

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

14 Victoria – Chapter 171

An Act to provide for the establishment of a Church Society of the United Church of England and Ireland, in each Diocese of that Church in Lower Canada, and for other purposes connected with the recent division of the Diocese of Quebec.

Reserved for the signification of Her Majesty's pleasure 30th August, 1851.

The Royal Assent given by Her Majesty in Council, on the 10th January, 1852; and Proclamation made thereof by His Excellency James, Earl of Elgin and Kincardine, in the Canada Gazette of the 24th February, 1852.

The Royal Assent revoked, as being informal, on 15th May, 1852, and Proclamation thereof made by His Excellency James, Earl of Kincardine, in the Canada Gazette of the 9th June, 1852.

The Royal Assent given by Her Majesty in Council on the 15th May, 1852, after the Act had been more than thirty days previously laid before both Houses of the Imperial Parliament; and Proclamation made thereof by His Excellency James, Earl of Elgin and Kincardine, in the Canada Gazette of the 9th June, 1852.

Whereas by an Act passed in the seventh year of Her Majesty's Reign, and intituled, *An Act to incorporate the Church Societies of the United Church of England and Ireland, in the Dioceses of Quebec and Toronto*, a Corporation was created for the objects in the said Act mentioned, in and for the Diocese of Quebec, by the name of *The Church Society of the Diocese of Quebec*, to consist of the Lord Bishop of the said Diocese, and other the persons therein named and their successors; And whereas Her Majesty by Her Royal Letters Patent, bearing date at Westminster on the eighteenth day of July, in the fourteenth year of Her Majesty's Reign, was pleased to divide the said Diocese of Quebec into two Dioceses, the one to be called *The Diocese of Quebec*, and the other, *The Diocese of Montreal*, in the manner and with the limits and boundaries in the said Letters Patent mentioned, and by reason of such division it hath become expedient, and the said Corporation hath prayed, that the members thereof and their successors may hereafter form two Corporations in the manner, with the corporate names and rights, and subject to the provisions hereinafter mentioned and made: 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 Corporation created by the Act first above cited, by the name of *The Church Society of the Diocese of Quebec*, and hereinafter called and referred to as "the late Corporation," shall cease and determine; and there shall be and is hereby constituted in and for the Diocese of Quebec, as now

constituted, a Corporation by the corporate name of The Church Society of the Diocese of Quebec, and another Corporation in and for the Diocese of Montreal, as now constituted, by the corporate name of The Church Society of the Diocese of Montreal, each of which said Corporations shall have and is hereby invested with the like corporate rights, powers and privileges as by the Act first above cited are conferred upon the said late Corporation, and to each of the said Corporations, and to the members thereof, the several clauses and provisions of the said Act shall apply as fully as they would have applied without this Act and without the division of the former Diocese of Quebec, to the said late Corporation, and the members thereof, and as if each of the said Corporations had been one of those constituted by the said Act, in so far as may not be inconsistent with this Act, and subject always to the provisions herein made.

II. And be it enacted, That the Corporation of *The Church Society of the Diocese of Quebec* hereby constituted, shall be composed and consist of the Lord Bishop of the Diocese of Quebec (as now constituted) for the time being, and of those members of the said late Corporation who shall at the time of the passing of this Act be resident within the said Diocese of Quebec, unless and until it shall be otherwise provided by the By-laws of the Corporation, and of such other persons as shall from time to time hereafter be elected members of the said Corporation, in the manner provided by the Act aforesaid.

III. And be it enacted, That the Corporation of *The Church Society of the Diocese of Montreal*, hereby constituted, shall be composed and consist of the Lord Bishop of the Diocese of Montreal, for the time being, and of those members of the said late Corporation who shall, at the time of the passing of this Act, be resident within the Diocese of Montreal, unless and until it shall be otherwise provided by the By-laws of the Corporation, and of such other persons as shall from time to time hereafter be elected members of the said Corporation, in the manner provided by the Act aforesaid.

