

Provincial Statutes of Canada, passed in the year 1845. Montreal: Stewart Derbishire & George Desbarats, 1845.

8 Victoria – Chapter 82

An Act to Incorporate the Roman Catholic Bishops of Toronto and Kingston, in Canada, in each Diocese. (29th March, 1845.)

Whereas the Right Reverend Michael Power, Roman Catholic Bishop of Toronto, and the Right Reverend Patrick Phelan, Roman Catholic Bishop of Carrhae and Administrator of the Diocese of Kingston, in this Province, have petitioned this Parliament to pass an Act incorporating the Roman Catholic Bishops of Kingston and Toronto severally, and enabling each to hold and acquire real estate in this Province for religious purposes; and whereas it is expedient to comply with the prayer of the said Petition: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, "An Act to Re-unite, the Provinces of Upper and Lower Canada, and for the Government of Canada," and it is hereby enacted by the authority of the same, That from and after the passing of this Act, the said Michael Power and his successor and successors being Bishop of Toronto aforesaid in communion with the Church of Rome, and Remigius Gaulin and his successor and successors, being Bishop of Kingston aforesaid, in communion with the Church of Rome, shall be, and are hereby declared to be, each respectively, a Body Corporate in his respective Diocese aforesaid, in deed and in name, the said Michael Power and his successor and successors for the time being by the name of the "Roman Catholic Episcopal Corporation for the Diocese of Toronto, in Canada,"— and the Reverend Remigius Gaulin and his successor or successors for the time being by the name of "The Roman Catholic Episcopal Corporation of the Diocese of Kingston, in Canada,"—and that each of them and his successors as aforesaid shall, by his separate name as aforesaid, have perpetual succession and a common seal, and shall have power from time to time (by and with the advice of his Coadjutor and Senior Vicar General or of two Clergymen for the time being as hereinafter mentioned) to alter and renew or change such common seal at pleasure, and shall respectively by his respective name as aforesaid, from time to time and at all times hereafter, be able and capable to have, hold, purchase, acquire, possess and enjoy for the general use or uses eleemosynary, ecclesiastical or educational of the said Church, or of the religious community, or of any portion of the same community within his diocese, any lands, tenements or hereditaments within the Province of Canada, and the same real estate or any part thereof from time to time (by and with the advice and consent hereafter mentioned) to sell or exchange, alienate, let, demise, lease, or otherwise dispose of, and in case of sale to purchase other real estate in lieu of that sold with the proceeds or purchase money arising from such sale, and to hold and enjoy such newly purchased or exchanged estate or estates for the religious, eleemosynary, ecclesiastical or educational purposes aforesaid, or any or either of them, and by the same name respectively each of the said Bishops and his successors shall and may be able and capable in law to sue and be sued, implead and be impleaded, answer and be answered in all Courts of Law and Equity and places whatsoever, in as large, ample and beneficial a manner as any other Body Corporate or as

any other person may or can in law or equity sue or be sued, implead or be impleaded, answer or be answered unto in any manner whatsoever.

II. And be it enacted, That the soil and freehold, as well as the fee of all lands, tenements, and hereditaments, and of all burial grounds and churches and chapels now belonging to and used, held, occupied, possessed, or enjoyed by the said Michael Power or his Church in communion with the Church of Rome as aforesaid, and of all churches and chapels now being erected or to be hereafter erected in his Diocese, shall be and are hereby declared to be vested in him and his successor and successors for the time being for the purposes aforesaid; and that the soil and freehold, as well as the fee of all lands, tenements and hereditaments, and of all burial grounds and churches and chapels now belonging to and used, held, occupied, possessed or enjoyed by the said Remigius Gaulin or his Church in communion with the Church of Rome as aforesaid, and of all churches and chapels now being erected or to be hereafter erected in his Diocese, shall be, and are hereby declared to be, vested in him and his successor and successors for the time being for the purposes aforesaid, the Acts of Parliament commonly called the Statutes of Mortmain, or other Acts, laws and usages to the contrary notwithstanding.

III. And be it enacted, That all Deeds or Wills of any real estate made and executed by or in favor of either of the said Bodies Corporate, or his successor or successors for the time being, (except leases for a term not exceeding twenty-one years,) shall be duly registered according to law within twelve calendar months after the making and execution thereof, otherwise the same shall be void and of none effect.

IV. And be it enacted, That it shall be lawful for any person or persons within either of the said Dioceses of Toronto or Kingston, in whom or in whose name or names any lands, tenements, and hereditaments are now, or shall or may be hereafter vested in trust or otherwise for the benefit of the said Roman Catholic Churches, or either of them, from time to time to convey, assign, or transfer by deed under his hand or their hands and seals, in the usual legal way, all or any of the same lands, tenements, and hereditaments, unto the Bishop for the time being of the Diocese in which such real estate is situate, to be holden by the said Bishop and his successor or successors for the purposes, aforesaid, as provided by this Act.

V. And be it enacted, That it shall not be lawful for either of the said Bishops, or for their successor and successors, for the time being, to make or execute any deed, conveyance, lease, or assignment of the whole or any part of the lands, tenements, and hereditaments acquired or held, or to be hereafter acquired by him, under and by virtue of this Act, or the title to which is confirmed to him by this Act, without the consent in writing of his Coadjutor and Senior Vicar General, and in case there shall happen to be no Coadjutor or Vicar General, or in case the said Coadjutor or Vicar General or either of them shall be incapacitated by sickness, infirmity or any other cause, or shall happen to be necessarily absent at the time, then of two Clergymen, to be selected or named by the Bishop of each respective Diocese; such selection or nomination, and such consent to appear upon the face of the deed or other instrument in writing intended to be executed by the parties, and to be testified by the said Bishop and Coadjutor, and Senior Vicar General, or such two Clergymen as aforesaid being made parties to and signing and sealing all the

deeds, conveyances, leases, assignments, or other instruments, in the presence of two credible witnesses, as consenting parties thereto, respectively.

VI. 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 either of the said Bishops hereinbefore mentioned, or upon his or their successor or successors, or other ecclesiastical person of the said Church or Churches in communion with the Church of Rome aforesaid.

VII. And be it enacted, That this. Act shall extend only to that part of this Province which formerly constituted the Province of Upper Canada, (except that the said corporate bodies may respectively acquire, hold, and enjoy lands and hereditaments in any part of this Province for the purposes aforesaid,) and shall not in any wise extend to or affect that part of the Province formerly known as Lower Canada.

VIII. And be it enacted, That in case either of the said Bishops, or any new Bishops of any new Diocese that may be erected as aforesaid, or their or his successor or successors shall, from sickness, infirmity, or any other cause, become incapable or be incapacitated to perform his duties in his Diocese, then his Coadjutor, or the person or persons administering the Diocese, shall have the same powers as are by this Act conferred upon the Bishops of the said respective Dioceses.

IX. And be it enacted, That whenever it may be deemed expedient to erect any new Diocese or Dioceses in that part of the Province formerly called Upper Canada, the Bishop or Bishops of such new Diocese or Dioceses, and his or their successor or successors for the time being, shall have the same powers as are by this Act conferred upon the said Bishops of Kingston and Toronto respectively.

X. And be it enacted, That nothing herein contained shall affect or be construed to affect in any manner or way the rights of Her Majesty, Her Heirs or Successors, or of any person or persons, or of any body politic or corporate, such only excepted as are herein before mentioned and provided for.

XI. And be it enacted, That this Act shall be deemed a public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace and other persons whatsoever, without being specially pleaded.