

The Provincial Statutes of Lower-Canada, Being the fourth session of the of the Special Council, begun and holden at the City of Montreal, in the said Province of Lower Canada, fourteenth day of February, 1839. Quebec: John Carleton Fisher & William Kemble, Law Printer to the Queen's Most Excellent Majesty, 1839.

2 Victoria – Chapter 26 (Session 4)

An Ordinance to suspend an Act passed in the tenth and eleventh, years of the Reign of His late Majesty George the Fourth, intituled, “An Act for the relief of certain Religious Congregations therein-mentioned,” and to make other Legislative provision in the place thereof.

Whereas it is expedient to enable the various Religious Societies of all denominations of Christians in this Province, to hold as proprietors thereof the ground required by them for the site of the Churches, Chapels, Meeting Houses, Burial Grounds, Dwelling Houses for their Priests, Ministers, Ecclesiastics, or Religious Teachers, and School Houses, and the appurtenances thereunto which may be necessary for the said several purposes, under the control of the said Religious Societies, who have heretofore been unable to hold and possess immoveable property for ever, for want of a corporate capacity; and whereas the provisions and enactments made in this behalf by the Provincial Statute, passed in the tenth and eleventh years of the Reign of His late Majesty, King George the Fourth, intituled, “An Act for the Relief of certain Religious Congregations therein mentioned,” have been found by experience to be inadequate to the attainment of the purposes for which the said Act was passed:—Be it therefore Ordained and Enacted by His Excellency the Governor of the Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said Province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the Reign of Her present Majesty, intituled, “An Act to make temporary provision for the Government of Lower Canada,” and it is hereby Ordained and Enacted by the authority of the same, that all lands, of what extent soever they may be, which shall be in the possession of any Parish, Mission, Congregation, or Society of Christians, of any denomination whatever, by virtue of a deed, vesting in them the property thereof, by sale, donation, or exchange, or by legacy, or by prescription legally acquired, or in trust, or under any other title whatsoever, at the time of the publication of this Ordinance, shall be deemed to be held in mortmain for ever, by, and for the benefit of, such Parish, Mission, Congregation or Society of Christians, and shall become their incommutable property, in so far as their respective titles may extend and be valid, by virtue of this Ordinance; any law, usage, custom, or seignorial right to the contrary notwithstanding.

II. Provided always, and be it further Ordained and Enacted by the authority aforesaid, that the Rectors, or officiating Clergymen, together with the Churchwardens of such, Parish, Mission, Congregation, or Society of Christians, or the Trustees to whom the care and administration of such lands shall be confided, shall cause the titles thereto, and a description and measurement thereof, made by a Sworn Surveyor, to be enregistered within

two years from the publication of this Ordinance, in the office of the Prothonotary of the Court of King's Bench for the District in which such lands are situate; or in default of such title, shall cause to be enregistered, in the manner aforesaid, authentic certificates of, the peaceable possession of such lands, during ten years (such certificates being attested by seven persons, being proprietors or holders of real property, in the place or in the neighbourhood, thereof,) with a description and measurement of such lands, made as aforesaid, by a Sworn Surveyor; Provided also, that such titles or certificates, shall contain the names and additions, which such, Parish, Mission, or Religious Congregation, and the Rector, Missionary, or officiating Clergyman, Minister, Ecclesiastics, or Religious Teachers, Churchwardens, Trustees or other Administrators, shall have taken for themselves and their successors in office, to the end, that by such name they may hold and possess such lands for ever, and institute and defend all actions at law, necessary for the conservation of their rights therein.

