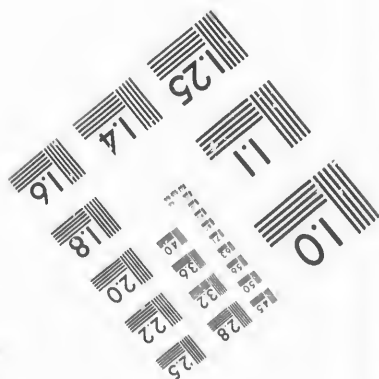
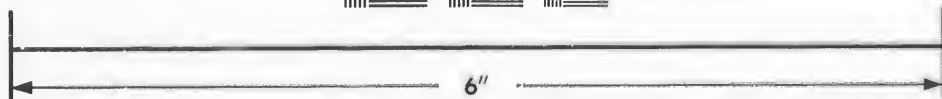
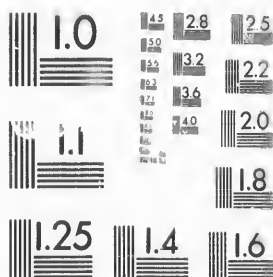


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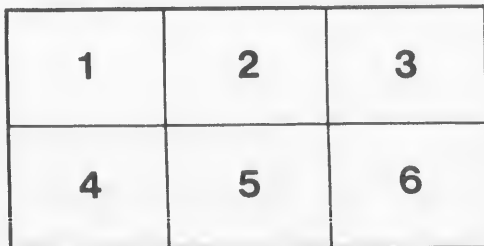
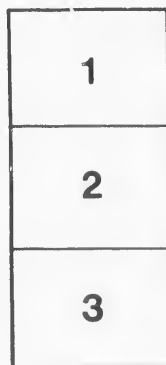
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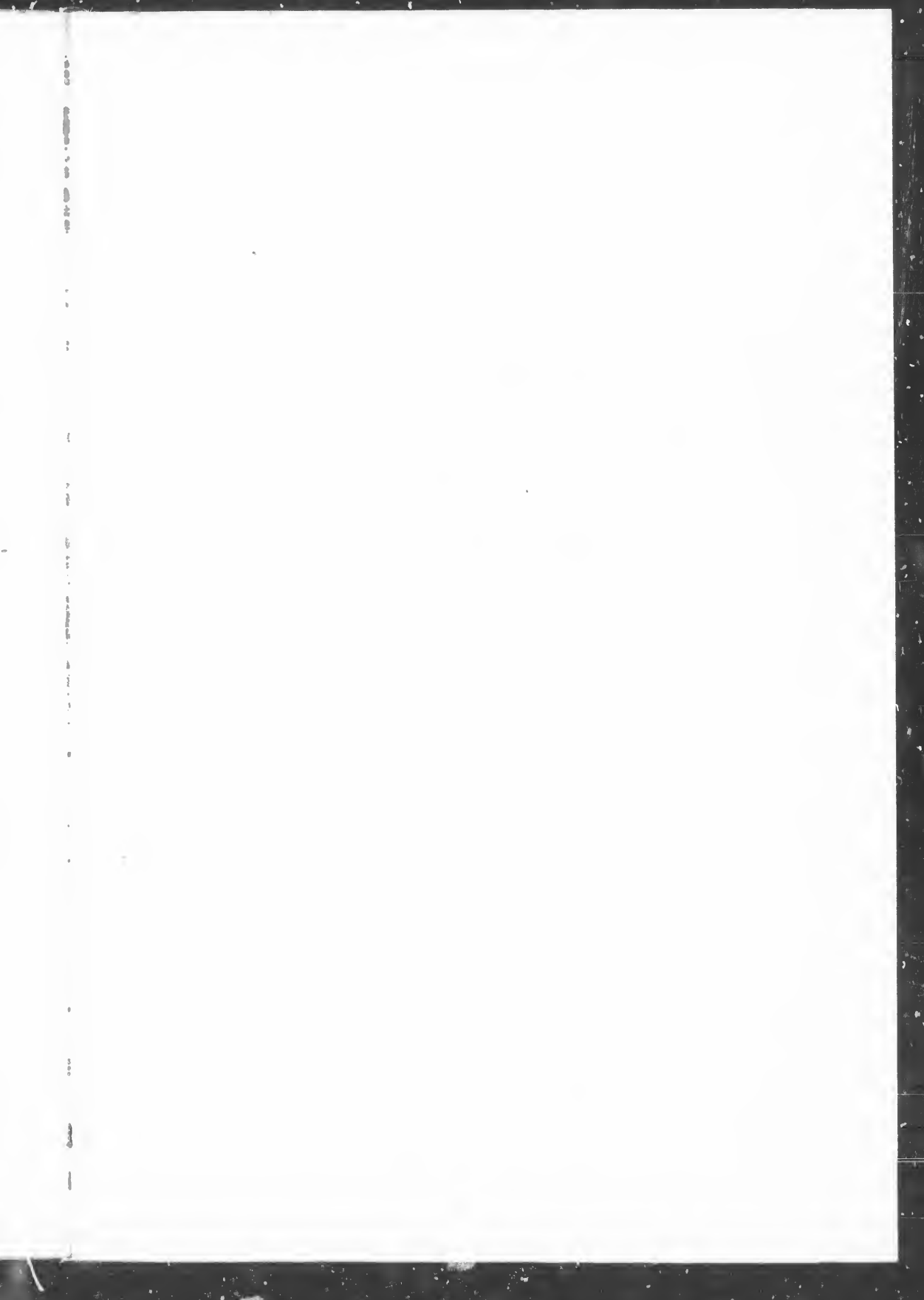
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ABSTRACT of Proceedings in Council,  
relative to the Grant, directed to be made  
of the Jedis Estate, in Canada, to the  
**late JAMES LORD ASHERST.**

