within this Province, and by the same name be able and capable in law to acquire, without license in mortmain or *lettres d’amortissement*,
 30 the uses and purposes of the same, and to do, perform and execute, all and every lawful act or thing useful and necessary for the purposes of the same, in as full and ample a manner, to all intents, constructions and pur-

Members of the Church incorporated.

Corporate name and powers.

poses, as any other body politic or corporate, by law may or ought to do.

Who only shall be Members of the Corporation.

II. And be it enacted, That no person shall be or be eligible to be a member of the said Corporation, except male persons, members of the said Church, of the full age of twenty-one years, and natural born or naturalized subjects of Her Majesty, Her Heirs or Successors, and who shall be pew-holders or holders of sittings, or regular attendants and contributors to the maintenance of divine worship in a parish or congregation, according to the laws of the said Church, and who shall be in full communion with the said Church; and any person ceasing to be in such communion, shall forthwith and *ipso facto* cease to be a member of the said Corporation. 5 10 15

Lands and property voted in the Corporation.

III. And be it enacted, That all lands and movable property, and all rents and sums of money charged upon and issuing or payable out of any lands as aforesaid, and all movable property which shall hereafter be acquired in any manner whatsoever, to, for or in favour of the said Corporation, or to and for the uses and purposes thereof, shall be, and the same are hereby vested in the said Corporation, for the uses and purposes thereof, in such manner and form, and subject to such regulations respecting the same, as may be made by the said Corporation, and shall and may be by the said Corporation alienated or exchanged, demised, let and leased for any term of years, and the purchase money, consideration or price, rents, issues or profits thereof, may and shall be received by the said Corporation, for the uses and purposes thereof, as aforesaid. 25 30 35

Power to alienate property, &c.

Corporation to hold meetings.

IV. And be it enacted, That the said Corporation and their successors, aforesaid, shall and may, from time to time, by their representatives to be elected as hereinafter mentioned, hold assemblies and meetings of 40

the said Corporation, which shall be called together in such manner, and at such times and places, as shall be directed and appointed by the regulations of the same, to manage
 5 and transact the business of the Corporation; provided that no act done at such meetings shall be valid or effectual, unless five of the said representatives shall be present, and the major part consenting thereto; and at all such
 10 meetings, the person named by the majority present shall preside, and the proceedings of the meetings shall be entered in a book to be kept for that purpose by the Secretary of the Corporation, who shall be annually appointed
 15 by the said representatives, or a majority thereof, at their first meeting after the annual election of representatives as herein provided.

Proviso: what shall form a quorum, &c.

Record of proceedings.

V. And be it enacted, That the said representatives or the major part of those
 20 who shall be present at any of the meetings thereof, to be held in the manner aforesaid, shall and may make any regulations whatsoever, which to them or the major part of
 25 them then present, not being fewer in number than five as aforesaid, shall seem meet, reasonable or requisite, touching or concerning the well ordering and governing of
 30 the affairs and business of the said Corporation, and the regulation of the proceedings of the said meetings, and the due administration and improving of the property of the Corporation, and such regulations from time to time may
 35 abrogate, change, alter or amend, as may be found expedient; and the said regulations shall be binding upon and shall be observed,
 performed and kept by the members of the said Corporation; Provided always, that the same
 40 shall not be repugnant or contrary to the aforesaid purposes of the said Corporation, or to the laws in force in this Province; And further provided always, that no such regulations nor
 any abrogation, change, alteration or amendment of the same shall have any force or
 45 effect, until the same shall have been sanc-

How By-laws of the Corporation shall be made and for what purposes.

Their effect.

Proviso.

Must be sanctioned by the Synod.

When such sanction shall be given, &c.

tioned and confirmed by the Synod of the said Church, by writing under the hand of the Moderator of the said Synod; and such sanction shall in all cases be given at the regular meeting of the Synod held next after the communication thereto, through the Moderator thereof for the time being, of a copy of the said regulations, certified under the hand of the Chairman of the meeting aforesaid, and if such sanction be not given at such meeting, the said regulations shall be held to be and shall be *ipso facto* sanctioned.

