

No. 4.
 Lord Glenelg
 to
 Lieut. Governor
 Sir F. B. Head,
 6th July 1837.

valid Measures, yet it would be most foreign to my real Intention if I should be supposed to cast any Doubt on the Propriety of Sir John Colborne's Conduct in reference to them. That distinguished Officer has given too many Proofs of his devoted Zeal for His Majesty's Service, and for the Good of the King's Subjects, to permit the Admission of even a Surmise injurious to his public Spirit on this or any other Occasion; and although I may differ from him in Opinion as to the Expediency of establishing the Rectories, especially at the Moment chosen for that Purpose, yet I am convinced that Sir John Colborne would as readily as any Man acknowledge that opposite Views of the Public Interest, upon any particular Question, may be entertained by Men engaged in the same Branch of His Majesty's Service without derogating in the slightest Degree from their mutual Esteem and Confidence. Indeed, in proportion to the Strength of those Feelings will usually be the Freedom with which such opposite Views are avowed and discussed.

On receiving your Despatch of the 17th December, it appeared to me very questionable whether any adequate legal Authority existed for the Creation or Endowment of the Rectories. I did not indeed perceive any possible Ground for disputing the Right of the Lieutenant Governor in Council to proceed to that Measure, if previously sanctioned by the King; but on referring to the Commissions of Lords Aylmer and Gosford, to the General Instructions accompanying them, to the Correspondence between this Department and the Provincial Government, and to the Minutes of the Executive Council of the 15th January 1836, it appeared to me that no such Sanction had ever been given. The Grounds of this Opinion you will learn from the accompanying Copy of the Communication which I thought it necessary to address to the King's Advocate and to the Attorney and Solicitor General.

The Law Officers of the Crown received that Reference on the 12th April, and reported to me their Answer on the 8th Ultimo. The Delay is readily accounted for by the great Importance of the Question, and by the Anxiety of His Majesty's Legal Advisers to offer no immature Judgment on such an Occasion. I enclose for your Information a Copy of their Report. You will find that they declare their Opinion to be, that the Erection and the Endowment of the Fifty-seven Rectories by Sir J. Colborne are not valid and lawful Acts.

I confess myself to be much embarrassed by this Decision; it imposes upon Her Majesty's Government a Duty which is for many Reasons exceedingly irksome. The Demands of the Members of the Church of Scotland would forbid a silent Acquiescence in what has been done, even if such Inaction were otherwise compatible with the Obligations of the Office which I have the Honour to hold; yet I feel that by acting on the Advice of the Law Officers of the Crown in this Instance I shall inevitably appear to be assuming an Attitude of Opposition to the Interests of the Church of England. I can, however, only pursue the straight Path which lies before me; trusting that if I shall not at first escape Misconstruction, I shall ultimately be acquitted by the Parties more immediately concerned of any Failure in the Affection and Veneration for the Church of England which should characterize every sincere Member of her Communion.

It is of course possible that the Statement on which the Law Officers of the Crown have founded their Opinion may be erroneous or defective, although it is certain that the utmost Care and Labour have been bestowed on the Investigation of the Facts of the Case. It is also possible that Her Majesty's Legal Advisers may have misapprehended the Law, although it is equally clear that they have bestowed their most patient and laborious Attention on the Questions proposed to them. But, advertent to each of these possible Sources of Error, my first Solicitude is to ascertain whether any such Mistake has really occurred. You will therefore have the goodness to communicate a Copy of this Despatch to the Archdeacon of Toronto, who will probably think it right to lay it before the Bishop of Montreal, who is now officiating as Bishop of the Diocese of Quebec; and you will invite his Lordship and the Archdeacon to inform you whether they are aware of any material Fact omitted in the Case laid before the Crown Lawyers, or inaccurately stated there, or of any important Argument which may be supposed to have escaped the Notice of those Learned Persons. If any such Error or Oversight shall appear to you to have been committed,
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