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UPPER CANADA.

IN THE

COURT OF ERROR AND APPEAL:

BETWEEN

THE HONORABLE WILLIAM BUELL RICHARDS,

ATTORNEY GENERAL OF UPPER CANADA,

ON BEHALF OF HER MAJESTY.

Appellant;

AND

THE REVEREND HENRY JAMES GRASSETT, THE HONORABLE AND RIGHT
REVEREND JOHN STRACHAN, LORD BISHOP OF TORONTO, AND THE
CHURCH SOCIETY OF THE DIOCESE OF TORONTO.

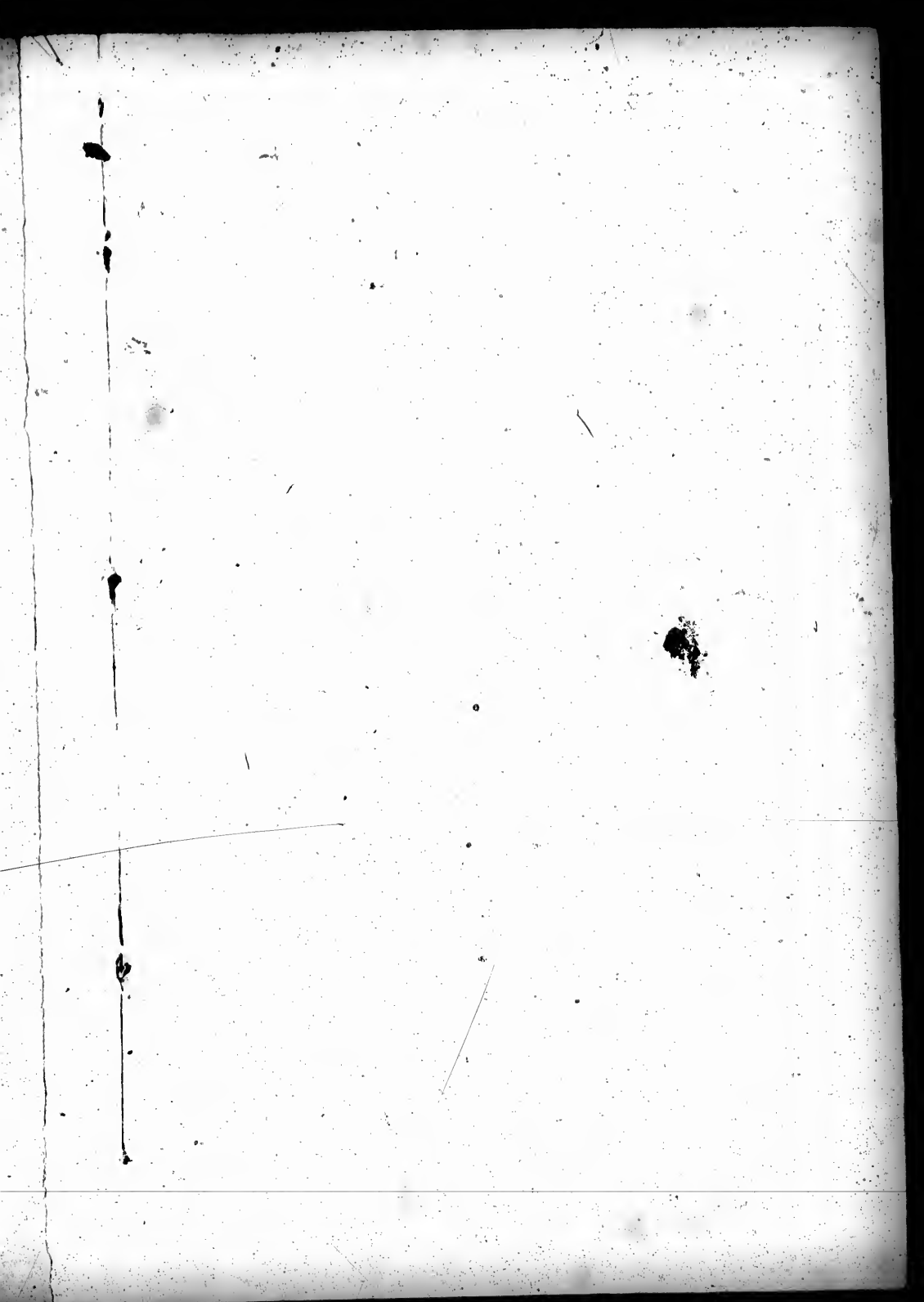
Respondents.

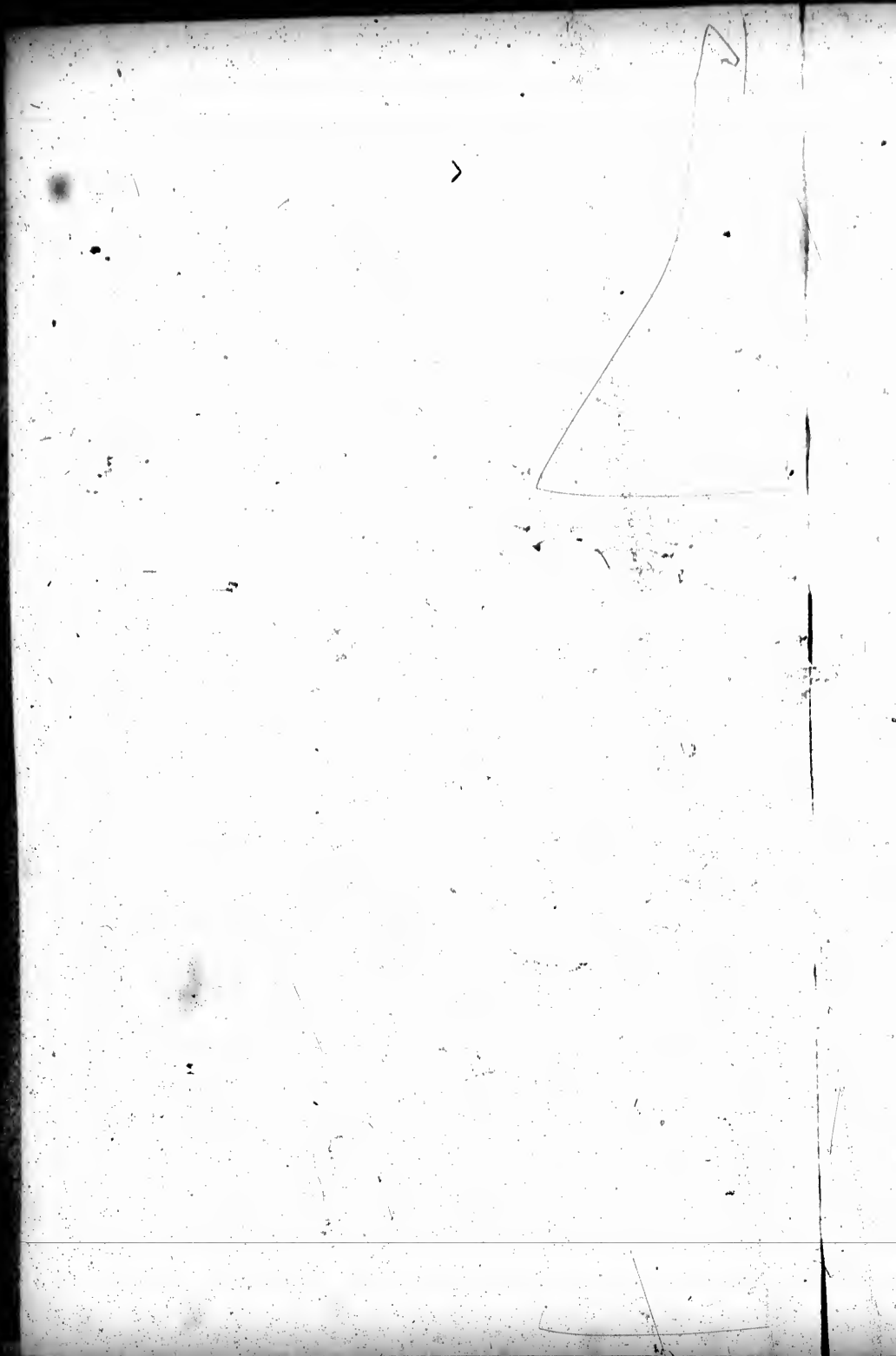
AN APPEAL FROM THE COURT OF CHANCERY.

JOINT CASE.

The information of the Attorney General on behalf of Her Majesty,
now the Appellant, as follows:

120904





IN CHANCERY.

To the HONORABLE WILLIAM HUME BLAKE, *Chancellor of
Upper Canada:*

Informing sheweth unto Your Honour the Honourable William Buell Richards, Attorney General of Upper Canada, on behalf of Her Majesty.

Information filed
23rd Aug. 1830.

That after the passing of the Act, passed by the Parliament of Great Britain, in the thirty-first year of the reign of His late Majesty, King George III, entitled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled an Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province," divers lands of the Crown within the said Province of Upper Canada, were, from time to time, in accordance with the provisions of the said Statute, allotted and appropriated for the support and maintenance of a Protestant Clergy, within the said Province of Upper Canada.

That on the 15th day of January, 1830, Letters Patent, in respect of divers of such Lands, being the lands described in such Letters Patent, were issued by John Colborne, then Lieutenant Governor of Upper Canada, which Letters Patent were and are in the words and figures following, namely: "Colborne, Province of Upper Canada; William the IV, by the grace of God, of the United Kingdom of Great Britain and Ireland, King Defender of the Faith, whereas his late Majesty, King George the III, by Letters Patent, under the Great Seal of the Kingdom of Great Britain, bearing date the twenty-eighth day of June, in the thirty-third year of his said late Majesty's reign, did erect, form, ordain, make and constitute the Provinces of Lower Canada and Upper Canada, and their dependencies to be a Bishop's See, according to the Establishment of the Church of England, to be called from thenceforth the Bishopric of Quebec."

Reference or refer-
ence of the James,
Township of
York, Home Dis-
trict.

"And whereas by a certain Act or Statute of the Parliament of Great Britain, passed in the thirty-first year of the reign of his said late Majesty, entitled 'An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign entitled, an Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province;' sundry provisions were made respecting the allotment and appropriation of Land for the support

Recorded 23rd of
January, 1830.

Robert S. Jam-
eson, Attorney
and General.

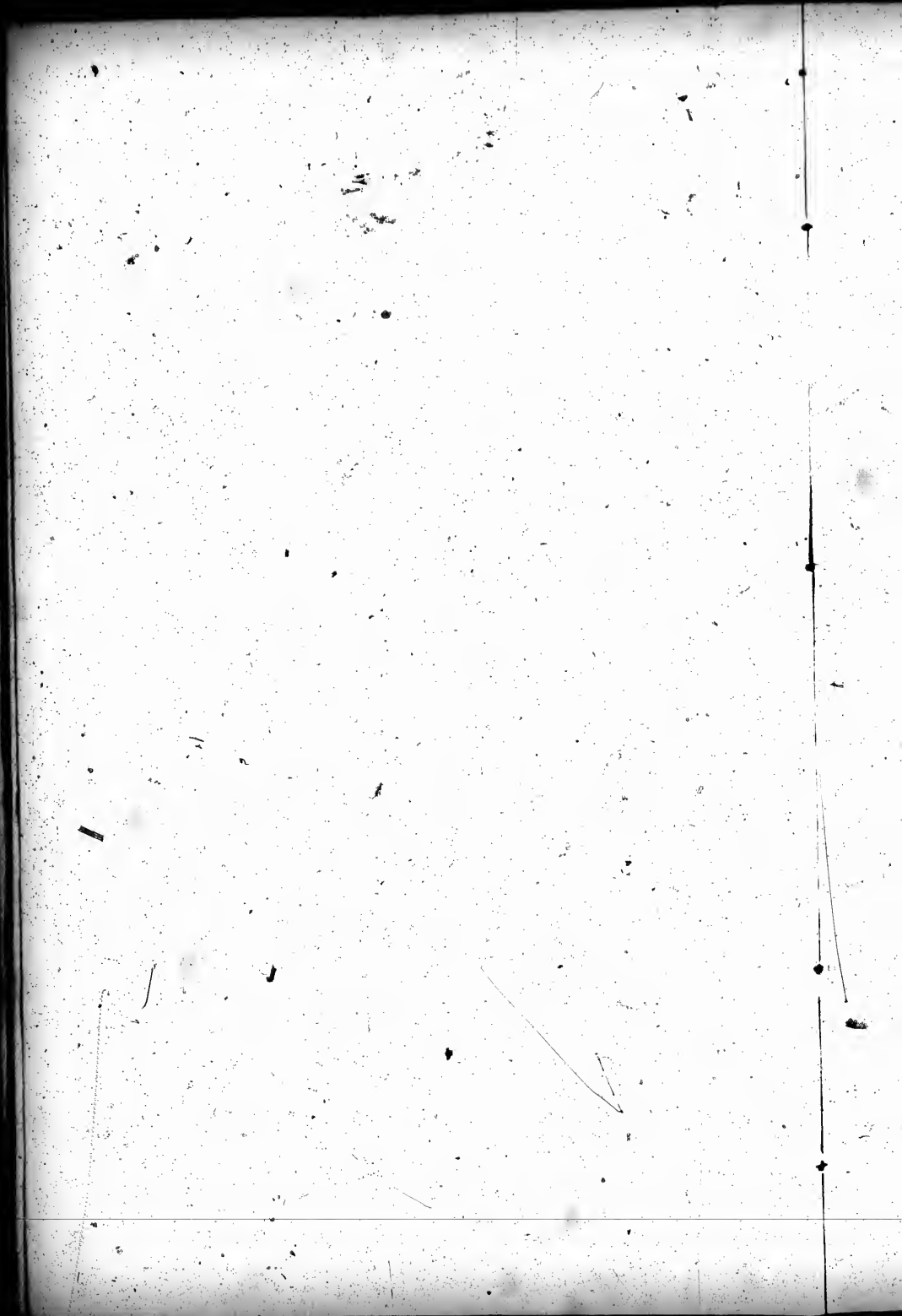


"and maintenance of a Protestant Clergy within the said Provinces
"respectively; And it was among other things especially enacted that
"it might and should be lawful for His Majesty, his heirs and succe-
"sors; to authorize the Governor, Lieutenant Governor, or person ad-
"ministering the Government of each of the said Provinces respective-
"ly, with the advice and consent of His Majesty's Executive Council,
"within the same, from time to time, to constitute and erect in every
"Township or Parish, which then was or thereafter might be formed,
"constituted or erected, within such Province, one or more Parsonage
"or Rectory or Parsonages or Rectories, according to the Establish-
"ment of the Church of England; And whereas, we having due regard
"to the spiritual welfare of all our loving subjects, resident within the
"Township of York, within the Home District, and being desirous of
"making a permanent provision for their instruction according to the
"doctrine and discipline of the Church of England, and also for the
"support of a Protestant Clergyman, duly ordained according to the
"rites of the said Church, have, pursuant to the provisions of the said
"recited Act, and by and with the consent and advice of our Executive
"Council of our said Province of Upper Canada, determined to erect
"and constitute, and by these presents, and by and with the advice
"and consent aforesaid, do erect and constitute a Parsonage or Rectory
"at the City of Toronto, within the said Township, according to the
"Establishment of the Church of England, to be hereafter known,
"styled and designated as the first Parsonage or Rectory, within the
"said Township of York, otherwise known as the Parsonage or Rectory
"of St. James, and by virtue of the same authority and by and with
"the advice and consent of our said Executive Council, we do hereby
"command that there shall be from henceforth and forever set apart out
"of the lands which we now hold in our said Province, by virtue of
"our Royal Prerogative, certain parcel or parcels of land situated in the
"said Township, composed of Lots numbers six, nine and twenty-two
"in the second concession, and Lot number seventeen in the third con-
"cession, from the Bay in the said township of York, containing by
"admeasurement eight hundred acres, as a Glebe and Endowment, to
"be held appurtenant with the said Parsonage or Rectory, we intend-
"ing and willing by virtue of our Royal Prerogative, forthwith to pre-
"sent an incumbent or Minister of the said Established Church of
"England, to the said Parsonage so truly erected and constituted as
"aforesaid, with its appurtenances, saving, nevertheless, to ourselves, the
"right of thereafter erecting and constituting one or more Parsonages
"or Rectories, within the said Township. Given under the Great Seal
"of our Province of Upper Canada. Witness our trusty and well-be-
"loved Sir John Colborne, K. C. B., Lieutenant Governor of our said
"Province and Major General Commanding our forces therein, this 10th
"day of January, in the year of our Lord 1836, in the sixth year of our
"reign. J. C."

By command of
His Excellency
in Council. D.
Cameron, Secre-
tary.

O. C., 15th Jan'y
1836. Attestation
of Sir Jno.
Colborne, K. C. B.
Lieut. Governor.

That



That forty-three similar Letters Patent were at the same time issued purporting or supposed in like manner to constitute forty-three other Rectories, and to endow the same, with other of the lands so allotted and appropriated as aforesaid.

That the said Patent hereinbefore set forth, as well as all the said other Patents were issued without any authority or instruction to the said Sir John Colborne, from his then Majesty, King William IV, under his signet and sign manual, or by order in Privy Council, or through any of the Principal Secretaries of State or otherwise howsoever, to constitute, erect or endow Rectories, or the said supposed Rectory of Saint James, or any of the said other supposed Rectories; nor was there any sufficient authority, in any manner derived or communicated for the said Sir John Colborne to constitute, erect and endow such or any Rectories or Rectory.

That the power of the Crown to constitute, erect or endow Parsonages and Rectories in Upper Canada aforesaid, had never, before the said fifteenth day of January 1836, been exercised, and never has been exercised since, and was not exercised on the said 15th day of January, 1836, save and unless by the Letters Patent aforesaid.

That the issuing of the said Letters Patent and the erection and endowment of the said supposed Rectories, at the time aforesaid, were all against the mind and intention in that behalf of his said Majesty, and of his Government, and that the intention of the said Sir John Colborne or of the Executive Council of Upper Canada aforesaid, to erect or endow the said supposed Rectory of Saint James, or any other Rectories or Rectory was not known to or suspected by his Majesty or His Government, until after the issuing of the said Letters Patent respectively, and no communication of such intention of His Excellency was previously made to His Majesty or His Government, though His Excellency in Council, had the matter in contemplation for several months previously.

That the authority of each and every Governor, Lieutenant Governor or person administering the Government of Upper Canada from time to time, was always conferred by Royal Commission addressed to each at the time of his appointment, which Commission always had been, and was in the same form to every Governor, Lieutenant Governor or Administrator of the said Government of Upper Canada; and, amongst other things, purported to authorise His Excellency, with the advice of the Executive Council in the said Province, to erect Parsonages or Rectories in terms of the 38th section of the said Imperial Statute; and the Commission to the said Sir John Colborne, which was from His late Majesty King William the IV., declared such authority to be subject nevertheless to such instructions touching the premises as should or might be given him by His Majesty under his signet or sign manuals

or

or by His Majesty's order in Privy Council, or through one of His Majesty's principal Secretaries of State.

That the inhabitants of the said Province have always been much divided in religious faith, and that while many of them have always been members or adherents of the Church of England in the said Province, yet that that portion of the inhabitants not composed of such members or adherents or of persons otherwise connected with the said Church, but distributed amongst and connected with other Christian denominations, have always formed a large majority of the inhabitants of the said Province, and of every Township and other locality of or in the same.

That for this reason, and other reasons, a strong feeling has always existed in the said Province against the establishment or endowment therein of Rectories, and against any exclusive privileges being given to the Church of England in the said Province, and generally against the operations and provisions of the Statute hereinbefore mentioned in regard to the lands thereby directed to be appropriated as aforesaid. That the feeling aforesaid was frequently and particularly in and after the year 1825, and up to the time of the issuing of the said patents, as well as ever since manifested and expressed by the said inhabitants, and by their Representatives in the House of Assembly.

That in consequence of this state of things, Lord Ripon being one of His Majesty's principal Secretaries of State, on the 21st November 1831, addressed to the Lieutenant Governor above named, by His Majesty's command and authority, two Despatches which referred to and accompanied two other documents, by which despatches and accompanying papers, it was declared in effect to be His Majesty's desire that an end should be put to any further appropriation of lands under the said Statute; that the Lands already appropriated and reserved should be abandoned, as a provision for the purpose in the said Statute mentioned, and should be re-vested in the Crown free from any trust therefor; and it was further thereby intimated, that no intention then existed to erect or endow Parsonages, and His Majesty invited the Legislature of the said Province to consider how the powers given to such Legislature by the said Statute to vary or repeal that part of its provisions which relates to the subject of the said Land, could be called into existence most advantageously for the spiritual and temporal interests of His Majesty's faithful subjects in the said Province.

That agreeably to this invitation, which was duly communicated to the said Legislature by His Excellency, the Legislature took into consideration the matters to which their attention was so invited, and the same was the subject of much consideration and discussion thereupon until after the said patents were issued, but that until after such period no measure was agreed to, chiefly in consequence of a difference of opinion

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opinion on the subject between the House of Assembly and the Legislative Council of the said Province.

That meanwhile His Majesty's intentions and wishes, as expressed or intended in the said papers as aforesaid, remained unchanged, and continued to be what they are hereinbefore stated to have been, and that divers Despatches to His Excellency, written by His Majesty's authority as aforesaid during such period, shewed this to be the case. That no intimation was given by His Excellency or His Council to the said Legislature, of the intention to erect or endow any Rectory, nor was such intention known to the said Legislature until some time after the Patents had been actually issued. That the same were issued by His Excellency in Council under mistake and misapprehension of a Despatch transmitted to His Excellency by Lord Ripon, on the 5th day of April, 1832, in which Despatch His Lordship had observed as follows:—"I quite concur with you in thinking that the greatest benefit to the Church of England would be derived from applying a portion at least of the funds under the controul of the Executive Government in the building of Rectories and Churches, and I would add in preparing, as far as may be for profitable occupation, that moderate portion of land which you propose to assign in each Township or Parish for increasing the future comfort, if not the complete maintenance, of the Rectories."

That His Lordship did not intend by these expressions or by the said Despatch to sanction or give instructions, for, in fact, he did not thereby sanction or give instructions for, and he was not authorized by His Majesty or His Majesty's Government to sanction or give instructions for the erection or endowment of Rectories, but the Executive Council aforesaid, mistaking the meaning of the said expressions in the said Despatch, made an Order in Council on the same day as the said Patents were issued in the terms following, that is to say:—"May it please your Excellency, pursuant to the views of Lord Goderich, shewn by his Despatch of the 5th April, 1832, in which he concurs with your Excellency, and expresses his desire that a moderate portion of Land should be assigned in each Township or Parish for ensuring the future comfort, if not the complete maintenance, of the Rectors, the Council caused the necessary steps to be taken for the purpose of setting apart lots in each Township throughout the Province. Much delay has been caused by their anxiety to avoid interfering with persons who might have acknowledged claims to any of the Reserves to be selected, either for lease or purchase. A difficulty in completing what His Lordship most appropriately calls this salutary work, was also caused by the Crown Officers not concurring in the form to be used in the instrument by which the endowment is to be confirmed, which left the Council to decide as to the mode to be adopted for that purpose.

These

These obstacles have now been surmounted, and it is respectfully recommended that no time be lost in authorising the Attorney General to prepare the necessary instruments to secure to the incumbents named in the annexed schedules, and their successors, the lots of land therein enumerated, as having been respectively set apart for Glebes. All which is respectfully submitted.

(Signed)

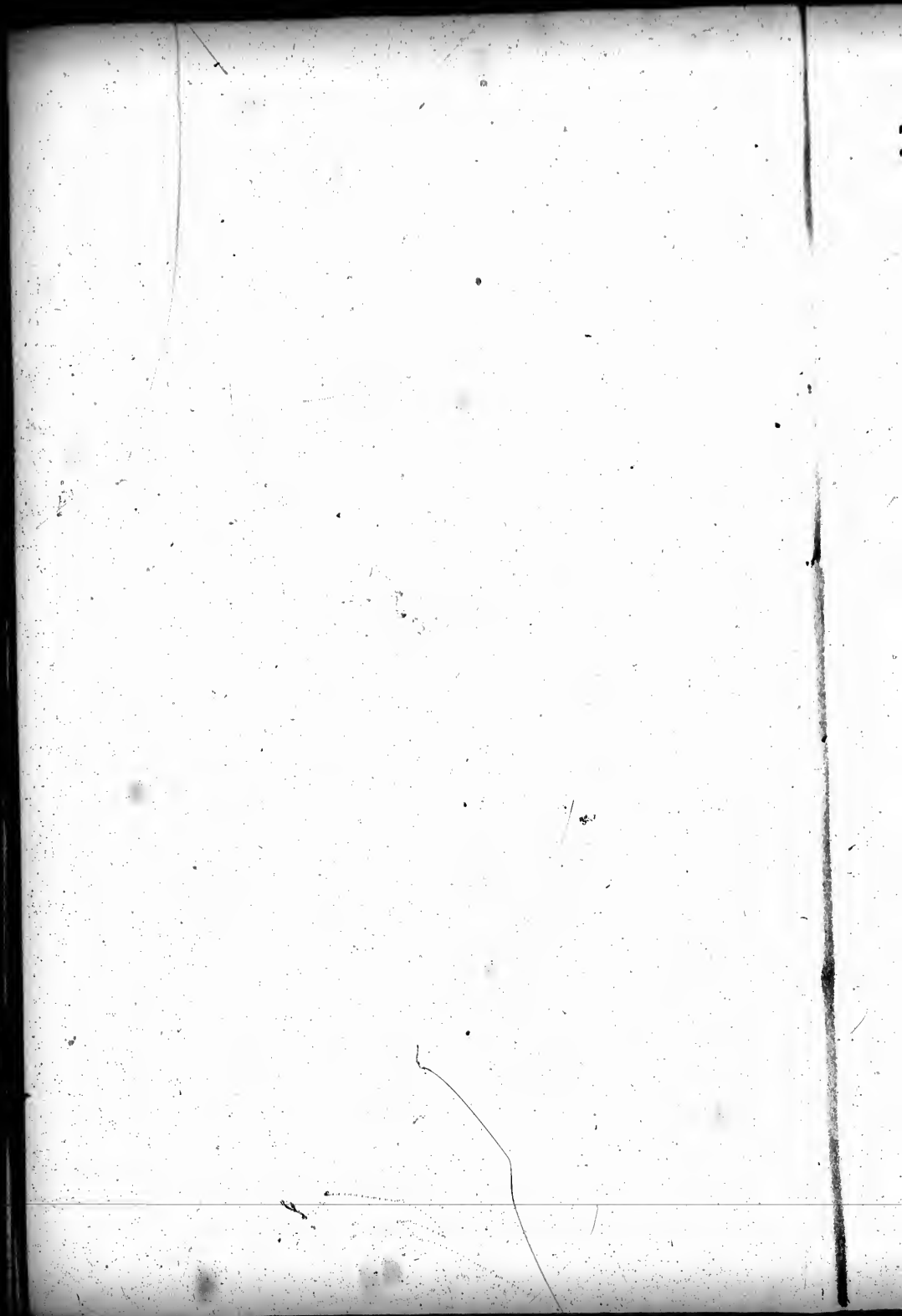
"PETER ROBINSON, P.C."

That His Excellency having under the like mistake aforesaid approved of the said order in Council, the said Patents were prepared signed and passed the Great Seal of the said Province on the same day, being three days before he surrendered the Government of the said Province to his successor. That the defendants pretend that though the despatch last referred to may contain no authority to erect and endow the said Rectories, yet that through a former Secretary of State, His late Majesty King George 3rd had authorized one former Governor General to erect, and His Majesty King George the Fourth had authorized another predecessor of the said Sir John Colborne to erect and endow Rectories in every township of the said Province, but your informant charges that such authority independently of the circumstances hereinbefore set forth would not and did not extend to the said Sir John Colborne, who received his Commission from King William the Fourth, and that the circumstances hereinbefore set forth amounted to and were a revocation of any such authority. That the Patent hereinbefore set forth is also void on the face of it and does not contain sufficient or proper words to constitute or erect Rectories or a Rectory, or to fix the limits of such supposed Rectories as therein mentioned, or to vest the lands in the said Patent mentioned in any Rector or other Person or Corporation.

That the Rev. H. J. Grasett, a defendant hereto, was presented by His Excellency to the said supposed Rectory of St. James, and is now the Incumbent thereof, and in possession of the said lands hereinbefore described.

That the Hon. and Right Rev. John Strachan, D. D., another defendant hereto, is the Bishop of the Diocese of Toronto in which the said supposed Rectory lies. That the Church Society of the Diocese of Toronto, a Corporation, another of the defendants hereto, has now the right of presentation to the said supposed Rectory, until the validity of the erection is judicially decided, that the said defendants claim to be so interested in the object of this suit as to be the proper defendants to this Bill.

That this suit is brought to try the question of the validity of the
said



said Patents in pursuance of a Resolution of the Legislative Assembly of the Province of Canada directing the same.

To the end therefore that on the grounds hereinbefore appearing, or on some other or one of them, the said Letters Patent hereinbefore set forth may be declared void and may be ordered to be set aside or delivered up to be cancelled, and that the defendants be decreed to deliver up possession of the lands described in the Patent hereinbefore set forth, and may be a-moved therefrom.

And that your Lordship may be pleased to grant to your informant on behalf of Her Majesty, such further and other relief as to your Lordship may seem meet and the circumstances of this case may require. Your informant prays that a Subpoena may be issued under the Seal of this Honorable Court directed to the said Reverend Henry James Grasett; the Honorable and Right Reverend John Strachan, Lord Bishop of Toronto; and the Church Society of the Diocese of Toronto, calling upon them to appear to this Information, and observe what this Honorable Court shall direct in that behalf.

And your Informant shall ever pray, &c.

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IN CHANCERY:
Filed 27th January, 1853.

} The joint and several answers of the
Honorable and Right Reverend John
Strachan, Lord Bishop of Toronto, and
the Reverend Henry James Grasset, two
of the defendants to the information of
the Honorable Wm. B. Richards, Her
Majesty's Attorney General for Upper
Canada.

Answers of the
Defendants the
Lord Bishop and
the Rev. H. J.
Grasset.
Filed January 27,
1853.

The above named defendants for answer to the said Information submit in the first place, that Her Majesty's said Attorney General is not entitled by means of an information in this Honourable Court to obtain the relief prayed for by the information filed in this cause, and these defendants pray that they may have the same benefit from this their answer, as if they had demurred to the said Information, and these defendants further severally say, that to the best of their respective knowledge, information and belief, on the said 15th day of January, in the year of our Lord 1836, His Excellency Sir John Colborne, who is in the said Information named, by virtue of an Act passed by the Parliament of Great Britain, which is in the said Information mentioned, and of the Royal Commission under which at the time aforesaid, he administered the Government of the said Province of Upper Canada, as Lieutenant Governor thereof, and by virtue of divers despatches and instructions, theretofore addressed to him, or to some or one of his predecessors in the Government of the said Province, by one or more of the principal Secretaries of State for Great Britain, was legally, fully, and duly authorized and empowered to constitute, erect and endow the said Parsonage or Rectory of St. James, and to issue the Letters Patent which are in the said Information set forth, and these defendants in like manner severally answering to the best of their respective knowledge, information and belief, deny that the said Letters Patent were issued under mistake and misapprehension on the part of His Excellency in Council, as in the said Information is in that behalf alleged, and these defendants further severally answering, say, that subsequently to the issuing of the said Letters Patent, the Right Honourable Lord Glenelg, while he was principal Secretary of State for the Colonies of Great Britain, and having a full knowledge of the fact that the said Letters Patent had issued, and of the circumstances under which they had been issued, recognized and avowed on behalf of Her Majesty, and of the Executive Government of Great Britain, the inviolability of the rights acquired, as well under the said Letters Patent, which are in question, in this cause, as under the several other Patents which are in the said Information mentioned or referred to, and these defendants submit that after such recognition and avowal, the validity of the said Patents or of any of them, cannot now be impeached or questioned by or on behalf of Her Majesty, and these defendants further severally

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severally answering say they are informed and believe that throughout a period of many years prior to the issuing of the said Patents, the Government of the said Province of Upper Canada, with the approval and approbation of the Executive Government of Great Britain, or of the principal Secretary of State for the Colonies for the time being, had frequently contemplated and had from time to time, endeavoured, so far as the circumstances of the said Colony would admit of, to give effect to the provisions of the said Act of the Parliament of Great Britain, hereinafter referred to, so far as the said provisions relate to the creation and endowment of Parishes and Rectories, and to the support and maintenance of a Protestant Clergy within the said Province. And these defendants pray that, under the circumstances hereinafter appearing, they may be hence dismissed with their reasonable costs by them in this behalf most wrongfully sustained.

Answers of
Defendants, the
Lord Bishop and
the Rev. H. J.
Grasett.
Filed January 31,
1853.

(Signed)

JOHN TORONTO,

H. J. GRASETT.

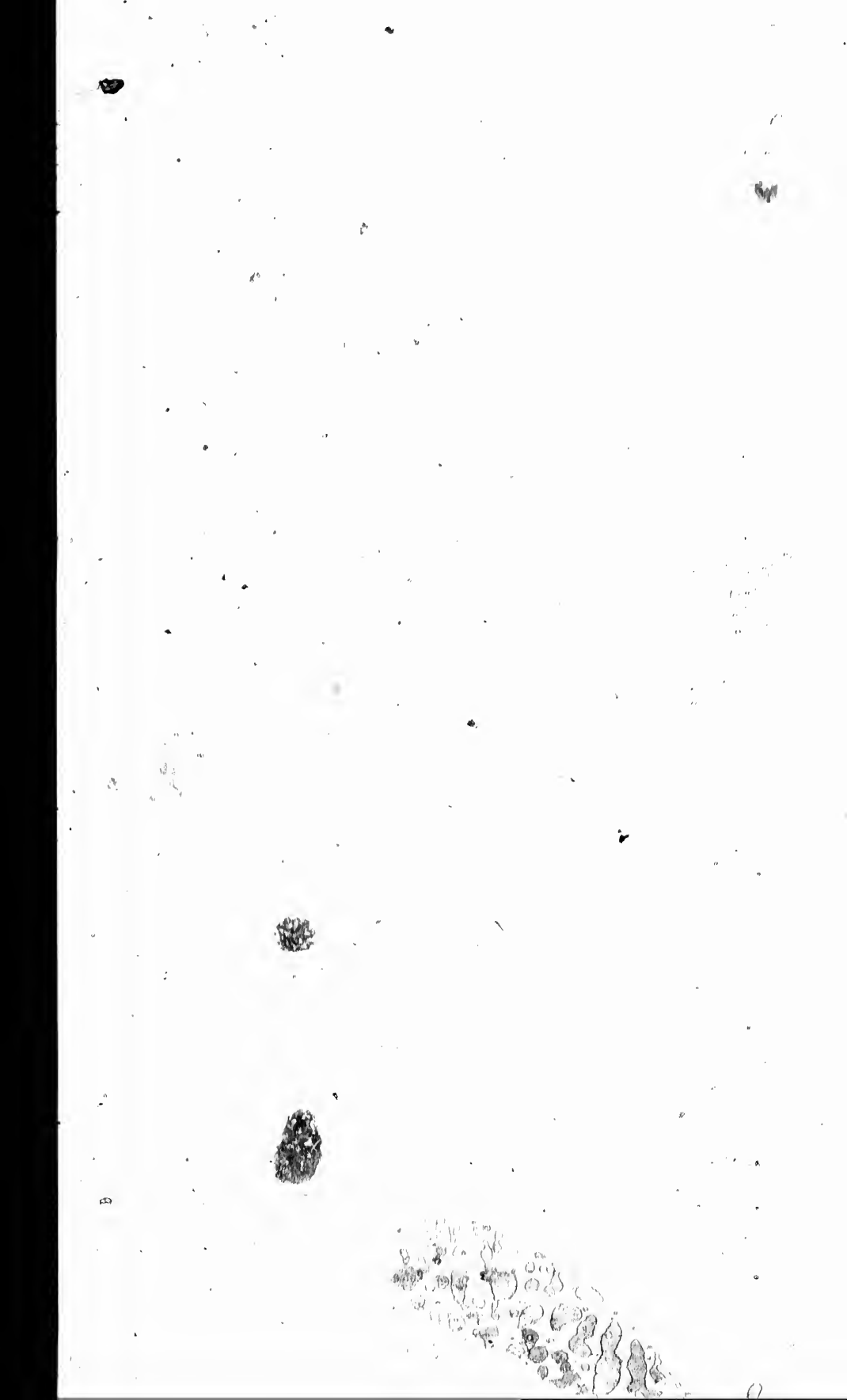
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Filed 31st January, 1853.

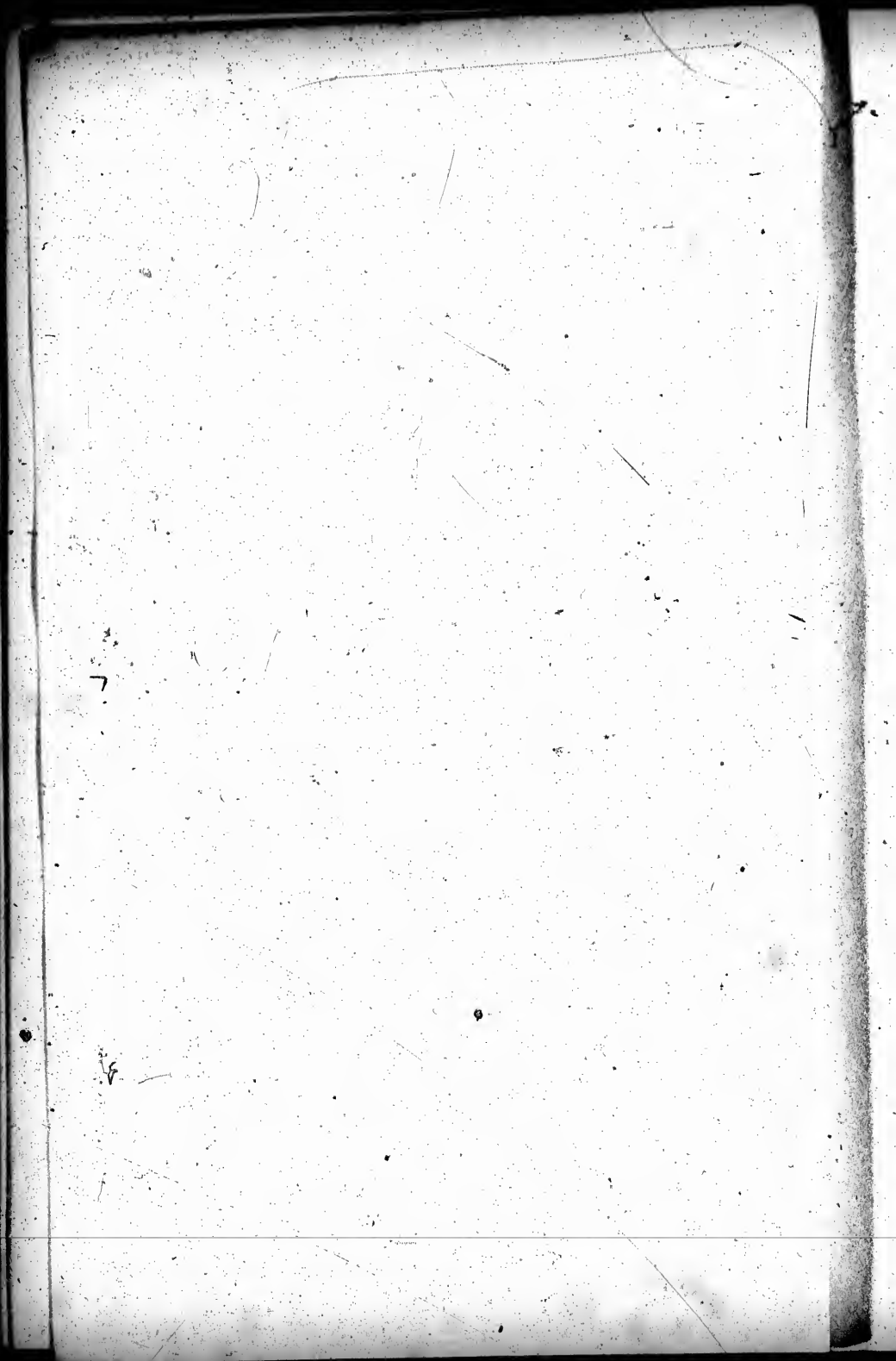
} The several answer of the Church Society
of the Diocese of Toronto, &c., &c., to the
information of the Honorable Wm.
Buell Richards, Her Majesty's Attorney
General for Upper Canada.

Answer of
Church
Society.

The said above named defendants for answer and defence to the said information, hereby refer to the joint and several answers of their co-defendants, the Honorable and Right Reverend the Lord Bishop of Toronto, and the Reverend H. J. Grasett, filed in this cause, which said answer these defendants hereby allege to be true in all its particulars; and these defendants rely upon all the facts and allegations contained in their co-defendants, said joint and several answers, and upon all the objections thereby taken to the said Information and to the Relief by the said Information prayed for, and crave leave to have the same benefit from the several facts, allegations and objections, as fully and effectually, to all intents and purposes, as if the same were herein repeated. And these defendants pray to be hence dismissed with their costs in this behalf most wrongfully sustained.

(L. S.)





ATTORNEY GENERAL'S REPORT RESPECTING THE ERECTING OF
PROTESTANT PARISHES IN LOWER CANADA.

QUEBEC, June 6, 1801.

To His Excellency Sir Robert Shore Milnes, Bart., Lieutenant Governor of the Province of Lower Canada.

Attorney General's Report
respecting the
erecting of Protestant
Parishes.

I have been honored with your Excellency's commands, requiring my opinion "on the legal course to be taken for erecting such Protestant Parishes as are mentioned in a report of a Committee of the whole Council upon Ecclesiastical Affairs, dated the 7th June last, as well as for establishing a Parsonage or Ecclesiastical Benefice in each Parish respectively."

Quebec, June 6th
1801.

The Committee in their Report have stated to your Excellency "that from the papers accompanying the order of reference they conceive that your Excellency does not expect them to enter into the detail of a general system, but to suggest the most advisable means of forming such establishment as, from the aggregate of the Protestant population in different parts of the Province and the present supply of Ministers of the Church to superintend them, may be found practicable."

And to attain this desirable object, they humbly apprehend that the two preliminary requisites are first, "the forming of such a number of Protestant Parishes as, from the number of Protestant inhabitants dwelling in the vicinity, shall be thought expedient; and, secondly, of a Parsonage or Ecclesiastical Benefice in each of such Parishes."

The general question, therefore, which arises out of the report is this; what is the legal course to be taken for the Ecclesiastical Division of the Protestant See of Quebec into parishes, and for the erection of Rectories therein according to the establishment of the Church of England."

The points which the question involves are important, and although I have ultimately satisfied my own mind upon them, yet I submit my opinion to your Excellency's consideration with great diffidence.

By the 31st Geo. III. Chap. 31, it is enacted, "That it shall and may be lawful for his Majesty, His Heirs and Successors, to authorize the Governor or person administering the Government, with the advice of the Executive Council, to constitute and erect within every Township or Parish which now is or may be hereafter formed, constituted or erected, one or more Parsonage or Rectory or Parsonages or Rectories, according to the establishment of the Church of England."

The Statute and Governor's Commission have obviated every difficulty

culty with respect to the establishment of Rectories, but the legal course to be taken for the previous erection of Parishes admits of more discussion.

Attorney General's Report
respecting the
erection of Pro-
testant Parishes,
L. C., 1801.

On the threshold of this inquiry we meet with what, I believe, may be termed a novelty in Jurisprudence; for we are under the necessity of admitting that there are by Law two descriptions of Parishes in Canada, to wit, Parishes with respect to the Church of England, and Parishes with respect to the Church of Rome; for if we have recourse to the Law of England as it regards the Church of England (which is the Established Church of Canada,) we find that Parishes are ecclesiastical and necessary divisions of every Bishopric; and therefore the Report has stated "the formation of Protestant Parishes" to a be preliminary requisite to the erection of Rectories. On the other hand, although the Church of England be the Established Church of Canada, yet by the Fifth Section of the Act 14th Geo. III. Chap. 83, it is declared, "That His Majesty's Roman Catholic subjects may hold and enjoy the free exercise of the Religion of the Church of Rome; and that the Clergy of the Church of Rome may hold, receive and enjoy their accustomed Dues and Rights," by which means the division of the Province into Parishes with respect to the Church of Rome has become equally necessary, for without this division, "the Dues and Rights of the Clergy" can never be legally ascertained, either with respect to the Persons from whom, or the Priests by whom, they are claimed.

The Report (admitting two descriptions of Parishes) has stated the necessity of "co-extensive and identical Boundaries;" and as much civil matter may be hereafter engrafted upon Parishes, although ecclesiastical divisions of the Province, this necessity is very apparent; but to ensure identical Boundaries, it is equally necessary that Parishes relative to both Churches should be erected by authority common to both.

Your Excellency's reference has required my opinion upon the legal course to be taken for the erection of Protestant Parishes only, and to these therefore I confine myself; and, in my apprehension, these may be in Canada legally erected by the sole authority of His Majesty.

According to the Law of England, which is the law of the Established Church of England, a Parish is defined to be "that Circuit of Ground which is committed to the charge of one Parson or Vicar or other Minister having Cure of Souls therein," and is declared to be not a civil but an ecclesiastical division.

By Letters Patent (under the Great Seal of Great Britain, dated the 13th day of August in the Year 1787,) His Majesty was pleased to erect the Province of Nova Scotia into a Bishop's See, and to grant unto the Bishop of Nova Scotia full power to exercise Jurisdiction, Spiritual

Spiritual and Ecclesiastical, in the then Province of Quebec, since divided into the Provinces of Upper and Lower Canada; and afterwards by other letters patent under the Great Seal of Great Britain, dated the 28th day of June, 1793, His Majesty was further pleased to revoke so much of the letters patent by which the Bishopric of Nova Scotia was erected as related to the Province of Quebec, and in like manner to erect the Provinces of Upper and Lower Canada and their dependencies into a Bishop's See to be called from thenceforth the Bishopric of Quebec. Thus His Majesty, by his sole authority, has made an ecclesiastical division of his North American Dominions into Two Dioceses; and that he had a right so to do has been declared by the Parliament of Great Britain in the Fortieth Section of the Statute 31st Geo. III. Chap. 31., which subjects the Incumbents of Rectories in Upper and Lower Canada "to the Jurisdiction and authority lawfully granted to the Bishop of Nova Scotia by His Majesty's Royal Letters Patent, or which might thereafter by His Majesty's Royal Authority be lawfully granted or appointed, to be administered within the said Provinces or either of them respectively by the same Bishop of Nova Scotia, or by any other person or persons."

Attorney General's Report
respecting the
erection of Pro-
posed Parishes,
I. C., 1801.

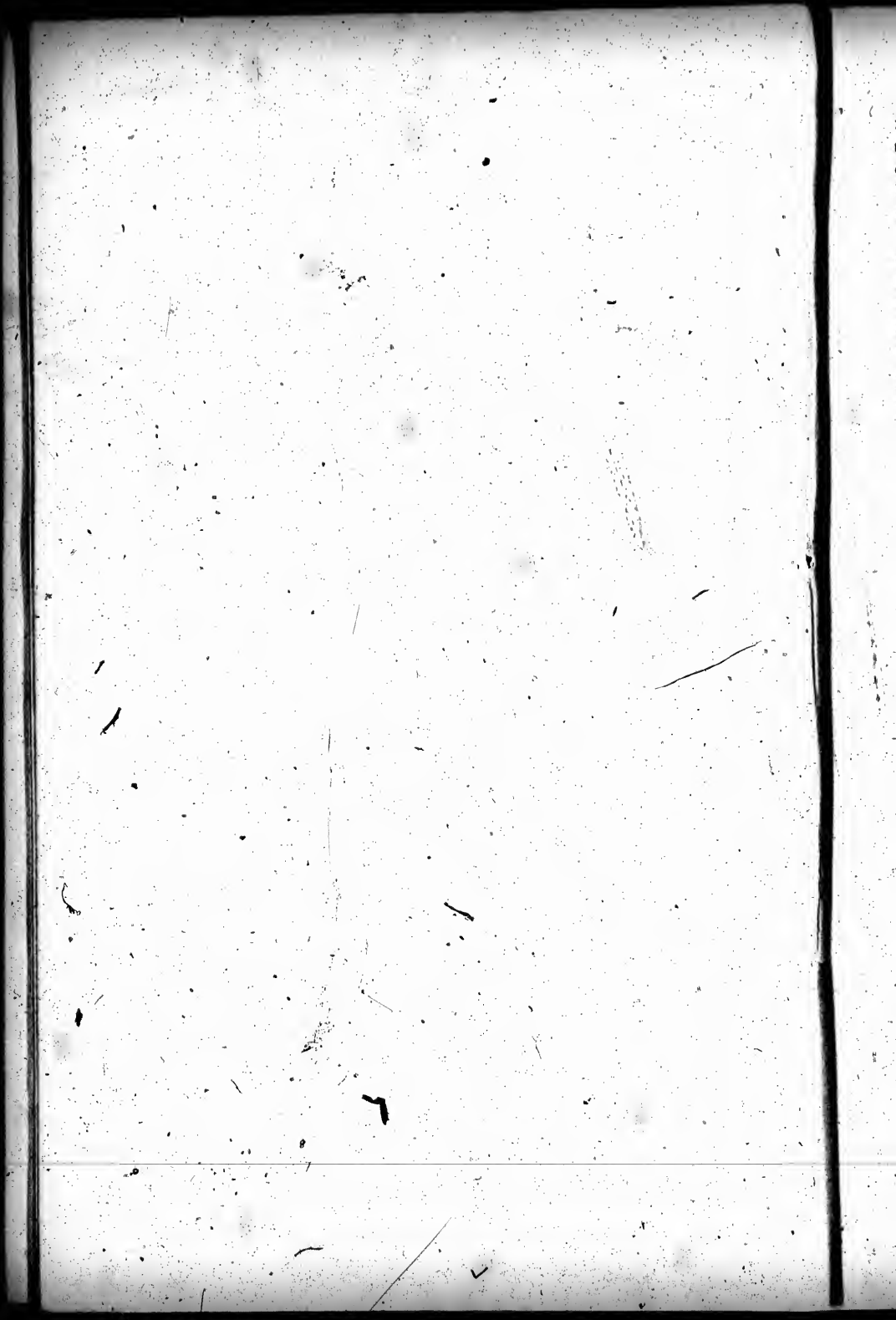
Upon the general principles, and according to the Law Maxim "non debet esse plus licet quod minus est non licere," that power which was sufficient for the greater ecclesiastical division of a Country into Two Dioceses by the erection of Two Bishoprics must also be sufficient for the lesser ecclesiastical division of the same dioceses by the erection of parishes; for Bishoprics and parishes were equally ecclesiastical divisions, and the latter of far inferior consequence.

The Kingdom of England, in reference to civil matters, was originally divided into Vills and Parishes, which were, as above stated, divisions only in reference to ecclesiastical affairs. The common Law even took no notice of them, insomuch that a fine was not admitted of Lands in a Parish. But in process of time parishes were noticed by several Acts of Parliament in reference to civil matters, particularly the maintenance and settlement of the Poor.

The division of the dioceses of England in parishes cannot be ascribed to any one Act, nor indeed to any one single age. The most ordinary method however, of augmenting the number of Parish Churches depended on the piety of the Thanes or Great Lords, who, having large fees and territories in the country, founded churches for the service of their families and tenants within their dominions. It was this gave a primary title to the patronage of laymen, and made the bounds of a parish commensurate with the extent of a manor.

It may be doubted whether in England His Majesty possessed the right of erecting parishes when they were noticed by Acts of Parlia-

ment.



ment in reference to civil matters, and when the creation of a parish subjected the inhabitants to assessment and other impositions for various civil purposes; but before this was the case it appears certain that His Majesty, as supreme Lord, had the right of founding a Church in any extra-parochial place and of erecting it, or any part of it, into a Parish.

Attorney
General's Report
respecting the
erection of Pro-
testant Parishes,
L. C., 1841.

I infer this from an ancient record of the case of the Prior of Carlisle and Bishop of Carlisle, decided in the eighteenth year of the Reign of Edward the First, in which it was determined that the Tithes of Lands within a forest which is out of any Parish belong to the King, for the following reason assigned, which has reference to His Majesty:—" *Quia in foresta praedicta villas edificare ecclesias construere terras assurtare et ecclesias illas cum decimis terrarum illarum pro voluntate sua cuicumque voluerit conferre potest eo quod foresta illa non est infra limites alicujus parochiae.*"

To found a church (which of itself implies the right of Tithes, Marriage, Baptism, and Sepulture within certain fixed limits,) and to assign to that Church a certain Territory charged with the payment of Tithes for its support, was the effectual erection of a parish; and if His Majesty at any time previous to the Conquest possessed the right of erecting a Parish in an extra-parochial place, I humbly conceive he must yet possess it with respect to this Province (whatever the Law of England may be;) for I know of no Law extended to Canada by which the exercise of this prerogative has been limited.

It may, however, be supposed, since all Forests were parts of the King's Domain, that the King had the right of erecting a Forest or part of a Forest into a Parish, because he there possessed the right of founding a Parish in common with the Thanes, each of whom held the same power in his own manor. But even in this view of the decision, and rejecting the only reason assigned for it in the record, viz: "quod foresta illa non est infra limites alicujus parochiae," the case yet clearly warrants this construction, "that His Majesty held in common with his superior vassals the right of founding Churches on his own domain; and that, whereon he possessed the right of founding a Church, *there he might lawfully create a Parish.*" And since by the thirty-eighth section of the Act 31st, Geo. 3, chap. 31, His Majesty, with the advice of his Executive Council, may found a Church according to the establishment of the Church of England, in any part of Canada, it follows, even upon this principle, that in any part of Canada with the same advice he may create a Protestant Parish. A Parson or Rector, according to the establishment of the Church of England, is "one that hath full possession of the rights of a Parish Church;" and a Parsonage or Rectory "consists of the Glebe, tithes and oblations which are established for the support of a Parson or Rector," or, in other words, for the support of an Incumbent of a Parochial Church. There cannot therefore be a Rectory or Parsonage, nor a Parson or Rector of a Church,

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that is not "parochial," and there cannot be a Parochial Church, without a Parish; and, consequently, whoever possesses the power of converting an extra-parochial place into a Parsonage or Rectory, and of creating a Parson or Rector to enjoy it, must also necessarily possess the incidental right of erecting the extra-parochial place into a Parish; for without that there can be no such power, the previous erection of such extra-parochial place into a Parish being indispensably necessary for the establishment of the Rectory,—the very means by which it must be created.

Attorney
General's Report
respecting the
erection of Pro-
testant Parishes,
1. C., 1804.

By the thirty-eighth section of the Act 31st, Geo. 3, chap. 31, His Majesty is empowered "to constitute and erect within every Township or Parish which then existed or which thereafter might be formed, constituted, or erected within the Province, one or more Parsonage or Rectory or Parsonages or Rectories, according to the establishment of the Church of England."

His Majesty, therefore, by this section, is possessed of the power of converting any Township in Canada into a Parsonage or Rectory, and, by the thirty-ninth section of the same Act, of creating a Parson or Rector to hold it; and since every Township is extra-parochial, he must necessarily also, for the reasons above assigned, possess the identical right of erecting any Township in Canada into a Protestant Parish.

With respect also to the Roman Catholic Parishes which existed at the time of passing the above Act of 31, Geo. 3, which indeed were the only Parishes then in existence, the reasoning applies, all of them, in reference to the Church of England and to the Protestant See of Quebec, being equally extra-parochial. For, as Parishes in England are Ecclesiastical Divisions of Dioceses according to the Establishment of the Church of England, so Protestant Parishes in Canada must be the Ecclesiastical Divisions of the Protestant See of Quebec according to the same establishment; and this the Roman Catholic Parishes which existed at the time of passing the above Act of 31, Geo. 3, cannot be, because they were created and existed long before the erection of the Protestant See of Quebec, and consequently without any reference to it, and because they were erected by the **Authority of the Pope*, whose power the Church of England can in no way recognize. And such being the case, the report of the Council has stated to Your Excellency that in all instances wherever a Protestant Rectory is to be established it will be necessary previously to create a Protestant Parish, even in the Roman Catholic Parishes of Quebec, Montreal, Three Rivers, and William Henry, with co-extensive or rather identical boundaries, although those Parishes have existed as such since the year 1722.

Since, therefore, His Majesty by the above-cited sections of the Act

* The division was in the first instance made by Ecclesiastical authority, the Bishop acting concurrently with the civil Government of the Province, and their proceedings were confirmed by an Arrest or Decree of the King of France in 1722.

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of the 31st. Geo. 3, chap. 31, is possessed also of the power of converting any Roman Catholic Parish which existed at the time of passing that Act, (and now have been since erected.) into a Protestant Rectory, and to create a Rector to hold it; and since every such Parish, with respect to the Church of England and the Protestant See of Quebec, is extra-parochial, he must also, for the reasons above assigned, necessarily possess the identical right of erecting any Roman Catholic Parish now existing in Canada into a Protestant Parish and Ecclesiastical Division of the Protestant see of Quebec, according to the establishment of the Church of England.

Attorney General's Report respecting the erecting of Protestant Parishes, L. C., 1801.

I shall add that, in strict conformity to the principles which I have had the honor of submitting to your Excellency's consideration, His Majesty, by His Royal Commission, has been pleased of his sole authority to authorize and empower the Governor, Lieutenant Governor or person administering the Government of this Province, with the advice of the Executive Council, to form, constitute, and erect either Townships or Parishes within the Province, and within every Township or Parish to constitute and erect one or more Parsonage or Rectory, or Parsonages or Rectories, according to the establishment of the Church of England.

For the reasons I have detailed, I am of opinion that in your Excellency is vested the power of erecting, with the advice of His Majesty's Executive Council, such Protestant Parishes as are mentioned in the report referred, and that the legal course to be taken for the Ecclesiastical Division of the See of Quebec into Parishes, and for the erection of Parsonages or Rectories therein, according to the establishment of the Church of England, is by letters patent under the great seal of this Province.

(Signed,)

J. SEWELL,

Attorney General.

Quebec, 6th June, 1801.

REPORT OF THE COMMITTEE OF THE EXECUTIVE COUNCIL TO
GORDON DRUMMOND, ESQ.

At the Council Chamber at York, on Thursday the 9th day of March, 1815.

Present:—The Honorable Thomas Scott, Chief Justice, Chairman; The Honorable James Baby, the Honorable John McGill, the Honorable Mr. Justice Powell.

Report of the Committee of the Executive Council to Gordon Drummond, Esq.

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To His Honor Gordon Drummond, Esquire, President, administering the Government of the Province of Upper Canada, and Lieutenant-General commanding His Majesty's Forces therein, &c., &c.

administering the Government of the Province of Upper Canada, 6th March, 1815.

May it please your Honor,

The Committee of the Executive Council, to which was referred by your Honor the Petition of the Reverend Doctor Strachan for remuneration for monies expended on the Parsonage House at Cornwall for the residence of the Minister of the Church of England, has bestowed due attention on the subject, and considers the prayer of the petition reasonable and just.

The latter part of the reference, to advise from what fund compensation can be made, has also undergone the serious consideration of the Committee. In its deliberation on this subject the Committee was naturally led to review the relative situation of the Ministers of the Church here and in England. They find that the Rector of a Church in England has a fee in his Rectory, which is endowed in such a manner as to ensure a permanent Revenue during the Incumbent's life: That provision is made by Statute in England to subject that Revenue to the charge of building and repairing the house of the Parsonage or Rectory: That in this country the Church is not actually endowed, nor has the Minister a fee or any security in his Incumbency, which, as well as his Revenue, is at the will of the Crown: That no provision therefore can be made out of that Revenue for building or repairing the Parsonage House: That it is contemplated by the Canada Bill to endow the several Rectories, hereafter to be constituted, out of the lands reserved for the support of a Protestant Clergy at the discretion of the Governor and Executive Council of the Province, or as the Legislature, under certain limitations, may ordain: That in the meantime the lands reserved for the support of a Protestant Clergy are leased, and the rents thereof may be applicable to such support at the discretion of the Executive Government: It is from that fund only that the Committee can discover any source for providing a decent residence for the Clergy. In analogy to the provisions of the seventeenth of His present Majesty, the committee apprehends it may be expedient to adopt some rule which shall govern all applications of this nature until legislative provision shall be made on the subject. The Committee is of opinion that whenever a Church is erected, and a Minister appointed to reside, in any Township, the Wardens may be authorized to erect a Parsonage House, by anticipating the produce of the Clergy Reserves in the Township by loan of a sum not exceeding pounds; the principal and interest of which loan shall be paid by such person as may be charged with the receipt of the Clergy rents within the Township as they may become productive; that the charge of insurance and ordinary



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ordinary tenant's repairs shall be defrayed by the Incumbent, and all other repairs by such means as the building.

Upon this principle the Committee humbly submit to your Honour, or the approbation of His Royal Highness the Prince Regent, that the Reverend Doctor John Strachan may be entitled to receive from the rents of the Clergy Reserves, in respect of the lands in the township of Cornwall, the principal and interest of his advance towards the erection of the parsonage House in Cornwall, conformable to the certificates of the Magistrates and Churchwardens, the sum of £340, with interest at the rate of six per cent. from until paid.

All which is humbly submitted.

(Signed)

THOS. SCOTT,
Chairman.

LETTERS PATENT ERECTING THE RECTORY OF
MONTREAL, 12TH AUGUST, 1818.

Province of Lower Canada.

RICHMOND, LENOX, AND AUDIGNY. (L.S.)

GEORGE THE THIRD, by the Grace of God of the United Kingdom of Great Britain and Ireland, KING Defender of the Faith; to all whom these present Letters shall concern, greeting:

Whereas by Letters Patent under our Great Seal of Great Britain, bearing date the 28th day of June, in the thirty-first year of our Reign, we did erect, found, ordain, make, and constitute our Provinces of Lower Canada and Upper Canada, and their dependencies, to be a Bishop's See, to be called from thenceforth the Bishopric of Quebec; *and whereas* by a certain Statute or Act of the Parliament of Great Britain, passed in the thirty-first year of our Reign, intituled "An Act to repeal certain parts of an Act passed in the fourteenth year of our Reign, intituled 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" sundry provisions were made respecting the allotment and appropriation of land for the maintenance and support of a Protestant Clergy within our said Provinces; *and* it was among other things more especially enacted, that it should and might be lawful for Us, our Heirs or Successors, to authorize the Governor, or Lieutenant Governor of each of our said Provinces respectively, or the person administering the Government therein for the time being, from time to time, with the advice

Report of the
Committee of the
Executive Council
to Gordon
Drummond, Esq.,
administering the
Government of
the Province of
Upper Canada.
8th March. 1818.

Letters Patent
erecting the Rec-
tory of Montreal,
12th Aug., 1818.

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of our Executive Council of our said Provinces respectively, to constitute and erect within every Township or Parish which then was or thereafter might be formed, constituted or erected within such Province, one or more Parsonage or Rectory, or Parsonages or Rectories, according to the Establishment of the Church of England; and from time to time, by an instrument under the Great Seal of such Province, to endow every such Parsonage or Rectory with so much or such part of the lands so allotted and appropriated as aforesaid, in respect of any lands within such Township or Parish, which should have been granted subsequent to the commencement of the said Act, or of such lands as might have been allotted and appropriated for the same purpose by or in virtue of any instruction which might be given by us in respect of any lands granted by us before the commencement of the said Act, as such Governor, or Lieutenant Governor, or person administering the Government, should, with the advice of the said Executive Council, judge to be expedient under the then existing circumstances of such Township or Parish;

Letters Patent
erecting the Rec-
tory of Montreal,
12th Aug., 1812.

And whereas the doctrine and discipline of the Church of England, being professed and observed by a very considerable part of our loving subjects resident in the Parish of Montreal, in the District of Montreal, in our said Province of Lower Canada, our trusty and well-beloved Sir John Coape Sherbrooke, Knight Grand Cross of the Most Honorable Military Order of the Bath, our Governor General of and for our said Province of Lower Canada, hath, with the advice of our Executive Council of our said Province, judged it to be expedient to constitute and erect a Parsonage or Rectory within the said Parish of Montreal, according to the establishment of the Church of England; and, with the advice of the said Executive Council, hath also judged it to be expedient under the now existing circumstances of the said Parish of Montreal, to endow the said Parsonage or Rectory with the Church Lands and immoveable estate hereinafter particularly set forth and described;

Now therefore know ye, that our said trusty and well beloved Sir John Coape Sherbrooke, Knight, our said Governor, being thereunto, by us duly authorized; pursuant to the aforesaid Statute *hath*, and by these our Letters Patent, with the advice of our Executive Council of our said Province, *doth* ordain, make, constitute, and declare all that precinct—included within the bounds and limits of the aforesaid Parish of Montreal, as described in a certain reglement of the Sieur Vaudreuil Governor and Lieutenant Governor of New France, the Sieur Eveque de Québec, and the Sieur Begou, intendant, bearing date the twentieth day of September in the year of our Lord Christ One thousand seven hundred and twenty-one, confirmed and homologated by an Arret of His most Christian Majesty in His Council d'Etat, bearing date the third day of March in the year of our Lord Christ One thousand seven hundred and twenty-two—is and shall be henceforth and for ever an

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ecclesiastical division and parish of the aforesaid Bishopric of Quebec, and be called by the name of "The Parish of Montreal." And within the said Parish our said Governor, being also thereunto by us duly authorized pursuant to the aforesaid Statute, *hath* constituted and erected, and by these our Letters Patent, with the advice of our said Executive Council, doth constitute and erect one Parsonage or Rectory, according to the establishment of the Church of England, to be called from henceforth the Parsonage or Rectory of the Parish Church of Montreal: and *hath* and *doth* ordain, make, constitute, and declare the precinct contained within the limits and bounds of the said Parish of Montreal to be the precinct of the said Parsonage or Rectory of the Parish Church of Montreal. And having great confidence in the learning, piety, morals, probity and prudence of John Leeds, Clerk, a Minister of the Church of England, duly ordained according to the Rites of the said Church, our trusty and well beloved Sir John Coape Sherbrooke, Knight, our said Governor, being also thereunto by us duly authorized pursuant to the aforesaid Statute, *hath* nominated, presented, and collated and by these our letters Patent *doth* nominate, present, and collate the said John Leeds to the said Parsonage or Rectory and Parish Church of Montreal; and to be the Incumbent thereof; and to have, hold, and enjoy the same, and all rights, profits and emoluments thereunto belonging or granted, as fully and amply, and in the same manner and on the same terms and conditions, and liable to the performance of the same duties, as the Incumbent of a Parsonage or Rectory in that part of our Dominions called England, for and during our Royal pleasure, and the actual residence of the said John Leeds in the said Parish of Montreal. And, to the end that all matters and things aforesaid may have their due effect We, by these our Letters Patent, do signify unto the Right Reverend Father in God, Jacob Lord Bishop of Quebec, that we, in manner aforesaid, *have* ordained, made, constituted, and declared the aforesaid Parish of Montreal to be an ecclesiastical division and Parish of the aforesaid Bishopric of Quebec, and have erected and constituted within the said Parish the aforesaid Parsonage or Rectory, and do present unto him, the said Jacob Lord Bishop of Quebec, the said John Leeds, requiring, and by the Faith and Life by which he is bound to us commanding him, to admit the said John Leeds to the said Parsonage or Rectory and Parish Church of Montreal, and cause him to be instituted and inducted into the same with all its rights, members, and appurtenances, and to do and execute all other things in this behalf which shall belong to his episcopal office.

