

Friday, 30th January, 1835.

SIR JOHN COLBORNE, K. C. B. *Lieutenant Governor.*

Extract of a Despatch from the Secretary of State for the Colonies, addressed to the Lieutenant Governor.

No. 46.

“Downing Street,
10th November, 1834.

“Among the Acts passed by the Legislature of Upper Canada in their last Session, and reserved by you for the signification of His Majesty’s pleasure, there are two on which I am desirous of communicating with you before the decision of His Majesty is taken. The Extract.

“The Act entitled “An Act to enable the Executors named in the Will of the late Thomas Stoyell, to carry the provisions of the said Will into effect,” is a private Act; it enables certain Trustees to effect sales of Lands bequeathed in trust for certain charitable purposes, and requires them to pay over the proceeds to the objects of the Charity. The Bill has been reserved because it does not invest any of the Local Tribunals with the power of compelling the Trustees to execute the trust, or with the right of calling them to account for their administration of it; an omission which, since there is no Court of Equity in the Province, might be fatal to the benevolent designs of the Testator, in the possible event of any embezzlement or misapplication of the money.

“It appears to me that this is a well founded objection, and that His Majesty’s pleasure on the Bill ought not to be signified until the Legislature shall have an opportunity of considering whether a supplementary Act should not be passed to supply what is thus wanting.

“I cannot quit the subject of this Act without observing, that it suggests another and a more generally important remark, viz. that the legal institutions of the Province demand a careful revision, since the failure of Justice which is anticipated in this case, must be continually occurring in other cases which do not attract the attention of the Legislature.

“Without suggesting any particular remedy for the evil, I cannot but think it right that it should be brought under the notice of the Provincial Parliament, in order that such steps may be taken upon it as may be prompted by local knowledge of the extent and precise nature of the inconvenience.

“You will therefore have the goodness to lay before the Legislative Council and Assembly the whole of the observations I have made on the Act respecting Thomas Stoyells’ Will.”

J. COLBORNE.

The Lieutenant Governor transmits to the Legislative Council the accompanying copy of a Despatch from the Secretary of State for the Colonies, relative to an Address of the Council to the King, praying that the Statute 3d. Geo. 4th, Chap. 119, may be amended. Transmitting the copy of a Despatch on the subject of an Address of the Council, praying for an amendment to the Statute 3, Geo. 4th chap. 119.

Government House,

29th January, 1835.

(Copy.)

No. 11.

“Downing Street,
26th July, 1834.

SIR,

“I have received your Despatch, No. 26, of the 11th April last, accompanied by an Address to the King from the Legislative Council of Upper Canada, praying that the Statute 3d. Geo. 4th, Chap. 119, may be so amended as to place within the power of the future Arbitrators the division of the duties levied in Lower Canada upon merchandize imported by sea, under any Statute which has been passed subsequently to that of 3d. Geo. 4th, or under any Statutes which may be passed hereafter, I request, that conformably to the answer which I recently directed you to convey to a similar address from the Assembly, you will inform the Legislative Council that His Majesty’s Government regrets that it has not been possible, in the present Session, to adopt and carry into execution any decision upon the subject of the Address, but that it will not fail to receive due attention before the next Session of Parliament. The copy.

I have the honor to be, &c.,
(Signed) T. SPRING RICE.”

M. General,
SIR JOHN COLBORNE, K. C. B.

&c. &c. &c.