

SESSIONAL PAPER No. 29c

of 1699¹ gave it to the Bishops, but in Order to render this matter more clear I shall enclose a Memorandum (A) given me on the subject by the Chief Justice.²

His Majesty's Right to the nomination is clear and incontestable, so much so, that were a Habitant to refuse to pay his tythes, The Church might excommunicate him, but for want of that nomination, it is held that the Curé could not in any of His Majesty's Courts of Law compel him to pay; The resumption of this right appears to me to be indispensable to any hope that may be entertained of retaining the dominions of the Colony, and this I confess seems to me also to be the moment for affecting that resumption; It may be accomplished now, twenty years hence it will be more difficult if not impracticable, but the truth is the danger presses, this influence is universally believed and I believe it myself, to be now silently working against us; I do not know that the proposed change would turn its current, but I am sure it would lessen the force of it very much.

The Person who at present exercises the Episcopal functions,³ is not I think of a turbulent disposition, but he is a Man of great ambition, and some art, I doubt whether the former is not such as to preclude any great hope of succeeding with him by a negotiation voluntarily to resign the Post he now holds, I am inclined to believe that he himself would prefer that his submission should bear the appearance of an Act of necessity, under the power of an Act of the Imperial Parliament, or of the just exercise of His Majesty's Right, at the same time however if, whether it be accomplished by negotiation, or otherwise, He comes into it with a good grace, I Imagine it will be thought reasonable that his allowance should be increased, He has now only £200 a year, it would not be amiss to hint to him, that his Salary would be increased to the extent that His Majesty in the exercise of His Liberality might think proper to permit. On this very important subject, permit me My Lord to refer to a letter (B) from Sir Rob^t S. Milnes together with a Memorial (C) from the Bishop copies of which I enclose⁴; From some circumstances that occurred at that moment, no instructions were sent here in consequence, otherwise there is no doubt that the measure might have been effected.

As to the Curés themselves, it is understood that they are at present *rather* uneasy at the power exercised over them, and the obvious amelioration of their situation, would I think soon reconcile them to the change; It would be proper to give them a free hold in their livings, of which they could not be deprived unless it were in consequence of the sentence of the Bishop, who on a complaint against a Curé referred to him by the Government, should be empowered to call into his assistance his Grands Vicaires, and to examine into it, from which sentence however, the party

1. See the *Edits, Ordonnances Royaux, Declarations et Arrêts du Conseil d'Etat du Roi concernant le Canada*, Quebec, 1854, Vol. I, page 279.

2. The memorandum of Chief Justice Sewell is to this effect.

"In 1663, the establishment of the Seminary of Quebec was confirmed by His Most Christian Majesty, and by the letters patent of Confirmation it was provided that all the Livings in the Country should be served by the priests of the Seminary, that they should be appointed and removed at the pleasure of the Bishop, and for their Support all the Tythes in the Country were vested in the Seminary."⁽¹⁾

⁽¹⁾ Edits & Ordinances, Vol. I, page 27.

In 1667, the Tythes of each particular parish was by a Royal Edict vested in the cure to the Exclusion of the Seminary, and the Curé was declared to be an incumbent for Life, by the same Edict. The Patronage of each Church and living in the Country was vested in the founder & where the Seigneur was willing as well as others in his Seigneurie to found a Church the Patronage was declared to be his in preference to all others."⁽²⁾

⁽²⁾ Edits & Ordinances, Vol. I, page 243 to 245.

In 1699, another Royal Edict was issued which after reciting "That the Inhabitants of New France had not availed themselves of the permission given to them by the Edict of 1667, That no Churches had been founded and that the natural right of the Bishop to Erect Churches had been frustrated" enacts "That the Bishop may erect (faire Batir) Churches of Stone in all the parishes in which none are erected and that the Patronage of all such Churches should be vested in him."⁽³⁾

⁽³⁾ Edits & Ordinances, Vol. I, page 292.

3. Mgr. Plessis, see page 304, note 3.

4. Milnes to Camden, July 27th, 1805, with a memorial from Bishop Denaut, Q. 98, page 5.