And we do hereby will and grant, that the Rector of the said Parsonage or Rectory and Parish Church of Montreal, and his Successors Rectors of the said Parsonage or Rectory and Parish Church, be and shall continue a Body Corporate with perpetual succession, by the name of the Rector of the Parsonage or Rectory and Parish Church of Montreal.

And

Letters Patent
erecting the Rec-
tory of Montreal,
12th August, 1618.

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And we do further will and grant, that he and his successors, by the name aforesaid, shall be able and capable in the law and have full power to purchase, have, take, hold, and enjoy such messuages, lands, rents, tenements, annuities, hereditaments, heritages, and real estates of what nature and kind soever, in fee and in perpetuity, or for term of life and years, as by grant or license under the Great Seal of our said Province he or they shall at any time be authorized to take, hold, and enjoy; and also all manner of goods, chattels, and things personal whatsoever, of what nature or value soever; and also to determine any of the said Messuages, lands, tenements, hereditaments, heritages, and real estates whereof or wherein he or they shall have any estate or interest as aforesaid, in such manner as by licence under the Great Seal of our said Province he or they shall at any time be authorized for that purpose; and that he and his successors, by and under the same name, may prosecute, claim, plead and be impleaded, defend and be defended, answer and be answered, in all manner of Courts, of Us, our Heirs and Successors, and elsewhere, in and upon all and singular causes, suits, writs, and demands, personal and mixed, and in all other things, causes, and matters whatsoever.

Letters Patent
erecting the Rec-
tory of Montreal,
12th August, 1810.

And moreover, We will and ordain by these Presents, that the said John Leeds, Rector of the said Parsonage or Rectory and Parish Church, shall be subject to the Authority and Jurisdiction of the Right Reverend Father in God, Jacob Lord Bishop of Quebec, and his successors Bishops of the Bishopric of Quebec, in the same manner as any Rector of any Parsonage or Rectory or Parish Church within that part of Great Britain called England is under the Authority and Jurisdiction of the Bishop of the Diocese within which such Parsonage or Rectory or Parish Church is situated. And know ye further, that our said trusty and well beloved Sir John Coape Sherbrooke, Knight, our Governor as aforesaid, being thereunto also by us duly authorized pursuant to the aforesaid Statute, hath, with the advice of our said Executive Council, allotted and appropriated, ordained, made, constituted, appointed, and declared, and by these our Letters Patent doth allot and appropriate, ordain, make, constitute, appoint, and declare, the Church erected in Notre Dame Street in our said City of Montreal, in the said Parish of Montreal, to be the Parochial or Parish Church of the said Parish of Montreal; and, the said Parsonage or Rectory of the said Parish Church of Montreal, with the said Church, hath, and by these, our Letters Patent doth endow, and the Freehold and Inheritance of the said Church and of all the Appurtenances thereunto belonging hath, and by these our Letters Patent doth give, grant, and vest forever in the said John Leeds, Rector of the said Parsonage or Rectory and Parish Church of Montreal, and his Successors Rectors of the said Parsonage or Rectory and Parish Church; and the same Church is hereby declared to be for ever dedicated to the Service of God, to be therein more especially applied to the use and behoof of our loving subjects

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subjects professing the Doctrine and Discipline of the Church of England, now inhabiting, and from time to time hereafter to inhabit, the said Parish of Montreal.

Letters Patent
erecting the Rectory of Montreal,
14th Aug., 1819.

And know ye, that our said trusty and well beloved Sir John Coape Sherbrooke, our said Governor, being thereunto by us duly authorized pursuant to the aforesaid Statute, hath, and by these our Letters Patent doth, with the advice of our said Executive Council, endow the said Parsonage or Rectory of the Parish Church of Montreal with all, each, and every the Tracts, Lots, Pieces, and Parcels of Land hereinafter described; that is to say, first, with all that Piece or Parcel of Land situated, lying, and being in Notre Dame Street in the City of Montreal, measuring upon the said Street one hundred and nine feet two inches, and upon which said Parish Church is built; and the Freehold and Inheritance of the said Lot, Piece and Parcel of Land, and all the Appurtenances thereunto belonging, hath, and by these our Letters Patent do give, grant, and vest for ever in the said John Leeds, Rector of the said Parsonage or Rectory and Parish Church of Montreal, and his Successors Rectors of the said Parsonage or Rectory and Parish Church.

In testimony whereof, We have caused these our Letters to be made Patent, and the Great Seal of our said Province to be hereunto affixed. *Witness*, Our trusty and well beloved his Grace Charles Duke of Richmond, Knight of the Most Noble Order of the Garter, Captain General and Governor in Chief in and over our Province of Lower Canada, Vice Admiral of the same, &c., &c., &c., at our Castle of Saint Lewis, in our City of Quebec, in our said Province of Lower Canada, the 12th day of August, in the year of our Lord one thousand eight hundred and eighteen, and in the fifty-eighth year of our Reign.

RICHMOND, LENOX, AND AUBIGNY.

John Taylor,
Deputy Secretary.

OPINIONS OF HIS MAJESTY'S LAW OFFICERS RELATIVE TO THE CLERGY RESERVES, AND THE CHURCHES ENTITLED THERETO.

DOCTORS COMMONS, 15th Nov., 1819.

MY LORD,—

We are honoured with Your Lordship's commands of the 14th September last, stating that doubts have arisen how far, under the construction of the Act passed in the 31st year of His present Majesty, (c. 31) the dissenting Protestant Ministers, resident in Canada, have a legal claim to participate in the lands by that Act, directed to be reserved

Opinion of His Majesty's Law Officers relative to the Clergy Reserves, 15th November, 1819.

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reserved as a provision for the support and maintenance of a Protestant Clergy.

Opinion of His Majesty's Law Officers relative to the Clergy Resolves; 15th November, 1810

And Your Lordship is pleased to request, that we would take the same into consideration and report to Your Lordship, for the information of the Prince Regent, our opinion, whether the Governor of the Province is either required by the Act, or would be justified in applying the produce of the reserved lands to the maintenance of any other than the Clergy of the Church of England, resident in the Province; and in the event of our being of opinion that the Ministers of dissenting Protestant congregations have a concurrent claim with those of the Church of England, further desiring our opinion, whether, in applying the reserved lands to the Endowment of Rectories and Parsonages, as required by the 38th clause, it is incumbent upon His Majesty to retain a portion of those lands for the maintenance of the dissenting clergy; and as to the proportion in which under such a construction the provision is to be assigned to the different classes of dissenters established within the Province.

We are of opinion, that though the provisions made by 31 Geo. 3 c. 31, ss. 36 and 42, for the support and maintenance of a Protestant Clergy, are not confined solely to the Clergy of the Church of England, but may be extended also to the Clergy of the Church of Scotland, if there are any such settled in Canada (as appears to have been admitted in the debate upon the passing of the Act,) yet that they do not extend to the dissenting Ministers, since we think the terms "Protestant Clergy" can apply only to the Protestant Clergy recognised and established by law.

The 37th Section, which directs, "that the rents and profits of the lands, shall be applicable solely to the maintenance and support of a Protestant Clergy," does not specify by what authority the rents and profits are to be so applied.

Supposing the Governor to be duly authorised by the Act to make such application, we think that he will be justified in applying such rents and profits to the maintenance and support of the Clergy of the Church of Scotland, as well as those of the Church of England, but not to the support and maintenance of Ministers of dissenting Protestant congregations.

With respect to the second question, the 38th clause, "which empowers His Majesty to authorise the Governor to constitute and erect Parsonages or Rectories according to the establishment of the Church of England;" provides also, "that he may endow every such parsonage or rectory with so much of the lands allotted and appropriated, in respect to any land within such township or parish which shall have been

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been granted, as the Governor, with the advice of the Executive Council shall judge expedient."

Opinion of His Majesty's Law Officers relative to the Clergy Reserves, 15th November, 1819.

Under these terms he might endow any particular parsonage or rectory with the whole lands allotted and appropriated in that township or parish. It would be inconsistent with this discretionary power, that any proportion of such lands should be absolutely retained for any other clergy than those mentioned in that clause; and we think that it is not incumbent on His Majesty so to retain any portion of such lands.

We have the honour to be, my Lord,

Your Lordship's most obedient humble servants,

(Signed)

CHRIST. ROBINSON,
R. GIFFORD,
J. S. COPLEY.

EARL BATHURST, &c., &c., &c.

DESPATCH FROM DEUT. GOVERNOR SIR P. MAITLAND,
K. C. B., TO EARL BATHURST.

UPPER CANADA, YORK,

21st January, 1824.

MY LORD,—

In transmitting the accompanying petition of the Commons House of Assembly of this Province to be laid before the King, relating to the Claim of the Presbyterians of the Kirk of Scotland, settled here, to participate in the lands reserved for the support of the Protestant Clergy, under the Provisions of the British Act of the 31st of His late Majesty, c. 31, I beg to refer your Lordship to the sentiments expressed upon that subject in my letter of the 27th of December last.

Despatch. Sir P. Maitland to Earl Bathurst, January 21st, 1824.

I have, &c.

(Signed)

P. MAITLAND.

PETITION OF THE HOUSE OF ASSEMBLY OF UPPER
CANADA, AS TO THE CLAIM OF THE CHURCH
OF SCOTLAND, JANUARY 1824.

TO THE KING'S MOST EXCELLENT MAJESTY.

Most Gracious Sovereign,—

We, Your Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament Assembled, most humbly

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beg leave to approach your Majesty, and to submit to your Majesty's most gracious consideration our earnest applications on behalf of the clergy and members of the Established Church of Scotland in this portion of your dominions.

Assembly Post-
1690, January.
1691.

When the Kingdoms of England and Scotland were, (happily for both) united under the British Crown, the subjects of each were placed on a footing of reciprocity; they were to enjoy a full communication of every right, privilege, and advantage; and their respective Churches were established as "true Protestant Churches" within their particular limits; the Clergy of both might therefore reasonably expect equally to participate in the benefits which might result from the union.

Viewing the conquest of these Provinces from the domain of France by the united exertions of Great Britain and Ireland as one great advantage resulting from the union, we humbly conceive that the Churches of England and Scotland had, after such conquest, equal rights as to the exercise and enjoyment of their respective religious privileges therein, and an equal claim to enjoy any advantages or support which might be derived from the newly acquired territory.

By an Act passed in the 31st year of the reign of our late revered Sovereign, whose memory will long live in our hearts, an appropriation is authorized to be made of one-seventh of the Lands of the Province for the support and maintenance of a Protestant Clergy in this Province; and under the general words, "a Protestant Clergy," used in that Act, your Majesty's subjects in this Province, who belong and are particularly attached to the Church of Scotland, fondly hoped that a provision had been made for the Clergy of that Church, as well as for those of the Church of England; and though the allotment of lands thus authorized has hitherto been in a great measure unproductive, they felt a degree of confidence that it would eventually afford a fair support to the Clergy of both Churches; the Lands reserved under the said Act being claimed and enjoyed exclusively for the support and maintenance of the Clergy of the Church of England in this Province.

We humbly entreat Your Majesty's consideration of the subject, and if, in the legal construction of the said Act, it is considered that no provision for the Clergy of the Church of Scotland was contemplated thereby, we would most respectfully and earnestly express to your Majesty, our hope that your Majesty will be graciously pleased to extend to them your royal protection and consideration, by directing such provision to be made for their maintenance and support as to you Majesty may appear proper.

That your Majesty may long reign in the confidence and affection of all your subjects, to guard and secure their rights in every portion of your

your widely extended domains, is the prayer of your Majesty's faithful subjects, the Commons of Upper Canada.

(Signed)

LIVIVS P. SHERWOOD,

Speaker.

Commons House of Assembly, }
5th January, 1824. }

DESPATCH FROM EARL BATHURST TO LIEUTENANT
GOVERNOR SIR P. MATTLAND.

DOWNING STREET,

May 18th, 1824.

Sir,—

I have the honor to acknowledge the receipt of your despatch of Earl Bathurst to Sir P. Mattland, the 21st J^{an}, transmitting an address from the House of Assembly of the Province of Upper Canada, to His Majesty, relative to the claim advanced by the Presbyterians of the Kirk of Scotland, settled in the Province, to participate in the lands reserved for the support of a Protestant Clergy, under the Act of the 31st George, 3 and to acquaint you that the Address has been laid before the King.

I have, &c.,

(Signed)

BATHURST.

EXTRACT OF A DESPATCH FROM SIR P. MATTLAND,
K.C.B., TO THE EARL OF BATHURST.

UPPER CANADA,

YORK, 7th March, 1826.

It becomes my duty to lay before your Lordship an Address to His Majesty, passed by the House of Assembly, in a Committee of the whole, on the state of the Province; and I have taken the liberty of transmitting with it a copy of the answer given by me to the Address of the Assembly, together with such explanations as have appeared to me necessary.

TO THE KING'S MOST EXCELLENT MAJESTY.

May it Please Your Majesty:

We, your Majesty's most dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled, most humbly beg leave to approach your Majesty, to express our sentiments, on a subject of deep interest to your faithful subjects of Upper Canada.

We perceive, by the provisions of an Act passed during the last Session of the Imperial Parliament, that Your Majesty is empowered to

order



order the appropriation of a further allotment of land within this Province for the support and maintenance of a Protestant Clergy, in lieu of that portion of the lands already set apart for the purpose (called the Clergy Reserves) which has lately been, or is about to be sold to the Canada Land Company.

Address of the
House of
Assembly, in
Upper Canada, to
His Majesty, 27th
January, 1826.

We would most reluctantly appear to Your Majesty as unfriendly to the cause of religion, but when we consider that one seventh of all the surveyed lands within this Province is already, by an Act passed in the thirty-first year of the reign of his late Majesty, applied to that object, and are of opinion that the extent of the present reservation is injurious to the prosperity of the Colony, we feel a strong desire that no further appropriation may be made, but that your Majesty will be graciously pleased to submit to your Parliament the expediency of repealing so much of the late Act as permits the said further allotment.

We further most humbly represent, most gracious Sovereign, that the lands set apart in this Province for the maintenance and support of a Protestant Clergy ought not to be enjoyed by any one denomination of Protestants, to the exclusion of their christian brethren of other denominations, equally conscientious in their respective modes of worshipping God, and equally entitled, as dutiful and loyal subjects, to the protection of your Majesty's benign and liberal Government; we therefore humbly hope it will, in your Majesty's wisdom, be deemed expedient and just, that not only the present Reserves, but that any funds arising from the sales thereof, should be devoted to the advancement of the Christian Religion generally, and the happiness of all your Majesty's subjects, of whatever denomination; or, if such application or distribution should be deemed inexpedient, that the profits arising from such appropriation should be applied to the purposes of Education, and the general improvement of this Province.

(Signed)

JOHN WILLSON,

Speaker.

Commons House of Assembly,
27th January, 1826.

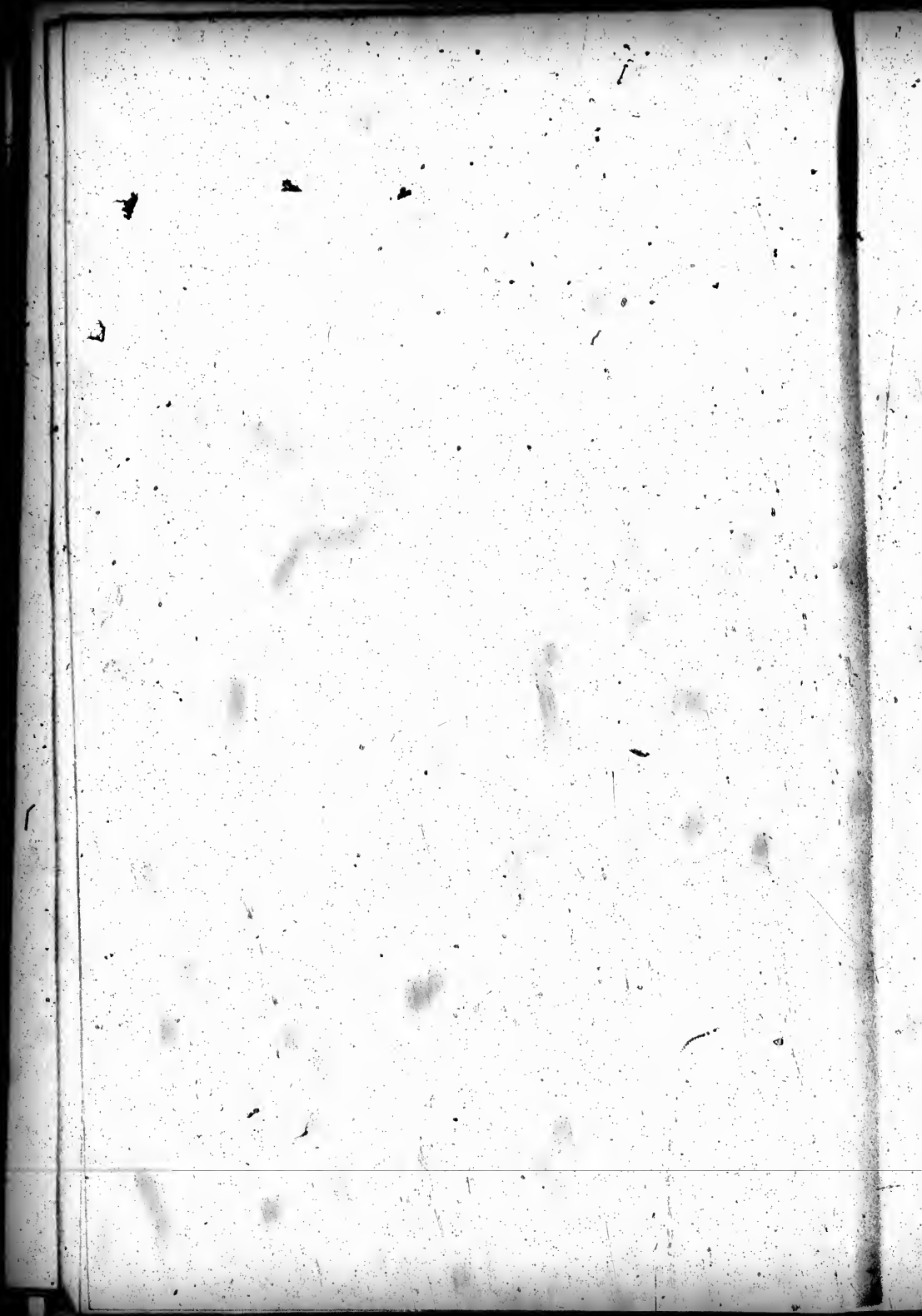
DOWNING STREET,
11th June, 1826.

Sir:—

I have laid before the King the Address of the Legislature of Upper Canada, praying that His Majesty would be graciously pleased to submit to Parliament the propriety of repealing so much of the Act

Earl Bathurst to
Sir F. Maidland,
June 11, 1826.

of



of 6th Geo. 4, chap. 75, as permits the appropriation of lands in lieu of the Clergy Reserves. I have received his Majesty's commands to acquaint you that he is persuaded the House of Assembly would never have concurred in this address, if they had been apprised of the true intent of the Act of Parliament referred to, which had not for its object any increase of the amount of the Reserves, specially allotted by the Imperial Parliament for the Established Church.

I have, &c.

(Signed)

BATHURST.

EXTRACT FROM THE REPORT OF THE SELECT
COMMITTEE OF THE HOUSE OF COMMONS,
APPOINTED IN 1827, TO REPORT ON THE
CIVIL GOVERNMENT OF CANADA.

It now remains for us to lay before the House the result of our enquiries into the Clergy Reserves, which appear, by the statements of the Petitioners from Upper Canada, to be the cause of much anxiety and dissatisfaction in that Province.

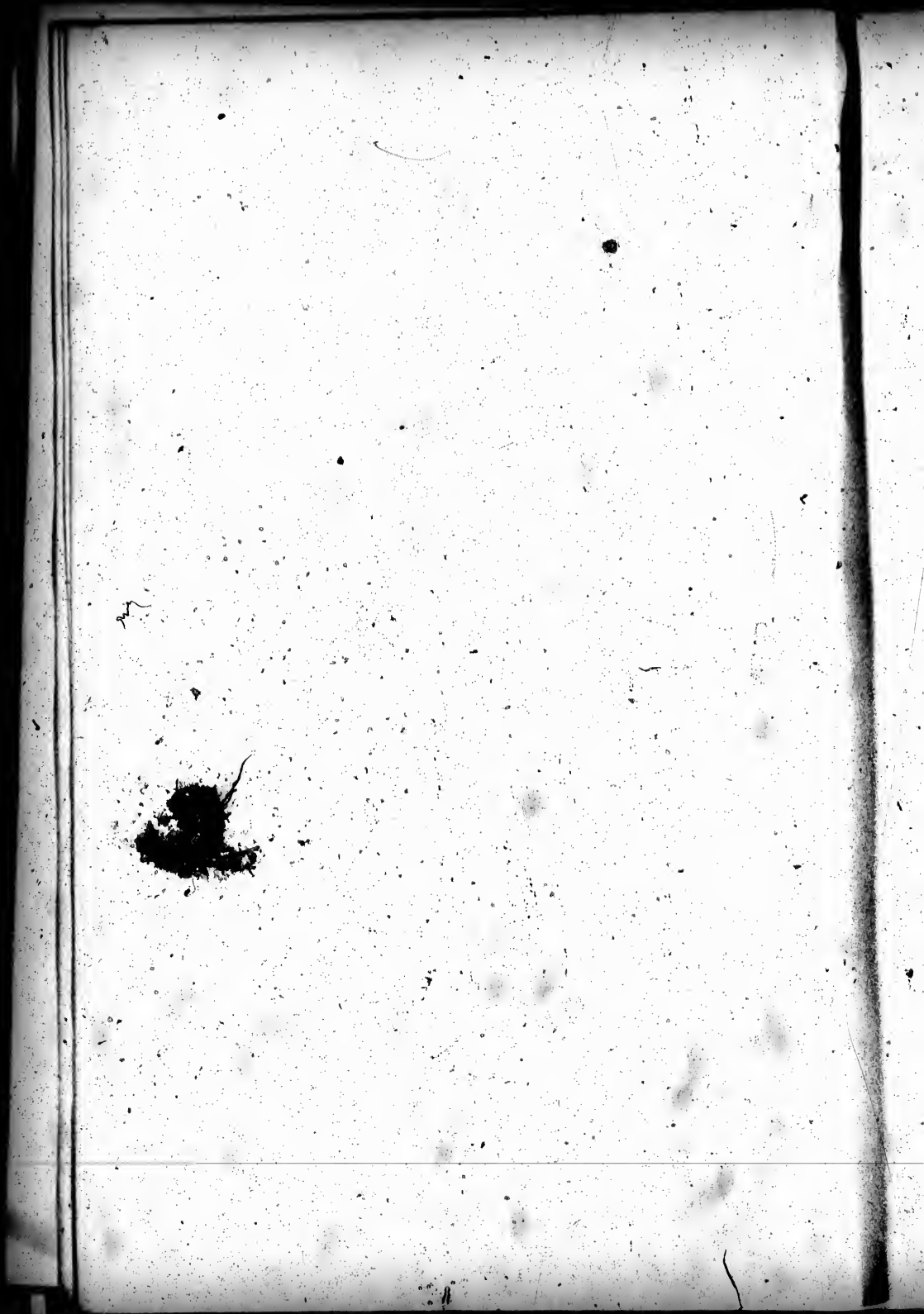
Extract from the Report of the Select Committee of the House of Commons, appointed in 1827, to Report on the Civil Government of Canada.

By the Act of 1791, the Governor is directed to make from and out of the lands of the Crown within such Provinces, such allotment and appropriation of lands for the support and maintenance of a Protestant Clergy within the same as may have a due proportion to the amount of such lands within the same, as have at any time been granted by or under any authority of His Majesty. And it is further provided, that such lands so allotted and appropriated shall be, as nearly as the circumstances and the nature of the case will admit, of the like quality as the lands in respect of which the same are so allotted and appropriated; and shall be as nearly as the same may be estimated at the time of making such Grant, equal in value to the seventh part of the lands so granted.

The directions thus given have been strictly carried into effect, and the result is, that the separate portions of land which have been thus reserved, are scattered over the whole of the districts already granted.

It was no doubt expected by the framers of this Act that, as the other six parts of the land granted were improved and cultivated, the reserved part would produce a rent, and that out of the profits thus realized, an ample fund might be established for the maintenance of a Protestant Clergy. These anticipations, however, have not as yet been and do not appear likely to be soon realized. Judging, indeed, by all the information the Committee could obtain on this subject, they entertain no doubt that these reserved lands, as they are at present distributed

over



over the country, retard more than any other circumstance the improvement of the Colony, lying as they do in detached portions in each Township, and intervening between the occupations of actual settlers, who have no means of cutting roads through the woods and morasses which thus separate them from their neighbours.

Extract from the Report of the Select Committee of the House of Commons, appointed in 1837, to Report on the Civil Government of Canada.

The allotment of those portions of reserved wilderness has, in fact done much more to diminish the value of the six parts granted to these settlers, than the improvement of their allotments has done to increase the value of the Reserve. This, we think, must be apparent from the results of the attempts which have been made to dispose of these lands.

A Corporation has been formed within the Province, consisting of the Clergy of the Church of England, who have been empowered to grant leases of those lands, for a term not exceeding 21 years. It appears, that in the Lower Province alone, the total quantity of Clergy Reserves is 488,594 acres, of which 75,639 acres are granted on leases, the terms of which are,—that for every lot of 200 acres, eight bushels of Wheat, or 25s. per annum shall be paid for the first 7 years; 16 bushels, or 50s., per annum, shall be paid for the next 7 years; and 24 bushels, or 75s., per annum, for the last 7 years. Under these circumstances, the nominal rent of the Clergy Reserves is £930, per annum. The actual receipt for the average of the last three years has been only £50 per annum.

The great difference between the nominal and ~~net~~ receipt is to be accounted for by the great difficulty of collecting rents, and by tenants absconding:

We are informed also, that the resident Clergy act as local agents in collecting the rents; that a sum of £175 has been deducted for the Expenses of Management, and that at the date of the last communication on this subject two hundred and fifty remained in the hands of the Receiver General, being the gross produce of the whole revenue of an Estate of 954,488 acres.

An attempt has been made to dispose of this estate by sale. The Canada Company, established by the Act 6th, Geo. 4, chap. 75, agreed to purchase a large portion of these reserves at a price to be fixed by Commissioners: 3s. 6d. per acre was the price estimated, and at this sum an unwillingness was expressed on the part of the Church to dispose of the lands.

The Government therefore have made arrangements with the Company, and an Act has since been passed authorizing the sale of these lands to any person desiring to purchase them; provided the quantity sold does not exceed 100,000 acres each year. As your Committee entertain no doubt that the reservation of these lands in mortmain, is a serious obstacle to the improvement of the Colony, they think every

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proper exertion should be made to place them in the hands of persons, who will perform upon them the duties of settlement, and bring them gradually into cultivation.

Extract from the Report of the Select Committee of the House of Commons, appointed in 1837, to Report on the civil Government of Canada.

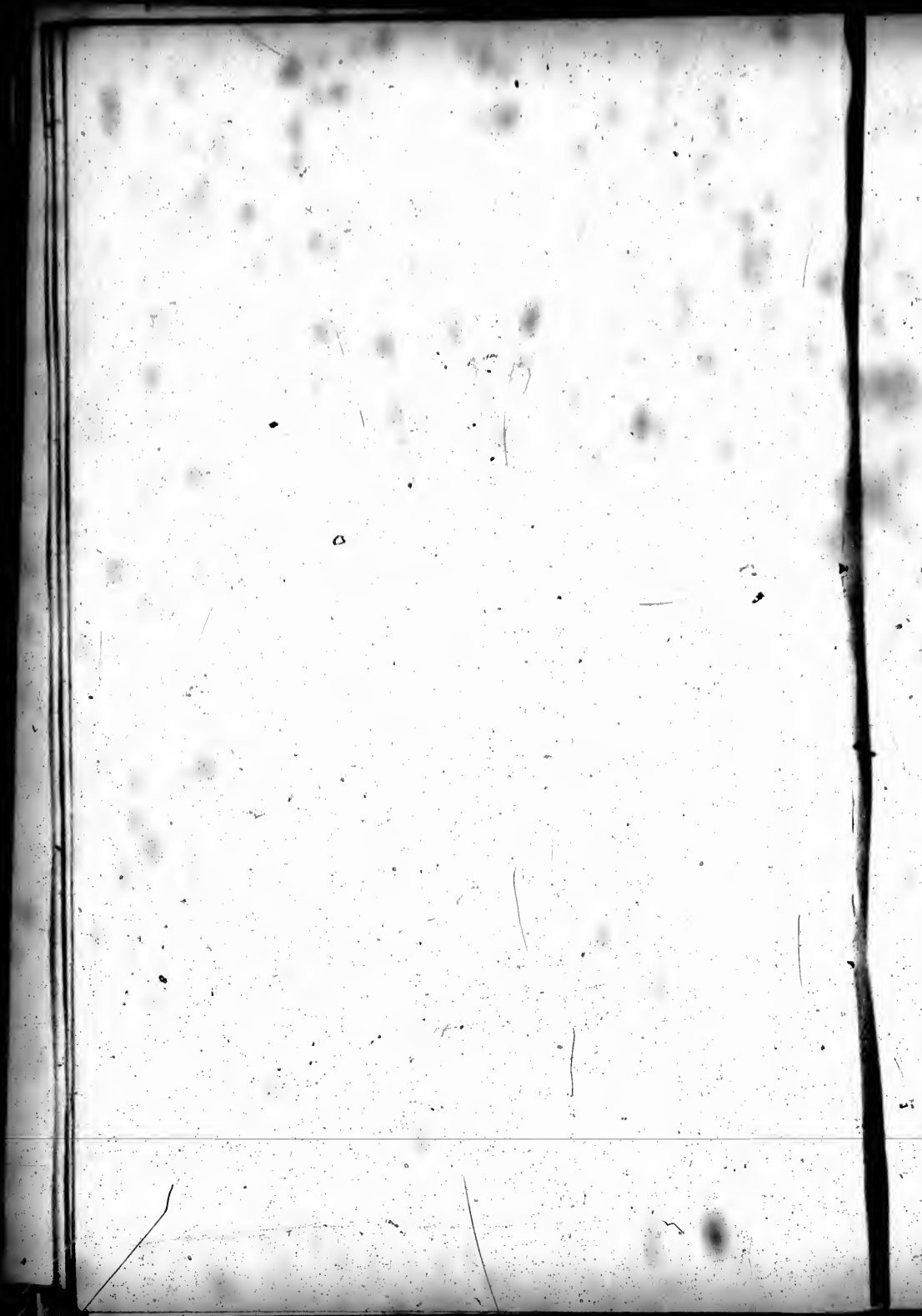
That their value, whatever it may be, must be applied to the maintenance of a Protestant Clergy, there can be no doubt. And your Committee regret that there is no prospect, as far as a present and succeeding generation is concerned, of their produce being sufficient for that object in a country where wholly unimproved land is granted in fee for almost nothing, to persons willing to settle on it. It is hardly to be expected, that with the exception of some favored allotments, responsible tenants will be found, who will hold on lease, or that purchasers of such land will be found at more than a nominal price.

Your Committee, however, are happy to find that the principle of the progressive sale of these lands has already been sanctioned by an Act of the British Parliament. They cannot avoid recommending in the strongest manner the propriety of securing for the future any provision which may be deemed necessary for the religious wants of the community in those provinces by other means than by a reservation of one-seventh of the land, according to the enactment of the Act of 1791. They would also observe that equal objections exist to the reservation of that seventh: which in practice appears to be reserved for the benefit of the Crown; and doubtless the time must arrive when these reserved lands will have acquired a considerable value from the circumstance of their being surrounded by settled districts, but that value will have been acquired at the expense of the real interest of this Province, and will operate to retard that course of general improvement, which is the true source of national wealth. Your Committee are of opinion, therefore, that it may be well for the Government to consider whether these lands cannot be permanently alienated, subject to some fixed moderate reserved payment (either in money or in grain as may be demanded), to arise after the first ten or fifteen years of occupation. They are not prepared to do more than offer this suggestion, which appears to them to be worthy of more careful investigation than it is in their power to give it; but in this or in some such mode, they are fully persuaded the lands thus reserved ought without delay to be permanently disposed of.

To a property at once so large and so unproductive, it appears that there are numerous claimants.

The Act of 1791 directs that the profits arising from this source shall be applied to a Protestant Clergy; doubts have arisen whether the Act requires the Government to apply them to the use of the Church of England only, or to allow the Church of Scotland to participate in them. The Law Officers of the Crown have given an opinion in favour of the rights of the Church of Scotland to such participation, in which your Committee entirely concur; but the question has also been raised

whether



whether the Clergy of every denomination of Christians except Roman Catholics may not be included; it is not for your Committee to express an opinion on the accuracy which the words of the Act legally convey. They entertain no doubt, however, that the intention of those persons who brought forward the measure in Parliament was, to endow with Parsonage-houses and Glebe-lands the Clergy of the Church of England, at the discretion of the local Government. But with respect to the distribution of the proceeds of the reserved lands, generally, they are of opinion that they sought to reserve to the Government the right to apply the money, if they so thought fit, to any Protestant Clergy.

Extract from the Report of the Select Committee of the House of Commons, appointed in 1827, to Report on the Civil Government of Canada.

The Committee see little reason to hope that the annual income to be derived from this source is likely, within any time to which they can look forward, to amount to a sufficient sum to provide for the Protestant Clergy of these Provinces; but they venture to press the early consideration of this subject on His Majesty's Government, with a view to an adjustment, that may be satisfactory to the Province. Of the principle on which the proceeds from these lands are hereafter to be applied, and in deciding on the just and prudent application of these funds, the Government will necessarily be influenced by the state of the population, as to religious opinions at the period when the decision is to be taken. At present it is certain that the adherents of the Church of England constitute but a small minority in the Province of Upper Canada. On the part of the Scotch Church, claims have been strongly urged on account of its establishment in the Empire, and from the number of its adherents in the Province. With regard to the other religious sects, the committee have found much difficulty in ascertaining the exact numerical proportions which they bear one to the other, but the evidence has led them to believe that, neither the adherents of the Church of England nor those of the Church of Scotland, form the most numerous religious body within the Province of Upper Canada.

ADDRESS OF THE COMMONS HOUSE OF ASSEMBLY,
20TH MARCH, 1828.

TO THE KING'S MOST EXCELLENT MAJESTY.

Most Gracious Sovereign,—

We, your Majesty's dutiful and loyal subjects, the Commons of Upper Canada in Provincial Parliament assembled, humbly beg leave to represent to your Majesty that we have seen, with equal surprise and regret, a Letter and Ecclesiastical Chart dated 16th May, 1827, and addressed by the Honorable and Venerable Dr. Strachan, Arch-deacon of York, a member of your Majesty's Legislative and Executive Councils

Address of the Commons House of Assembly 18th March, 1828.



Councils of this Province, to the Right Honorable R. P. Wilnot Horton, at that time Under Secretary of State for the Colonies, for the information of Lord Goderich, then at the head of the Colonial Department, as they are inaccurate in some important respects, and are calculated to lead your Majesty's Government into serious errors.

Address of the
Commons House
of Assembly 1
29th March, 1822.

We beg leave to inform your Majesty that, of Your Majesty's subjects in this Province, only a small portion are members of the Church of England; that there is not any peculiar tendency to that Church among the people; and that nothing could cause more alarm and grief in their minds than the apprehension that there was a design on the part of Your Majesty's Government to establish, as a part of the State, one or more Churches or Denominations of Christians in this Province; with rights and endowments not granted to Your Majesty's subjects in general of other Denominations, who are equally conscientious and deserving, and equally loyal and attached to Your Majesty's Royal Person and Government. In following honestly the dictates of their conscience as regards the great and important subject of Religion, the latter have never been conscious that they have violated any law or any obligation of a good subject, or done anything to forfeit your Majesty's favor and protection, or to exclude themselves from a participation in the rights and privileges enjoyed by Your Majesty's other subjects.

We humbly beg leave to assure Your Majesty that the insinuations in the letter against the Methodist Preachers in this Province, do much injustice to a body of pious and deserving men, who justly enjoy the confidence, and are the spiritual instructors, of a large portion of Your Majesty's subjects in this Province.

We are convinced that the tendency of their influence and instruction is not hostile to our institutions, but, on the contrary, is eminently favorable to religion and morality; that their labours are calculated to make their people better men and better subjects, and have already produced in this Province the happiest effects.

We would also beg leave to state, that it is the general desire of Your Majesty's subjects in this Province, that the monies arising from the sale of any of the lands set apart, in this Province for the support and maintenance of a Protestant Clergy, should be entirely appropriated to purposes of education and internal improvements.

We would most humbly represent, that to apply them to the benefit of one or two Christian denominations to the exclusion of others, would be unjust as well as impolitic, and that it might perhaps be found impracticable to divide them among all.

We have no reason to fear that the cause of Religion would suffer materially from not giving a public support to its ministers, and from leaving

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leaving them to be supported by the liberality of their people. Many works for the internal improvement of the Province, of great importance to its prosperity and to the ease and comfort of Your Majesty's subjects, are necessarily neglected for the want of money in the Provincial Treasury; for although the taxes are only of a trifling amount, yet, from the scarcity of money and the want of even a tolerable price for the productions of their farms, they are paid with great difficulty by many of Your Majesty's people; it is impossible, therefore, to raise by taxation the means necessary to undertake and carry on those works. It is also most desirable that a larger sum than is at present at our disposal should be employed to extend through the country the advantages of education.

Address of the
Commons House
of Assembly,
20th March, 1828.

We, therefore, humbly pray that the monies arising from the sale of the lands set apart in this Province for the support and maintenance of a Protestant Clergy, may be placed at the disposal of the Legislature of this Province for the purposes we have mentioned.

(Signed)

JOHN WILLSON,
Speaker.

Commons House of Assembly, }
20th March, 1828. }

MESSAGE OF HIS EXCELLENCY THE LIEUTENANT
GOVERNOR TO THE HOUSE OF ASSEMBLY, IN
REFERENCE TO THE SAID ADDRESS.

Gentlemen of the House of Assembly—

I will transmit your Address to His Majesty's Government; and I think I need scarcely assure you that, if the loyalty of the inhabitants of this Province has been impeached, of which I am not aware, it could neither require nor receive a stronger vindication than would be found in the representations which have been continually transmitted from this Government by my predecessors as well as by myself. The great importance of providing for religious instruction, and for education generally, is happily exemplified in the moral condition of the people of the United Kingdom; and the measures which have been taken by His Majesty in order to secure the same blessings to this Colony, subjecting no portions of its inhabitants to burthens or to civil disabilities of any kind, cannot fail in the end to be rightly understood and gratefully appreciated.

Message of His
Excellency the
Lieutenant
Governor, in
reference to the
said Address.

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**EXTRACT OF DESPATCH FROM SIR GEORGE MURRAY,
G.C.B., TO SIR JOHN COLBORNE, K.C.B., DATED
DOWLING STREET, 29TH SEPTEMBER, 1828.**

Extract of a
Despatch from
Sir Geo. Murray,
G.C.B., to Sir
John Colborne,
K.C.B., dated
Dowling Street,
29th Sept. 1828.

On the subject of the Clergy Reserves, I have to acknowledge the receipt of a despatch from Sir Peregrine Maitland, dated the 12th of May, enclosing an address from the House of Assembly to his Majesty praying that the monies arising from the sale of lands set apart in the Province, for the support and maintenance of a Protestant Clergy, may be placed at the disposal of the Legislature of the Province, for defraying the expense of certain Public Works for the internal improvement of the country, and for the promotion of general education.

In this address it is stated that only a small proportion of the inhabitants of the Province are members of the Church of England; and that the University recently established under the Royal Charter, will produce no practical benefit to the majority of the people, but will be regarded with distrust, in consequence of the peculiar privileges which it confers upon members of the English Church; it is therefore desired that a new charter may be granted upon more comprehensive principles.

Your Excellency will acquaint the House of Assembly that I have laid their address before the King; and that I have it in command to convey, through you, to the House, the expression of His Majesty's satisfaction in the assurances of loyalty and attachment to his person and government, which are contained in this address.

You will further assure them that His Majesty will, at all times, receive with the most serious attention, any representation which may be made to him by the representatives of his faithful subjects in Upper Canada, in the Provincial Parliament assembled, for advancing the prosperity of this important and interesting portion of his dominions.

Your Excellency is, however, aware that the existing Acts of Parliament have placed in the hands of His Majesty's Government, a very limited discretionary authority respecting the appropriation of the Clergy Reserves, or the proceeds arising from their sale. In case of its being deemed proper, however, to bring the whole of this subject under the revision of Parliament, with a view to the amendment of the existing statutes, it will be desirable that I should be provided with returns from Your Excellency, on the subject of the Clergy Reserves in Upper Canada, similar to those which I have directed Sir James Kempt to transmit to me with reference to the Reserves in the Lower Province.

It would be deservedly a subject of regret to His Majesty's Government if the University recently established at York, should prove



to have been founded upon principles which cannot be made to accord with the general feelings and opinions of those for whose advantage it was intended.

Extract of a Despatch from Sir G. Murray, K.C.B. to Sir J. Colborne, K.C.B., dated Upper Canada, Government House, York, 16th Feby. 1829.

EXTRACT OF A DESPATCH FROM LIEUTENANT GENERAL SIR J. COLBORNE, K.C.B., TO SIR G. MURRAY, G. C. B., DATED UPPER CANADA, GOVERNMENT HOUSE, YORK, 16TH FEBRUARY, 1829.

Extract of a Despatch from Lieutenant Gen. Sir J. Colborne, K.C.B., to Sir G. Murray, G. C. B., dated Upper Canada, Government House, York, 16th February, 1829.

I forward also a copy of my Message in answer to the Address respecting the Clergy Reserves.

(Extract.)

MESSAGE TO THE HOUSE OF ASSEMBLY,

(Signed) J. COLBORNE.

The Lieutenant Governor acquaints the House of Assembly that His Majesty's Secretary of State for the Colonies has acknowledged the receipt of a Despatch, with an address from the House of Assembly of the last Parliament praying that the monies arising from the sale of lands set apart in this Province for the support and maintenance of a Protestant Clergy, may be placed at the disposal of the Legislature of the Province, for defraying the expense of certain public works for the internal improvement of the country, and for the promotion of general education.

Message to the Assembly.

This Address has been laid before the King, and His Majesty has been graciously pleased to express his satisfaction in the assurances of loyalty and attachment to his person and government, which are contained in it; and that His Majesty will at all times receive, with the most serious attention, any representation which may be made to him by the representatives of his faithful subjects in Upper Canada, in Provincial Parliament assembled, for advancing the prosperity of this important and interesting portion of his dominions.

The Lieutenant Governor, however, is given to understand from the Secretary of State, that the present statutes respecting the appropriation of the Clergy Reserves, grant a very limited discretionary power to His Majesty's Government; and that in case a revision of them should be deemed necessary, with a view to any alteration in these provisions, much information on the subject, in all its bearings, is required, and will soon be obtained by His Majesty's Ministers.



EXTRACT OF A DESPATCH FROM VISCOUNT GODERICH
 TO SIR J. COLBORNE, K.C.B., DATED DOWNING STREET,
 21st NOVEMBER, 1831.

Presented by
 Lord Goderich to
 Sir J. Colborne,
 K.C.B., Nov. 21st,
 1831.

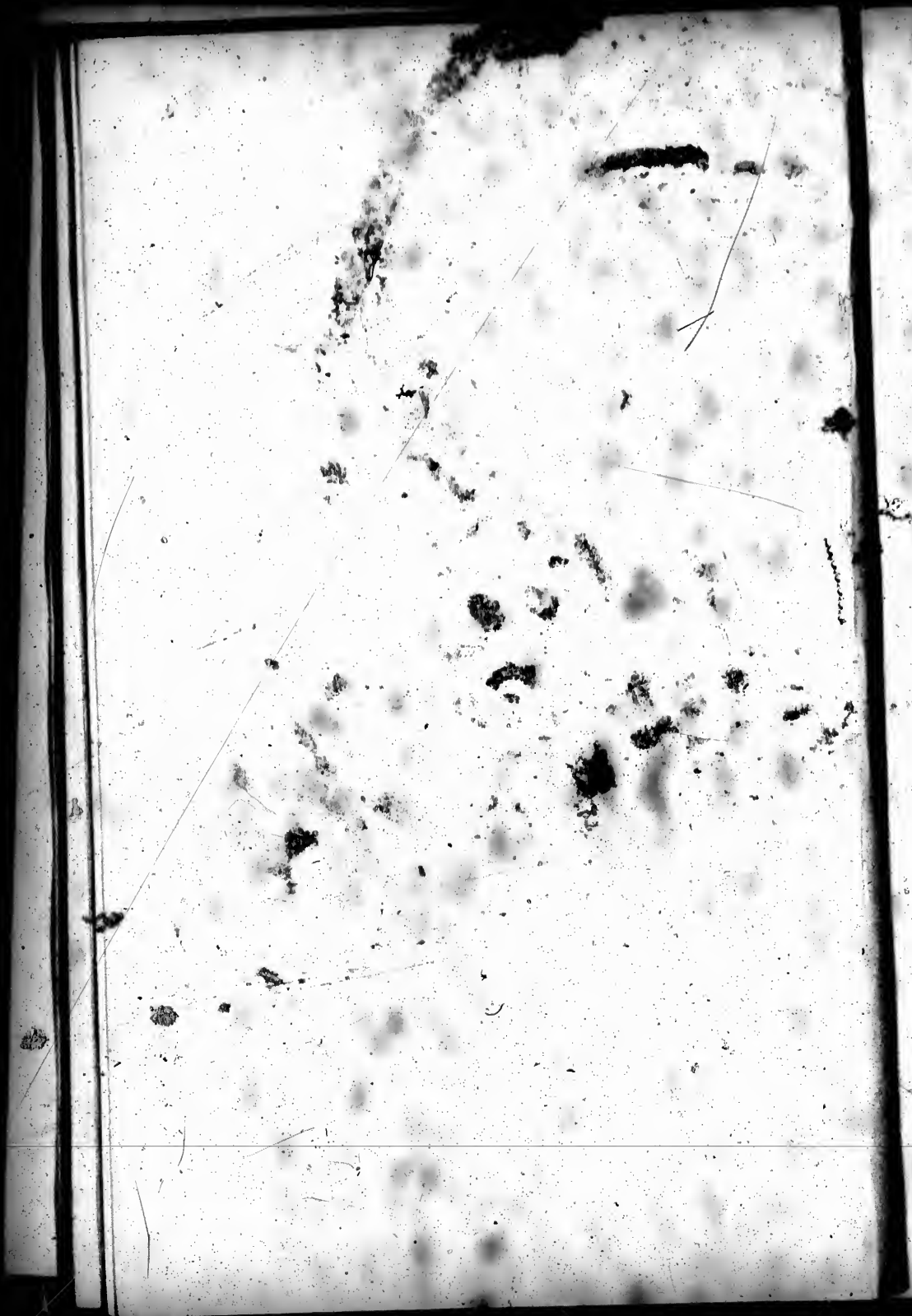
(No. 53.)

With respect to the Clergy Reserves, I have no hesitation whatever in stating that I entirely concur with the Assembly in thinking that they form a great obstacle to the improvement and settlement of the Province, without being productive of any corresponding advantage to make up for the inconvenience. During the forty years the system of making these Reserves has existed, the total amount of the income they have afforded has not equalled the expense incurred in their management.

I find by the Abstract of the income and expenditure of the Corporation for managing the Reserves, that the receipts during the last nine years, have not averaged more than £200 a year, and that the whole of these sums have been absorbed by the expenses of the officers of the Corporation. It is indeed stated that a considerable number of Leaves have been granted, and that a yearly income may be expected from the land so let of £3,350 currency; it appears, however, that this sum is what is calculated upon as the amount of the rent which ought to be obtained, not what has been actually received; and I fear that when the expenses of management and collection come to be deducted, and the necessary allowance made for bad debts, the net proceeds would be very considerably reduced; even supposing the nominal rent to be collected, it would be but a small sum when compared with the burden inflicted upon the Colony. It seems indeed to be proved by what has been experienced, not only in Canada but in the Australian Colonies that land in countries where so much remains unappropriated, can only be profitably occupied by those who have the stimulus of personal and permanent interest. Hence the income derived from landed property retained in the hands of the government for any public purpose, is trifling compared to the inconvenience it occasions; the same sum raised in almost any other manner would be much less burdensome to the Colony.

Under these circumstances I cannot entertain a doubt that an end should immediately be put to the system of reserving a seventh of the waste lands in Canada for the support of a Protestant Clergy; that which would be an objectional mode of raising a revenue for any public purpose is still more strongly to be condemned as a provision for the ministers of religion, since it must have a direct tendency to render odious to the inhabitants to whom their good-will and affection are so peculiarly useful.

Such



Such are the considerations by which His Majesty's Government have been influenced in coming to the conclusion that the retention of the Clergy Reserves in their present state is inexpedient. It is scarcely necessary to protest against this conclusion being construed into an acquiescence in the opinion expressed in a petition upon this subject, signed by a considerable number of the inhabitants of the Province, "that any kind of Church Establishment, circumstanced as Upper Canada is, is essentially anti-christian and baneful to every interest of humanity." I am convinced that this is a sentiment which the great majority of those by whom the petition was signed would not seriously mean to adopt, and that in their eagerness to get rid of a practical grievance, they have incautiously sanctioned speculative opinions, which I have no doubt that upon mature reflection they would disavow. Believing this to be the case, I decline to enter into any argument for the purpose of refuting an assertion, the justice of which I so entirely deny. It is sufficient to repeat that His Majesty's Government have advised the abandonment of the Reserves, for the simple reason that after an experience of forty years they have been found not to answer the expectations entertained at the time the system was established, but have entailed a heavy burden upon the Province without producing any corresponding advantage.

In a separate despatch, I have described in detail the measure it will be necessary to adopt for the purpose of causing these Reserves to revert into the general mass of the Crown Estate, when they will be managed by the same officers, and according to the same rules.

DESPATCH FROM VISCOUNT GODERICH TO LIEUT. GOVERNOR SIR JOHN COLBORNE, K.C.B.

DOWNING STREET, 21st Nov, 1831.

SIR,—In my despatch of this date, No. 55, I have announced to you the intentions of His Majesty's Government on the subject of the Clergy Reserves in Upper Canada, and have apprized you that I should in a separate despatch describe in detail the measures it would be necessary to adopt for the purpose of causing those Reserves to revert into the general mass of the Crown Estate. I now proceed to execute this purpose.

The statute 31 Geo. III. cap. 31, sec. 36 to 40, provides for the appropriation of lands for the maintenance of a Protestant Clergy, and for the erection and endowment of Rectories, the presentation of incumbents, and the manner in which such incumbents shall hold their livings. The forty-first section, which immediately follows those enactments, is expressed in the following words:—

"Provided always that the several provisions hereinbefore contained respecting the allotment and appropriation of lands for the support of a Protestant Clergy within the said Provinces, and also respecting the constituting, erecting, and endowing Parsonages or Rectories within
the

Despatch from
Viscount Goderich
to Sir John Colborne,
dated Downing Street,
21st November,
1831.

Despatch from
Viscount Goderich
to Lieut. Governor Sir
John Colborne,
K.C.B., November
21st, 1831.



the said Provinces, and also respecting the presentation of incumbents or ministers to the same, and also respecting the manner in which such incumbents or ministers shall hold and enjoy the same, shall be subject to be varied or repealed by any express provisions for that purpose, contained in any act or acts which may be passed by the Legislative Council and Assembly of the said Provinces respectively and assented to by His Majesty, his heirs or successors, under the restrictions hereinafter provided."

Despatch from
Viscount Dalhousie
to the Hon.
Governor, dated
Down St. Street,
11th November,
1811.

The forty-second clause then proceeds to enact, that whenever any act shall be passed by the Legislative Council and Assembly for any of the before-mentioned purposes, such act shall, "before any declaration or signification of the King's assent thereto," be laid before both Houses of Parliament in Great Britain, and that His Majesty shall not signify his assent until thirty days after the act shall so have been laid before the two Houses.

Subsequently to the date of this Act of Parliament, the Corporation for the management of the Clergy Reserves was established by a Charter issued under the Great Seal of the Province; that body has granted Leases of a considerable quantity of land, none of which, as I understand, are made to endure for more than twenty-one years from their respective dates.

The statute 7 & 8 Geo. IV. cap 62, authorized the Governors of the Provinces, with the consent of the Executive Council, in pursuance of any instructions which might be issued to them by His Majesty through one of His Principal Secretaries of State, to sell a part of the Clergy Reserves, not exceeding one-fourth of the whole, provided that in no one year more than 100,000 acres were to be sold; the money arising from the sales was to be invested in the Public Funds of this Kingdom, and the interest of that investment was declared applicable either to the improvement of the unsold Reserves or to the purposes for which the Reserves were originally made.

It appears that in pursuance of this statute 74,819 acres of the Clergy Reserves have been sold up to the month of June last, for sums together amounting to £50,837 7s. 6d., and that the sum of £——— was due by the purchasers, who by the terms of their contracts were liable to the payment of the interest.

In order to accomplish effectually the designs which I have explained in the despatch already referred to, it will be necessary that so much of the statute 31 Geo. III. cap 31, as relates to the allotment and appropriation of lands for the support of the Protestant Clergy within the Province of Upper Canada should be repealed by an act to be passed by the Council and Assembly in exercise of the authority committed to them for that purpose by the forty-first section of the Act. The Bill, if so passed, must be accompanied by an address from the Legislative Council

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Council and Assembly, desiring that it may be transmitted to England without delay, for the purpose of being laid before Parliament previously to the signification of His Majesty's assent thereto."

Despatch from
Viscount Grey
to Mr John
Colborne, dated
Downing Street,
21st November,
1811.

A simple repeal of this part of the Act of 1791 would give birth to some questions of an embarrassing nature, the discussion of which it is very desirable to preclude. The questions which I anticipate would be, 1st, whether the Reserves already made would vest in His Majesty absolutely, or would be held by him upon any trust for the benefit of the Protestant Clergy; 2dly, whether the leases granted by the Corporation for managing the Reserves would be still subsisting; 3dly, whether the rent reserved on those Leases would be payable to His Majesty or to the Corporation; 4thly, whether the money already raised by sales under the Act of 1827, would remain applicable or not to the purposes expressly declared by that Statute. It might be suggested, as a further doubt, whether the Corporation would continue in existence, and whether the Powers of Sale given by the Act of 1827 were to be exercised any further. The solution of those questions is, however, obvious; the Corporation could not survive the extinction of the object for which it was erected; the Power of Sale could not be exercised after the subject of sale, viz. the Clergy Reserves had ceased as such to exist.

To meet, however, still more effectually, the two last mentioned questions, you will, as soon as the Act shall have been introduced into the Assembly, intimate to the Clergy Corporation, that it is the express desire of His Majesty's Government that until the Bill shall have finally passed into a Law, or shall have been finally rejected, they do abstain from granting any more leases of the Clergy Reserves; I cannot doubt their ready compliance, and am most reluctant to reason, even hypothetically, on the contrary supposition. But as it will be necessary to prevent improvident leases, which on the haste and excitement of the moment might be made, you will, in the unfortunate contingency of the Corporation persisting in making them, direct the Attorney-General to take such measures as may be best adapted to bring to trial the validity of the Charter itself. I apprehend that the result must be to ascertain that it is void in point of strict Law. But it is impossible to deprecate such a controversy too earnestly, or to contemplate it at all, except as an extreme remedy in a case of extreme importance.

Whenever the Act shall have been finally passed the continued existence of the Charter would be of no practical importance, though it would be on the whole desirable that the Charter should be then surrendered.

With regard to the continuance of the Power of Sale under the statute 7 & 8 Geo. 4th, c. 62., you will immediately signify to the officers employed under

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under that statute, His Majesty's commands that they do attain from acting any further in the execution of it after the 30th June, 1832, and that during the half-year from January 1st to that date, the sales to be made should not exceed in number of Acres the number actually sold in the preceding half-year.

Presented by
Viscount J. C. Col-
borne, dated
London Street,
21st November,
1831.

The difficulties which might oppose or partially frustrate the execution of the designs of His Majesty's Government being thus obviated, it remains to consider what provisions the proposed Act of Assembly should contain.

First, then, it should be enacted, that so much of the British statute of 1791 as relates to the appropriation of Clergy Reserves should be repealed. But as it is unnecessary and would be highly inconvenient to repeal so much of that Act as relates to the erection and endowment of Parsonages, it will be fit, in order to obviate the possibility of mistake, that the precise words upon which alone the repeal is to operate should be quoted in the repealing Act.

Secondly, to remove all doubts as to the effect of the repeal, it should be expressly provided that the reserved lands should immediately vest in His Majesty and be held by him, his heirs, and successors, in the same manner in every respect as if the provisions to be repealed had never been enacted.

Thirdly, the leases granted by the Clergy Corporation should be declared to be as valid as though the repealing Act had not been passed; but the tenants should be required to attend to His Majesty, and to pay their rents to him, or to the receivers of His Majesty's Revenue in the Province.

Fourthly, all sales effected, and all Acts done, under the statute, 7 & 8 Geo. 4. cap. 62, should be declared as valid as though the repealing Act had not been passed.

Fifthly, the only additional provision, the necessity of which I can anticipate, would be an enactment declaring that henceforward no grant of lands wherever made shall be deemed invalid or ineffectual, by reason of the absence of a specification of the Clergy Reserves, appropriated in respect of such grant. With reference to future grants, this of course would be superfluous, but it might obviate some inconvenient doubts as to the effect in future of past neglects of this part of the Act of 1791.

A Provincial Statute embracing these provisions, and neither exceeding nor falling short of them in any material respect, would, I apprehend, effectually set at rest all the questions respecting the Clergy Reserves, to which I have adverted in my accompanying despatch, except in the possible, but I trust very improbable event

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event, of either House of Parliament addressing His Majesty to withhold his assent. That however is a contingency against which no security can be taken, and upon which it could answer no practicable purpose to speculate.

Despatch from
Viscount Goderich
to Sir John Colborne, dated
Dowling Street,
21st November,
1831.

It remains to consider what steps should be taken in order to bring this question fairly under the notice of the two branches of the Provincial Legislature. For that purpose it will be fit that they should be invited to the consideration of the question by a message from His Majesty. Anxious as I am to relieve you to the utmost possible extent from responsibility upon an occasion of so much gravity and importance, I enclose to you the copy of a message to be transmitted in His Majesty's name to both of the Houses of the Provincial Legislature.

The same motive induces me to transmit to you the draft of a Bill, which has been prepared under my direction, for carrying the views of His Majesty's Government into effect. Without intending to fetter the discretion of the Law Officers of your Government, I must express my earnest wish that the Bill might be introduced in terms corresponding as closely as possible with those of the accompanying draft.

I am not sufficiently conversant with the usages of the Canadian Assembly to venture to prescribe anything respecting the manner in which this Bill should be brought forward. If I am not misled by the analogy of English Parliamentary proceedings, I should desire that the Act may be introduced to the notice of the Assembly by the Attorney General, or if he has not a seat in that house, then by any official member in whose ability and discretion you can place adequate confidence. Should the Law pass in any form, you will neither give nor refuse your consent, but will reserve the Bill for the signification of His Majesty's pleasure. Indeed I conceive that to be the proper course of proceeding in every case in which an Act of the Canadas is required to be laid before the Two Houses of Parliament.

(Signed) I have, &c., GODERICH.

DRAFT OF A MESSAGE TO THE LEGISLATURE OF
UPPER CANADA, BEING THE DRAFT REFERRED
TO IN THE DESPATCH ABOVE SET FORTH.

Draft of a
Message to the
Legislature of
Upper Canada.

The Lieutenant-Governor has received His Majesty's commands to make the following communication to the Legislative Council [the House of General Assembly,] in reference to the lands which, in pursuance of the Constitutional Act of this Province, have been set apart for the support and maintenance of a Protestant Clergy.

The Representations which have at different times been made to His Majesty and His Royal Predecessors, of the prejudices sustained by His faithful subjects in this Province, from the appropriation of the Clergy

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Clergy Reserves, have engaged His Majesty's most attentive consideration. His Majesty has, with no less anxiety, considered how far such an appropriation of territory is conducive either to the temporal welfare of the Ministers of Religion in this Province, or to their spiritual influence. Bound no less by his personal feelings than by the sacred obligations of that station to which Providence has called him to watch over the interests of all the Protestant Churches within his dominions, His Majesty could never consent to abandon these interests with a view to any objects of temporary and apparent expediency.

Draft of a
Message to the
Legislature of
Upper Canada.

It has therefore been with peculiar satisfaction that, in the result of his inquiries into this subject, His Majesty has found that the changes sought for by so large a proportion of the inhabitants of the Province may be carried into effect without sacrificing the just claims of the Established Churches of England and Scotland. The waste lands which have been set apart as a provision for the Clergy of those venerable bodies have hitherto yielded no disposable revenue. The period at which they might reasonably be expected to become more productive is still remote. His Majesty has solid grounds for entertaining the hope, that before the arrival of that period, it may be found practicable to afford the Clergy of those Churches such a reasonable and moderate provision as may be necessary for enabling them properly to discharge their sacred functions.

His Majesty therefore invites the Legislative Council [the House of General Assembly] of Upper Canada to consider how the powers given to the Provincial Legislature by the constitutional act, to vary or repeal this part of its provisions, can be called into exercise most advantageously for the spiritual and temporal interests of his faithful subjects in this Province.

(Signed)

GODERICH.

DRAFT OF A BILL TO BE LAID BEFORE THE LEGISLATURE OF UPPER CANADA.

Draft of a Bill to
be laid before the
Legislature of
Upper Canada.

Whereas by an Act passed in the Parliament of Great Britain in the thirty-first year of the reign of his late Majesty King George the Third, intituled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled "An Act for making more effectual provision for the Government of the Province of Quebec, in North America," and make further provision for the Government of the said Province," it was among other things enacted, that it should and might be lawful for His said late Majesty, His Heirs and Successors, to authorize the Governor or Lieutenant Governor of each of the said Provinces respectively, or the person administering the Government therein,

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therein, to make, from and out of the lands of the Crown within such Provinces, such allotment and appropriation of lands for the support and maintenance of a Protestant Clergy within the same, as may bear a due proportion to the amount of such lands within the same as had at any time been granted by or under the authority of his said late Majesty; and that whenever any grant of lands within either of the said Provinces should hereafter be made by or under the authority of His Majesty, His Heirs or Successors, there should at the same time be made, in respect of the same, a proportionable allotment and appropriation of lands for the above-mentioned purpose within the Township or Parish to which such lands so to be granted should appertain or be annexed, or as nearly adjacent thereto as circumstances would admit; and that no such grant should be valid or effectual unless the same should contain a specification of the lands so allotted or appropriated in respect of the lands to be thereby granted; and that such lands so allotted and appropriated should be, as nearly as the circumstances and nature of the case would admit, of the like quality as the lands in respect of which the same should be so allotted and appropriated; and should be, as nearly as the same could be estimated at the time of making such grant, equal in value to the seventh part of the land so granted; and it was thereby further enacted, that all and every the rents, profits or emoluments which might at any time arise from such lands so allotted and appropriated as aforesaid, should be applicable solely to the maintenance and support of a Protestant Clergy within the Province in which the same should be situated, and to no other use or purpose whatever; AND WHEREAS in pursuance of the said statute divers tracts of land within this Province have been allotted and appropriated for the support and maintenance of the Protestant Clergy within the same: AND WHEREAS by certain Letters Patent, under the Great Seal of this Province, bearing date the _____ day _____ in the year

His said late Majesty King George the Third did constitute A. B. and C. D., and their successors to be a body corporate: AND WHEREAS the said corporation have, in pursuance of the powers so vested in them as aforesaid, demised various parts of the said Clergy Reserves within this Province to divers persons for terms of years by leases in the name and under the seal of the said Corporation, in which leases divers sums have been reserved, and made payable by way of rent; AND WHEREAS by a certain Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the 7th and 8th year of the reign of His late Majesty, King George the Fourth, intitled "An Act to authorize the sale of a part of the Clergy Reserves in the Provinces of Upper and Lower Canada," it is enacted, "that it shall and may be lawful for the Governor and Lieutenant Governor, or officers administering the Government of the said Provinces or either of them, with the consent of the Executive Council appointed within such Province for the affairs thereof, in pursuance of any instructions which may

be

Draft of a Bill to
be laid before the
Legislature of
Upper Canada.