Number of representatives of the Corporation and how chosen.

Who shall be the first representatives, &c.

Their term of office.

Proviso: as to their powers.

First meeting.

VI. And be it enacted, That the said Corporation shall be represented by nine representatives, and no more, of whom seven shall be laymen and two clergymen, who shall always be elected, in the manner hereinafter provided, by the said Synod at the regular Annual Meetings thereof, the first whereof for such election to commence in the year one thousand eight hundred and forty-nine, save and except the first representatives, who shall be the Honourables John Hamilton, James Morris, Jas. Crooks, Peter McGill, the Reverends Alexander Mathieson, Doctor in Divinity, and Hugh Urquhart, and Messieurs. Alexander MacMartin, John Smith and Hugh Allan, Esquires, who shall be the first representatives as aforesaid of the said Corporation, and who shall continue in office as such, from the passing of this Act until the Annual Meeting of the said Synod, in the year one thousand eight hundred and forty-nine, or within that time, until the resignation of office or the death of any of the said representatives; Provided always, that the said first representatives shall have, possess and exercise all the powers and authority granted or intended to be granted to the representatives elected at any Annual Meeting aforesaid, until the said first annual election and no longer, unless re-elected to office, and they shall hold their first meeting for the purpose of organizing themselves and putting the Corporation into

operation and for the making of By-laws and regulations therefor, in the first week in the month of June next, at such day and place as may be directed by the said Reverend Alexander Mathieson.

VII. And be it enacted, That in each year after the said first election, two of the said representatives shall retire, at the time of the said annual election by the Synod, and shall be replaced by any two qualified members of the said Corporation, to be then elected by the said Synod; and in case of a vacancy or vacancies occurring in the said representatives, in the interval between two annual elections, the remaining representatives shall have power to fill up the vacancy, or vacancies, by appointing thereto, a qualified member or members of the said Corporation, and the person or persons so appointed, shall exercise the privileges and powers of a representative or representatives, until the said annual election, and no longer, unless elected thereto by the said Synod, who shall have power, at the said annual election to elect to the said vacancy or vacancies: Proviso. Provided always, that the places of the said Clergymen, or either of them, who shall or may retire in rotation, or according to seniority, or who shall die, or resign the said office, shall always be filled by clergymen or a clergyman as the case may be; Proviso. And further provided always, that the retirement by rotation, of the said persons named as such first representatives, shall be made by ballot among themselves; until they shall all have retired, and after that the representatives shall retire according to seniority in election, but any such representatives so retiring shall be and is hereby declared eligible for re-election.

VIII. And be it enacted, That the failure to hold such annual meeting of the Synod, in the said year one thousand eight hundred and forty nine, or any subsequent year, shall Failure to hold any Synod not to dissolve the Corporation.

not dissolve the said Corporation, but the representatives who may be in office for the time being, shall continue in office and exercise all the rights and powers thereof until such new election shall be made, as herein 5 provided.

Amount of
real property
limited.

IX. And be it enacted, That the said Corporation shall be and are hereby authorised to acquire lands to an extent and amount, exclusive of the Churches and Manses now, 10 or that may hereafter be erected, and the burying grounds attached thereto, sufficient to realize the sum of five hundred pounds currency, and no more, of annual rent, for each and every actually established congre- 15 gation of members in communion with the said Church in the said Province. .

Trustees of
congregations
may surrender
property to the
Corporation.

X. And be it enacted, That it shall be competent for the Trustees of any congregation in the said Province, holding lands or 20 movable property in trust for any such congregation, if the said Trustees shall deem meet, to surrender and convey the same to the said Corporation, who shall hold and apply the said trust lands and movable 25 property, in the same manner and to the same uses as those for which they were originally given, contracted or granted.

The soil and
freehold of
certain churches
and chapels
visited in
the Corporation.

