

" thrown back, he could not foresee the consequences, but at least he knew that peace and tranquillity must in that event long remain strangers to the province."

Such were Lord Sydenham's anxious endeavours for the final settlement of the Clergy Reserves. His discerning eye perceived that unless this was done the Church of England would be prostrated, and the Church of Rome virtually established, in both sections of the province, and this result he was determined, if possible, to prevent. In this Lord Sydenham identified himself with those who from conscientious motives opposed the union. They dreaded the ascendancy of the Romish church and the progress of Socialism, as may be seen in the protests against that measure recorded in the journals of the Legislative Council of Upper Canada (16 December 1840, p. 23-29).

In consequence of Lord Sydenham's urgent solicitation, the 3 & 4 Victoria, c. 78. was passed (which is a transcript nearly of the Bill enclosed in the Despatch alluded to, and which had been passed at his Lordship's instance by the Legislature of Upper Canada) to provide for the sale of the Clergy Reserves in the province of Canada, and for the disposition of the proceeds thereof. All the provisions of the Act, as well as the preamble, prove that it was intended by the Imperial Legislature to be final, and as such was accepted by the people of Canada. Never, perhaps, was a statute passed with greater solemnity and consideration. The twelve judges were consulted, Lord John Russell, Her Majesty's Principal Secretary of State for the Colonies, after protracted negotiations with the Archbishop of Canterbury and the Bishops then in London acting on behalf of the Church, agreed in the spirit of conciliation to a compromise which resulted in the 3 & 4 Victoria, cap. 78. The Church of Scotland was also consulted, and approved of the provisions of the measure before it became law. A reference to the debates and proceedings on this Act in the Mirror of Parliament must satisfy every reasonable and honest mind that the object of all parties concerned was to settle the whole question in the most just and satisfactory manner then and for ever.

This further appears from the pains taken to adopt the provisions of the Act to the new interpretation given to the words "Protestant Clergy," which, according to the opinion of the twelve judges, were held to embrace, since the repeal of the Test Acts, the teachers of all Protestant denominations, and no longer confined to the clergy of the Church of England.

Accordingly the 3 & 4 Victoria recognizes all Protestant denominations as entitled to share in the proceeds of the Clergy Reserves; nor are the Roman Catholics actually excluded, though not distinctly named. From all which it appears that this Act is in truth an integral part of the Union of the two provinces, and that any infringement of the settlement thus made at the solemn request of Lord Sydenham does in fact vitiate the said Union. It is true the Imperial Parliament is deemed omnipotent; but, if so, it is to do good, not to do evil. No power has a right to perpetrate injustice, or to trample on its own solemn acts and engagements. It is clear from his letter to Lord John Russell that Lord Sydenham never would have attempted to carry the Union, had he not first secured the remainder of her property to the Church of England. Hence, in every point of view, the 3 & 4 Victoria, cap. 78, cannot be repealed without disturbing the Act of Union.

Were anything wanting to establish this view of the subject it is amply supplied by the forty-second clause of the Union Act (3 & 4 Vict. cap. 35.), which having respect to ecclesiastical and Crown rights, the two churches of England and Rome in regard to their temporalities are placed on an equal footing, as had already been done in the fourteenth and thirty-first of George the Third; so that to touch the property of the one is to endanger both, and thus leave their endowments at the will of the varying majority.

That the 3 & 4 Victoria was a wise though not a perfect measure is manifest from the fact that for ten years, that is from 1840 to 1850, the province was at peace on the question of the Reserves, which were believed to be finally and absolutely settled. It was so declared by the united legislature in 1846, and a strong recommendation was added that no change or deviation from this settlement ought to be sanctioned by the legislature. Thus the pledged faith and guarantee of the Imperial and Canadian Governments and of the two national Churches has been given to preserve the settlement inviolate.

Again, so far as the two national Protestant Churches are concerned, they