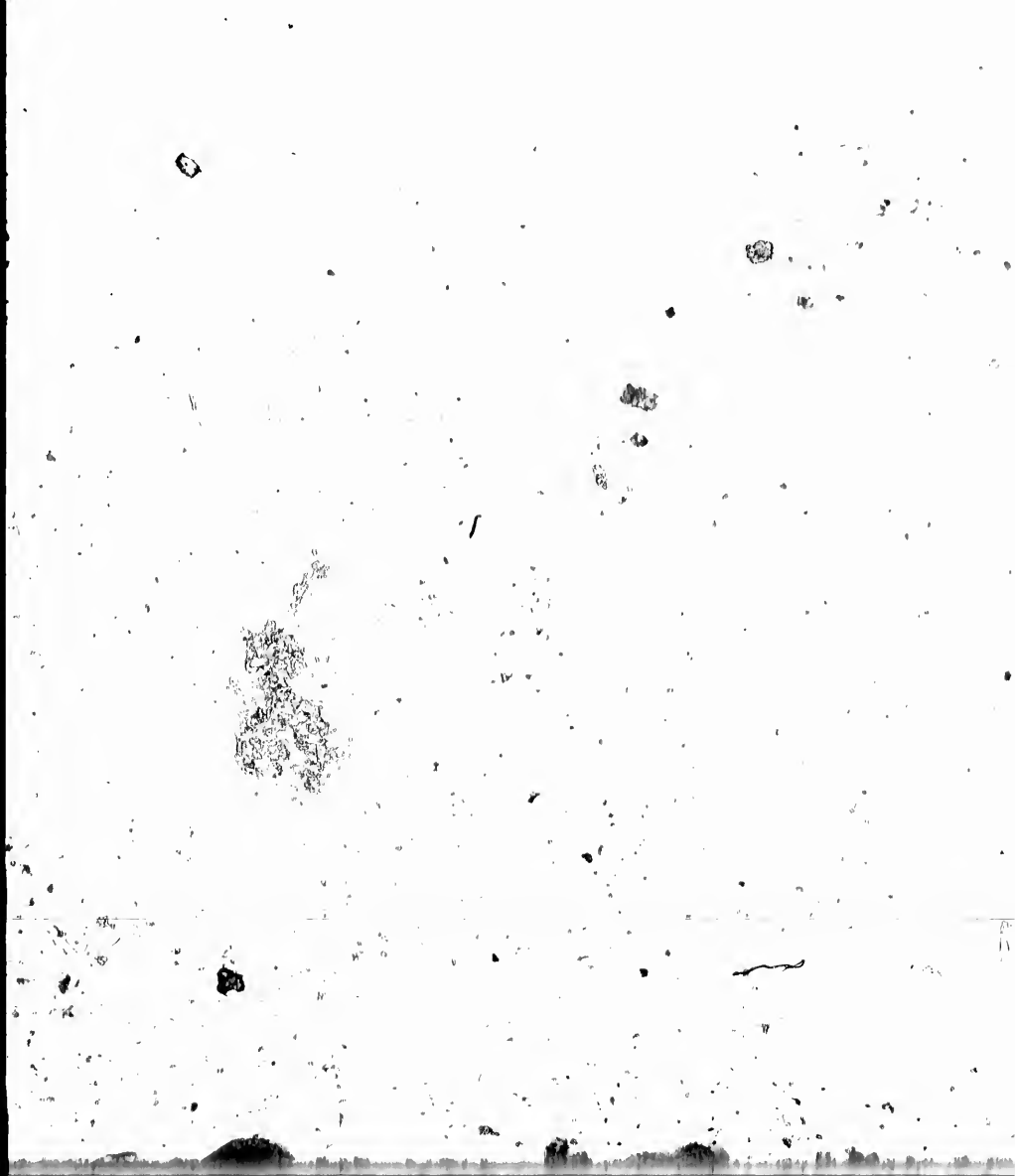
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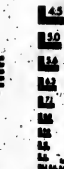
be issued to such Governor, Lieutenant Governor, or other
 aforesaid by His Majesty, through one of His Principal
 State, to sell, alienate, and convey in fee simple, or for any
 or interest, a part of the said Clergy Reserves in each of the
 vices (not exceeding in either Province one fourth of the
 within such Province,) upon, under, and subject to such conditions,
 provisions, and regulations as His Majesty, by any such instructions as
 aforesaid, shall be pleased to direct and appoint; *provided nevertheless*,
 that the quantity of the said Clergy Reserves so to be sold as aforesaid
 in any one year in either of the said Provinces shall not in the whole
 exceed 100,000 acres; *provided also*, that the monies to arise by or to
 be produced from any such sale or sales shall be paid over to such
 officer or officers of His Majesty's Revenue within the said Provinces
 respectively as His Majesty shall be pleased to appoint to receive the
 same, and shall by such officer or officers be invested in the public
 funds of the United Kingdom of Great Britain and Ireland in such
 manner and form as His Majesty shall from time to time be pleased to
 direct; *provided also*, that the dividends and interest accruing from
 such public funds so to be purchased shall be appropriated, applied,
 and disposed of for the improvement of the remaining part of the said
 Clergy Reserves, or otherwise for the purposes for which the said lands
 were so reserved as aforesaid, and for no other purpose whatsoever,
 save only as far as may be necessary to apply the same, or part thereof,
 in or towards defraying the expenses of or attendant upon any such
 sale or sales as aforesaid; and which appropriations shall be so made in
 such manner and form and for such special purposes as His Majesty
 from time to time shall approve and direct." AND WHEREAS in pursuance
 of the said last recited Act, the Lieutenant Governor for the time being
 of this Province, with the consent of the Executive Council, hath, in
 pursuance of the instructions for that purpose, issued by His late Majesty
 King George the Fourth, through one of His Principal Secretaries of
 State, effected sales of divers parts of the said Clergy Reserves: AND
 WHEREAS by an address to both Houses of the Provincial Legislature,
 bearing date on the day of last, Major
 General Sir John Colborne, Knight, Commander of the most Honourable
 Military Order of the Bath, did signify to both of the Houses of the
 Provincial Legislature, His Majesty's most gracious invitation "to
 consider how the powers given to the Provincial Legislature by the
 Constitutional Act to carry or repeal that part of its provisions which
 relates to the lands allotted and appropriated in this Province for the
 support and maintenance of a Protestant Clergy could be called into
 exercise most advantageously for the spiritual and temporal interests of
 His Majesty's faithful subjects in this Province; NOW THEREFORE, be it
 and it is hereby enacted, &c., that so much as is hereinbefore recited of
 the said Act of the British Parliament so passed as aforesaid in the
 31st year of the reign of His said late Majesty King George the Third
 shall be and the same is hereby repealed. And





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And be it further enacted, That from henceforth no grant heretofore made by or on the behalf of His Majesty or any of his Royal predecessors of any lands situate within this Province shall be or be deemed invalid or ineffectual, or be liable to be impeached, vacated, or set aside by reason that any such grant did not contain a specification of the lands allotted or appropriated for the support and maintenance of a Protestant Clergy in respect of the lands thereby granted; but every grant of lands within this Province heretofore made by or on the behalf of His Majesty or any of his Royal predecessors, in which any such specification may have been omitted, shall henceforth be and shall be deemed and taken from the day of the date hereof to have been as valid and effectual in the law as though such grant had contained the specification aforesaid.

Draft of a Bill to
be laid before the
Legislature of
Upper Canada.

And be it further enacted, that all lands heretofore appropriated within this Province for the support and maintenance of a Protestant Clergy now remaining unsold shall be and the same are hereby declared to be vested in His Majesty, His Heirs and Successors, as of his and their original estate, absolutely discharged from all trust for or for the benefit of a Protestant Clergy, and of and from all and every the claims and demands of such Clergy upon or in respect of the same.

And be it further enacted, that all and every the tenants or tenant of the lands so demised as aforesaid by the said Corporation shall and they each of them are and is hereby required to attorn, and during the remainder of the terms by such respective leases granted to pay the rents thereby respectively reserved to His Majesty, His Heirs and Successors, or to such persons as shall by His Majesty, His Heirs and Successors, or by the Lords Commissioners of His Majesty's Treasury for the time being, be appointed to receive the same.

Provided always, and be it further enacted, that nothing herein contained, shall take away or affect, or be construed to take away or affect the right or title of any person or persons in or to any lands which may by any such person or persons be holden or enjoyed, or which any such person or persons may claim to hold or enjoy, by virtue of any sale alienation, conveyance, or contract made, excepted, or entered into in pursuance of the above recited act of Parliament passed in the seventh and eighth year of his said late Majesty's reign, but that every such sale, alienation, or contract shall be as valid and effectual in the law, and shall henceforth have and continue to have the same force, virtue and effect, as if this present act had not been made.



ADDRESS TO THE KING FROM THE COMMONS HOUSE
OF ASSEMBLY OF UPPER CANADA,

DECEMBER 14TH, 1831.

Address to the
King from the
Commons House
of Assembly of
Upper Canada,
December 14th,
1831.

TO THE KING'S MOST EXCELLENT MAJESTY.

Most Gracious Sovereign,—

We, Your Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled, beg leave most humbly to submit to your Majesty, that by an Act of the Parliament of Great Britain, 31st, Geo. 3rd, one-seventh of the lands of this Province was set apart for the support of a Protestant Clergy.

That, under that act, appropriations have from time to time been made, and which appropriations are, in the Province, known by the name of the "Clergy Reserves;" that these appropriations having been generally made in lots of 200 acres throughout the several Townships of this Province, the value of the same has been much enhanced by the settlement of the country; and principally from the improvement of the lands in the neighbourhood of such appropriations by the labor of inhabitants, composed of various denominations of christians; that these Reserves being so interspersed with the lands of actual settlers, have materially retarded the improvement of the country; that by an act passed in the reign of his late most gracious Majesty, provision was made for a sale of a portion of the said Reserves; that it is unjust, as well as unpolitic, to appropriate the said land to the support of any one church exclusively, and it is extremely difficult, if not altogether impracticable, to apportion or divide the same among the Clergy of all denominations of Protestants; that a large majority of the inhabitants of this Province are sincerely attached to Your Majesty's person and Government, but are averse to the establishment of any exclusive or dominant church; that this House feels confident that, to promote the prosperity of this portion of Your Majesty's dominions, and to satisfy the earnest desire of the people of this Province, Your Majesty will be graciously pleased to give the most favorable consideration to the wishes of your faithful subjects; that, to terminate the jealousy and dissension which have hitherto existed on the subject of the said Reserves, to remove a barrier to the settlement of the country, and to provide a fund available for the promotion of education, it is extremely desirable that the said lands so reserved be sold, and the proceeds arising from the sale of the same, placed at the disposal of the Provincial Legislature, to be applied exclusively for that purpose; we therefore humbly pray that your Majesty will be graciously pleased to recommend to Your Majesty's Parliament of Great Britain and Ireland, to pass an Act to authorize the sale of the Clergy Reserves remaining unsold, and to enable the
Legislature



Legislature of this Province to appropriate the proceeds thereof in such manner as may be considered most expedient for the advancement of education.

(Signed)

ARCH. McLEAN,

Speaker.

Commons' House of Assembly,
14th December, 1831.

Address to the King from the Commons House of Assembly of Upper Canada, December 14th, 1831.

MESSAGE FROM LIEUTENANT-GOVERNOR SIR JOHN COLBORNE TO THE LEGISLATIVE COUNCIL AND HOUSE OF ASSEMBLY OF UPPER CANADA,

ON 25TH JANUARY, 1832.

Message from Lieut.-Governor Sir John Colborne to the Legislative Council and House of Assembly of Upper Canada, on 25th January, 1832.

The Lieutenant-Governor has received His Majesty's commands to make the following communication to the [Legislative Council, House of Assembly] in reference to the lands which, in pursuance of the Constitutional Act of this Province, have been set apart for the support and maintenance of a Protestant Clergy.

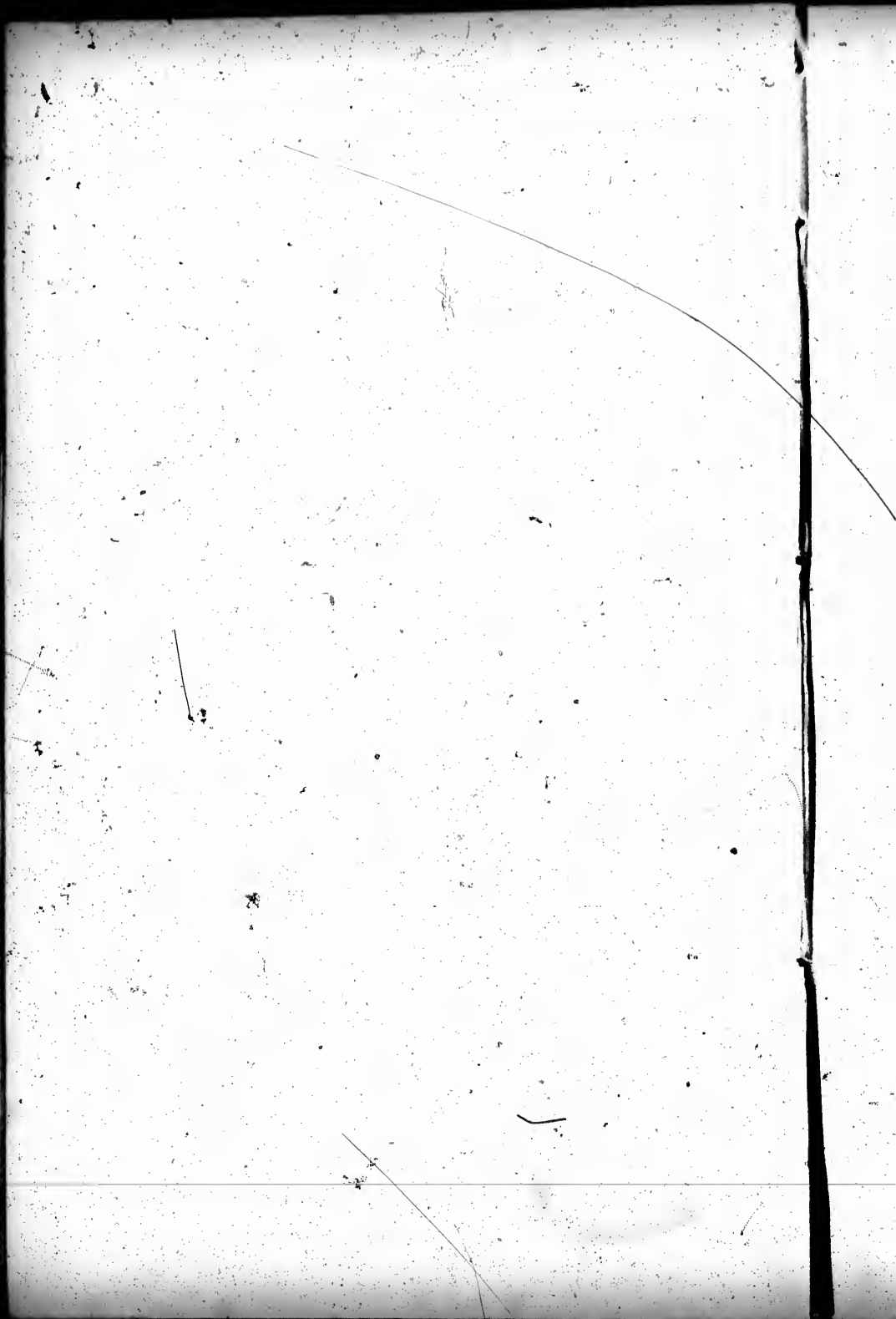
The representations which have at different times been made to His Majesty and his Royal-predecessors, of the prejudices sustained by his faithful subjects in this Province, from the appropriation of the Clergy Reserves, have engaged His Majesty's most attentive consideration.

His Majesty has with no less anxiety considered how far such an appropriation of territory is conducive either to the temporal welfare of the minister of religion in this Province, or to their spiritual influence.

Bound no less by his personal feelings than by the sacred obligations of that station to which Providence has called him, to watch over the interests of all the Protestant Churches within his dominions, His Majesty could never consent to abandon those interests with a view to any objects of temporary and apparent expediency.

It has, therefore, been with peculiar satisfaction that, in the result of these inquiries into this subject, His Majesty has found that the changes sought for by so large a proportion of the inhabitants of this Province may be carried into effect without sacrificing the just claims of the established Churches of England and Scotland.

The waste lands which have been set apart as a provision for the Clergy of those venerable bodies have hitherto yielded no disposable revenue; the period at which they might reasonably be expected to become more productive is still remote.



His Majesty has solid grounds for entertaining the hope, that before the arrival of that period it may be found practicable to afford the Clergy of those Churches such a reasonable and moderate provision as may be necessary for enabling them properly to discharge their sacred functions.

Message from
Lieut.-Governor
Sir John Colborne
to the Legislative
Council and
House of Assembly
of Upper
Canada, on 25th
January, 1832.

His Majesty, therefore, invites the (Legislative Council, House of Assembly) of Upper Canada to consider how the powers given to the Provincial Legislature by the Constitutional Act, to vary or repeal this part of its provisions, can be called into exercise most advantageously for the spiritual and temporal interests of His Majesty's faithful subjects in this Province.

GOVERNMENT HOUSE,
25th January, 1832.

HOUSE OF ASSEMBLY,
25th January, 1832.

Proceedings of
House of
Assembly,
25th Jan., 1832.

Mr. Attorney General seconded by Mr. Willson, of Wentworth, moves for leave to bring in a Bill to invest in His Majesty the lands set apart in this Province for the support of a Protestant Clergy in this Province, discharged of all trusts whatsoever for that purpose, and that the 32nd Rule of this House be dispensed with for that purpose.

Which was granted, and the Bill read.

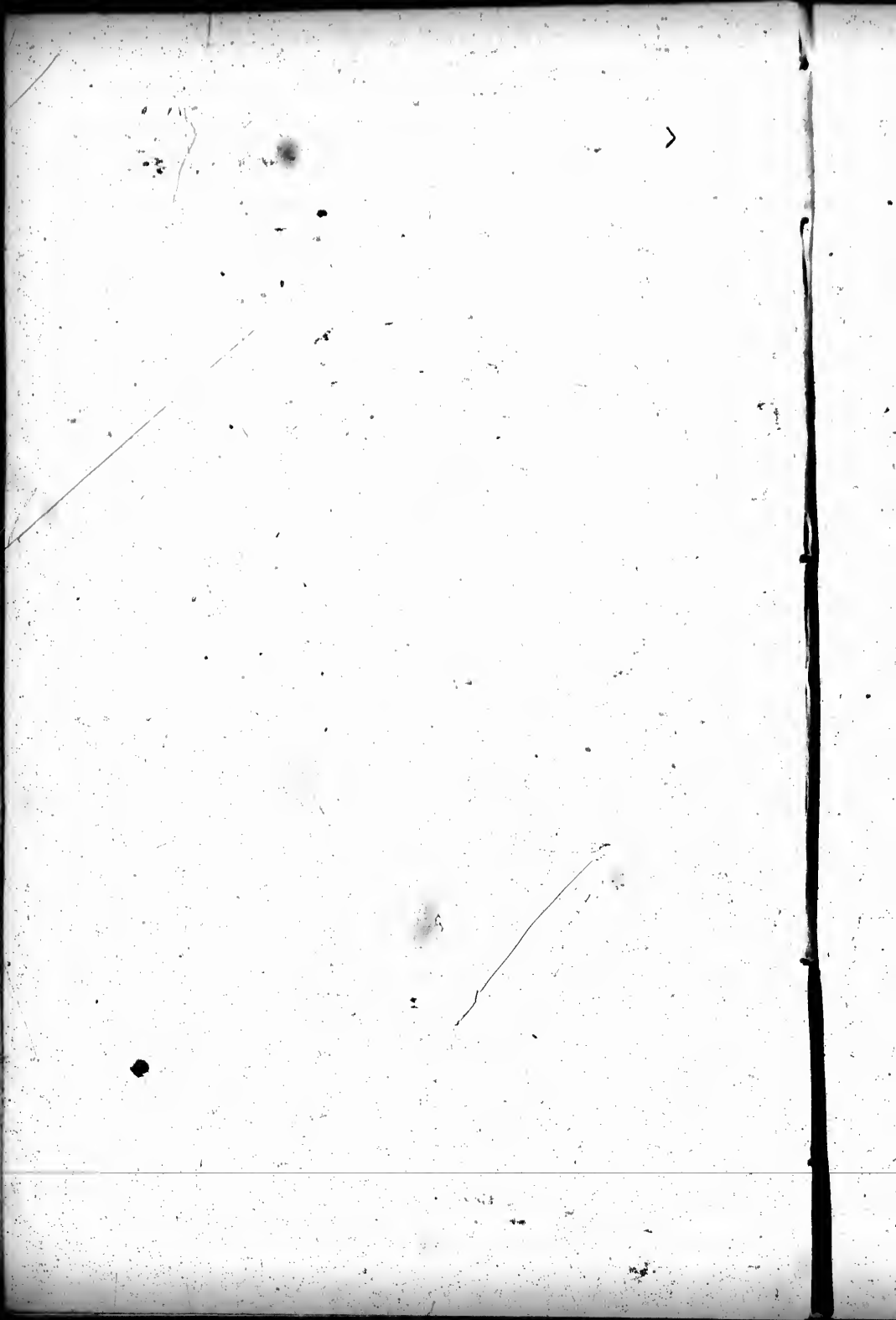
Mr. Attorney General moves, seconded by Mr. Bidwell, that the Bill be read a second time to-morrow, and that it be the first item on the order of the day.

In amendment, Mr. Morris seconded by Mr. Samson, moves that the whole of the original motion after the word "moves" be expunged, and the following inserted: "that 500 copies of the Bill, and his Excellency's message of this day, on the subject of the Clergy Reserves, be printed for the use of members," on which the House divided, and the yeas and nays were taken as follows:

YEAS:—Messrs. Berczy, Boulton, Burwell, Campbell, Chisholm, Duncombe, Elliott, Ingersol, Jarvis, Jones, Ketchum, McCall, McMartin, McNab, Maçon, Morris, Norton, Randal, Robinson, Roblin, Samson, Shade, Shaver, Solicitor General, VanKoughnet, Werden, J. Willson, and W. Wilson,—28.

NAYS:—Messrs. Attorney General, Bidwell, Buell, Clark, Cook, Howard and Lyons,—7.

The



The question was carried in the affirmative by a majority of 21.

Proceedings of
House of
Assembly.

The original question, as amended, was then put and carried.

On the question for the second reading of the Bill to-morrow, the House divided, and the yeas and nays were taken as follows:

YEAS:—Messrs. Attorney-General, Berzcy, Buell, Campbell, Chisholm, Clarke, Cook, Duncombe, Elliott, Howard, Ingersol, Jarvis, Ketchum, Lyons, McCall, D. McDonald, Maçon, Morris, Norton, Randal, Roblin, Samson, Shade, Shaver, Werden, J. Willson, and W. Wilson,—29.

NAYS:—Messrs. Boulton, Burwell, Jones, McMartin, McNab, Solicitor General, and VanKoughnett,—7.

The question was carried in the affirmative by a majority of 22, and ordered accordingly.

(Signed)

JAMES FITZGIBBON,
Clerk of the Assembly.

DESPATCH FROM LIEUTENANT-GOVERNOR SIR JOHN COLBORNE, K.C.B., TO VISCOUNT GODERICH.

Despatch from
Lieut.-Governor
Sir John Colborne,
K.C.B., to Vis-
count Goderich,
3rd Feb., 1832.

UPPER CANADA,
YORK, 3rd February, 1832.

MY LORD,—

I had the honor to receive your Lordship's Despatches of the 21st November (Nos. 55 and 56) on the subject of Clergy Reserves, on the 24th ult., the day fixed for the closing of the session.

I lost no time in transmitting the message, a draft of which was enclosed in No. 56, to both houses of the Provincial Legislature, and requested the Attorney General to move for leave to bring in a Bill to enable His Majesty to resume the lands set apart for the support of a Protestant Clergy.

The Bill proposed for adoption was copied as nearly as possible from the draft prepared under your Lordship's directions.

The proceedings of the Assembly, on the motion of the Attorney General, are annexed, by which your Lordship will perceive that there was no disposition on the part of the House to take up the question till next session.

On Tuesday the 24th January, a few hours after the arrival of your Lordship's despatches, I communicated to the two Houses that I had received

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received despatches from His Majesty's Government respecting the Clergy Reserves, which should be transmitted to them early the following morning.

Despatch from
Lieut. Governor
Rich. and Attorney,
K. C. B., to Vice-
count Godefrich,
3rd Feb., 1828.

The Bill was proposed on Wednesday, but on finding that a strong majority in the Assembly would be decidedly against taking it into immediate consideration, I closed the session on Saturday the 28th. The members were generally anxious to return home, and I did not think, had I prolonged the session, they could have been induced to take up the subject.

There are some passages of your Lordship's despatch, No. 57, on which I beg leave to make the following remarks: Your Lordship appears to suppose there may be a reluctance on the part of the Clergy Corporation to abstain from granting leases; I may assure your Lordship that as far as the Corporation are concerned in this question they will in every respect readily comply with the wishes of His Majesty's Government.

They have, from the period of receiving their charter, merely acted as agents, examining the pretensions of applicants, and recommending them accordingly to the Lieutenant-Governor in Council. If their recommendations are approved of, the Attorney General issues his fiat for a patent to be made out, to which the great seal of the Province is affixed; and the same course is pursued as in all grants of the Crown.

All rents are paid in the first instance to the receiver of the Corporation; but he has no power of appropriation.

At the end of each half-year, the sums collected are paid in gross to the Receiver General, to be accounted for to the King's Government.

The receiver of the Corporation keeps an account with every lessee in the Province; he receives the rents, corresponds with persons making inquiry, and is obliged to keep his office constantly open.

The Corporation have never claimed the right of granting leases and will be glad to be relieved from the duties imposed upon them.

They have no power to expend any sum beyond their contingent expenses.

There are at present several hundred applications which have been acted upon, and the parties promised leases as soon as they can be completed.

The applicants have taken possession, relying on the Government, and have generally commenced improvements, with an understanding that they will be allowed to purchase their respective lots.

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The Clergy Reserve leases have afforded great facilities to emigrants of establishing themselves and families, at the easy rate of seven dollars per-annum, and a very considerable number of families have settled in this manner on land which would otherwise have remained in a wild state, and which, at the expiration of the leases, may be purchased at a valuation by the lessee.

Despatch from
Lieut-Governor
Sir John Colborne,
K. C. B., to Vis-
count Goderich,
3rd Feb., 1832.

As no leases can be granted without the sanction of the Lieutenant-Governor in Council, and much disappointment and inconvenience would arise from withholding leases from the persons who have been given to understand that their applications would be complied with, I have directed the Secretary of the Clergy Corporation to continue to forward recommendations for leases to those with whom he was in correspondence, previously to the intention of His Majesty's Government respecting the sale of Clergy Reserves being communicated to him; but to acquaint persons who may in future apply, that no more leases will be granted.

Applications have already been made to the Commissioner of Crown Lands, for the purchase or lease of about 150,000 acres.

The parties having no doubt their proposals will be ultimately accepted, disappointment and discontent would be the result of the rejection of their applications. I have therefore authorized the Commissioner of Crown Lands to sell or lease to the amount of sales effected in the half-year ending the 30th of June, 1831, instead of the last half-year, as the farmers generally transact their business on land matters in the winter months.

I have, &c.,

(Signed)

J. COLBORNE.

DESPATCH FROM LIEUTENANT-GOVERNOR SIR JOHN COLBORNE, K. C. B., TO VISCOUNT GODERICH.

Despatch from
Lieutenant Gov.
Sir John Colborne
to Viscount
Goderich, York,
11th Feb., 1832.

UPPER CANADA,

York, 11th February, 1832.

My Lord,—

I have the honor to transmit to your Lordship an Address to the King, from the Commons of Upper Canada, in Provincial Parliament assembled, in which they pray that His Majesty will be graciously pleased to recommend that the Clergy Reserves may be sold, and the proceeds

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proceeds arising from the sale of them, may be placed under the direction of the Legislature, to be applied to the advancement of the purposes of education.

Despatch from
Lieut.-Governor
Sir John Colborne
to Viscount
Goderich, York,
11th Sept., 1832.

I have, &c.,

(Signed)

J. COLBORNE.

DESPATCH FROM VISCOUNT GODERICH TO LIEUT.
GOVERNOR SIR JOHN COLBORNE.

DOWNING STREET,

30th March, 1832.

Despatch from
Viscount
Goderich to,
Lieutenant-Gov.
Sir John Colborne,
K.C.B., 30th
March, 1832.

SIR:—

I have the honour to acknowledge the receipt of your Despatch of the 3rd of February, in answer to my Despatches upon the subject of the Clergy Reserves of Upper Canada.

You did perfectly right in making a communication to the two Branches of the Legislature, of the instruction which you had received, and of the important objects to which you were directed to call their attention; and, although, from the late period of the Session at which those instructions reached you, and from other circumstances which had occurred during its progress, I am not surprised that the Legislature was anxious to avoid taking up at that time, the consideration of such weighty matters, I flatter myself that the two Houses and the people at large, will have seen in the course which you were instructed to pursue an additional proof of His Majesty's great anxiety to attend to all questions which appear to affect the prosperity and well being of the Province.

As the Legislative consideration of this subject must now be postponed till another year, of course my former instructions as to the sale of Clergy Reserves, under the Imperial Act of 1827, are no longer strictly applicable.

You will, therefore, consider yourself at liberty to proceed with the sales or leases as usual, up to the 30th June, 1833, and as I have entire confidence in your judgment and discretion, I do not wish to put any restraint upon you as to the quantity of land which you may authorize to be sold during that year, limiting it of course to the quantity authorized by the Act referred to. I will thank you to keep me regularly informed every half-year, of the sales which may have taken place, and

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I am also very desirous of being regularly informed whenever any portion of the purchase money may be paid in; no account of such payments has, as far as I know, been received here for the last twelve months.

Despatch from
Viscount
Goderich to
Lieutenant-Gov.
Sir John Colborne
K.C.B., 30th
March, 1831.

In a private letter which you addressed to Mr. Hay, on the 5th March, 1831, you enclosed a paper shewing the amount of interest which would be payable upon the received payments of the sales of 1829 and 1830; I will thank you to furnish me with a similar statement for the sales of 1831.

It is very material, with a view to a satisfactory consideration of the existing funds which under the present law, may be applicable to the church expenditure, to have a precise and detailed account of those clergy lands, which are under lease; the number of acres leased; the amount of rents receivable; the gross produce and nett proceeds; after paying the charge of collection, together with some general statement of the localities and capabilities of the lands so leased, whether for building or for cultivation, are all matters with respect to which I am anxious for full information. In connexion with this question and with reference to my despatch of the 21st November last, No. 57, in which I directed you to apply a certain portion of the casual and territorial revenue towards the income of the Bishop, I have now the honor to acquaint you that it has been determined to submit to Parliament an estimate for that service, to be annually voted during the life of the present Bishop.

If this vote should be agreed to, it would, of course, not be necessary for you to carry into effect that part of my said instructions which referred to his Lordship, except it be convenient as an advance, to be repaid out of the Parliamentary grant; you will not however, consider yourself at liberty, without further instructions, to apply that sum of £1,500 to any other purpose, as it would be very convenient to keep it as a reserve with a view to the future.

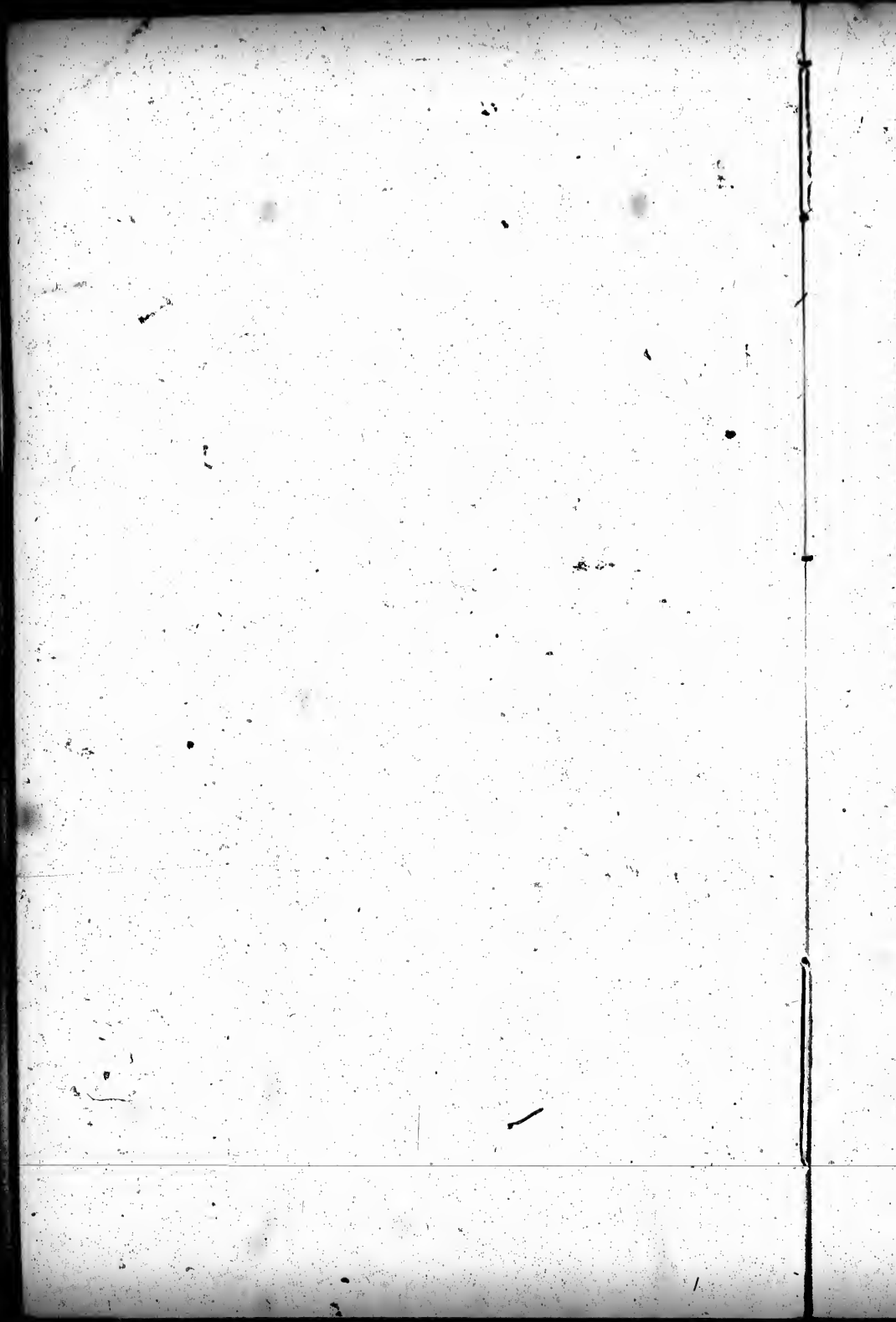
(Signed)

GODERICH.

P.S.—Since the above despatch was written, I have received yours of the 14th December, 1831, No. 48, which contains much useful information upon the topics of my present despatch.

I do not, however, think that it entirely supercedes the necessity of information upon other points referred to, and have therefore made no change in what I have previously written.

Your hint as to the source whence the Bishop's £1,500 should be drawn (if it be necessary to apply provincial resources at all to that object) is judicious, and you will attend to it accordingly; and the same observation will apply to the salaries of the two Archdeacons.



DESPATCH FROM VISCOUNT GODERICH TO LIEU-
TENANT GOVERNOR COLBORNE, K.C.B., APRIL 5, 1832.

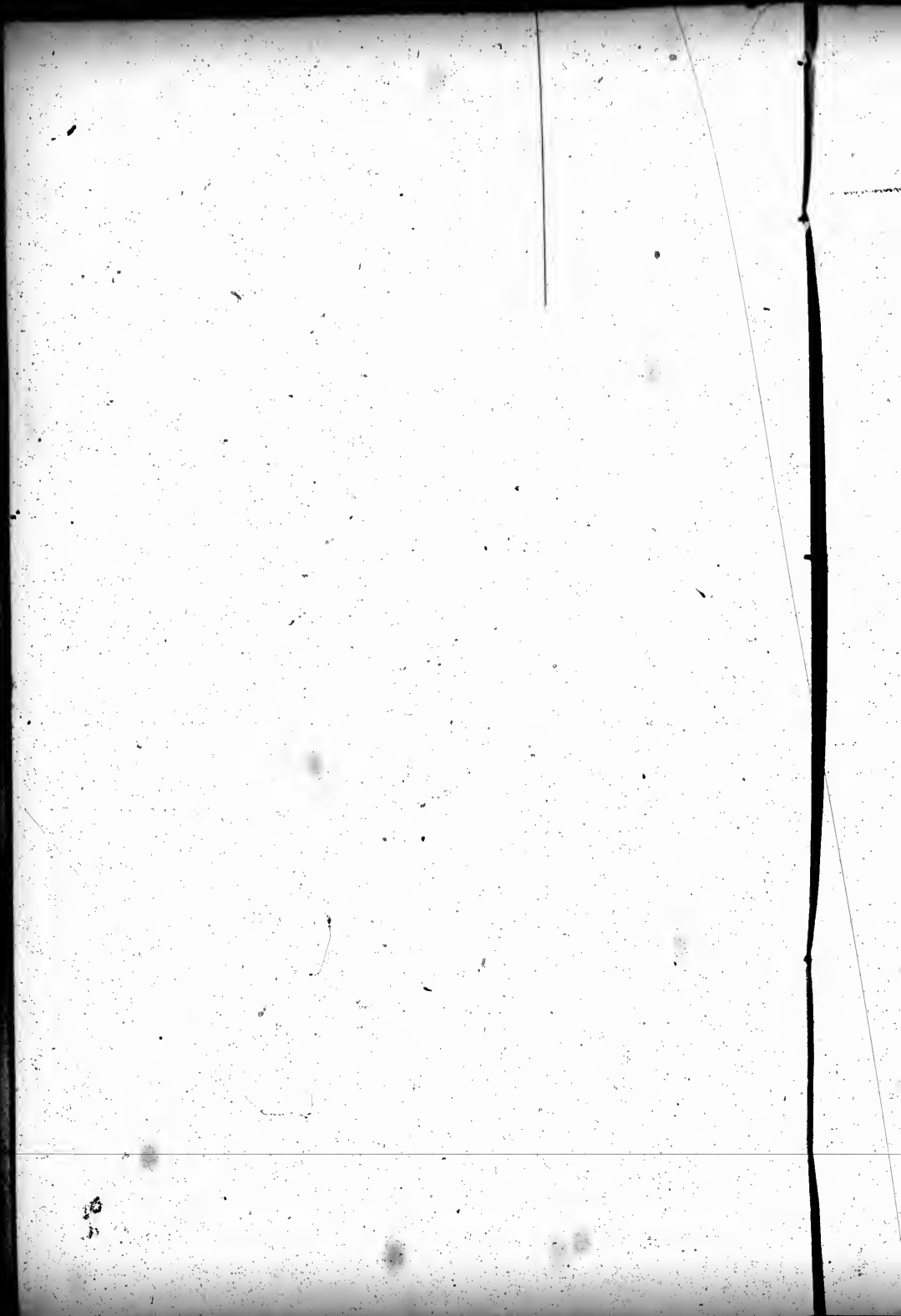
Despatch from
Viscount Goderich
to Lieutenant
Governor Col-
borne, K.C.B.,
April 5, 1832.

DOWNING STREET,

5th April, 1832.

SIR,—In my despatch, No. 57, of the 21st November, 1831, I authorized you to apply in the year 1832, towards the maintenance of the Bishop and other Ministers of the Church of England in Upper Canada, £5,000 out of the Casual and Territorial Revenue of that Province; and I estimated that the resources available to the same object from Provincial Funds by Law applicable to it would amount to about £1,000 making in the whole a sum of £6,000. I directed you at the same time to divide the sum into three parts, whereof one, amounting to £1,500 was to be paid to the Bishop, another, amounting to nearly £1,000, to the Two Archdeacons of York and Kingston, and the third, of £3,500, in aid of those payments which the Society for the propagation of the Gospel in Foreign parts is in the habit of making to the Ministers of the Church of England who are denominated Missionaries. You have since been informed by me in my despatch, No. 62, of the 30th of March last, that His Majesty's Government have determined to call upon Parliament to vote, during the life of the Bishop, the whole of his income. The charge therefore for the maintenance of the Clergy for the year 1832 will be reduced from £6000 to £4500. I have since learned from your private letter of the 16th of February, that the resources derivable from the funds set apart for this object will considerably exceed the amount at which, judging from the information in my possession, I had ventured to rate them. It now appears that the interest upon instalments to be paid in 1832, upon Reserves antecedently purchased, will amount to £1200; and that the net produce of the Rents of Clergy Lands leased will not be less than £2300. To these two sums will be to be added the interest upon the purchase money of these Reserves vested in our funds, which will amount to about £300. The total of these items will be £3800, instead of £1000 at which I had estimated them; and if to this total there be added from the casual and territorial revenue £1000 making in the whole £4800, there will be abundant means of meeting all the demands for salaries, including the two Archdeacons, for which I had intended to provide. A question therefore naturally arises, as to the most advantageous mode of disposing of the £4000 to be taken out of the casual and territorial revenue, which had been destined to this particular service, and which will no longer be required for that purpose. I have considered with great attention the observations contained in your private letter of the 16th of February, and the propositions which result from them; and I am happy to find that your practical views founded upon personal knowledge and experience, are so coincident with those which upon a more speculative view I had been led to entertain.

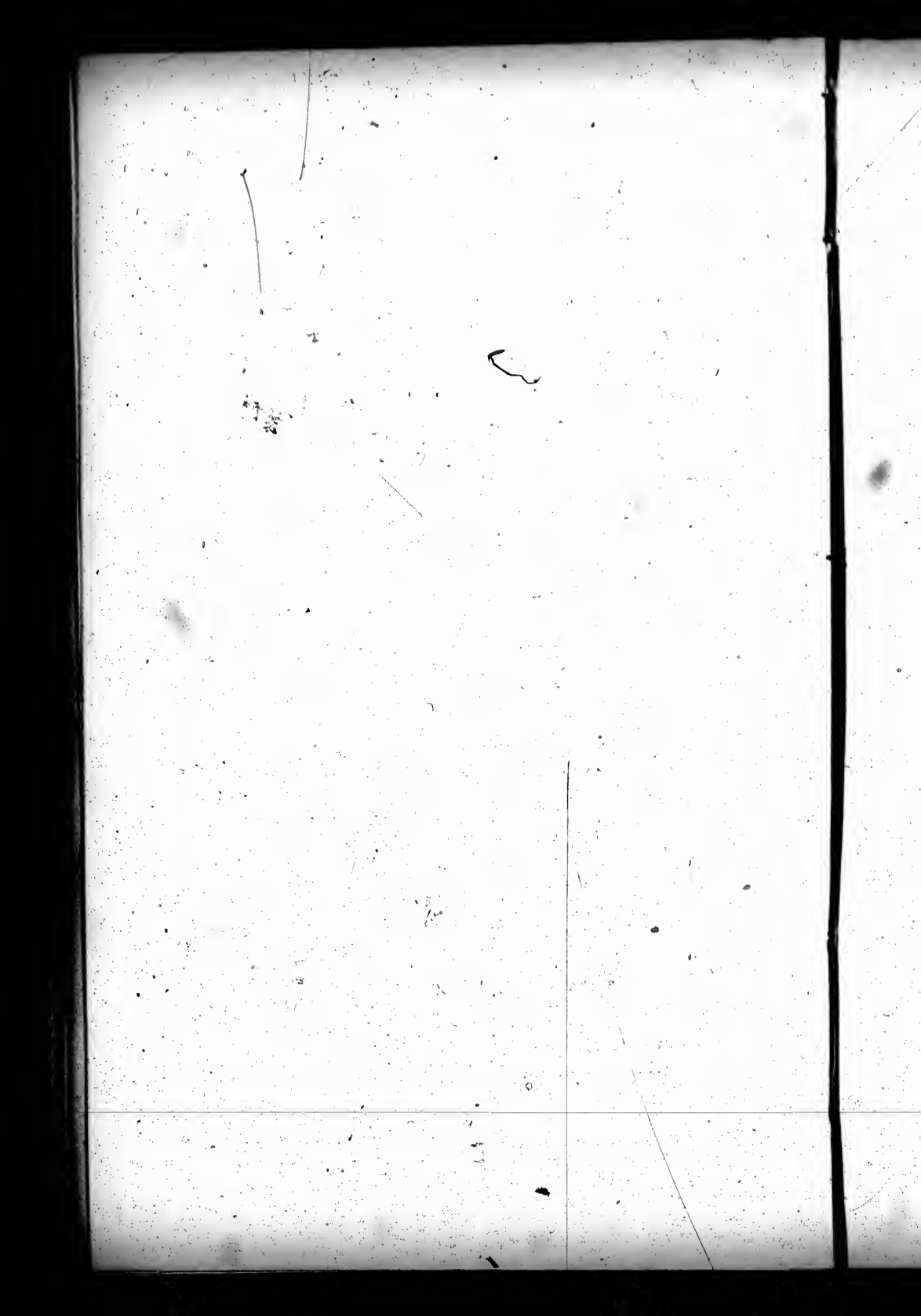
I quite



I quite concur with you in thinking that the greatest benefit to the Church of England would be derived from applying a portion at least of the funds under the control of the Executive Government in the building of Rectories and Churches, and I would add, in preparing, as far as may be, for profitable occupation that moderate portion of Land which you propose to assign in each Township or Parish for increasing the future comfort, if not the complete maintenance, of the Rectors. With this view it appears to me that it would be most desirable to make a beginning in this salutary work by assigning to it a portion, at least, of the £4000 to which I have before alluded, as being no longer required (during the present year at all events) for the payment of clerical salaries. I say a portion of this sum, because I am led to think that it would be expedient, with a view to prevent jealousy and attempts at interference with this Territorial fund, to permit some part of it to be disposed of for religious objects generally, without reference to the particular modes of belief which certain classes of the community may entertain. Some of it might, for instance, be applied to Churches for the Presbyterians, some for Roman Catholic Chapels, and some even for the Methodists, particularly that portion of them who may be in communion with the Wesleyan Methodists of this country. It is obviously impossible to think of aiding every subdivision of Religionists, whose varieties are too indefinite to enumerate; and I feel that even with respect to those classes to which I have alluded I cannot well undertake to prescribe to you from hence the exact proportion of assistance which it might be fit to grant to each. £4000 in the whole will be disposable, and I willingly leave it to your discretion to decide as to the proportionate distribution of that sum. I am well aware that in the execution of this duty you will have to steer a difficult course, and that it will require no small tact to determine by what practical means these important objects can best be attained; the diffusion of religious feelings and motives of conduct is the great point to be aimed at, and His Majesty's government must naturally feel anxious that these should be as extensively as possible in unison with the Established Church of this country; but it cannot be forgotten that the condition of Society in such a country as Upper Canada presents difficulties in the pursuit of this object which are very serious, and that a state of religious peace is above all things essential in establishing in the minds of the people the efficacy of religious principles. Whilst, therefore, I do not without reserve my own extreme anxiety for the widest extension of the Church of England in Upper Canada, I feel it to be scarcely less important earnestly to urge the inexpediency of seeking to promote that great object by aiming at the exclusion or repression of other Churches.

I communicate to you these sentiments on the part of the King's Government, with an entire reliance upon your judgment and coincidence of views; and the present temper of the majority of the House of Assembly

Despatch from
Viscount God-
rich to Lieut.
Governor Col-
borne, K.C.B.,
April 8, 1838.



of Assembly, together with the increasing prosperity and general tranquillity of the Province, encourage me to entertain a sanguine hope that the present opportunity, if wisely and judiciously used, may lead to the most important and beneficial results.

Despatch from
Viscount Goderich to Lieut.
Governor Colborne, K.C.B.,
April 5, 1832.

I have, &c.,

(Signed)

GODERICH.

Lieut. Gen. Sir John Colborne, K.C.B.,
&c., &c., &c.

P.S.—Upon a point so important as the distribution of the £4000 referred to in this Despatch, I should wish no actual step to be taken, until I shall have had an opportunity of considering any suggestions which you may have to offer upon the subject, which I trust I may receive at as early a period as may be convenient for you to favour me with them.

DESPATCH FROM VISCOUNT GODERICH TO LIEUTENANT GOVERNOR SIR J. COLBORNE, K.C.B.

Despatch from
Viscount Goderich to Lieut. Governor
Sir J. Colborne,
K.C.B., June 1st,
1832.

DOWNING STREET, 1st June, 1832.

SIR,—I have the honor to acknowledge the receipt of your despatch of the 11th February last, enclosing an address from the Commons of Upper Canada, praying that His Majesty will be graciously pleased to recommend that the Clergy Reserves may be sold, and the proceeds arising from the sale of them be placed under the direction of the Legislature, to be applied to the advancement of the purposes of education.

As it appears from the date of the address that it was agreed to by the House, previous to the receipt of my despatch of the 21st November last, on the subject of the Clergy Reserves, I trust that the instructions therein conveyed to you will be considered as a sufficient reply to the present address.

I have, &c.,

(Signed)

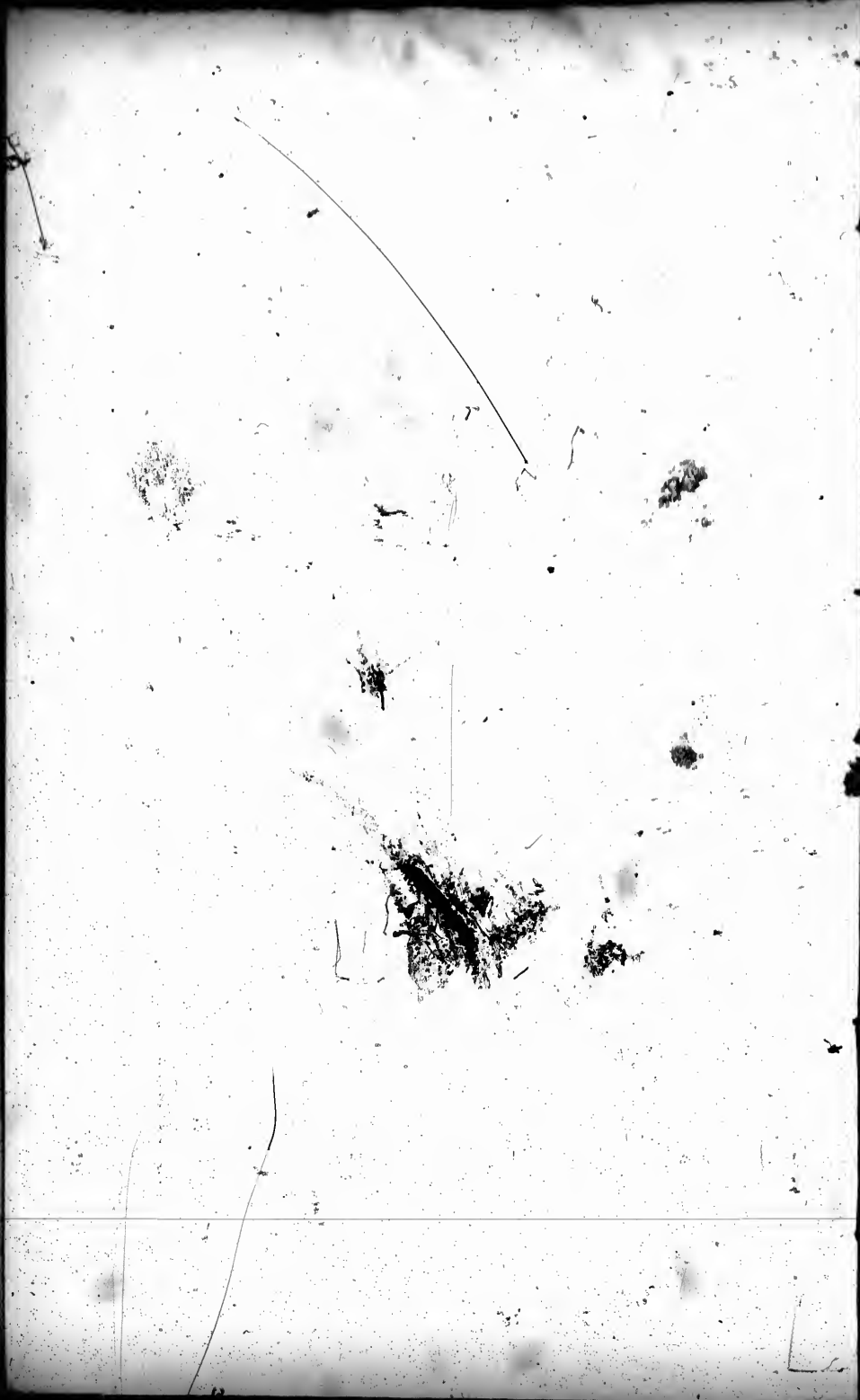
GODERICH.

DESPATCH FROM LIEUTENANT GOVERNOR SIR JOHN COLBORNE, K.C.B., TO THE RIGHT HONOURABLE E. G. STANLEY, 21st APRIL, 1834.

Despatch from
Lieut. Governor
Sir J. Colborne,
K.C.B., to the
Right Hon. E. G.
Stanley, April 21,
1834.

TORONTO, 21st April, 1834.

SIR,—With reference to the instructions which were conveyed to me in a despatch from the Secretary of State of the 5th of April, 1832, relative to the payment of the Salaries of the Ministers of the Church of England,



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of England, from the proceeds of the rents of leased Reserves, and the interest upon instalments paid upon Reserves sold by the Commissioner of Crown Lands, in pursuance of the Act of Geo. 4, I have to observe, that as a question may arise as to the right of appropriating the interest accruing from the instalments paid by the purchasers of Clergy Reserves, instead of remitting it with the proceeds of sales to be invested in the British funds, it may be considered expedient to refer the subject for the opinion of His Majesty's Attorney General.

Despatch from
Lieut. Governor
Sir J. Colborne,
K.C.B., to the
Right Hon. E. G.
Stanley,
April 31, 1834.

The interest to be paid on the instalments was fixed by the local government, at the suggestion of the Commissioner of Crown Lands, and has hitherto been paid over by the Commissioner to the Receiver-general, and accounted for in his statements of the receipts and expenditure of the Clergy Reserve funds.

The Presbyterian Synod of Canada, in connection with the Church of Scotland, you will perceive, from their memorial to me, accompanying my despatch of the 18th April, (No. 32,) allude to the payments made to the Ministers of the Church of England from the proceeds of rents on leased Reserves, and state their claims to participate in the advantages enjoyed by our Church, arising from the lands set apart for the Clergy.

It is therefore probable, that on my laying before the House of Assembly the statements of receipts and expenditures, which the House have requested may be prepared for their information, that the question to which I have adverted may be brought under discussion.

I have, &c.,

(Signed)

J. COLBORNE.

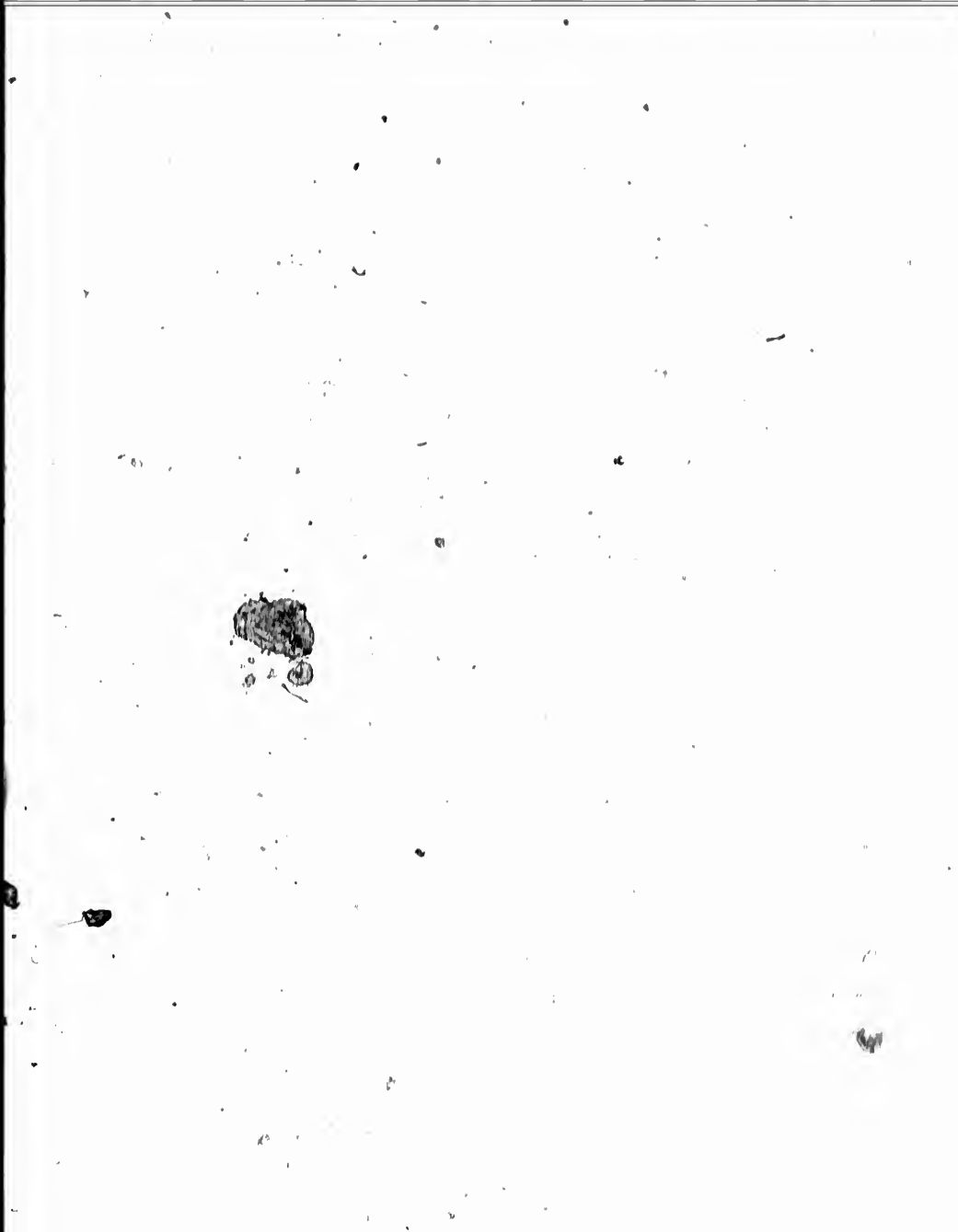
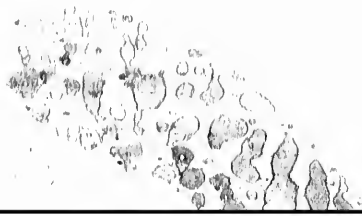
[Confidential.]

DESPATCH FROM THE RIGHT HONORABLE T. SPRING RICE TO LIEUTENANT-GOVERNOR SIR JOHN COLBORNE, K.C.B.

Despatch from
the Right Hon.
T. Spring Rice to
Lieut. Governor
Sir J. Colborne,
K.C.B.

DOWNING STREET, 22nd July, 1834.

SIR,—I have received your confidential despatch dated the 21st April last, observing that a question may arise as to the right of appropriating the interest accruing from the instalments paid by the purchasers of Clergy Reserves, instead of remitting it with the proceeds of sales to be invested in the British funds; and I have the honor to convey to you my opinion, that this money may, consistently with the Act 7 & 8 Geo. 4th, c. 62, be devoted to the improvement of the unsold Clergy Reserves. This appears to me the most convenient mode of disposing of the interest on instalments of the purchase money of Clergy Reserves.



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Reserves, without in any way prejudicing the claims of the parties who may be considered to have a beneficial interest in the proper disposal of those lands.

Despatch from
the Right Hon. T
Spring Rice to
Lieut. Governor
Sir J. Colborne,
K.C.B.

I have, &c.,

(Signed)

T. SPRING RICE.

**EXTRACT FROM A DESPATCH FROM THE EARL OF
ABERDEEN TO LIEUTENANT GOVERNOR SIR
JOHN COLBORNE.**

Extract from a
Despatch from the
Earl of Aberdeen
to Lieut. Govern-
or Sir John
Colborne. Dated
Downing Street,
Feb. 22, 1835.

DATED DOWNING STREET, FEBRUARY 22, 1835.

But it is evident that this new charge, together with another which I sanction by my despatch, No. 22, of this day's date, would be liable to render the burthens on the Crown revenue greater than the receipts, unless relief be afforded in some other direction.

On this ground I have been induced to re-consider the instructions conveyed to you by my predecessor on the 22nd July last, for applying the interest on instalments of the purchase-money of Clergy Reserves to the improvement of land; and I have the honor to authorize you to appropriate that fund, as formerly, to the payment of the salaries of Church of England missionaries; an arrangement which will of course materially diminish the pressure on the Crown revenue for the maintenance of the salaries pledged to the existing missionaries in Upper Canada.

**EXTRACT OF ENCLOSURE NO. 2, IN THE EARL OF
ABERDEEN'S DESPATCH TO EARL AMHERST.**

Minute:
Earl of Aberdeen
to Earl Amherst,
2nd April, 1835.

DATED DOWNING STREET, 2ND APRIL, 1835; ENTITLED, "A MINUTE SHOWING IN WHAT MANNER THE RECOMMENDATIONS OF THE CANADA COMMITTEE OF 1838, HAVE BEEN CARRIED INTO EXECUTION BY HIS MAJESTY'S GOVERNMENT."

5. The next in order of the recommendations of that Committee relates to the Clergy Reserves, a subject on which they employed the following language:

"As your Committee entertain no doubt that the reservation of these lands in mortmain is a serious obstacle to the improvement of the colony, they think every proper exertion should be made to place them in the hands of persons who will perform upon them the duties of settlement, and bring them gradually into cultivation."

Although the views of the Committee were thus limited to the improvement of the Clergy Reserves, the government advanced to the re-

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dress of the evil indicated in the report, by a measure not only far more decisive, but eminently remarkable for the confidence it expressed in the Provincial Legislature.

Minute, Earl of
Aberdeen's
Despatch to Earl
Amherst, 17th
April, 1825.

The Constitutional Act having authorized His Majesty, with the advice of the Legislative Council and Assembly, to vary or repeal any of the provisions therein made for the allotment and appropriation of lands for the support of the Protestant Clergy, Lord Ripon, availing himself of that enactment, proposed that the power of repeal should be exercised by those bodies, and should be accompanied with a declaration that the Reserve Lands should merge in the general demesne of the Crown. The effect of this proposal was to bring the Reserves within the reach of the general rules under which all the waste lands of the Province are progressively sold to the highest bidder. To prevent any possible misconception of the views of His Majesty's Government, the draught of a Bill for the accomplishment of this design was transmitted to Lord Aylmer, with instructions to give his assent, if such a law should be presented for his acceptance.

To obviate the risk of offence being given, by suggesting to the House of Assembly the exact language, as well as the general scope of a measure to originate with them, Lord Aylmer was directed to proceed with the most cautious observance of the privileges of that body and of all the constitutional forms.

Anticipating the contingency of the measure being adopted in substance, but with variations in the terms, Lord Ripon further stated, that in that event the Bill was not to be rejected by the Governor, but was to be specially reserved for the signification of His Majesty's pleasure.

In obedience to these directions, the Bill was introduced into the House of Assembly, but did not pass into a law. That it would have effectually removed the grievance pointed out by the Canada Committee has not been disputed, nor can the Ministers of the Crown be held in any sense responsible for the continuance of an evil for which they had matured so complete a remedy. The only explanation which has ever been given of the failure of the proposal is, that the Solicitor General, Mr. Ogden, had used some expressions, whence it was inferred that His Majesty's government would reject the Bill, if altered in a single word.

It is scarcely credible that this should be an accurate surmise of the real cause of the loss of the Clergy Lands Appropriation Bill.

It is not to be believed that the Assembly of Lower Canada would have rejected an unobjectionable proposal for the redress of a grievance of which complaint had been long and loudly made, for no other reason, than that a public officer, not of the highest rank or consideration, had used some casual expressions in which the alternate views of His Majesty's advisers were inaccurately explained. To the Governor applica-

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tion could have immediately been made for more authentic information; and in fact the tenor of the despatch which had been received by Lord Aylmer was perfectly well known throughout the Province to every person who felt an interest on the subject. The measure has never since been revised; and it must be therefore assumed that the Assembly are less anxious than Lord Ripon supposed for the removal of this obstruction to agriculture and internal improvement. Be that as it may, the British Government are completely absolved from the responsibility thrown upon them by this part of the Report of the Canada Committee.

Minute. Earl of Aberdeen's Despatch to Earl Amherst, 2nd April, 1835.

EXTRACT OF ENCLOSURE NO. 4, IN THE EARL OF ABERDEEN'S DESPATCH TO LORD AMHERST,

DATED DOWNING STREET, 2ND APRIL, 1835, ENTITLED, "A MINUTE COMPRISING NOTICES OF SUCH OF THE QUESTIONS BROUGHT INTO DISCUSSION BY THE HOUSE OF ASSEMBLY OF LOWER CANADA IN THEIR 92 RESOLUTIONS AS ARE NOT DISPOSED OF IN LORD ABERDEEN'S DESPATCH ABOVE-MENTIONED."

Extract of Enclosure No. 4, in the Earl of Aberdeen's Despatch to Lord Amherst, dated Downing Street, 2nd April, 1835, entitled, "A Minute comprising Notices of such of the Questions brought into discussion by the House of Assembly of Lower Canada in their 92 Resolutions as are not disposed of in Lord Aberdeen's Despatch above-mentioned."

14. Although it would not be possible to find terms more large or distinct than those employed by Lord Ripon to invite the House of Assembly to regulate the Application of the Clergy Reserves, yet it is stated that a member of the Assembly, holding office under the Crown, declared, in his place, that the House of Assembly would not be permitted to alter one word of the Bill which had been brought in under Lord Ripon's directions. To the Bill itself there was it is said no objection; but under such a menace the House could not act, and the failure of the proposal is referred to that cause. Lord Ripon's despatch of November, 1831, had distinctly anticipated the contingency of the Bill being modified in its progress through the Provincial Legislature and had directed the Governor in that contingency, not to refuse his consent, but to reserve the Bill for the signification of the Royal pleasure. Any unauthorized language of the Solicitor General, Mr. Ogden, ought not to have weighed against this authoritative declaration. It is said however, that his Lordship's Despatch of November, 1831, on this subject was not before the House; Lord Amherst will therefore communicate to them a copy of that despatch, and invite them to resume the consideration of the subject to which it refers.

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RESOLUTIONS OF THE HOUSE OF ASSEMBLY OF UPPER
CANADA, APRIL 10, 1855.