III. And be it further Ordained and Enacted by the authority aforesaid, that whenever any Parish, Mission, Congregation, or Society of Christians, of any denomination whatsoever, not being a Parish recognized by the Civil Law of this Province, shall hereafter be desirous of acquiring lands, for all or any of the purposes aforesaid, it shall be lawful for such Parish, Mission, Congregation, or Society of Christians, to appoint one or more Trustees, to whom and to whose successors (to be appointed in the manner set forth in the deed of grant, concession, or conveyance,) the lands necessary for each and every of the purposes aforesaid, may be conveyed; and such Trustees and their successors for ever, by the name by which they and the Congregation on whose behalf they act, shall be designated in such deed of grant concession or conveyance, shall be capable of acquiring by purchase, donation, exchange, or as a legacy, and of holding and possessing the lands so acquired, and of instituting and. Defending all actions at law, for the conservation of such lands and of their rights therein: Provided, always, that in every case wherein a Parish established by law, shall be concerned, the foregoing provisions, concerning Trustees, shall extend to the Rector and Churchwardens of such Parish, and whenever any such Religious Congregation shall be constituted a Parish, in the manner by law provided, the property of all lands so acquired, as aforesaid, shall be vested in such Parish, and the administration and control thereof shall pass from the Trustees, aforesaid, into the hands of the Fabrique, or Rector, of such Parish, or of other the person, persons, or body to whom the same should pass according to the rules and regulations of the Church to which such Parish may belong: Provided, nevertheless, that where any Congregation or Society of Christians, shall hold property, as aforesaid, within any Parish established by law at the time of the passing of this Ordinance, the property so held by such Congregation or Society of Christians shall not be vested in such Parish, but the administration and control thereof shall remain with the said Trustees of such Congregation or Society of Christians, to be held in mortmain for ever, for the benefit of such Congregation or Society of Christians, as aforesaid, any clause, matter or thing herein contained to the contrary notwithstanding.

IV. Provided always, and be it further Ordained and Enacted by the authority aforesaid, that such Trustees, or such Rectors and Churchwardens, shall, within two years after they shall

have acquired such lands, conformably to the foregoing provisions of this Ordinance concerning the enregistration to be made with regard to such lands at the Office of the Prothonotary; for which enregistration the Prothonotaries of the several Districts respectively, shall be entitled to a fee not exceeding six pence currency for every hundred words, being the fees allowed for a similar service by the Act hereby suspended: Provided also, that the quantity of land so acquired for the purpose aforesaid, within the walls of the Cities of Quebec and Montreal respectively, shall not in the whole exceed one arpent, whereof no part shall be used as a Burial Ground, excepting for Ecclesiastics and Religious persons of either sex, or for private vaults for the Donors of the ground, and out of the walls and within the limits of the said Cities, shall not exceed eight arpents in superficies; and the quantity of land so held in any other place for the use of each Parish, Mission, Congregation, or Religious Society, shall not exceed two hundred English acres; Provided that nothing herein contained shall extend or apply to any Parish, Rectory, or Parsonage lawfully erected and constituted, or which may hereafter be lawfully erected and constituted, according to the establishment of the Church of England.

V. Provided always, and be it further Ordained and Enacted by the authority aforesaid, that nothing in this Ordinance contained shall weaken, diminish, extinguish, or affect, nor shall be construed to weaken, diminish, extinguish, or affect, in any manner the rights or privileges of Her Majesty, her heirs or successors, or of any seignior or seigniors, or of any person or persons, body politic or corporate, whatever, (except such rights as are hereby expressly altered or affected,) but that Her Majesty, and all and every seignior or seigniors, or other persons, bodies politic and corporate, shall (as aforesaid) have and exercise the same rights as they and each of them had before the passing of this Ordinance, to all intents and purposes whatsoever, and as amply as if this Ordinance had never passed.

VI. And be it further Ordained and Enacted by the authority aforesaid, that the Act hereinbefore mentioned, passed in the tenth and eleventh years of His late Majesty's Reign, intituled, "An Act for the relief of certain Religious Congregations therein mentioned," shall be, and it is hereby suspended during the continuance of this Ordinance in force.

J. COLBORNE.

Ordained and Enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House, in the City of Montreal, the Nineteenth day of March, in the second year of the Reign of Our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the Year of Our Lord, one thousand eight hundred and thirty-nine.

By His Excellency's Command,
W. B. LINDSAY,
Clerk Special Council.