IV. Provided always, and be it enacted, That any life member of the said late Corporation, resident in either of the said Dioceses, shall have power to make his election of the Diocese with which to be connected, and that if no such preference be expressed by him in writing under his hand, to the Bishop of such Diocese, within two months after the passing of this Act, such life member shall be considered to be and shall be a life member of the Corporation of the Diocese within which he resided at the time when the said Letters Patent took effect; and provided further, that any person not resident in the Province of Canada, who became and was such life member at the time when the said Letters Patent took effect, shall be considered to be and shall be an honorary member of both Corporations.

V. And be it enacted, That the real property of the said late Corporation, and its right to or in any real property, whether held to and for its own use generally, or in trust for any special purpose or purposes, shall be and are hereby vested in that one of the two Corporations hereby constituted, which is constituted in and for the Diocese in which such real property shall respectively lie; and that any real property of the said late Corporation, situate in Upper Canada, shall be and is hereby vested in the said Church Society of the Diocese of Montreal, and the personal property of the said late Corporation (including all books, papers and documents thereunto relating, and its right to or

in any personal property) shall be and is hereby vested provisionally in the Corporation of *The Church Society of the Diocese of Quebec*, hereby constituted; Provided always, that no trust upon which any such property, real or personal, is held, shall be disturbed or affected, but shall be strictly observed and performed by that Corporation in which such property or the right thereto will be vested; and provided also, that the Corporation last mentioned shall, within one year from the passing of this Act, assign and convey to *The Church Society of the Diocese of Montreal*, such proportion as shall be agreed upon by the two Corporations, of the personal property held by the said late Corporation otherwise than upon trust for any special purpose or purposes; and that it shall be lawful for either of the Corporations hereby constituted, to assign and convey to the other any property, real or personal, of the said late Corporation held upon any trust or trusts which it shall appear to the said Corporations can be more conveniently performed by the Corporation to which such assignment and conveyance shall be made, such assignment and conveyance being made upon the trusts to which the property is subject; and the liabilities of the said late Corporation shall be discharged by that one of the Corporations hereby constituted, in whom the property shall be vested in respect of which such liability shall have been incurred, or if the same shall not have been incurred in respect of any property, then the same shall be discharged by *The Church Society of the Diocese of Quebec*, unless it be otherwise agreed between the said two Corporations.

VI. And be it enacted, That the By-laws of the said late Corporation in force immediately before the passing of this Act, shall, in so far as they may be capable of such application, and consistent with the provisions of this Act, be the By-laws of each of the Corporations hereby constituted, until they shall be repealed or altered in the manner provided by the Act first aforesaid; Provided always, that the Bishop of the Diocese in and for which each of the said Corporations is constituted, shall be the President of such Corporation, and shall have full power to sanction and confirm any Constitution, By-law, Rule or Regulation of such Corporation, or any Abrogation, Repeal, Change or Alteration of the same, in the manner provided by the fifth section of the Act first aforesaid; any thing in the said section to the contrary notwithstanding.

VII. And be it enacted, That, notwithstanding any omission in the Letters Patent erecting the present Dioceses of Quebec and Montreal respectively, the District of Saint Francis shall be and shall be held to have been included within the present Diocese of Quebec, to all intents and purposes, as if it had been made part of the said Diocese by the said Letters Patent erecting the same.

VIII. And be it enacted, That any gift, legacy, devise or bequest of property, or any right, title, interest, in or to any property, which before the time when the Letters Patent aforesaid took effect, was made to or vested in the Bishop of Quebec, or in the Bishop of Montreal administering the Diocese of Quebec, shall be, and shall be held to have been from the time last aforesaid, made to or vested in the Bishop of Quebec as now constituted, who shall be held to be the successor of such first mentioned Bishop; and any Act, Ordinance or Law, Deed, Instrument or Writing made before the said time, and any Will, Testament or Codicil of any testator who died before the said time, in which the Diocese of Quebec, or the Bishop of Montreal or Bishop administering the Diocese of Quebec, is mentioned or referred to or intended, shall be construed and have effect

from the said time, as if the Diocese or Bishop therein intended, mentioned or referred to, were the Diocese of Quebec as now constituted, or the Bishop of Quebec as now constituted, except where such construction would be contrary to justice or to the provisions of this Act, or of any other Act passed or to be passed during the present session of the Provincial Parliament, or to the Letters Patent aforesaid; Provided that it shall always be lawful for the Bishop of the aforesaid Diocese of Quebec, to assign and convey to the Bishop of Montreal any property held by him in trust, if the said Bishop shall be of opinion that such trust can be better or more conveniently performed by the Bishop of Montreal; any thing in the will, testament, deed or instrument, creating such trust, to the contrary notwithstanding. Provided that all such deeds of real estate (except leases for a term not exceeding nine years) shall be duly registered according to law within six calendar months after the making and execution thereof, otherwise the same shall be void and of none effect; and that such registration within the said term of six months shall not give any greater effect in other respects to any such deed than is by law given to the registration of any other deed of real estate in Lower Canada.