Resolutions of
the House of
Assembly of
Upper Canada,
April 10, 1855.

Resolved, That this House has repeatedly expressed the opinion, that the lands appropriated for the support and maintenance of a Protestant Clergy within this Province, commonly called the Clergy Reserves, ought, for various reasons, to be sold; that it would be unjust to apply the monies arising from the sale of the same to the benefit of one or more favored religious denominations, and that it would be impracticable, and, from many considerations, inexpedient, to distribute the monies arising therefrom among all denominations; and that this House has been unremitting in its endeavors to procure the sale of these lands, and the application of the funds produced by such sale to objects of great importance and interest to the people of this Province; that with this view the House has heretofore repeatedly passed Bills providing for the sale of the Clergy Reserves, and the appropriation of the monies arising therefrom to the support of Education, which Bills have been rejected without amendment by the Legislative Council; that with the same view this House has frequently made known, by humble and dutiful address to His Majesty, their wishes and opinions, and the wishes and opinions of His Majesty's faithful subjects in this Province, on this highly important subject, and this House takes this opportunity of declaring that these wishes and opinions, both on the part of this House and of their constituents, remain entirely unchanged; that, during the second session of the last Parliament, his Excellency the Lieutenant Governor by message, informed this House that he had received His Majesty's instructions to declare that the representations, which had at different times been made to His Majesty and his Royal predecessors of the prejudice sustained by His Majesty's faithful subjects of this Province from the appropriation of the Clergy Reserves, had engaged His Majesty's most attentive consideration, and His Majesty has most graciously been pleased to invite the House of Assembly to consider how the power given to the Provincial Legislature by the Constitutional Act to vary or repeal the provisions which it contains for the allotment and appropriation of the Clergy Reserves could be most advantageously exercised for the spiritual and temporal interests of His faithful subjects in this Province; that this House, in compliance with His Majesty's wishes thus graciously expressed, and with the strong and well-known desires of His Majesty's faithful subjects in this Province, has passed a Bill during the present session to provide for the sale of the Clergy Reserves, and to apply the monies arising from such sale to the support of Education; that the Legislative Council has not passed the said Bill, has not amended it, and has not passed any other Bill on that subject; and that under these circumstances this House cannot but express the extreme astonishment with which it has received the representation of the Legislative Council that the legislature of the Province has been unable to concur



concur in any measure respecting the Clergy Reserves, and although this House has little expectation that the Legislative Council, as now constituted, will comply with the wishes of the people of the Province, yet it feels bound to declare that this House is, and always has been, ready and anxious to concur in any just and reasonable measure whatever by which the Clergy Reserves could be applied to such useful purposes as would be most advantageous to His Majesty's faithful people in this Province, and most conformable to their well-known wishes; that this House cannot but express its confident hopes, that His Majesty will not be induced by any representation, whether secret or open, to depart from the gracious intentions which he has been pleased to intimate, of complying with the earnest and repeated solicitations of His Majesty's faithful subjects in this Province on that subject; that this resolution be laid before his Excellency the Lieutenant Governor, and that his Excellency be requested to transmit the same to the Colonial Secretary for the Colonies, and call the early attention of His Majesty's Government to the importance of the same to the interest, peace, welfare, prosperity, and happiness of His Majesty's faithful people of this Province.

Resolutions of
the House of
Assembly of
Upper Canada,
April 10, 1835.

(Signed) JAMES FITZGIBBON,
Clerk of Assembly.

DESPATCH FROM LIEUTENANT GOVERNOR SIR JOHN
COLBORNE, K.C.B., TO THE EARL OF ABERDEEN.

Despatch from
Lieut. Governor
Sir J. Colborne,
K.C.B., to the
Earl of Aberdeen
20th May, 1835.

UPPER CANADA,

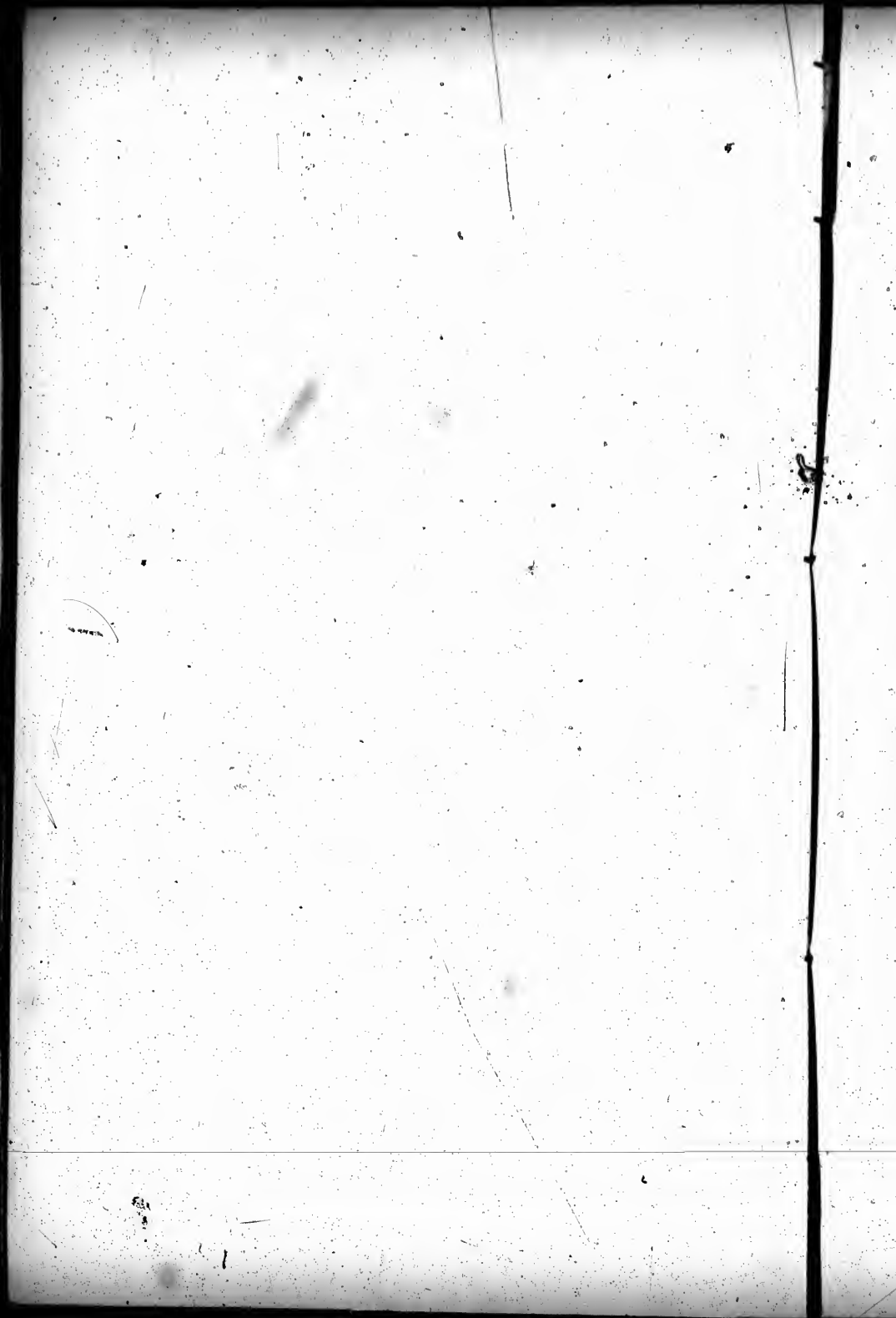
TORONTO, 20th May, 1835.

MY LORD,—

I have the honor to transmit to you an Address to the King from the Legislative Council relative to the Clergy Reserves, in which they express their deep regret that the questions which have been agitated with respect to the Clergy Reserves should continue unsettled; but confiding in the wisdom and justice of His Majesty, and of Parliament, hope that with as little delay as the subject may admit of, such an enactment may be passed as shall not leave any room for doubt or question in regard to the objects to which the proceeds of the Clergy Reserves are to be applied, and that by some measure which shall be final and unequivocal, such an appropriation of them may be made as shall appear to be most consistent with a due regard to religion, to the principles of the constitution, and to the permanent welfare and tranquillity of the Province.

The report referred to in the Address accompanies this despatch.

I have also to draw your Lordship's attention, at the request of the House of Assembly, to the resolutions adopted by the Assembly in consequence



sequence of a message to them from the Legislative Council, communicating the resolutions passed by the Legislative Council on the Clergy Reserves.

Despatch from
Lieut. Governor
Sir J. Colborne,
K. C. B., to the
Earl of Aberdeen
20th May, 1835.

A copy of the Bill which was passed by the House of Assembly to dispose of the Reserves, and rejected by the Legislative Council has been forwarded with my despatch of 15th May, and is referred to in the observations on the rejected Bill noticed in the Address of the House of Assembly, in respect to the proceedings of the Legislative Council generally.

The subject of the Clergy Reserves has been so frequently brought before His Majesty's Government by the Legislative Council and House of Assembly, and the parties interested in the result of this important question, that it appears only necessary for me to state to your Lordship that I am convinced no measure will be ever concurred in by the Legislative Council and the House of Assembly that can lead to a satisfactory appropriation of the proceeds of the sales of the lands reserved for the support of the Protestant Clergy.

I have, &c.,

(Signed)

J. COLBORNE.

CASE SUBMITTED BY SECRETARY ROWAN TO THE
CROWN OFFICERS, 8TH MAY 1835.

Case submitted
by Secretary
Rowan, to the
Crown Officers,
6th May, 1835.

GOVERNMENT HOUSE, 8th May, 1835.

GENTLEMEN,—

I am directed to acquaint you that before the Lieutenant Governor with the advice of the Executive Council, can proceed to constitute and erect Parsonages or Rectories in each settled Township of the Upper Province, in conformity to the Act of the 31st Geo. 3, cap. 31, it is necessary that the Crown Officers should state, for the information of the Lieutenant Governor and Executive Council, the precise mode by which Parsonages or Rectories can be legally constituted, and carefully draw out the form of the instrument which they may recommend to be adopted in future, when the Lieutenant Governor deems it necessary to constitute Parsonages or Rectories, to endow them, and to present Ministers. The late Attorney General made a report on these subjects, which the Lieutenant Governor has already transmitted to you.

You will perceive from the accompanying correspondence that the Bishop of Quebec hesitates to induct Mr. Coghlan, under the instrument by which he has been presented to the benefice of St. John's at

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Port Hope; the Lieutenant Governor therefore requests that you will report how far the objections of the Bishop may be removed or considered valid.

Case submitted
by Secretary
Rowan to the
Crown officers,
8th May, 1835.

The Lieutenant Governor in 1832 suggested to the Secretary of State for the colonies that it was expedient, in making arrangements with a view of laying the foundation of the Church and insuring its prosperity, to constitute gradually a certain number of Rectories or Parsonages in every Township, without transferring to incumbents any of the exclusive rights or immunities connected with the ecclesiastical divisions of the Established Church, which could have reference only to rights, Poor Laws, and the Ecclesiastical jurisdiction of Vicars or Rectors, and endeavoured to show that the dispersed state of the population, and other circumstances, render it impracticable to constitute, advantageously, Parishes, and that such divisions could never confer the rights and privileges that are attached to Parishes in England, but might embarrass the Clergy.

The Lieutenant Governor still adheres to his former intention of constituting Rectories or Parsonages, according to the Act which has been cited, in every settled Township; a course which was sanctioned by the Secretary of State for the Colonies in 1832. Thus, assuming that there are a certain number of lots set apart in every Township for Glebes or Endowments, the next step to be taken must be to vest these Lands in the hands of Trustees for the benefit of incumbents, when the Rectories or Parsonages may be constituted; and so soon as a congregation be formed by a Minister, the Rectory may be designated by styling it the first or second Rectory or Church of the East or West Township; and if such a course can be legally followed the Lieutenant Governor is persuaded that the Bishop of Quebec will not refuse to proceed with the inductions of Ministers properly qualified, on their being legally presented to him.

I have, &c.,

WM. ROWAN.

The Crown Officers.

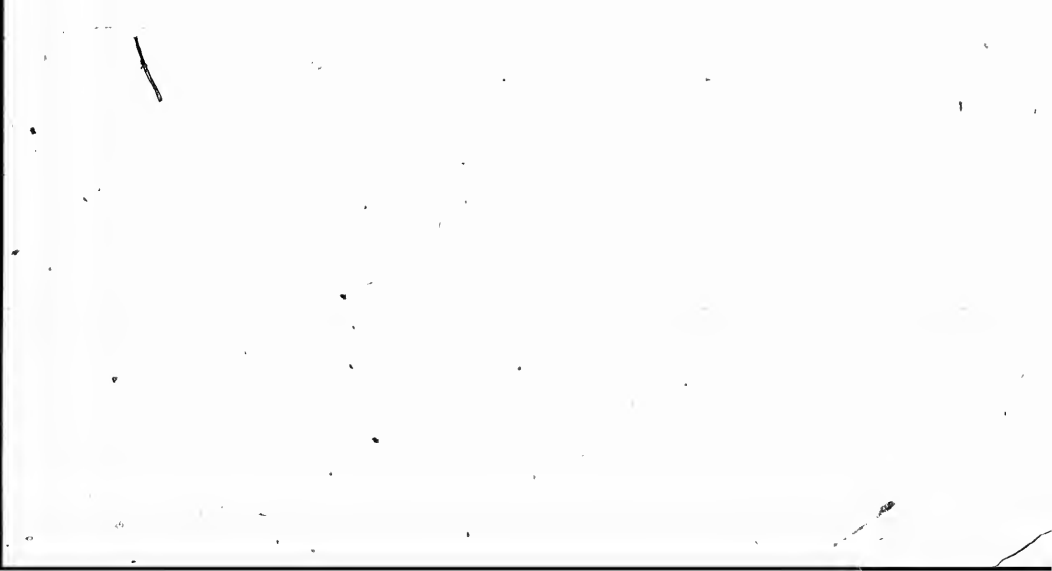
ADDITIONAL CASE SUBMITTED BY SECRETARY ROWAN
TO THE CROWN OFFICERS, 26TH MAY, 1835.

GOVERNMENT HOUSE, 26th May, 1835.

Additional case
submitted by
Secretary Rowan
to the Crown
officers, 26th
May, 1835.

GENTLEMEN,—

With reference to my communication of the 8th instant, and the present state of the Missions of the Church of England, and to the intention of the Lieutenant Governor of erecting Parsonages immediately, with the advice of the Executive Council, in conformity to the statutes,



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statutes, I am directed to call your attention to the chief objects it appears desirable to accomplish in presenting and inducting Clergymen—the conferring the right on all the inhabitants of a Township to attend every Church that may be established in the Township in which they reside, and to secure to incumbents the appropriations which may be annexed to their respective Churches, without embarrassing them with any of the immunities and privileges which are inseparable from our ecclesiastical divisions at home, but inapplicable to this Province.

Additional case submitted by Secretary Rowan, to the Crown Officers, 26th May 1835.

The statutes declare that Parsonages are to be erected in Townships according to the Church of England; your opinion, therefore, is requested as to the legal definition of a Parsonage, and in which mode it can best be designated.

The term Parsonage in law His Excellency supposes is applied to the benefice and residence of the Parson or Persona Ecclesia, who will have during his life the freehold in himself of the Parsonage House, the Glebe and Endowments attached to the Parsonage.

The Lieutenant Governor requests to be informed whether Churchwardens or Guardians of the church property, who are in England the legal representatives of the Parish, cannot be chosen by the joint consent of the Minister and congregation, or pew-holders.

As the Parsonage in law will be considered as the appropriation of the Parson, and not as the boundaries of a Parish, or the extent of any Ecclesiastical jurisdiction, the Lieutenant Governor suggests that a Church and Parsonage might be designated sufficiently by styling it the first, second, or third Township Church.

On these points His Excellency desires to have your opinion as soon as possible.

I have, &c,

WM. ROWAN.

The Crown Officers.

OPINION OF SOLICITOR GENERAL HAGERMAN,
4TH JUNE 1835.

Opinion of Solicitor General Hagerman, 4th June, 1835.

Solicitor General's Office,

Toronto, 4th June, 1835.

SIR.—With reference to your communication of the 8th and 26th May last, containing the commands of the Lieutenant Governor, that I should report my opinion on the points referred to therein, relating to the intention of his Excellency to erect Parsonages and Rectories with-
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in the Province, I have the honour to state that the Act of the British Parliament, from which authority to act on this important subject is derived, requires—

Opinion of Solicitor General Hagenman, 4th June, 1833.

1st. That the limits of all Parsonages or Rectories created should be defined:

2nd. That when defined, a Minister duly ordained according to the establishment of the Church of England should be presented for Induction; the patronage being in all cases in the Crown.

3rd. That such Parsonage or Rectory should be endowed with such portion of the Lands reserved for the support of the Established Church as His Majesty's Government should think sufficient for the proper maintenance of the Minister: and upon these several heads I beg leave to offer the following observations:—

Upon the first point, I am of opinion that it is necessary that the limits of all Parsonages or Rectories should be defined: first, because when declared and established, they are intended to constitute the Ecclesiastical Divisions of the Province, in the same manner that Parishes constitute these divisions in England; second, because the Minister being appointed to the *Cure of Souls* within his *Parsonage or Rectory*, and as no duties can be legally required of him *beyond its limits* it is obvious that it must contain such a number of inhabitants as will constitute a congregation; and, third, because Churchwardens must be elected annually by and from among the members of the Church residing within the boundaries of the Parsonage or Rectory, and cannot be elected from among any other class of persons. And it may be necessary to remark, with reference to Churchwardens, that they should be legally appointed; and that when so elected they become vested with the control of the moveable effects belonging to the Church, have the power of regulating and settling fees and pew rents, and generally are placed in the management of all matters relating to Church property and funds, with the exception of the landed endowments and other real estate held by the Incumbent and derived from the Crown.

Upon the second point I beg to remark, that the Minister, when inducted, becomes vested with all the rights which belong to a Parson or Rector of a Parish in England, and is in like manner subject to all the duties and responsibilities which in that country attach to the Incumbent of a Living there. With respect to the rights of a Parson or Rector, they are few even in England, and are still less in number in this country. Here there are no tithes, no exclusive right to marry or to keep registries of marriage, births, christenings or burials; no claims to fees, privileges, or immunities of any kind, arising from usage or prescription. In this country, as in England, the Parson or Rector, when inducted, becomes a *corporation sole*, and as such he is invested

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with all the *real estate* with which the Parsonage or Rectory is endowed, and control over these (which are the only rights that exclusively belong to him) he alone can exercise, be the limits of his Parsonage great or small. On the other hand, every duty that is imposed on an Incumbent of a Living in England attaches to him here, and he is responsible to the civil or ecclesiastical power for their due performance. The apprehension therefore that has been entertained (by myself as well as others,) that by extending the limits of a Parsonage or Rectory, a power would be given to the Minister that might be improperly used, and therefore lead to inconvenient consequences, is, upon examination, found to be without grounds; on the contrary, in proportion as the limits of the Parsonage or Rectory are extended, the duties and responsibilities of the Incumbent are increased, and the control of the congregation over him strengthened, while he gains no additional advantage whatever to himself. The laws do not prescribe the number of inhabitants a Parsonage or Rectory should contain before the Bishop is authorized to induct a Minister to the cure of souls within its limits, and therefore this must, to a certain degree, be left to his discretion; but the creating a Parsonage or a Rectory, without assigning boundaries, would, in my opinion *be void*, and therefore without this being done neither presentation nor induction could legally take place.

Opinion of Solicitor General Hagerman, 4th June, 1835.

Upon the last point it is unnecessary for me to make any further observation than that a form of patent should be framed conformably to law, for endowing Parsonages or Rectories with such lands as His Majesty's Government may deem sufficient for the respectable support of the Incumbent.

All which is nevertheless respectfully submitted.

I have, &c.,

CH. A. HAGERMAN,
Solicitor General.

OPINION OF ATTORNEY GENERAL JAMESON.

Opinion of Attorney General Jameson, June 13th, 1835.

Attorney General's Office,
13th June, 1835.

SIR,—I have the honour to request that you will submit to the consideration of his Excellency the Lieutenant Governor the proposed forms of two instruments drawn by his Excellency's command.

1. An Instrument under the Great Seal for the constituting and erecting of a Parsonage or Rectory within any particular Township according to the authority given to His Majesty by the Statute 31 Geo. III, c. 31, s. 38.

2. Letters

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2. Letters missive, also under the Great Seal, directed to the Lord Bishop of Quebec, requiring the institution and induction of the Clergyman whom his Excellency, under the thirty-ninth section of the same Act, may present to the Parsonage or Rectory so constituted. The contemporaneous endowment of the land appropriated by the other instrument may be made by an ordinary grant to the Incumbent and his successors. On all future presentations the legal title to the temporalities will vest by the act of institution and induction.

Opinion of
Attorney General
Jameison, June
13th, 1833.

The great respect due to the opinion of the Solicitor General has led me to frequent reconsiderations of my advice, that his Excellency, under the Imperial Act above recited, might erect and constitute these Parsonages, and endow them, without assigning any territorial limits for the spiritual jurisdiction and operations of the Parson, in the nature of a Parish; and I cannot divest myself of the opinion that the Parsonage may be so constituted, and may consist of the Parson, with the Church, &c., and the endowment. Parish, in its technical sense, having relation to Tithes, Church Rates, &c., undoubtedly requires ascertained limits; the word, however, is not used in the Act except as a mere civil sub-division of the Province, and synonymously with Township; for it authorizes the erection and constitution of one or more Rectory or Parsonage or Rectories or Parsonages within every Township or Parish. Neither do I think the words Parsonage and Rectory are used with any reference to a particular jurisdiction as contradistinguished from Vicarage or Stipendiary Priesthood, but simply as *Benefice*, which is the largest term applied to Church Livings, and means the Beneficia or Endowment: and I think the Parson or Corporation sole, together with the Church and Benefice or temporal Endowment, will amount to a Parsonage within the meaning of the Act. Had the Act, while authorizing the erection and constitution of Parsonages within each Township, used any words implying a division of the Township, some doubt might be entertained which the Act does not now raise. The difficulty of making territorial divisions now which would meet the state of population hereafter, together with the inapplicability from the absence of Tithes and Church Rates, the Beneficia consisting entirely of land or the proceeds of land; combined with the probable impolicy of appearing to create Parishes where there is no spiritual jurisdiction, or Cure of Souls, in the ancient sense of the words, where in fact the Clergyman's Parish consists of his voluntary flock and congregation, impress me with the opinion that, unless the law had in terms required such a specific division and appropriation of a particular part of each Township to each endowment, the contrary system is the most expedient.

As to the appointment of Churchwardens, the provision in the 33 Geo. III. c. 2, s. 7, respecting them having been repealed by the recent Act consolidating and altering the laws relating to Township Officers,

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in which no mention whatever is made of Churchwardens, and as there are here no payers of Church Rates, I am not at this moment prepared to say how they could be legally appointed; but I do not think that any present uncertainty upon that matter could delay his Excellency in the important duty of erecting and constituting Parsonages and appropriating the Endowments.

Opinion of
Attorney General
Jameson, June
13th, 1835.

I have, &c.,

ROBERT S. JAMESON.

Lieutenant Colonel Rowan.

CONCURRENCE OF EXECUTIVE COUNCIL THEREON.

Concurrence of
Executive Council,
therein; 5th
Nov. 1835.

In Council, 5th November, 1835.

The Council concur with the herein-expressed opinion of the Attorney General, and recommend that no time should be lost in erecting and constituting Parsonages and appropriating the endowments in the manner within-mentioned.

PETER ROBINSON, P. C.

J. C.

MESSAGE FROM SIR JOHN COLBORNE, TO THE EXECUTIVE COUNCIL.

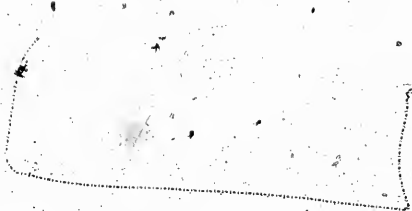
Message from
Sir John Colborne
to the Executive
Council, 29th
June, 1835.

Government House, 29th June, 1835.

The Lieutenant Governor transmits to the Executive Council the accompanying copy of a Communication addressed to the Law Officers of the Crown, and their Reports, relative to the course which it is proposed to adopt in constituting Parsonages according to the Statutes.

The Lieutenant Governor requests the Executive Council will examine the forms of instruments which the Attorney General recommend, to be used in constituting and endowing Rectories and presenting Rectors, and take into consideration whether the course recommended by the Attorney General is in any respect objectionable; or whether under all circumstances, it may not be for the interests of the Province to direct Parsonages to be constituted and endowed without further delay, and designated in the mode suggested by the Attorney General in all Townships in which missionaries have been appointed by the Bishop of Quebec to take charge of congregations.

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COMMISSION TO THE EARL OF GOSFORD AS GOV.

ERNOR GENERAL, DATED JUNE 13th, 1835.Commission to
the Earl of Gos-
ford, dated June
13th, 1835.

WILLIAM THE FOURTH, by the Grace of God of the United Kingdom of Great Britain and Ireland, King, defender of the Faith, to our right trusty and right well beloved Cousin and Councillor Archibald Earl of Gosford, greeting.

Whereas we did, by certain Letters Patent bearing date at Westminster the twenty-fourth day of November one thousand eight hundred and thirty, in the first Year of our Reign, constitute and appoint our right trusty and well-beloved Matthew Lord Aylmer, Knight, Commander of the Most Honorable Military order of the Bath, Lieutenant General of our Forces, to be Captain General and Governor-in-Chief in and over the Provinces of Upper and Lower Canada, during our Royal pleasure: *And whereas* we did, by certain other Letters patent, bearing date at Westminster the second day of April in this present year one thousand eight hundred and thirty-five, in the fifth year of our Reign, constitute and appoint our right trusty and right well-beloved Cousin and Councillor William Pitt, Earl Amherst, to be our Captain General and Governor-in-Chief in and over the Provinces of Upper and Lower Canada aforesaid, during our Royal pleasure, and by the said last recited Letters patent of the twenty-fourth day of November, one thousand eight hundred and thirty, as by these said recited Letters respectively, relation being thereunto had, may more fully and at large appear: Now know you that we have revoked and determined, and by these presents do revoke and determine, the said recited letters patent of the second day of April one thousand eight hundred and thirty-five, and every clause, article, and thing therein contained: *And further know you*, that we, reposing especial trust and confidence, in the prudence, courage and loyalty of you the said Archibald Earl of Gosford, of our especial grace, certain knowledge and mere motion have thought fit to constitute and appoint you to be, during our pleasure, our Captain General and Governor-in-Chief in and over our Province of Upper Canada, and in and over our Province of Lower Canada, respectively bounded by a line to commence at a stone boundary on the North Bank of the Lake Saint Francis at the Cove West of the Point au Baudet in the limit between the Township of Lancaster and the Seigneurie of New Longueuil, running along the said limit in the direction of North thirty-four degrees West to the westernmost angle of the said Seigneurie of New Longueuil, thence along the North-western boundary of the Seigneurie of Vaudreuil running North twenty-five degrees East until it strikes the Ottawa River into the Lake Tornis Canning, and from the head of the said Lake by a line drawn

Commission to
Lord Aylmer
revoked.Earl of Gosford
herby appointed
Governor Gene-
ral.

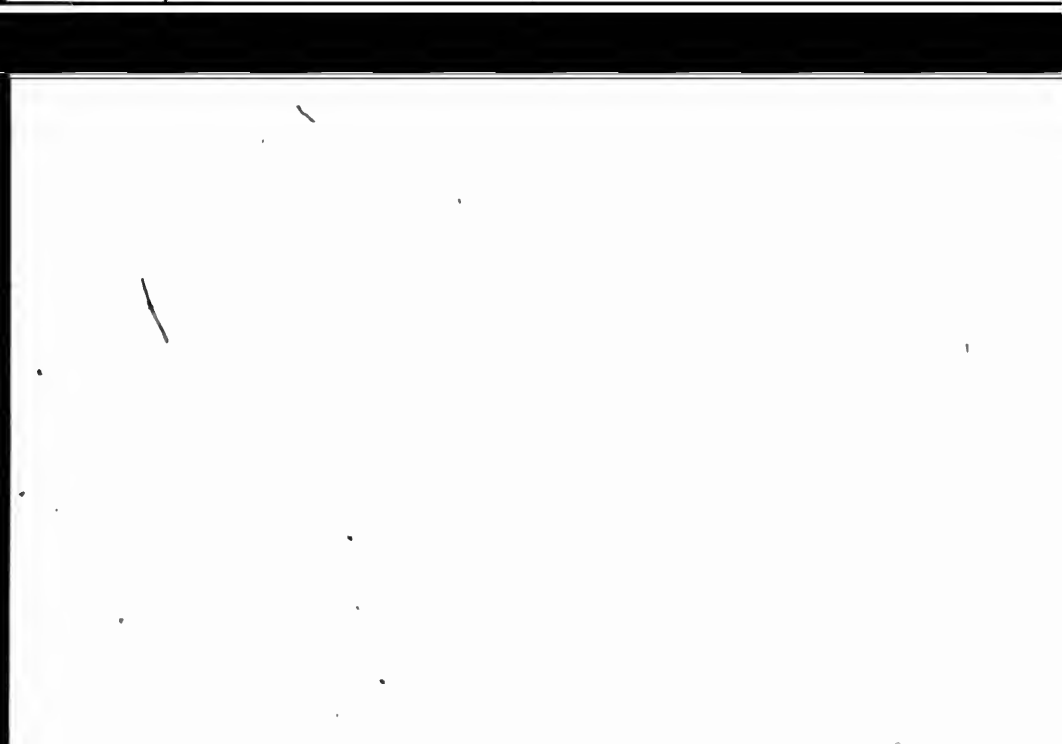


due North until it strikes the boundary line of Hudson's Bay; the Province of Upper Canada to comprehend all such Lands, Territories, and Islands lying to the Westward of the said line of division as were part of our Province of Quebec; and the Province of Lower Canada to comprehend all such lands, territories and islands, lying to the eastward of the said line of division as were part of our said Province of Quebec: And we do hereby require and command you to do and execute all things in due manner that shall belong to your said command and the trust we have reposed in you, according to the several powers, provisions and directions granted or appointed you by virtue of our present commission, and of an Act passed in the thirty-first year of the Reign of His late Majesty, King George the Third, intituled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled 'An Act for making more effectual provision for the Government of Quebec, in North America,' and to make further provision for the Government of the said Province" and of such instructions as are herewith given to you, or which may from time to time be hereafter given to you, in respect to the said Provinces, or either of them, by us, under our Sign Manual and Signet, or by our order in our Privy Council, or through one of our principal Secretaries of State, and according to such Laws as are now in force or shall hereafter be made and established within our said Provinces of Upper Canada and Lower Canada under and by virtue of such powers, provisions, and directions as aforesaid: And our will and pleasure is, that you the said Archibald Earl of Gosford, as soon as may be after the publication of these our Letters patent, do take the oaths appointed to be taken by an Act passed in the first year of the Reign of King George the first, intituled "An Act for the further security of His Majesty's person and Government, and for the succession of the Crown in the heirs of the late Princess Sophia, being Protestants, and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret abettors," as altered and explained by an Act passed in the Sixth year of the Reign of King George the Third, intituled "An Act for altering the oath of abjuration and the assurance, and for amending so much of an Act of the seventh year of Her late Majesty Queen Anne, intituled 'An Act for the improvement of the Union of the two Kingdoms,' as after the time therein limited requires the delivery of certain lists and copies therein mentioned to persons indicted of high treason or misprison of treason," or in lieu thereof the oath required to be taken by an Act passed in the tenth year of the Reign of His late Majesty King George the Fourth, intituled "An Act for the relief of His Majesty's Roman Catholic subjects," according as the said former Acts or the said last-mentioned Act shall be applicable to your case: and likewise that you take the usual oath for the due execution of the office and trust of our Captain General and Governor-in-Chief of our said Province of Upper and our said Province of Lower Canada

Commission to
the Earl of Gosford,
dated June
15th, 1833.

To take and
administer the
proper oaths
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and for the due and impartial administration of justice; and further that you take the oath required to be taken by Governors of plantations, to do their utmost that the several Laws relating to trade and plantations be duly observed; all which said oaths the Executive Councils of our said Provinces of Upper Canada and Lower Canada respectively, or any three or more of the members of either of them, have hereby full power and authority and are required to administer unto you, and in your absence to our Lieutenant Governor, if there be any upon the place: All which being duly performed, you the said Archibald Earl of Gosford, or in your absence our Lieutenant Governors of our said Provinces, or persons administering the respective Governments therein, shall administer to each of the members of such Executive Councils as aforesaid such of the said oaths mentioned in the said several Acts as shall be applicable to the case of the individual member of our said Council taking the same; and you are also to administer to them the usual Oath for the due execution of their places and trusts: And whereas we may find it convenient for our service that certain offices or places within our said Provinces of Upper Canada and of Lower Canada should be filled by our subjects who may profess the Religion of the Church of Rome; and it is therefore our will and pleasure, that in all cases where such persons shall or may be admitted into any such office or place, the oath prescribed in and by an Act of Parliament passed in the fourteenth year of the Reign of King George the Third, intituled "An Act for making more effectual provision for the Government of the Province of Quebec in North America," and also the oath prescribed in and by the Act before mentioned, passed in the tenth year of the Reign of His late Majesty, King George the Fourth, shall be duly administered unto them; and they shall also take the usual oath for the due execution of their places and trusts respectively: We do further give and grant unto you the said Archibald Earl of Gosford, full power and authority from time to time and at any time hereafter by yourself, or by any other to be authorized by you in that behalf, to administer and give such of the said oaths in the said several Acts contained as shall be applicable to the case of the individual to whom the same shall be administered to every such person and persons as you shall think fit, who shall hold any office or place of trust or profit, or who shall at any time or times pass into our said Provinces of Upper Canada and of Lower Canada, or shall be resident or abiding therein: And we do hereby authorize and empower you to keep and use the Public Seals of our said Provinces of Upper Canada and Lower Canada for sealing all things whatsoever that shall pass the Seal of our said Provinces respectively; and, in case of your absence from either of our said Provinces, to deliver the same into the charge and custody of our Lieutenant Governor, or person administering the Government there for the purposes before mentioned, until we shall think fit to authorize you by an Instrument under our Royal Sign Manual, to

Commission to
the Earl of Gosford,
dated June
13th, 1863.

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commit the custody thereof to such person or persons as may be appointed by us for that purpose.

Commission to
the Earl of Gosford, dated June
13th, 1833.

And whereas by the said recited act passed in the thirty-first year of the reign of His late Majesty King George the Third, it is enacted, that there shall be within each of our said Provinces of Upper Canada and Lower Canada respectively, a Legislative Council, &c., and an Assembly to be composed and constituted in the manner in the said act described; and that in the said Provinces we, our heirs and successors, shall have power during the continuance of the said act, by and with the advice and consent of the said Legislative Councils and Assemblies, to make laws for the peace, welfare, and good government of the said Provinces respectively, such laws not being repugnant to the said Act; and that all such laws being passed by the said Legislative Councils and Assemblies, and being assented to by us, our heirs and successors, shall from time to time appoint to be our Governor or Lieutenant Governor of the said Provinces respectively, or by such person as we, our heirs and successors, shall from time to time appoint to administer the government within the same, are by the said Act, declared to be, by virtue of and under the authority of the said Act, valid and binding to all intents and purposes whatsoever within the said Provinces: *We do hereby* give and grant unto you, the said Archibald Earl of Gosford, full power, and authority to issue writs of summons and election, and to call together the Legislative Councils and Assemblies of the said Provinces of Upper Canada and of Lower Canada, in such manner as is in the said Act authorized and directed, subject to the provisions and regulations therein contained in that behalf, and to such instructions and authorities as shall be herewith or at any time hereafter given unto you by us in that behalf under our signet and sign manual, or by our order in our Privy Council or through one of our principal secretaries of State: *And we* do hereby give and grant unto you the said Archibald Earl of Gosford full power and authority to fix the times and places of holding every Session of the Legislative Councils and Assemblies of our said Provinces of Upper Canada and Lower Canada, and to prorogue the same from time to time, and to dissolve the same by proclamation or otherwise, subject nevertheless to the regulations, provisions and directions of the last mentioned Act, and to such instructions and authorities as in respect of the premises may be herewith or at any time hereafter given by us unto you under our signet and sign manual, or by our order in our Privy Council, or through one of our principal secretaries of State.

As to the Legislative Council and Assembly of each Province.

AND we do by these presents authorize and empower you the said Archibald Earl of Gosford, with the advice of the Executive Councils appointed by us for the affairs of our said Provinces of Upper Canada and Lower Canada respectively, from time to time to form, constitute,

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and erect Townships or Parishes within our said Provinces; And also to constitute and erect within every Township or Parish, which now is or hereafter may be formed, constituted, or erected within our said Provinces, one or more Parsonage or Rectory, or Parsonages or Rectories, according to the establishment of the Church of England; and from time to time, by an instrument under the seal of our said Provinces, or such part of the said lands so allotted and appropriated as by the last recited Act in that behalf is mentioned in respect of any lands within such Township or Parish which shall have been granted subsequent to the commencement of the same Act, or of such lands as may have been allotted and appropriated for the same purpose by or in virtue of any instructions which may be given by us in respect of any lands granted before the commencement of the last mentioned Act, as you, with the advice of our said Executive Council of such Province, shall judge to be expedient under the existing circumstances of such Township or Parish, subject nevertheless to such instructions touching the premises as shall or may be given you by us, under our signet and sign manual, or by our order in our Privy Council, or through one of our Principal Secretaries of State: And we do also by these presents authorize and empower you to present, subject to the provisions in the above mentioned Acts in that behalf, to every such Parsonage or Rectory, and to every Church, Chapel, or other ecclesiastical benefice, according to the establishment of the Church of England, within either of our said Provinces, an Incumbent or Minister of the Church of England who shall have been duly ordained according to the rites of the said Church, and to supply from time to time such vacancies as may happen of Incumbents or Ministers of the said Parsonages, Rectories, Churches, Chapels, or Benefices, or any of them respectively: And we do hereby give and grant unto you the said Archibald Earl of Gosford full power and authority to give warrants under your hand for the issuing of public monies for all public services; and we do particularly require you to take care that regular accounts of all receipts and disbursements of such monies be duly kept: And we do further give to you the said Archibald Earl of Gosford full power and authority, when and so often as any bill which has been passed in the Legislative Council and House of Assembly of either of our said Provinces of Upper Canada and Lower Canada shall be presented unto you for our Royal assent, to declare according to your discretion, (but subject nevertheless to the provisions contained in the said recited Act passed in the thirty-first year of the reign of his late Majesty King George the Third, and subject also to such instructions, directions, and authorities as we shall herewith or at any time hereafter give unto you in that behalf under our signet and sign manual, or by our order in our Privy Council, or through one of our Principal Secretaries of State,) that you assent to such bill in our name, or that you withhold our assent from such bill,

Commission to
the Earl of Gosford,
as Governor
General, dated
June 13th, 1822.

As to Rectories.

Other matters.



or that you reserve such bill for the signification of our Royal pleasure thereon: And we do hereby authorize and empower you to constitute and appoint Judges, and, in cases requisite, Commissioners Oyer and Terminer, Justices of the Peace, and other necessary officers and ministers in our said Provinces of Lower Canada and Upper Canada, for the better administration of justice, and putting the law in execution, and to administer or cause to be administered unto them such oath or oaths as are usually taken for the due execution and performance of offices and places, and for clearing the truth in judicial causes: And we do hereby give and grant unto you full power and authority, when you shall see cause, or shall judge any offender or offenders in criminal matters, or for any fines or forfeitures due unto us, fit objects for our mercy, to pardon all such offenders, and to remit all such offences, fines and forfeitures, treason and wilful murder only excepted; in which cases you shall likewise have power upon extraordinary occasions, to grant reprieves to the offenders until and to the intent that our Royal Pleasure may be made known thereon: And we do likewise give and grant unto you full power and authority, with the advice of our Executive Councils of our said Provinces of Upper Canada and Lower Canada, to grant lands within the said Provinces respectively; which said grants are to pass and be sealed with our seal of such Province, and being entered upon record by such officer or officers as shall be appointed thereunto shall be good and effectual in law against us, our heirs and successors: And we do hereby require and command all our officers and ministers, civil and military, and all other inhabitants of our said Provinces of Upper Canada, to be obedient, aiding, and assisting unto you the said Archibald Earl of Gosford in the execution of this our Commission and of the powers and authorities herein contained: And in case of your death or absence out of our said Province of Upper Canada, or our Province of Lower Canada, we do by these presents, in either of such cases, give and grant all and singular the powers and authorities herein to you, granted to our Lieutenant Governors for the time being of such Provinces respectively, or of either of them, as the case may be, or, in the absence of any such Lieutenant Governors or Lieutenant Governor, to such person or persons as we may by warrant under our Sign Manual authorize and appoint to be the administrator of the Government of such Provinces or either of them, such powers and authorities to be by them or him executed and enjoyed during our pleasure; but if upon your death or absence out of our said Provinces of Upper Canada and Lower Canada, or either of them, there be no person upon the place, commissioned and appointed by us to be our Lieutenant Governor, or specially appointed by us to administer the Government within our said Provinces, our will and pleasure is, that until your return from any such absence, or until our further pleasure shall be known, the senior military officer for the time being in command of our forces within our said Province of Upper Canada, or our said Province

Commission to
the Earl of Gosford,
as Governor
General, dated
June 13th, 1834.



Province of Lower Canada, as the case may be, shall take upon him the administration of the government thereof, and shall execute in our said-Provinces respectively this our commission and afore-said instructions, and the several powers and authorities therein contained, in the same manner and to all intents and purposes as other our Captain General and Governor-in-Chief should or ought to do: And we do hereby give and grant unto you the said Archibald Earl of Gosford full power and authority, in case any person or persons commissioned or appointed by us to any office or offices within our said Provinces of Upper Canada or Lower Canada from which he or they may be liable to be removed by us shall in your opinion be unfit to continue in our service to suspend such person or persons from his or their several employments until our pleasure shall be known. In witness, &c. Witness, &c. And for so doing, this shall be your warrant. Given at our Court at Windsor this 13th day of June, 1835, in the fifth year of our reign.

Commission to the Earl of Gosford, dated June 13th, 1835.

By His Majesty's command.

(Countersigned)

GLENELG.

DESPATCH FROM LORD GLENELG TO LIEUTENANT-GOVERNOR SIR JOHN COLBORNE, K. C. B.

Despatch from Lord Glenelg, to Sir J. Colborne, 31st July, 1835.

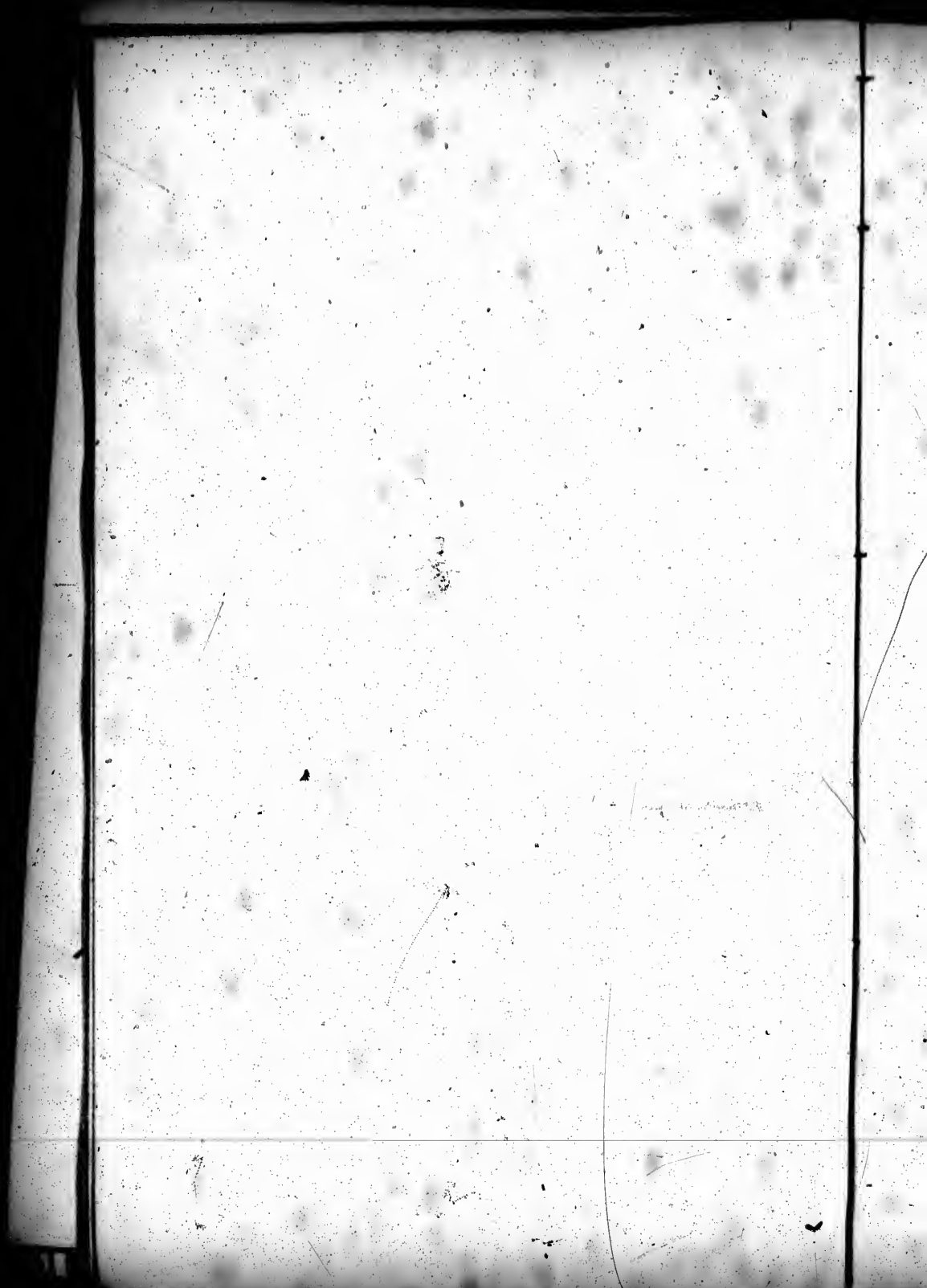
DOWNING STREET, 31st July, 1835.

Sir,—

I have the honour to acknowledge the receipt of your despatch, No. 20, of the 20th May, transmitting an Address to His Majesty from the Legislative Council of Upper Canada, on the subject of the Clergy Reserves in that Province. You also enclose the copy of a resolution passed by the House of Assembly upon the rejection by the Council of a Bill to dispose of these Reserves, and the report of a Committee of the Council upon the general subject of the provision made by law for the support of a Protestant clergy in the Province.

I have had the honour to lay at the foot of the Throne the address from the Legislative Council, and his Majesty has commanded me to express to you his satisfaction at the expressions of attachment to His person and government, which are contained in it.

The disposal of the Clergy Reserves is, as you have described it, a question of great importance. It is a subject which has been frequently under the consideration of my predecessors, and to which I have found it necessary to devote much of my attention since I received the seals of this department. I am not, however, prepared at the present moment to give you any additional instructions upon it. However much I may regret the difference of opinion between the House of Assembly and the Council,



Council, which prevented its settlement during the session which has lately terminated, I cannot look upon that event as precluding the possibility of a more favourable result hereafter. I trust that in their next session the Legislature will resume, and will be enabled to conduct to a successful conclusion, some measure for the arrangement of this question. To take any immediate step with reference to your present despatch and its enclosures, under such circumstances, would be premature; and I must therefore, for the present, decline to interfere with the deliberations of the Provincial Legislature, by offering to them any suggestion of my own upon the subject of the Clergy Reserves.

I have, &c.

GLENELG.

Despatch from
Lord Glenelg to
Sir J. Colborne,
31st July, 1833.

DESPATCH FROM LORD GLENELG TO LIEUTENANT
GOVERNOR SIR JOHN COLBORNE, K. C. B.

DOWNING STREET, 31st July, 1833.

Despatch from
Lord Glenelg to
Sir J. Colborne,
31st July, 1833.

SIR,—

I have the honour to acknowledge the receipt of your despatch of the 23rd May, No. 24, enclosing a memorial from Bishop Macdonell on behalf of the Roman-catholic population of Upper Canada, praying that they may be allowed to participate in the benefits to be derived from the Clergy Reserves in the Province.

In my despatch of this date, No. 31, in reply to the address from the Legislative Council to His Majesty on the subject of these Reserves, I have informed you of the grounds upon which I must decline at present to interfere with the deliberations of the provincial legislature upon this subject. You will of course perceive that the same considerations must prevent my returning any conclusive answer to Dr. Macdonell's memorial. I have to request that you will inform Dr. Macdonell that His Majesty's Government is fully aware of the importance of the subject to which his memorial refers; but that, concurring in the views adopted in regard to it by the Earl of Ripon, they are anxious not in any way to interfere with the deliberations of the provincial legislature. It is therefore to those bodies that Bishop Macdonell should address himself on behalf of the Roman Catholic settlers of Upper Canada; and there can be no doubt that the claims which he may advance upon their account will be received with due consideration by the Legislature.

I have, &c.,

GLENELG.

MESSAGE FROM HIS EXCELLENCY THE LIEUTENANT
GOVERNOR, OF 30TH JANUARY, 1836, TRANSMIT-
TING A DESPATCH FROM HIS MAJESTY'S
GOVERNMENT.

Message from His
Excellency the
Lieutenant Gov-
ernor, 30th Jan.,
1836, transmitting
a Despatch from
His Majesty's
Government.

F. B. HEAD,

The Lieutenant Governor transmits to the Legislative Council the Communication alluded to in his Speech to the two Houses of the Legislature, on the 27th instant.

The Lieutenant Governor was commanded by His Majesty to communicate "the substance" of his Instructions to both Houses of the Provincial Parliament, but considering it would be more satisfactory to them to receive the whole, he accordingly transmits it herewith.

Government House,
30th January, 1836.

DESPATCH, &c.

DOWNING STREET,
5th December, 1835.

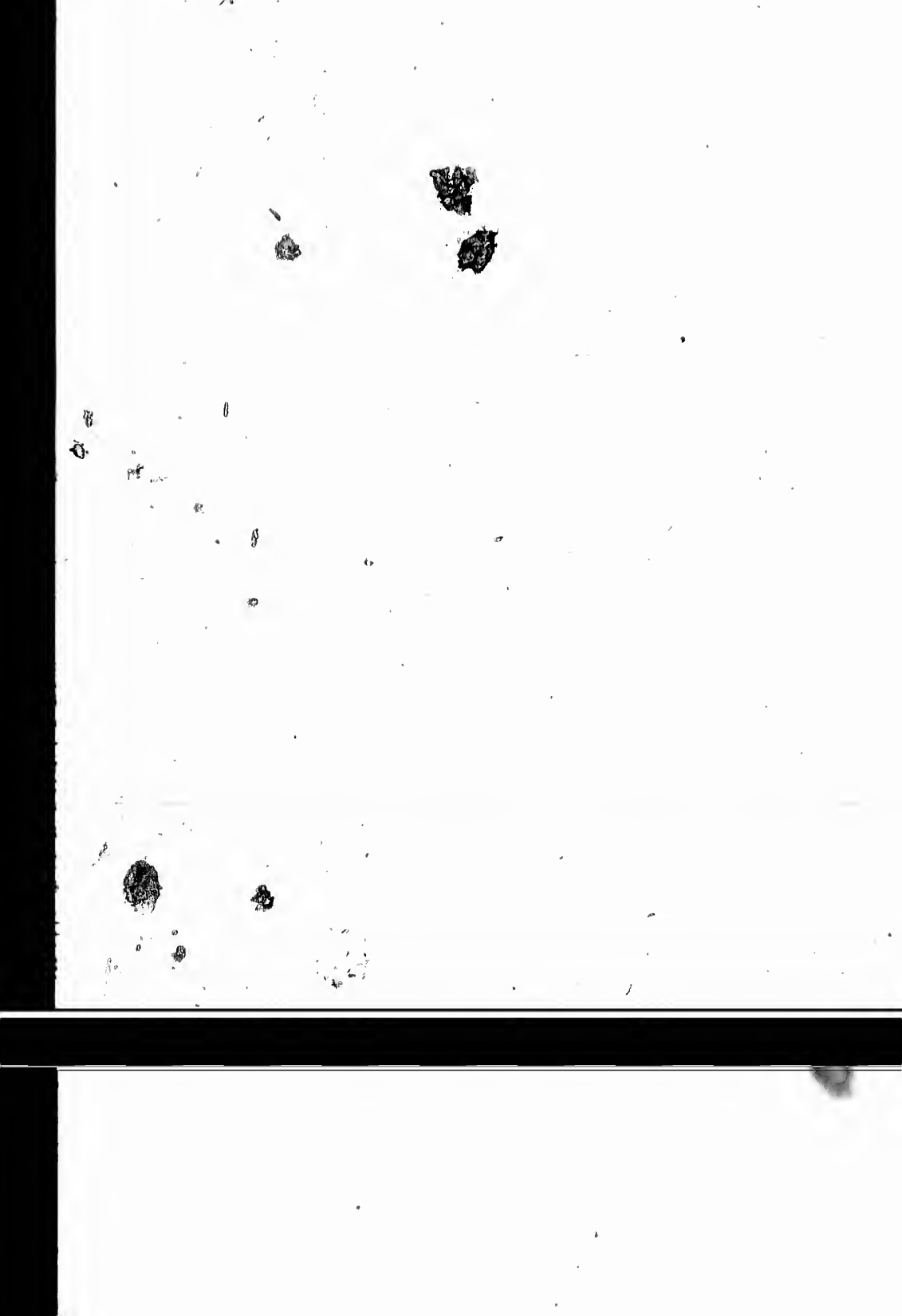
Despatch, con-
taining instruc-
tions to Sir F. B.
Head, on his ap-
pointment as
Lieut. Governor,
5th Dec. 1835.

SIR,—

I have the honour herewith to transmit to you a Commission, under His Majesty's Sign Manual, appointing you Lieutenant Governor of the Province of Upper Canada.

You have been selected for this office at an era of more difficulty and impotence than any which has hitherto occurred in the history of that part of His Majesty's dominions. The expression of confidence in your discretion and ability which the choice itself implies, would only be weakened by any more formal assurance which I could convey to you.

In the following instructions I shall pre-suppose your knowledge of many occurrences, the correct understanding of which is essential to the discharge of the duties to which you are called, but which it is unnecessary for me to recapitulate. As, however, a more exact acquaintance with Canadian affairs is indispensable for your guidance in the administration of the Government of Upper Canada, I think it right to refer you to those sources of information on which you will be able most safely to rely. Amongst these, the first place is due to the Journals of the Legislative Council, and the House of General Assembly. The Appendices subjoined to the annual summary of the proceedings of the two Houses, contain a fund of information on almost every topic connected with the statistics and political interests of the Province; and to those reports you will be able to resort with far greater confidence than



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than to any other source of similar intelligence. The Report of the Committee of the House of Commons, of the year 1828, with the evidence, oral and documentary, to which it refers, will also throw much light on the progress and the actual state of the questions agitated in the Upper Province. The correspondence of my predecessors and myself with the Officers who have successively administered the Provincial Government, will of course engage your careful attention.

Despatch, 14th
Dec. 1833.

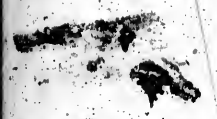
In Upper Canada, as in all countries which enjoy the blessing of a free Constitution, and of a Legislature composed in part of the Representatives of the people, the discussion of public grievances, whether real or supposed, has always been conducted with an earnestness and freedom of enquiry, of which, even when occasionally carried to exaggeration, no reasonable complaint can be made. The Representatives of the Canadian people, if departing at times from the measured style and exact terms in which the investigation of truth may perhaps be most successfully conducted, have yet, even in the agitation of questions the most deeply affecting the interests of their constituents, exhibited a studious respect for the person and authority of their Sovereign, and a zealous attachment to the principles of their balanced Constitution. Until the last Session of the Provincial Parliament the remonstrances of the House were chiefly confined to insulated topics of complaint; discussions, indeed, occasionally arose and discontent was occasionally manifested; but it may be affirmed that, generally, there subsisted a spirit of amicable co-operation between the Executive Government and the Legislature.

The cession by His Majesty of the Revenues raised under the Statute 14th Geo. 3, cap. 88, to the appropriation of the House of Assembly, was a gratuitous and unsolicited act, and was accepted by that body in a spirit of grateful cordiality.

I will not pause to recapitulate the events which immediately preceded, if they did not produce, the interruption of this mutual good understanding.

It is sufficient for my present object to observe, that the relations which had formerly subsisted between the Executive Government and the Representatives of the people underwent an entire change, immediately after the elections which took place in the autumn of 1834. The supporters of the Local Government now, for the first time, found themselves in a constant minority on every question controverted between them and their political antagonists. A Committee of Grievances was appointed, by which a report was made, impugning the administration of affairs in every department of the public service, and calling for remedial measures of such magnitude and variety as apparently to embrace every conceivable topic of complaint. Having adopted this

report,



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report, and having directed its publication in an unusual form, the House transmitted, through the Lieutenant Governor, to the King, an address, in which some of the more considerable of the claims of the Committee were urged in terms of no common emphasis. It will be your first duty, on the assumption of the Government, to convey to the House the answer which His Majesty has been advised to return to these representations. Despatch, 24
Dec. 1833.

I cannot proceed to explain the terms of that answer without the preliminary remark, with a view to which the preceding statement has been chiefly made. Whatever may be the justness of the complaints now preferred respecting the general principles on which the public affairs of the Province have been conducted, the Representatives of the people of Upper Canada are at least not entitled to impute to the confidential advisers of the King any disregard of their remonstrances. The greater part of the grievances detailed by the Committee and the House, are now, for the first time, brought by them under His Majesty's notice. My predecessor, the Earl of Ripon, in his Despatch of the 8th November, 1832, to Sir John Colborne, was commanded by the King to state that "there was no class of the Canadian people, nor any individual amongst them, to whose petitions His Majesty did not require that the most exact and respectful attention should be given." His Majesty has never ceased to be actuated by the spirit which dictated those instructions, and of course will not deny to the House of General Assembly, that careful investigation of the grounds of their complaints which he graciously pledged himself to bestow on the representation of any individual petitioner. I feel myself, therefore, entitled, on behalf of His Majesty's Government, to object to any resort on the part of the House to that ulterior measure to which they allude, but which they will feel with me is to be justified only by an extreme emergency.

I now proceed to the consideration of the various topics embraced in the Seventh Report of the Committee of Grievances, and in the Addresses of the two Houses to His Majesty. And I shall advert to them in the order in which they are pursued in the report itself.

In the following pages, if any subject should appear to be passed over without due regard, you will understand that I have, at least, been guilty of no intentional omission, but have, in obedience to His Majesty's commands, made it my endeavour to meet every question which the Committee and the House have thought it necessary or proper to raise.

1st. It is stated that "the almost unlimited extent of the patronage of the Crown, or rather of the Colonial Minister for the time being, and his advisers here, together with the abuse of that patronage, are the chief sources of Colonial discontent. Such (it is added) is the
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"patronage of the Colonial Office, that the granting or withholding of
 "Supplies is of no political importance, unless as an indication of the
 "opinion of the country concerning the character of the Government,
 "which is conducted on a system that admits its officers to take and
 "apply the funds of the Colonists without any Legislative vote what-
 "ever." The Committee then proceed to an enumeration of the various
 public officers, and the different departments and branches of the pub-
 lic service over which this patronage is said to extend; and by bringing
 the whole into one view, they suggest what must be the amount of the
 authority and influence accruing to the Executive Government from
 these sources.

The statement is substantially this,—that the number of public offices
 in the Colony is too great, and that the patronage, instead of being
 vested, as at present, in the Crown, and the local representative of the
 Crown, should be transferred to other hands.

In the long enumeration of places at the disposal of the Executive
 Government in Upper Canada, the Committee have not adverted to
 one consideration to which I think that great prominence might justly
 be assigned. It is perfectly true, as it is quite inevitable, that in Upper
 Canada, as in other new countries, the number of public employments
 is, and will be, far larger, in proportion, than in older and more dense-
 ly peopled States. The general machinery of Government must be the
 same in a scanty as in a large and redundant population. Correspond-
 ing Departments of the public service, whether Legislative, Judicial or
 administrative, must exist in both. And in a new country besides,
 there will be some establishments, for which, in the settled States of Eu-
 rope, no counterpart can be found. Such, for example, are all which
 relate to the allocation, surveying, and granting of wild lands. Nor is
 it to be forgotten, that in the early stages of such a society many du-
 ties devolve upon the Government, which at a more advanced period
 are undertaken by the better educated and wealthier classes, as an hon-
 orable occupation of their leisure time. Thus in the Canadas, although
 the mere text of the law would there, as in England, authorise any man
 to prefer and prosecute an indictment in His Majesty's name, yet
 virtually and in substance the prosecution of all offences is confided to
 the Government or its officers. These causes have inevitably tended to
 swell the amount of the patronage of the Provincial Government, with-
 out supposing any peculiar avidity on their part for the exercise of such
 power.

With respect to the patronage of the requisite offices, His Majesty's
 Government are not solicitous to retain more in their own hands, or in
 those of the Governor, than is necessary for the general welfare of the
 people, and the right conduct of public affairs. I confess myself, how-
 ever, unable to perceive to whom the choice amongst candidates for
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the employment could with equal safety be confided. It requires but little foresight or experience to discover, that such patronage if exercised in any form of popular election, or if committed to any popular body, would be liable to be employed for purposes far less defensible and in a manner less conducive to the general good. Chosen by irresponsible Patrons the Public Officers would themselves be virtually exempt from responsibility, and all the discipline and subordination which should connect together in one unbroken chain the King and his representative in the Province, down to the lowest functionary to whom any portion of the power of the State may be confided, would be immediately broken.

Despatch, 24
Dec., 1838.

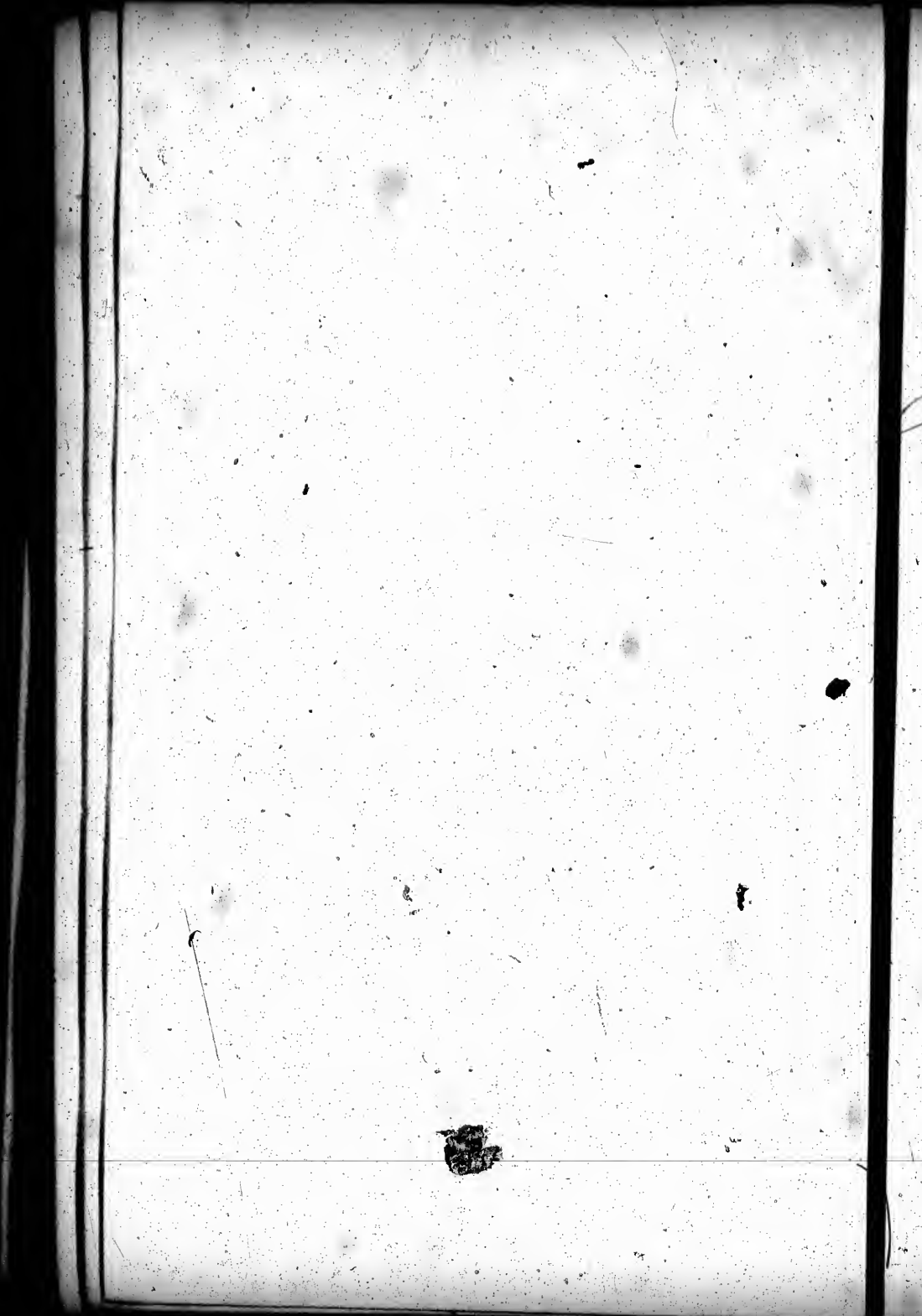
I conclude therefore, that as in such a country as Canada, there must exist a number of public officers, larger in proportion to the present number and wealth of the inhabitants, so the selection of them must for the most part be entrusted to the head of the local government.

I disclaim, however, on the part of the Ministers of the Crown every wish to urge these general principles beyond their just and necessary limits. There are cases in which, I think, according to the analogy of similar cases in this country, the patronage now said to be exercised by the Lieutenant Governor, might, with perfect safety and propriety, be transferred to others. On this subject however, it will be more convenient to state the general principle than to attempt the specific and detailed application of it at this distance from the scene of action.

