

That refusal was only conveyed to Sir E. B. Lytton by despatch from Canada of the 16th August last. I am to notice this, only to show that Her Majesty's Government are chargeable with no unnecessary delay, having, notwithstanding the great importance of the subject, allowed as little time as possible to elapse without taking steps in the transaction.

Her Majesty's Government had now to consider what effect they could give to the 13th Resolution of the Committee of the House of Commons, in which, after specifying the principal objects which they thought desirable, added, "How far the chartered rights claimed by the Company may prove an obstacle to their attainment they are not able, with any certainty, to say. If this difficulty is to be solved by amicable adjustment, such a course will be best promoted by the Government, after communication with the Company, as well as with the Government of Canada, rather than by detailed suggestions emanating from this Committee."

With the best attention which they could give to this recommendation, Her Majesty's Government could not but see that the fairest and most direct method to accomplish it was to test, not the limits, but the validity of the Charter itself, and they were, and remain of opinion that this was best done by the consent of the three parties concerned.

Sir E. B. Lytton is well aware of the proposals made by the Company in Captain Shepherd's letter of 18th July 1857, which are referred to (and a little extended, as regards Saskatchewan,) in yours which he is now answering. He must be permitted to say, that those proposals, though conceived with the sincerest desire to avoid litigation, by no means met the exigencies of the case.

Those proposals simply were (for the present purpose) to relinquish to Government "land fit for cultivation" and the establishment of agricultural settlers, land as yet unascertained, and in all probability for the present but trifling in extent. Such an offer he could hardly have considered from the beginning sufficient; but it has become from subsequent causes (using the phrase without the slightest imputation on the motives of those who made it) illusory. The occupation of British Columbia has rendered more urgent than ever a policy even before that time recommended by the course of events, namely, to connect the two sides of British North America without the obstacle interposed by a proprietary jurisdiction between them. The difficulty of maintaining the jurisdiction of the Hudson's Bay Company over that intervening region becomes daily more evident, and the certainty also that if any attempt were made to maintain it Her Majesty's Government would be called on to furnish the means. On the other hand, it appears to be the general opinion among lawyers that the monopoly of trade claimed by the Company (under the Charter) is invalid altogether; and that this monopoly could only be defended indirectly by pushing to extreme limits the consequence of a most invidious territorial grant, enabling the Company, as landlords, to exclude traders as trespassers. Sir E. B. Lytton cannot at all, therefore, agree with the Directors in referring the precarious position of the Company to the mere general unpopularity of monopolies. The weakness of their case arose, and still arises, from causes far more special and urgent; and it was obviously to be apprehended that Her Majesty's Government might, as protectors of the rights of her subjects generally throughout the empire, be called on to defend the claimants of assumed rights which had never been fairly submitted to investigation. It was quite impossible for them to be contented, in the interest of the public, with such offers as the Company had made, and to leave the general question unsettled; and to settle it without the assent of the Company was at least to be avoided until that assent had been formally invoked.

It was with this view that the letters addressed to you from this Department on the 3d September and 3d November last,* to which you refer, were written. And it was with the same view that Sir Edward Lytton endeavoured, during the stay of the Canadian ministers in England, last autumn, to induce them to bring Canada to a decision as to her part in the proceedings to be taken.

And Sir Edward Lytton feels it due to himself and his colleagues to disclaim most distinctly the supposition, expressed or implied, that the proposal conveyed to the Company in those letters was conceived in any spirit of hostility. On the contrary, it is his conviction now, as it was when those letters were written, that the Directors would consult the interest of their shareholders most effectively by causing it to be accepted. In this way all outstanding questions could be solved. Sir Edward Bulwer Lytton felt, that if the decision of the Judicial Committee was in favour of the Company, and to the full extent claimed, then the Company would stand in a more advantageous position before the country, in claiming compensation for ascertained rights, if required to relinquish them for the public benefit, than they possibly could at present. If, on the

* Pages 19 and 21.