

(No. 70.)—COPY of a DESPATCH from Viscount *Goderich* to Lord *Aylmer*; dated Downing-street, 21 November 1831.

My Lord,

In my Despatch of this date (No. 69), I have announced to your Lordship the intentions of His Majesty's Government on the subject of the Clergy Reserves in Lower Canada, and have apprised your Lordship that I should, in a separate Despatch, describe in detail the measures it would be necessary to adopt for the purpose of causing those reserves to revert into the general mass of the Crown estate. I now proceed to execute this purpose. The statute 31 Geo. 3, c. 31, s. 36, 40, provides for the appropriation of lands for the maintenance of a Protestant clergy, and for the erection and endowment of rectories, and the presentation of incumbents, and the manner in which such incumbents shall hold their livings. The 41st section, which immediately follows those enactments, is expressed in the following words:

"Provided always, that the several provisions hereinbefore contained respecting the allotment and appropriation of lands for the support of a Protestant clergy within the said provinces, and also respecting the constituting, erecting and endowing of parsonages or rectories within the said provinces, and also respecting the presentation of incumbents or ministers to the same, and also respecting the manner in which such incumbents or ministers shall hold and enjoy the same, shall be subject to be varied or repealed by any express provisions for that purpose contained in any Act or Acts which may be passed by the Legislative Council and Assembly of the said provinces respectively, and assented to by His Majesty, his heirs or successors, under the restrictions hereinafter mentioned."

The 42d clause then proceeds to enact, that whenever any Act shall be passed by the Legislative Council and Assembly for any of the before-mentioned purposes, such Act shall, "before any declaration or signification of the King's assent thereto," be laid before both Houses of Parliament in Great Britain, and that His Majesty shall not signify his assent until 30 days after the Act shall so have been laid before the two Houses.

Subsequently to the date of this Act of Parliament, the corporation for the management of the clergy reserves was established by a charter issued under the great seal of the province. That body have granted leases of a considerable quantity of land, none of which, as I understand, are made to endure for more than 21 years from their respective dates.

The statute 7 & 8 Geo. 4, c. 62, authorized the governors of the provinces, with the consent of the Executive Council, in pursuance of any instructions which might be issued to them by His Majesty, through one of his principal Secretaries of State, to sell a part of the clergy reserves, not exceeding one-fourth part of the whole, provided that in no one year more than 100,000 acres were so sold. The money arising from these sales was to be invested in the public funds of this kingdom, and the interest of that investment was declared applicable either to the improvement of the unsold reserves, or to the purposes for which the reserves were originally made.

It appears that, in pursuance of this statute, 11,256 acres of the clergy reserves have been sold, up to the month of June last, for sums together amounting to 1,880 £, and that the sum of _____ was due by the purchasers, who by the terms of their contracts were liable to payment of interest.

In order to accomplish effectually the designs which I have explained in the Despatch already referred to, it will be necessary that so much of the statute 31 Geo. 3, c. 31, as relates to the allotment and appropriation of lands for the support of the Protestant clergy within the province of Lower Canada, should be repealed by an Act to be passed by the Council and Assembly, in exercise of the authority committed to them for that purpose by the 41st section of the Act. The Bill, if so passed, must be accompanied by an address from the Legislative Council and Assembly, desiring that it may be "transmitted to England without delay, for the purpose of being laid before Parliament, previously to the signification of His Majesty's assent thereto."

A simple repeal of this part of the Act of 1791, would give birth to some questions of an embarrassing nature, the discussion of which it is very desirable to preclude. The questions which I anticipate, would be, First, Whether the clergy reserves already made would vest in His Majesty absolutely, or would be held by him upon any trust for the benefit of the Protestant clergy? Secondly, Whether the leases granted by the corporation for managing the reserves would be still subsisting? Thirdly, Whether the rent reserved on those leases would be payable to His Majesty or to the corporation? Fourthly, Whether the money already raised by sales under the Act of 1827, would remain applicable or not to the purposes expressly declared by that statute? It might be suggested, as a further doubt, whether the corporation would continue in existence, and whether the powers of sale given by the Act of 1827, were to be exercised any further? The solution, however, of those questions is obvious: the corporation could not survive the extinction of the object for which it was erected: the power of sale could not be exercised, after the subject of sale, viz., the clergy reserves, had ceased, as such, to exist.

To meet, however, still more effectually the two last-mentioned questions, you will, as soon as the Act shall have been introduced into the Assembly, intimate to the clergy corporation that it is the express desire of His Majesty's Government, that until the Bill shall have been finally passed into a law, or shall have been finally rejected, they do abstain from