*Ordered to be printed 13th July 1801.*

1801



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## ABSTRACT

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PROCEEDINGS in COUNCIL, relative to the Grant, to the late *Jedery Lord Amherst*, of the Estates, belonging to the *Jesuits*, in *Canada*: With the Dates of the several Orders made by HIS MAJESTY in Council, in that behalf; and REPORTS of the late Board of Trade, and of HIS MAJESTY'S Law Officers for the Time being.

ON the 24th May 1770 His Majesty was pleased to refer, to a Committee, a Petition from *Jedery Lord Amherst* to His Majesty in Council, stating, That His Majesty having been graciously pleased to signify his Intention of bestowing a Mark of His Royal Favour, in America, on the Petitioner; and praying a Grant of the Estates belonging to the *Jesuits* in *Canada*. May 1770

This Petition was referred, by the Committee, to the Board of Trade; who made their Report thereon, dated 7th June following, but offered no decided Opinion upon the Petition of *Lord Amherst*.

On the 2d November 1770 the Lords of the Committee made their Report to His Majesty; and submitted, that His Majesty's Attorney and Solicitor General should be directed to prepare the Draft of a proper Instrument, to be passed under the Great Seal, for granting to *Lord Amherst* the Estates belonging to the *Jesuits* in *Canada*; reserving to His Majesty, for Public Uses, the Colleges and Chapel, with their Appurtenances, which belonged to the *Society* in *Quebec*, *Montreal*, and *Trois Rivieres*; the Grantee engaging to make Satisfaction to each of the then Possessors as were in Possession at the Time of the Conquest.

The Report was approved, and an Order made, containing Directions as above, to His Majesty's Attorney and Solicitor General; who, by a Report dated 14th December 1770, submitted, that they could not proceed



in preparing the Instrument, for want of an authentic Account of the Nature and Description of the Estates intended to be granted by His Majesty.

On the 20th December 1770 another Petition was presented by Lord Amherst, praying, That His Majesty would renew his Order to the Attorney and Solicitor General, for preparing the Draft of Grant, and containing a Particular of the Estate, &c. with an Affidavit annexed of General Murray (the then Governor of Quebec) to the same Effect; which Petition was referred to the Law Officers by His Majesty's Order in Council, bearing Date the 21st December 1770, and in case the same contained an authentic Account of the Nature and Description of the said Estates, they were to prepare the Draft of the Grant, &c. But it appears, by the Report of His Majesty's Law Officers, in return to the said Order, that the said Affidavit of General Murray did not, in their Opinion, set forth an authentic Account of the Nature and Description of the Estates intended to be granted.

1771. On the 8th March 1771 a further Petition was presented by Lord Amherst, stating, That he had lately received from Canada a particular Account and Description of the Estates belonging to the Jesuits in that Province, certified by the Clerk of Enrolments to be conformable to the Registers of the Intendant's Office, and those of the superior Council of Quebec, &c. &c.; which Petition, and Papers annexed thereto, were referred to His Majesty's Law Officers, to consider the same, with such further Accounts and Proofs as should be laid before them, and to prepare the Draft of Instrument for making a Grant to the Petitioner, agreeable to His Majesty's former Order.

March 1779. A further Petition was presented by Lord Amherst, praying, That His Majesty would renew his former Order to the Attorney and Solicitor General, for preparing the Draft of Grant, and would empower them to receive and admit such further Evidence as should be laid before them, for ascertaining the Description, Boundaries, and Tenure of the said Lands; and was referred to the Law Officers accordingly.

