



CHAPTER 114

An Act to extend and modify the powers of the trustees for the Parish of St. Malachy

[Assented to, the 17th of May, 1940]

WHEREAS the trustees for the parish of St. Malachy, in the diocese of Montreal, have by their petition represented: Preamble.

That they are a corporation in virtue of the Parish and Fabrique Act (Revised Statutes, 1925, chapter 197);

That by a decree granted on the 25th day of February, 1939, by His Excellency Monseigneur Georges Gauthier, Co-Adjutor Archbishop of Montreal, permission was given for the construction of a parish church and vestry in the parish of St. Malachy on land acquired for the purpose;

That by an ordinance, dated 10th of March, 1939, of the commissioners appointed for the purposes of the said Parish and Fabrique Act, the holding of a meeting of the freeholders of the said parish was authorized for the purpose of electing three trustees to supervise and carry out the building operations authorized as aforesaid, which said meeting was held on the 26th March, 1939;

That by an ordinance dated 14th April, 1939, the said commissioners confirmed the election of the said trustees and authorized them to proceed with the building of the said church and vestry, which said church and vestry is now completed;

That at a meeting of the freeholders of the said parish, duly held on the 23rd day of July, 1939, the said trustees were authorized:

a. To borrow a sum not exceeding one hundred and sixty thousand dollars (\$160,000.00) and as security for the same to transfer to the lender or to a trustee on behalf of the lenders all sums of money to be levied by an act of assessment;

b. To petition the Legislature of the Province of Quebec for an act permitting the said trustees to impose annual assessments which will be a first charge and first privileged debt on the immoveable property within the said parish belonging to English-speaking Roman Catholics, said assessments to be based on the valuation rolls of the municipalities wherein the territory of the said parish is situated, prepared and homologated by the said trustees themselves, without the necessity of applying to the said commissioners;

Whereas His Excellency the Archbishop of Montreal has approved of the foregoing resolutions of the said meeting of freeholders of the said parish;

That, by an ordinance dated 28th of July, 1939, the said commissioners granted permission to the said trustees to assess and levy on the immoveable properties of the English-speaking Roman Catholics within the limits of the said parish an assessment sufficient to discharge within a delay of thirty years the capital and interest of the sum of one hundred and sixty thousand dollars (\$160,000.00), to which capital sum must be added fifteen per cent (15%) as required by law to cover deficits, the expenses of the levy and the collection thereof;

That in accordance with the permission granted by the said commissioners, the said trustees prepared an assessment roll dated 9th of September, 1939, which said assessment roll was duly homologated by the said commissioners on the 29th of September, 1939;

That in accordance with the resolution of the freeholders of the said parish dated 23rd of July, 1939, and in order to provide the funds for the building of the said parish church and vestry, the said trustees have borrowed the sum of one hundred and sixty thousand dollars (\$160,000.00) by the issue and sale of serial bonds bearing interest at four per cent (4%) per annum and repayable serially over a period of thirty years and secured by the transfer to the trustee for the bondholders of the amounts to be levied by the acts of assessment in virtue of the ordinance of the said commissioners dated 28th of July, 1939, but with re-

servation of the right to substitute for such security the transfer of the amounts to be levied annually in virtue of an act of the Legislature of the Province of Quebec to be applied for;

That the *fabrique* of the said parish has undertaken to turn over and transfer to the said trustees to aid them in paying for the said parish church and vestry the surplus of the revenue of the *fabrique* over its expenses so that the trustees in fixing the amount of the assessment annually will be able to reduce such assessment by the amount received or to be received from the *fabrique*;

That the said parish of St. Malachy contains within its boundaries a large number of vacant lots, some owned by corporations, others by individuals who are not English-speaking Roman Catholics, and inasmuch as building is active and changes of ownership frequent, to maintain the present assessment for a period of thirty years would be greatly to the disadvantage of the English-speaking Roman Catholics of the said parish and that it would be fair and equitable to rescind for the future the assessment actually in effect and to replace the said assessment by another assessment imposed by assessment rolls prepared annually and homologated by the said trustees without the necessity of reference to the said commissioners under the Parish and Fabrique Act;

Whereas the petitioners have prayed for an act for the above purposes; and

Whereas it is expedient to grant such prayer;

Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

1. The trustees of the parish of St. Malachy and their successors shall have the powers and be subject to the obligations hereinafter expressed and shall continue to carry out the duties of their office according to the general law concerning trustees of parishes, save insofar as the general law may be expressly derogated from herein.

Powers, etc.,
of trustees of
parish of St.
Malachy.