XI. And be it enacted, That from and after the passing of this Act, the soil and 30 freehold of all churches and chapels of the communion of the Presbyterian Church of Canada in connection with the Church of Scotland aforesaid, now erected or hereafter to be erected in the said Province, and of 35 the church yards and burying grounds attached or belonging thereto respectively, and the soil and freehold of all manses, glebes and hereditaments and their appurtenances belonging thereto, heretofore or to 40 be hereafter given or granted or set apart for the use of any minister of any such church or congregation, shall be vested

absolutely in the Corporation aforesaid, by whatever title the same may now be held, whether vested in Trustees for the use of the church or minister, or whether the legal estate remains in the Crown, by reason of no patent having been issued, though set apart for the purposes of such church, chapel, church yard, burying ground, manse or minister: Provided always, that nothing here-
 5 in contained shall extend to affect the rights of any proprietary chapel or any other church or body of Christians not named or referred to herein to any lands or church now erected, but that the same shall be and
 10 remain as if this Act had not been passed.

Proviso: as to proprietary chapels, &c.

XII. And be it enacted, That every minister of the said Church shall, during his incumbency as minister of any particular church, and in charge of any particular congregation
 20 aforesaid in the said Province, have the free and undisturbed enjoyment and use of the soil and freehold of the said church and of the manse, glebe and appurtenances thereto, appropriated and set apart for the said con-
 25 gregation, without charge therefor, and upon his ceasing to be such minister he shall forthwith cease to hold the same or any part thereof, or to exercise any right over the same: And further provided always, that no minis-
 30 ter aforesaid shall enjoy any of the said privileges or exercise any of the powers conferred by this Act, unless he shall be a natural born or naturalized subject of Her Majesty, Her Heirs or Successors.

Ministers to have the enjoyment of certain property so long as they continue in office,

Proviso.

XIII. And be it enacted, That any deed or conveyance of lands or of movable property that may be made to the said Corporation for the general uses thereof, or for the particular uses of any congregation, or the
 40 endowment of any church then erected or to be erected and named in such deed, shall be valid and effectual to the uses and purposes of the said deed, notwithstanding anything or any requirement contained and

Conveyances of lands to the Corporation for particular uses, to be valid.

mentioned in the Statutes of mortmain or in any other Acts, Laws or usages to the contrary thereof notwithstanding.

Corporation to have a visiting power with regard to local trusts, &c. in connection with the said church.

Power to sue in case any trusts shall not have been faithfully executed.

XIV. And be it enacted, That the said Corporation shall have power and they are hereby authorised to visit and inspect under such regulations, and by such persons as they may appoint by regulation for that purpose, the local trusts in the said Province, in existence at the passing of this Act, in connection with and for the purposes of the said Presbyterian Church of Canada in connection with the Church of Scotland, and shall and may therefor require the production by any person holding the same, of all documents, writings and vouchers having relation to the local trusts aforesaid; and if such documents, writings and vouchers shall not be exhibited and produced, or if such trusts shall by the said representatives be found to be or to have been, or be considered to be perverted from or not faithfully applied to the purposes for which the same were originally appropriated, to sue for the same in any Court of competent jurisdiction in the said Province by writ of *scire facias* which shall be granted, and the proceedings thereon be conducted according to the laws of England in relation thereto, for the behalf and benefit of the said Corporation, and on judgment thereupon in favor of the said Corporation the said trust shall by the said judgment be declared to be and shall by the effect of the said judgment be vested in the said Corporation for the purposes of its original appropriation or for the general purposes of the Corporation, if such special appropriation can no longer be made.

Interpretation clause.

XV. And be it enacted, That the following words and expressions in this Act shall have the several meanings hereby assigned to them, to wit: The word "Lands" shall extend to messuages, lands, tenements and hereditaments of any kind whatsoever and im-

movable property of any description ; The words "Moveable Property" shall extend to sums of money, goods, chattels and effects of any description: The word "Regulation" shall extend to Ordinances, By-Laws and Rules to be made by the said Corporation; The word "Acquire" shall extend to purchase, take, have, hold, receive, enjoy, possess and retain; and any word importing the singular number only shall extend and apply to several persons and things as well as one person and thing, and any word importing the masculine gender only shall extend and be applied to a female as well as to a male.

XVI. And be it enacted, That this Act is Public Act.
and shall be a Public Act.

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