July 1786. On the 6th July 1786, His Majesty's then Attorney and Solicitor General made their Report to His Majesty, in return to the preceding Order, and to the former Orders of the same Tenour; by which it appears, that Lord Amherst had forborne to lay before them some Document or Documents, in his Possession, for the better ascertaining the Nature, &c. of the Lands, by reason of the Troubles which, in 1779, and for

for some Years afterwards, subdued in North America; and submitting, that the additional Evidence produced, was still insufficient to ascertain various Particulars necessary to be known: viz.

The present Titles, by which the Lands were possessed:

The Persons by whom possessed:

Their present Value, and the Nature of the Tenures, by which they were holden:

The exact local Situation; their Extent and Population, and whether any and what Claims are made by the Heirs or the Donors of such Part of the Lands as were given to the religious Order by private Persons.

And the Report concludes by submitting, that the said several Particulars, and all other material Circumstances attending the Lands in question, may be best ascertained by an Enquiry, instituted in the Province by Commissioners to be appointed by His Majesty's Governor, or by such Proceedings in the Nature of an Inquisition as he should find most consonant to the Laws and Customs of the Province, to institute for that Purpose; and that should such Particulars should be fully ascertained, they were still unable to prepare such Grant to the Petitioner as would be valid in Law.

This Report from the Law Officers was referred by His Majesty to the Consideration of the Lords of the Committee of Privy Council for Trade and Foreign Plantations; who, by their Report to His Majesty, dated the 10th of the said Month, submitted their Opinion, That, in Consideration of the Difficulties and Delay that had hitherto attended the carrying into Effect His Majesty's gracious Intention in favour of the Petitioner, His Majesty might authorize and direct the Governor of the Province of Quebec to cause the several Particulars, stated by the Attorney and Solicitor General in their above Report, and all other Circumstances attending the Lands in question, to be ascertained by Commissioners to be appointed, &c. &c. &c.; and that, upon return thereof, the Governor should prepare Grants, under the Seal of the Province, to the Petitioner, his Heirs and Assigns, of so much of the Lands belonging to the Crown in the said Province, as might be legally granted, under such Tenures and Conditions as such Payment and other Rights of Sovereignty might by Law belong to His Majesty, and under the Reservations and Conditions mentioned in His Majesty's former Order of the 14th November 1770, and excepting thereout such Parts or Parts thereof as His Majesty's Governor should judge necessary to be

be reserved for public Uses; and such Grant to be submitted to His Majesty's further Consideration.

On the 18th August 1726 the foregoing Report of the Lords of the Committee for Trade was approved by His Majesty, and an Order issued accordingly to the Governor of the Province of Quebec.

In pursuance of this Order, a Return was made by Lord Dorchester, the then Governor of Canada, of all the Proceedings which had taken place in that Province, with respect to the Survey of the Lands in question; and his Lordship, in his Letter accompanying the same, assigned his Reasons why he had not prepared a Grant of the said Lands in conformity thereto.

At a later Period a Return was made, by Governor Milne, of the actual Value and Revenue of these Estates, as made out by the Commissioners for the Management of the same. Governor Milne, in his Letter transmitting the same, which bears Date 23d February 1801, observes, that the Information must be depended on would certainly have been obtained by means of a Paper Terrier; but his Objections to that arose from finding it would not only have been attended with a considerable Expence, but that it would have taken up much more Time.

The Governor believes, however, that the Valuation (as now made) cannot be materially wrong; and states the Annual Revenue in 1801, according to the First Report dated the 13th January, as amounting to £. 1,245. 5s. 4d. exclusive of the Property situated within the Cities of Quebec and Montreal.

The Letter refers to a Second Report, dated the 6th of February 1801, and mentions that it is computed that the Concessions made since that Time have increased the Annual Revenue to £. 1,353. 13s. 4d.

In the Month of June 1791 the late Lord Amherst presented another Petition, renewing his Prayer, That the Governor or Lieutenant Governor for the Time being might be ordered to pass without further Delay the Grant in question, of all the said Estates, which should appear, from the Reports of the Commissioners appointed in pursuance of His Majesty's Order of the 18th August 1726, and by the Report of His Majesty's Law Officer, in the Province, His Majesty might legally give and grant.

This Petition was also referred to the Committee; but it does not appear to have been taken up during the Life of the late Lord Amherst.

