of England concerning Institution, Induction, and Lapse.

The second mode by which the ecclesiastical laws of England may be introduced and have force within the Province, is by the Imperial Legislature, in some statute or statutes, expressly naming or including the Colony under general words.

The Report is rather full with reference to this mode, and how far ecclesiastical affairs in Canada are thereby affected. It states in substance, (pp. 37 and 38) that the Act of Uniformity, 13 and 14 Car. 2nd., cap. 4, by which the present Prayer Book is enforced, is expressly restricted in section 1, and in other parts, to the Kingdom of England, Dominion of Wales and Town of Berwick on Tweed, that although the Act of Uniformity, 1 Eliz., cap. 2, sec. 3, enforced the use of the then Book of Common Prayer, not only in the above named places, but also in other of the Queen's Dominions, yet *that* it set aside by the more recent Act of Car. II., which, whilst enacting in sec. 24, that previous laws for uniformity, shall apply to the revised Prayer Book, expressly makes the same restriction as in sec. 1, to the Kingdom of England, Dominion of Wales, and Town of Berwick on Tweed; and therefore that the only Acts affecting the Colonies, are those that regulate the appointment of Colonial Bishops, the Act 13th Eliz., cap. 12, and the Act 31st Geo. III., cap. 31.

The above statement is calculated, though no doubt unintentially, to entirely mislead the Synod. It is true that the Act 13 & 14 Car. II., cap. 4, is expressly restricted in its very text to the Kingdom of England, Dominion of Wales, and Town of Berwick on Tweed. It may also be true that the 1st Eliz., cap. 2, although including the Colonies under general words, is nevertheless restricted by the more recent Act of Car. II., to the above named places; but it is a grave mistake to assert that the 13th Eliz. cap. 12, as quoted in the Report, or indeed in any form, is, as a mere Act of the Imperial Legislature, of force in this Province. 1st. Because by the 5th A., cap. 5, which confirms 13th Eliz. cap. 12, the clauses of the original Act, which were repealed or altered by subsequent Acts, are expressly declared to be no longer of force in England; and 2nd. Because although the Act in its original form includes the Dependencies of England under general words, *that* is set set aside by the more recent Act 5 A, cap. 8, which provides, that the 13th Eliz., cap. 12, with the restrictions above named, shall henceforth be maintained in the Kingdom of England, Dominion of Wales, and Town of Berwick on Tweed; such restriction to the above named places being a necessity arising out of the union between England and Scotland, which was just then effected.

Again, some of the provisions of the 13th Elizabeth, ch. 12, are so restricted in their very nature, as not to apply to the colonies. Thus, section six, which is wholly omitted from the copy of the act given in the report, cannot possibly be supposed to apply to this Province, for it enacts "That none hereafter shall be admitted to any benefice with cure, of or above the value of £30 yearly in the Queen's books, unless he shall then be a bachelor of divinity, or a preacher lawfully allowed by some bishop *within the Realm*, or by some one of the universities of Cambridge or Oxford"

Again, the 13 & 14 Car. II., cap. 4, alters the sense in which the 36th article of the 39 to which subscription is required by the 13 Eliz., ch. 12, is to be understood; but since the act of Car. II. does not, in the opinion of the committee, apply to this Province, neither can the alteration, consequently by affirming that the act of 13 Eliz., ch 12, is here in force as originally passed, we are necessarily involved in the absurd conclusion, that the articles are to be subscribed in a different sense here and in England. Mr Hallman, moreover, in his constitutional history of England, gives it as his opinion, strongly supported by collateral evidence, that the act of Eliz. requires subscription to nothing more than to all the articles which *only* concern the confession of the true faith, although he admits that the *practice* was otherwise.

The report further seeks to substantiate the assertion, that the act of Eliz as originally passed is of force here, by remarking, that it was under this act that proceedings were taken in England against Archdeacon Denison. Now even were the assertion correct, that the act is, without alteration, of force in England, it would not as a matter of course, be so here. But it is well known, that Archdeacon Denison's case was not decided under this act taken *per se*, but as modified by the 3 & 4 Vic., ch. 86, which as a general rule enacts, that no suit under the act can be sustained, unless brought within two years after the commission of the offence. Upon all these grounds I contend that the 13 Eliz. ch. 12, cannot, in the manner contended for in the report, be of force in this Province.