That principle is, to maintain entire, by the nomination and removal of Public Officers, that system of subordination which should connect the head of the Government with every person through whose instrumentality he is to exercise the various delegated prerogatives of the Crown. What is necessary for this end must be retained. Whenever patronage is unnecessary for the maintenance of this principle, it should frankly and at once be abandoned.

It is noticed in the report, as an aggravation of the evils of the Government patronage, that almost every public officer holds his place at the pleasure of the Crown.

I cannot disguise my opinion that the public good would be little advanced if the subordinate functionaries held their places upon a more permanent tenure. In practice indeed, though subject to certain exceptions hereafter noticed, no Public Officer is liable to losing his employment except for misconduct or incompetency. There are many kinds of misconduct and incompetency which could never be made the subject of judicial investigation, but which yet would be destructive of the usefulness of a Public Officer, and ought, therefore, to be followed by a dismissal from the public service. It is not necessary to insist at



Despatch, 6th
Dec., 1854.

any length on the evils which would arise in the transaction of business if the subordinate officers were aware that they were entirely independent of the good opinion of their superiors, for their continuance in their employment.

It is not difficult to shew, in reference to any conceivable arrangement on the subject of patronage, that there will be dangers against which it is impossible to take an absolute and perfect security. I know not, however, that any less exceptionable scheme could be devised than that which at present prevails—of giving to the head of the local Government the choice of the subordinate officers, and of making their places dependent on His Majesty's pleasure. To prevent, however, as far as may be possible, the continuance of any well founded ground of complaint on this head, His Majesty, disclaiming for himself, and for his representative in the Province, all desire to exercise, with the view merely to patronage, the power of appointing public officers, is pleased to prescribe for your guidance the following rules :

First.—You will at the earliest opportunity enter into a diligent review of the offices in the appointment of the Crown and of the local government as detailed in the report of the Committee and appendix, with a view to ascertain to what extent they may, without impairing the efficiency of the public service, be reduced immediately and prospectively.

You will report to me the result of your investigation, with such particular information as will enable His Majesty's Government to decide in each case on the expediency of adopting your recommendation.

Secondly.—If during the reference of that report to me any occasion occur for the reduction of Offices, either by abolition or by consolidation, you will exercise your own discretion, as to waiting for fresh instructions, or proceeding at once to the reduction. Any appointment however, made under such circumstances, will be merely provisional. In case of the immediate abolition of an office not required for the efficient discharge of the public service, you will stipulate for such a compensation to the present holders, as the disappointment of their reasonable expectations may entitle them to receive.

Thirdly.—In the prescribed revision of these offices you will make it one of your objects to form a judgment what share of the patronage of the Crown or the local Government may safely and wisely be transferred to other hands.

You will report to me on this subject, but will refrain from taking any steps regarding it without further instructions from me.

Fourthly.—In the selection of persons to execute public trusts, you will



will be guided exclusively by the comparison of the claims which the different candidates may derive from past services, or from personal qualifications.

Despatch, 5th Dec, 1853.

Fifth.—In general, you will not select for any public employment in Upper Canada any person who is not either a native or settled inhabitant of the Province.

To this general rule occasional exceptions may be admitted; as in cases where some peculiar art or science is demanded, which no Provincial candidate may be found to possess in the requisite degree. An exception must also be made in reference to those officers who are immediately attached to your own person, in the choice of whom His Majesty does not think it right to subject you to any such restriction.

Sixth.—As often as any office shall be vacant which is not to be suppressed, and of which the annual emolument shall exceed two hundred pounds, you will make the appointment provisional only, and with the distinct intimation to the party elected, that his confirmation will depend entirely on the estimate which His Majesty may form of his pretensions; and you will on every such occasion signify to me, for His Majesty's information, the grounds on which you have proceeded, and the motives which have directed your choice. If His Majesty should be pleased to issue under sign manual, a warrant authorising you to make a grant of the office under the public seal of the Province, then, and not till then, the appointment must be considered as finally ratified.

I trust, that in these regulations the House of Assembly will perceive a sufficient proof of His Majesty's settled purpose to exercise this branch of his prerogative for no other end than the general good of his Canadian subjects, and to prevent its being converted into an instrument of promoting any narrow, exclusive or party designs.

Second.—Pursuing the order observed by the Committee, I pass on to the subject of the Provincial Post Office. Adverting to the measures which have already been taken for the redress of the grievances which have been alleged to exist in the conduct of this department, the Committee observe, "That the form of a Law such as the Government would approve is before the Houses, but its provisions (they add) are so inapplicable and absurd, that no benefit could be derived from their enactment."

On the measure thus characterized, I am not called to give an opinion. It is, however, but fair to those by whom it was recommended to the adoption of the Local Legislature, to observe, that it had previously undergone a most careful investigation by the Post Master General.

His



His Majesty's Government cannot have the slightest wish to urge the adoption of any measure to which well-founded and sufficient objections may exist: they are content that the Bill in question should be withdrawn to make way for any other which the Assembly may be disposed to substitute for it. Perhaps, however, on approaching the question more closely, the Assembly may find it encumbered with unexpected difficulties. I fear that this will be the case, especially in reference to the intercourse by post with all places beyond the limits of the Province itself. You will, however, assent to any judicious and practicable scheme which the House may incorporate in any Bill tendered for your acceptance; regarding as of no weight whatever, when opposed to the general convenience of the public, any considerations of patronage or of revenue derivable from this source.

Despatch, 4th
Dec., 1830.

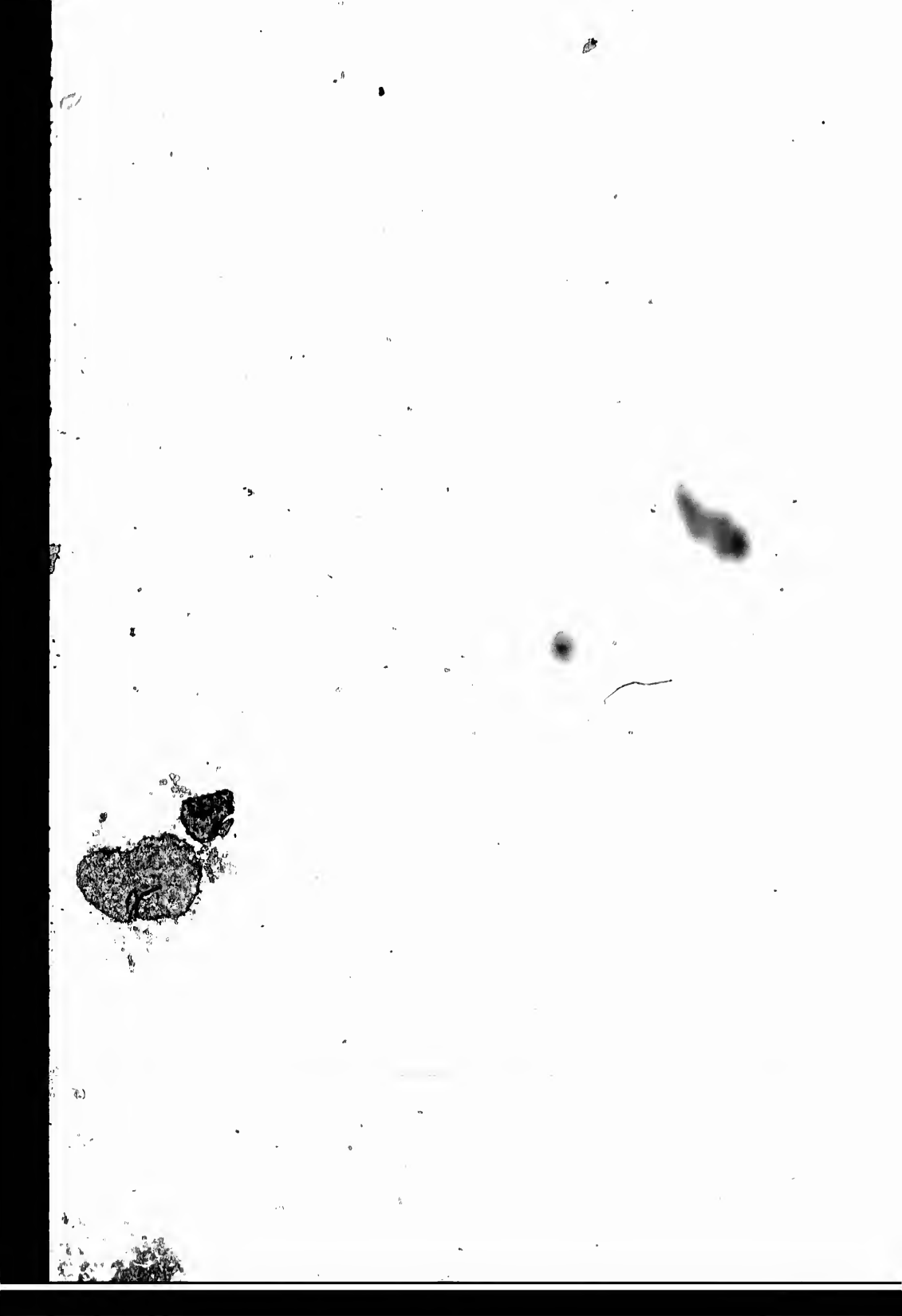
THIRD.—Under the head of salaries and fees, the Committee have entered into very copious statements to shew that the emoluments of the Public Officers in Upper Canada are excessive, and out of all just proportion to the value of services rendered.

It is unnecessary for me to enter into these details, because as to the general principles on which it will be your duty to act on questions of this nature, there can be no room for controversy; indeed, those principles will, I think, be most conveniently considered when divested of topics connected with the interests and the services of particular persons.

There is no measure of retrenchment compatible with the just claims of His Majesty's various officers, and with the efficient discharge of the public service and duty, to which the King is not disposed to give a prompt and cheerful assent. To determine what ought to be the scale of remuneration to Public Functionaries of different classes would require information too minute and exact to be obtained beyond the limits of the Province itself. This would appear a very fit subject for a special inquiry, in which it might be proper to employ Commissioners, to be appointed under the authority of an Act of the Assembly. I have reason to suppose that the subject has never yet undergone a full and fair investigation, and therefore I do not feel myself entitled to assume the non-existence of those abuses which so readily grow up under a system which is not subjected to a careful scrutiny, conducted upon permanent and enlightened views of public economy. Even if the result of the examination should be only to shew that there is no evil of this nature to be remedied, the labour would be amply repaid, by placing so important a fact beyond the reach of all reasonable suspicion.

In dealing with existing interests, the Local Legislature, will, I doubt not, be well disposed to adopt the rules which have been uniformly taken by Parliament for the guidance of their discretion in similar

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cases. The saving of public money which could arise from the unexpected reduction of official incomes, would not only subject numerous families to extreme distress, but by impairing general confidence in the public credit, would weaken the foundations on which all proprietary right must ultimately repose.

Debate, 24
Dec., 1825.

The King confidently relies on his faithful subjects of Upper Canada that they will not reduce His Majesty to the distressing alternative of either abandoning the just interests of any of his servants, or opposing himself to measures having for their object the reduction of public expenditure.

FOURTH.—Next in the order of complaints, is that which relates to the amount of the Pension List. On this, as on the subject which I have last noticed, I conceive that I shall best discharge my duty by attempting to provide against any future abuse, than by engaging in a minute retrospect of any which may have already occurred. I will not even pause on the comparison, not perhaps very accurately or necessarily instituted, between the conduct of the Central Government of the United States of America, and that which has been pursued in one of the Provinces of the British Empire, respecting the remuneration of officers for past service. Such pensions as have already been charged upon the revenues which were at the disposal of the Crown, constitute a debt to the payment of which His Majesty's honour is pledged; nor need I state, that there is no consideration so powerful as to induce the King to assent to the violation of any engagement lawfully and advisedly entered into by himself, or by any of his Royal Predecessors.

On the other hand, His Majesty is content, that the most effectual security should be taken against any improvident increase of the Pension List, by any future grants, and is willing that a limit should be fixed by law to any charge which may hereafter be imposed upon the Provincial Revenues on this account.

I do not anticipate that the Assembly of Upper Canada would wish to withhold from the King the means of rewarding faithful and zealous public services, or would think it desirable that no provision should ever be made by His Majesty to solace the declining years of those who have consumed in laborious public duties in the Colony the larger portion of their lives.

You will, therefore, assent to any law which may be tendered for your acceptance, of which the object shall be to regulate, on a just and reasonable scale, the amount of the future Pension List of Upper Canada, and to prescribe the principles upon which any pensions shall be granted.

FIFTH.—I proceed to the subject of the provision made for Ecclesiastical

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siastical Establishments, and for the maintenance of the Teachers of Religion of various denominations. Despatch, 5th Dec., 1853.

On this head the House of Assembly maintain opinions, from which in their address to His Majesty of the 13th of April, the Legislative Council have recorded their most entire and earnest dissent. The report states, that "The House of Assembly in several successive Parliaments has expressed its entire disapprobation of the Government, in attempting to uphold particular religious sects by money grants, and in the 10th and 11th Parliaments has declared that it recognizes no particular denomination as established in Upper Canada with exclusive claims, powers, or privileges."

It appears that the four Religious communities whose funds are aided by grants from the hereditary and territorial Revenue, are those of the Churches of England, and Scotland, and Rome, and of the Wesleyan Methodist Society, the last being in two divisions, which respectively take the distinct appellation of the "Canadian," and the "British."

In the last session of the Provincial Parliament a Bill was passed by the Assembly, the object of which was to enable certain Commissioners to sell the lands which, under the Constitutional Act of 1791, had been appropriated in Upper Canada to the maintenance of a Protestant Clergy, and to pay over the proceeds to the Receiver General, to be disposed of under the future direction of the Legislature, for the promotion of education, and for no other purposes whatever.

This Bill was rejected by the Legislative Council, on the grounds noticed in the address from that body to His Majesty, and in a report from a Select Committee appointed by them to take the Bill into consideration, which report is enclosed in Sir John Colborne's Despatch of the 20th of May, No. 20.

Your Predecessor and the Council agree in opinion, that it is in vain to expect the concurrence of the two branches of the Local Legislature in any adjustment of this question, and they, therefore, invoke the interposition of Parliament, which interposition the Assembly, on the other hand, deprecate with equal earnestness.

The chief practical question, then, which at present demands consideration is, whether His Majesty should be advised to recommend to Parliament the assumption to itself of the office of deciding on the future appropriation of these lands. There are two distinct reasons, both of which appear to me conclusively to forbid that course of proceeding.

First.—Parliamentary Legislation on any subject of exclusively internal concern, in any British Colony possessing a representative Assembly,

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Assembly, is as a general rule unconstitutional. It is a right of which the exercise is reserved for extreme cases, in which necessity at once creates and justifies the exception. Despatch, 24th Dec., 1856.

But important as is the question of the Clergy Reserves in Upper Canada, yet I cannot find in the actual state of the question, any such exigency as would vindicate the Imperial Legislature in transferring to themselves the settlement of this controversy. The Reserves.

The conflict of opinion between the two Houses upon this subject, much as it is to be lamented yet involves no urgent danger to the peace of society, and presents no insuperable impediment to the ordinary administration of public affairs; although a great evil, it is not such as to exclude every hope of mitigation, by the natural progress of discussion, and by the influence of that spirit which, in public affairs, not seldom suggests to parties alike solicitous for the general good, some mutual surrender of extreme views, and some compromise on either side, of differences which at first sight might have appeared irreconcilable.

Until every prospect of adjusting this dispute within the Province itself shall have been distinctly exhausted, the time for the interposition of Parliament will not have arrived, unless indeed both Houses shall concur in soliciting that interposition, in which event, there would of course, be an end to the constitutional objections already noticed.

The second ground on which I think myself bound to abstain from advising His Majesty from referring this question immediately to Parliament, is, that the authors of the Constitutional Act have declared this to be one of those subjects in regard to which, the initiative is expressly reserved and recognized as falling within the peculiar province and the special cognizance of the Local Legislature, although its ultimate completion is no less distinctly made to depend, in addition to the ordinary submission to His Majesty, on the acquiescence of the Imperial Parliament.

It is not difficult to perceive the reasons which induced Parliament in 1791, to connect with a reservation of land for Ecclesiastical purposes, the special delegation to the Council and Assembly, of the right to vary that provision by any Bill, which, being reserved for the signification of His Majesty's pleasure, should be communicated to both Houses of Parliament for six weeks before that decision was pronounced. Remembering, it should seem, how fertile a source of controversy Ecclesiastical endowments had supplied throughout a large part of the Christian world, and how impossible it was to foretell, with precision, what might be the prevailing opinions and feelings of the Canadians on this subject at a future period, Parliament at once secured the means of making a systematic provision for a Protestant Clergy, and took full precaution against the eventual inaptitude of that system to the more advanced

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advanced stages of a society then in its infant state, and of which no human foresight could divine the more mature and settled judgment. Despatch, 6th Dec., 1835.

In the controversy therefore respecting Ecclesiastical endowments, which at present divides the Canadian Legislature, I find no unexpected element of agitation, the discovery of which demands a departure from the fixed principles of the Constitution, but merely the fulfilment of the anticipations of Parliament in 1791, in the exhibition of that conflict of opinion for which the Statute of that year may be said to have made a deliberate preparation. In referring the subject to the future Canadian Legislature, the authors of the Constitutional Act must be supposed to have contemplated the crisis at which we have now arrived; the era of warm and protracted debate, which, in a free government, may be said to be a necessary precursor to the settlement of any great principle of national policy. We must not have recourse to an extreme remedy merely to avoid the embarrassment, which is the present though temporary result of our own deliberate legislation.

I think, therefore, that to withdraw from the Canadian to the Imperial Legislature the question respecting the Clergy Reserves, would be an infringement of that cardinal principle of Colonial government, which forbids Parliamentary interference except in submission to an evident and well established necessity.

Without expressing any further opinion at present, on the general objects of the Bill of last Session, I think the effect of that bill would, as it appears, have been to constitute the Assembly, not merely the Arbiters respecting the disposal of the funds to be raised by the sale of these lands, but the active and independent Agents in effecting those Sales, and thus to invest them with the appropriate functions of the Executive Government.

SIXTH.—The report of the Committee next proceeds to the subject of the Land granting department.

Admitting that Lord Ripon's Despatch shows that the grievances under this head have been in part removed, it is observed that, the extent of that relief is not very clearly shewn by the documents before the Committee.

It is difficult, or rather impossible, for me to advance further in meeting the views of the Assembly, thus briefly expressed, than by stating that if any ambiguity can be pointed out in Lord Ripon's Instructions respecting the grant of Lands, it shall be immediately removed; and that if His Majesty's Officers in the Province can be shown to have disregarded those Instructions, it will be your duty to enforce the most prompt and exact obedience to them, to the full extent of their spirit and intention; in so much that there shall in future be no doubt whether

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the grievances at which they aimed, have or have not been completely removed. Despatch, 45th
Dec., 1838.

SEVENTH.—Respecting the Collegiate Institutions of the Province, the Assembly express their opinion that, “the Upper Canada College “is upheld at great public expense, with high Salaries to its Principal “Masters, but that the Province in general derives very little advantage “from it, and that it might be dispensed with.”

His Majesty's Government can have no wish to retain any charge for this Establishment which may be more than adequate to provide for the effective performance of the duties of the Teachers. Any wise retrenchment of that nature, may, subject to the principles already mentioned, be immediately introduced.

That the Province derives little benefit from this College, is a fact of which the explanation is to be found not in the principle of the Institution itself, but in some error of management, susceptible as it should seem, of an easy remedy. It is impossible to believe, that in Upper Canada, as in other countries, advantages the most important would not result from a well ordered School, for the education in the elementary branches of Philosophy, Science and Literature, of young men who aspire to fill the highest offices in society. Nor can I suppose it a light benefit thus to connect together the preparatory and the final studies of youth in one systematic plan, which, by rendering the initiatory School a careful preparation for the University, may give to their entire education a character of solidity and consistency scarcely attainable by any other method.

I shall, therefore, deeply lament the abolition of a College, of which the defects would appear so remediable, and of which it does not seem easy to exaggerate the benefits.

On the subject of King's College, an unfortunate difference of opinion exists, between the Council and the Assembly, which each of those bodies concurs in pronouncing incurable.

His Majesty commands me to tender through you, his mediation on this subject. With the previous assent of both Houses, the King will cheerfully resume the consideration of the question, in what manner a Charter could be most conveniently prepared, so as to promote the interests of Science and Literature, and the study of Theology and Moral Philosophy, with a due regard to the opinions which seem to prevail in the Province, respecting the proper constitution and objects of an University. But after having distinctly referred to the local Legislature the duty of giving effect to their own wishes on the subject, in the form of an Act of General Assembly, His Majesty cannot, at the instance of one only of the two Houses, withdraw it from their cognizance.

EIGHTH.

EIGHTH.—The Committee complain that a very considerable proportion of the sum, amounting to £31,728 18s. 11d. expended in aid of emigration from Europe, was for “articles or services not specified, and concerning which a Committee of the House of Assembly could know nothing, unless they were to send for the detailed Accounts and Vouchers, which, if they had, it would be impossible to examine at the late period of the Session at which the Government sent down those statements.” In the appendices to the report, numbered 56 and 57, various items of this expenditure are noticed with apparent dissatisfaction. You will direct the Public Officers who have had the management of this fund, to communicate to the House of Assembly, with the utmost possible promptitude, the most minute and circumstantial details and explanations connected with it, for which the House may be pleased to call.

NINTH.—Next in order occurs the statement, that the present “system of auditing the public accounts, is altogether insufficient for ensuring the application of the Revenue to the purposes for which it is intended to be applied.”

The remedy suggested is that of establishing a Board of Audit, of which the proceedings should be regulated by a well considered Statute under a responsible Government.

Deferring at present any remark on the expression “responsible Government,” to which I shall more conveniently advert hereafter, I must express my agreement in the position that the establishment of a Board of Audit, by law, is the best remedy in this case. His Majesty will gladly concur in the enactment of any law which shall be properly framed for constituting such a Board. With a view to aid the deliberations of the Legislature, I transmit to you various documents explanatory of the constitution and proceedings of the Commission for auditing the public accounts of this Kingdom.

The Assembly express their disbelief that any efficient measure of this kind will obtain the consent of the Legislative Council. I trust that this apprehension will be dispelled by the event. If, unfortunately, it should be confirmed, you will in the exercise of His Majesty's delegated authority, proceed at once to constitute a Board of Audit, upon the principles of that which at present exists in this Kingdom, so far as the two cases may be analogous; and although I am aware that, unaided by positive legislation, such a Board would be comparatively inefficient, yet no inconsiderable advance would thus be made towards the introduction of an effective system of audit.

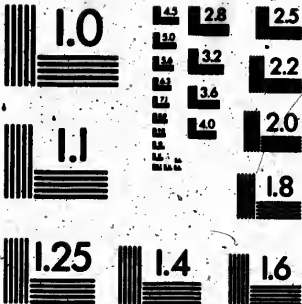
If you should find it necessary to act on this instruction, great care must be used to prevent the new establishment from being converted into the means of any real or seeming abuse in the way of an improvident





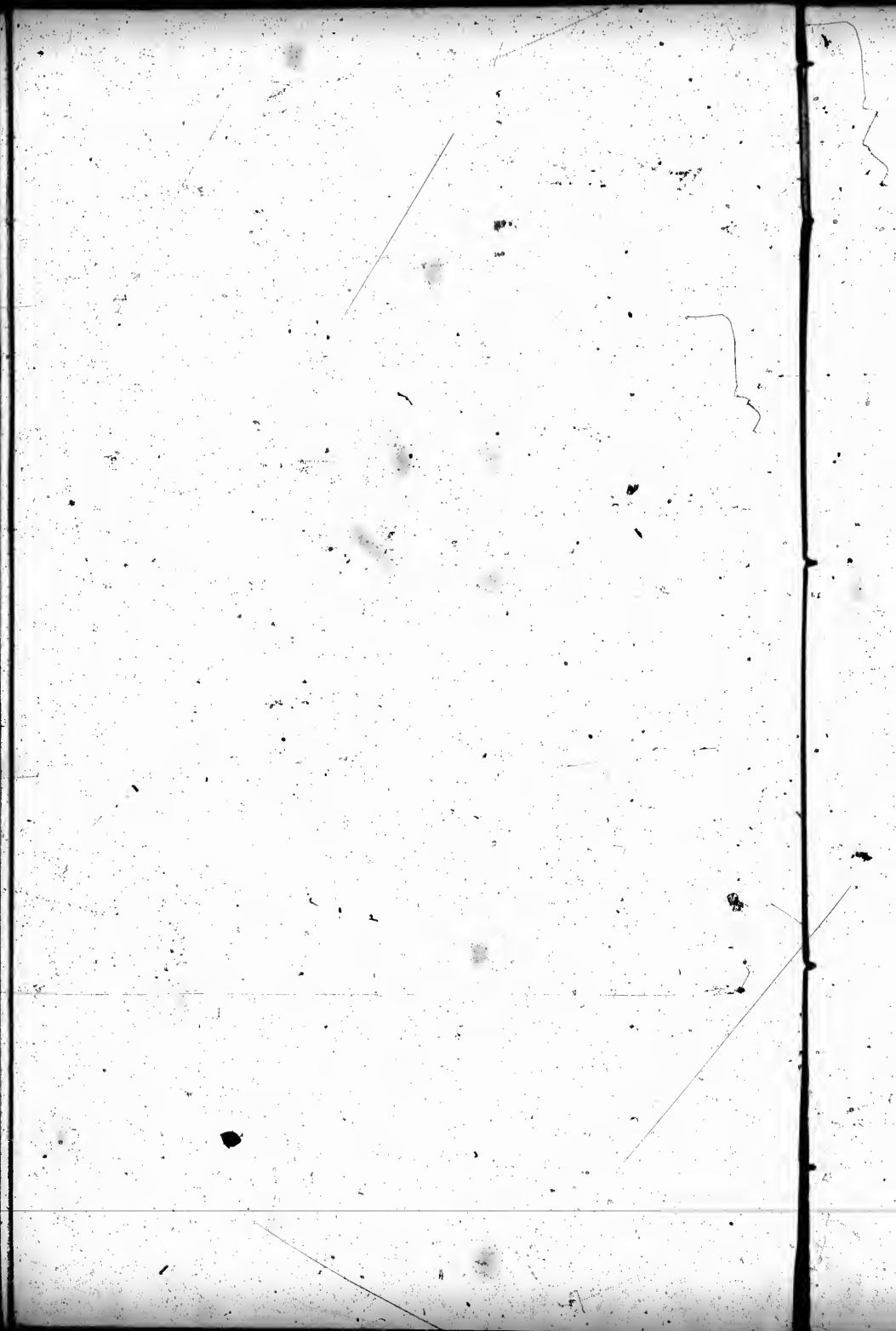
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provident increase of the patronage of the Crown. Of a Board consisting of five or three Aditors, one alone should at first receive a salary, because the Institution itself would be provisional only, and liable to revision as soon as a proper Act could be passed for the purpose.

Despatch: 5th
Dec., 1835.

I think it highly probable that amongst the gentlemen of the Province most conversant with its financial interests, a sufficient number would be found who, as honorary and unpaid Commissioners, would complete the Board, and who, though not engaging in the mere ordinary routine of business, would exercise a general superintendence over the more important proceedings of the Commission. Especially it would be requisite to obtain such aid in determining the number and remuneration of the Clerks and other subordinate officers. But it must not be forgotten, that the effective remedy, as the report observes, is to be found in a Board established by law, and I hope that a law to that effect may pass both Houses of the Legislature.

TENTH.—The withholding of public accounts from the House of Assembly is the next ground of complaint.

It is proposed that to remedy this evil, a Statute should be passed providing the time and manner of making such returns, and naming the Officers who should render them to the Legislature; "but" add the Committee, "it is well known that such an enactment would fail "in the Council, which has an interest in preventing the enforcement of "practical accountability to the people."

Although I cannot permit myself to believe, that the Council would really oppose themselves to any judicious measure of this kind, I fear that such Legislation would be found to involve many serious, if not insuperable difficulties. I must object to the appointment of individuals for any purpose of this kind, by name, in a statute or by any authority other than that of the King.

Persons so appointed would exercise a control over all the functions of the Executive Government, and would have a right of inspecting the records of all public offices, to such an extent, as would leave His Majesty's Representative and all other Public Functionaries, little more than a dependent and subordinate authority. Further—such officers would be virtually irresponsible and independent.

On this subject, however, His Majesty commands me to state, that there is no information connected with the receipt and expenditure of any part of the Revenue of Upper Canada which he wishes to withhold from the Representatives of the Canadian people.

You will, immediately on your arrival in the Province, apprise the Heads of every public department by which any such funds are received

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ceived or administered, that they must constantly keep in preparation ^{Despatch, 5th Dec., 1833.} to be produced to the Assembly, in compliance with any addresses which may be presented to you by that House, copies and abstracts of all public accounts; and you will consider in what form these can be drawn up so as to exhibit all material information in the most complete and luminous manner. It will perhaps be possible to concert with the House beforehand some system for preparing such Returns; and as often as they may present to you addresses for such information, you will promptly accede to their wishes, except in the extreme case, which it is difficult to suppose, of any demand of that nature being made in such a form, that the compliance with it would endanger some great public interest.

ELEVENTH.—The report then passes to the consideration of cases in which your Predecessor is charged with having failed to shew respect, even in subordinate matters, to the wishes of the House of Assembly.

I will not encumber this communication, by entering into a review of the particular transactions noticed by the Committee, in illustration of this complaint. I am not indeed sufficiently in possession of the facts to enable me to do so; nor do I think it convenient to combine a personal discussion with a general statement of the principles by which your conduct is to be governed.

The only general direction that I have to give you on this subject is, that you will always receive the Addresses of the Assembly with the most studious attention and courtesy. As far as may be consistent with your duty to the King, you will accede to their wishes cheerfully and frankly. Should that duty ever compel you to differ from their opinion, or to decline compliance with their desires, you will explain in the most direct, and of course in the most conciliatory terms, the grounds of your conduct.

TWELFTH.—The next topic of complaint is, that many of the recommendations contained in Lord Ripon's Despatch of the 8th of Nov., 1832, have not been carried into effect. Amongst these are especially mentioned such as relate to the amendment of the Election Laws; the non-interference of His Majesty's Officers at Elections; the disclosure to the House of the receipt and expenditure of the Crown Revenue; the exclusion of Ministers of Religion from the Legislative and Executive Councils; the reducing the costs of Elections; the Judicial independence; and the limitation of the number of Public Officers who may sit in the Assembly.

Adhering without reserve or qualification to all the instructions issued under His Majesty's commands by Lord Ripon, the King is pleased to direct that you do adopt that Despatch as a rule for the guidance of your own conduct, and that you exert your legitimate authority

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thority and influence to the utmost possible extent to carry into effect all such of His Lordship's suggestions as may still continue unfulfilled. Despatch, 9th
Dec., 1833.

THIRTEENTH.—The selection of Justices of the Peace, is said to have been made chiefly from persons of a peculiar bias in politics, and to be the means of extending the power and influence of the Colonial system." It is not in my power to verify the accuracy of this opinion; and I am happy to feel myself relieved from the necessity of such an investigation. If any such abuse exists, it cannot be too decisively or promptly remedied. Whenever any increase of the number may appear to you desirable, you will propose to any gentleman in Upper Canada possessing the necessary qualifications of knowledge, property and character, and unquestionable fidelity to the Sovereign, the assumption of the office of Justice of the Peace, without reference to any political consideration.

FOURTEENTH.—A very considerable part of the Report is devoted to the statement and illustration of the fact, that the Executive Government of Upper Canada is virtually irresponsible; and the conclusion drawn from this statement is, that under the present system, there can be no prospect of a good and faithful administration of public affairs.

Without entering on the one hand unnecessarily into a discussion of those general principles, to which my attention is thus invited, or digressing on the other hand into personal topics: it is enough for me to observe on the present occasion, that experience would seem to prove that the administration of public affairs in Canada is by no means exempt from the control of a sufficient practical responsibility. To His Majesty and to Parliament, the Governor of Upper Canada is at all times most fully responsible for his official acts. That this responsibility is not merely nominal, but that His Majesty feels the most lively interest in the welfare of his Canadian subjects, and is ever anxious to devote a patient and laborious attention to any representations which they may address to him, either through their representatives, or as individuals, is proved not only by the whole tenor of the correspondence of my predecessors in this office, but by the despatch which I am now addressing to you. That the Imperial Parliament is not disposed to receive, with inattention the representations of their Canadian fellow-subjects, is attested by the labours of the Committees which have been appointed by the House of Commons during the last few years, to enquire into matters relating to those Provinces. It is the duty of the Lieutenant-Governor of Upper Canada to vindicate to the King and to Parliament every act of his administration. In the event of any representations being addressed to His Majesty upon the subject of your official conduct, you will have the highest possible claim to a favourable construction; but the presumptions which may reasonably be formed in your behalf will never supersede a close examination,

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nation, how far they coincide with the real facts of each particular case which may be brought under discussion. Despatch, 6th
Dec., 1836.

This responsibility to His Majesty and to Parliament, is second to none which can be imposed on a public man; and it is one which it is in the power of the House of Assembly at any time, by Address or Petition, to bring into active operation. I further, unreservedly acknowledge, that the principle of effective responsibility should pervade every department of your Government; and for this reason, if for no other, I should hold that every Public Officer should depend on His Majesty's pleasure for the tenure of his office. If the head of any department should place himself in decided opposition to your policy, whether that opposition be avowed or latent, it will be his duty to resign his office into your hands; because the system of Government cannot proceed with safety on any other principle, than that of the cordial co-operation of its various members in the same general plans of promoting the public good.

The inferior members of the different offices should consider neutrality on this great litigated question of Provincial policy, as at once their duty and their privilege.

Diligently obeying all the lawful commands of their superiors they will be exempted from censure, if the course which they have been directed to pursue should issue in any unfortunate results.

Some of the Members of the Local Government will also occasionally be Representatives of the people in the Assembly, or will hold seats in the Legislative Council. As Members of the Local Legislature, they will of course act with fidelity to the public, advocating and supporting no measures which, upon a large view of the general interest, they shall not think it incumbent on them to advance. But if any such person shall find himself compelled by his sense of duty to counteract the policy pursued by you, as the Head of the Government, it must be distinctly understood, that the immediate resignation of his office is expected of him, and that failing such a resignation, he must as a general rule, be suspended from it. Unless this course be pursued, it would be impossible to rescue the Head of the Government from the imputation of insincerity, or to conduct the administration of public affairs with the necessary firmness and decision.

I need hardly say, that in the event of any Public Officer being urged into a resignation of his place, by his inability to give a conscientious support to his official superior, the merits of the question would undergo an investigation of more than common exactness by His Majesty's Ministers, and that His Majesty's decision would be pronounced with a perfect impartiality towards those who had the honour

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to serve him in the Province, however high or however subordinate might be their respective stations. Despatch, 8th
Dec., 1833.

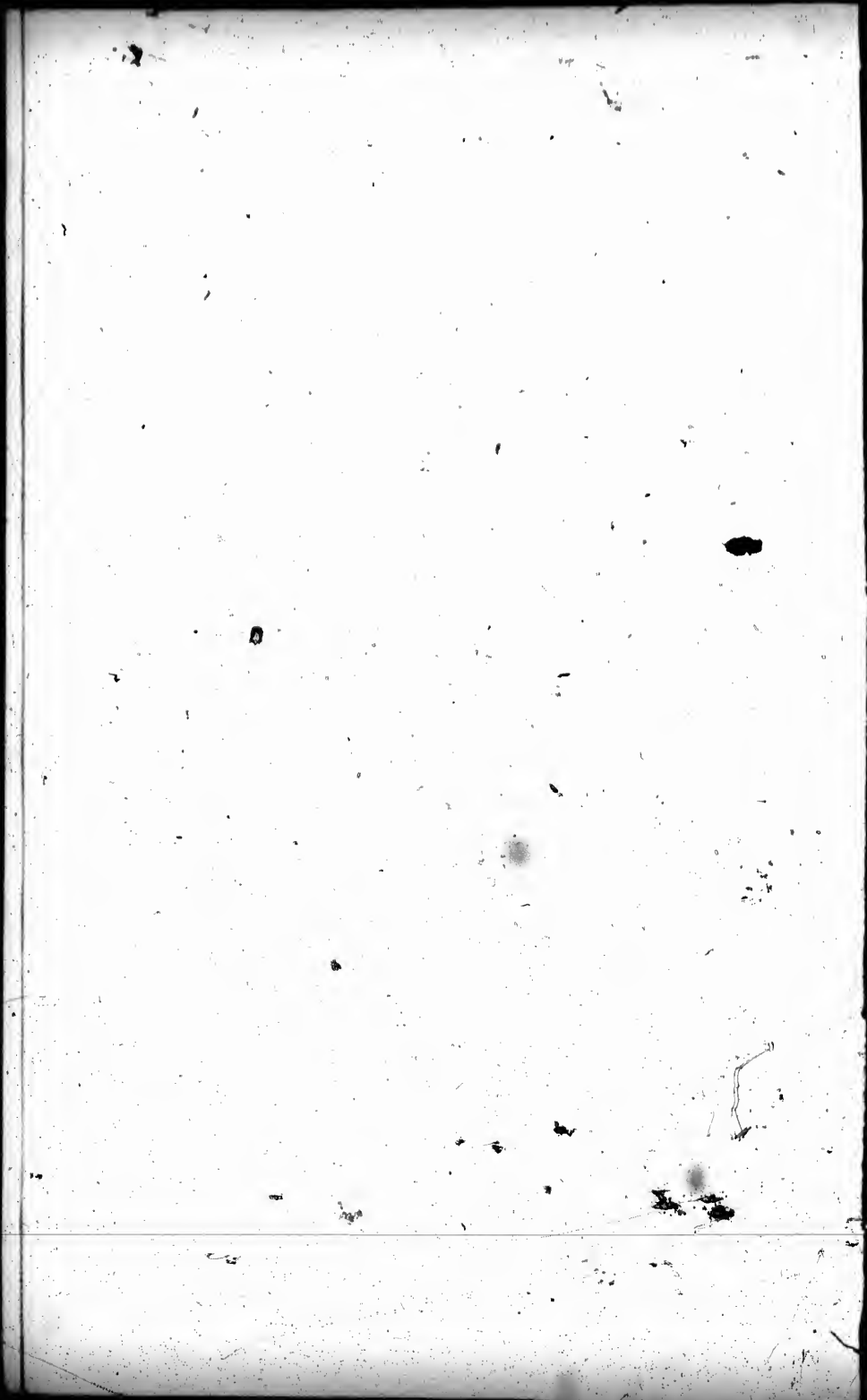
By a steadfast adherence to these rules, I trust that an effective system of responsibility will be established throughout the whole body of Public Officers in Upper Canada, from the highest to the lowest, without the introduction of any new and hazardous schemes, and without recourse to any system, of which the prudence and safety have not been sufficiently ascertained by a long course of practical experience.

FIFTEENTH.—I next advert to two subjects of far more importance than any of those to which I have hitherto adverted. I refer to the demand made, partly in the Report of the Committee, and partly in the Address from the Assembly to His Majesty, for changes in the mode of appointing Legislative Councillors, and for the control by the Assembly of the Territorial and Casual Revenues of the Crown.

On these subjects I am, to a considerable extent relieved from the necessity of any particular investigation, because claims precisely identical have been preferred by the Assembly of Lower Canada, and because in the instructions to the Commissioners of Enquiry who have visited that Province, I have already had occasion to state the views which have received His Majesty's deliberate sanction. The principles of the Government in the two sister Provinces, must, I am well aware, be in every material respect the same. I shall, therefore, annex for your information, as an appendix to this Despatch, so much of the Instructions to the Earl of Gosford and his colleagues as applies to these topics.

In the prosecution of the enquiries of the Commissioners in Lower Canada, they will be instructed to enter into full and unreserved communication with you upon these questions, and to frame their report in such a manner as may enable His Majesty to adopt a just and final conclusion upon the course to be pursued respecting them in both the Canadas. For this purpose, you will supply the Commissioners with all the information which you may think necessary for them to receive, and with every suggestion which you may think it expedient to make for their assistance in comparing the state of these questions in the two Provinces. If it should ultimately appear desirable, the Commission may, perhaps, be directed to resort to Upper Canada, there to pursue in concurrence with yourself, a more exact inquiry into these subjects than they could institute at Quebec, in reference to the affairs of the Upper Province. In general, the Earl of Gosford, and his Colleagues, will be directed to enter into unreserved communication with you, not only on the points just mentioned, but on every subject of common interest to the two Provinces.

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You, on your part, will conduct yourself towards them in the most cordial spirit of frankness and coöperation. Despatch, 5th Dec., 1824.

I have thus, in order, adverted to every subject to which the Assembly of Upper Canada have called the attention of His Majesty's Government. You will communicate to the Legislative Council, and to that House the substance of this despatch, as containing the answer which His Majesty is pleased to make to the Addresses and Representations which I have had the honour to lay before him from the two Houses in their last session.

I trust that in this answer they will find sufficient evidence of the earnest desire by which His Majesty's Councils are animated, to provide for the redress of any grievance by which any class of His Majesty's Canadian subjects are affected.

I close this communication with the expression of my earnest hope, and I trust not too confident belief, that the Representatives of the people of Upper Canada will receive with gratitude and cordiality this renewed proof of His Majesty's paternal solicitude for the welfare of his loyal subjects in that Province; and that, laying aside all groundless distrusts, they will cheerfully coöperate with the King, and with you as His Majesty's Representative, in advancing the prosperity of that interesting and valuable portion of the British Empire.

I have, &c.

GLENELG.

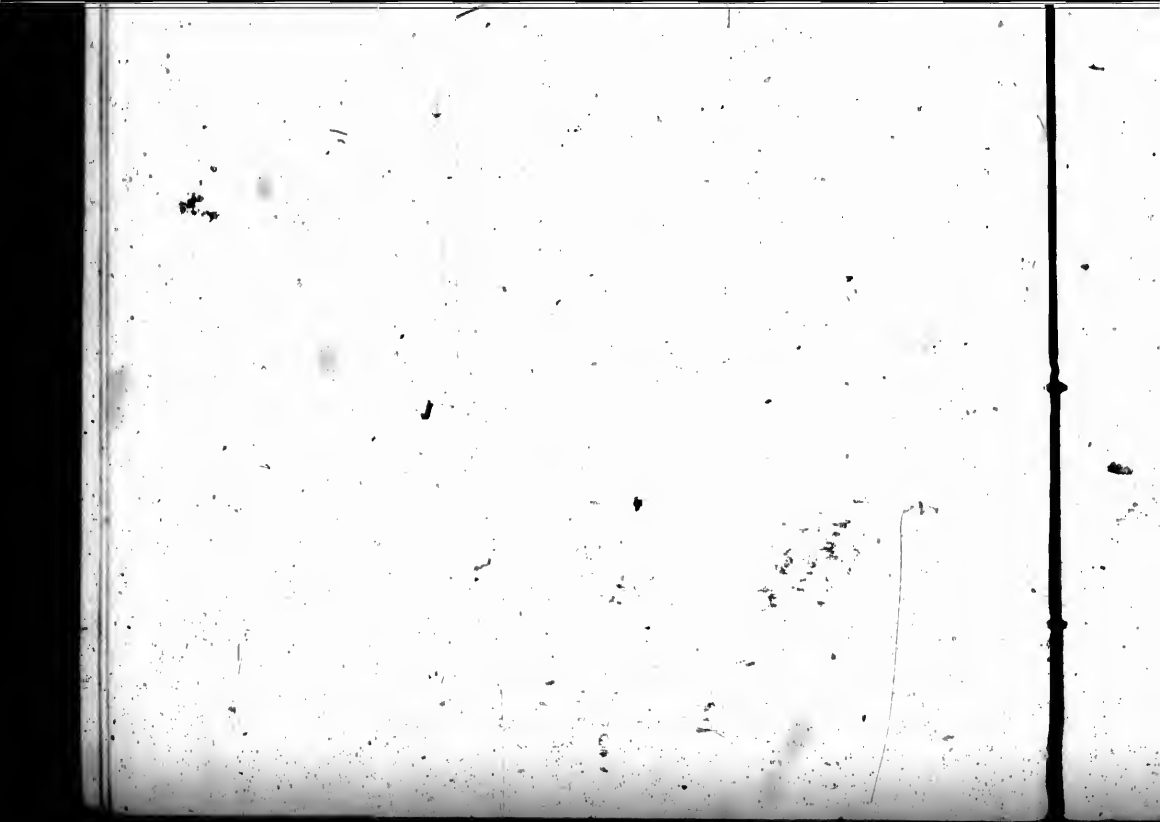
GEORGE THE FOURTH, *by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith.*

Commission to
Sir J. Colborne,
August 24th, 1824.

To Our trustworthy and well-beloved Sir JOHN COLBORNE, Knight Commander of the Most Honourable Military Order of the Bath, Major General of our Forces, greeting:

We, reposing especial trust and confidence in your loyalty, integrity and ability, do by these presents constitute and appoint you to be our Lieutenant Governor of our Province of Upper Canada, in America, in the room of Major-General Sir Perigrine Maitland.

To have, hold, exercise and enjoy the said place and office during our pleasure, with all rights, privileges, profits, perquisites and advantages to the same belonging or appertaining. And further, in case of the death, or during the absence, of our Captain General and Governor-in-Chief of our said Province of Upper Canada, now and for the time being



to the Archdeacon of Toronto, who will probably think it right to lay it before the Bishop of Montreal, who is now officiating as Bishop of the Diocese of Quebec; and you will invite his Lordship and the Archdeacon to inform you whether they are aware of any material fact omitted in the case laid before the Crown Lawyers, or inaccurately stated there, or of any important argument which may be supposed to have escaped the notice of those learned persons. If any such error or oversight shall appear to you to have been committed, you will suspend all further proceedings until you have reported on the case to me, and shall have received my further instructions.

If no such error shall be pointed out by the Bishop or the Archdeacon, or shall occur to yourself, you will then consult with them as to the method by which the question of law can be brought to an adjudication with the least delay, inconvenience, and expense, and with the least danger of placing the Local Government in the invidious position of being engaged in an open controversy with the Church of England in the Province. I trust that some method will be found of obtaining the judgment of the Court of Queen's Bench in a form which will exclude the supposition of any unfriendly feeling on either side. On this subject you will, of course, act under the guidance of your legal advisers. It matters little what may be the shape of the litigation, if it shall avoid every semblance of hostility; and shall be such

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The Honourable Peter Robinson, Presiding Councillor.
The Honourable George H. Markland.
The Honourable Joseph Wells.

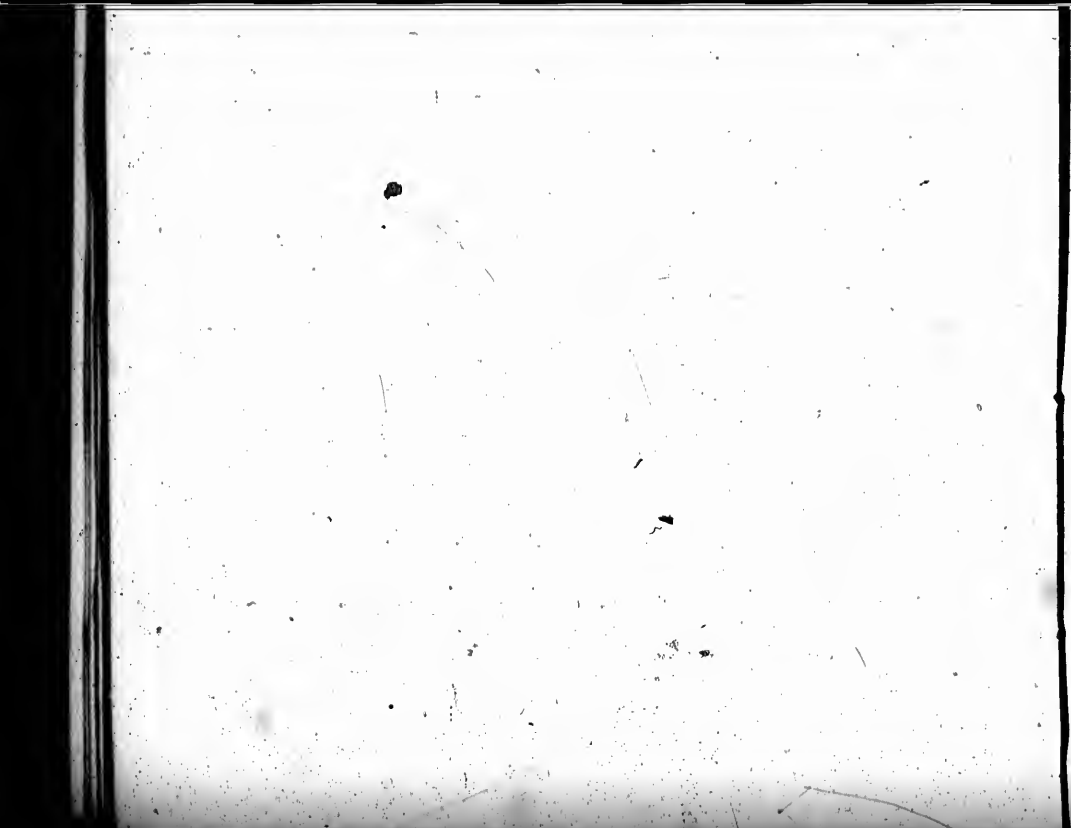
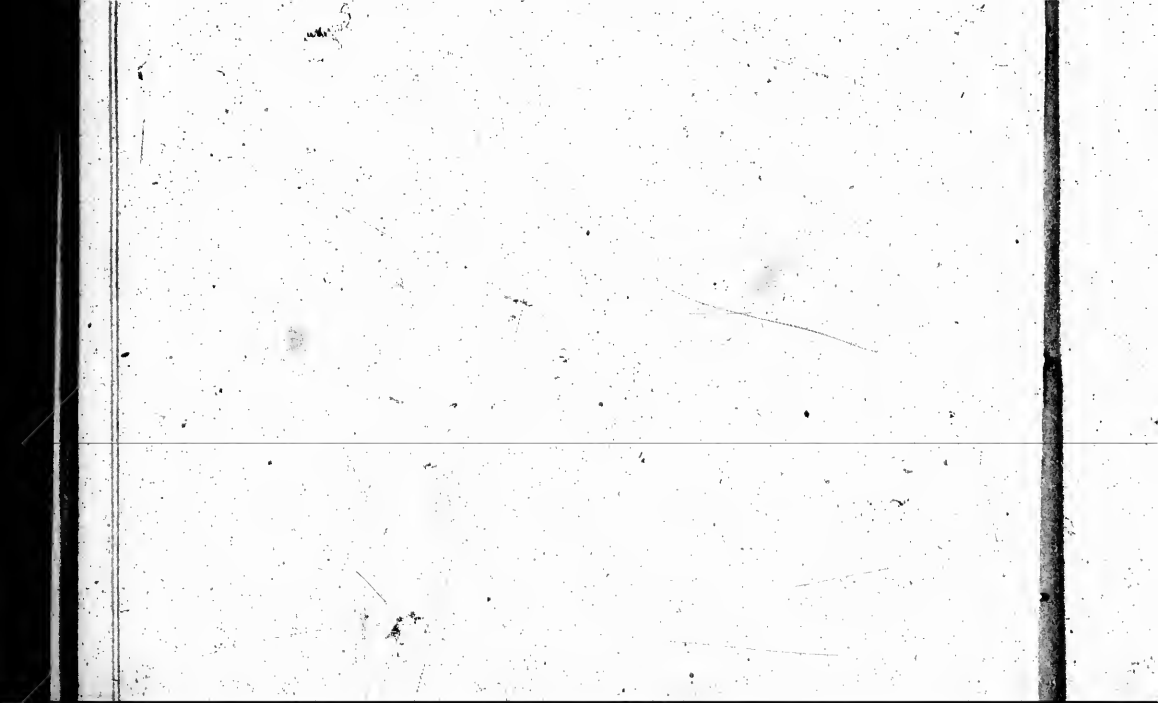
To His Excellency Sir JOHN COLBORN, K. C. B., Lieutenant Governor of the Province of Upper Canada, and Major General commanding His Majesty's Forces therein, &c., &c., &c.

May it please Your Excellency:

Pursuant to the views of Lord Goderich, shown by his Despatch of the 5th April, 1832, in which he concurs with your Excellency, and expresses his desire "that a moderate portion of land should be assigned in each Township or Parish, for ensuring the future comfort, if not the complete maintenance of the Rector," the Council caused the necessary steps to be taken for the purpose of setting apart Lots in each Township throughout the Province.

Much delay has been caused by their anxiety to avoid interfering with persons who might have acknowledged claims to any of the Reserves to be selected either for lease or purchase.

A difficulty in completing what his Lordship most appropriately calls "this salutary work," was also caused by the Crown Officers not concurring



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Despatch or any passages of it which you may think it not inconvenient to communicate to the petitioners of the Church of Scotland, as the answer to their application. They will perceive that their request for the grant of certain peculiar advantages to their own church proceeds on an assumption, the accuracy of which is yet to be decided,—the assumption, namely, that the Church of England has acquired a valid and lawful title to the endowments made in her favour in January, 1836, and to the spiritual jurisdiction which is supposed to be incident to those endowments.

I have, &c.,

GLENELG.

First enclosure No. 4.

Enclosure No. 4.

DOWNING-STREET, 12th April, 1837.

SIR,—The Statute 31 Geo. 3, c. 31 s. 38, enables His Majesty to authorize the respective Governors of Lower Canada and of Upper Canada, with the advice of the Executive Council, to constitute within each Township or Parish a Parsonage or Rectory according to the Establishment of the Church of England, and to endow every such Parsonage

Schedule of the Patents for land granted, as endowments to the Church of England in that Province, and a return of property ceded by certain parties in exchange for endowments. The incomplete manner in which these returns are drawn up, renders it impossible to discover the date of the greater portion of the transactions to which they refer; but it would appear from the heading of one of the returns, that several Rectories have been endowed during the current year; although, I presume, before your assumption of the Government of Upper Canada. As this is a subject of considerable importance, and as it has attracted the notice of the public, both in this country and in the Province, I have to request that you will supply me with an explanation of the returns to which I have alluded; specifying the dates at which the several endowments were conceded, and, as far as possible, the grounds of the respective grants.

I need not, I am sure, point out to you, that, pending the settlement of the Clergy Reserve Question, it is indispensable that no further allotment of Church lands should take place, without the express sanction of His Majesty's Government.

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reported by that officer, having been taken immediately before his resignation of the Government into the hands of his successor Sir Francis Head. The total number of Rectories thus established appears to have been fifty-seven.

Having recently received from Sir Francis Head a report on the subject, enclosing the Minutes of the Executive Council of Upper Canada of the 15th January, 1836, I enclose a copy of those Minutes. You will perceive from them that the Council founded their recommendation of this measure on a despatch from Lord Goderich of the 5th April 1832, from which they quote one passage. That passage, however, is not accurately described. Lord Goderich is represented in the Minutes as expressing his desire "that a moderate portion of land should be assigned to each Township or Parish for ensuring the future comfort, if not the complete maintenance, of the Rectors." On referring to the despatch itself it appears that it expressed his Lordship's opinion that the greatest benefit to the Church of England would be derived from applying a portion at least of the funds under the control of the Executive Government "in preparing, as far as may be practicable, for profitable occupation, that moderate portion of land which you (Sir J. C.) propose to assign in each Parish for increasing the future comfort, if not the complete maintenance, of the Rectors." The distinction

DESPATCH FROM LORD GLENELG TO SIR FRANCIS B.
HEAD, K. C. H.

Despatch of Lord
Glenelg to Sir F.
B. Head, 19th Dec-
ember, 1836.

Downing-street, 19 December, 1836.

Sir,—I have had the honour to lay at the foot of the Throne the Address to His Majesty from the Synod of the Presbyterian Church in Canada, which accompanies your despatch of the 19th October, No. 83, and His Majesty was pleased to receive this Address very graciously.

On the complaint of the petitioners respecting the recent erection of a considerable number of Rectories within the Province, it has not been in my power to submit any advice to His Majesty. No report on the subject having been received from Sir John Colborne, and the information respecting it called for by my despatch of 31st August last, not having yet reached me, I have been unable to bring the question in any satisfactory manner under His Majesty's notice, nor can His Majesty, for this reason, form any opinion at present how far the complaint is well founded.

With reference to the claim of the Scotch Church to participate equally with the Church of England in the benefit of the Clergy Reserves, I can only express my hope, that as the question of the Clergy Reserves has again been brought under the notice of the Legislature

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his power, and he expressly recommended that the repeal should embrace all the clauses in question, amongst which are included those which relate to the erection and endowment of Rectories. The despatch of the 5th of April 1832 was marked "confidential;" and it would seem impossible that Lord Ripon could have designed by such a communication to convey to the Lieutenant Governor the King's sanction for neutralizing to a considerable extent the effect of that repeal, which five months before his Lordship had recommended in a public despatch.

I enclose for your perusal copies of the two despatches of the 21st November, 1831, and of the 5th of April, 1832.

The questions which I would propose for your consideration are the following:

First.—Adverting to the terms of the Statute, 31 George 3rd, chap. 31, section 36 to 40, and to the terms of the Royal Commission, could the Lieutenant Governor, with the advice of the Executive Council, lawfully constitute and erect or endow any Parsonage or Rectory within the Province without the further signification of His Majesty's pleasure?

Secondly.—Can Lord Ripon's Despatch of 5th April, 1832, be regarded as signifying His Majesty's pleasure for the erection of Parsonages or for the endowment of them, or for either of those purposes.

Thirdly.

graciously.

The subjects to which the petitioners principally refer are two: 1st, The application of the Clergy Reserves to the maintenance of Ministers of the Church of England; and 2nd, The erection of a new diocese coincident in extent with the Province of Upper Canada.

On the first of these questions I do not at present feel myself at liberty to enter. The views of His Majesty's Government, and the grounds on which they have referred the consideration of it to the Provincial Legislature, have already been fully explained in my own despatches, and in those of my predecessors. It is only necessary now, to observe, that from those views I see no reason to depart.

In regard to the erection of a separate diocese in Upper Canada, I have, by His Majesty's command, submitted that portion of the Address for the opinion of his Grace the Archbishop of Canterbury, and whenever the views of the most Reverend Prelate shall have been ascertained, His Majesty will resume the consideration of the subject, but whatever may be His Majesty's ultimate decision on this point, it is my duty distinctly to state that even if that decision should be favorable to the prayer of the Address, it would not be in His Majesty's power to provide for the new Bishoprick any pecuniary emoluments.

I have, &c.

GLENELG.

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within each Township or Parish a Parsonage or Rectory, according to the establishment of the Church of England, and to endow every such Parsonage or Rectory with so much of the Clergy Reserves as the Governors, with the advice of the Council, shall judge to be expedient under the then existing circumstances of such Township or Parish.

That the Governor's Commission, dated the 6th July, 1835, following in this respect the ancient and established form, authorizes the Governor, or in his absence the Lieutenant Governor, with the advice of the Executive Council, to erect Parsonages in each Township or Parish according to the establishment of the Church of England, and to endow any such Parsonage or Rectory with any part of the Clergy Reserves, "subject nevertheless (quoting the precise words of the Commission) to such instructions touching the premises as shall or may be given you by us, under our Signet and Sign Manual, or by our order in our Privy Council, or through one of our Principal Secretaries of State."

Thus the authority which His Majesty was enabled by Parliament to impart to the Governor, was in fact so imparted to him, subject to the King's further instructions.

That from the date of the statute 31 Geo. III. until the year 1835, the power of consolidating and erecting Parsonages or Rectories was never exercised

It is sufficient for us to know, that the British Legislature have enacted that law, and that the Legislature of the United Kingdom is alone 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

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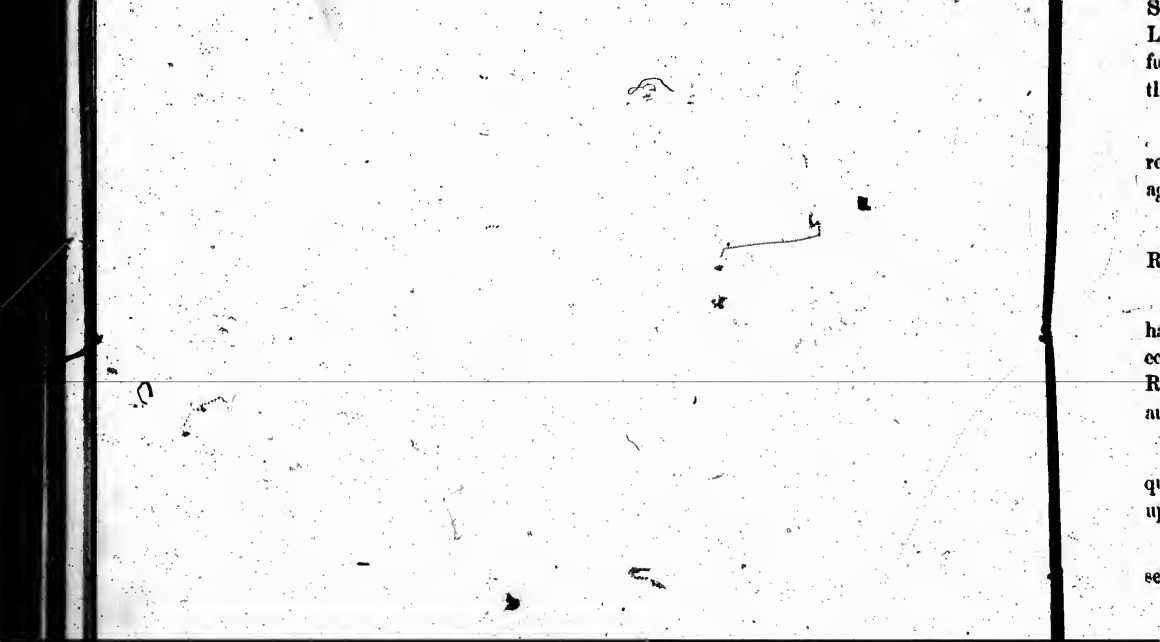
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his Lordship's opinion that the greatest benefit to the Church of England would be derived from applying a portion at least of the funds under the control of the Executive Government "in preparing, as far as may be practicable for profitable occupation, that moderate portion of land which you (Sir J. Colborne) propose to assign in each Parish for increasing the future comfort, if not the complete maintenance of the Rectors." The distinction between the Earl of Ripon's language and the terms in which it is thus quoted is important. It conveys no signification of His Majesty's pleasure, nor indeed any instruction respecting the erection of Parsonages and Rectories, nor even with regard to the grant of land for the maintenance of the Clergy. The main subject of the passage is the application of certain funds in preparing for profitable occupation certain lands, and those lands are indicated merely by a passing reference to some intention entertained and announced by Sir J. Colborne. That the records of the Colonial office contain no despatch from Sir J. Colborne, in which any allusion is made to the subject. It may therefore be inferred that Sir J. Colborne's intentions were made known to Lord Ripon through some private and unofficial channel.

The Council, however, appear to have understood Lord Ripon's expression as such an intimation of the King's pleasure as would justify the erection and endowment of fifty-seven Rectories. That the words
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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 irrisponsible and urgent public duties. On the other hand, it is impossible not to respect the feelings which induced 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



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Sec. 38 to 40, and to the terms of the Royal Commission, could the Lieutenant Governor, with the advice of the Executive Council, lawfully constitute and erect or endow any Parsonage or Rectory within the Province without the further signification of His Majesty's pleasure?

Secondly.—Can Lord Ripon's Despatch of the 5th April, 1832, be regarded as signifying his Majesty's pleasure for the erection of Parsonages, or for the endowment of them, or for either of those purposes?

Thirdly.—Are the erections and endowment of the fifty-seven Rectories by Sir J. Colborne valid and lawful Acts?

Fourthly.—If the preceding questions be answered in the affirmative, have the Rectors of the Parishes so erected and endowed the same ecclesiastical authority within their respective limits as is vested in the Rector of a Parish in England, or within what other bounds is that authority restricted?

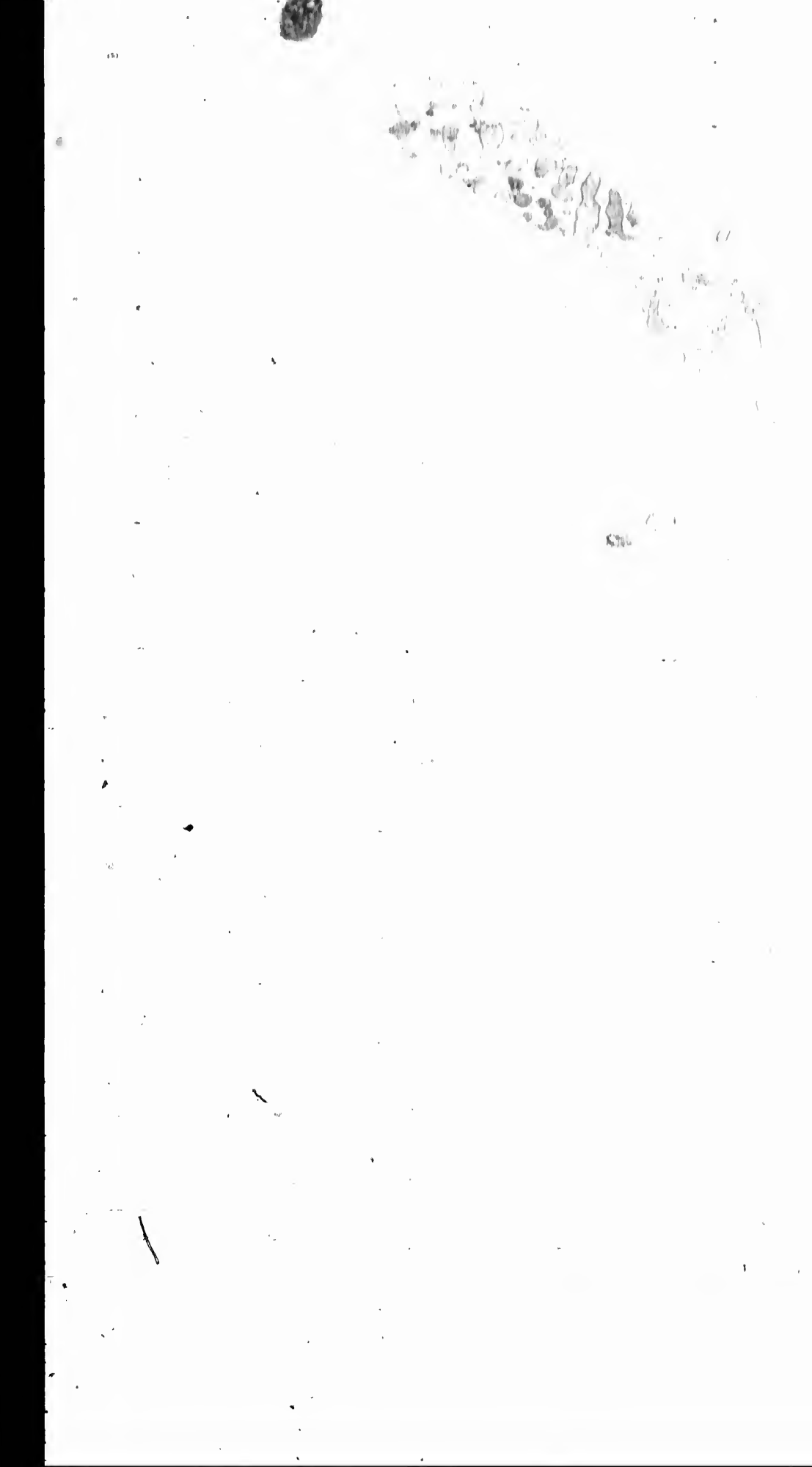
And your lordship is pleased to request that we would consider these questions in consultation, and report to your Lordship our joint opinion upon them.