IX. And be it enacted, That the Bishop of Quebec and his successors, by the name of the Lord Bishop of Quebec, and the Bishop of Montreal and his successors, by the name of the Lord Bishop of Montreal, shall respectively be a Corporation sole, and shall be deemed to have been so from the time when the Letters Patent aforesaid took effect, and shall respectively have, and shall be held to have had, from the said time, full power and authority to sue and be sued, and to take and hold (with or without license or letters of mortmain) any real property within this Province, and any personal property whatsoever, whether by devise, bequest, gift, grant or other title or conveyance whatsoever, and the same or any part thereof to alienate, unless when held in trust for any special purpose in the instrument creating which trust such alienation is forbidden, and other the powers vested by law in bodies corporate generally; and the Bishop of Quebec, or the Bishop of Montreal, or Bishop administering the Diocese of Quebec, before the time when the said Letters Patent took effect, shall be held to have had full power and authority to sue and be sued, and to take and hold (with or without license or letter of mortmain) any real property within this Province, and any personal property whatsoever, whether by devise, bequest, gift, grant or other title or conveyance whatsoever, and the same or any part thereof to alienate, unless when held in trust for any special purpose, in the instrument creating which trust such alienation is forbidden, and other the powers vested by law in bodies corporate generally; and the Bishop of Quebec or the Bishop of Montreal, or Bishop administering the Diocese of Quebec, before the time when the said Letters Patent took effect, shall be held to have had full power and authority to sue and be sued, and to take and hold (with or without license or letters of mortmain) any real property within this Province, and any personal property whatsoever, whether by devise, bequest, gift, grant or other title or conveyance; whatsoever, and the same or any part thereof to alienate, unless when held in trust for any special purpose in the instrument creating which trust such alienation is forbidden: Provided that the said Bishop of Montreal shall not have, hold, possess or enjoy lands, and tenements or real estate in virtue of this Act, for the uses and purposes of his said See exceeding Five Thousand Pounds in annual value at any time; and shall at all times, when called upon so to do by the Governor of this Province, render an account in writing of such property held by him under this Act, and of the income derived therefrom, and the means by which the same has been acquired.

X. And be it enacted, That nothing in this Act shall be construed to confer any spiritual or ecclesiastical rights or jurisdiction upon either of the said Bishops, or upon their successors, or other ecclesiastical person of the said Church.

XI. And be it enacted, That except in so far as it may be otherwise ordered by any Act, passed in the present session, the Act passed in the sixth year of Her Majesty's Feign, and intituled, *An Act to make provision for the management of the temporalities of the United Church of England and Ireland in the Diocese of Quebec, in this Province, and for other purposes therein mentioned*, and all the provisions and enactments thereof, shall apply and shall be held to have applied, from the time when the Letters Patent aforesaid took effect, to each of the Dioceses of Quebec and Montreal respectively, and to the Bishop of each of the said Dioceses, as fully and effectually as before the said time they applied to the Diocese of Quebec as then constituted, and to the Bishop thereof; any thing in the nineteenth section, or in any other part of the said Act to the contrary notwithstanding; and the words "The Bishop," or "The Bishop of the Diocese," in the said Act, shall be construed as meaning the Bishop of Quebec or the Bishop of Montreal, as the case may be.

XII. And be it enacted, That whenever in this Act the Bishop of any Diocese is mentioned, the successors of such Bishop, and the Bishop administering such Diocese, shall be held to be also intended and included.

XIII. And be it enacted, That nothing herein contained shall 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 mentioned and provided for.

XIV. And be it enacted, That this Act shall be a Public Act.