

Crown were not quite certain in regard to the title. It is true that Lord Amherst in 1770, after having performed signal services for England, petitioned the King to have the Jesuits' Estates transferred to him. The petition was referred to the Committee of the Lords of the Privy Council; they reported in favor of it, and it was referred to Lords Gray and Williams, who reported on May 18, 1790. If anyone will take the trouble to follow their report, he will see that, in their opinion, the subject was surrounded with grave doubts. It discussed the whole question in regard to the tenure of the Jesuits, it discussed the whole question as to where the land came from, and under what power the Jesuits held it; and we have the fact that at the close of their labors the commissioners appointed to investigate the title stood 6 to 2 on the question. But they recommended the Government to take possession of the land. The Government did so. In 1800 they took possession of the land in this country, they placed the sheriff in possession of it, but they would not give it to Lord Amherst's heirs, and they passed an Act in 1803 giving an annuity of £3,000 sterling a year instead of the lands asked for, which the law officers of the Crown recommended should be granted. If hon. members will look at the recital of the Act, they will observe that the words are very significant, and those words are such as to justify me in stating that the law officers of the Crown were not distinctly in favor of the validity of the Crown's title, but had grave doubts in regard to it. The recital goes on to say that:

"In consequence of difficulties arising from local circumstances His Majesty's intentions were not carried into effect."

So hon. gentlemen will see that while these lands were requested to be granted to Lord Amherst, yet when the subject was discussed by the law officers of the Crown such grave doubts surrounded the question that the Government would not grant the lands but granted a money allowance. The next we hear of the Jesuits was on the 17th September, 1791, when they were suppressed in Canada under Royal instructions. Those instructions we find in the Chisholm Papers, page 252. In 1791 we find these instructions:

"It is our will and pleasure—that the Society of Jesuits 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 direct and appoint; but we think fit to declare our Royal intention to be that the present members of the said society as established at Quebec shall be allowed sufficient stipends and provisions during their natural lives."

But we have the very significant fact that after that proclamation was issued in 1791, they remained in possession of the estates ten or eleven years, during which they had control over them. We find in the report of the Attorney General and Solicitor-General of England they referred to the fact that Lord Haldimand allowed the Jesuits to remain in possession of the lands for that period. I am not surprised that Mr. Mercier said they had a moral claim, because they appear to have a moral, if not a legal, claim to the estates. Lord Goderich, in a despatch in 1831, sent to the Legislature in that year this question for their disposition. He says:

"The only practical question which remains for consideration is, whether the appropriation of these funds for the purpose of education should be directed by His Majesty or by the Provincial Legislature?"

"The King cheerfully, and without reserve, confides that duty to the Legislature, in the full persuasion that they will make such a selection amongst the different plans for this purpose which may be presented to their notice, as may most effectually advance the interests of religion and sound learning amongst his subjects; and I cannot doubt that the Assembly will see the justice of continuing to maintain under the new distribution of these funds those scholastic establishments to which they are now applied."

We find following that, the Act 2nd William IV, cap 41, goes on to say:

"An Act to make provision for the appropriation of certain moneys arising out of the Estates of the late Order of Jesuits, and for other purposes."

Mr. RYKART.

"Reciting that His Majesty had been graciously pleased to confide without reserve to the Provincial Legislature the apportioning of the funds arising from the Estates of the late Order of Jesuits to the purposes of education exclusively. Enacted that all moneys arising out of the Estates of the late Order of Jesuits shall be placed in a separate chest in the vault wherein the public moneys of the Province are kept, and shall be applied to the purpose of education exclusively, in the manner provided by this Act, or by any Act or Acts which may hereafter be passed by the Provincial Legislature in that behalf, and not otherwise."

If my hon. friend will only consult this Act he will find that it was given exclusively to the Province of Quebec for educational purposes. Subsequent to this we find, and that my hon. friend has also admitted, that the incorporation of St. Mary's College was passed in 1752 by the old Parliament of Canada and that the Jesuit College which this Act incorporated still remains in existence, and is still doing its good work throughout the country, and no fault has been found with it. In 1856 we find that the Act 14-15 Victoria, chapter 54, says:

"1. The estates and property of the late Order of Jesuits whether in possession or reversion, including all sums funded or invested, is to be funded and invested as forming part thereof and the principal of all moneys which have arisen or shall arise from the sale or commutation of any part of said estate or property, are hereby appropriated to the purpose of this Act, and shall form a fund to be called 'The Lower Canada Superior Education Investment Fund' and shall be under the control and management of the Governor in Council for the purposes of this Act."

"Apportionment of fund among universities, colleges, seminaries, academies, high and superior schools, and as the Governor in Council shall approve."

So that my hon. friend will see that it would be utterly impossible to claim a portion for the Province of Ontario, because this Parliament has declared that the fund should be known as the "Lower Canada Superior Education Investment Fund." Section 5 of that Act says that the apportionment of the fund shall be amongst "universities, colleges, seminaries, academies, high and superior schools, and as the Governor in Council shall approve." But my hon. friend says they have no power to vote the money for ecclesiastical institutions. In this he would appear to be at variance with the *Law Times* and *Law Journal*. Now, Mr. Speaker, I have dealt thus far with the history of the question of the Jesuits, and pointed out to this House the different Acts bearing on the question in England and also in Canada. I wish now to turn my attention to another branch of the subject, and to see in what position we stand when we ask the Government to disallow this Bill. I hold that we have established a constitutional practice in this country, and that the records of Parliament are full of this practice. We have Mr. Todd and other eminent authorities writing on this subject, and I shall briefly allude to them in order that the people of the country may know, as we know in this House, that we have rules and constitutional government by which this Act must be construed, and by which this House must decide whether or not the Government was right or wrong in the course it pursued. At page 358, Todd says:

"The redress of grievances arising out of the operation of provincial laws, can only be constitutionally afforded by the Provincial Legislature by which such laws have been enacted: except in cases wherein the Acts complained of have been unlawfully passed, or are open to objection upon grounds that would justify the interference of the Governor General in Council, or the Dominion Parliament, with the law."

And at page 359 he continues:

"But in all such cases (appeals by petition to the Queen &c) the principle is affirmed that no interposition to the detriment, in any degree, of the established principle of self-government, in matters of local concern, would be permitted or approved, whether on the part of the Imperial or Dominion Government, in their several and appropriate spheres of action, or matters within the acknowledged competency of either tribunal."

You will see that Todd lays down the very sound principle that all matters of provincial concerns come within the jurisdiction of the Legislature and shall not be controlled by this Parliament. Again at page 343 Todd says: