

your duty in the execution of the laws and with the safety of the country, avoid everything that can give the least unnecessary alarm or distrust to His Majesty's new subjects."

That is the foundation of all the subsequent proceedings. We find in 1765 these instructions further given, and they are found in the commission to the King's Receiver General, and read as follows:—

"And whereas the lands of several religious societies in the said Province, particularly those of the Society of the Jesuits, are, or will become, part of His Majesty's revenue, you are therefore to endeavor, by agreements to be made with the persons interested for the present in any of the said estates, to take the said estates into your charge, giving unto them respectively such competent allowance thereon for their lives, as you may judge proper, taking care that these lands may not be sequestered or alienated from His Majesty."

Again, in a letter from Lord Shelburne to Governor Carleton, November 14, 1767, we read:

"It has been represented to His Majesty that the Jesuits of Canada make large remittances to Italy, and that they imperceptibly diminish their effects for that purpose. . . . Too much care cannot be taken that they do not embezzle an estate of which they enjoy only the life-rent and which must become on their demise a very considerable resource to the Province, in case His Majesty should be pleased to cede it for that purpose."

As to the effect which is to be given to the treaty, although perhaps I have said enough on that point, I want to fortify my position. I do not expect hon. gentlemen will be willing to take my *ipse dixit* in a matter of this kind, and I desire to establish from the public records the doctrines which were held by the law officers at the time, in order to make good my point. Sir James Marriott reported at great length, and the book is accessible to all, and no doubt many hon. members have taken advantage of it. He reports on this particular question, which hon. members can easily understand when we look at the terms of the treaty. Let me read from it:

"His Britannic Majesty agrees to grant the liberty of the Catholic religion to the inhabitants of Canada; he will consequently give the most effectual orders that his new Roman Catholic subjects may profess the worship of their religion according to the rites of the Roman Church as far as the law of Great Britain permit."

Now, we all see the difficulty that at once arose. The laws of Great Britain at that time hardly permitted the exercise of the Roman Catholic religion. The law officers of the Crown, however, decided that this was not to be treated as a dead letter, but that full effect in every way must be given to the treaty. The difficulty was in reconciling the profession of the Roman Catholic religion with the laws of Great Britain, which practically forbid the practice of that religion, and so the proposition is worked out. And how is it worked out? Sir James Marriott gave an opinion on this point as follows:—

"Now, I consider that the laws and constitution of this Kingdom, permit perfect freedom of the exercise of any religious worship in the colonies, but not of all sorts of doctrines, nor the maintenance of any foreign authority, civil or ecclesiastical, which doctrines and authority may affect the supremacy of the Crown or safety of Your Majesty and the realm; for a very great and necessary distinction, as it appears to me, must be taken between the profession of the worship of the Romish religion, according to the rites of it, and its principles of church government. To use the French word, the *culte*, or forms of worship or ritual are totally distinct from some of its doctrines. The first can, may and ought, in my opinion, in good policy and justice to be tolerated, though the second cannot be tolerated."

Mr. Wedderburn, afterwards Lord Loughborough, gave an opinion on the same subject. Speaking more especially in regard to the Jesuits, he said:

"The establishment of the first (the Jesuits) is not only incompatible with the constitution of an English province, but with every other possible form of civil society. By the rule of their order the Jesuits are aliens in every government. They are not owners of their estates but trustees for purposes dependent upon the pleasure of a foreigner, the General of their order. Three great Catholic states have, upon grounds of policy, expelled them. It would be singular if the first Protestant state in Europe should protect an establishment that are now must have ceased in Canada had the French Government continued. . . . It is therefore, equally just and expedient, in this instance, to assert the sovereignty of the King and to declare the lands of the Jesuits are vested in His Majesty, allowing at the same time to the Jesuits now residing in Canada liberal pensions out of the incomes of their estates."

This opinion was reported by him to the law officers of the Crown, and the opinion of the law officers of the Crown framed upon it is the foundation of what was afterwards embodied in regard to this subject in the Quebec Act. Then we find in the Quebec Act that while the religion of the inhabitants of the country was specially protected, that the religious communities were excepted therefrom and that they were left to be dealt with by the Crown, thereby leaving those matters just as they stood,—owing to the conquest, by virtue of that conquest and by virtue of that proclamation—leaving matters exactly as they stood with regard to the religious communities, and dealt with the people of the country as distinct and separable from their religious communities. Then let me read what was the outcome of the Quebec Act. It was passed in 1774, and in 1775 express instructions are given to Guy Carleton, the Captain General and the Governor in Chief of the Province of Canada, and these are the instructions:

"That the Society of Jesus be suppressed and dissolved, and no longer continued as a body corporate and politic, and all their rights, possessions, and property shall be vested in Us, for such purposes as we may hereafter think fit to direct or 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."

Now, can it be reasonably argued, that this estate of the Jesuits did not vest and pass to the Crown, and were not held by the Crown? I have spoken of this simply as a lawyer, I have spoken of it simply upon the grounds and with reference to the authorities which I find. I offer no opinion of my own about it, and I simply state facts as I find them. Let me follow up a little farther to see what becomes of these matters. Sir James Marriott's opinion is again invoked, but I will not trouble the House with this long extract. Sufficient to say that it substantially agrees with his former opinion. In a few words, just to summarise what he states, he says:

"In a few words the Society of Jesus had not and cannot have any estate in Canada legally and completely vested in them at any time, and therefore could not and cannot transfer the same before nor after the term of eighteen months so as to make a good title to purchasers, either with or without the powers or ratification of the Father General who, as he could not retire, so he cannot retain any possessions in Canada, since the time limited for the sales of estates there agreeably to the terms of the treaty; because he is as incapable of becoming a British subject, as he was of being a French subject; nor can the individuals of the communities of the Jesuits in Canada, take or transfer what the Father General cannot take or transfer; nor can they, having but one common stock with all to other communities of their order in every part of the globe, hold immoveable possessions, to be applied for the joint benefit of those communities which are resident in foreign states; and which may become the enemies of His Majesty and his Government."

Mr. MILLS (Bothwell). That is the third opinion as to how the estates are confiscated.

Mr. McCARTHY. It is the third opinion. It is in the same report to which I have referred, or rather it is the second opinion on this special question submitted to Sir James Marriott with regard to the Jesuits' properties. Now, in 1770, General Amherst, then Lord Amherst, I believe, petitioned the Crown to be compensated for the services which he had rendered the country in the conquest of Canada out of these estates; or rather he made a petition generally, and the King ordered and directed that the General should be compensated, and compensated out of the Jesuits' estates. I only state that to show that these estates were dealt with at that time beyond all peradventure as a part of the Crown lands. Now I would read one extract which shows the different manner in which the Jesuits were treated from the other religious communities; by-and-bye, perhaps, it may be my duty to point out why it was so, for I cannot very well, however much I would wish to avoid it, however much I would wish to do as my hon. friend behind me (Mr. Colby) did, ignore the past. I am afraid it will be impossible to treat this subject properly without some little reference to the historical facts we have relating to the