

Now, if any of these corporations failed, and the Crown took possession of the property which belonged to the extinct corporation, would any one of these denominations be quite satisfied with the result? For instance, if Queen's College was taken possession of by the Crown and its property sold, and the moneys put into the Consolidated Revenues of Ontario, would not the Presbyterian body assert a moral claim, in spite of the legal right which might belong to the Crown in respect of those properties? That is very much the position which the Jesuits and the Roman Catholic Church in Lower Canada took towards the Crown when the Crown appropriated these estates. It is said by the hon. gentleman that these are very improper people, that they have been intriguers, political intriguers, in every country in Europe, and that they are not to be trusted. Well, speaking from the ethical point of view, that reminds me very much of the position of a man who owes another and does not want to pay what he owes, and he says: I will not pay the man I owe because he is a drunken rascal and beats his wife, and, if I paid him the money, he would get drunk and would beat her again, and, as I am a moral man, I prefer to keep the money. The hon. member for North Simcoe (Mr. McCarthy) yesterday went on to state the origin of the title of the Crown to this property. I do not attach any importance to this, for this reason, that the legal title of the Crown is not disputed by the Prime Minister of Quebec, although, historically, it is an interesting question as to how the Crown came into possession of these estates. The hon. gentleman yesterday stated four theories, three of which must be erroneous, as to the way in which the Crown acquired possession. He cites two of these from two separate reports of the Judge Advocate General, Marriott. The one was that the property had been confiscated by the King of France before the Conquest, and was part of the public domain belonging to the King of France at the time of the Conquest. The law officers of the Crown, the Attorney and Solicitor Generals, did not concur in that opinion, and did not act upon it. Then Mr. Marriott gave another opinion that these estates belonged to the General of the Order, and that as proprietor there was no provision made for his selling or disposing of them, that the only parties who had a right to hold estates in Canada were those who were British subjects, that the General of the Order was not a British subject, that no provision was made for selling except by those who wished to leave the country, and as the General of the Order had never been in the country, he could not sell, and so the property necessarily belonged to the Crown. This may be ingenious but it is not sound. Then there was also the title set up based on the Conquest, and there is the title set up by the extinguishment of the corporation by the Pope's bull. When we look at the papers we find a proclamation, dated in 1774, in which the Crown declares its intention to take possession of these estates in consequence of the dissolution of the order, and the proclamation seems to have been repeated again in the Royal Instructions given in 1791. It is said in the Royal Instructions:

"It is our will and pleasure that the Society of Jesus be suppressed and dissolved, and no longer continued as a body corporate or politic, and all their possessions and property shall be vested in us for such purposes as we may hereafter think fit to appoint, and direct and appoint."

That was in 1791, 30 years or more after the conquest. Now, I do not see myself on what legal principle the King could, at that time, or at any time after he had established a government in the country, assert any such title as that to the estates. He did not assert it at the Conquest. There was no formal possession claimed or taken. I find at a still later period, the next year, another and different ground is put forward as the ground of the King's title. It is in the fiat issued by the Governor of that day, and he says:

"Whereas all and every of the estates and property, movable or immovable, situated in Canada, which did heretofore belong to the late Mr. MILLS (Bothwell).

Order of Jesuits, have, since the year of our Lord 1760, been and are now by law vested in us."

So we find in that fiat the title is dated back to 1760, although in the Royal Instructions it is dated in 1791. But there is no doubt that the Crown went into possession in some way or other, and if the title was not a legal title, it in the first instance became a title by prescription against the order. I don't see any ground for asserting a title in the Crown, except by prescription. Mr. Mercier does not admit any legal title in the Order of Jesuits, but their moral claim he admits to exist. Now, let me call the attention of hon. gentlemen to certain articles in the capitulation of Montreal. I think it is clear, from these Articles of Capitulation, that the King was precluded from asserting any legal title as conqueror:

"Art. XXXII. The communities of Nuns shall be preserved in their constitution and privileges. They shall be exempted from lodging any military, and it shall be forbidden to trouble them in their religious exercises, or to enter their monasteries; safeguard shall even be given them if they desire them."

"Answer—Granted."

"Art. XXXIII. The preceding article shall likewise be executed with regard to the communities of Jesuits and Recollets, and to the house of the priests of St. Sulpice at Montreal. This last, and the Jesuits, shall preserve their rights to nominate to certain curacies and missions as heretofore."

"Answer.—Refused till the King's pleasure be known."

"Art. XXXIV. All the communities, and all the priests shall preserve their movables, the property and revenues of the seignories and other estates which they possess in the colony of what nature soever they be, and the same estates shall be preserved in their privileges, rights, honors and exemptions."

"Answer.—Granted."

Now, I ask the attention of hon. gentleman to this, that all the communities spoken of are the Nuns, the Jesuits, the Recollets, and the priests of St. Sulpice. These are the four orders, and it is said in this article that all the communities and all the priests shall preserve their movable properties and revenues, seignories, &c., on this ground. Then this construction of this article is further confirmed by article 35:

"Art. XXXV. If the canons, priests, missionaries, the priests of the Seminary of the Foreign Mission, and of St. Sulpice, as well as the Jesuits and the Recollets, choose to go to France, passage shall be granted them in His Britannic Majesty's ships, and they shall all have leave to sell, in whole or in part, the estates and the movables which they possess in the colonies."

Now, there were two things allowed to these orders: To remain in the country and to remain in possession of the property under the 34th article, or to leave the country and sell the property before they left under article 35. If the property had been confiscated to the Crown, or had been taken possession of by the Crown, by the virtue of the Conquest, no such article as this would have been granted. But in both these cases there is a provision in the Articles of Capitulation preserving to these parties their rights, which made it impossible for the Crown to acquire a legal title to their estates any more than to the estates of any other portion of the community of the Province of Quebec. It is true the Crown did come into possession. That was largely due to the undue influence of General Amherst, who desired to get possession of these estates as a personal endowment for his services during the war. Now, it may be the Crown acquired a legal title to these estates by holding them, and if it did so, and the right of the Jesuits to assert their title was gone, then there remains only, as Mr. Mercier has spoken, a moral right to any interest in the property. I think that is a very proper question to consider in the Legislature of Quebec, it is not a question, it seems to me, with which we are called upon to deal, and I would not have referred to it if the hon. member for North Simcoe had not denied altogether any moral right in the matter, and treated this as an act of spoliation which justified our interference. Sir, if it were an act of spoliation, still I do not think that we have anything to do with it. From my point of view, from my in-