

Parliament; which Interposition the Assembly, on the other hand, deprecate with equal Earnestness.

The chief practical Question, then, which at present demands Consideration, is, whether His Majesty should be advised to recommend to Parliament the Assumption to itself of the Office of deciding on the future Appropriation of these Lands. There are Two distinct Reasons, both of which appear to me conclusively to forbid that Course of Proceeding.

First. Parliamentary Legislation on any Subject of exclusively internal Concern, in any British Colony possessing a Representative Assembly, is, as a general Rule, unconstitutional. It is a Right of which the Exercise is reserved for extreme Cases, in which Necessity at once creates and justifies the Exception.

But important as is the Question of the Clergy Reserves in Upper Canada, yet I cannot find in the actual State of the Question any such Exigency as would vindicate the Imperial Legislature in transferring to themselves the Settlement of this Controversy. The Conflict of Opinion between the Two Houses upon this Subject, much as it is to be lamented, yet involves no urgent Danger to the Peace of Society, and presents no insuperable Impediment to the ordinary Administration of public Affairs. Although a great Evil, it is not such as to exclude every Hope of Mitigation by the natural Progress of Discussion, and by the Influence of that Spirit which, in public Affairs, not seldom suggests to Parties alike solicitous for the general Good some mutual Surrender of extreme Views, and some Compromise on either Side of Differences which at first Sight might have appeared irreconcilable. Until every Prospect of adjusting this Dispute within the Province itself shall have been distinctly exhausted, the Time for the Interposition of Parliament will not have arrived, unless indeed both Houses shall concur in soliciting that Interposition; in which Event there would of course be an End to the constitutional Objections already noticed.

The Second Ground on which I think myself bound to abstain from advising His Majesty from referring this Question immediately to Parliament is, that the Authors of the Constitutional Act have declared this to be one of those Subjects in regard to which the Initiative is expressly reserved and recognized as falling within the peculiar Province and the special Cognizance of the local Legislature, although its ultimate Completion is no less distinctly made to depend, in addition to the ordinary Submission to His Majesty, on the Acquiescence of the Imperial Parliament.

It is not difficult to perceive the Reasons which induced Parliament in 1791 to connect with a Reservation of Land for Ecclesiastical Purposes the special Delegation to the Council and Assembly of the Right to vary that Provision by any Bill which, being reserved for the Signification of His Majesty's Pleasure, should be communicated to both Houses of Parliament for Six Weeks before that Decision was pronounced. Remembering, it should seem, how fertile a Source of Controversy Ecclesiastical Endowments had supplied throughout a large Part of the Christian World, and how impossible it was to foretell with Precision what might be the prevailing Opinions and Feelings of the Canadians on this Subject at a future Period, Parliament at once secured the Means of making a systematic Provision for a Protestant Clergy, and took full Precaution against the eventual Inaptitude of that System to the more advanced Stages of a Society then in its infant State, and of which no human Foresight could divine the more mature and settled Judgment.

In the Controversy, therefore, respecting Ecclesiastical Endowments, which at present divides the Canadian Legislature, I find no unexpected Element of Agitation, the Discovery of which demands a Departure from the fixed Principles of the Constitution, but merely the Fulfilment of the Anticipations of Parliament in 1791, in the Exhibition of that Conflict of Opinion for which the Statute of that Year may be said to have made a deliberate Preparation. In referring the Subject to the future Canadian Legislature the Authors of the Constitutional Act must be supposed to have contemplated the Crisis at which we have now arrived, the Era of warm and protracted Debate, which in a free Government may be said to be a necessary Precursor to the Settlement of any great Principle of national Policy. We must not have recourse to an extreme Remedy merely to avoid the Embarrassment, which is the present though temporary Result of our own deliberate Legislation.

(41.)

I think,

No. 1.
Lord Glenelg
to
Sir F. B. Head,
5th Dec. 1835.