

Laws of Her Majesty's Province of United Canada, passed in the year 1854. Quebec: Stewart Derbyshire and George Desbarts, 1854.

18 Victoria – Chapter 2

An Act to make better provision for the appropriation of Moneys arising from the Lands heretofore known as the Clergy Reserves, by rendering them available for Municipal purposes. Assented to 18th December, 1854.

Whereas by the Act of the Parliament of Great Britain, passed in the Session, held in the thirty-first year of the Reign of His Majesty King George the Third, and intituled, *An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, "An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,"* it is among other things enacted, That it shall and may be lawful for His Majesty, His Heirs or Successors, to authorize the Governor or Lieutenant Governor of each of the Provinces of Upper Canada and of Lower Canada respectively, or the person administering the Government therein, to make from out of the Lands of the Crown within such Provinces, such allotment and appropriation of lands as therein mentioned, for the support and maintenance of a Protestant Clergy within the same; and it was further enacted, That all and every the rents, profits and emoluments which might at any time arise from such lands so allotted and appropriated as aforesaid, should be applicable solely for the maintenance and support of a Protestant Clergy within the Province in which the same should be situated, and to no other purpose whatever. And whereas in pursuance of the said Act, such allotments and appropriations of land as aforesaid, have been from time to time reserved for the purposes therein mentioned, which lands are known in this Province by the name of The Clergy Reserves; And whereas by another Act of the Parliament of the United Kingdom, passed in the Session held in the seventh and eighth years of the Reign of King George the Fourth, and intituled, *An Act to authorize the Sale of a part of the Clergy Reserves in the Provinces of Upper and Lower Canada*, the Governor, Lieutenant Governor or Person administering the Government of the said Provinces, or either of them, was empowered with the consent of the Executive Council of such Province, and in pursuance of His Majesty's instructions, to sell and convey in fee simple, or for any less estate or interest, a part of the said Clergy Reserves in each of the said Provinces, not exceeding in either Province one fourth part of the Reserves within the same, nor exceeding one hundred thousand acres in either of them in any one year, and it was enacted that the proceeds of such sales should, by the proper officers, be invested in the Public Funds of the United Kingdom, and that the Dividends and Interest of the moneys so invested should be appropriated in the manner provided by the said last mentioned Act; and further, that it should be lawful for the Governor, Lieutenant Governor or person administering the Government of either of the said Provinces, with the consent of the Executive Council thereof, and in pursuance of His Majesty's instructions, to give or grant in exchange for any part of the said Clergy Reserves any lands within the said Province, of equal value with such Clergy Reserves so to be taken in exchange, or to accept in exchange for any such Clergy Reserves from any person or persons any lands of equal value, and that any lands so taken in exchange for any such Clergy Reserves should be holden by the Crown in trust for the purposes to which the Clergy Reserves were appropriated by the Acts firstly and secondly above