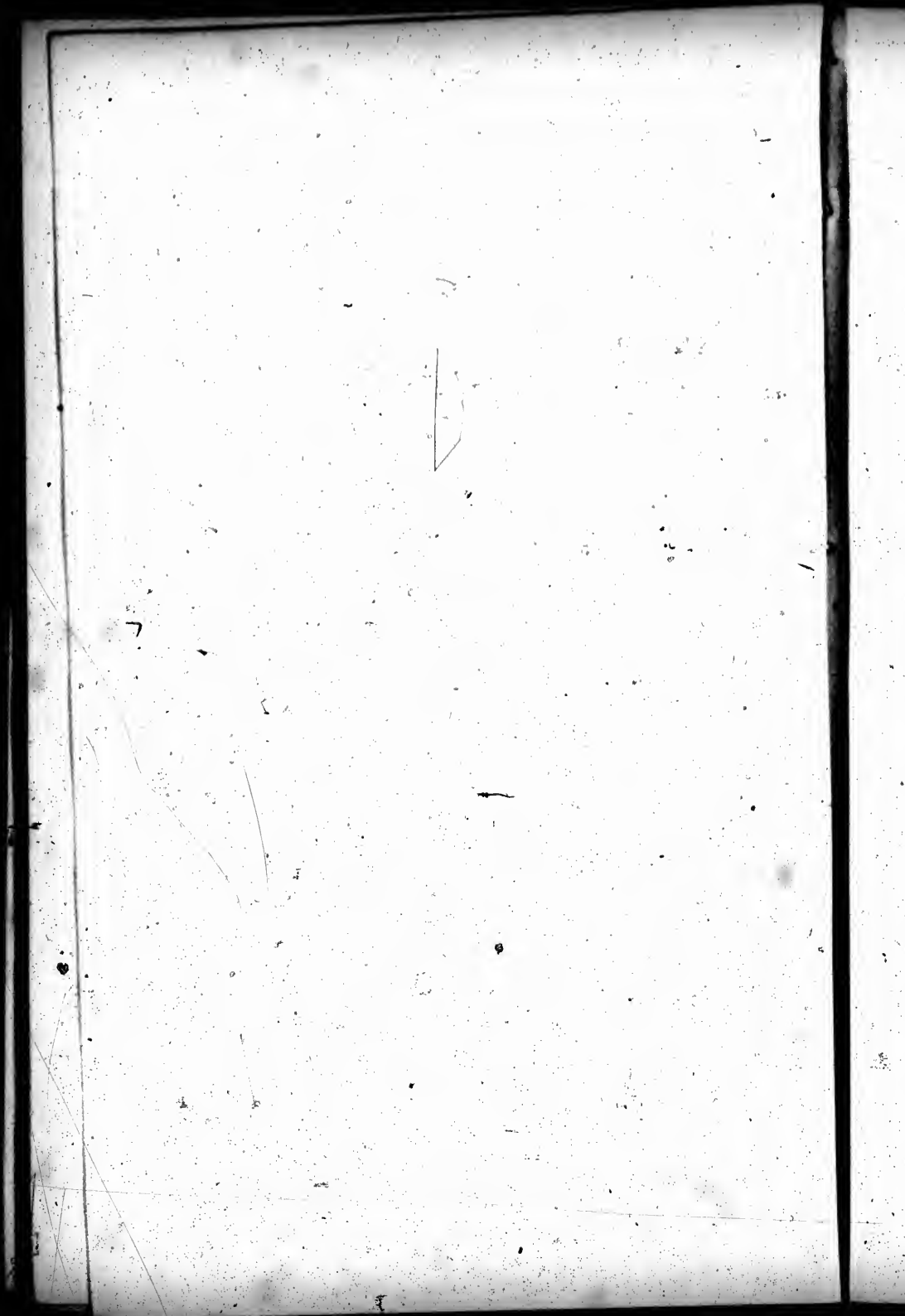
In obedience to your Lordship's commands we have considered the several questions, and have the honor to report that, adverting to the terms

On receiving your Despatch of the 17th December, it appeared to me very questionable whether any adequate legal authority existed for the creation or endowment of the Rectories. I did not indeed perceive any possible ground for disputing the right of the Lieutenant Governor in Council to proceed to that measure, if previously sanctioned by the King; but on referring to the commissions of Lords Aylmer and Gosford, to the general instructions accompanying them, to the correspondence between this department and the Provincial Government, and to the minutes of the Executive Council of the 15th January, 1836, it appeared to me that no such sanction had ever been given. The grounds of this opinion you will learn from the accompanying copy of the communication which I thought it necessary to address to the King's Advocate and to the Attorney and Solicitor General.

The Law Officers of the Crown received that reference on the 12th April, and reported to me their answer on the 5th ultimo. The delay is readily accounted for by the great importance of the question, and by the anxiety of His Majesty's Legal Advisers to offer no immature judgment on such an occasion. I enclose for your information a copy of their report. You will find that they declare their opinion to be that the erection and endowment of the fifty-seven Rectories by Sir J. Colborne are not valid and lawful Acts.

I confess myself to be much embarrassed by this decision; it imposes upon Her Majesty's Government a duty which is for many reasons exceedingly



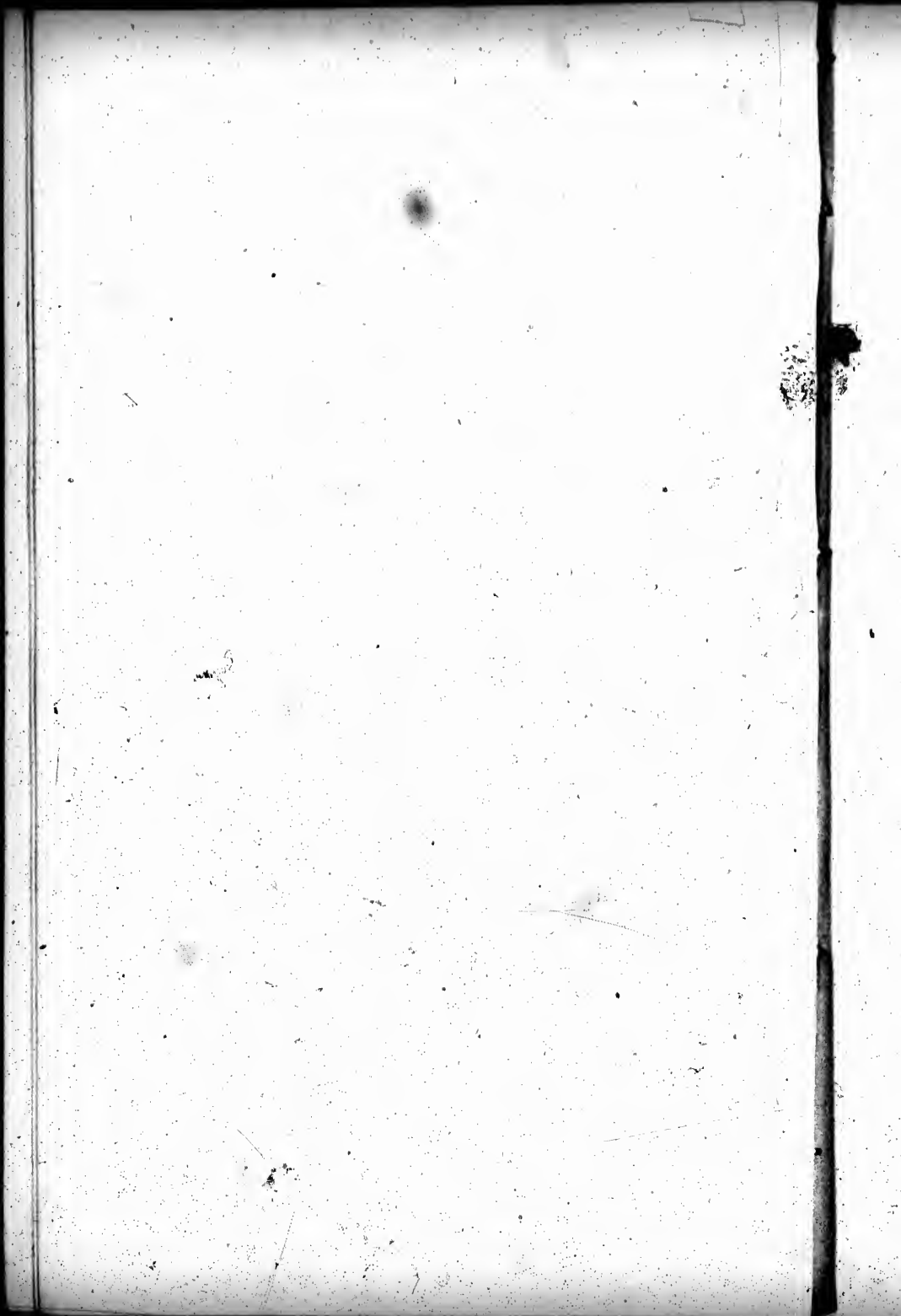


exceedingly irksome. The demands of the members of the Church of Scotland would forbid a silent acquiescence in what has been done, even if such inaction were otherwise compatible with the obligations of the office which I have the honor to hold; yet I feel that by acting on the advice of the Law Officers of the Crown in this instance I shall inevitably appear to be assuming an attitude of opposition to the interests of the Church of England, I can, however, only pursue the straight path which lies before me; trusting that if I shall not at first escape misconstruction, I shall ultimately be acquitted by the parties more immediately concerned of any failure in the affection and veneration for the Church of England which should characterize every sincere member of her communion.

Despatch of Lord
Glenelg to the P.
B. Head, 6th
July, 1857.

It is of course possible that the statement on which the Law Officers of the Crown have founded their opinion may be erroneous or defective, although it is certain that the utmost care and labour have been bestowed on the investigation of the facts of the case. It is also possible that Her Majesty's Legal Advisers may have misapprehended the law, although it is equally clear that they have bestowed their most patient and laborious attention on the questions proposed to them. But, adverting to each of these possible sources of error, my first solicitude is to ascertain whether any such mistake has really occurred. You will therefore have the goodness to communicate a copy of this Despatch to the Archdeacon of Toronto, who will probably think it right to lay it before the Bishop of Montreal, who is now officiating as Bishop of the Diocese of Quebec; and you will invite his Lordship and the Archdeacon to inform you whether they are aware of any material fact omitted in the case laid before the Crown Lawyers, or inaccurately stated there, or of any important argument which may be supposed to have escaped the notice of those learned persons. If any such error or oversight shall appear to you to have been committed, you will suspend all further proceedings until you have reported on the case to me, and shall have received my further instructions.

If no such error shall be pointed out by the Bishop or the Archdeacon, or shall occur to yourself, you will then consult with them as to the method by which the question of law can be brought to an adjudication with the least delay, inconvenience, and expense, and with the least danger of placing the Local Government in the invidious position of being engaged in an open controversy with the Church of England in the Province. I trust that some method will be found of obtaining the judgment of the Court of Queen's Bench in a form which will exclude the supposition of any unfriendly feeling on either side. On this subject you will, of course, act under the guidance of your legal advisers. It matters little what may be the shape of the litigation, if it shall avoid every semblance of hostility, and shall be such



such as to bring the question of law fully to adjudication in such a manner as will enable either party to bring the cause by appeal under the review of the Judicial Committee of the Privy Council.

Despatch of Lord
Glenelg to Sir P.
B. Head, 4th
July, 1837.

I have assumed that the Bishop and the Archdeacon would not think themselves at liberty to surrender the rights, apparently vested in the Church of England, in deference to the opinion of Her Majesty's legal advisers, and without the previous judgment of the proper legal tribunals. I must go further, and avow my opinion that such a surrender is neither to be asked nor desired. Her Majesty's Government repose indeed in the law officers the confidence to which their high professional reputation gives them so just a title; but I am persuaded that it would be more satisfactory to those learned persons themselves, as it would be far more agreeable to me and my colleagues, that claims of such peculiar delicacy and importance should be decided, not on the responsibility only of the judgment of the Queen's Advocate and the Attorney and Solicitor General, but on that of the proper tribunals, after a full investigation of all the facts of the case, and of all the principles of law bearing upon them.

On such subjects as the present, little advantage is gained, while much inconvenience is incurred, by concealment. The public at large are so deeply interested in the result, that they are entitled to know the progress of the discussion, when no positive injury can arise from the disclosure; you have therefore my authority to communicate this Despatch or any passages of it which you may think it not inconvenient to communicate to the petitioners of the Church of Scotland, as the answer to their application. They will perceive that their request for the grant of certain peculiar advantages to their own church proceeds on an assumption, the accuracy of which is yet to be decided,—the assumption, namely, that the Church of England has acquired a valid and lawful title to the endowments made in her favour in January, 1836, and to the spiritual jurisdiction which is supposed to be incident to those endowments.

I have, &c.,

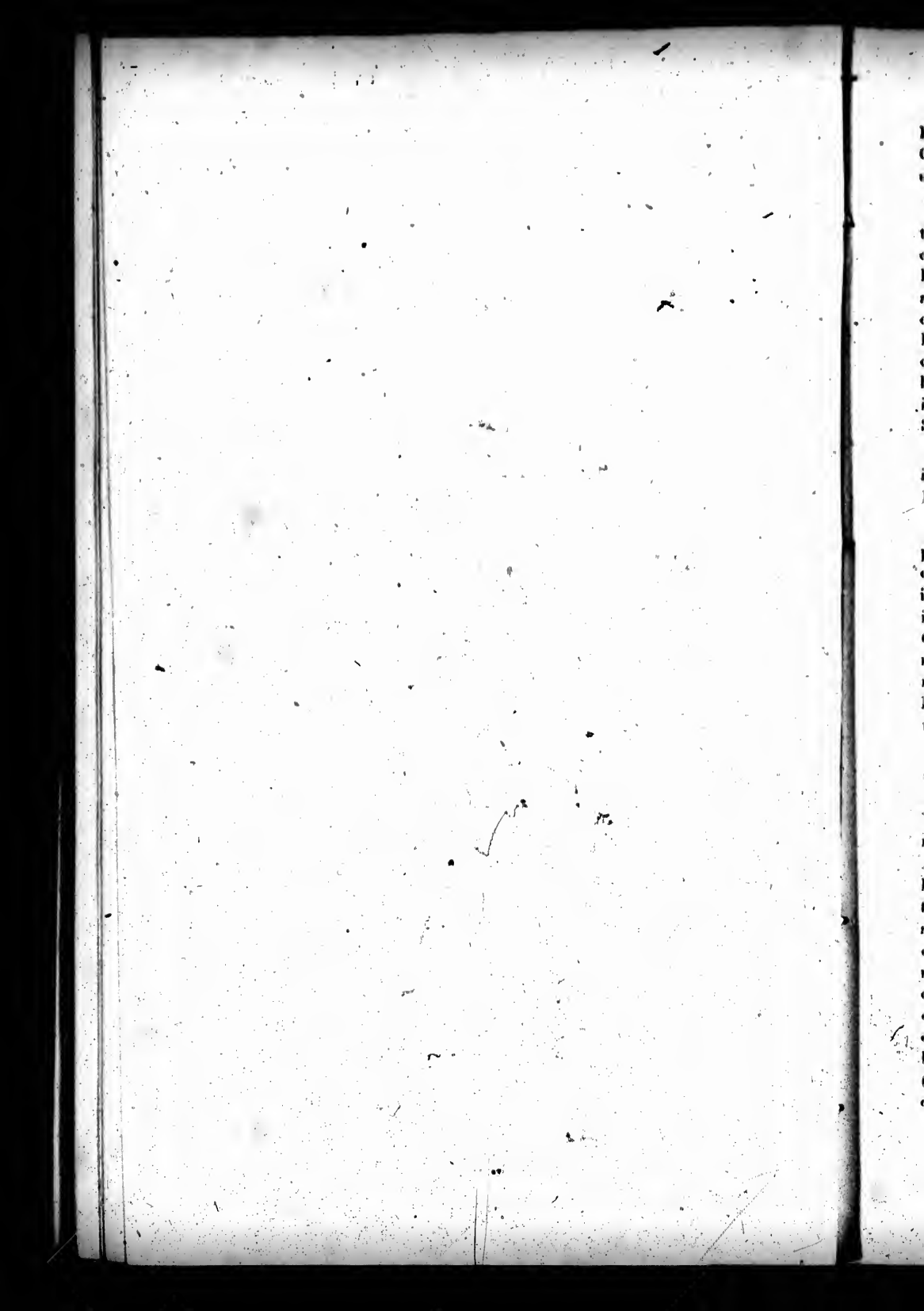
GLENELG.

First enclosure No. 4.

Enclosure No. 4.

DOWNING-STREET, 12th April, 1837.

Sir,—The Statute 31 Geo. 3, c. 31 s. 38, enables His Majesty to authorize the respective Governors of Lower Canada and of Upper Canada, with the advice of the Executive Council, to constitute within each Township or Parish a Parsonage or Rectory according to the Establishment of the Church of England, and to endow every such Parsonage



Parsonage or Rectory with so much of the Clergy Reserves as the Governor, with the advice of the Council, shall judge to be expedient, under the then existing circumstances of such Township or Parish. Enclosure No. 1.

The Governor's Commission, dated the 6th July 1835, following in this respect the ancient and established form, authorizes the Governor, or in his absence the Lieutenant Governor, with the advice of the Executive Council, to erect Parsonages in each Township or Parish according to the Establishment of the Church of England, and to endow any such Parsonage or Rectory with any part of the Clergy Reserves, "subject nevertheless" (to quote the precise words of the commission) "to such Instructions touching the premises as shall or may be given you by us under our signet and sign manual, or by our order in our Privy Council, or through one of our principal Secretaries of State."

Thus the authority which His Majesty was enabled by Parliament to impart to the Governor was, in fact, so imparted to him, subject to the King's further instructions.

From the date of the Statute 31st Geo. 3, until the year 1835 the power of constituting and erecting Parsonages or Rectories was never exercised in Upper Canada; but at the close of that year it was called into exercise by the then Lieutenant Governor Sir John Colborne. The intention to adopt this measure was not communicated by Sir John Colborne to His Majesty's Government, nor was the measure itself ever reported by that officer, having been taken immediately before his resignation of the Government into the hands of his successor Sir Francis Head. The total number of Rectories thus established appears to have been fifty-seven.

Having recently received from Sir Francis Head a report on the subject, enclosing the Minutes of the Executive Council of Upper Canada of the 15th January, 1836, I enclose a copy of those Minutes. You will perceive from them that the Council founded their recommendation of this measure on a despatch from Lord Goderich of the 5th April 1832, from which they quote one passage. That passage, however, is not accurately described. Lord Goderich is represented in the Minutes as expressing his desire "that a moderate portion of land should be assigned to each Township or Parish for ensuring the future comfort, if not the complete maintenance, of the Rectors." On referring to the despatch itself it appears that it expressed his Lordship's opinion that the greatest benefit to the Church of England would be derived from applying a portion at least of the funds under the control of the Executive Government "in preparing, as far as may be practicable, for profitable occupation, that moderate portion of land which you (Sir J. C.) propose to assign in each Parish for increasing the future comfort, if not the complete maintenance, of the Rectors." The distinction

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distinction between the Earl of Ripon's language and the terms in *Enclosure No. 1* which it is thus quoted is important. It conveys no signification of his Majesty's pleasure, nor indeed any instruction, respecting the erection of Parsonages and Rectories, nor even with regard to the grant of land for the maintenance of the Clergy. The main subject of the passage is the application of certain funds in preparing for profitable occupation certain lands, and those lands are indicated merely by a passing reference to some intention entertained and announced by Sir John Colborne. The records of this office contain no despatch from Sir J. Colborne in which any allusion is made to the subject. It may therefore be inferred that Sir J. Colborne's intentions were made known to Lord Ripon through some private and unofficial channel.

The Council, however, appear to have understood Lord Ripon's Expressions as such an intimation of the King's pleasure as would justify the erection and endowment of fifty-seven Rectories. That the words were not designed by his Lordship to be so understood may with some confidence be inferred from the following circumstance:—the Statute 31 Geo. 3. sec. 36 to 40 enables the Provincial Legislature, on certain conditions, to repeal so much of that Act as relates to the Clergy Reserves. On the 21st of November 1831, that is six months before the date of the despatch to which reference is made by the Executive Council, Lord Ripon addressed to Sir John Colborne a despatch, in which the Provincial Legislature were invited to exercise this power, and he expressly recommended that the repeal should embrace all the clauses in question, amongst which are included those which relate to the erection and endowment of Rectories. The despatch of the 5th of April 1832 was marked "confidential;" and it would seem impossible that Lord Ripon could have designed by such a communication to convey to the Lieutenant Governor the King's sanction for neutralizing to a considerable extent the effect of that repeal, which five months before his Lordship had recommended in a public despatch.

I enclose for your perusal copies of the two despatches of the 21st November, 1831, and of the 5th of April, 1832.

The questions which I would propose for your consideration are the following:

First.—Adverting to the terms of the Statute, 31 George 3rd, chap. 31, section 36 to 40, and to the terms of the Royal Commission, could the Lieutenant Governor, with the advice of the Executive Council, lawfully constitute and erect or endow any Parsonage or Rectory within the Province without the further signification of His Majesty's pleasure?

Secondly.—Can Lord Ripon's Despatch of 5th April, 1832, be regarded as signifying His Majesty's pleasure for the erection of Parsonages or for the endowment of them, or for either of those purposes.

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Thirdly.—Are the erection and the endowment of the fifty-seven Rectories by Sir J. Colborne valid and lawful acts?

Fourthly.—If the preceding questions be answered in the affirmative, have the Rectors of the Parishes so erected and endowed the same ecclesiastical authority within their respective limits as are vested in the Rector of a Parish in England, or within what other bounds is that authority restricted?

You will have the goodness to consider these questions in consultation with the King's Advocate and Mr. Solicitor General, and report to me your and their joint opinion upon them.

I have, &c.,

GLENELO.

The ATTORNEY GENERAL, &c., &c., &c.

Doctors' Commons, 8th June, 1837.

MY LORD,—We are honoured with your Lordship's letter of the 12th of April, stating that the Statute 31 Geo. III. c. 31 to 38, enables His Majesty to authorize the respective Governors of Upper Canada and Lower Canada with the advice of the Executive Council, to constitute within each Township or Parish a Parsonage or Rectory, according to the establishment of the Church of England, and to endow every such Parsonage or Rectory with so much of the Clergy Reserves as the Governors, with the advice of the Council, shall judge to be expedient under the then existing circumstances of such Township or Parish.

Opinion of His Majesty's Law Officers, 8th June, 1837, to Lord Glenelg.

That the Governor's Commission, dated the 6th July, 1835, following in this respect the ancient and established form, authorizes the Governor, or in his absence the Lieutenant Governor, with the advice of the Executive Council, to erect Parsonages in each Township or Parish according to the establishment of the Church of England, and to endow any such Parsonage or Rectory with any part of the Clergy Reserves, "subject nevertheless (quoting the precise words of the Commission) to such instructions touching the premises as shall or may be given you by us, under our Signet and Sign Manual, or by our order in our Privy Council, or through one of our Principal Secretaries of State."

Thus the authority which His Majesty was enabled by Parliament to impart to the Governor, was in fact so imparted to him, subject to the King's further instructions.

That from the date of the statute 31 Geo. III. until the year 1835, the power of consolidating and erecting Parsonages or Rectories was never exercised

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exercised in Upper Canada; but that at the close of that year it was called into exercise by the then Lieutenant-Governor, Sir John Colborne. That the intention to adopt this measure was not communicated by Sir John Colborne to His Majesty's Government, nor was the measure itself ever reported by that officer, having been taken immediately before his resignation of the Government into the hands of his successor, Sir F. B. Head.

Opinion of His Majesty's Law Officers, 24 June, 1837, to Lord Clarendon.

That the total number of Rectories thus established appears to have been fifty-seven.

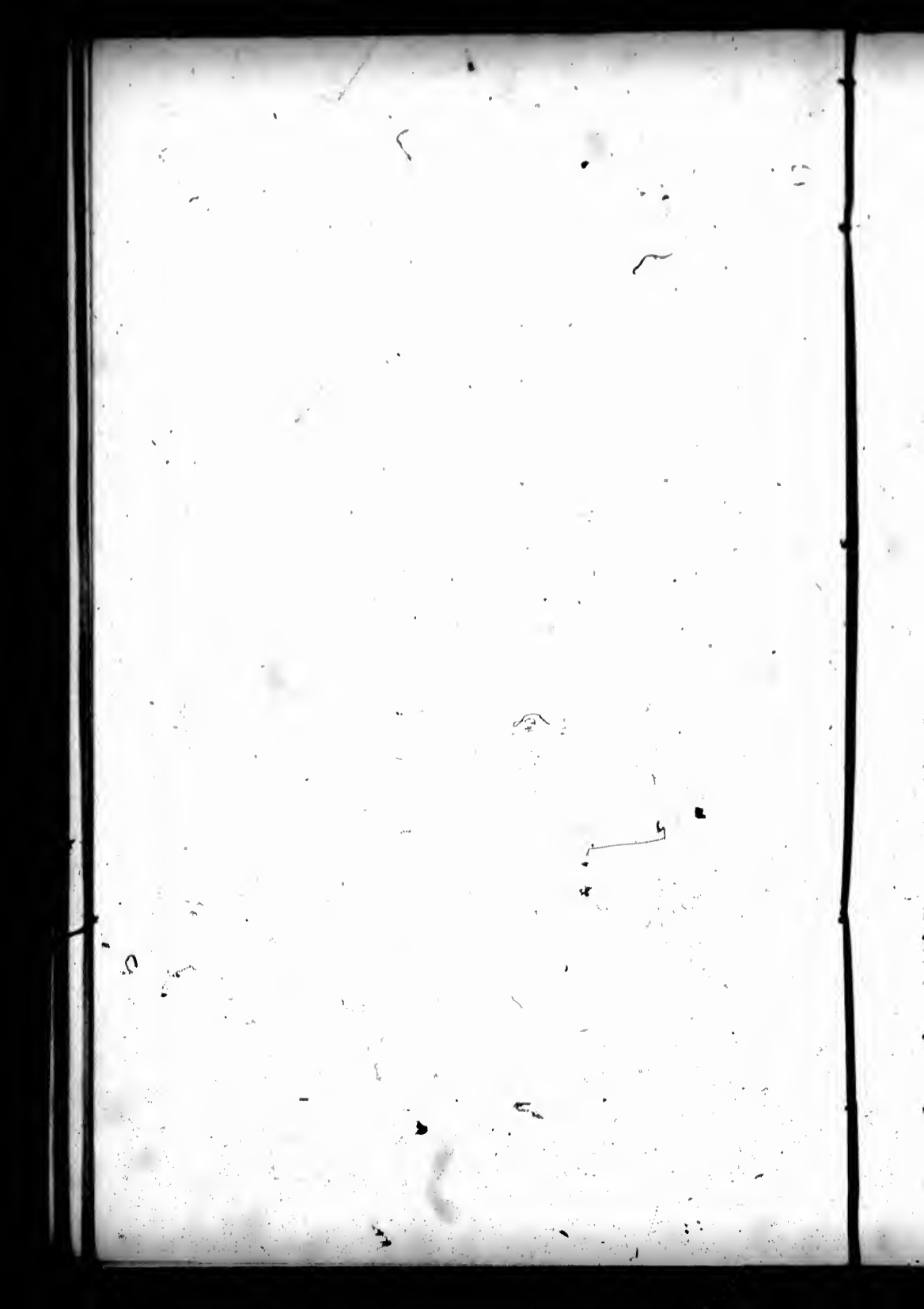
That having received from Sir F. Head a report on the subject enclosing the minutes of the Executive Council of Upper Canada of 15th January, 1836. Your Lordship encloses a copy of those minutes.

That we shall perceive from them, that the Council founded their recommendation of this measure on a despatch from Lord Goderich, of the 5th April, 1832, from which they quote one passage; that passage, however, is not accurately described. That Lord Goderich is represented in the minutes as expressing his desire "that a moderate portion of land should be assigned in such Township or Parish for ensuring the future comfort if not the comfortable maintenance of the Rectors."

That, on referring to the despatch itself, it appears that it expressed his Lordship's opinion that the greatest benefit to the Church of England would be derived from applying a portion at least of the funds under the control of the Executive Government "in preparing, as far as may be practicable for profitable occupation, that moderate portion of land which you (Sir J. Colborne) propose to assign in each Parish for increasing the future comfort, if not the complete maintenance of the Rectors." The distinction between the Earl of Ripon's language and the terms in which it is thus quoted is important. It conveys no signification of His Majesty's pleasure, nor indeed any instruction respecting the erection of Parsonages and Rectories, nor even with regard to the grant of land for the maintenance of the Clergy. The main subject of the passage is the application of certain funds in preparing for profitable occupation certain lands, and those lands are indicated merely by a passing reference to some intention entertained and announced by Sir J. Colborne. That the records of the Colonial office contain no despatch from Sir J. Colborne, in which any allusion is made to the subject. It may therefore be inferred that Sir J. Colborne's intentions were made known to Lord Ripon through some private and unofficial channel.

The Council, however, appear to have understood Lord Ripon's expression as such an intimation of the King's pleasure as would justify the erection and endowment of fifty-seven Rectories. That the words

were



were not designed by His Lordship to be so understood may, with some confidence, be inferred from the following circumstances:—The Statute 31, George 3, s. 36 to 40, enables the Provincial Legislature, on certain conditions, to repeal so much of that Act as relates to the Clergy Reserves: on the 21st of November, 1831, that is, six months before the date of the despatch to which reference is made by the Executive Council, Lord Ripon addressed to Sir J. Colborne, a despatch, in which the Provincial Legislature were invited to exercise this power, and he expressly recommended that the repeal should embrace all the clauses in question, amongst which are included those which relate to the erection and endowment of Rectories.

*Copy of the
Statute of the
Province of the
North West
Territory,
1831, to Lord
Ripon.*

That the despatch of the 5th of April, 1832, was marked "confidential," and it would seem impossible that Lord Ripon could have designed by such a communication to convey to the Lieutenant Governor the King's sanction for neutralizing, to a considerable extent, the effect of that repeal which five months before his Lordship had recommended in a public Despatch,

Your Lordship encloses for our perusal copies of the two Despatches of the 21st of November, 1831, and of the 5th April, 1832.

The questions which your Lordship is pleased to propose for our consideration are the following:

First.—Adverting to the terms of the Statute 31st Geo. 3, Cap. 31, Sec. 36 to 40, and to the terms of the Royal Commission, could the Lieutenant Governor, with the advice of the Executive Council, lawfully constitute and erect or endow any Parsonage or Rectory within the Province without the further signification of His Majesty's pleasure?

Secondly.—Can Lord Ripon's Despatch of the 5th April, 1832, be regarded as signifying his Majesty's pleasure for the erection of Parsonages, or for the endowment of them, or for either of those purposes?

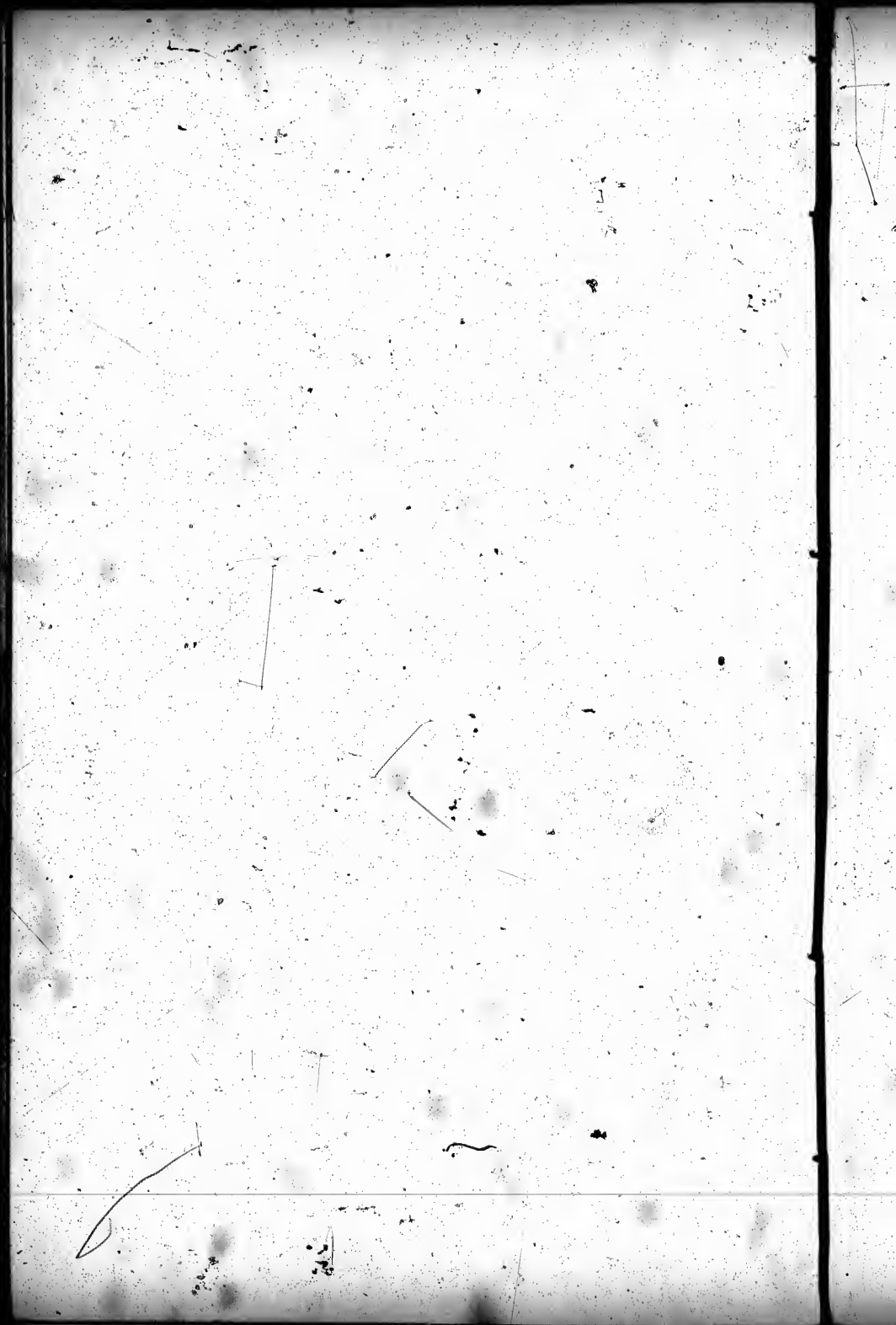
Thirdly.—Are the erections and endowment of the fifty-seven Rectories by Sir J. Colborne valid and lawful Acts?

Fourthly.—If the preceding questions be answered in the affirmative, have the Rectors of the Parishes so erected and endowed the same ecclesiastical authority within their respective limits as is vested in the Rector of a Parish in England, or within what other bounds is that authority restricted?

And your lordship is pleased to request that we would consider these questions in consultation, and report to your Lordship our joint opinion upon them.

In obedience to your Lordship's commands we have considered the several questions, and have the honor to report that, adverting to the terms





terms of the Statute 31 Geo. 3. cap. 31., Sec. 36 to 40, and to the terms of the royal commission, we are of opinion that the Lieutenant Governor, with the advice of the Executive Council, could not lawfully constitute and erect or endow any Parsonage or Rectory within the Province without the further signification of His Majesty's pleasure.

Opinion of His Majesty's Law Officers, 14th June, 1837, to Lord Glenelg.

Secondly.—We are of opinion that Lord Ripon's despatch of the 5th April 1832 cannot be regarded as signifying His Majesty's pleasure for the erection of Parsonages, or for the endowment of them, or for either of those purposes.

Thirdly.—We are of opinion that the erection and the endowment of the fifty-seven Rectories by Sir J. Colborne are not valid and lawful Acts.

We have, &c.

J. DODSON.

J. CAMPBELL.

R. M. ROLFE.

The Lord GLENELG,
&c., &c., &c.

DESPATCH FROM LORD GLENELG TO SIR F. B. HEAD
BART., K. C. H.,

Despatch of Lord Glenelg to Sir F. B. Head, 7th September, 1837.

DOWNING STREET, 7th September, 1837.

SIR,—During the present year I have received numerous communications from gentlemen, either resident in England, or deputed hither by communities in connexion with the Churches of England and Scotland, on the subject of the present state of the ecclesiastical establishments in the Canadian Provinces, and more especially with reference to the appropriation of the Clergy Reserves. In answer to these communications, I have entered at considerable length into the question, and have fully explained to the applicants the position and the views of Her Majesty's Government respecting it. I herewith enclose for your information copies of this correspondence, of which a schedule accompanies this despatch.

With the previous knowledge which you possess of the subject, and the information contained in the accompanying letters, it is unnecessary for me to enter into any detailed exposition of the present state of the case. It is sufficient to observe, that, notwithstanding the instances the deputies, the objections against any interference of the Imperial which, as you will perceive, have been addressed to me by some of Parliament except at the invitation of the Canadian Legislatures, appear to be insuperable.

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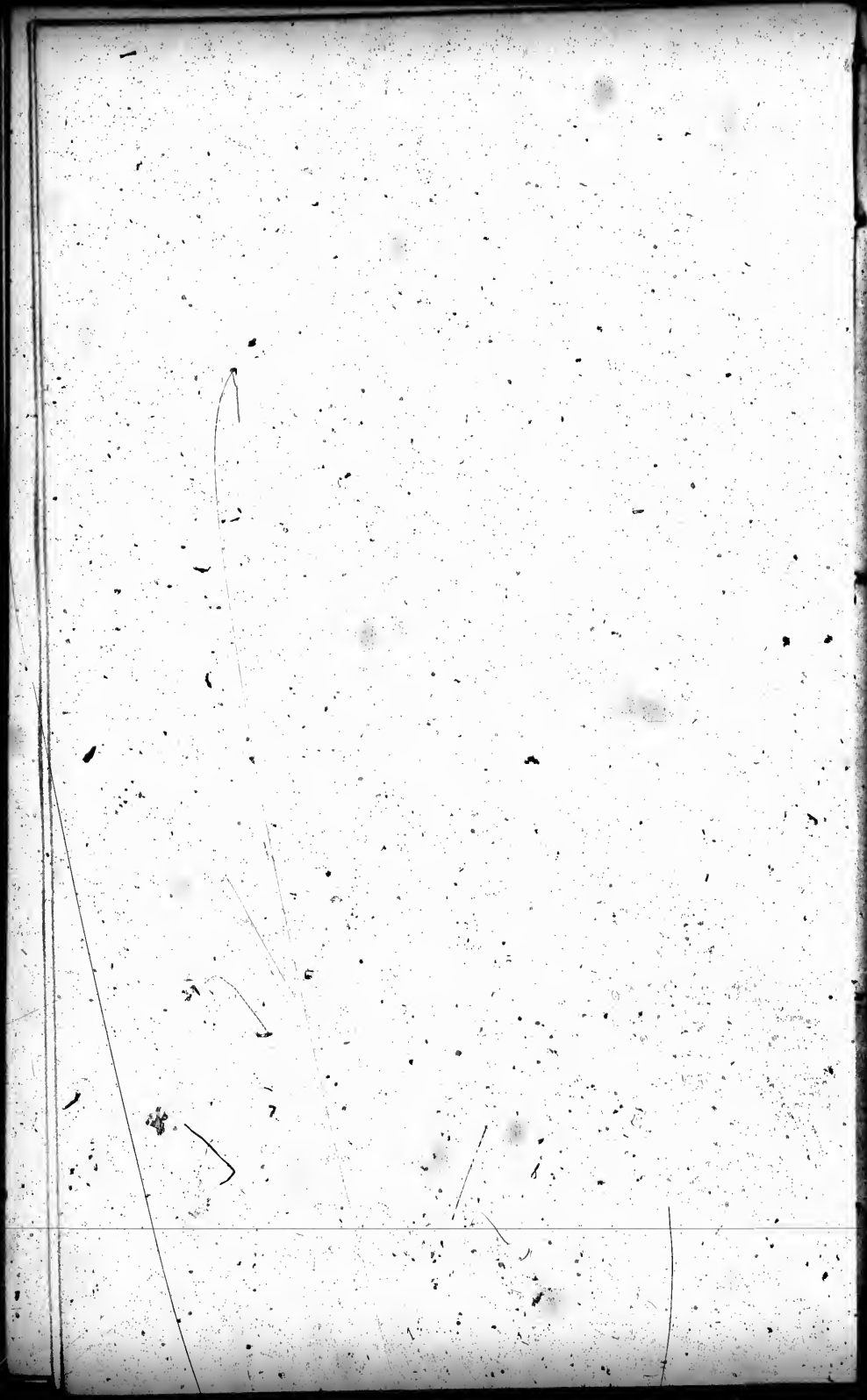
At the same time, there is scarcely any question connected with public affairs in Canada the settlement of which on a comprehensive and liberal basis, would be hailed with more satisfaction by Her Majesty's Government.

Despatch from
Lord Glenelg to
Sir F. B. Head,
7th Sept., 1837.

Independently of its intrinsic interest, this question derives an importance which can scarcely be exaggerated, from the nature of the feelings which it calls into action. Involving much of a religious character, it is approached with sentiments far more serious and deeply rooted than are brought to the discussion of ordinary political questions. It is therefore with no groundless anxiety that Her Majesty's Government have long contemplated the unsettled state of this question, an anxiety which has been fully justified by the events of the last session in Upper Canada. On referring to the public journals, I find that the settlement of the Clergy Reserves engaged much of the attention of the Assembly of that Province, and gave rise to discussions of unusual length and animation. The intensity of the public feeling on the subject is attested by the large space devoted to the discussion of it, no less than by the direct evidence of many of the gentlemen who have addressed me; while the difficulty of devising a final settlement of the antagonist claims, and the ill consequences, resulting from their continual agitation, have induced some of those gentlemen earnestly to invoke the interposition of the Imperial Legislature.

Under these circumstances, you will readily understand my anxiety to contribute by all means in my power to an adjustment of the question, and it has appeared to me that the experience acquired in other of the British Colonies might, perhaps, be useful in suggesting to the Legislatures of Upper and Lower Canada the arrangement of a measure which might be satisfactory to all parties. In the Colony of New South Wales, a great deficiency existed in the means of religious instruction, a deficiency which the unassisted efforts of the inhabitants would have been quite inadequate to supply. To remedy this difficulty, Her Majesty's Government proposed a plan, the principles and details of which you will find fully explained in those parts of the accompanying Parliamentary paper, which relate to a provision for the erection of places of worship, and the maintenance of ministers in the Australian Colonies, and which have since been adopted and embodied in a Legislative enactment passed by the Governor and Council of New South Wales, and also enclosed for your information.

The circumstances of the Australian Colonies differ so widely from those of Canada, that it would be plainly impossible to transfer to the latter country the entire system which has been adopted with success in the former. Nor should I venture to prescribe to the Legislatures of the Canadian Provinces the principles on which they should endeavour to make provision for the religious wants of their fellow-colonists.



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The inhabitants of the Australian colonies belong almost exclusively to the Churches of England, of Scotland, and of Rome; but in the Canada, the case is different. There are in those provinces many other persuasions of Christians forming large communities, each superintended by a controlling body. The exclusion of these communities from the benefit of a public provision made for religious purposes would be quite inconsistent with the design of Her Majesty's Government. It is, on the contrary, their anxious wish that to all such Christian communities assistance should be afforded, in proportion to their numbers and to their necessities. To the maintenance of the actual ministers of the Churches of England and Scotland in their existing emoluments, the faith of Her Majesty's Government is, as you are aware, distinctly pledged; but should any arrangement be hereafter concluded with the Legislatures of Upper and Lower Canada for the cession to them of the Crown Revenues, there would be at the disposal of the Legislature from that fund, and from the other sources of revenue, ample means of providing for the erection of places of worship, and the salaries of ministers throughout the provinces.

Despatch from
Lord Glenelg to
Sir F. B. Head,
7th Sept., 1837.

I have, &c.,

GLENELG.

EXTRACT OF A DESPATCH FROM SIR F. B. HEAD, BART.,
K. C. H., TO LORD GLENELG, DATED GOVERNMENT
HOUSE, TORONTO, 10TH SEPTEMBER, 1837.

Extract of a Despatch of Sir F. B. Head to Lord Glenelg, 10th September, 1837.

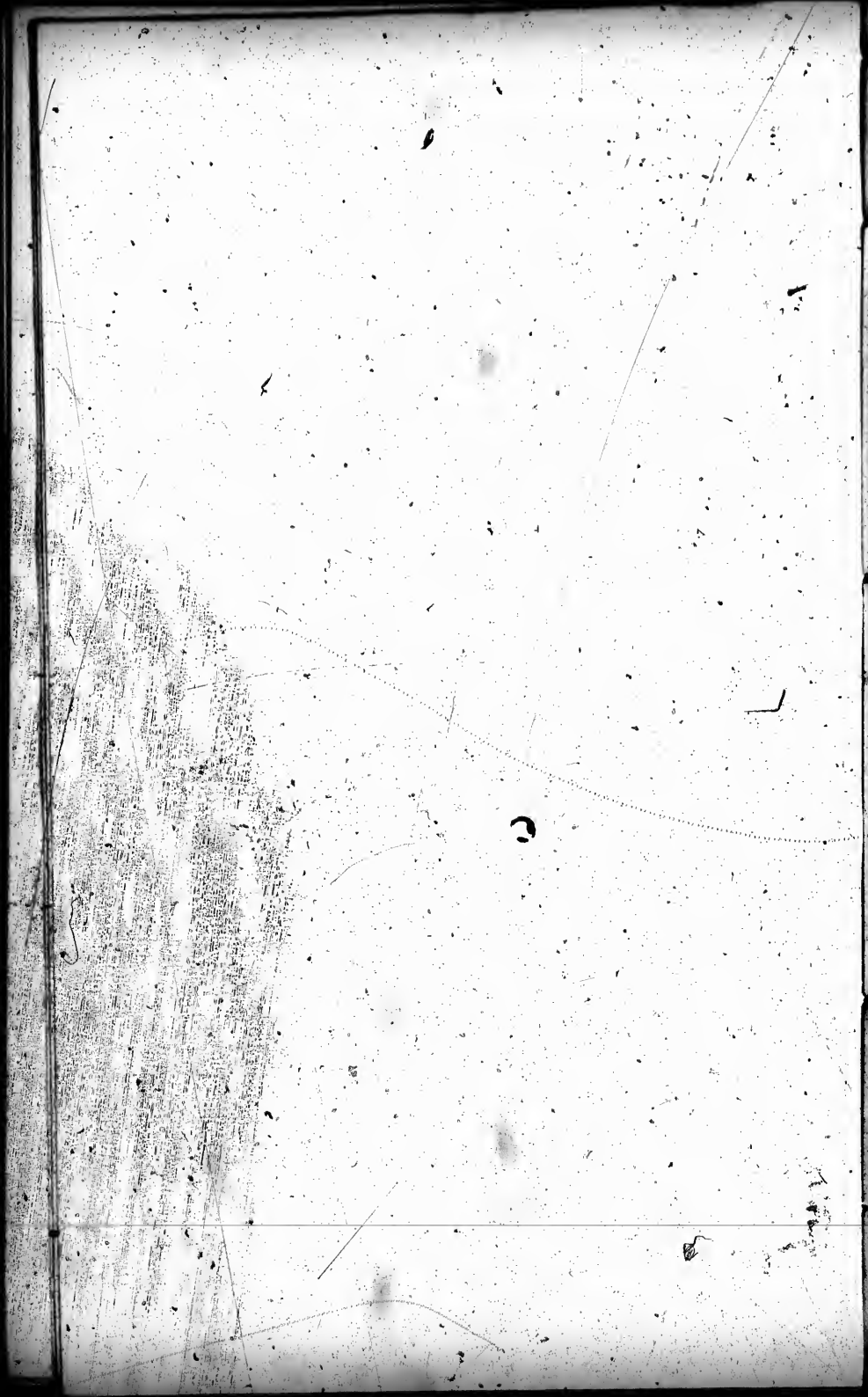
The story of Mr. Hagerman's conduct on the great subject of the Clergy Reserves was shortly as follows :

When that question was about to be brought before the Assembly, I foresaw it would give rise to a most angry debate, which would probably end in nothing.

I therefore, although I had no precise instructions on the subject, determined to use all the influence in my power to help the question to a conclusion, and I accordingly determined to recommend that the Reserves should be divided among the Churches of England, Scotland, Rome, and Wesleyan Methodists, in the proportions which the population of those great sects respectively bear to each in the Mother Country.

On submitting this abstract proposition to Mr. Hagerman, he at once assented to the Church of England, the Church of Scotland, and the Methodists sharing the Reserves, but he avowed to me, that unless strong arguments were adduced, he could not conscientiously be the advocate of the Roman Church.

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The more I argued in favour of that part of my proposition, the more did Mr. Hagerman urge his objections to it; and I can truly add, the more did I respect him for doing so. He firmly adhered to his opinion; but he concluded by observing, that though he could not promise to vote in favour of the Catholics, yet for my sake, he would retire from opposing their admission.

Extract of a Despatch of Mr P. St. Hunt to Lord Grenville, 10th Sept., 1797.

I conceive that on a question of conscience, Mr. Hagerman ought not to have done more than he did. However, after all, the proposition never came to a division.

Finding that party feeling was running so high that it was impossible for any man breathing to guide it, I became of opinion that it would be prudent to abandon the contest, by placing the Reserves at the disposal of His Majesty, or, in other words, by reuniting them in the Crown.

This proposition I explained to Mr. Hagerman, who brought it forward in the House of Assembly, advocated it most ably, and failed in carrying it only by one vote.

The great discussion having thus failed, it was therefore abandoned in despair by all parties; but a memorial was addressed to the House of Assembly, by the Ministers, Elders, and Congregation of Lancaster, in connexion with the Church of Scotland, complaining that "there appeared to have been an organized system pursued by the different Provincial Administrations, of thwarting them in the attainment of their just and legal rights;" that the endowment of the fifty-seven Rectories was "unjust, illegal, and unconstitutional;" and "that your memorialists complain especially of the power which the Act under which Rectories have been established, gives to the Church of England of lording it over our consciences, and exercising a spiritual tyranny over us, to which, as conscientiously attached to the doctrine, discipline, and worship of the Presbyterian Church, we cannot submit."

It was impossible for any one acquainted with the religious feelings which existed at that moment in the House of Assembly, to read the language of this petition, without foretelling that it would be productive of a violent religious debate, and accordingly, as soon as the subject was broached the conflict began. Sometimes the Scotch got uppermost, sometimes the English; but what was ejaculated by either, I believe no man living can declare. However, it happened that Mr. Mackenzie's newspaper came out the next day, and as he is not only a Scotchman, but one of Mr. Hagerman's bitterest enemies, your Lordship may easily conceive, that Mr. Hagerman's speech was purposely and mischievously made as offensive as possible to the Scotch.

DESPATCH



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DESPATCH FROM LORD GLENELG TO LIEUTENANT-GOVERNOR SIR GEORGE ARTHUR, K. C. H.

Despatch of Lord
Glenelg to Sir
George Arthur, K.
C. H., December
23rd, 1837.

DOWNING STREET, 23rd December, 1837.

SIR,—I have received your predecessor's despatch, No. 109, of the 16th September, transmitting two memorials from the Synod of the Presbyterian Church of Canada, in connexion with the Church of Scotland, having reference to the claim of that church to a share of the revenues accruing from the Clergy Reserves, and to the Rectories lately constituted in the Province of Upper Canada.

With respect to the first of these subjects, I am led to believe, from the terms of the memorial, that some misapprehension exists on the part of the Synod, as to the declared intention of Her Majesty's Government. In order that they may be clearly understood, I have to request that you will communicate to the Synod so much of the correspondence enclosed in my despatch to Sir Francis Head, of the 7th September last, No. 231, as relates to the claims of the Scotch Church in Upper Canada, and the views of Her Majesty's Government in reference to those claims.

With respect to the constitution of the Rectories, you will inform the Synod that, without entering on the discussion of the question as to the legality of these endowments, or the policy of the measure by which they were created, I trust that an arrangement will shortly be effected, by which the conflicting claims of various religious denominations in Upper Canada will be satisfactorily adjusted, and the means of Christian worship and instruction, in connexion with the Presbyterian Church in the Province, be materially extended.

I have, &c.,

GLENELG.

DESPATCH FROM LORD GLENELG TO MAJOR GENERAL SIR GEORGE ARTHUR, K. C. H., LIEUTENANT-GOVERNOR OF UPPER CANADA.

Despatch from
Lord Glenelg to
Sir Geo. Arthur,
Dec. 26, 1837.

DOWNING STREET, 26th December, 1837.

SIR,—Amongst the questions to which your attention will be called upon your arrival in Upper Canada, one of the most important is that which relates to the provision for the maintenance and diffusion of Christian knowledge throughout the increasing population of the Province.

This subject has recently engaged much of the public attention in Upper Canada, with reference to the recent beneficial appropriation of the Lands

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the Lands set apart by the Act of 1791 for religious purposes, and known by the name of Clergy Reserves. It could scarcely be expected that the discussion of this question could fail to produce considerable controversy and excitement, or that its settlement could be accomplished without serious difficulty. I entertain, however, a confident hope that some plan may at an early period be agreed to, by which the difficulties which have hitherto opposed a satisfactory adjustment of the conflicting claims of various religious denominations may be removed, and an adequate provision be made for meeting, on comprehensive principles, the religious wants of the great body of the inhabitants.

Despatch from
Lord Glenelg to
Sir Geo. Arthur,
Dec. 30, 1837.

I regret that the agitated question of the endowment of fifty-seven Rectories in the commencement of the year 1836 has introduced a new element of discussion. The correspondence which has taken place between Her Majesty's Government and your predecessor on this subject will place you fully in possession of the facts of this case. How far the view originally taken of that subject by the Law Officers of the Crown may be altered when they shall have maturely considered the explanations which have recently for the first time reached me, as to the grounds on which the Lieutenant Governor and Executive Council really proceeded, I am at present unable to state. In the meantime, however, before I can receive their Report, I think it right to acquaint you with the view which I at present entertain of the course which it may be desirable to pursue with reference to this subject.

The House of Assembly of Upper Canada, as appears from their Journals of the 9th February, 1837, adopted a series of Resolutions relative to these Endowments, of which the sixth declared, "That this House regards as inviolable the rights acquired under the patents by which Rectories have been endowed, and cannot, therefore, either invite or sanction any interference with the rights thus established." On the part of Her Majesty's Executive Government, I cannot hesitate to avow our entire adoption of the principle by which this Resolution was dictated. Although the Endowments of the Rectories in the year 1836 did not take place with the previous concurrence or knowledge of the present Ministers of the Crown, yet, as they appear to have been made at least under a presumed authority from the Secretary of State, and as considerable time has now elapsed since the parties were put in possession of the Lands, I should much regret to be compelled to disturb that settlement, or to dispossess the Clergy of the Church of England of the Lands which have been assigned for their maintenance.

Should the legal right now appear to the Law Officers of the Crown to be indefeasible, no practical question will, of course, remain for the decision of the Government; but, even on the contrary supposition, I feel that, with the concurrence of the Local Legislature, the Endowments which have actually been made might be ratified in connexion
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with some general scheme for the future appropriation of the Clergy Reserves, which would satisfy the reasonable claims of other denominations of Christians. As a basis of such a settlement I would propose that, under the peculiar circumstances of the case, the right of the Church of England to the Endowments of January, 1836, should be acknowledged and ratified. I would further suggest that this measure should be accompanied by a Legislative declaration that the establishment and endowment of Rectories in the Province shall not be construed to confer any right to exercise any Ecclesiastical or Spiritual power whatever, "except over the Members of the Church of England." I quote these words from the Resolutions of the Assembly of the 9th of February, 1837, to which I have already referred. That House, indeed, proposes that this declaration should proceed, not from the Local Legislature, but from Parliament. But I conceive that, if the arrangement I suggest should meet with general acceptance, there will be no difficulty in obtaining an Act of General Assembly for the purpose, and that the interference of Parliament in the internal affairs of the Province may thus be avoided.

Despatch from
Lord Glenelg to
Sir Geo. Arthur,
Dec. 26, 1837.

In the next place, I have to refer you to my Despatch to Sir F. Head, of the 7th of September, No. 231, in which, and in the enclosures accompanying it, will be found an explanation of the system established on my advice by His late Majesty for providing for the religious instruction of the inhabitants of the Australian Colonies. I do not here enter into the details of that measure, with which you are already familiar, but I confine myself to the statement that the general principle of it is, that the contributions of the State towards the support of the different Christian communions should be regulated by the extent of the voluntary efforts which the Members of each should make for the promotion of the same general end. Of the success of that plan in New South Wales, I have the most satisfactory proofs. The result in that Colony, even during the short period which has elapsed since the provisions of this measure have been in operation, has been greatly to increase the spontaneous exertions of the various denominations of Christians, the number of Ministers, and the means applicable to the general diffusion of Christian instruction. If the Clergy Reserves of Upper Canada should be converted into a fund subject to a similar appropriation, I perceive no reason to doubt of a corresponding result. If, by the adoption of this scheme, with any modifications which the knowledge possessed by the Local Legislature of the circumstances of the Province, and the comparative numbers of the religious denominations existing in it, may suggest, concord and a mutual good understanding could be restored amongst the different Christian societies existing in Upper Canada, an object of the highest importance would be attained. We should have closed a controversy hostile to the general peace of Her Majesty's subjects inhabiting that part of Her dominions,

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dominions, and should have brought to an end a debate painful to every one who is justly alive to the interests of the Christian faith, which we all acknowledge and profess under various forms of Ecclesiastical Government.

Despatch from
Lord Glenelg to
Sir Geo Arthur,
Dec. 26, 1837.

You are, therefore, authorised to convey these or any other suggestions which you consider better adapted to effect the object in view, to the Legislative Council and House of Assembly, in whatever manner may be the most consistent with constitutional forms and with a careful respect for their rights and privileges; and I earnestly hope that they will cordially co-operate with Her Majesty's Government and with yourself in the adoption of such measures, with reference to this important subject, as will most effectually conduce to the advancement of the best interests of all-classes of Her Majesty's subjects in the Province.

I have, &c.,

GLENELG.

LETTER FROM SIR GEORGE GREY, BT., TO LIEUTENANT
GOVERNOR SIR GEORGE ARTHUR, K. C. H.

Letter from Sir
Geo Grey to
Sir Geo Arthur,
Dec. 28, 1837.

DOWNING-STREET, 29th December, 1837.

Sir,—I have laid before Lord Glenelg your letter of the 25th instant, transmitting a memorandum on the subject of the Clergy Reserves in Upper Canada, for his Lordship's consideration; and I am to inform you in reply, that Her Majesty's Government, so far as the adjustment of this question depends on them, would willingly concur in any settlement of it which the two branches of the Provincial Legislature might concur in adopting as best calculated to promote the interest of religion and education in the Province. Should the satisfactory adjustment of it be facilitated as you anticipate, by securing to each communion the full extent of aid which is at present afforded to it, Her Majesty's Government would not entertain the slightest objection to such an arrangement. On the other hand, Lord Glenelg would distinctly disclaim, on the part of Her Majesty's Government, the wish or the intention to insist on any such condition as an indispensable preliminary to an adjustment of the question; such an interference on the part of the Government with the functions of the Provincial Legislature, would, as his Lordship apprehends, tend to create a not unreasonable suspicion of the sincerity with which the Legislature have been invited to the exercise of the power reserved to them on this subject by the Constitutional Act of 1791; nor could any conclusive reason be assigned for insisting on the continuance to each communion of the precise payment at present received by it, the respective amounts received by the several communions

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communions resting on no accurate calculation or estimate of their respective numbers, or of the claims which they may possess to pecuniary aid. Lord Glenelg further directs me to observe, with reference to your remark, that "it is doubtful what the claims of the Church of Scotland may be on the Reserves," that a decided opinion was given by the Law Officers of the Crown in this country in 1819, in favour of the right of the Church of Scotland to participate in the proceeds of these Reserves, and that, in accordance with this opinion, this right has been distinctly admitted by Lord Glenelg in a recent correspondence with members of that Church. On this subject I am to request that you will refer to his Lordship's despatch to Sir Francis Head, of the 7th September, No. 231, and to the enclosures contained in it. Lord Glenelg has no doubt, that by such an arrangement as that to which you have alluded, for the disposal of the Clergy Reserves and the investment of the proceeds of the sale, a fund would be rendered available for the purposes of religious instruction and education, a result which his Lordship earnestly hopes may at an early period be attained; and he entertains the fullest confidence that no exertion will be wanting on your part to bring this matter to a conclusion, at once conducive to the best interests of the Province, and satisfactory to the various parties who are peculiarly interested in its settlement.

Letter from Sir
Geo. Grey to
Sir Geo. Arthur,
Dec. 28, 1837.

I have, &c.;

GEORGE GREY.

OPINION OF THE LAW OFFICERS OF THE CROWN,
JANUARY 24TH, 1838, DECLARING THE RECTORIES
TO BE VALID.

Opinion of the
Law Officers of
the Crown, Jan.
24th, 1838, de-
claring the Rec-
tories to be valid.

DOCTORS COMMONS, 24th January, 1838.

My Lord,—

We are honoured with your Lordship's command, signified in your letter of the 19th ultimo, transmitting certain documents which were referred to us on the 12th of April last on the subject of the endowment of certain Rectories in the Province of Upper Canada; also enclosing a copy of the report made by us in answer to that reference, with copies of a correspondence which has since taken place on the subject, between your Lordship and the Lieutenant Governor of Upper Canada; also enclosing a copy of the Commission under which the Government of the Province was administered in the month of January 1836, when the order of the Lieutenant Governor in Council respecting those Rectories was made.

Adverting to these various documents, and especially to the Report of the Archdeacon of Toronto, accompanying Sir F. Head's despatch of the



of the 18th of October, your Lordship is pleased to request that we would report our joint opinion, whether the addition of the material fact now communicated to us affects the conclusion which we adopted and reported to your Lordship on the 8th of June, and if so, that we would report the answer which we would now give to the questions proposed in your Lordship's letter of the 12th of April, viz.:

Opinion of the
Law Officers of
the Crown, Jan.
24th, 1857, declar-
ing the Rectories
to be valid.

"First, adverting to the terms of the Statute 31 Geo. 3. Chap. 41. Sec. 36 and 40, and to the terms of the Royal Commission, could the Lieutenant Governor with the advice of the Executive Council, lawfully constitute and erect or endow any Parsonage or Rectory within the Province without the further signification of His Majesty's pleasure.

"Secondly, can Lord Ripon's Despatch of the 3rd of April 1832, be regarded as signifying His Majesty's Pleasure for the erection of Parsonages or for the endowment of them, or for either of those purposes?

"Thirdly. Are the erection and the endowment of the fifty-seven Rectories by Sir John Colborne valid and lawful Acts?

"Fourthly. If the preceding questions be answered in the affirmative have the Rectors of the Parishes so erected and endowed the same ecclesiastical authority within their respective limits as is vested in the Rector of a Parish in England, or within what other bounds is that authority restricted?" In obedience to your Lordship's commands, we have the honour to report that, adverting to the various documents, and especially to the instructions contained in Lord Bathurst's despatch to Sir P. Maitland of the 22nd July 1825, referred to in the report of the Archdeacon of York (Toronto,) and also to the terms of the Royal Commission, on the whole of which is now before us, we are of opinion,

1st. That the Lieutenant Governor, with the advice of the Executive Council, could lawfully constitute and erect or endow any Parsonage or Rectory within the Province without the further signification of His Majesty's Pleasure.

2nd. We are of opinion, that Lord Ripon's despatch of the 5th of April 1832 cannot be regarded as signifying His Majesty's pleasure for the erection of Parsonages, or for the endowment of them, or for either of those purposes.

3rd. We are of opinion, that the erection or endowment of the fifty-seven Rectories by Sir John Colborne are valid and lawful Acts.

4th. We are of opinion, that the Rectors of the Parishes so erected and endowed have the same ecclesiastical authority within their respective limits as is vested in the Rector of a Parish in England.

We have, &c.

J. DODSON,
J. CAMPBELL,
R. M. ROLFE.

The Lord GLENELG,
&c., &c., &c.

DESPATCH.

DESPATCH FROM LORD GLENELG TO LIEUTENANT-GOVERNOR SIR G. ARTHUR, K.C.H., DATED DOWNING-STREET, 15TH NOVEMBER, 1838.

Despatch from Lord Glenelg to Lieutenant Governor Sir George Arthur, K.C.H., dated Downing Street, 15th Nov. 1838.

Sir,

I have the honour to acknowledge the receipt of your Despatch of the 28th November last, No. 95, transmitting an address to me from the Bishop of Montreal and Clergy of the Church of England in Upper Canada, praying for a judicial decision of the question respecting the Clergy Reserves, either before the Judges of England or before the Judicial Committee of Her Majesty's Privy Council.

In reply, I have to inform you that as Her Majesty's Government see no reason to doubt the correctness of the opinion delivered on this subject in 1819, by the Law Officers of the Crown, they do not consider it necessary to originate any proceedings on the subject before the Judges of England or the Privy Council.

