

## The Legal News.

Vol. XII. AUGUST 10, 1889. No. 32.

### THE JESUITS' ESTATES ACT.

In replying to a deputation who presented a petition to the Governor General, at Quebec, August 2, asking His Excellency to disallow the Jesuits' Estates Settlement Act, His Lordship said :—

"Gentlemen,—I am not used to receiving such deputations as this and in such a way, but, in view of the importance of the subject, I am willing to create a precedent. At the same time it is one which I do not think should be too often followed. There is a considerable difficulty in receiving such a deputation as this, and in speaking not to lay one's self open to a charge of arguing for or against measures in which the deputation are interested, but with the sanction of my advisers I am disposed to let the deputation know what has been the aspect of the case as it has presented itself to me. I have listened with a great deal of interest to the remarks of the gentlemen who have spoken just now, and I trust it will not be considered any disrespect to those who have so ably stated their views if I express neither concurrence with nor disapproval of their remarks, lest I should drift into what might be considered as argument, however unintentionally.

"Previous to my arrival in this country, or about that time, the legislature of Quebec had passed the Act in question. The history of the Jesuits' estates is so well known that I need not here refer to it in detail. Large amounts of property had lain virtually idle because, when the provincial Government had endeavored to sell it, protests had been made by the claimants and, in fact, no one would purchase on so doubtful a title. I cannot agree with the view expressed in the second paragraph of your petition. There were two sets of claimants at least to the Jesuits' estates. It was necessary to arrange to whom compensation should be made, and ensure a division which would be accepted by all. It

is true that the Pope, as an authority recognized by both sets of claimants, was to be called upon to approve or disapprove the proposed division as far as Roman Catholic claimants were concerned, but this appears to me to relate not to the action of the legislature of the province, but to the division of the funds after they had been paid over. It is arguable that as a matter of fact there is no reference to the Pope's authority at all in the executive portion of the Act. It is undoubtedly the case that the preamble to the Act—an unusually long one, by the way,—contains a recital of events which led to the introduction of the bill, and that in the correspondence so set out, authority had been claimed on behalf of the Holy See, to which, however, the First Minister did not assent. The introduction of the name of the Pope may be unusual, and very likely unpalatable to some, as Protestants, but as it appears in course of a recital of facts which had previously occurred and which, of course, legislation could not obliterate or annul, and there being, moreover, no such reference in the body of the Act, I did not consider that Her Majesty's authority was in any degree weakened or assailed, nor that I was compelled, in the exercise of my duty as her representative, to disallow the Act on that account.

"As to the question of policy, that is not one on which I feel at liberty to pronounce an opinion. I believe, and am confirmed in my belief by the best authorities whom I can consult, that the Act was *intra vires*. Then my power of interference is limited, for the Act does not appear to do more than to seek to restore to a certain society, not in kind, but in money, a portion of the property of which that society was in years gone by deprived without compensation, and it proposes to give a compensation therefor in the money of the province which had become possessed of the property and was profiting by it. As to the recognition spoken of in paragraph 4 of your petition, of the rights of the Jesuit society to make further demands, it seems to me that these Acts leave such so-called 'rights' exactly where they were. It is by no means uncommon for the Crown to recognize such a moral claim. And I can