

"That the Society of Jesuits should be suppressed and dissolved, and no longer continue a body corporate and politic, and that all their rights, privileges and property, should be vested in the Crown, for such purposes as the Crown might hereafter think fit to direct and appoint, and the Royal intention was further declared to be that the present members of the said society as established at Quebec, should be allowed sufficient stipends and provisions during their natural lives."

In 1791 there are Royal Instructions to the same effect. The last Jesuit died in 1800; the present society came into corporate existence in 1887, so I maintain that the present society is not in any way connected with the former society; and the principle of restitution does not and can not apply. This Government, at least, should have returned the Bill, suggesting that it should be altered in some respects, and amongst others, the one to which I referred a few moments ago. Even the Bishops of Quebec, or some of them, admitted that the Jesuits were no longer in existence, and they, at the request of the Jesuits, made a claim to the property. I find the following in a petition over the signatures of Joseph, Bishop of Quebec, P. T. Turgeon, Coadjutor of Quebec, and J. S. Lartigue, Bishop of Montreal:

"Your petitioners humbly represent that the Order of Jesuits being extinct in this country, their natural successors are the Roman Catholic bishops of the diocese."

Then the very Act itself incorporating the Society of Jesuits in 1887, makes no claim whatsoever to their rights as owners of this particular property, so I think it cannot be maintained, on the merits, that they are entitled on any principle of restitution to this property. But it has been said that this property was taken from the Jesuits at the time of the Conquest. I deny that, because at the time of the Conquest it did not belong to the Jesuits. It had become Crown property, like any other Crown lands; therefore, when the statute now objected to says that the property was confiscated, it states that which is not the case, and the Federal Government should not have sanctioned that misstatement, but they should, at least, have returned the Act to the Government of Quebec to have it amended in the particular. Now, in some pamphlets issued by gentlemen who support the Jesuit Society, I find Twiss referred to as an authority on the law of nations. A gentleman who writes a very able argument in support of the Jesuit cause, has quoted from this authority as follows:—

"A victorious nation in acquiring the sovereignty *de facto* over a country, from which it has expelled its adversary, does not acquire any other rights than those which belonged to the expelled sovereign; and to those such as they are with all their limitations and modifications, he succeeds by right of war."

They also refer to De Vattel on the Law of Nations:

"The conqueror, who takes a town or province from his enemy cannot justly acquire over it any other rights than such as belonged to the sovereign against whom he has taken up arms. War authorizes him to possess himself of what belongs to his enemy; if he deprives him of the sovereignty of that town or province, he acquires it such as it is, with all its limitations and modifications."

"One sovereign makes war upon another sovereign, and not against unarmed citizens. The conqueror seizes on the possessions of the state, the public property, while private individuals are allowed to retain theirs. They suffer but indirectly by the war; and the conquest only subjects them to a new master."

Now, I agree with every word of that. Suppose the United States and Great Britain were to go to war—and I think hon. gentlemen in this House on both sides would have but very little doubt as to the result—it would not be said for one moment that Great Britain obtained any rights whatsoever over private property, but she would obtain just the same rights as the Executive of the United States have over private property. Now, at the time of the Conquest this property did not vest in the Jesuits at all; it had become extinct, it had become vacant property; therefore, when it is said outside the House, as it has been said inside, that for meritorious reasons, because the property was taken by a method of confiscation, therefore it should be returned to them—I say it was not taken by con-

Mr. BARRON.

fiscation, because at the time that Canada was conquered by England this property was not the property of the Jesuits, but was the property of France, having become extinct. We find the opinions of Her Majesty's Attorney General and Solicitor General for the Crown, dated 18th May 1719, stating in regard to this property:

"As a derelict or vacant estate, His Majesty became vested in it by the clearest of titles, if the right of Conquest alone was not sufficient, but even upon the footing of the proceedings in France and the judicial acts of the sovereign tribunals in that country. The estates in this Province would naturally fall to His Majesty, and be subjected to his unlimited disposal, for by those decisions it was established upon good, legal and constitutional grounds, that from the nature of the first establishment or admission of the society into France, being conditional, temporary and probational, they were at all times liable to expulsion, and having never complied with, but rejected the terms of their admission, they were not even entitled to the name of a society; therefore, they were stripped of their property and possessions, which they were ordered to quit upon ten days' notice, after having been compelled to give in a full statement of all they had, with the several title deeds, and documents or proofs in support of it. Sequestrators or guardians were appointed to the management of their estates, and in course of time and with a regularity proportioned to their importance, provision was made for the application of them in the various ways that law, reason, justice and policy dictated; and all this was done at the suit of the Crown."

Now, to show further that at the time of the conquest this was vacant property, I refer to Marriott's opinion, 12th May, 1765. He says:

"From all these premises, it seems conclusive that the titles of the society passed together with the dominions ceded to Great Britain (in which dominions those possessions were situated) attended with no better qualifications than those titles, had by the laws and constitution of the realm of France, previous to the conquest and cession of those countries."

I mention that this Quebec Act is objectionable in many important particulars, and is also objectionable in declaring that those estates were confiscated by the British Crown. I say such was not the fact, and is not borne out by the history of the estates. This property has always been treated as having escheated to the Crown, not as having been confiscated by reason of the Conquest. I find Lord Goderich on 7th July, 1831, spoke to this effect:

"His Majesty's Government do not deny that the Jesuits' estates were, on the dissolution of that order, appropriated to the education of the people, and readily admit that the revenue which may result from that property, should be regarded as inviolably and exclusively applicable to that object."

And the Statute of William IV, chapter 41, states to same effect as follows:—

"And it is hereby enacted by the authority of the same, that from and after the passing of this Act, all moneys arising out of the estates of the late order of Jesuits which now are in or may hereafter come into the hands of the Receiver General of this Province shall be placed in a separate chest in the vaults wherein the public moneys of the Province are kept, and shall be applied to the purposes of education exclusively, in a manner provided by this Act, or by any Act or Acts which may hereafter be passed by the Provincial Legislature in that behalf and not otherwise."

Then we have the petition of the bishops, to which I have already referred. Does anyone mean to say that if the Province became owners of this property by reason of confiscation, the bishops would say the Jesuits were no longer entitled to it, as they did say in their petition? It is quite clear, therefore, that the statute is incorrect in that particular, when it states that the property was acquired by confiscation. Then there is another point to which I desire to refer, and it is one which has not yet been touched upon, and it is this: It is the case that two or more of the properties were acquired by the Jesuits, not from the King of France and not by grants of the Parliament of France, but from private individuals. I do not think anyone will deny that within strict law, and I may say I am speaking from a legal standpoint altogether—and I do not desire to go into the merits or demerits of the Jesuit claim, but to speak of the question from a legal standpoint only,—no one, I think, will deny that it is good and proper law that when property is given to a corporation or society or body of men or to one or more men upon a certain and