I have, &c.

GLENELG.

RESOLUTIONS

Relative to the Appropriation of the Clergy Reserves, passed by the Commons House of Assembly of Upper Canada, 22nd December, 1826.

1.—*Resolved*, That the Despatch of the Right Honourable Earl Bathurst, His Majesty's Principal Secretary of State for the Colonies, communicated to this House on the 12th instant by His Excellency the Lieutenant Governor, in answer to the Address to His Majesty of this House at its last Session respecting the Clergy Reserves, is unsatisfactory to this Assembly, in as much as it is silent on a material part of the respectful representation of this House contained in the said Address.

5.—*Resolved*, That the construction given to the Imperial Act, which appropriates the Clergy Reserves to individuals connected with the Church of England, and the determination of the Clergy of that Church to withhold from all other denomination of Protestants residing within the Province the enjoyment of any part of the benefits arising or which may arise from the lands so set apart, call for the immediate attention of the Provincial Legislature to a subject of such vital

Resolutions of the House of Assembly of U. Canada, Dec. 22nd, 1826.



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vital interest to the public in general, and that such claim by the Protestant Episcopal Church is contrary to the spirit and meaning of the 31 Geo. 3., and most injurious to the interests and wishes of the Province.

Resolutions of the
House of Assembly
of U. Canada,
Dec. 22nd, 1829

Yeas, 28.—Nays 3.—Majority, 25.

6.—*Resolved*, That a comparatively small proportion of the inhabitants of Upper Canada are members of the Church of England, and therefore ought not in justice to desire the sole enjoyment, by their Clergy, of all the advantages which these lands present, to the exclusion of their fellow subjects, although equally loyal and firm in their attachment to His Majesty's Government and the Constitution.

7.—*Resolved*, That in a thinly inhabited country, such as Upper Canada, where the means of moral instruction to the poor are not easily obtained, it is the bounden duty of the Parliament to afford every assistance within its power towards the support of education.

8.—*Resolved*, That the present provision for the support of District and Common Schools is quite inadequate to the wants of the people, and ought by every reasonable exertion to be increased, so as to place within the reach of the poorest inhabitant the advantages of a decent education.

9.—*Resolved*, That it is the opinion of a great proportion of the people of this Province, that the Clergy Lands, in place of being enjoyed by the Clergy of an inconsiderable part of the population, ought to be disposed of, and the proceeds of their sale applied to increase the Provincial allowance for the support of District and Common Schools, and the endowment of a Provincial Seminary for learning, and in aid of erecting places of public worship for all denominations of Christians.

Yeas, 31.—Nays, 2.—Majority 29.

Resolved, That the number of the Protestant Episcopal Church in the Provinces bears a very small proportion to the number of other Christians, notwithstanding the pecuniary aid long and exclusively received from the Benevolent Society in England by the members of that Church, and their pretension to a monopoly of the Clergy Reserves.

Yeas, 30.—Nays 3.—Majority 27.

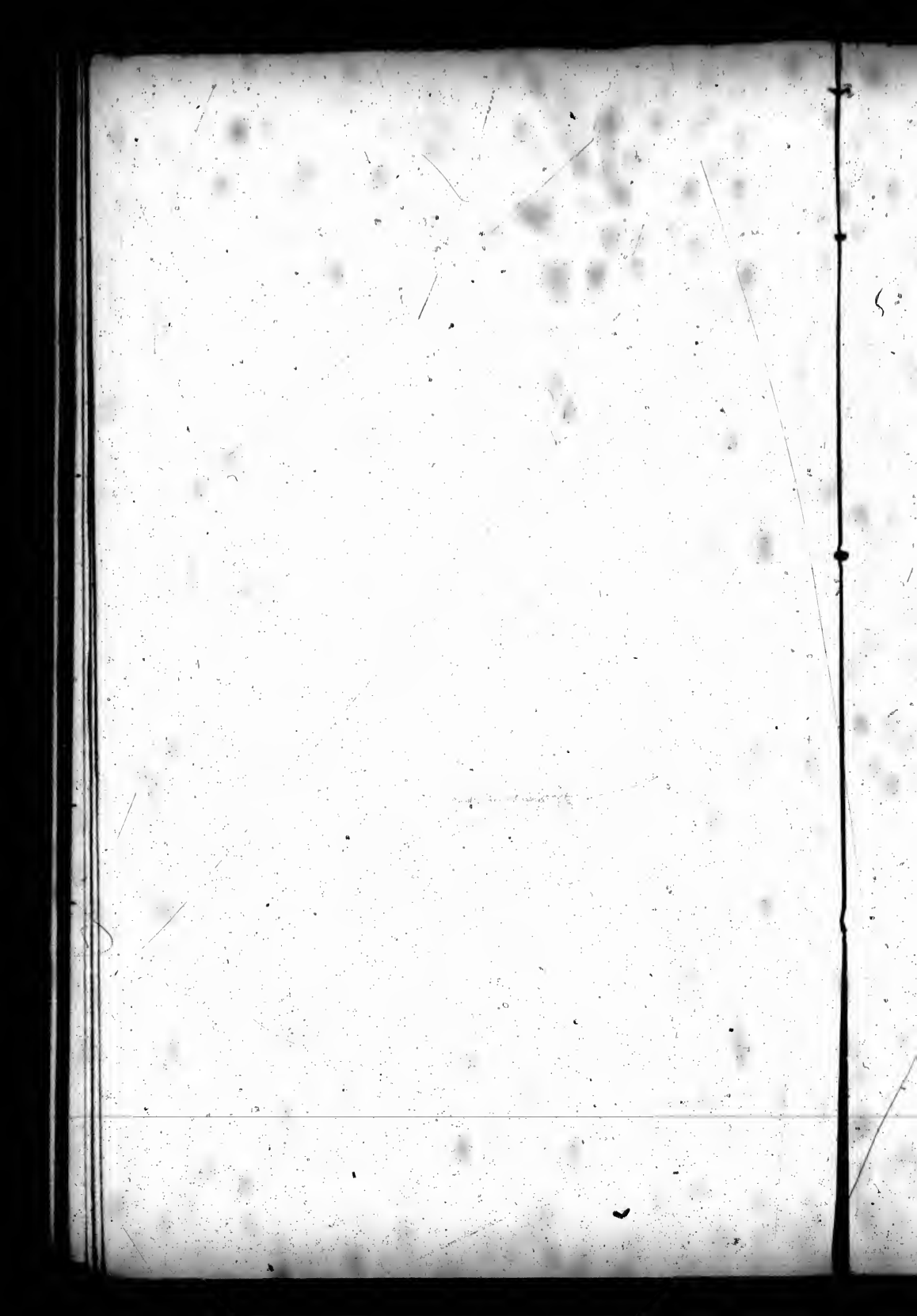
JOURNALS OF THE HOUSE OF ASSEMBLY.

17TH JANUARY, 1829.

Mr. Secretary Mudge brought down from his Excellency the Governor a Message, and having presented the same to the Speaker retired.

The

Journals of the
House of Assembly
of Upper Canada,
Jan. 17, 1829.



The Speaker then announced to the House the Receipt of a Message from his Excellency the Lieutenant Governor, and rising uncovered, read the same to the House as follows:—

J. COLBONNE,

The Lieutenant Governor acquaints the House of Assembly that His Majesty's Secretary of State for the Colonies has acknowledged the Receipt of a Despatch with an address from the House of Assembly of the last Parliament, praying that the Monies arising from the Sale of Lands set apart in this Province for the support and maintenance of a Protestant Clergy may be placed at the Disposal of the Legislature of the Province, for defraying the Expense of certain Public Works for the internal Improvement of the Country, and for the Promotion of general Education; and praying that the University recently endowed may be established on more comprehensive Principles than those on which it is placed by the present Charter.

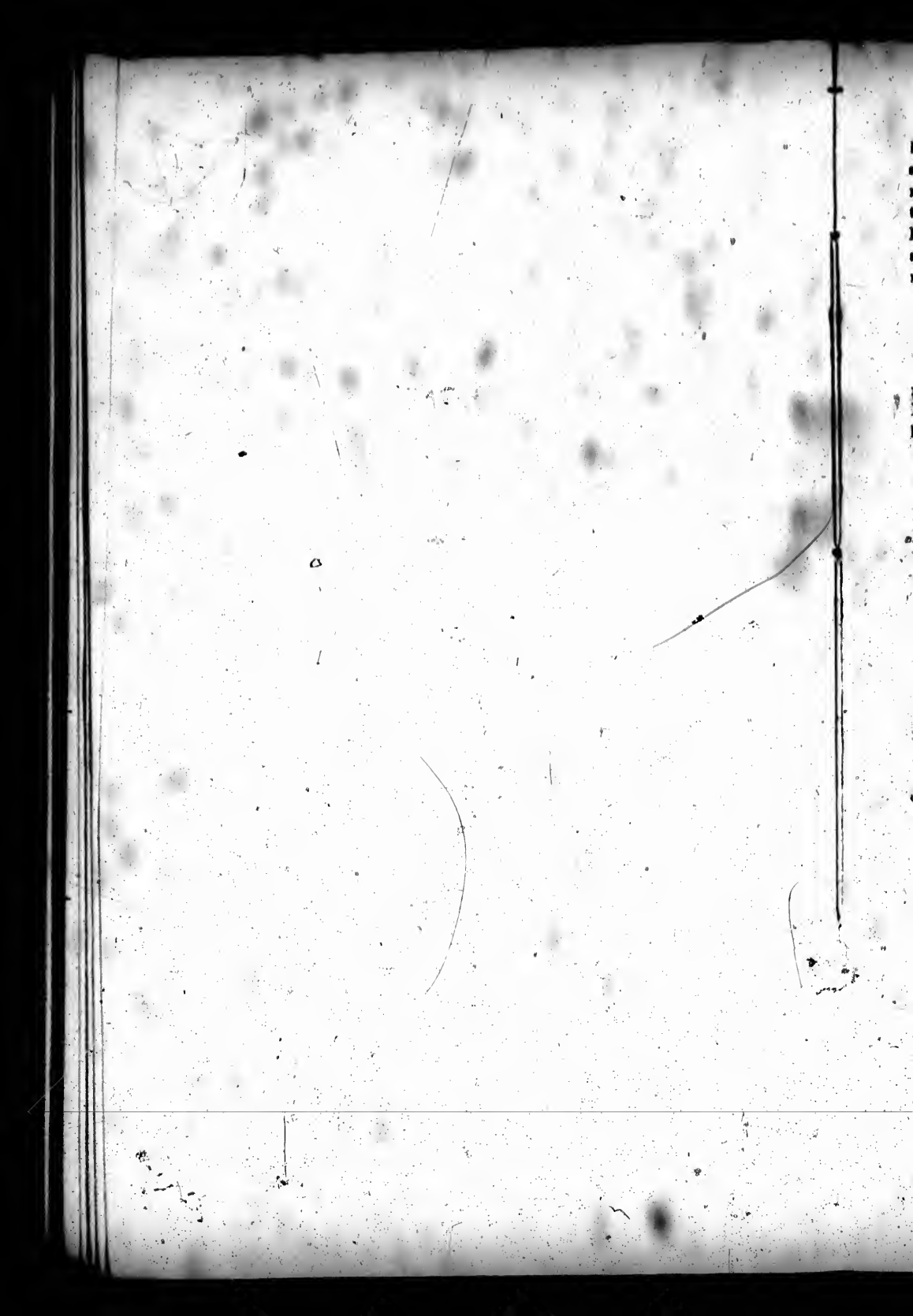
This Address has been laid before the King, and His Majesty has been graciously pleased to express his Satisfaction in the Assurance of Loyalty and Attachment to His Person and Government which are contained in it; and that His Majesty will at all Times receive with the most serious attention any Representation which may be made to him by the Representatives of His faithful subjects in Upper Canada, in Provincial Parliament assembled, for advancing the Prosperity of this important and interesting Portion of His Dominions.

The Lieutenant Governor, however, is given to understand, from the Secretary of State, that the present Statutes respecting the Appropriation of the Clergy Reserves grant a very limited discretionary Power to His Majesty's Government, and that in case a Revision of them should be deemed necessary, with a view to any Alteration in their Provisions, much Information on that Subject in all its Bearings is required, and will soon be obtained by His Majesty's Ministers.

The Lieutenant Governor has no doubt that it would be deservedly a Subject of Regret to His Majesty's Government, if the Principles on which the University is founded cannot be made to accord with the general Feeling and Opinion of those for whose Advantage it was intended; and he believes that the first Change in the Charter which should be recommended, and which would conduce more than any other to its becoming eminently useful to the Province, is the connecting the Royal Grammar School with King's College, in such a Manner that its Exhibitions, Scholarships, and Chief Support may depend on the Funds of that Endowment.

The Advantages that will result from an Institution conducted by Nine or Ten able Masters, under whose Tuition the Youth of the Province

Province



Provinces could be prepared for any Profession, are indisputable; and if such a School were permanently established, and the Charter so modified that any Professor shall be eligible for the Council, and that the Students in the College shall have Liberty and Faculty of taking Degrees in the Manner that shall be hereafter directed by the Statutes and Ordinances framed by His Majesty's Government, the University must flourish, and prove highly beneficial to the Colony.

Government House,
17th January, 1829.

27TH JANUARY, 1829.

Mr. Perry, seconded by Mr. Thomson, moves, "That this House do resolve itself into a Committee of the Whole on Monday next, on that Part of his Excellency's Message of the Seventeenth January that relates to the Reserves in this Province."—Which was ordered.

26TH FEBRUARY, 1829.

Agreeably to Notice, Mr. Perry, seconded by Mr. Hornor, moves for Leave to bring in a Bill to provide for the Sale of a Part of the Clergy Reserves in this Province, and that the Forty-first Rule of this House be dispensed with so far as relates to the same.

Which was granted, and the Bill read, and ordered for a Second Reading To-morrow.

Adjourned till Four o'Clock P. M. To-morrow.

27TH FEBRUARY, 1829.

Agreeably to the Order of the Day the Clergy Reserves Bill was read the Second Time, and referred to a Committee of the Whole House.

Mr. Berczy was called to the Chair.

The House resumed.

Mr. Berczy reported the Bill as amended.

The Report was ordered to be received, and the Bill to be engrossed, and read a Third Time To-morrow.

28TH FEBRUARY, 1829.

Agreeably to the Order of the Day the Clergy Reserves Bill was read the third time and passed, Nem. Con.

Mr. Perry, seconded by Mr. Woodruff, moves, "That the Bill be intituled "An Act to provide for the Disposal of a Part of the Clergy Reserves in this Province."—Which was ordered. And Messrs. Perry and Woodruff were ordered by the Speaker to carry the same up to the Honourable the Legislative Council, and to request their Concurrence thereto.

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JOURNALS OF THE LEGISLATIVE COUNCIL.

Journals of the
House of Assembly
of U. Canada,
Jan. 17, 1829.

2ND MARCH, 1829.

A Deputation from the Commons House of Assembly brought up a Bill intituled "An Act to Provide for the Disposal of a Part of the Clergy Reserves in this Province."

9TH MARCH, 1829.

Ordered, That the Master in Chancery do go down to the Assembly and acquaint that House that the Legislative Council have remarked, that on the Delivery of the Bill, intituled, "An Act to provide for the Disposal of a Part of the Clergy Reserves in this Province," from the House of Assembly, at the Bar of this House, the usual form of requesting the Concurrence of this House has been omitted.

11TH MARCH, 1829.

A Deputation from the Commons House of Assembly brought up and delivered at the Bar of this House a Message in the following Words:—

" Mr. Speaker.

" The Members of this House deputed to carry to the Honourable the Legislative Council the Bill, intituled "An Act to provide for the Disposal of a part of the Clergy Reserves in this Province," having reported to this House that they have reason to think that they undesignedly omitted to desire the Concurrence of that Honourable House to the same, the Assembly will take it well if the Legislative Council will overlook the Omission, and proceed upon the said Bill as if the usual request had accompanied the same.

Commons House of Assembly,)
9th March, 1829.)

MARSHALL S. BIDWELL,
Speaker."

Ordered, That the Bill, intituled "An Act to provide for the Disposal of a Part of the Clergy Reserves in this Province," be now read.

The Bill, intituled "An Act to provide for the Disposal of a Part of the Clergy Reserves in this Province," was read; and the same was ordered to be read a Second Time this Day Three Months.

25th JANUARY, 1830.

Agreeably to Notice, Mr. Perry, seconded by Mr. Shaver, moves for leave to bring in a Bill to provide for the Sale of a part of the Clergy Reserves in this Province.

Which was granted, and the Bill read, and ordered for a second reading to-morrow.

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29th JANUARY, 1830.

Agreeably to the order of the day, the Clergy Reserve Bill was read a second time, and referred to a Committee of the Whole House.

Journals of the
House of Assembly
of U. Canada,
Jan. 17, 1830.

Mr. Shaver was called to the Chair.

The House resumed.

Mr. Shaver reported the Bill without amendment.

The Report was received, and the Bill was ordered to be engrossed, and read a third time on Monday next.

1st FEBRUARY, 1830.

Agreeably to the order of the day, the Clergy Reserve Sale Bill was read a third time and passed.

20th FEBRUARY, 1830.

Mr. Perry, seconded by Mr. Smith, moves, "that a Select Committee be appointed to search the Journals of the Honourable the Legislative Council, and report to this House the proceedings had by that Honourable House on the Bill, intituled "An Act to provide for the disposal of a part of the Clergy Reserves in this Province;" and that Messrs. Ewing and McCall be a Committee for that purpose.— Which was ordered.

23rd FEBRUARY, 1830.

TO THE HONOURABLE THE HOUSE OF ASSEMBLY.

Your Committee appointed to examine the Journals of the Honourable the Legislative Council, and report what proceedings have been had by that Honourable House on the Bill, intituled: "An Act to provide for the disposal of a Part of the Clergy Reserves in this Province," beg leave to report, "That the Bill was received and read on the First day of February instant, the First Time."

All which is respectfully submitted.

DUNCAN M'CALL, Chairman.

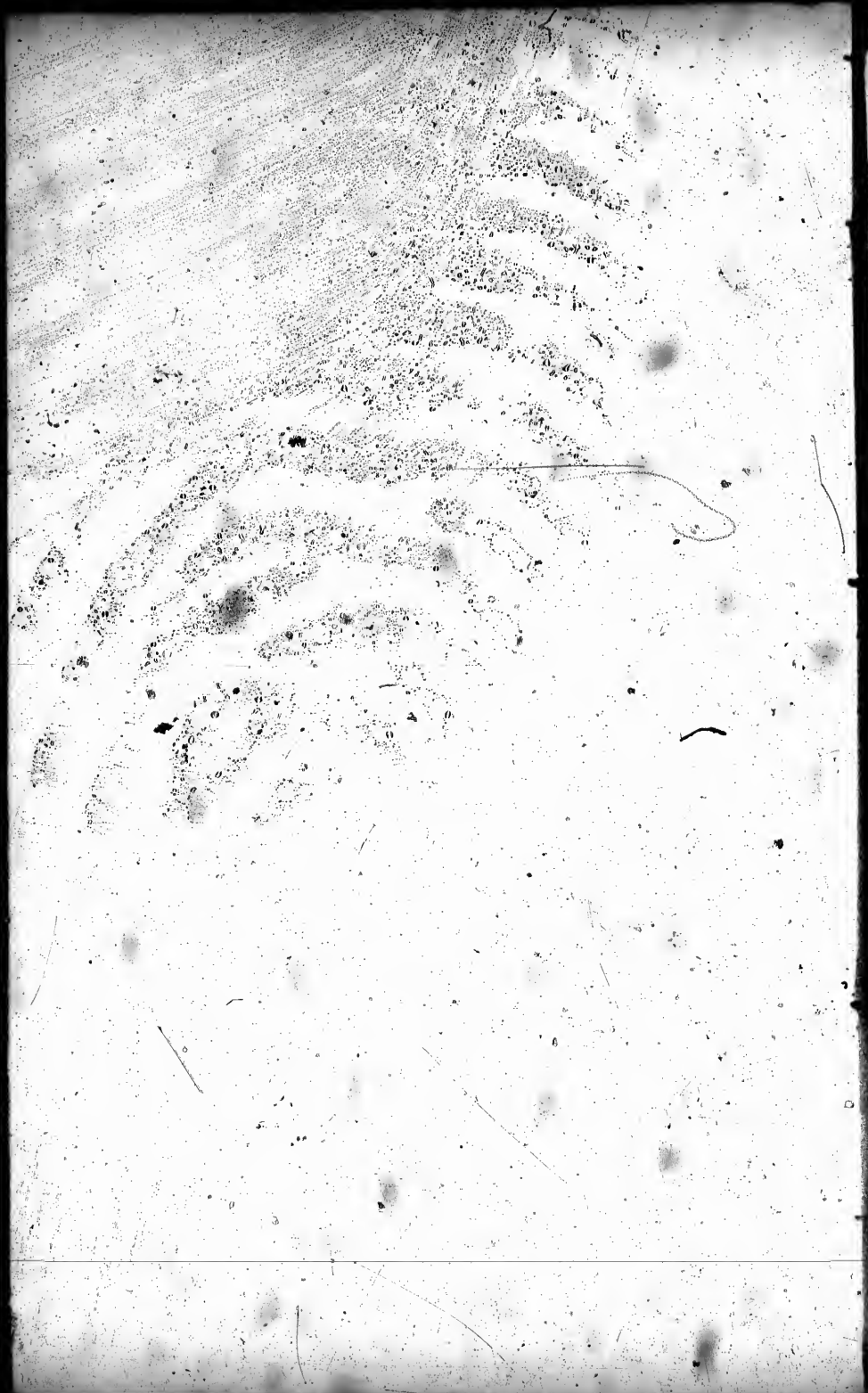
22nd February, 1830

JOURNALS OF THE HOUSE OF ASSEMBLY.

2d FEBRUARY, 1831.

Mr. Morris gives notice that he will, on to-morrow, move for an Address to His Excellency the Lieutenant Governor, requesting His Excellency to communicate to this House a Statement on detail of all monies collected in this Province by the leasing and Sale of the Clergy Reserves.

Journals of the
House of Assembly
of U. Canada
2nd Feb. 1831.



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Reserves; also a particular account of the expenditure of such monies, and the balance now on hand, the number of acres of these Reserves sold in each District up to the First day of January 1831, together with the average price per acre.

Journals of the
House of Assembly
of U. Canada,
2nd Feb. 1831.

3d FEBRUARY, 1831.

Mr. Morris seconded by Mr. A. Fraser, moves, "That an humble Address be presented to His Excellency the Lieutenant-Governor requesting His Excellency to communicate to this House a statement in detail of all monies collected in this Province by the leasing and sale of the Clergy Reserves; also a particular account of the expenditure of such monies, and the balance now on hand, the number of acres of these Reserves sold in each District up to the first day of January 1831, together with the average price per acre, and that Messrs. Thompson and M'Martin be a Committee to draft and report the same—ordered.

Mr. Thompson from the Committee to draft an address to His Excellency the Lieutenant-Governor relative to receipts and expenditures of monies arising from the Clergy Reserves, reported a draft, which was received and read twice, adopted, and ordered to be engrossed, and read a third time this day.

Agreeably to the order of the day the address to His Excellency the Lieutenant Governor for information as to the sales and leasing of Clergy Reserves was read the third time, passed, and signed, and is as follows:

ADDRESS OF THE HOUSE OF ASSEMBLY TO SIR
J. COLBORNE, FEBRUARY 3, 1831.

Address of the
House of Assembly
to Sir J. Col-
borne, Feb. 3rd
1831.

To His Excellency Sir John Colborne, Knight, Commander of the Most Honourable Military Order of the Bath, Lieutenant Governor of the Province of Upper Canada, and Major General commanding His Majesty's Forces therein, &c., &c., &c.

MAY IT PLEASE YOUR EXCELLENCY,—

We, His Majesty's most dutiful and loyal subjects, the Commons of Upper Canada in Provincial Parliament assembled, most respectfully request that Your Excellency may be pleased to communicate to this House a statement in detail of all monies collected in this Province by the leasing and sale of the Clergy Reserves: and also a particular account of the expenditure of such monies, and the balance now on hand, the number of Acres of these Reserves sold in each District up to the first day of January 1831, together with the average price per acre.

ARCHD. M'LEAN,

Speaker.

Commons House of Assembly,
3d Day of February, 1831.

Mr. Morris,



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Mr. Morris, seconded by Mr. McMartin, moves, "That Messrs. Chisholm and Ingersoll be a Committee to wait on His Excellency the Lieutenant Governor, to know when he will be pleased to receive the Addresses of this House on the subject of School Townships, the Sales by the Commissioner of Crown Lands, and the monies raised by the leasing and sale of Clergy Reserves, and to present the same."—
Ordered.

*Journals of the
House of Assembly,
Vol. 2d, February,
1831.*

4th FEBRUARY, 1831.

Mr. Ingersoll, from the Committee to wait upon His Excellency the Lieutenant Governor with the address of this House for information relative to the proceeds arising from Sales and leasing of Clergy Reserves, reported delivering the same, and that His Excellency had been pleased to make thereto the following answer:

"Gentlemen,

"I will direct the statements for which you apply in this Address to be laid before the House of Assembly.

*Reply of E. J.
Colb. Nov. 4th
Febr., 1831.*

25th FEBRUARY, 1831.

Mr. Bidwell, seconded by Mr. Campbell, moves, "That it be resolved that an humble address be presented to His Majesty, setting forth that in and by an Act of the Parliament of Great Britain passed in the thirty-first year of the Reign of His Majesty's illustrious father King George the Third, provision was made for the allotment and appropriation of one-seventh of the land of this Province for the support and maintenance of a Protestant Clergy within the same; and that it was further exacted, that all and every the rents, profits or emoluments which might at any time arise from such lands so allotted and appropriated, should be applicable solely for the maintenance and support of a Protestant Clergy within the Province, and to no other purposes whatever.

"That in pursuance of the said Act such allotment and appropriation of Land as aforesaid have from time to time been reserved for the purpose therein mentioned, which lands are known in this Province by the name of the Clergy Reserves. That by an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the eighth and ninth years of the reign of his late Majesty, George the Fourth provision was made for the sale of part of these Reserves. That these Reserves are scattered through the country, and have derived their present value chiefly from the labours of the people of this Province, who belong to various religious denominations. That we think it our duty to inform His Majesty that but a small minority of the people of this Province are members of the Church of England, and that His Majesty's subjects in this Colony are members of various religious denominations, equally conscientious in their opinion, equally attached to His Majesty's person

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and Government, and equally obedient to the Laws, and meritorious in their general conduct.

Journal of the
House of Assem-
bly, 5th Febru-
ary, 1831.

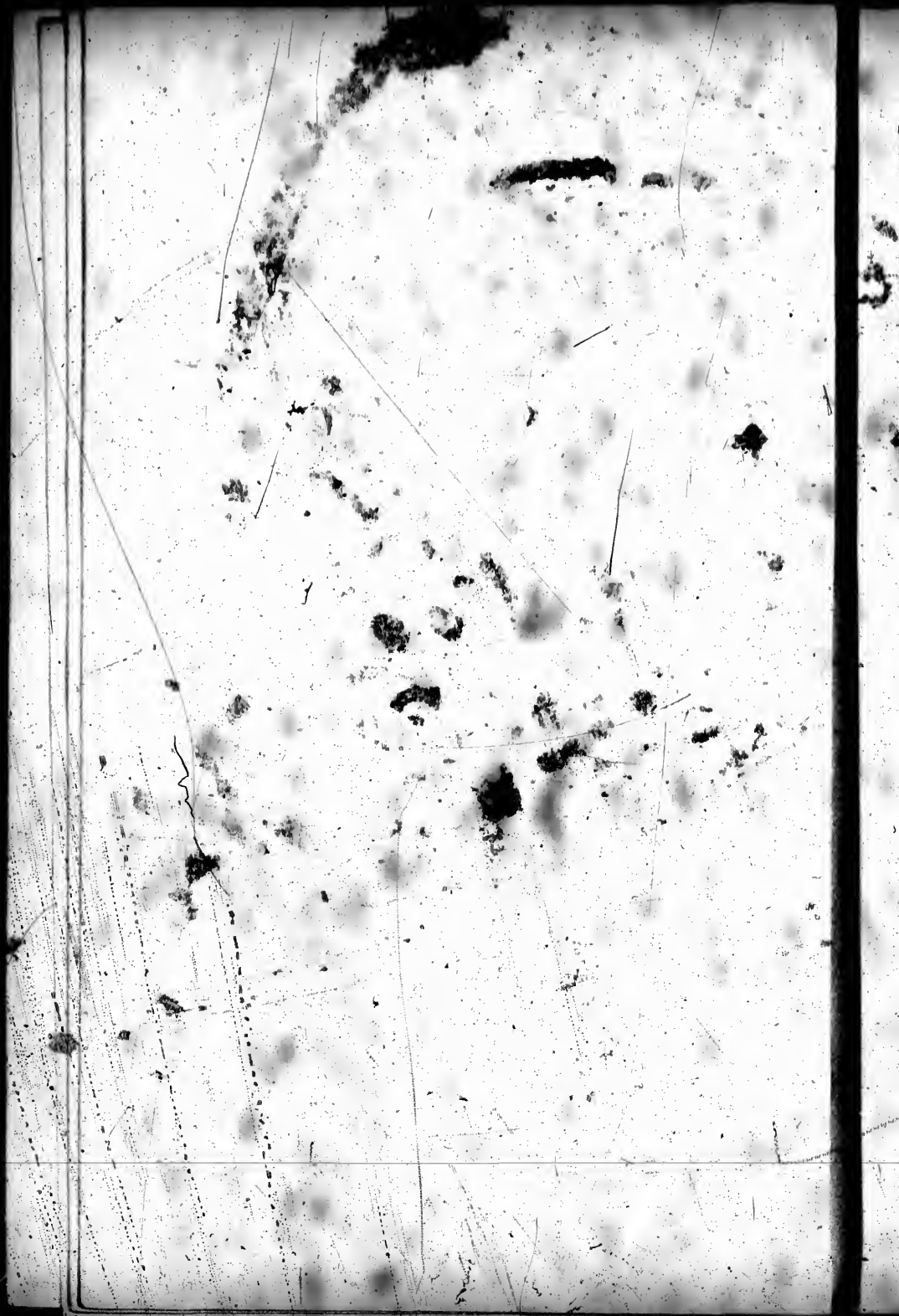
"That we consider it moreover our duty to declare, that the sentiments and feelings of His Majesty's subjects generally in this Province are strongly opposed to any connexion between the Government and any particular church or churches, as well as to any favour or assistance on the part of His Majesty's Government to one or more religious denominations not equally bestowed upon all, and to the Grant by Law of any rights, powers, or privileges to any such denomination which are not extended to all.

"They desire an equality of civil and religious rights among all religious denominations.

"That in these sentiments His Majesty's faithful commons would humbly express their most hearty concurrence.

"That under these circumstances His Majesty's faithful Commons have, more than once, approached the throne to make known the wishes of His Majesty's subjects in relation to these matters; and while they recollect with just gratitude the gracious manner in which their Representations were listened to by His late Majesty, they humbly request that, inasmuch as the objects solicited on those occasions by His Majesty's subjects have not yet been attained, His Majesty will be pleased to take them into His most favourable consideration.

"That His Majesty's faithful commons, deeply impressed with the injustice and impolicy of excluding any of His Majesty's subjects in this Province from an equal share of the benefit and assistance to be derived from the Clergy Reserves, and sensible of the impracticability of a just and equal distribution of their proceeds among all religious denominations, as well as convinced that while they are applied in any mode according to the object of their original appropriation they will furnish occasion for endless contentions and jealousies, have desired that they should be sold, and the money produced by the Sale be applied, under the direction and control of the Provincial Legislature, to the general improvement of the Province, and the support of education. This House, therefore, have more than once passed a Bill authorizing the sale of the said Reserves for the purposes we have mentioned, which has failed in the other branch of the Legislature. They have also repeatedly made known their wishes by address to the Throne. Entertaining still the same sentiments, His Majesty's faithful Commons humbly request that His Majesty will be graciously pleased to recommend to His Majesty's Parliament of Great Britain such measures, consistent with our Constitution, as will lead to a sale of all Clergy Reserves in this Province, and will leave the appropriation of



all monies arising from such Sales, or from any sale made under any Statute now in force, at the disposal of the Provincial Legislature for the purposes which we have mentioned.

*Journals of the
House of Assembly,
18th February,
1831.*

"That we beg leave also humbly to represent that the Charter of King's College, which we are persuaded was intended for the benefit of His Majesty's subjects generally, contains principles of religious supremacy and exclusion in favor of the Church of England which are inconsistent with that equality of rights and privileges which Christians of all denominations in this Province deserve, and which they confidently expect from his Majesty's gracious and paternal feelings towards them.

"That we most humbly request that His Majesty will be pleased to take the Charter into his most gracious consideration, and to cause such a modification to be made in its provisions as will entirely remove from every thing of a sectarian or exclusive character, and adapt it to the wants and wishes of the people of this Province; and that Messrs. Perry and Lyons be a Committee to draft and report said Address; and that the twenty-second Rule of this House be dispensed with so far as relates to this motion."

In amendment, Mr. Van Koughnet, seconded by Mr. McNab, moves "That the question be not now put; but that the House do on to-morrow resolve itself into a Committee of the whole upon the resolution."

On which the House divided, and the Yeas and Nays were taken as follows:

YEAS.

Messrs.

Attorney General,	J. Crooks,	Jessup,	Robinson,
Berczy,	W. Crooks,	Lewis,	Samson,
Boulton,	Elliot,	M'Martin,	Thompson,
Brown,	A. Fraser,	MacNab,	Van Koughnet,
Burwell,	R. Fraser,	Macon,	J. Wilson,
Chisholm,	Ingersoll,	Morris,	W. Wilson,
Clark,	Jarvis,	Mount,	—27.

NAYS.

Messrs.

Beardsley,	Duncombe,	A. M'Donald,	Roblin,
Bidwell,	Howard,	D. M'Donald,	Shaver,
Buell,	Ketchum,	Mackenzie,	White.
Campbell,	Lyons,	Perry,	
Cook,	McCall,	Randal,	—18.

The question of amendment was carried in the affirmative by a majority of nine, and ordered accordingly.

26th FEBRUARY, 1831.

Agreeably to the Order of the day the House went into Committee



mittee of the whole on the resolution relative to the Clergy Reserves.

*Journals of the
House of Assembly,
25th February,
1831.*

Mr. Shaver was called to the Chair.

The House resumed.

Mr. Shaver reported Progress, and asked leave to sit again in one hour.

The report was received, and leave granted.

The House adjourned for one hour.

The House met pursuant to adjournment.

Agreeably to the order of the day, the House went again into Committee on the resolution relative to the Clergy Reserves.

Mr. Shaver in the Chair.

The House resumed.

Mr. Shaver reported, "That the Committee had risen, and asked Leave to sit again on Monday next."

On the question for receiving the Report the House divided, and the Yeas and Nays were taken as follows:

YEAS.

Messrs.

Attorney General,	Cook,	A. M'Donald,	Roblin,
Boulton,	J. Crooks,	M'Martin,	Samson,
Brown,	Ingersol,	M'Nab,	Solicitor General,
Burwell,	Jarvis,	Morris,	Van Koughnett,
Chisholm,	Jessup,	Mout,	J. Wilson.—20.

Messrs.

Beardsley,	Duncombe,	D. M'Donald,	Shaver,
Bidwell,	Howard,	Mackenzie,	White.
Buell,	Lyons,	Perry,	
Campbell,	M'Call,	Randal,	—14.

The question was carried in the affirmative by a majority of six, and leave was granted accordingly.

12TH MARCH, 1831.

Agreeably to the order of the day the House went into Committee of the whole on the resolutions relative to the Clergy Reserves, &c.

Mr. Roblin was called to the Chair.

The House resumed, the Black Rod being at the Door.

Agreeably



Agreeably to the order of the day the House went again into Committee on the resolutions on the subject of the Clergy Reserves.

*Journal of the
House of Assembly,
11th, 12th March,
1821.*

Mr. Roblin in the Chair.

The House resumed.

Mr. Roblin reported the resolutions.

The report was received.

The first resolution was read as follows:

Resolved, That by the Act of Parliament of Great Britain and Ireland, 31st Geo. 3, one-seventh of the Lands of this Province was set apart for the support of a Protestant Clergy: That under that Act Appropriations have from time to time been made, and which appropriations are, in this Province, known by the name of "The Clergy Reserves." That these appropriations having been generally made in Lots of 200 Acres, throughout the several Townships of this Province, the value of the same has been much enhanced by the settlement of the country, and principally from the improvement of the Lands, in the neighborhood of such appropriations, by the labour of the inhabitants, composed of various denominations of Christians; that these Reserves being so interspersed with the Lands of actual settlers have materially retarded the improvement of the Colony.

That by an Act passed in the reign of his late most gracious Majesty, provision was made for the sale of a portion of the said Reserves. That it is unjust as well as impolitic to appropriate the said lands to the support of any one church exclusively, and it is extremely difficult, if not altogether impracticable, to apportion or divide the same among the Clergy of all denominations of Protestants: That a large majority of the inhabitants of this Province are sincerely attached to His Majesty's person and government, but are averse to the establishment of any exclusive or dominant Church: That this House feels confident that to promote the prosperity of this portion of His Majesty's dominions, and to foster and insure the affection and gratitude of the people of this Province, His Majesty will be graciously pleased to give the most favorable consideration to the wishes of his faithful subjects.

That to terminate the jealousy and dissension which have hitherto existed on the subject of the said Reserves, to remove a barrier to the settlement of the country, and to provide a fund available for the promotion of education, it is extremely desirable that the said lands so reserved be sold, and the proceeds arising from the sale of the same placed at the disposal of the Provincial Legislature, to be applied exclusively for those purposes: That an humble address be presented to His Majesty, setting forth the subject of this resolution, and praying His Majesty will be graciously pleased to recommend to His Majesty's Parliament



Parliament of Great Britain and Ireland to pass an Act to authorize the sale of the Clergy Reserves remaining unsold and to enable the Legislature of this Province to appropriate the proceeds thereof in such manner as may be considered most expedient for the advancement of education, and in aid of erecting places of Public Worship for various denominations of Christians.

Journal of the
House of Assembly,
15th March,
1851

In amendment, Mr. Solicitor General, seconded by Mr. Burwell, moves, "That it be resolved that the Imperial Parliament, in pursuance of the gracious recommendation of our late revered Sovereign Lord King George the Third, hath appropriated for the maintenance and support of a Protestant Clergy within this Province, a certain allotment of lands usually known as "the Clergy Reserves."

That the Diffusion of Religious Knowledge and Instruction is an Object of the first Importance to the Happiness and Welfare of Mankind.

That the Land appropriated for the Support of Ministers of Religion in this Province, having been made with a view to this Object, it is repugnant to the best Interests of the Inhabitants of Upper Canada to apply them to any other Use.

That it is the Opinion of this House that an humble Address be presented to His Majesty, praying that His Majesty will not comply with any Request which may be made to recommend to Parliament the Alienation of the Clergy Reserves in this Province to any other Purpose than that for which they were set apart.

That His Majesty be at the same Time informed that it is the earnest Desire of his faithful Subjects of Upper Canada to submit to the same Imperial Parliament that conferred the Lands in question to determine on such Alteration in the Distribution or Disposal thereof as in their Wisdom may be deemed best calculated to carry their original Intention into effect, and that this Desire is expressed with a view to the final Settlement of a Question which has caused much Dissension and Difference of Opinion on this important Subject among the People's Subjects in Upper Canada.

On which the House divided, and the Yeas and Nays were taken as follows:

Messrs.

YEAS

Boulton,
Burwell,

Jarvis,
Lewis,

Robinson,
Solicitor General,

Van Koughnet

Messrs.

NAYS

Beardley,
Kerzy,

Dawson,
Ellis,

McCall,
Dr. McDevall,

Randal,
Roblin,

Bidwell,



Bidwell,	A. Fraser,	Mackenzie,	Samson,
Campbell,	Howard,	M'Martin,	Shaver,
Chisholm,	Ingersoll,	Macon,	White.—29.
Clark,	Jones,	Morris,	
J. Crooks,	Ketchum,	Mount,	
W. Crooks,	Lyons,	Perry,	

Journal of the
House of Assembly,
March 12,
1831.

The Question of Amendment was decided in the Negative by a Majority of Twenty-two.

In Amendment to the First Resolution, Mr. Morris, seconded by Mr. Berczy, moves, "That the Words 'foster and ensure the Affection and Gratitude,' be expunged after the Words 'and to' and the following inserted: 'satisfy the earnest Desire.'"—Which was carried.

On the original Question as amended being put, the House divided, and the Yeas and Nays were taken as follows:

Messrs.		YEAS.	
Beardsley,	Duncomb,	Lyons,	Perry,
Berczy,	Elliott,	M'Call,	Randal,
Bidwell,	A. Fraser,	D. M'Donald,	Roblin,
Campbell,	Howard,	Mackenzie,	Samson,
Chisholm,	Ingersoll,	M'Martin,	Shaver,
Clark,	Jones,	Macon,	White.—30.
J. Crooks,	Ketchum,	Morris,	
W. Crooks,	Lewis,	Mount,	

Messrs.		NAYS.	
Boulton,	Jarvis,	Robinson,	Vankoughnett.—7
Burwell,	Jessup,	Solicitor General,	

The original Question, as amended, was carried in the affirmative by a Majority of Twenty-three, and is as follows:

Resolved, That by the Act of the Parliament of Great Britain and Ireland, 31st Geo. 3d, One Seventh of the Lands of this Province were set apart for the support of a Protestant Clergy.

That under that Act Appropriations have from Time to Time been made, and which Appropriations are in this Province known by the Name of "the Clergy Reserves." That these Appropriations having been generally made in Lots of Two hundred Acres throughout the several Townships of this Province, the Value of the same has been much enhanced by the Settlement of the Country, and principally from the Improvement of the Lands in the Neighbourhood of such Appropriations by the Labour of Inhabitants composed of various Denominations of Christians: That these Reserves, being so interspersed with the Lands

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Lands of actual Settlers, have materially retarded the Improvement of the Country: That by an Act passed in the Reign of His late most Gracious Majesty Provision was made for the Sale of a Portion of the said Reserves: That it is unjust as well as impolltic to appropriate the said Lands to the Support of any One Church exclusively, and it is extremely difficult, if not altogether impracticable, to apportion or divide the same among the Clergy of all denominations of Protestants: that a large majority of the Inhabitants of this Province are sincerely attached to His Majesty's person and Government, but are averse to the Establishment of any exclusive or dominant Church: That this House feels confident that to promote the Prosperity of this Portion of His Majesty's Dominions, and to satisfy the earnest Desire of the People of this Province, His Majesty will be graciously pleased to give the most favourable Consideration to the Wishes of His faithful Subjects: That to terminate the Jealousy and Dissension which have hitherto existed on the Subject of the said Reserves, to remove a Barrier to the Settlement of the Country, and to provide a Fund available for the Promotion of Education, it is extremely desirable that the said Lands so reserved be sold, and the Proceeds arising from the Sale of the same placed at the Disposal of the Provincial Legislature to be applied exclusively for those Purposes: That an humble Address be presented to His Majesty, setting forth the Subject of this Resolution, and praying His Majesty will be graciously pleased to recommend to His Majesty's Parliament of Great Britain and Ireland, to pass an Act, to authorize the Sale of the Clergy Reserves remaining unsold, and to enable the Legislature of this Province to appropriate the Proceeds thereof in such Manner, as may be considered most expedient for the Advancement of Education, and in aid of erecting places of public Worship for various Denominations of Christians.

Journals of the
House of Assembly,
March 17,
1831.

Mr. Samson, seconded by Mr. White, moves, "That Messrs. Elliott and Mount be a Committee to draft and report an Address pursuant to the Resolutions on the Subject of the Clergy Reserves?"—Ordered.

Mr. Elliott, from the Select Committee to draft an Address to His Majesty grounded on the Resolution of this House relative to the future Disposition of the Clergy Reserves, reported a Draft, which was received and read, and ordered to be read a Second Time on Monday next.

13TH DECEMBER, 1831.

Agreeably to Notice, Mr. Samson, seconded by Mr. Clark, moves that it be

Journals of the
House of Assembly,
Dec. 13,
1831.

Resolved,—That by the Act of the Parliament of Great Britain, Thirty-first George III, One Seventh of the Lands of this Province was set apart for the support of a Protestant Clergy.

That under that Act Appropriations have from Time to Time been made.



made, and which Appropriations are in this Province known by the Name of "the Clergy Reserves." That these Appropriations having been generally made in Lots of Two Hundred Acres throughout the several Townships of this Province, the Value of the same has been much enhanced by the Settlement of the Country, and principally from the Improvement of the Lands in the neighborhood of such appropriations, by the labour of the Inhabitants composed of various Denominations of Christians: That these Reserves, being so interspersed with the Lands of actual Settlers, have materially retarded the Improvement of the Country: That by an Act passed in the Reign of His late most Gracious Majesty Provision was made for the Sale of a Portion of the said Reserves: That it is unjust as well as impolitic, to appropriate the said Lands to the support of any one Church exclusively, and it is extremely difficult, if not altogether impracticable, to apportion or divide the same among the Clergy of all denominations of Protestants: That a large majority of the inhabitants of this Province are sincerely attached to His Majesty's person and Government, but are averse to the establishment of any exclusive or dominant church: That this House feels confident that to promote the prosperity of this portion of His Majesty's Dominions, and to satisfy the earnest desire of the people of this Province, His Majesty will be graciously pleased to give the most favorable consideration to the wishes of his faithful subjects: That to terminate the jealousy and dissension which have hitherto existed on the subject of the said Reserves, to remove a barrier to the settlement of the country, and to provide a fund available for the promotion of education, it is extremely desirable that the said lands, so reserved, be sold, and the proceeds arising from the sale of the same placed at the disposal of the Provincial Legislature, to be applied exclusively for that purpose: That an humble address be presented to His Majesty, setting forth the subject of this Resolution, and praying His Majesty will be graciously pleased to recommend to His Majesty's Parliament of Great Britain and Ireland to pass an act to authorize the sale of the Clergy Reserves remaining unsold, and to enable the Legislature of this Province to appropriate the proceeds thereof in such manner as may be considered most expedient for the advancement of education.

Journal of the
House of Assembly
19th December,
1831.

In amendment, Mr. Perry, seconded by Mr. Bidwell, moves, That after the word "education," in the original, the following words be added: "or other improvements in which the inhabitants of the Province will generally and equally participate."

On which the House divided, and the Yeas and Nays were taken as follows:

MESSRS.		YEAS.	
Beardsley,	Campbell,	Howard,	Shaver,
Bidwell,	Cook,	Perry,	
			NAYS—Messrs.

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Messrs.

NAYS.

Attorney General, Crooks,	Lewis,	
Berczy,	Duncombe,	McMartin,
Boulton,	Elliott,	Macon,
Buell,	A. Fraser,	Morris,
Burwell,	Ingersoll,	Mount,
Chisholm,	Jones,	Roblin,
Clark,	Kethum,	Werden 26.

Journal of the
House of Assen-
s. 13th Decem-
ber, 1847

The question of amendment was decided in the negative by a Majority of nineteen.

In amendment to the original motion, Mr. Solicitor General, seconded by Mr. Burwell, moves, "That all the words after the word 'Resolved,' be expunged, and the following inserted: "That the Imperial Parliament, in pursuance of the gracious recommendation of our late revered Sovereign Lord King George the Third, hath appropriated for the maintenance and support of a Protestant Clergy within this Province a certain allotment of land usually known as 'the Clergy Reserves.'

"That the diffusion of religious knowledge and instruction is an object of the first importance to the happiness and welfare of mankind.

"That the lands appropriated for the support of ministers of religion in this Province, having been made with a view to this object, it is repugnant to the best interests of the inhabitants of Upper Canada, to apply them to any other use.

"That it is the opinion of this House, that an humble address be presented to His Majesty, praying that His Majesty will not comply with any request which may be made to recommend to Parliament the alienation of the Clergy Reserves in this Province to any other purpose than that for which they were set apart.

"That His Majesty be at the same time informed that it is the earnest desire of his faithful subjects, that the same power which bestowed the land in question should be referred to, to determine on any alteration in the distribution or disposal thereof which in their wisdom may be deemed necessary to carry their original intention into effect; and that this desire is expressed with a view to the final settlement of a question which has caused much discussion and difference of opinion on this important subject among His Majesty's subjects in Upper Canada."

On which the House divided, and the Yea and Nays were taken as follows:

Yea—Messrs.



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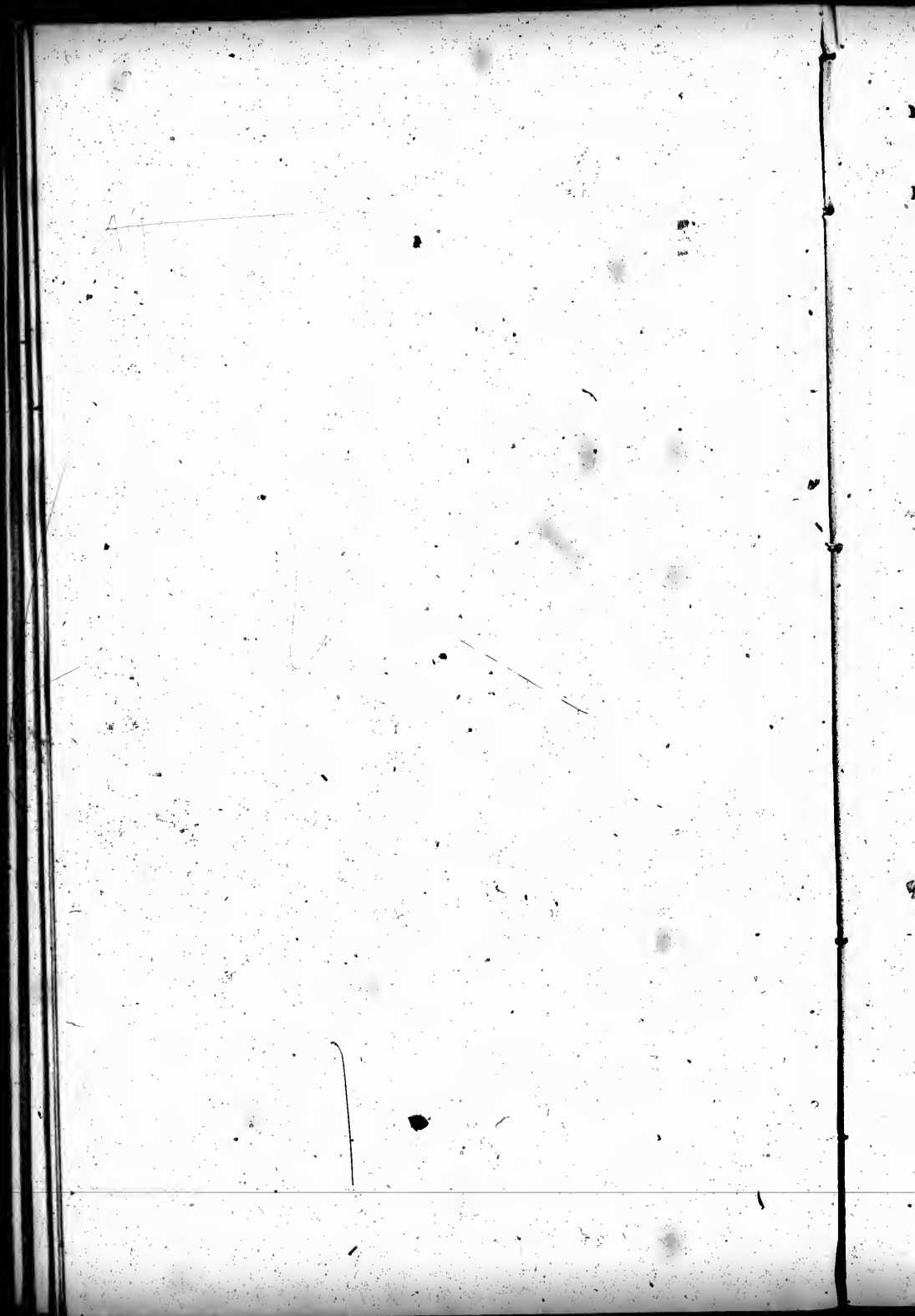
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Messrs.	Attorney General, Boulton,	YEAS. Burwell, R. Fraser,	Lewis, Solicitor General.—6.
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Journal of the
House of Assem-
bly, 13th Decem-
ber, 1831.

Messrs.	NAYS.		
Beardsley,	Crooks,	McCall,	Roblin,
Barczy,	Duncombe,	McMartin,	Samson,
Bidwell,	Elliott,	Macon,	Shade,
Buell,	A. Frazer,	Morris,	Shaver,
Campbell,	Howard,	Mount,	Thompson,
Chisholm,	Ingersoll,	Perry,	Warren,
Clark,	Jones,	Randal,	Werden. 30.
Cook,	Ketchum,		

The question of amendment was decided in the negative by a majority of twenty-four.

In amendment to the original motion, Mr. Attorney General, seconded by Mr. Elliott, moves, "That after the word 'Resolved' in the original motion, the whole be expunged, and the following be inserted: 'That His late Majesty King George the Third, of illustrious memory, was graciously pleased, by messages to both Houses of Parliament, in the thirty-first year of his reign, to express his royal desire that an appropriation of land for the support and maintenance of a Protestant Clergy, in proportion to the lands already granted by His said late Majesty within this Province, and that such provision might be made with respect to all future grants of land, as might best conduce to the due and sufficient support and maintenance of a Protestant Clergy within the said Province, in proportion to such increase as might happen in the population and cultivation thereof.

"That in accordance with the gracious intentions expressed in the said message, both Houses of Parliament concurred with His message in declaring by an Act passed in the thirty first year of His said Majesty's reign, that a proportion equal in value to one-seventh of the lands granted or to be granted by His said Majesty, his heirs or successors, within the said Province, should be appropriated to the support and maintenance of a Protestant Clergy within the same.

"That provision was also made by the said Act for constituting and erecting parsonages or rectories within the said Province according to the establishment of the Church of England; and for endowing every such parsonage or rectory with so much of the lands so appropriated as aforesaid as by the Executive Government of this Province might be judged expedient, but no provision was made for appropriating any part of the lands towards the support of any other Protestant Clergy.

"That doubts have been entertained upon the construction of the term

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term "Protestant Clergy," made use of in the said Act, whether the same was intended to apply exclusively to the Clergy of the Church of England, or to the Clergy of any and what other Churches or Churches within the said Province.

*Journal of the
House of Assem-
bly, 13th Decem-
ber, 1831.*

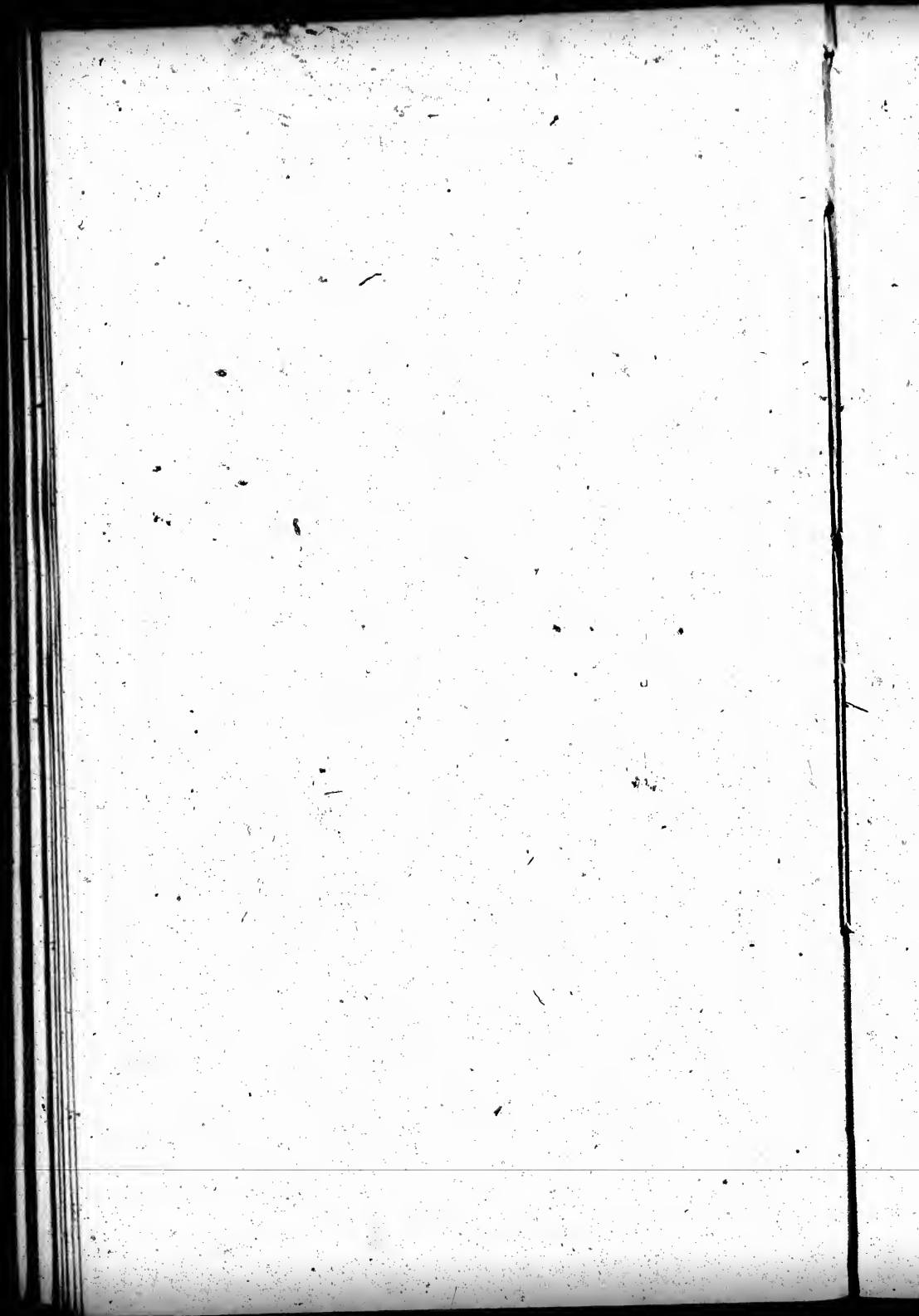
"That the population of this Province is composed of persons of various Christian denominations, and that such of the inhabitants as profess the Doctrines of the Church of England unquestionably compose but a minority of the whole, and consequently it would be unjust towards their fellow subjects of other denominations, who are equally attached to His Majesty's person and government, and have equal claims upon the protection and royal favour of their Sovereign, and by whose industry the value of the Clergy Reserves have been materially enhanced, that the whole of the said appropriation of lands directed by the said Act to be set apart for the support and maintenance of a Protestant Clergy should be applied exclusively for the benefit of such of the inhabitants as profess to belong to the Church of England, and for relieving them from the necessity of contributing to the support of their own Clergy, while others are left to make such necessary provision for the support of their Clergy out of their own private means, or are driven to solicit voluntary contributions for the attainment of this primary object of all Christian communities; and that whatever might have been the intention of Parliament in making the said appropriation, it is expedient that the said act should be amended, and that it should be explicitly declared that the term Protestant Clergy shall be held to embrace the clergy of such denominations as in England are called dissenters, as well as the Clergy ordained according to the rites and ceremonies of the establishment Church of England and Ireland, and that provisions be made for carrying such declaration into effect."

On which the House divided, and the Yeas and Nays were taken as follows:

YEAS.	
Messrs.	Atty. General, Burwell, Elliot.—3.
NAYS.	
Messieurs.	Cook, Lewis, Randal,
Beardaley,	Crooks, M'Call, Samson,
Berczy,	A. Fraser, M'Martin, Shade,
Bidwell,	Howard, Macon, Shaver,
Buell,	Ingersoll, Morris, Thompson,
Campbell,	Jones, Mount, Van Koughnett,
Chisholm,	Ketchum, Perry, Warren.—28.
Clark,	

The question of amendment was decided in the negative by a majority of twenty-five.

On the



On the original question the House divided, and the Yeas and Nays were taken as follows:

Journals of the House of Assembly, 13th December, 1831.

YEAS.

Messrs.

Beardsley,	Cook,	Ketchum,	Randal,
Berezy,	Crooks,	M'Call,	Samson,
Bidwell,	Elliott,	M'Martin,	Shade,
Buell,	A. Fraser,	Macon,	Shaver,
Campbell,	Howard,	Morris,	Thompson,
Chisholm,	Ingersoll,	Mount,	Warren,
Clark,	Jones,	Perry,	—27.

NAYS.

Messrs.

Atty. General, Burwell, Lewis, Van Koughnett,—4.

The question was carried in the affirmative by a majority of twenty-three.

Mr. Samson, seconded by Mr. Mount, moves, "Messrs A. Fraser and Macon be a Committee to draft and report an Address, pursuant to the Resolution of this House, on the subject of the Clergy Reserves."—Ordered.

Mr. A. Fraser, from the select Committee, to draft an Address to His Majesty on the subject of the future disposition of the Clergy Reserves, reported a draft, which was received and read twice, concurred in, and ordered to be engrossed, and read a third time to-morrow.

14TH DECEMBER, 1831.

Agreeably to the order of the day, the Address to His Majesty on the subject of the Clergy Reserves was read a third time.

Journals of the House of Assembly, 14th Dec. 1831.

On the question for passing the same, the House divided, and the Yeas and Nays were taken as follows:

YEAS.

Messrs.

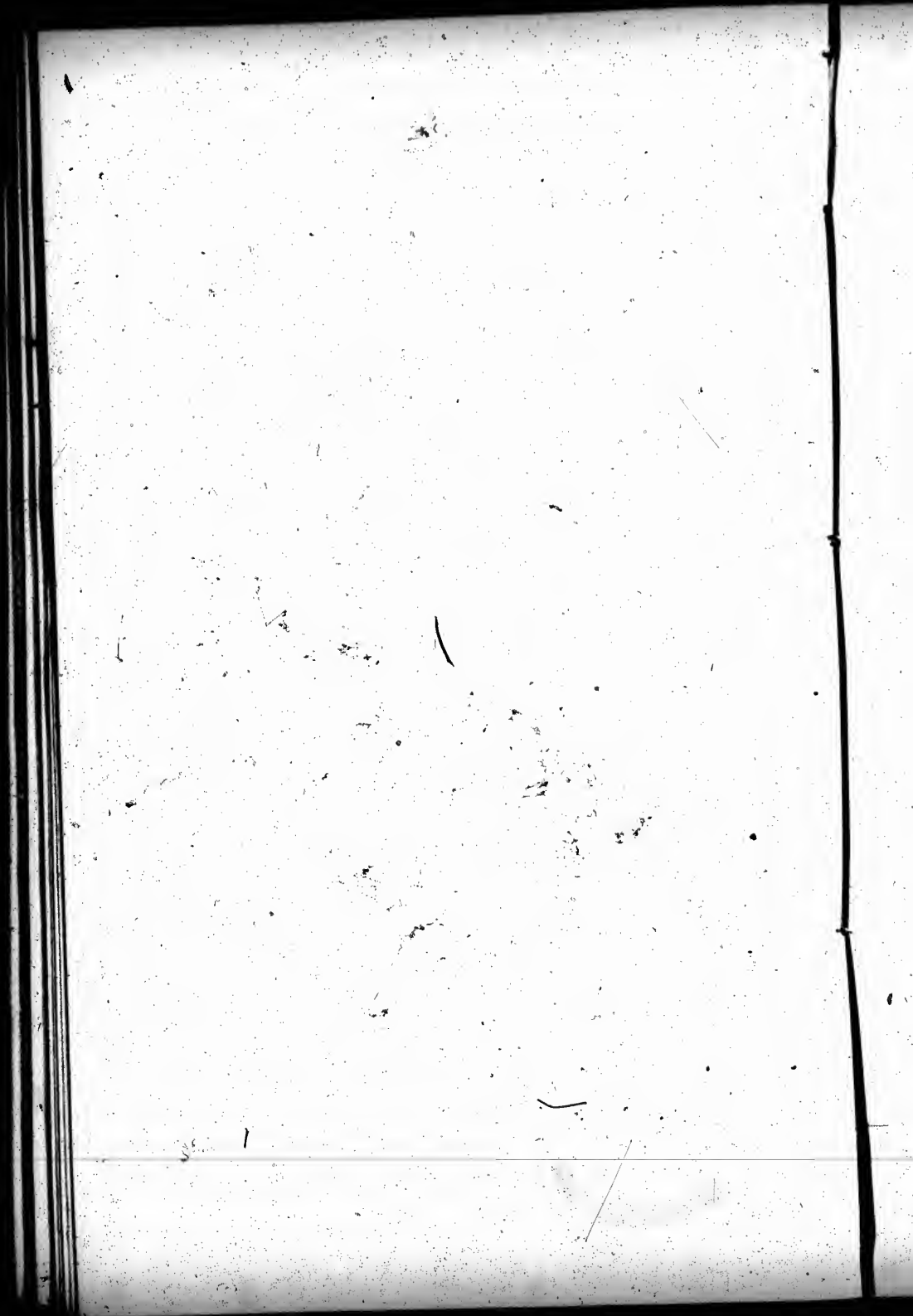
Beardsley,	Cook,	Ketchum,	Roblin,
Berczy,	Crooks,	M'Call,	Samson,
Bidwell,	Duncombe,	A. M'Donald,	Shade,
Brown,	Elliott,	Morris,	Shaver,
Buell,	Howard,	Mount,	Thompson,
Campbell,	Ingersoll,	Perry,	Warren,
Clark,	Jones,	Randal,	Werden.—28.

NAYS.

Messieurs.

Atty. General Burwell, A. Fraser, Lewis, Robinson, Van Koughnett.—6.

The question



The question was carried in the affirmative, by a majority of twenty-two; and the Address was signed by the Speaker, and is as follows: Journal of the House of Assembly, 14th December, 1831.

TO THE KING'S MOST EXCELLENT MAJESTY.

Most Gracious Sovereign,

WE, Your Majesty's dutiful and loyal subjects the Commons of Upper Canada in the Provincial Parliament assembled, beg leave most humbly to submit to your Majesty that by an Act of the Parliament of Great Britain, 31 Geo. III., one-seventh of the lands of this Province was set apart for the support of a Protestant Clergy. Address to His Majesty by the House of Assembly, December 14, 1831.

