

Laws of Her Majesty's Province of United Canada, passed in the year 1851. York: Stewart Derbyshire and George Desbarts, 1851.

14 & 15 Victoria – Chapter 103

An Act to amend the Act to continue and amend the Ordinance concerning the erection of Parishes, Churches and Church-yards, in Lower Canada. 30th August, 1851.

Whereas it is expedient to amend the Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, and intituled, *An Act to continue and amend the Ordinance concerning the erection of Parishes, and the construction and repairing of Churches, Parsonage Houses, and Church-yards*, and the Ordinance of the Governor and Special Council of the late Province of Lower Canada, passed in the third Session of the said Council, held in the second year of Her Majesty's Reign, and intituled, *An Ordinance concerning the erection of Parishes, and the building of Churches, Parsonage Houses, and Church-yards*, in the manner hereinafter mentioned: 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 all sums which by the said Act and Ordinance the Trustees appointed or hereafter to be appointed under the said Act or Ordinance, are or shall be authorized to levy by assessment for the purposes of the said Act and Ordinance, shall hereafter be payable by the parties assessed under the said Act and Ordinance, in twelve equal instalments, instead of in the manner by the said Act and Ordinance provided.

II. And be it enacted, That whenever a less sum than that payable by virtue of any such assessment for the construction of a Church in any Parish or Mission, or any other of the purposes of the said Act or Ordinance, shall be found sufficient for the construction of such Church or for such other purpose, it shall not be lawful for the said Trustees to call in any instalment remaining due after such sufficient sum shall have been paid in, unless any fraction of any such remaining instalment shall be required to complete the construction of such Church, or for such other purpose, when and in such case it shall be lawful for the said Trustees to call in the whole of such instalment, any fraction whereof may be so required; and the balance of such instalment so called in, after deducting therefrom such fraction or part as aforesaid, shall be paid over and applied as provided by the said Act or Ordinance.

III. And be it enacted, That the said Trustees shall render a true and faithful account, once in every year, of the expenditure of the moneys entrusted to them, and of the moneys and material due to the in or in their hands, and of all their proceedings for and in respect of the said moneys and materials; and the said account shall be so rendered on the first Sunday in December in every year, at a meeting of the inhabitant freeholders to be held in the Sacristy of the Parish or Mission, or in the Church if there be no Sacristy, or in the public Place if there be no Church nor Sacristy, immediately after High Mass on the said Sunday, notice having been given from the pulpit of the

Church or Chapel in the Parish or Mission, by the *Curé*, or other person administering the said Parish or Mission, on the two previous Sundays or at any hour appointed, notice having been given in some public place of the Parish or Mission, if there be no Church nor Chapel, and the first meeting for the rendering of such accounts by the said Trustees under this Act, shall take place on the first Sunday in December next after the passing of this Act, and on the same day in every year thereafter, due notice as aforesaid being given on the two Sundays previous: Provided always, that when from any unavoidable accident, or other circumstance, any such meeting shall not be held on the said first Sunday in December, the same may take place on the second or on the third Sunday in the same month.

IV. And be it enacted, That if the said Trustees shall fail or neglect to render such accounts at such meeting on the said first, second or third Sundays in December next, or on either of the same days in any year thereafter, it shall be lawful for the inhabitant freeholders of the said Parish or Mission to assemble together at the said Sacristy, Church or Public Place as hereinbefore mentioned for the rendering of the accounts (at least eight days notice of the time and place of such meeting having been given from the pulpit by the *Curé*, or person administering the said Parish or Mission, or if there be no Church nor Chapel, then in a Public Place, on a requisition being made to him for that purpose by any three inhabitant householders), for the purpose of electing from among themselves three Agents to demand the said accounts from the said Trustees, and sue for the rendering of the same before any Tribunal of competent jurisdiction, in case they shall be authorized so to do, at a meeting to be held as hereinafter provided.

V. And be it enacted, That the Agents so appointed shall demand from the said Trustees the accounts which have not been rendered, and if the same be not rendered to their satisfaction within thirty days after being so demanded, the said Agents shall make a report accordingly at a meeting of the said inhabitant freeholders, to be called by the said Agents and held as aforesaid, by a notice under their Hand, published and posted at the Church door, or other public place of the Parish or Mission, at least eight days previous to such meeting; and if upon the report of the said Agents, the majority of the persons present at such meeting shall decide that the said Agents shall sue for the rendering of the said accounts by the said Trustees, the said Agents shall, and they are hereby authorized to sue by their name of office, and without otherwise naming them or any of them, for the rendering of the said accounts by the said Trustees, and the costs of such action shall be advanced out of the funds of the *Fabrique* of the said Parish or Mission; in the event of the said Agents failing to obtain a judgment in their favor, with or without costs, then the Agents shall pay the said costs out of the funds in their Hands, and if they have no funds, they shall levy the said costs by an assessment on the Parish or Mission, which assessment shall be made, advertised, deposited, presented and homologated in the same manner as other assessments which they are already entitled to make, but the assessment herein mentioned shall be levied in one single payment; and no such action shall abate or be discontinued by the decease of any of the Agents or their going out of office, but shall be continued by the other or others, with or without any new Agent or Agents, or a meeting may be called and a new Agent or Agents elected in manner aforesaid, but the action shall not thereby be discontinued or abated, but shall proceed as if no change had taken place in the persons being the Agents; Provided always, that any Court before

which any such action shall be brought shall be authorized, if it shall deem it equitable, to condemn the said Trustees personally to pay the costs in their capacity as Trustees.

VI. And be it enacted, That the names of the said three Agents so chosen shall be borne upon the Registers of the said Parish or Mission, and an extract therefrom duly certified by the *Curé* or officiating *Curé* or first Churchwarden in office, of the *Fabrique* of the said Parish or Mission, shall be *primâ facie* evidence in all Courts of Justice, of the election and appointment of such Agents, and of their authority to sue for the rendering of the said accounts.

VII. And be it enacted, That the name under which the said Agents shall bring any such action, shall be “the Agents of the Parish (or Mission) of _____ (name of Parish or Mission.)”

VIII. And be it enacted, That if any person whosoever shall fail or neglect to perform any of the duties required of him by this Act, or shall directly or indirectly obstruct the performance of the said duties, he shall be liable to a penalty not exceeding Five Pounds, currency, recoverable before any Justice of the Peace of the District.

IX. And be it enacted, That so much of the Act and of the Ordinance above mentioned as shall be repugnant to the provisions of this Act, shall be and is hereby repealed.