THANKS TO THE LADIES OF TORONTO, AND TO *THE RECTOR OF ST. GEORGE'S.*

The Rev. Dr. PATTON moved, and the Rev. Dr. BLACKMAN seconded,

That the thanks of this Synod be respectfully tendered to those Ladies who so kindly and generously provided the lunch in the Orphan's Home: and also that thanks be tendered to the Rector and congregation of St. George's for the use of their parochial school-house for holding this Synod.—*Carried.*

AUTUMN SESSION.

In the absence of *Dr. LEWIS*, the Rev. R. V ROGERS moved, and the Rev. H PATTON seconded,

That the Lord Bishop be respectfully requested to convene the next Synod at the city of Kingston. —*Carried.*

The Lord Bishop thereupon announced his intention of adjourning the Synod, to assemble in the city of Kingston in the coming autumn.

The Rev. R. V. ROGERS moved, and the Hon. GEORGE BOULTON seconded,

That the thanks of this Synod be respectfully offered to the Lord Bishop, for his patient, judicious, and impartial conduct whilst presiding at its present Session.—*Carried.*

His Lordship then pronounced the Apostolic Benediction, and prorogued the Synod.

A FEW BREIF OBSERVATIONS

UPON THE

REPORT OF THE COMMITTEE ON CANONS, &c., &c.,

ADDRESSED TO THE MEMBERS OF SYNOD.

The Report of the Committee on Canons, &c., &c, was presented at the meeting of Synod, in June last, ordered to be printed for circulation, to afford members of Synod an opportunity to consider the same, and form a deliberate judgment respecting the various recommendations it contains; and, therefore, it is quite admissible for any member of Synod to offer such remarks as may, in his judgment, tend to elucidate the subject.

Much praise is undoubtedly due to the major part of the Committee, for its elaborate Report, and for the pains taken to arrive at a practical solution of the questions referred: it nevertheless appears to me that the Report in respect to the order in which the subjects embraced in the reference are discussed, is fairly open to objection. In the first place, a body of Canons is put forth, and recommended for adoption; and then the state of the English statute law, affecting ecclesiastical affairs, is discussed. Such arrangement is manifestly faulty. The Synod Act does indeed enable the Synod to frame constitutions, and make regulations for enforcing discipline, and for the convenient and orderly management of the property affairs and interests of the Church, but with the express proviso that nothing in the said constitutions or regulations, or any of them, shall be contrary to any law or statute now or hereafter in force in the Province. The more natural and safer course, therefore, would have been first to examine and determine what laws or statutes affecting ecclesiastical affairs are now in force in this Province, and then to frame constitutions and regulations, so as not to come in conflict with them

In *the following remarks* I shall, therefore, follow that order, and proceed accordingly to *examine, in the first place*, what ecclesiastical laws are now in force within this Province.

The Report, with reference to this branch of the subject, contains the following general statement—(p. 37, Report of proceedings of Synod, 1858). "The Committee beg to report that they have examined *into* the state of the English statute law affecting ecclesiastical affairs, and they find that almost the whole of the English Acts on this subject are so restricted in their own text, or in their very nature, as not to apply to the colonies; and when, in an early period of the history of this colony, the English statutes were adopted, the ecclesiastical *portion* was excepted"

It may, perhaps, conduce somewhat towards presenting a clearer view of the subject, here to review the leading principles which regulate the application of the laws or statutes of a sovereign state to its dependencies. Such review, on an occasion like the present, must necessarily be extremely cursory; but, in using brevity I shall at the same time aim at perspicuity and precision.

Without further preface then, I remark, that the generally received opinion respecting the relation of dependencies to the sovereign state is, that dependencies are properly divisible into two distinct classes, and that their relation to the superior state varies, with respect to the laws by which they are bound, accordingly as the dependencies are properly referrable to one or other of those classes.

The first class comprehends such colonies in *distant countries*, where the lands are claimed by right of occupancy only, by finding them desert and uncultivated and peopling them from the mother country. And with reference to this class, it has been held, that if an uninhabited country be discovered and planted by English subjects, all the English laws then in being, (which are the birthright of every subject) are with certain restrictions, which it is unnecessary here to particularise, immediately there in force

The second class embraces such countries as being already cultivated, have been gained by conquest or ceded by treaties. *In such conquered* or ceded countries as have already laws of their own, the king may by his legislative authority in virtue of his prerogative alone, alter and change those laws; but till he actually does change them, the ancient laws of the country remain Thus at the time of the conquest of Ireland by king Henry the II., the Irish were governed by what they called the Brehon law; but king John, in the 12th year of his reign, ordained and established by his letters patent, that Ireland should be governed by the laws of England; and this doctrine, so early put in practice, has in more recent times been maintained by Lord Mansfield, in his elaborate and learned argument to prove the king's legislative authority by his prerogative alone, over a ceded conquered country.

