

enacted, That it shall be lawful for such Trustee, in his capacity as Trustee as aforesaid, to recover such debt in any action of debt or assumpsit, and to declare in general terms for money had and received to the use of the said Institution; and on the trial of such action, any promise, agreement, promissory note or indorsement thereof, given by or to any person or persons, for or relating to any such debt, may be made use of as evidence of the quantum of the debt or damages to be recovered by such Trustee, on proof, by parole or otherwise, that such agreement, promise or note was really and truly given for and on account of or relating to such Institution.

Former Trustees,
Treasurer, &c. to
be competent wit-
nesses.

VII. And be it enacted, That in any action which may be brought by the said Trustee in discharge of his duty as such Trustee, any person who may have been a former Trustee, Treasurer, or other Officer, shall be admitted as a competent witness on the trial thereof.

Trustee to make
reports and pay
dividends under
orders of the Govern-
or in Council.

VIII. And be it enacted, That the said Trustee shall, from time to time when called upon by the Lieutenant Governor or Administrator of the Government for the time being, report to him the state of the affairs of said Institution, and what sums of money have been secured or collected by him, and shall from time to time pay the depositors such a proportion or dividend from any funds on hand as may, by the Lieutenant Governor or Administrator of the Government for the time being, by and with the advice of the Executive Council, be from time to time ordered and directed.

CAP XVII.

An Act to provide for the management of the temporalities of the Church of England in this Province in certain cases.

Passed 11th April 1846.

Preamble.

‘**W**HEREAS several Churches have been erected in this Province, and ‘duly consecrated according to the rites and ceremonies of the Church of England, in which the pews or sittings for the congregation have been declared free and open, and it is believed that others will be erected upon the same principles: And whereas it is necessary to provide for the election of Church Wardens and Vestry in such Parishes, in order that the temporalities of the Church in such Parishes may be subject to competent management and control, and for other purposes herein mentioned;’

Rectors, Church
Wardens and Vestr-
ies of Churches in
which the Sittings
are or shall be de-
clared free, incor-
porated.

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the Church Wardens and Vestry of every Church now or hereafter erected in the several and respective Parishes in this Province, in which the sittings for the congregation shall be free and open to all persons without any price or rent being paid therefor, and also of any Church already erected or hereafter to be erected in which the sittings shall not be free and open as aforesaid, in which the Rector, Church Wardens and Vestry thereof may, with the consent and approbation of all the Pew owners and occupants, to be signified in writing, declare the seats to be thenceforth free and open, so soon as they shall be duly elected and chosen pursuant to the provisions of this Act, together with the Rector of every such Church for the time being, and their respective successors for ever, shall be a body politic and corporate in deed and in name, and shall have succession for ever by the name of the Rector, Church Wardens and Vestry of the several and respective Churches to which they belong, and as such shall have a Common Seal, and be entitled to break or renew the same, and shall have all the general powers and privileges made incident to a Corporation by Act of Assembly of this Province.

II. And be it enacted, That every male person of the age of twenty one years or upwards, resident in the Parish in which such Church is situate, and being a communicant of such Church, or who shall have been, for at least six months of the year preceding the election of Church Wardens and Vestry, a stated hearer and attendant at the public worship of the said Church, and who shall have subscribed and actually paid the sum of twenty shillings or upwards in aid of the fund of the said Church for the year preceding the day appointed by Law for the annual election of Church Wardens and Vestrymen shall be entitled to vote in the choice of and shall be qualified to be chosen and elected Church Wardens and Vestrymen of the said Church.

Qualifications of Church Wardens and Vestrymen, and their Electors.

III. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to authorize the erection of more than one Church Corporation of the said Church of England in any one Parish in this Province.

Act not to authorize the erection of more than one Church of England Church Corporation in a Parish.

IV. And be it enacted, That all the power and authority granted to a Church Corporation by any Law in force in this Province, and all and every the clauses, enactments and provisions of an Act made and passed in the twenty ninth year of the Reign of King George the Third, intituled *An Act for erecting a Parish in the City of Saint John, and incorporating the Rectors, Church Wardens and Vestry of the Church of England in the several Parishes in this Province*, and of a certain other Act made and passed in the fifty sixth year of the same Reign, for explaining and amending the above recited Act, shall extend and be construed to extend to every Parish and Church Corporation erected under the authority of this Act, as fully and effectually as if such power and authority were herein specially granted, or such clauses, enactments and provisions herein particularly enacted, except so far as such clauses, enactments and provisions may be inconsistent with or contrary to the provisions of this Act.

Provisions of Acts 29 G. 3, c. 1, and 56 G. 3, c. 11, not inconsistent with this Act, extended to Church Corporations under this Act.

V. And be it enacted, That in case of the death or absence from the Province of the respective Rectors of the said Churches for the time being, or where no Rector shall have been appointed, the Church Wardens and Vestry in such Parishes shall, during such vacancy or absence, have the full powers and authorities that are by Law given to the Rectors, Church Wardens and Vestry of such Churches respectively; and in all cases every act, matter or thing done or committed, and all suits or proceedings whatever brought or prosecuted by such Church Wardens and Vestry, shall be done, committed, brought or prosecuted in the name of the Rector, Church Wardens and Vestry of such Churches respectively.

Church Wardens and Vestries to exercise the corporate powers in case of the death, &c. of the Rectors.

VI. And be it enacted, That in each and every Parish in this Province where no Rector shall have been appointed, or when on the day provided by Law for the election of Church Wardens and Vestrymen for such Parish, there shall be no Rector in such Parish, or in cases where such Rector shall be absent from the Province, or unable to attend at such election, the persons qualified by this Act or any Law then in force to be elected Church Wardens and Vestrymen or to vote at such elections, shall and they are hereby authorized, notwithstanding such vacancy or absence, to assemble and meet together in such Parish and elect Church Wardens and Vestrymen; and that the persons so assembled shall and they are empowered to appoint a person to preside at such election for the more orderly proceeding thereat.

Elections of Church Wardens and Vestrymen may be proceeded in, notwithstanding the necessary absence of the Rector.