

with the Church of Scotland in Canada, into the hands of the Bodies Corporate, to the effect of holding Lands, Buildings, and other Property for Ecclesiastical and Educational purposes, and as will give effect to the judgments and proceedings of our Ecclesiastical Courts in matters spiritual, in the same manner as is done in Scotland; and also such measures as will effectually remove the Disabilities of which we complain, and place us on that footing to which by the Act of Union we are entitled, but restricting both the powers of our Clergy and also of those of the sister Church to the members of their own Congregations within this Province.

And, as in duty bound, Your Petitioners will ever pray.

(Signed by Twenty-six Delegates.)

No. 4.

(No. 199.)

COPY of a DESPATCH from Lord GLENELG to Sir F. B. HEAD, Bart., Lieutenant Governor of Upper Canada.

Downing Street, 6th July, 1837.

SIR,—I have received your despatch, dated the 20th May last, No. 51, enclosing the copy of an address to the King, by the assembly of Delegates, in conjunction with the established church of Scotland, and the copy of an address from the same parties to yourself, praying you to transmit to me the copy of the address to the King, and to recommend the same to His Majesty's favorable consideration.

This address, as you have observed, asserts that the Constitutional Act of the Canadas of the year 1791 is an infringement of the rights of the petitioners; you therefore think it needless to offer any observations on the subject. I entirely concur with you in thinking, that, in the administration of the Government of the Province, neither Her Majesty's confidential advisers nor you had any proper concern with the question, whether the Constitution of 1791 was wisely framed, or consistent with the just pretensions of each of the three Kingdoms now constituting the United Kingdom of Great Britain and Ireland. It is sufficient for us to know, that the British Legislature have enacted that law, and that the Legislature of the United Kingdom is alone capable to repeal or to amend it. The duty of the Executive Government is simply to execute its provisions. In this conclusion you have rested, and there also I should have been inclined to terminate the discussion, if I had not recently found cause to suppose that the Act of 1791 has received an erroneous construction from the petitioners, as well as from others of deservedly great authority in the Province. It is important to rescue the Constitution from a censure and a consequent unpopularity to which it is not justly obnoxious.

The petitioners maintain that the Act of 1791 is an infringement on their rights, because it provides for the endowment of Rectories in Canada, and for the presentation of Ministers of the Church of England as incumbents and because it invests in those incumbents with spiritual jurisdiction

over all denominations of Christians within the bounds of their respective Rectories. To show that this alleged grievance is not merely a theoretical evil, but a practical wrong, the petitioners refer to the establishment of fifty-seven Rectories in January 1836. They complain of this measure as a departure from the pledge of the Crown to refer to the local Parliament the settlement of the disputes which had arisen respecting the Clergy Reserves, and declare themselves unwilling to assume that the King would at that time have instructed His Majesty's representative to have established those Rectories; they then declare that this Act has tended more than any other circumstance to diminish the estimation of the equity of His Majesty's Government in the Province, and as a reparation they call upon the King, in substance, to invest the Church of Scotland with powers co-extensive with those which are enjoyed by the sister Church of England, but to restrict the spiritual authority of both to their own peculiar members. Without expressing a decided opinion as to the nature and extent of the spiritual jurisdiction which would accompany the creation of any Rectories under the Act of 1791, I trust that the following explanation of the measures which I have taken in the interval which has elapsed since I received your despatch of the 17th December last, No. 101, upon the subject of the fifty-seven Rectories created by an Act of your immediate predecessor in the Government, will convince the petitioners of the Church of Scotland that they have to a certain extent misapprehended the Act of 1791, so far at least as that Statute may be supposed to have authorized the establishment of the Rectories in question.

You are aware that your Despatch of the 17th December 1836, contained the first official intimation which ever reached me of the Rectories having been either established or endowed. The fact had been asserted in Parliament, but I was not only officially uninformed, but really ignorant that it had occurred; I therefore requested you to supply me with the necessary information, and until it reached me in the month of February last, I was entirely destitute of all authentic intelligence as to what had really been done.

You will not, I trust, even for a moment, suppose that I refer in the spirit of censure or complaint to the silence of the Provincial Government on this occasion; it admits of an obvious explanation. The creation and endowment of the Rectories was almost the last Act of Sir John Colborne's Administration; and as at that time you were actually on your way from New York to Toronto, your predecessor probably assumed that the proceeding would be reported by you, he having at last, as it may well be imagined, scarcely leisure enough for the discharge of his many indispensable and urgent public duties. On the other hand, it is impossible not to respect the feelings which imposed upon you to enter on the subject. Regretting the measure itself as creating a new embarrassment in your path, at that time beset by difficulties of no ordinary kind, and naturally regarding it as