ANNO TERTIO & QUARTO

VICTORIÆ REGINÆ.

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C A P. LXXVIII.

An Act to provide for the Sale of the Clergy Reserves in the Province of *Canada*, and for the Distribution of the Proceeds thereof.

[7th *August* 1840.]

WHEREAS it is expedient to provide for the final Disposition of the Lands called Clergy Reserves in *Canada*, and for the Appropriation of the yearly Income arising or to arise therefrom, for the Maintenance of Religion and the Advancement of Christian Knowledge within the said Province; be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That after the passing of this Act it shall be lawful for the Governor of the Province of *Canada*, by and with the Advice of his Executive Council, and under such Regulations as may be by him from Time to Time in Council established in that Behalf, and approved by the Queen in Council, to sell, grant, alienate, and convey in Fee Simple all or any of the said Clergy Reserves: Provided nevertheless, that the Quantity of the said Clergy Reserves so to be sold as aforesaid 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.

Clergy Reserves may be sold.

Proviso.

II. And be it enacted, That the Proceeds of all past Sales of such Reserves which have been or shall be invested under the Authority of an Act passed in the Eighth Year of the Reign of King *George* the Fourth, intituled *An Act to authorize the Sale of Part of the Clergy Reserves in the Provinces of* Upper *and* Lower Canada, shall be subject to such Orders as the Governor in Council shall make for investing, either in some Public Funds in the Province of *Canada*, secured on the Consolidated Fund of the said Province, or in the Public Funds of *Great Britain* and *Ireland*, the Amount now funded in *England*, together with the Proceeds hereafter to be received from the

Investment of Proceeds of Sales under 7 & 8 G. 4. c. 62.

the Sales of all or any of the said Reserves, or any Part thereof: Provided always, that the necessary Expences of such Sales shall be borne and defrayed out of the first Monies received therefrom.

Present Payments to Religious Bodies out of Crown Revenues to be the first Charge on the Fund.

III. And be it enacted, That the Interest and Dividends accruing upon such Investments of the Proceeds of all Clergy Reserves sold or to be sold, and also the Interest to accrue upon Sales on Credit of Clergy Reserves, and all Rents arising from Clergy Reserves that have been or may be demised for any Term of Years, shall be paid to the Receiver General of the Province of *Canada*, or such other Person as shall be appointed to receive the Public Revenues of the said Province, and shall together form an annual Fund for the Purposes herein-after mentioned, and shall be paid by him from Time to Time in discharge of any Warrant or Warrants which shall from Time to Time be issued by the Governor, in pursuance of the Provisions of this Act; (that is to say,) in the first place, to satisfy all such annual Stipends and Allowances as have been heretofore 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: Provided always, that until the annual Fund so to be created and deposited with the Receiver General shall suffice to meet the above-mentioned Stipends and Allowances, the same, or so much thereof as the said Fund may be insufficient to meet, shall be defrayed out of the Casual and Territorial Revenue of the Crown in the Province of *Canada*.

Proviso.

Provision for the Churches of England and Scotland.

IV. And be it enacted, That as soon as the said Fund shall exceed the Amount of the several Stipends and Allowances aforesaid, and subject always to the prior Satisfaction and Payment of the same, the said annual Fund shall be appropriated as follows; (that is to say,) the net Interest and Dividends accruing upon the Investments of the Proceeds of all Sales of such Reserves sold or to be sold under the Authority of the before-recited Act of the Eighth Year of the Reign of King *George* the Fourth shall be divided into Three equal Parts, of which Two shall be appropriated to the Church of *England* and One to the Church of *Scotland* in *Canada*; and the net Interest and Dividends accruing upon the Investments of the Proceeds of all Sales of such Reserves sold under the Authority of this Act shall be divided into Six equal Parts, of which Two shall be appropriated to the Church of *England* and One to the Church of *Scotland* in *Canada*: Provided always, that the Amount of the before-mentioned Stipends and Allowances which shall be paid to and received by any Clergyman of either of the said Churches of *England* or *Scotland* shall be taken, as far as the same will go, as a Part of the Share accruing to each Church respectively by virtue of this Act; (that is to say,) the Stipends and Allowances to any Clergyman of the Church of *England* as Part of the Share accruing to the Church of *England*, and the Stipends and Allowances to any Clergyman of the Church of *Scotland* as Part of the Share accruing to the said Church of *Scotland*, so that neither of the said Churches shall receive any further or other Sum beyond such respective Stipends and Allowances until the Proportion of the said annual Fund allotted to them respectively in manner aforesaid shall exceed the annual Amount of such Stipends and Allowances.

Application of the Funds so allotted.

V. And be it enacted, That the Share allotted and appropriated to each of the said Churches shall be expended for the Support and

Maintenance of Public Worship and the Propagation of Religious Knowledge, the Share of the said Church of *England* being so expended under the Authority of the "Society for the Propagation of the Gospel in Foreign Parts," and the Share of the said Church of *Scotland* under the Authority of a Board of Nine Commissioners, to be elected by the Synod or Synods of the Presbyterian Church of *Canada* in connexion with the Church of *Scotland*, under such Regulations as shall be from Time to Time established by the Governor of *Canada*, with the Advice of his Executive Council.

How allotted Funds are to be paid.