cited: And whereas by another Act of the said Parliament, passed in the Session held in the third and fourth years of Her Majesty's Reign, intituled, *An Act to provide for the sale of the Clergy Reserves in the Province of Canada, and for the distribution of the proceeds thereof*, other and further provision is made for the sale of the whole of the said Clergy Reserves, and for the investment of the proceeds of such sale, and the distribution of the Interest and Dividends on such investments, and of the Interest on sales of Clergy Reserves on credit or Rents arising from Clergy Reserves demised for a term of years, subject to the provision that the quantity of the said Clergy Reserves so to be sold in any one year, shall not in the whole exceed One Hundred Thousand Acres, without the previous approbation in writing of one of Her Majesty's Principal Secretaries of State, and to other the restrictions and conditions in the said Act mentioned and imposed; and so much of the Act herein first cited as relates to any reservations of land to be made after the passing of the Act herein last cited, in Upper Canada or Lower Canada, for the support and maintenance of a Protestant Clergy, is repealed: And whereas by another Act of the said Parliament passed in the sixteenth year of Her Majesty's Reign, and intituled, *An Act to authorize the Legislature of the Province of Canada to make provision concerning the Clergy Reserves in that Province, and the proceeds thereof*, it is in effect enacted, That it shall be lawful for the Legislature of the Province of Canada, from time to time, by any Act or Acts to be for that purpose made and enacted in the manner and subject to the conditions required by the Act of the said Parliament passed in the Session thereof held in the third and fourth years of Her Majesty's Reign, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, sections thirty-seven, thirty-eight and thirty-nine, in respect of Acts made and enacted by the said Legislature, to vary or repeal all or any of the provisions of the Act herein last above cited for or concerning the sale, alienation or disposal of the said Clergy Reserves, and for or concerning the investment of the proceeds of all sales then made or thereafter to be made of such Reserves, and for or concerning the appropriation and application of such proceeds and investments, the interests and dividends accruing on Sales on Credit of such Reserves, the Rents of such Reserves for the time being unsold, and all other the profits of or accruing from such Reserves, and (notwithstanding the said Act be it in thirdly above cited) to make such other provisions for or concerning the sale, alienation or disposal of the said Clergy Reserves, and such investments as aforesaid, and for or concerning the appropriation and application of such Clergy Reserves, proceeds, investments, interests, dividends, rents and profits, as to the said Legislature may seem meet; subject to the proviso that it shall not be lawful for the said Legislature by any Act or Acts thereof as aforesaid, to annul, suspend or reduce any of the annual stipends or allowances which have been already assigned and given to the Clergy of the Churches of England and Scotland, or to any other religious bodies or denominations of Christians in Canada, (and to which the faith of the Crown is pledged) during the natural lives or incumbencies of the parties now receiving the same, or to appropriate or apply to any other purposes, such part of the said proceeds, investments, interests, dividends, rents and profits as may be required to provide for the payment of such stipends and allowances during such lives and incumbencies: And whereas it is expedient to alter in certain particulars the provisions of the Act thirdly above cited, touching the matters subjected by the Act fourthly above cited to the control of the Legislature of this Province: 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, as follows:

1. The moneys arising from the Clergy Reserves in Upper Canada shall continue to form a separate Fund which shall be called The Upper Canada Municipalities Fund, and the moneys arising from the Clergy Reserves in Lower Canada shall continue to form a separate Fund, which shall be called The Lower Canada Municipalities Fund:

2. The Municipalities Fund for each section of the Province respectively, shall consist of all moneys arising from the sale of Clergy Reserves in that section of the Province, whether now funded or invested either in the United Kingdom or in this Province, or remaining uninvested, or hereafter to arise from such sales, the Interest and Dividends of moneys forming part of such Fund, the interest upon sales of Clergy Reserves in that Section of the Province, on credit, and rents, issues and profits arising from Clergy Reserves therein demised or to be demised for any term of years, and other casual and periodical incomings arising from Clergy Reserves therein, after deducting therefrom the actual and necessary expenses attending the sales of the said Clergy Reserves and of managing the same and the Funds aforesaid; and the moneys forming the said Funds shall be paid into the hands of the Receiver General and shall be by him applied to the purposes hereinafter mentioned, under the authority of this Act, or any General or Special Order or Orders to be made by the Governor in Council.

- II. The annual stipends or allowances which had been before the passing of the Act of the Parliament of the United Kingdom, passed in the sixteenth year of Her Majesty's Reign, and cited in the Preamble to this Act, assigned or given to the Clergy of the Churches of England and Scotland, or to any other Religious Bodies or denominations of Christians in either Section of the Province, and chargeable under the Act of the said Parliament on the Clergy Reserves in such Section, (and to which the faith of the Crown is pledged) shall, during the natural lives or incumbencies of the parties receiving the same at the time of the passing of the said Act, be the first charge on the Municipalities Fund for that Section of the Province, and shall be paid out of the same in preference to ail other charges or expenses whatever: Provided always, that the annual allowance heretofore payable to the Roman Catholic Church in Upper Canada, and to the British Wesleyan Methodist Church for Indian Missions, shall continue to be payable during the twenty years next after the passing of this Act, and no longer.

