

capable to repeal or to amend it. The Duty of the Executive Government is simply to execute its Provisions. In this Conclusion you have rested, and there also I should have been inclined to terminate the Discussion, if I had not recently found Cause to suppose that the Act of 1791 has received an erroneous Construction from the Petitioners, as well as from others of deservedly great Authority in the Province. It is important to rescue the Constitution from a Censure and a consequent Unpopularity to which it is not justly obnoxious.

The Petitioners maintain that the Act of 1791 is an Infringement on their Rights, because it provides for the Endowment of Rectories in Canada, and for the Presentation of Ministers of the Church of England as Incumbents, and because it invests those Incumbents with Spiritual Jurisdiction over all Denominations of Christians within the Bounds of their respective Rectories. To show that this alleged Grievance is not merely a theoretical Evil, but a practical Wrong, the Petitioners refer to the Establishment of Fifty-seven Rectories in January 1836. They complain of this Measure as a Departure from the Pledge of the Crown to refer to the Local Parliament the Settlement of the Disputes which had arisen respecting the Clergy Reserves, and declare themselves unwilling to assume that the King would at that Time have instructed His Majesty's Representative to have established those Rectories; they then declare that this Act has tended more than any other Circumstance to diminish the Estimation of the Equity of His Majesty's Government in the Province, and as a Reparation they call upon the King, in substance, to invest the Church of Scotland with Powers co-extensive with those which are enjoyed by the Sister Church of England, but to restrict the Spiritual Authority of both to their own peculiar Members. Without expressing a decided Opinion as to the Nature and Extent of the Spiritual Jurisdiction which would accompany the Creation of any Rectories under the Act of 1791, I trust that the following Explanation of the Measures which I have taken in the Interval which has elapsed since I received your Despatch of the 17th December last, No. 101., upon the Subject of the Fifty-seven Rectories created by an Act of your immediate Predecessor in the Government, will convince the Petitioners of the Church of Scotland that they have to a certain Extent misapprehended the Act of 1791, so far at least as that Statute may be supposed to have authorized the Establishment of the Rectories in question.

You are aware that your Despatch of the 17th December 1836 contained the first official Intimation which ever reached me of the Rectories having been either established or endowed. The Fact had been asserted in Parliament, but I was not only officially uninformed, but really ignorant that it had occurred; I therefore requested you to supply me with the necessary Information, and until it reached me in the Month of February last, I was entirely destitute of all authentic Intelligence as to what had really been done.

You will not, I trust, even for a Moment, suppose that I refer in the Spirit of Censure or Complaint to the Silence of the Provincial Government on this Occasion; it admits of an obvious Explanation. The Creation and Endowment of the Rectories was almost the last Act of Sir John Colborne's Administration; and as at that Time you were actually on your Way from New York to Toronto, your Predecessor probably assumed that the Proceeding would be reported by you, he having at last, as it may well be imagined, scarcely Leisure enough for the Discharge of his many indispensable and urgent public Duties. On the other hand, it is impossible not to respect the Feelings which indisposed you to enter on the Subject. Regretting the Measure itself as creating a new Embarrassment in your Path, at that Time beset by Difficulties of no ordinary Kind, and naturally regarding it as irremediable, you preferred to contend with this Obstacle silently rather than to avail yourself of it, either as an Apology in the event of Failure, or as enhancing your own Merit in the event of Success. To this generous Solicitude for the Credit of your immediate Predecessor I have always attributed your Omission to report his Proceedings with regard to the Rectories; and I fully admit, that with the Opinion which you entertained, and could scarcely have failed to entertain, as to the Validity of the Act itself, the Motives for making it a Subject of Correspondence were but few and of no great Weight.

Although, for the Reasons to be subsequently stated, I am compelled to think that the Creation and Endowment of the Rectories were not lawful or