The only remaining acts which, according to the report affect the colonies, are those which regulate the appointment of colonial bishops, and the 31 Geo. III., ch. 31. Of the former nothing is explicitly said in the report. Respecting the latter, I have already endeavoured to point out its force and significance in relation to this Province. The committee have, however, according to their own admission, advisedly abstained from pronouncing any opinion as to what part of it may or may not be still in force: but surely it must, to say the least of it, be deemed a rash proceeding for the Synod to adopt a body of rules and regulations, without knowing, or being advised of the exact state of the law; seing we are strictly bound by statute not to come into conflict with it.

This may be a fit place to point out another act, affecting the Church in the colonies, which has nevertheless been overlooked in the report. The 3rd & 4th Vic., ch 33, makes provision for allowing bishops or ministers of the Protestant Episcopal Church of Scotland, and also the Protestant Episcopal Church of the United States of America, to officiate occasionally in the Churches and Chapels of the United Church of England and Ireland. Its 4th and 5th sections enact, that the Church in the colonies is to be regarded for the purposes of this act, as the Church of England; from which, it may, I think, be strongly inferred, that the act of uniformity 13 & 14 Car II., ch. 4, must be regarded as in some way or other having force in this province, and as that act is in its text restricted to the kingdom of England, Dominion of Wales, and town of Berwick on Tweed, it can only have force here, either by virtue of the royal prerogative, or by the method which I now proceed to consider.

The third mode by which the laws of the superior state may be introduced and have force within a dependency, is by voluntary adoption on the part of the dependency, by the colony adopting them under the authority of its constitutional charter, either in whole or in part, or copying the spirit of their own law from them as its original; in which case the law receives its obligation and authoritative force, from being the law of the country.

The statement of the report on this head is, "That when in an early period of the history of this colony the English statutes were adopted, the ecclesiastical portion was excepted" (p. 37, Proceedings of Synod 1858).

Although not explicitly so stated in the Report, allusion is here made, I presume, to the provincial statute 32 Geo. III., ch. 1, which at its 3rd section enacts, "that from and after the passing of this act, in all matters of controversy relative to property and civil rights, resort shall be had to the laws of England as the rule for decision of the same." If it be contended that the words "property and civil rights" are not of sufficient amplitude to embrace ecclesiastical rights and dues; how untenable that opinion is, may be seen from the proviso contained in a subsequent section. The 6th section enacts "that nothing in this act contained shall vary or interfere with any of the subsisting provisions respecting ecclesiastical rights or dues within this province." Hence, it is clear that the words "property and civil rights," may properly embrace ecclesiastical rights and dues, for otherwise there would be no need for the proviso. The fact is, that at the time of the passing of this act there were some subsisting provisions respecting ecclesiastical rights and dues, which could only be carried into effect by resort being had to the French law then of force in Canada, and also some provisions affecting the Church of England in Canada, for carrying out of which resort must have been had to the ecclesiastical law of England; and the provincial legislature thinking it most prudent and convenient to allow the subsisting provisions in either case, to stand on the footing upon which they were placed by the constitutional acts 14 Geo. III., ch. 83, and 31st Geo. III., ch. 31, only provided that all subsequent ecclesiastical provisions should come under the operation of this act.

Be that as it may, I cannot see any thing in the act that can justify the assertion that the ecclesiastical portion of the English statutes was *excluded*.* That portion was introduced into the Province, as already observed, by the exercise of the royal prerogative, confirmed by 31st Geo. III. ch. 31; and for the provincial statute in question to have had the effect alleged, it should in express words have restrained the prerogative, and repealed so much of the constitutional act, as refers to the matter.

From the foregoing considerations I conclude, that in relation to the Church of England in Canada, the ecclesiastical law of England is in force in the Province, both by virtue of the royal prerogative and the allowance of the provincial legislature.

I now turn to the consideration of the second branch of the report, which embodies such of the English canons as with certain specified alterations the committee recommended should be declared by the Synod to be in full force in this diocese.

It is not my intention to notice the various alterations it is proposed to make in several of the canons. These are comparatively of minor importance, and may possibly, by friendly consultation and a little mutual concession and forbearance, be easily arranged so as to meet the views of all parties. My attention shall be rather directed to the inquiry; 1st, Are there any fundamental objections which *a priori* should induce the Synod as a composite body, to withhold its assent from these canons? And. 2nd, Are the provisions introduced for the establishment of an ecclesiastical court for the trial of clergymen, in consonance with the tenor and spirit of the English canons and ecclesiastical statute law.

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* *Note.*—Several Provincial statutes recognise the English Canons as of force in the Province, and bind the Church here to the observance of them in the management of its affairs.—See Church Temporalities Act. sec. 15.