

ON THE LEGISLATIVE INCORPORATION OF THE CHURCH.

Sir,

In your Number for August last there is an able article under the above title, which gave me much satisfaction, as it shows that some attention begins to be paid to this important matter. At the conclusion the writer invites discussion on the subject; and in consequence I mean to state some circumstances and considerations with which he appears to be unacquainted or to have overlooked.

The subject was taken up by our Ministers and Elders so long ago as 1820, if not earlier. In that year it was officially announced that the Protestant Bishop and his Clergy were incorporated for the purpose of managing the lands reserved for the support of a "Protestant Clergy." It was the erection of this corporation that first opened the eyes of the members of the Scottish Church in the Canadas; and before the formation of the Synod in 1831 they had frequently applied, to the proper authorities in the Mother Country, for relief from the difficulties and disabilities under which they have long laboured. Particularly in 1822, when a gentleman of the bar was sent from this province as Agent for both the Canadas, with petitions to His Majesty and the two houses of the Imperial Parliament. But no person ever suggested an application to our provincial Legislatures for redress; though this appears to be the intention of the article now under consideration. Several reasons exist for applying directly at the fountain-head; but it will suffice to state two only. First, any bill that may be passed by the two houses of Legislature of either province, relating to ecclesiastical affairs, cannot legally receive the Governor's assent, but must be reserved for the signification of Her Majesty's pleasure; and even the Royal prerogative is so much restrained by section 42 of our constitutional act, that a copy of such bill must first be submitted to both houses of Parliament for thirty days; and if within that time either house think fit to address Her Majesty, praying that her sanction may be withheld, it shall not be lawful for Her Majesty to assent to the bill. The other reason is, that an act passed in one of the Canadas can have no force or validity in the other; and it is beyond all reasonable hope that the two legislatures will ever agree to the same enactments in any bill that may be proposed to them. But as the authority of the Synod extends over both provinces, it is desirable and necessary that the ecclesiastical constitution of both should be the same. It is true that by our constitutional act, sections 35 and 41, the appro-

priation of the Clergy Reserves, &c. may be varied or repealed by the Legislatures of either province, under the restrictions abovementioned. And the Governors of both provinces, in consequence of instructions from the Colonial Secretary, recommended the matter to the consideration of their respective Legislatures in January 1832; but nothing satisfactory has yet resulted therefrom. In this province no proceedings have been had; and in Upper Canada, the recommendation has been worse than useless from the party spirit which it has engendered, and the intemperate proceedings to which it has given rise, particularly during the session of your Legislature last winter.

This will show the fallacy and inutility of applying to the provincial Legislatures for what we claim and are justly entitled to; but where your Legislature has imposed disabilities on your ministers in regard to the solemnization of marriages, and restricting each congregation to the possession of only five acres of land by the act of 1828, (in which they are included under the general name of *Presbyterians*) even though it be purchased or bequeathed to them, you most certainly ought to seek redress, at least in the first instance, from the same power that imposed such galling disabilities and restrictions. But I am not disposed nor prepared to enter into details respecting the relief you ought to claim. However, as Presbyteries now meet regularly in Upper Canada, the degrading enactment requiring our ministers, on being ordained to their congregations; to submit their credentials to the Court of Quarter Sessions, ought to be repealed or greatly amended.

In the "draft of an act of Incorporation," it seems to me there is an omission in not providing by a positive enactment, that whenever any minister shall be suspended, deprived or deposed, he shall at the same time be deprived of all his rights and emoluments as pastor of the congregation to which he had been ordained. And if an act be obtained of the Imperial Parliament (the only competent authority to legislate definitively on the matter), the expressions in several instances will require to be altered. From the whole tenor of the article alluded to, and particularly the third point which it is proposed should be defined in what is technically called "*the Constitution of the Church*," it is evident the writer intends that the minister should be elected by some of the congregation. This I consider wholly inexpedient; for it forms no essential or permanent part of our Church Government; as the practice has not been uniformly the same, and even at this day, patronage still exists to a great extent in Scotland; and it does not