

— No. 7. —

(No. 39.)

COPY of a DESPATCH from the Right Honourable *H. Labouchere* to
Governor-General Sir *Edmund Head*, Bart.

Sir,

Downing-street, 15 February 1856.

WITH reference to Sir William Molesworth's despatch of the 24th September last, transmitting to you copy of a letter from the law advisers of the Crown, explaining the obstacles which exist to compliance with the prayer of the Address of the Legislative Council and Assembly of Canada, that a measure may be introduced into the Imperial Parliament to remove all obstructions that may exist, or be supposed to exist, under any statute now in force in Great Britain to prevent the meeting of the bishops, clergy, and laity of the United Church of England and Ireland in Canada, in synod, for the purposes therein specified; I wish now to communicate to you the result of the further deliberations of Her Majesty's Government on this important and difficult subject.

2. It is undoubtedly plain, from the opinion already communicated to you, that it would be impossible to effect, in a literal manner, the whole of what is prayed for by the Address, without the assistance of Parliament. Nevertheless, Her Majesty's Government have a strong feeling that the difficulties raised by that opinion against adopting the entire recommendation of the Canadian Legislature ought not to be permitted to interfere with the meeting of the clergy and laity, by representative bodies, for the purpose of making rules for the management of church affairs, not having legal force or in the nature of canons, nor contravening any known law of the Church; but binding on those who make them, in the same manner as similar rules, generally speaking, in communities of Christians not established by law. And they are by no means satisfied that, for purposes so simple, any statutable aid is necessary.

3. But there are strong reasons for thinking that if Parliamentary legislation is not strictly necessary, it is highly inexpedient. On the one hand, all parties, as it appears, are anxious to preserve the unity of the Church of England. Even those who most desire the removal of the restrictions under which they conceive themselves to labour, seem to entertain no thought of separation as the final result: and yet it would not be easy to frame a measure, and perhaps still more difficult to obtain the assent of Parliament to such a measure unaltered, which should satisfy the wishes of the Canadian Legislature, and realize the objects contemplated by that body, without effecting at least a partial separation of the colonial and mother church, and encroaching on that supremacy of the Crown, which is at present the substantial bond of union. Unless I have altogether mistaken the spirit by which the members of the Anglican Church in Canada are animated, I greatly doubt whether they would not regret even the accomplishment of their own immediate wishes, if attended with such a permanent result.

4. On the other hand, it would be perhaps hardly less difficult to frame such a measure, even of the merest enabling character, without in some degree compromising the principle which regards legislation on the internal affairs of Canada as belonging to its own legislature, and not that of the empire at large. However guarded the expressions might be, there would be danger of constituting within the Province a kind of corporate body, independent in some respects of the Provincial Legislature itself.

5. Legislation by the Parliament of Canada would be open to neither of these objections. It could not impair the connexion between the Anglican Churches of the Province and the mother country, because any of its provisions, which might involve some seeming and accidental derogation from the supremacy of the Crown, could not be construed as legally operative against those principles of general law, binding throughout the British dominions, on which that supremacy is founded. On the other hand, the Canadian Legislature could, at its discretion, give legal effect to the ordinary proceedings of the proposed synods, so far as necessary; which it would be very difficult for Parliament to do, without infringing on the rights of that Legislature by dealing with a strictly local subject. This seems the more essential, inasmuch as, although the

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