2. The assessment roll prepared by the said trustees, bearing date the 9th of September, 1939, and homologated by the commissioners under the Parish

Assessment
roll annulled.

and Fabrique Act on the 29th of September, 1939, is hereby cancelled and annulled for all instalments not yet due. Instalments which are due and unpaid may be collected in the same manner as if this law had not been enacted.

Levies authorized.

3. For the future, the said trustees are authorized to levy by assessment, in the manner hereinafter set forth, on all immoveables situate within the limits of the parish belonging to English-speaking Roman Catholics or held in trust for English-speaking Roman Catholics, a sum sufficient to pay, by the first day of September, 1969, the capital and interest of the loan which the said trustees have made, to pay the cost of construction of the parish church, the vestry and the purchase price of the rectory and the land on which the said buildings are built, or of any renewal loan that the said trustees may make for the same purposes. To this sum the said trustees may add the costs incurred in the passing of the present act, the costs of the levy and collection of the assessments and an estimated amount to cover the deficits on assessments.

Payment of surplus of fabrique to trustees for reduction of assessments.

4. The *fabrique* of the said parish is authorized to pay over to the said trustees annually, its surplus of revenue, both ordinary and extraordinary, over and above expenses, in order to assist the said trustees in reducing assessments or in paying off the debts of the said trustees.

Fiscal year of trustees.

5. For the purposes of this act, the fiscal year of the said trustees shall be from the 2nd of September of one year to the 1st of September inclusive of the next year.

Act of assessment.

During the first fifteen days of September, 1940, and in the same period in each succeeding year, the said trustees shall prepare an act of assessment based on the valuation rolls in force in the municipalities wherein the territory of the said parish is situate. If the said valuation rolls or any of them cannot, in the opinion of the said trustees, properly serve as a fair basis of the act of assessment, the trustees may so correct them as to place the municipal valuation rolls of the different municipalities on an equal basis in the matter of valuation.

Correction thereof.

6. In the preparation of the act of assessment, the said trustees shall take account of the contribution to be made from the surplus revenues of the *fabrique* and shall levy only for the difference between such contribution and the amount required to be raised to meet the needs of the said trustees.

Surplus of
fabrique to
reduce as-
essment.

7. The trustees shall, on the first Sunday after the 15th day of September, deposit the act of assessment in the office of the *fabrique*, where, for a period of at least ten days, those interested may examine it during ordinary office hours. The *curé* of the parish or his assistant shall, on the Sunday of deposit of the act and on the next following Sunday, give notice from the pulpit of the deposit of the act of assessment, and of the place, day and hour on which the trustees will consider complaints respecting the same. On the day fixed, the trustees shall take into consideration the verbal and written complaints of those interested, hear the parties and their witnesses, who may be sworn by the chairman of the trustees, who is hereby authorized to administer the oath for such purposes, and the trustees may correct and amend, if necessary, the act of assessment in the manner which may appear fair and equitable to them, and homologate the same without further formality and with the same effect as if homologated by the commissioners appointed under the Parish and Fabrique Act.

Deposit of
act of assess-
ment, etc.

Notice
thereof.

Complaints.

8. The assessments shall become due on the 15th day of October of each year; they shall be payable without demand at the office of the secretary-treasurer of the trustees or of the collector of assessments and shall bear interest at the rate of five per cent (5%) per annum sixty days after the due date.

When assess-
ments due,
etc.

9. The privilege appertaining to the assessments, as regulated by sections 69 and 70 of the Parish and Fabrique Act and by article 2011 of the Civil Code, notwithstanding any provision of law to the contrary, shall be restricted to the assessments due and those for the current year, as fixed in the act of assessment authorized hereunder, and, when at any time an immoveable, already assessed, is transferred by sale or otherwise to a corporation or to a person who is not a Roman Catholic or to a person who is not an English-speaking Roman Catholic, such immoveable shall be exempt

Limitation of
privilege.

from any future assessment while it belongs to such corporation or person.

Prescription. **10.** The assessments imposed in virtue of the present act shall be prescribed by five years counting from their due date.

Secretary-treasurer. **11.** The said trustees may appoint a secretary-treasurer whose duties shall be as determined by the Parish and Fabrique Act and whose salary shall be as decided by the said trustees.

Collection of assessments. The trustees may, if they so prefer, entrust the collection of assessments to someone other than the secretary-treasurer or may entrust the same to a company having its head office in the district of Montreal and may allow such remuneration for these services as to them seems fit.

Coming into force. **12.** This act shall come into force on the day of its sanction.