Those conquered or ceded countries are moreover subject to the control of the Imperial Parliament, though not bound by any of its acts, unless when the sovereign legislative power sees it necessary to extend its care to any of its subordinate dominions, and for this purpose mentions them expressly by name, or includes them under general words, in some statute or statutes; in which case there can be no doubt but that they are bound by its laws.

Again, with respect to their interior polity, the colonies of England have a form of Government granted them by the sovereign state, borrowed for the most part from that of England, with power to make laws for their own interior regulations not contrary to the laws of England; and with such rights and authorities as are specially given them in their several constitutional charters. But it is particularly declared by the 7 & 8 Wm III., ch 22, that all laws, by-laws, &c. &c. &c., which shall be in practice in any of the plantations in America, repugnant to any law made or to be made in the kingdom of England *relative to the said plantations*, shall be utterly void and of no effect.

Canada belongs to the second class of colonies, having been ceded by France to England; and there are, consequently, three distinct modes by which the laws of England may be introduced and have force within it, viz., 1st. By the exercise of the prerogative of the Crown. 2nd. By the colony being expressly named or included under general words, in a statute or statutes passed by the imperial legislature. 3rd. By voluntary adoption on the part of the provincial legislature.

I shall now proceed to examine whether by any or all of the above modes, any portion of the ecclesiastical law of England has been introduced into this province, and if so, to what extent?

The 14th Geo III., ch. 83, sec. 17, amongst other things, enacts, that his Majesty, his heirs and successors, may by his or their letters patent under the great seal of Great Britain, erect courts of ecclesiastical jurisdiction within and for the Province of Canada, and appoint from time to time, the judges and officers thereof, as his Majesty, his heirs and successors shall think necessary and proper, for the circumstances of the said province. The prerogative of the crown thus expressly recognised and reserved in theory, was brought into practical effect by a subsequent statute 31st Geo. III., ch. 31, sec. 40, which provides that certain rectories about to be established, and the incumbents thereof, shall be subject to the spiritual and ecclesiastical jurisdiction and authority which have been lawfully granted by his Majesty's royal letters patent, to the Bishop of Nova Scotia, or which may hereafter by his Majesty's royal authority, be lawfully granted or appointed to be administered and executed within the said provinces, or either of them respectively, by the said Bishop of Nova Scotia, or by any other person or persons, according to the laws and canons of the Church of England, which are lawfully made and received in England.

Thence we learn that the Crown previously to the passage of the 31st Geo III, had, by virtue of the prerogative alone, granted spiritual and ecclesiastical authority to be executed and administered within the Provinces of Upper and Lower Canada, according to the Laws and Canons of the Church of England: that the Imperial Parliament at the time it sanctioned the erection of certain Rectories in Canada, and their endowment out of the public domain, took advantage of that state of things, and placed the Rectories under the spiritual and ecclesiastical jurisdiction and authority already established in the Provinces; and consequently that the ecclesiastical law of England has been introduced, and is in force in Canada, in respect to all the Incumbents of the Church of England. This view of the case has been altogether overlooked in the Report.

It may indeed be argued against it, that the 38th, 39th, and 40th sections of the 31st Geo. III., cap 31, have been repealed; but said repeal does not annul or invalidate the Royal Letters Patent granting to the Colonial Bishops ecclesiastical jurisdiction and authority, to be executed and administered according to the Canons and laws of the Church of England, and it has been expressly provided, that it shall not affect the *Parsonages or Rectories* that have already been erected according to law. The *Provincial Statute* in question, only varies with respect to them, the mode of presenting; and for that purpose provides, that henceforth the right of presentation shall vest in and be exercised by the Church Society of the Church of England Diocese within which the same is situated, &c., and it was therefore properly held, that upon the Consecration of the Bishop of Huron, the Rectory of London was "*ipsâ factô*" vacant, and subject to all the ecclesiastical laws