VI. And be it enacted, That the Share of each of the said Churches shall be paid by the Receiver General or other Person appointed as aforesaid in discharge of any Warrant or Warrants which shall from Time to Time be issued by the Governor of the said Province in favour of the Treasurer or other Officer who shall be respectively appointed to receive the same by the said Society on behalf of the said Church of *England*, and by the said Commissioners on behalf of the said Church of *Scotland*.

Application of the Residue of Fund.

VII. And be it enacted, That, subject to the foregoing Provisions, the Residue of the said annual Fund shall be applied by the Governor of *Canada*, with the Advice of the Executive Council, for Purposes of Public Worship and Religious Instruction in *Canada*.

Guarantee of the Sums of 7,700*l.* to the Church of England, and 1,580*l.* to the Church of Scotland.

VIII. And be it enacted, That the Receiver General or other Person appointed as aforesaid to receive the Interest and Dividends accruing from the Investment of the Proceeds of all Clergy Reserves sold or to be sold shall, on or before the Fifteenth Day of *January* in every Year, deliver to the Governor a Certificate in Writing under his Hand of the net Amount which in that Year will be applicable to the several Churches of *England* and *Scotland* out of the said Fund under the Provisions of this Act; and whenever the Sum mentioned in any such Certificate to be applicable to the Church of *England* in *Upper Canada* shall be less than Seven thousand seven hundred Pounds, or the Sum mentioned in the Certificate to be applicable to the Church of *Scotland* in *Upper Canada* shall be less than One thousand five hundred and eighty Pounds, the Deficiency in each Case shall be made good out of the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland*, and shall be charged thereupon at the Quarter Day next ensuing the Receipt of such Certificate at the Treasury; and the Lord High Treasurer, or Three or more Commissioners of Her Majesty's Treasury of the United Kingdom of *Great Britain* and *Ireland*, shall be authorized by their Warrant to direct the Issue of the Sums needed to supply such Deficiency in the following Manner; (that is to say,) such Sum as shall be needed to supply the Deficiency of the said Sum of Seven thousand seven hundred Pounds to such Person or Persons as shall be appointed to receive the same by the Society for the Propagation of the Gospel in Foreign Parts, and such Sum as shall be needed to supply the Deficiency of the said Sum of One thousand five hundred and eighty Pounds to such Person or Persons as shall be appointed to receive the same by any Writing under the Hands of any Three or more of the Commissioners under whose Authority the Share of the Church of *Scotland* is to be expended as aforesaid; and all Sums so paid out of the Consolidated Fund shall be severally applied, under the Authority of the said Society and of the last-mentioned Commissioners respectively, for the Support and Maintenance of Public Worship and the Propagation of Religious Knowledge in each of the said Churches in *Canada*.

IX. And

Accounts of Expenditure to be rendered to Governor in Council.

IX. And be it enacted, That Accounts of the Expenditure of every Sum of Money so to be received out of the said annual Fund, or out of the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland*, by the said Churches of *England* and *Scotland*, or by any other Religious Body or Denomination of Christians respectively, under the Authority of this Act, shall be, on or before the Twentieth Day of *July* in each Year, rendered to the Governor of the said Province in Council; and that until such Accounts shall have been rendered, and the due and proper Expenditure of the Sum granted during any preceding Year shall have been established to the Satisfaction of the Governor of the said Province in Council, no other or further Sum or Proportion of the said annual Fund shall be paid or allowed to any or either of the Churches, Religious Bodies, or Denominations of Christians failing, neglecting, or refusing to render such Account, or to verify the same as aforesaid; and that Copies of such Accounts shall annually be laid before the Legislature of the said Province.

Summary Remedy for Misapplication of Monies.

X. And be it enacted, That whenever there shall appear to the Governor of the said Province in Council sufficient Reason to apprehend that there has been any Misappropriation or Non-appropriation of any Sum or Sums of Money paid to any of the said Churches, Religious Bodies, or Denominations of Christians, out of the said annual Fund, or any Neglect or Abuse in the Expenditure or Management of any such Sum or Sums, upon Direction for that Purpose given by the Governor, it shall be lawful for the Attorney General to apply summarily, either by Petition or Information, to or in the Court of Chancery in *Upper Canada*, or to any One of the Superior Courts of Record in *Lower Canada*, setting forth the Nature of the Abuse apprehended, and praying Discovery, and Relief in the Premises, as the Nature of the Case may require.

Repeal of Part of 31 G. 3. c. 31.

XI. And be it enacted, That from and after the passing of this Act, so much of an Act passed in the Thirty-first Year of the Reign of King *George* the Third, 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 Province,'* as relates to any Reservations of Land hereafter to be made in *Upper Canada* or *Lower Canada* for the Support and Maintenance of a Protestant Clergy, shall be repealed.

Meaning of Terms "Province of Canada" and "Governor."

XII. And be it enacted, That in this Act the Words "Province of *Canada*" shall be taken to mean the Province of *Canada* as constituted under an Act passed in this Session of Parliament, intituled *An Act to re-unite the Provinces of* Upper *and* Lower Canada, *and for the Government of* Canada; and the Word "Governor" shall be taken to mean and include the Governor, Lieutenant Governor, or Person administering the Government of the Province of *Canada*.

Act may be amended, &c.

XIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE, Printers to the Queen's most Excellent Majesty. 1840.