



CHAPTER 118

An Act to constitute and define the powers of a corporation to be known as "Trustees for the Church of the Ascension of Our Lord, Westmount"

[Assented to, the 20th of April, 1934]

WHEREAS the *Oeuvre et Fabrique* of the parish of the Preamble.
Ascension of Our Lord, Westmount, has, by its petition, represented:

That it was erected by a canonical decree of His Excellency Monseigneur Georges Gauthier, Archbishop of Taronna and Apostolic Administrator of the Archdiocese of Montreal, on the 5th of July, 1926;

That the said *Fabrique* has erected a church on lands acquired by it for that purpose, the moneys expended for the erection of the said church having been obtained in part from voluntary subscriptions and in part by loans effected by the said *Fabrique*;

That the *Fabrique* has taken possession of the said church and has applied the building to the purposes for which it was erected;

That moneys remain due to the persons who loaned moneys to the *Fabrique* to defray the expenses of the erection of the said church and the said *Fabrique* has ascertained the impossibility of paying the said loans as they fall due by means of the revenues at its disposal;

That, on December 15th, 1933, the outstanding loans of the *Fabrique* amounted to the sum of five hundred and thirty-eight thousand six hundred dollars, consisting in part of four hundred and ninety-five thousand dollars of five and one-half per cent mortgage bonds previously issued by the *Fabrique* and in the hands of the public, with an instalment of interest thereon amounting to thirteen thousand six hundred and twelve dollars and fifty cents pay-

able on January 2nd, 1934, and in part of the sum of forty-three thousand six hundred dollars owing to the Bank of Montreal, with interest thereon at the rate of five and one-half per cent per annum, secured by an additional one hundred thousand dollars of said mortgage bonds;

That the total of said mortgage bonds which the *Fabrique* was authorized to issue by the parishioners was six hundred thousand dollars;

That the total proceeds of the said loans were used to defray the expenses of the erection of the said church;

That the payment of the said outstanding loans of the said *Fabrique* would be less burdensome by derogating from the general act respecting *Fabriques* and obtaining, with the assent of the Ordinary of the diocese, a special act constituting the parish priest and the three acting wardens of the parish of the Church of the Ascension of Our Lord, Westmount, and, as they or any of them cease to exercise their said functions, their successors in office, a distinct corporation to be known as "Trustees for the Church of the Ascension of Our Lord, Westmount", with power to impose and levy, each year, upon the immoveables situate within the limits of the said parish and belonging to resident and non-resident English-speaking Roman Catholics and upon immoveables situate within the limits of the said parish held in trust for English-speaking Roman Catholics, an assessment based upon the annual municipal valuation roll affecting by privilege the said immoveables but only to the amount of the assessments due;

That the *Oeuvre et Fabrique* of the Church of the Ascension of Our Lord, Westmount, has obtained the authorization of the freeholders parishioners at a general meeting of the parish duly convened and held on the 15th day of December, 1933, to apply for an act of the Legislature of the Province of Quebec to constitute the said corporation with authority to impose the said assessment in the manner hereinbefore related;

That the Ordinary of the diocese of Montreal has given his approval to this application to the Legislature of the Province of Quebec;

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:

Incorporation.

1. The parish priest and the three acting wardens of the parish of the Church of the Ascension of Our Lord,

Westmount, and, as they or any of them cease to exercise Name. their said functions, their successors in office, are hereby constituted a distinct corporation to be known as "Trustees for the Church of the Ascension of Our Lord, Westmount"; they shall have all the powers hereinafter mentioned as well as all those in the general laws respecting trustees of parishes and *fabriques*, and consistent with this act.

2. The said corporation, as constituted in section 1 Powers of corporation concerning loans. hereof, is hereby empowered to renew, prior to or at maturity, loans effected by the *Fabrique*, or to effect new loans, which renewals of loans or new loans shall in each case be binding on the *Fabrique*, the proceeds of any such new loans to be applied exclusively to the payment of previous loans and/or in payment of the principal and interest of bonds of the *Fabrique* issued or which may be issued, as hereinafter provided, to impose and levy during a period not exceeding forty years on all the immoveables situated within the limits of the parish belonging to English-speaking Roman Catholics or held in trust for English-speaking Roman Catholics, by annual assessments to be secured by privilege only for the instalments due, a sum sufficient to pay the capital and interest on the outstanding loans of the *Fabrique*, consisting of four hundred and ninety-five thousand dollars of five and one-half per cent mortgage bonds issued by it and now in the hands of the public, a sum of thirteen thousand six hundred and twelve dollars and fifty cents borrowed from the Bank of Montreal and applied in payment of the instalment of interest payable on the said issued bonds on January 2nd, 1934, and the unpaid portion of the sum of forty-three thousand six hundred dollars also borrowed from the Bank of Montreal and interest thereon at the rate of five and one-half per cent per annum, and such portion or portions of an additional one hundred thousand dollars of said five and one-half per cent mortgage bonds now held by the Bank of Montreal as security for the payment of its loans to the *Fabrique*, as may be sold from time to time to discharge the debt of the *Fabrique* to the Bank of Montreal, and such other portion or portions of the said additional bonds as may be sold from time to time for other purposes authorized by the freeholders subject to the levy, as well as the capital and interest on any renewals of said outstanding loans, or the capital and interest on any new loans effected to replace in whole or in part the said outstanding loans, and the capital and interest on the said additional one hundred thousand dollars of said five and one-half per cent mortgage bonds, or such portion or portions thereof as may be sold from time to time for the above First privileged debt. purposes or any of them.