On

On the 9th of May 1708 the present Lord Amherst presented his Petition to His Majesty in Council, stating all the Proceedings which had taken place, and particularly the Order of the 18th August 1786, which directed the Governor to appoint Commissioners, and institute an Inquiry in the Province for ascertaining the Nature of the Lands, &c. and that the Proceedings, under the said Commission, had been returned, together with a Digest or Analysis thereof, and the Report of the Law Officers in Canada; and praying that the said Law Officers in Canada might be directed to prepare a Grant of all such Parts or Portions of the Estates late belonging to the Society of Jesuits, as are particularly ascertained by the said Report; or that a Grant might be prepared of such Parts of the said Estates, and the Profits thereof, as His Majesty should think proper and best calculated to effectuate His Majesty's Bounty to the late Jeffery Lord Amherst.

This Petition was referred to a Committee; who recommended to His Majesty to make such Grant accordingly, under the special Reservation, Provision, and Declaration, that, when the clear Yearly Profits of the said Estates shall exceed £. 2,400. Sterling, Lord Amherst should account to His Majesty for the surplus Profits, after being allowed such Sums as he should have expended in settling, cultivating, and improving the said Estates, and all other Expences which Lord Amherst should in any Manner have been put to, in and about the said Estates, which had not hitherto appeared to have yielded any Revenue or Advantage to His Majesty; and also to be allowed the Charges attending the several Orders and Commissions in Canada, and other Proceedings, to ascertain the Nature and Description of the said Estates, and also such further Expences as might be incurred in passing, and carrying the Grant of the said Lands into Effect; and that His Majesty's Attorney and Solicitor should prepare a Draft of such Grant to be passed under the Great Seal of the Province, under the before-mentioned special Reservation, Provision, and Declaration, respecting the surplus Profits, and containing the Reservations specified in the former Orders; and further reserving to His Majesty such other Parts and Parcels of the Lands as His Majesty's Governors had actually applied to the Erection of Hospitals, Barracks, and other public Uses; and on the 23d January 1799, this Report was approved, and Order issued to the Attorney and Solicitor General accordingly.

In return to the above-mentioned Order, His Majesty's Law Officers made their Report, with the Draft of a Grant annexed, but submitted, that the Lands to be conveyed by the said Grant, lying within the Province of *Lower Canada*, with the particular Circumstances of which, and more especially with the Tenures, and proper Description thereof, not

being perfectly informed, they could not consider themselves as being perfectly competent to frame an Instrument which might not be liable to Objection, and therefore submitted, that the same should be fully considered by the Law Officers in Canada; and thereupon the Lords of the Committee, to whom the said Report and Draft of Instrument had been referred, recommended that His Majesty should approve of the Draft; but that, previous to the same passing the Seal of the Province, the Governor should be directed to consult the Law Officers of the Province with respect to such Provisions and Alterations, as, upon due Consideration of the Nature of the Tenures, and proper Description of the Lands, might appear to them advisable to be added to, or inserted in, the said Grant.

It is presumed, that a Return was made to this Order by the Governor, in the Spring of 1801; for it appears by the Council Book, that, on the 24th April 1801, a Letter was written to the Attorney General, stating, that several Proceedings had taken place in the Province, upon the Reference made to His Majesty's Law Officers *there*, of the Draft of the Grant prepared here and transmitted as above mentioned; and that the Law Officers in Canada had, by their Report to the Governor, bearing Date the 15th November 1799, stated certain Objections to the Validity of the said Instrument, as then constructed, according to the existing Laws of Canada; and the Letter went on to direct His Majesty's Attorney and Solicitor General *here*, to take into Consideration the Draft of the Original Instrument, and also the said Report of the Law Officers in Canada, and report their Opinion —

First, Whether the said Alterations and Amendments were proper to be adopted?

Secondly, in case they should be of Opinion, that such were proper, Whether it would be necessary that a new Draft of Instrument should be prepared and submitted to His Majesty for Approbation; or whether it would be sufficient, in case His Majesty's Attorney and Solicitor concurred in Opinion with the Law Officers in Canada, to direct the Governor to cause the said Alterations and Amendments to be inserted in the Instrument already prepared?

In answer to this Letter, His Majesty's Law Officers made a further Report to the Lords of the Committee, stating many Objections which occurred to them in respect to the Provision under which Lord Amherst was to hold the Lands, and be made accountable for the surplus Profits of the Estates beyond £. 2,400. per Annum.

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That it would render his Lordship a Public Accountant, and expose him and his Under-tenants to endless Difficulties and Perplexities; and that it would operate as a Bar to the full Improvement of the Estates, and consequently to the Revenue to be derived from the same to His Majesty; inasmuch as the Agents employed by Lord Amherst could hardly be expected to look further than the Perception of the Proportion of Rent granted to Lord Amherst for his own Use.