- III. And whereas it is desirable to remove all semblance of connection between Church and State, and to eff t an entire and final disposition of all matters, claims and interests arising out of the Clergy Reserves by as speedy a distribution of their proceeds as may be: Be it therefore enacted, that the Governor in Council may, whenever he may deem it expedient, with the consent of the parties and Bodies severally interested, commute with the said parties such annual stipend or allowance for the value thereof, to be calculated at the rate of six per cent, per annum, upon the probable life of each individual; and in the case of the Bodies above particularly specified in the second section of this Act, at the actual value of the said allowance at the time of commutation to be calculated at the rate aforesaid: and such commutation shall be paid accordingly out of that

one of the Municipalities Funds upon which such stipend or allowance is made chargeable by this Act: Provided always, that no commutation shall take place but within one year next after the passing of this Act: Provided also, that in case of Commutation with either of the said Bodies or Denominations, it shall not be lawful for them or either of them to invest the moneys paid for such commutation, or any part thereof, in Real property of any kind whatsoever, under penalty of forfeiting the same to Her Majesty; and that the said Bodies or Denominations shall lay before the Legislature whenever called on so to do, a statement of the manner in which said moneys shall have been invested or appropriated.

IV. So long as any such stipend or allowance shall be chargeable upon either of the said Municipalities Funds, a portion of such Fund producing annually interest sufficient to pay every such stipend or allowance then chargeable thereon, shall be retained by the Receiver General, and appropriated for that purpose, and if not already invested shall be by him invested in Public British Securities, or in any Provincial Debentures or Securities which under the Act to establish freedom of Banking or any Act amending the same, may be accepted by the Receiver General in exchange for registered Bank notes, as the Governor in Council shall from time to time direct; and the Receiver General, being thereunto authorized by order of the Governor in Council, shall have full power to dispose of any Securities in which such moneys are or shall be invested, and to invest the proceeds in any other such Securities as aforesaid, or to apply them to the payment of the commutation aforesaid.

V. The amount of the Municipalities Fund in and for either Section of the Province remaining unexpended and unappropriated under the foregoing provisions of this Act, on the thirty-first day of December in each year, shall, by the Receiver General, be apportioned equally among the several County and City Municipalities in the same Section of the Province, in proportion to the population of such Municipalities respectively according to the then last Census made either under the Act to provide more effectually for taking a periodical Census of the Province, or any other Act under which Census may be legally taken of the Municipalities in either section of the Province; and the portion thereof coming to each Municipality shall be paid over by the Receiver General to the Treasurer, Chamberlain or other Officer having the legal custody of the moneys of such Municipality, without other authority than this Act, and shall make part of the General Funds of the Municipality, and be applicable to any purpose to which such Funds are applicable: Provided always, that if at the time when such payment is to be made, any sum of money shall be payable by any such Municipality to the Receiver General for any cause whatever, and shall be overdue, he may retain in his hands in satisfaction or part satisfaction thereof, the sum which would otherwise be payable to such Municipality, or so much thereof as may be equal to the sum so payable to him by the Municipality and overdue, and shall deliver to the Treasurer, Chamberlain or other Officer as aforesaid, a discharge in favor of the Municipality for a sum equal to that so retained by him; and for the purposes of this section, each Municipality into which any County in Lower Canada maybe at the time divided, and each Union of Counties for Municipal purposes in Upper or Lower Canada, shall be taken to be a County Municipality.

VI. So much of the Act thirdly cited in the Preamble of this Act as limits the quantity of lands forming part of the Clergy Reserves which may be sold in any one year without the previous

approbation in writing of one of Her Majesty's Principal Secretaries of State, and so much of the said Act as makes any appropriation of any moneys forming part of the Clergy Reserves Fund, or arising from the sale of Clergy Reserves, other than such as is made by this Act, or as may be in any way inconsistent with this Act, shall be and so much of the said Act is hereby repealed.

VII. Any lands which may have been, under the authority of the Acts hereinbefore cited, or any of them, accepted in exchange for lands originally forming part of the Clergy Reserves in any part of this Province, shall be deemed to be Clergy Reserves for all the purposes of this Act.