The amount of the assessment shall constitute the first charge and the first privileged debt on each immoveable in accordance with section 69 of chapter 197 of the Revised Statutes, 1925, but the proprietor shall not be held nor the immoveable affected for more than the payments due and unpaid.

Inclusion in
assess-
ments.

3. The said corporation may also include in the amount of the said assessments a sufficient sum to defray the cost of levying the said assessments and the collection thereof, the cost of renewals of loans or of negotiating new loans, the expenses incurred in passing this act, and a sufficient supplementary sum to meet contingencies, the said assessment to be based on the municipal valuation roll of the city of Westmount as regards immoveables situate within the limits of that city, and on the municipal valuation roll of the city of Montreal as regards immoveables situate within its limits.

Use of
surplus of
revenue.

For the payment of the loans herein mentioned, in capital and interest, and to meet the expenses above-mentioned, the trustees shall use, in each year, the surplus of revenue, over and above the annual expenses, both ordinary and extraordinary, of the *Fabrique*.

Annual as-
sessment.

The said annual assessment shall not be made every year until it has been ascertained, by a duly audited statement, that such annual revenues are insufficient to meet such expenses and those entailed by the payment of interest and capital on said loans, and the amount so assessed shall be equal to the difference between the total amount of the revenues on one hand and the amount required for all expenses.

Secretary-
treasurer.

4. For the purposes of this act, the trustees may appoint a secretary-treasurer.

Deposit, etc.,
of act of
assessment.

5. The act of assessment shall be prepared by the said corporation and shall be deposited on or before the first of October in each year, in the office of the *Fabrique*, where those interested may examine it during ordinary office hours. The *curé* of the parish shall, during the two next following Sundays, give notice from the pulpit of the deposit of the act of assessment, and of the place, day and hour on which the board of trustees will consider complaints respecting the same. At least eight days shall elapse between the last notice and the day on which the complaints will be considered by the board. On the day fixed, the board of trustees shall take under consideration the verbal and written complaints of those interested, hear the parties and their witnesses, who may

be sworn by the chairman of the board, who is hereby authorized to administer the oath for such purposes, and the said board may correct and amend, if necessary, the act of assessment in the manner which may appear fair and equitable to it, and homologate the same; subject to right of appeal by any freeholder as to the assessment on his property by way of petition to the Superior Court for the district of Montreal to be served within fifteen days of the date of such homologation; the roll so homologated shall come into force immediately without other formality or authorization than those required by this act, save as to any assessment submitted to the Superior Court as aforesaid. The judgment to be rendered by the Superior Court upon the petition establishing the assessment shall be homologated by the board. The assessment shall be payable, without previous demand or putting into default, within thirty days following the date of homologation of the roll, at such place as the board of trustees shall fix.

The assessment shall be deemed to be imposed from the date of the deposit of the act of assessment as aforesaid. When deemed imposed.

6. All assessments not paid within thirty days from their becoming due shall bear interest at the rate of six per cent per annum. Interest.

7. Suits may be taken in the name of the "Trustees for the Church of the Ascension of Our Lord, Westmount", for the recovery of any sums in the act of assessment or assessment roll in the manner set out in section 61 of chapter 197 of the Revised Statutes, 1925. Taking of suits.

8. The *curé* shall be the chairman of the corporation and may call meetings of the trustees by registered letter addressed to each of them, at least three clear days before each meeting. Such meetings shall be held in the same way as churchwardens' meetings, and the proceedings shall be entered in the minute book of the *Fabrique*. The quorum at such meetings shall be three. Meetings of trustees.

9. Nothing in this act shall be interpreted as restricting the general powers, privileges and obligations, under the general law, of the *Fabrique* or of the said corporation. Powers, etc., not affected.

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