That under that Act appropriations have from time to time been made, and which appropriations are, in this Province, known by the name of the "Clergy Reserves." That these appropriations having been generally made in lots of two hundred acres, throughout the several Townships of this Province, the value of the same has been much enhanced by the settlement of the country, and principally from the improvement of the lands in the neighborhood of such appropriations by the labour of inhabitants composed of various denominations of Christians: That these Reserves being so interspersed with the lands of actual settlers have materially retarded the improvement of the country; That by an Act passed in the reign of his late most gracious Majesty provision was made for the sale of a portion of the said Reserves: That it is unjust, as well as impolitic, to appropriate the said lands to the support of any one Church exclusively, and it is extremely difficult, if not altogether impracticable, to apportion or divide the same among the Clergy of all denominations of Protestants: That a large majority of the inhabitants of this Province are sincerely attached to your Majesty's person and Government, but are averse to the establishment of any exclusive or dominant Church: That this House feels confident, that to promote the prosperity of this portion of your Majesty's dominions, and to satisfy the earnest desire of the people of this Province, Your Majesty will be graciously pleased to give the most favorable consideration to the wishes of your faithful subjects: That to terminate the jealousy and dissension which have hitherto existed on the subject of the said Reserves, to remove a barrier to the settlement of the country, and to provide a fund available for the promotion of Education, it is extremely desirable that the said lands, so reserved, be sold, and the proceeds arising from the sale of the same placed at the disposal of the Provincial Legislature, to be applied exclusively for that purpose. We therefore humbly pray that your Majesty will be graciously pleased to recommend to your Majesty's Parliament of Great Britain and Ireland to pass an Act to authorize the sale of the Clergy Reserves remaining unsold, and to enable the Legislature of this Province to appropriate the proceeds

the proceeds thereof in such manner as may be considered most expedient for the Advancement of Education.

Address to His Majesty by the House of Assembly, 14th December, 1831.

ARCHIBALD M'LEAN,
Speaker.

Commons House of Assembly, }
14th December, 1831. }

27TH DECEMBER, 1831.

Journals of the House of Assembly, 27th December, 1831.

The House met.

At ten o'clock the Speaker, Clerk, Sergeant at Arms, and Members present waited upon His Excellency the Lieutenant-Governor with the Address of the House to His Excellency, requesting His Excellency to transmit the Address to His Majesty on the subject of the Clergy Reserves, and returned.

The minutes of yesterday were read.

The Speaker reported that the House had waited upon His Excellency the Lieutenant-Governor with its Address, requesting His Excellency to transmit the Address to His Majesty to His Majesty's Principal Secretary of State for the Colonies, and that His Excellency had been pleased to make thereto the following answer:—

Gentlemen,

I will take an early opportunity of transmitting to the Secretary of State for the Colonies the Address to His Majesty.

24 JANUARY, 1832.

The House resumed to receive a Message.

Mr Acting Secretary McMahon brought down from His Excellency the Lieutenant Governor a Message, which the Speaker read as follows:

J. COLBORNE.

The Lieutenant Governor acquaints the House of Assembly that he has a few hours since received from His Majesty's Government certain information respecting the Clergy Reserves, and that he will communicate it to the House early to-morrow.

Government House, }
Tuesday, 24th January, 1832. }

25TH JANUARY, 1832.

Mr. Acting Secretary McMahon brought down from His Excellency the Lieutenant Governor a Message, which was read as follows:—

J. COLBORNE.

The Lieutenant Governor has received His Majesty's commands to make the following communication to the House of Assembly in reference

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ence to the Lands which, in pursuance of the Constitutional Act of this Province, have been set apart for the support and maintenance of a Protestant Clergy.

*Journal of the
House of Assembly,
17th Janu-
ary, 1832.*

The representations which have at different times been made to His Majesty and His Royal Predecessors of the prejudice sustained by His faithful subjects in this Province from the appropriation of the Clergy Reserves have engaged His Majesty's most attentive consideration.

His Majesty has, with no less anxiety, considered how far such an appropriation of territory is conducive either to the temporal welfare of the Ministers of Religion in this Province, or to their spiritual influence. Bound no less by his personal feelings than by the sacred obligations of that station to which Providence has called him, to watch over the interests of all the Protestant Churches within His dominions, His Majesty could never consent to abandon those interests with a view to any objects of temporary and apparent expediency.

It has therefore been with peculiar satisfaction that in the results of His inquiries into this subject His Majesty has found that the changes sought for by so large a proportion of the inhabitants of this Province may be carried into effect without sacrificing the just claims of the Established Churches of England and Scotland. The waste lands which have been set apart as a provision for the Clergy of those venerable bodies, have hitherto yielded no disposable Revenue. The period at which they might reasonably be expected to become more productive is still remote.

His Majesty has solid grounds for entertaining the hope that before the arrival of that period it may be found practicable to afford the Clergy of those Churches such a reasonable and moderate provision as may be necessary for enabling them properly to discharge their sacred functions.

His Majesty, therefore, invites the House of Assembly of Upper Canada to consider how the powers given to the Provincial Legislature by the Constitutional Act to vary or repeal this part of its provisions can be called into exercise most advantageously for the spiritual and temporal interests of His Majesty's faithful subjects in this Province.

Government House, 25th January, 1832.

[A similar Message sent to the Legislative Council.]

Mr. Attorney General, seconded by Mr. J. Willson, moves for leave to bring in a Bill to re-vest in His Majesty the Lands set apart in this Province for the support of a Protestant Clergy in this Province, discharged of all trusts whatsoever for that purpose; and that the thirty-second Rule of this House be dispensed with for that purpose.

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Commons House of Assembly,
17th January, 1834.

PRESENT.—Messrs. Bidwell, Boulton, Buell, Burwell, Campbell, Chisholm, Duncombe, Alexander Fraser, Donald Fraser, Richard D. Fraser, Hornor, Howard, Jaryis, Jones, Lyon, Archibald Macdonald, Morris, Norton, Perry, Robinson, Shade, Shaver, Werden, White, John Willson, and Wm. Wilson.

Mr. Buell, seconded by Mr. Perry, moves, "That Messrs. Roblin and Shaver be a Committee to wait on his Excellency to know when he will be pleased to receive said Address, and present the same."—Ordered.

27TH JANUARY, 1834. 27th Jan. 1834.

Mr. Roblin, from the Committee to wait upon his Excellency the Lieutenant Governor with the Address of this House for information relative to the Clergy Reserves, reported delivering the same, and that His Excellency had been pleased to make thereto the following answer:

GENTLEMEN,

I will direct the King's Receiver General, the Surveyor General, the Commissioner of Crown Lands, and the Secretary of the Clergy Corporation.

Bidwell, Clark, Howard,

The question was carried in the affirmative by a majority of twenty-one.

The original question as amended was then put and carried.

On the question for the second reading of the Bill to-morrow the House divided, and the yeas and nays were taken as follows:—

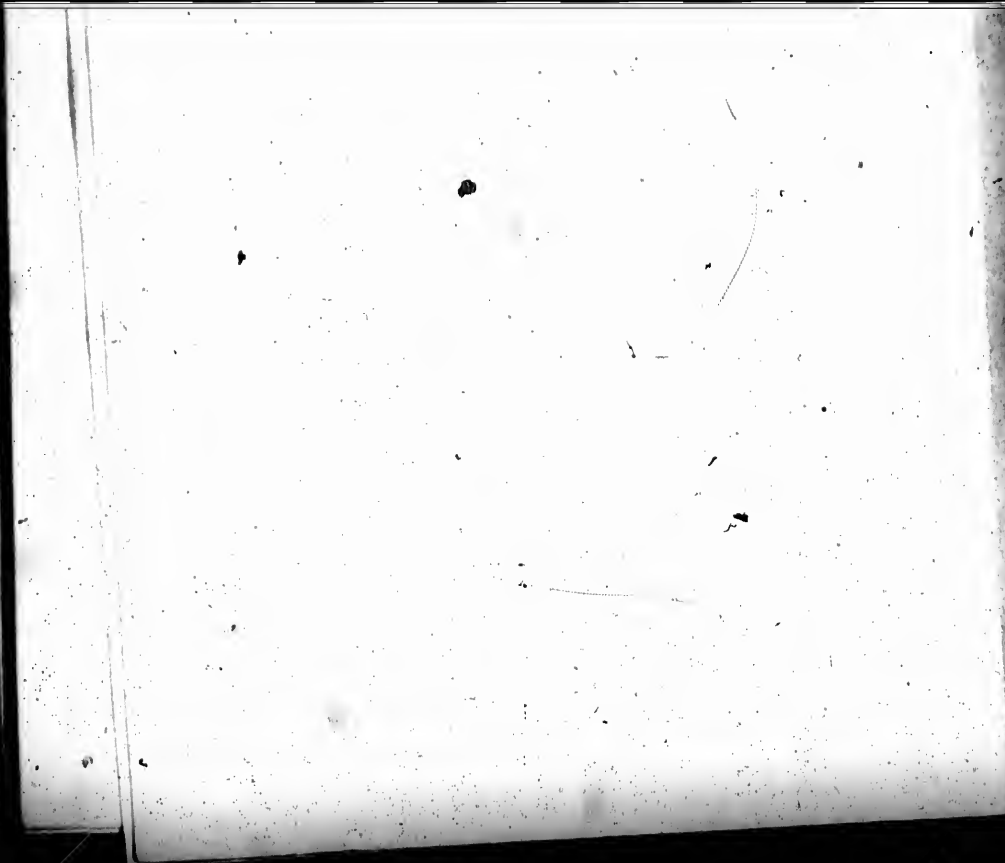
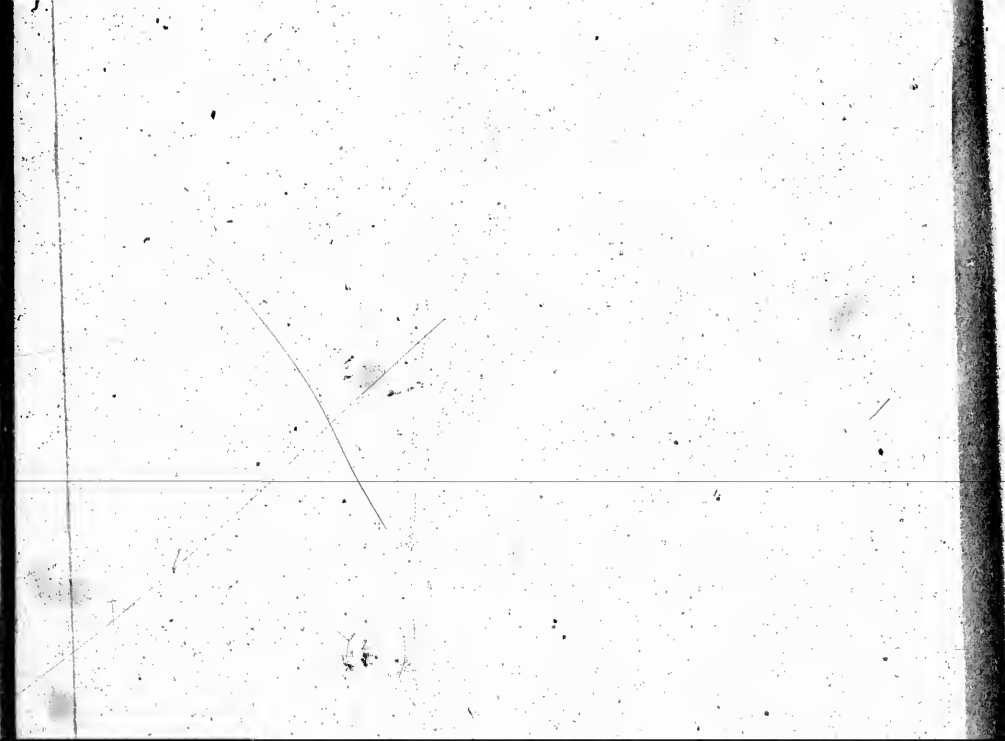
Messrs.	YEAS.		
Atty. General,	Duncombe,	M'Call,	Roblin,
Berczy,	Elliott,	D. McDonald,	Samson,
Bidwell,	Howard,	Maçon,	Shade,
Buell,	Ingersoll,	Morris,	Shaver,
Campbell,	Jarvis,	Norton,	Werden,
Chisholm,	Ketchum,	Randal,	J. Willson,
Clark,	Lyons,	Robinson,	W. Wilson. 29
Cook,			

Messrs.	NAYS.	
Boulton,	Jones,	Macnab, VanKoughnett. 7.
Burwell,	M'Martin,	Sol. General,

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Messrs.	YEAS.	
Berczy,	Martin,	Samson,
Frazer, A.	Morris,	Vankoughnet,
Macdonald, A.	Robinson,	Wilson, W.—9.

Messrs.	NAYS.	
Bidwell,	Duncombe,	McDonald, D.
Buell,	Elliott,	Merritt,
Campbell,	Fraser, D.	Perry,
Chisholm,	Howard,	Roblin,
Clark,	Ketchum,	Shaver,
Cook,		White.—17.

The question of Amendment was decided in the negative by a majority of eight.

On the question for going into Committee of the Whole on the bill the yeas and nays were taken as follows:

Messrs.	YEAS.	
Bidwell,	Fraser, A.	Morris,
Buell,	Fraser, D.	Perry,
Campbell,	Howard,	Roblin,
Clark,	Ketchum,	Samson,
Cook,	Macdonald, A.	Shaver,
		Duncombe,

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leave to bring in a bill for the disposal of the Clergy Reserves in this Province.

In amendment, Mr. Samson, seconded by Mr. Crooks, moves, "That after the word 'moves' the remainder be expunged, and the following inserted: 'That an address be presented to His Excellency the Lieutenant Governor, praying His Excellency to inform this House if any answer has been received from His Majesty's Government to the Address of this House of last Session on the subject of the Clergy Reserves.'"

On which the yeas and nays were taken as follows:

Messrs.	YEAS.		
Atty. General,	Elliott,	Morris,	Shade,
Boulton,	D. Fraser,	Merritt,	Sol. General,
Burwell,	R. D. Fraser,	Pinhey,	John Willson,
Chisholm,	Jarvis,	Samson,	Wm. Willson.
Crooks,	Macnab,		—18.

Messrs.	NAYS.	
Bidwell,	Howard,	A. Macdonald, Randal,
Clark,	Ketchum,	Norton, Shaver,
Cook,	Lewis,	Perry, Werden.—14.
Duncombe,	McCall,	
		The question

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The House met.

The minutes of yesterday were read.

Agreeably to the order of the day, the Committee of the Whole House resumed on the Clergy Reserve Bill.

Mr. Donald McDonald in the Chair.

The House resumed.

Mr. McDonald reported the bill as amended.

On the question for receiving the Report, the yeas and nays were taken as follows:

Messrs.	YEAS.	
Bidwell,	Duncombe,	Randal,
Buell,	Fraser, D.	Roblin,
Campbell,	Honor,	Samson,
Chisholm,	Howard,	Shaver,
Clark,	Ketchum,	White,
Cook,	McNaledge,	Wilson, W.—19.
Perry,		

Messrs.	NAYS.	
Boulton,	Fraser, A.	Morris,
Burwell,	Macdonald, A.	Robinson,
Crooks,	McMartin,	Vankoughnet.—9.

The question

Crooks,	Ketchum,	Perry,	J. Winbold,
Duncombe,	Lewis,	Randal,	W. Wilson.
Elliott,			— 25

Messrs.	NAYS.	
Clark,	McCall,	Norton,
		Shaver.—4.

The question was carried in the affirmative by a majority of twenty-one; and the Address was ordered to be engrossed, and read a third time to-morrow.

8TH NOVEMBER, 1832.

Agreeably to the Order of the Day, the Address to His Excellency the Lieutenant Governor, for information relating to the Clergy Reserve, was read a third time and passed, and is as follows:

To His Excellency SIR JOHN COLBORNE, Knight Commander of the Most Honourable Military Order of the Bath, Lieutenant Governor of the Province of Upper Canada, Major General commanding His Majesty's Forces therein, &c., &c.

Address to His Excellency, Sir J. Colborne, 8th Nov. 1832.

MAY IT PLEASE YOUR EXCELLENCY,

We, His Majesty's dutiful and loyal subjects the Commons of Upper Canada

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Agreeably to the order of the day, the Clergy Reserve Bill was read the third time.

On the question for passing the bill, Mr. Morris, seconded by Mr. Samson, moves in amendment, "That the bill do not now pass, but that it be referred to the consideration of a Select Committee, to be composed of Messrs. Perry, A. Macdonald, and Duncombe, and that it be an instruction to the said Committee to report a bill for the sale of the Clergy Reserves, with the following preamble :

"Whereas it is expedient to repeal the law now in force which authorizes the Reservation of One-seventh of the Lands in this Province for the support of a Protestant Clergy, and to dispose of the said lands for the benefit of General Education," and with such enacting clauses as shall give to the several Sheriffs of the Province power and authority to sell the said Reserves.

On which the yeas and nays were taken as follows:

Messrs.	YEAS.	
Berczy,	Fraser, D.	Morris,
Chisholm,	Lewis,	Samson,
Fraser, A.	Macdonald, A.	Willson, J.—9.
		NAYS—Messrs.

I have received an answer to the resolution in the same manner as before. Reply of His Excellency the Governor on the subject of Clergy Reserves, which I shall take an early opportunity of communicating to the House.

J. COLBORNE.

The Lieutenant Governor transmits to the House of Assembly a Copy of a Despatch which he has received from His Majesty's Secretary of State for the Colonies, respecting the Address of the House to the King of last Session, on the subject of the Clergy Reserves.

Government House,
9th November, 1832.

12TH NOVEMBER, 1832.

Mr. Perry, seconded by Mr. Bidwell, moves for leave to bring in a Bill for the disposal of Clergy Reserves in this Province, and that the Thirty-first Rule of this House be dispensed with so far as relates to the same.

On which the yeas and nays were taken as follows:

Messrs.	YEAS.	
Bidwell,	Hornor,	Pinhey,
Duell,	Ketchum,	Randal,
		Clarke

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His late Majesty, His Heirs and Successors, to authorise the Governor, or Lieutenant-Governor of each of the said Provinces respectively, or the Person administering the Government therein, to make from and out of the Lands of the Crown within such Provinces, such Allotment and Appropriation of the Lands for the Support and Maintenance of a Protestant Clergy within the same as may bear a due proportion to the amount of such Lands within the same as had at any time been granted by or under the authority of His said late Majesty; and that upon any grant of lands within either of the said Provinces, which should hereafter be made by or under the authority of His Majesty, His Heirs and Successors, there should at the same time be made in respect of the same, a proportionable allotment and appropriation of lands for the above mentioned purpose within the Township or Parish to which such lands so to be granted should appertain or be annexed, or as nearly adjacent thereto as circumstances would admit; and that no such grant should be valid or effectual unless the same should contain a specification of the lands so allotted or appropriated in respect of the Land to be thereby granted, and that such land so allotted and appropriated should be as nearly as the circumstances and the nature of the case would admit, of the like quality as the lands in respect of which the said land should be so allotted and appropriated, and should be, as nearly as the sum could be estimated at the time of making such Grant, equal in value to the Seventh Part of the Lands so granted; and it

Elliott,
A. Fraser,
D. Fraser,
Hornor,
Howard,

Morris,
Norton,
Perry,
Pinhey,

Shaver,
Werden,
John Willson,
Wm. Wilson.—26.

Messrs.

Burwell,

NAVS.

R. D. Fraser.—2.

The question was carried in the affirmative by a majority of twenty-four.

13TH NOVEMBER, 1832.

Mr. Attorney General, seconded by Mr. Richard D. Fraser, moves for leave to bring in a bill to declare the lands heretofore set apart for the Support of a Protestant Clergy discharged from all trusts for that purpose.

In amendment, Mr. Perry, seconded by Mr. Roblin, moves, "That after the word 'moves,' in the original motion, the whole be expunged, and the following inserted: 'That so much of the order of the day as relates to a notice for a bill to invest in His Majesty the Clergy Reserve be discharged.'"

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reserves within such Province, upon, under, and subject to such conditions, provisos, and regulations, as His Majesty by any such instructions as aforesaid, shall be pleased to direct and appoint: provided nevertheless, that the quantity of the said Clergy Reserves so to be sold as aforesaid, in any one year, in either of the said Provinces, shall not, in the whole exceed One hundred thousand Acres; provided also, that the moneys to arise by, or to be produced from, any such sale or sales, shall be paid over to such Officer or Officers of His Majesty's Revenue, within the said Provinces respectively, as His Majesty shall be pleased to appoint to receive the same, and shall by such Officer or Officers be invested in the public funds of the United Kingdom of Great Britain and Ireland, in such manner and form as His Majesty shall from time to time be pleased to direct; provided also that the dividends and interests accruing from such public funds, so to be purchased, shall be appropriated applied and disposed of for the improvement of the remaining part of the said Clergy Reserves, or otherwise for the purposes for which the said Lands were reserved, as aforesaid, and for no other purpose whatsoever, save only so far as it may be necessary to apply the sum or any part thereof in or towards defraying the expenses of, or attendant upon, any such sale or sales as aforesaid, and which Appropriations shall be so made in such manner and form, and for such special purposes as His Majesty from time to time shall approve and direct: And whereas, in pursuance of the said last-recited Act, the Lieutenant-Governor for
the time

Crooks,
Duncombe,

Wm. Wilson.—17.

Messrs.

NAVS.

Buell,
Cook,
A. Fraser,
Hornor,

Howard,
Ketchum,
A. Macdonald,

Perry,
Randal,
Roblin,
Shaver.—11.

The question was carried in the affirmative by a majority of six, and the bill was read a first time, and ordered for a second reading to-morrow.

2ND DECEMBER, 1833.

Mr. Perry gives notice that he will, on Thursday next, move for leave to bring in a bill to dispose of the Clergy Reserves in this Province.

12TH DECEMBER, 1833.

Agreeably to notice, Mr. Perry, seconded by Mr. Howard, moves for leave to bring in a bill to provide for the sale and leasing of the Clergy Reserves in this Province.

Which was granted, and the bill read, and ordered for a second reading to-morrow.

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reason that any such Grant did not contain a specification of the lands allotted and appropriated for the support and maintenance of a Protestant Clergy in respect of the lands thereby granted, but every grant of land within this Province heretofore made by or on behalf of his Majesty or of any of his royal predecessors, in which any specifications made have been omitted, shall henceforth be and shall be deemed and taken from the day of the date thereof, to have been as valid and effectual in the law as though such grants had contained the specification aforesaid.

“ And be it, &c., That all the Lands heretofore appropriated within this Province for the support and maintenance of a Protestant Clergy, now remaining unsold, shall be and they are hereby declared to be vested in his Majesty, his Heirs and Successors, as of his and their Estate absolutely, discharged from all trusts for the benefit of a Protestant Clergy, and of and from all and every the claims and demands of such Clergy upon or in respect of the same.

“ Provided always, and be it further enacted by the authority aforesaid, That nothing herein contained shall take away or affect the right or title of any person or persons in or to any lands which may by any such person or persons be holden or enjoyed, or which any such person or persons may claim to hold or enjoy by virtue of any sale, alienation, conveyance, or contract made, executed, or entered into in pursuance,

Buell,
Burwell,
Campbell,
Chisholm,
Clark,
Crosby,
Elliott,
Frasor, A.

Howard,
Jarvis,
Jones,
Lewis,
McMartin,
Macnah,
McNeillidge,
Morris,

Samson,
Shale,
Shaver,
Vankoughnet,
Wenden,
White,
Wilson, W—33.

NAY.

Mr. Brown.—1.

The Question was carried in the affirmative by a majority of thirty-two.

16TH JANUARY, 1834.

Mr. Buell, from the Select Committee to draft an Address to His Excellency the Lieutenant Governor for information relative to the Clergy Reserves, reported a draft, which was received and read twice, and ordered to be engrossed, and read a third time to-morrow.

17TH JANUARY, 1834.

Agreeably to the order of the day, the Address to His Excellency the Lieutenant Governor, for information relative to selling and leasing of the Clergy

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the Clergy Reserves, was read the third time, passed, and signed, nem. con., and is as follows:

Journals of the House of Assembly, 17th January, 1834.

To His Excellency Sir JOHN COLBORNE, Knight Commander of the Most Honourable Military Order of the Bath, Lieutenant Governor of the Province of Upper Canada, Major General Commanding His Majesty's Forces therein, &c., &c., &c.

Address to His Excellency Sir J. Colborne, 17th Jan., 1834.

May it Please Your Excellency;

We, His Majesty's dutiful and Loyal subjects the Commons of Upper Canada in Provincial Parliament assembled, humbly request that your Excellency will be pleased to lay before this House, with as little delay as practicable, a full and detailed account of the Receipts and Expenditure of all Monies arising from the Sale or Leasing of the Clergy Reserves in this Province, and of Glebes, Rectories or Parsonages, showing the amount received and paid in each year from the several sources, by whom collected and to whom paid, and for what object or services; and also setting forth the per centage or allowance for collecting and paying the same; and also a statement showing how much of the Reserves has been set apart for Glebes, &c., and the quantity so set apart in each year.

ARCHIBALD McLEAN,

Speaker.

Commons House of Assembly,
17th January, 1834.

PRESENT.—Messrs. Bidwell, Boulton, Buell, Burwell, Campbell, Chisholm, Duncombe, Alexander Fraser, Donald Fraser, Richard D. Fraser, Hornor, Howard, Jarvis, Jones, Lyon, Archibald Macdonald, Morris, Norton, Perry, Robinson, Shade, Shaver, Werden, White, John Willson, and Wm. Wilson.

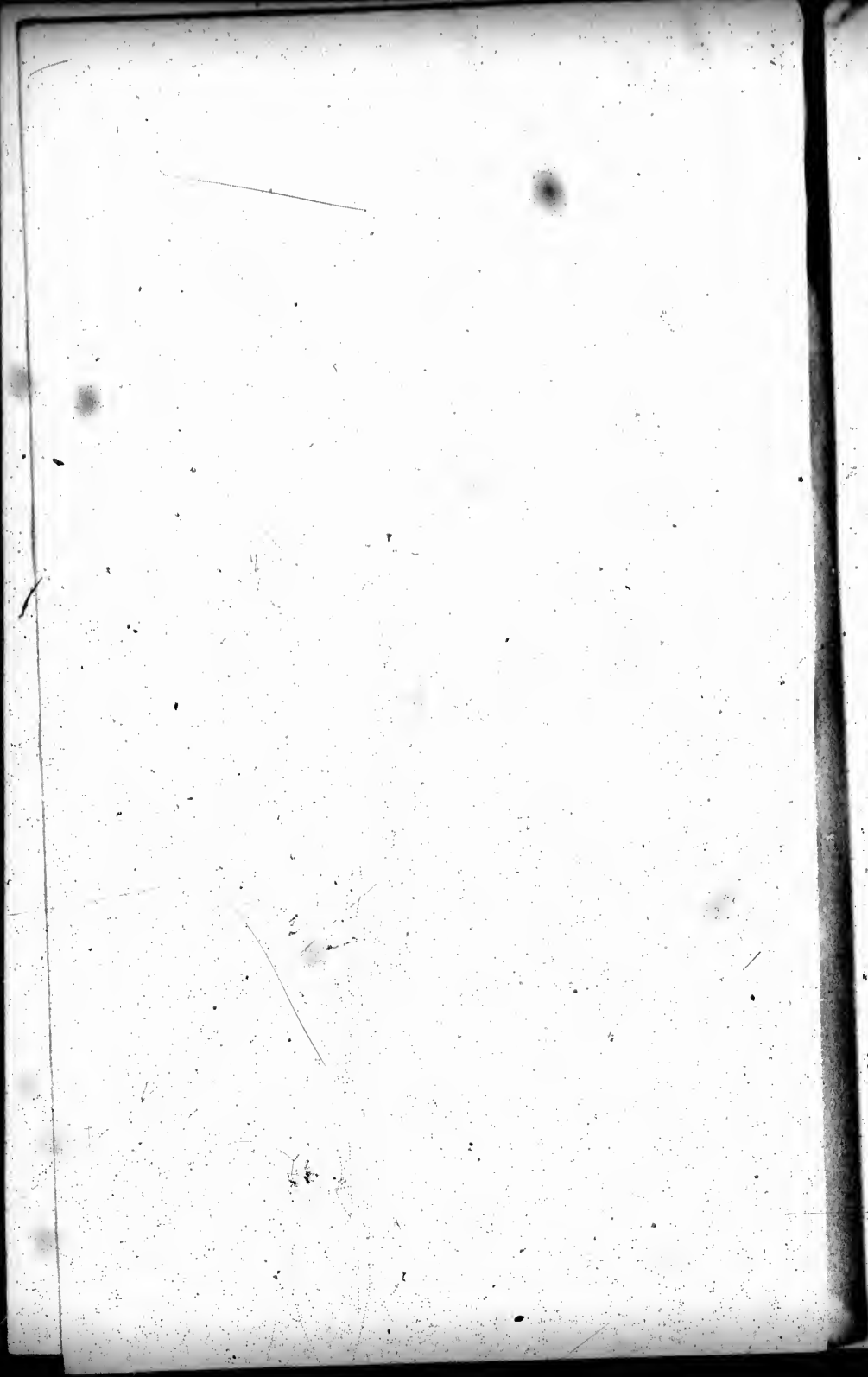
Mr. Buell, seconded by Mr. Perry, moves, "That Messrs. Roblin and Shaver be a Committee to wait on his Excellency to know when he will be pleased to receive said Address, and present the same."—Ordered.

27TH JANUARY, 1834. 27th Jan. 1834.

Mr. Roblin, from the Committee to wait upon his Excellency the Lieutenant Governor with the Address of this House for information relative to the Clergy Reserves, reported delivering the same, and that His Excellency had been pleased to make thereto the following answer:

GENTLEMEN,

I will direct the King's Receiver General, the Surveyor General, the Commissioner of Crown Lands, and the Secretary of the Clergy Corporation.



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poration, to prepare the returns which the House of Assembly request may be laid before them.

Journals of the
House of Assembly,
Vol. 11th, January,
1834.

7TH FEBRUARY, 1834.

7th Feb., 1834.

Mr. Morris gives notice that he will on Monday next move an Address to His Majesty, requesting that he will be pleased to submit to the Imperial Parliament the expediency of passing an act to repeal so much of the Act 31 Geo. III. Chap. 31, as declares that no grant of land shall be valid within this Province, unless the same shall contain a specification of one-seventh for the support of a Protestant Clergy.

19TH FEBRUARY, 1834.

19th Feb., 1834.

Agreeably to the order of the day the Clergy Reserve Sale Bill was read a second time.

On the question for referring the same to a Committee of the whole House, Mr. Samson, seconded by Mr. Berczy, moves in amendment, 'That the House do resolve itself into a Committee of the Whole on the Clergy Reserve Bill on to-morrow, and that the same be the first item on the order of the day after referring petitions.'

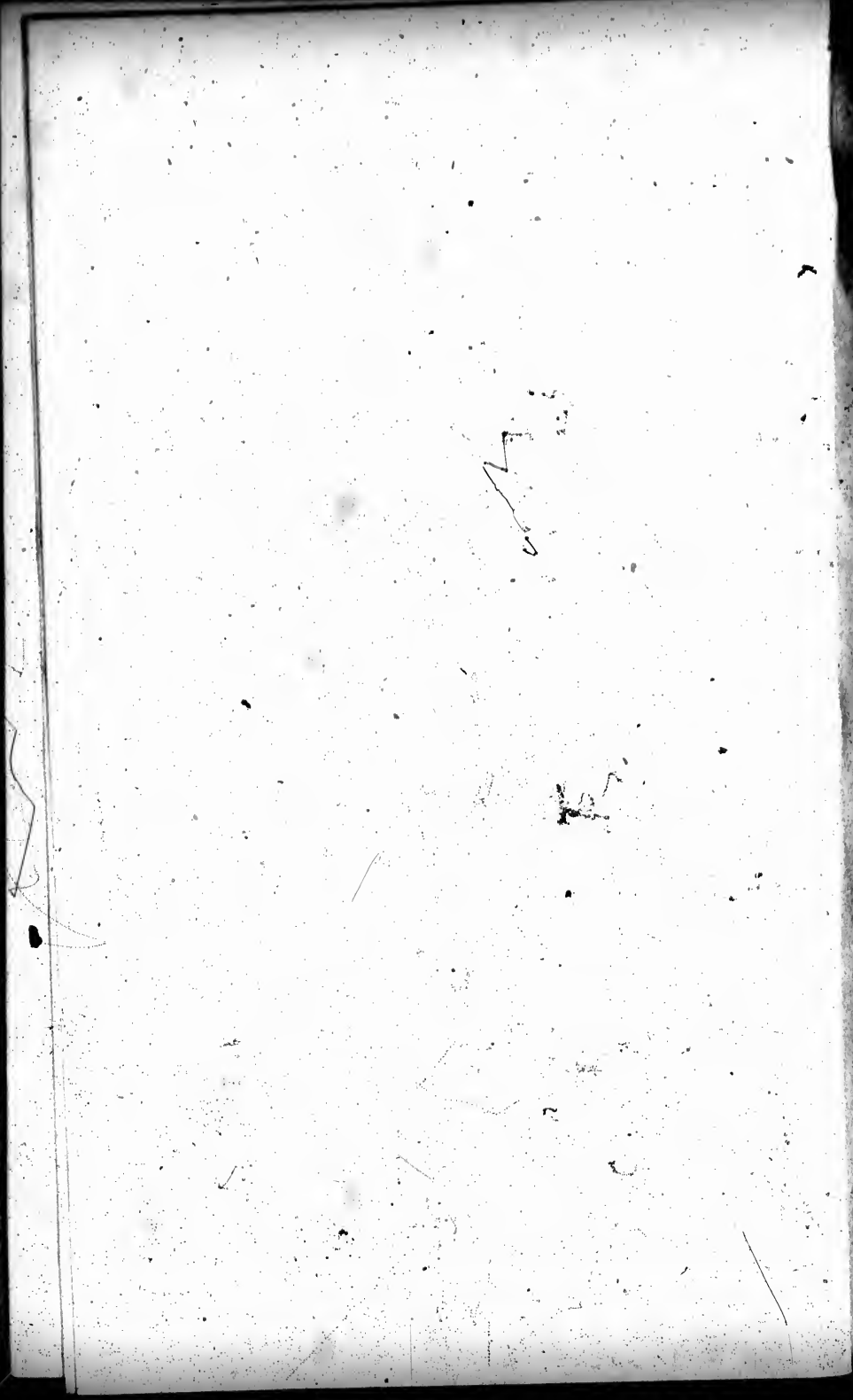
On which the yeas and nays were taken as follows:

Messrs.	YEAS.	
Berczy,	M'Martin,	Samson,
Frazer, A.	Morris,	Vankoughnet,
Macdonald, A.	Robinson,	Wilson, W.—9.
Messrs.	NAYS.	
Bidwell,	Duncombe,	M'Donald, D.
Buell,	Elliott,	Merritt,
Campbell,	Fraser, D.	Perry,
Chisholm,	Howard,	Roblin,
Clark,	Ketchum,	Shaver,
Cook,		White.—17.

The question of Amendment was decided in the negative by a majority of eight.

On the question for going into Committee of the Whole on the bill the yeas and nays were taken as follows:

Messrs.	YEAS.	
Bidwell,	Fraser, A.	Morris,
Buell,	Fraser, D.	Perry,
Campbell,	Howard,	Roblin,
Clark,	Ketchum,	Samson,
Cook,	Macdonald, A.	Shaver,
		Duncombe,



Duncombe,
Elliott,

M'Donald, D.
M'Martin,
Merritt,

White,
Wilson, W.—22.

Journal of the
House of Assembly,
19th February,
1884.

Messrs.

YAYS.

Berczy,

Robinson,

Vankoughnet.—3.

The question was carried in the Affirmative by a majority of nineteen, and Mr. Alexander Fraser was called to the chair.

The House resumed.

Mr. Fraser reported that the Committee had risen for want of a Quorum.

PRESENT.—Messrs. Berczy, Bidwell, Buell, Campbell, Chisholm, Clark, Cook, Duncombe, Alexander Fraser, Donald Fraser, Howard, Ketchum, A. M'Donald, M'Martin, Perry, Robinson, Roblin, Samson, Shaver, Vankoughnet, and White.—21.

At a quarter-past seven o'clock P. M., the Speaker declared the House adjourned for want of a quorum.

20TH FEBRUARY, 1884. 20th Feb., 1884.

The House met.

The minutes of yesterday were read.

Agreeably to the order of the day, the Committee of the Whole House resumed on the Clergy Reserve Bill.

Mr. Donald M'Donald in the Chair.

The House resumed.

Mr. M'Donald reported the bill as amended.

On the question for receiving the Report, the yeas and nays were taken as follows:

Messrs.

YAYS.

Bidwell,
Buell,
Campbell,
Chisholm,
Clark,
Cook,
Perry,

Duncombe,
Fraser, D.
Honor,
Howard,
Ketchum,
M'Neilledge,

Randal,
Roblin,
Samson,
Shaver,
White,
Wilson, W.—19.

Messrs.

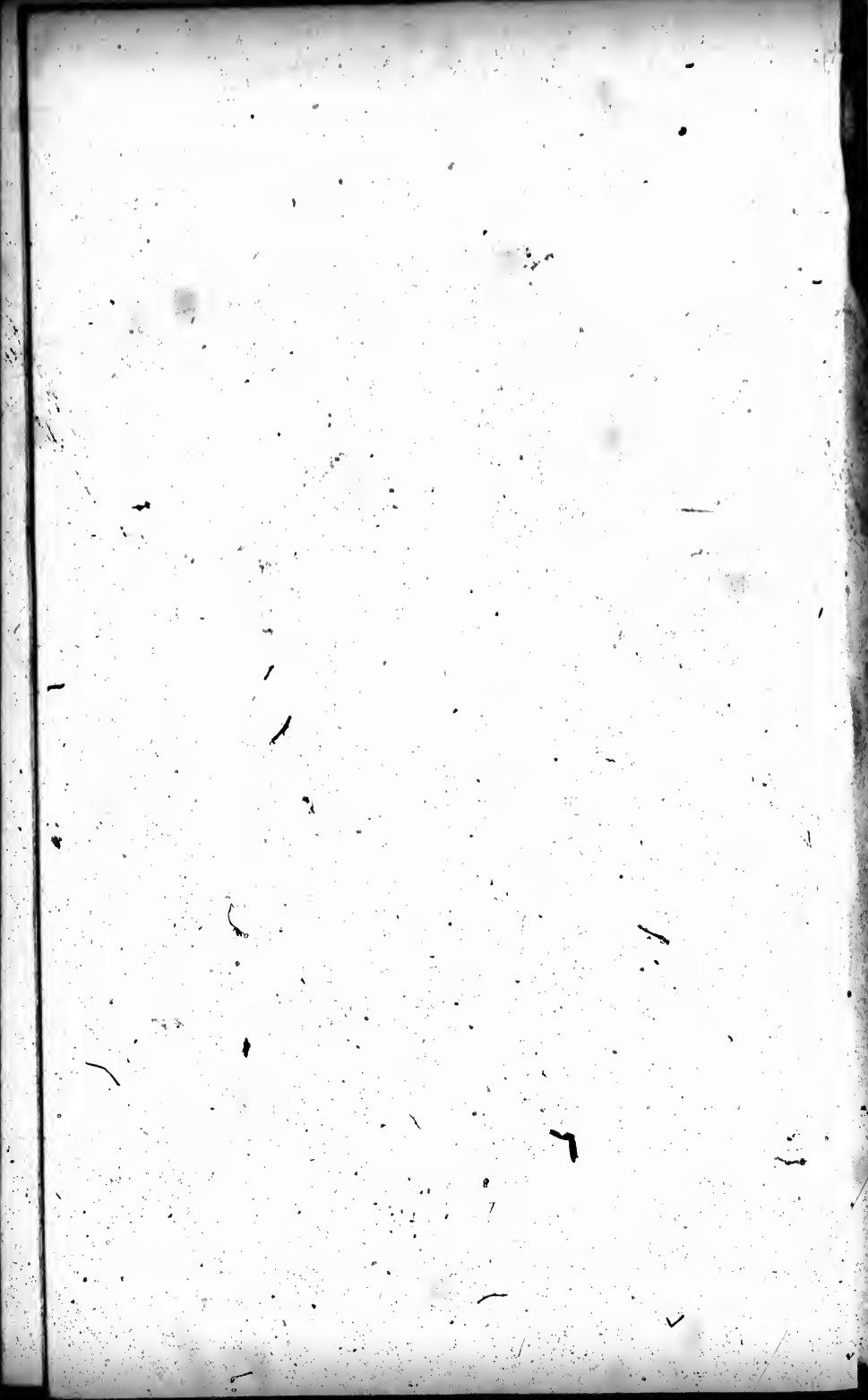
NAYS.

Boulton,
Burwell,
Crooks,

Fraser, A.
Macdonald, A.
M'Martin,

Morris,
Robinson,
Vankoughnet.—9.

The question



The question was carried in the affirmative by a majority of ten, and the report was received.

*Journals of the
House of Assembly
by, 24th Feb.,
1834.*

On the question for the third reading of the bill on Monday next the yeas and nays were taken as follows:

Messrs.	YEAS.	
Bidwell,	Duncombe,	Randal,
Buell,	Fraser, D.	Roblin,
Campbell,	Hornor,	Samson,
Chisholm,	Howard,	Shaver,
Clark,	Ketchum,	White,
Cook,	M'Neilledge,	Wilson, W.—19.
	Perry,	

Messrs.	NAYS.	
Boulton,	Fraser, A.	Morris,
Burwell,	Macdonald, A.	Robinson,
Crooks,	M'Martin,	Vankoughnet.—9.

The question was carried in the affirmative by a majority of ten, and the bill was ordered to be engrossed and read a third time on Monday next.

Adjourned.

24TH FEBRUARY, 1834.

24th Feb., 1834.

Agreeably to the order of the day, the Clergy Reserve Bill was read the third time.

On the question for passing the bill, Mr. Morris, seconded by Mr. Samson, moves in amendment, "That the bill do not now pass, but that it be referred to the consideration of a Select Committee, to be composed of Messrs. Perry, A. Macdonald, and Duncombe, and that it be an instruction to the said Committee to report a bill for the sale of the Clergy Reserves, with the following preamble:

"Whereas it is expedient to repeal the law now in force which authorizes the Reservation of One-seventh of the Lands in this Province for the support of a Protestant Clergy, and to dispose of the said lands for the benefit of General Education," and with such enacting clauses as shall give to the several Sheriffs of the Province power and authority to sell the said Reserves.

On which the yeas and nays were taken as follows:

Messrs.	YEAS.	
Berczy,	Fraser, D.	Morris,
Chisholm,	Lewis,	Samson,
Fraser, A.	Macdonald, A.	Willson, J.—9.
		NAYS—Messrs.

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Messrs.

Bidwell,
Boulton,
Brown,
Buell,
Burwell,
Campbell,
Clark,
Cook,

NAYS.

Crooks,
Duncombe,
Honor,
Howard,
Jarvis,
Ketchum,
M'Donald, D.

M'Martin,
Perry,
Randal,
Robinson,
Roblin,
Shaver,
Van Koughnett,
Werden.—23.

Journal of the
House of Assembly
1794, 24th Feb.
1804.

The question of Amendment was decided in the negative by a majority of fourteen.

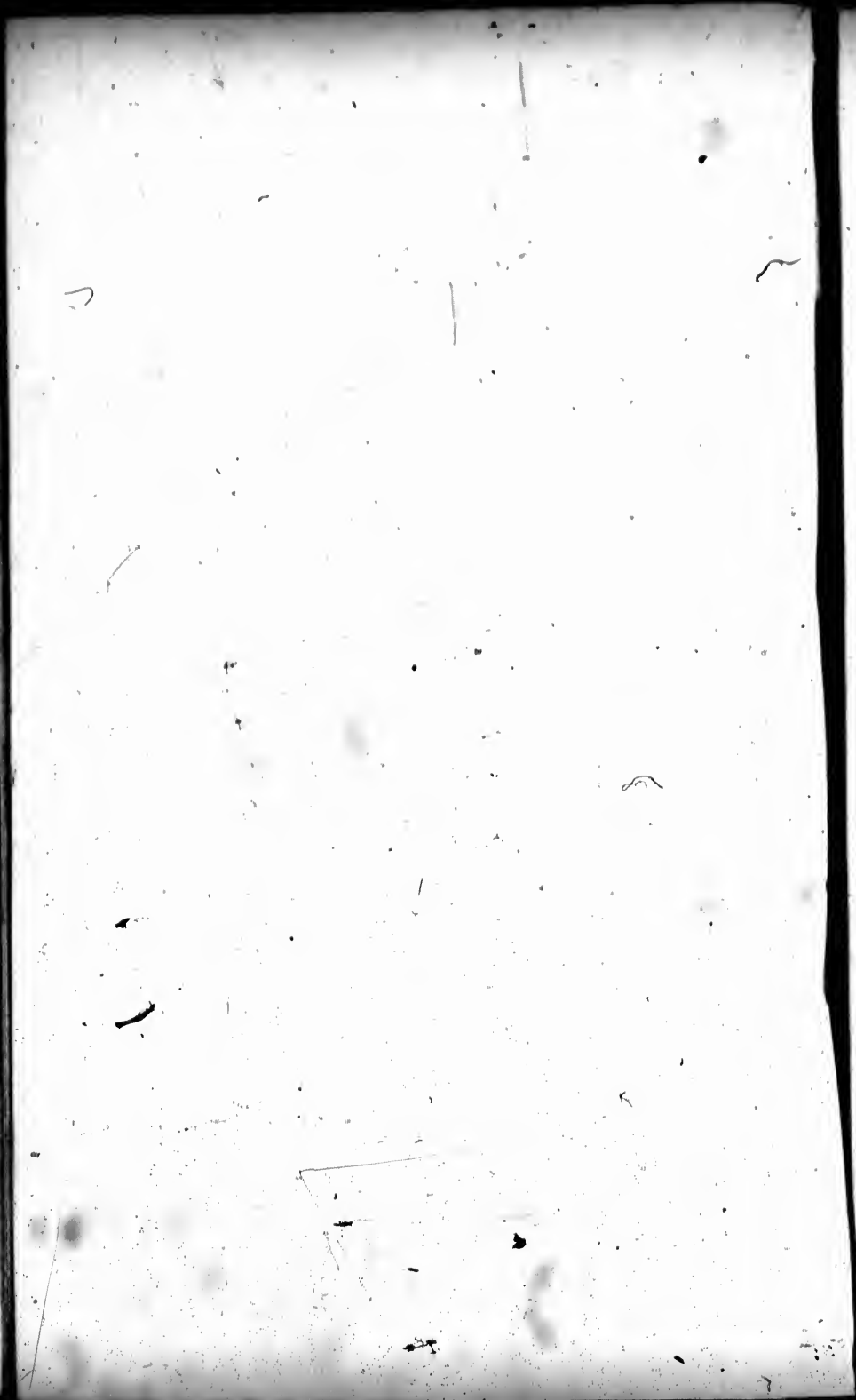
In Amendment, Mr. Vankoughnet, seconded by Mr. Burwell, moves. "That the Bill do not now pass, but that the whole be expunged from the word 'whereas,' and the following inserted: 'by an Act passed in the Parliament of Great Britain in the Thirty-first Year of the Reign of His late Majesty, King George the Third, intituled "An Act to repeal certain parts of an Act passed in the Fourteenth Year of His Majesty's Reign, intituled 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province," it was amongst other things enacted that it should and might be lawful for His late Majesty, His Heirs and Successors, to authorise the Governor, or Lieutenant-Governor of each of the said Provinces respectively, or the Person administering the Government therein, to make from and out of the Lands of the Crown within such Provinces, such Allotment and Appropriation of the Lands for the Support and Maintenance of a Protestant Clergy within the same as may bear a due proportion to the amount of such Lands within the same as had at any time been granted by or under the authority of His said late Majesty; and that upon any grant of lands within either of the said Provinces, which should hereafter be made by or under the authority of His Majesty, His Heirs and Successors, there should at the same time be made in respect of the same, a proportionable allotment and appropriation of lands for the above mentioned purpose within the Township or Parish to which such lands so to be granted should appertain or be annexed, or as nearly adjacent thereto as circumstances would admit; and that no such grant should be valid or effectual unless the same should contain a specification of the lands so allotted or appropriated in respect of the Land to be thereby granted, and that such land so allotted and appropriated should be as nearly as the circumstances and the nature of the case would admit, of the like quality as the lands in respect of which the said land should be so allotted and appropriated, and should be, as nearly as the sum could be estimated at the time of making such Grant, equal in value to the Seventh Part of the Lands so granted;

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and it was thereby further enacted, that all and every the rents, profits or emoluments which might at any time arise from such Lands so allotted and appropriated as aforesaid, should be applicable solely to the Maintenance of a Protestant Clergy within the Province in which the same shall be situated, and to no other use or purpose whatever: And whereas various parts of the said Clergy Reserves within this Province have been demised by Letters Patent, under the Great Seal of this Province, to divers persons for terms of years which have not yet expired: And whereas by a certain Act of Parliament of the United Kingdom of Great Britain and Ireland, passed in the seventh and eighth years of the Reign of His late Majesty King George the Fourth intituled 'An Act to authorise the Sale of a part of the Clergy Reserves in the Provinces of Upper and Lower Canada,' it is enacted that it shall and may be lawful for the Governor, Lieutenant-Governor, or Officer administering the Government of the said Provinces, or either of them, with consent of the Executive Council, appointed within such Province, for the affairs thereof, in pursuance of any instructions which may be issued to such Governor, Lieutenant-Governor, or other Officer as aforesaid, by His Majesty, through one of his Principal Secretaries of State, to sell, alienate, and convey in Fee Simple, or for any less estate or interest, a part of the said Clergy Reserves in each of the said Provinces, not exceeding in either Province one-fourth of the Reserves within such Province, upon, under, and subject to such conditions, provisions, and regulations, as His Majesty by any such instructions as aforesaid, shall be pleased to direct and appoint: provided nevertheless, that the quantity of the said Clergy Reserves so to be sold as aforesaid, in any one year, in either of the said Provinces, shall not, in the whole exceed One hundred thousand Acres; provided also, that the moneys to arise by, or to be produced from, any such sale or sales, shall be paid over to such Officer or Officers of His Majesty's Revenue, within the said Provinces respectively, as His Majesty shall be pleased to appoint to receive the same, and shall by such Officer or Officers be invested in the public funds of the United Kingdom of Great Britain and Ireland, in such manner and form as His Majesty shall from time to time be pleased to direct; provided also that the dividends and interests accruing from such public funds, so to be purchased, shall be appropriated applied and disposed of for the improvement of the remaining part of the said Clergy Reserves, or otherwise for the purposes for which the said Lands were reserved, as aforesaid, and for no other purpose whatsoever, save only so far as it may be necessary to apply the sum or any part thereof in or towards defraying the expenses of, or attendant upon, any such sale or sales as aforesaid, and which Appropriations shall be so made in such manner and form, and for such special purposes as His Majesty from time to time shall approve and direct: And whereas, in pursuance of the said last-recited Act, the Lieutenant-Governor for
the time

Journal of the
House of Assembly
1792, 1793, 1794, 1795, 1796, 1797, 1798, 1799, 1800, 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1817, 1818, 1819, 1820, 1821, 1822, 1823, 1824, 1825, 1826, 1827, 1828, 1829, 1830, 1831, 1832, 1833, 1834, 1835, 1836, 1837, 1838, 1839, 1840, 1841, 1842, 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857, 1858, 1859, 1860, 1861, 1862, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879, 1880, 1881, 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 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2954, 2955, 2956, 2957, 2958, 2959, 2960, 2961, 2962, 2963, 2964, 2965, 2966, 2967, 2968, 2969, 2970, 2971, 2972, 2973, 2974, 2975, 2976, 2977, 2978, 2979, 2980, 2981, 2982, 2983, 2984, 2985, 2986, 2987, 2988, 2989, 2990, 2991, 2992, 2993, 2994, 2995, 2996, 2997, 2998, 2999, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016, 3017, 3018, 3019, 3020, 3021, 3022, 3023, 3024, 3025, 3026, 3027, 3028, 3029, 3030, 3031, 3032, 3033, 3034, 3035, 3036, 3037, 3038, 3039, 3040, 3041, 3042, 3043, 3044, 3045, 3046, 3047, 3048, 3049, 3050, 3051, 3052, 3053, 3054, 3055, 3056, 3057, 3058, 3059, 3060, 3061, 3062, 3063, 3064, 3065, 3066, 3067, 3068, 3069, 3070, 3071, 3072, 3073, 3074, 3075, 3076, 3077, 3078, 3079, 3080, 3081, 3082, 3083, 3084, 3085, 3086, 3087, 3088, 3089, 3090, 3091, 3092, 3093, 3094, 3095, 3096, 3097, 3098, 3099, 3100, 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113, 3114, 3115, 3116, 3117, 3118, 3119, 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the time being of this Province, with the consent of the Executive Council, hath, in pursuance with instructions for that purpose, issued by His late Majesty King George the Fourth, through one of His Principal Secretaries of State, effected Sales of divers parts of the said Clergy Reserves: And whereas by a Message of both Houses of the Provincial Legislature, bearing date the Twenty-fifth Day of January, 1832, His Excellency Major General Sir John Colborne, K.C.B., hath signified to both Houses of the Legislature of this Province His Majesty's most gracious invitation to consider how far the powers given to the Provincial Legislature by the Constitutional Act, to vary, or repeal that part of its provisions which relates to the lands allotted and appropriated in this Province to the Support and Maintenance of a Protestant Clergy, could be called into exercise for the spiritual and temporal interests of His Majesty's faithful subjects in this Province; Now therefore be it, &c., That so much as is herein-before recited of the said Act of the British Parliament so passed as aforesaid in the thirty-first year of the Reign of His late Majesty King George the Third shall be and the same is hereby repealed.

Journal of the
House of Assembly
1832, Vol. 1, p. 189.

" And be it, &c., That from henceforth no Grant heretofore made by or on behalf of His Majesty, or any of His Royal Predecessors, of any Lands situated within this Province, shall be or be deemed invalid or ineffectual, or be liable to be impeached, vacated, or set aside, by reason that any such Grant did not contain a specification of the lands allotted and appropriated for the support and maintenance of a Protestant Clergy in respect of the lands thereby granted, but every grant of land within this Province heretofore made by or on behalf of his Majesty or of any of his royal predecessors, in which any specifications made have been omitted, shall henceforth be and shall be deemed and taken from the day of the date thereof, to have been as valid and effectual in the law as though such grants had contained the specification aforesaid.

" And be it, &c., That all the Lands heretofore appropriated within this Province for the support and maintenance of a Protestant Clergy, now remaining unsold, shall be and they are hereby declared to be vested in his Majesty, his Heirs and Successors, as of his and their Estate absolutely, discharged from all trusts for the benefit of a Protestant Clergy, and of and from all and every the claims and demands of such Clergy upon or in respect of the same.

" Provided always, and be it further enacted by the authority aforesaid, That nothing herein contained shall take away or affect the right or title of any person or persons in or to any lands which may by any such person or persons be holden or enjoyed, or which any such person or persons may claim to hold or enjoy by virtue of any sale, alienation, conveyance, or contract made, executed, or entered into in pursuance,



pursuance of the above-recited act of Parliament passed in the seventh and eighth year of his said late Majesty's reign; but that every such sale, alienation, or contract shall be as valid and effectual in the law, and shall henceforth have and continue to have the same force and effect as if this present act had not been made: Provided also, that nothing herein contained shall extend or be construed to extend to render invalid or ineffectual any lease or demise of any part of the said reserves so passed under the Great Seal of this Province as aforesaid." Journal of the House of Assembly. 24th Feb., 1834.

On which the yeas and nays were taken as follows;

Messrs.		YEAS.	
Boulton,	Crooks,	Robinson,	Wilson, J.—7.
Burwell,	Jones,	Vankoughnet,	

Messrs.		NAYS.	
Berczy,	Cook,	Lewis,	Randal,
Bidwell,	Duncombe,	Macdonald, A. Roblin,	
Brown,	Fraser, A.	M'Donald, D. Samson,	
Buell,	Fraser, D.	M'Neilledge, Shade,	
Campbell,	Hornor,	Merritt,	Shaver,
Chisholm,	Howard,	Morris,	White.—27.
Clark,	Ketchum,	Perry,	

The question of amendment was decided in the negative by a majority of twenty.

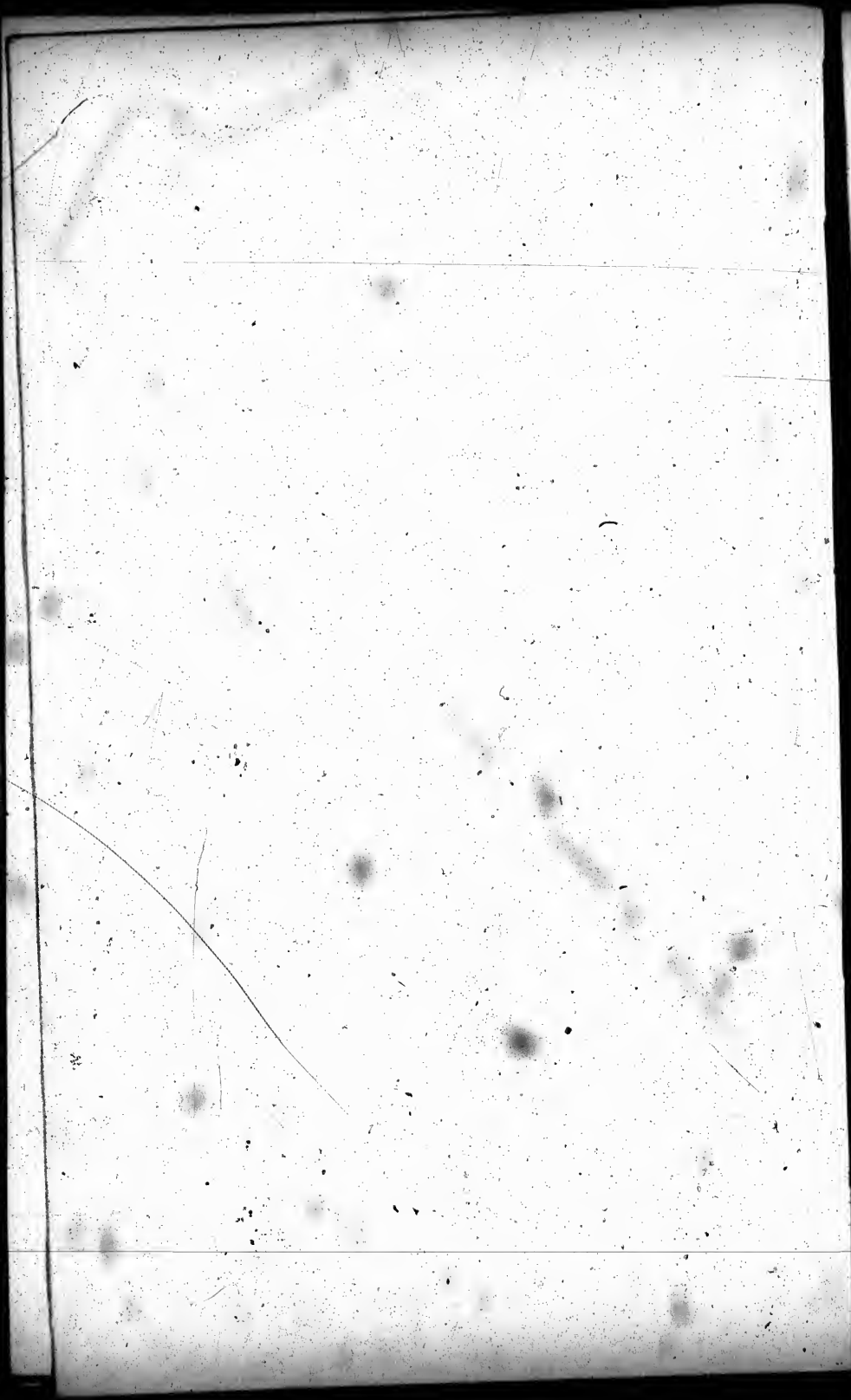
On the question for passing the bill the Yeas and Nays were taken as follows:

Messrs.		YEAS.	
Bidwell,	Cook,	M'Donald, D. Roblin,	
Brown,	Duncombe,	M'Neilledge, Samson,	
Buell,	Hornor,	Merritt,	Shade,
Campbell,	Howard,	Perry,	Shaver,
Chisholm,	Ketchum,	Randall,	White.—22.
Clark,	Lewis,		

Messrs.		NAYS.	
Berczy,	Crooks,	Jones,	Robinson,
Boulton,	Fraser, A.	Macdonald, A. Vankoughnet,	
Burwell,	Fraser, D.	Morris,	Wilson J.—12.

The question was carried in the affirmative by a majority of ten, and the Bill was passed.

Mr. Perry, seconded by Mr. Bidwell, moves, "That the Bill be intituled,



intituled 'An Act to provide for the sale of the Clergy Reserves in this Province, for the purposes of general education in the same.' " Journals of the House of Assembly, 24th Feb., 1854.

On which the Yeas and Nays were taken as follows:

Messrs.	YEAS.		
Bidwell,	Cook,	M'Donald, D.	Roblin,
Brown,	Duncombe,	M'Neilledge,	Samson,
Buell,	Honor,	Merritt,	Shade,
Campbell,	Howard,	Perry,	Shaver,
Chisholm,	Ketchum,	Randall,	White.—22.
Clark,	Lewis,		

Messrs.	NAYS.		
Berczy,	Fraser, A.	Macdonald, A.	Robinson,
Boulton,	Fraser, D.	Macnab,	Vankoughnet.
Burwell,	Jarvis,	Morris,	Willson, J.—14.
Crooks,	Jones,		

The question was carried in the affirmative by a majority of eight and Messieurs Perry and Bidwell were ordered by the Speaker to carry the Bill up to the Honourable the Legislative Council, and to request their concurrence thereto.

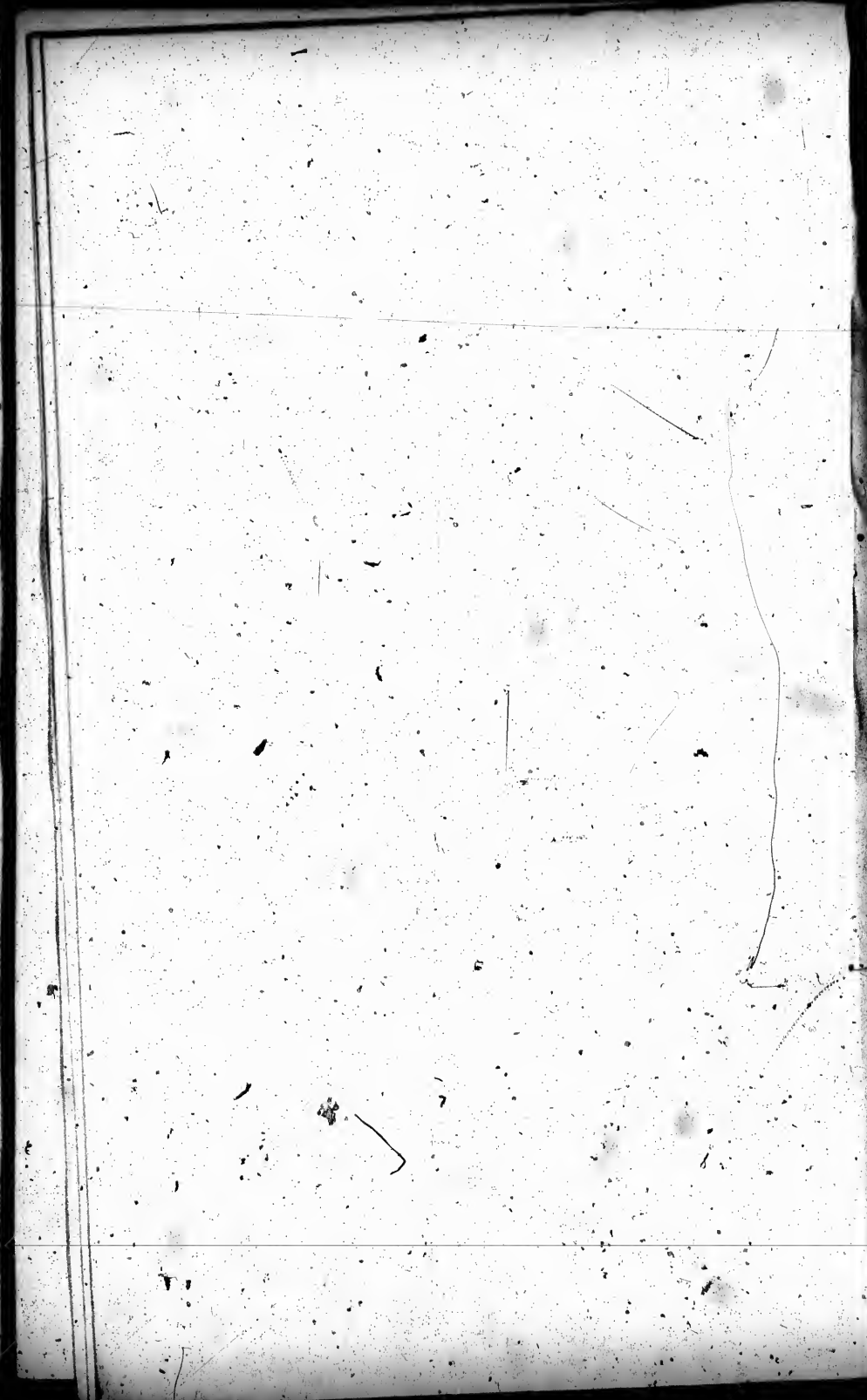
Mr. Jarvis, seconded by Mr. Vankoughnet, moves, that five hundred copies of the Bill for the sale of the Clergy Reserves, together with the amendments moved, thereto, and the yeas and nays taken upon the same, be printed for the use of members.

In amendment, Mr. Perry, seconded by Mr. Howard, moves, "That 'five hundred' be expunged from the original, and 'one thousand' inserted."—Which was carried.

On the original question, as amended, being put, the yeas and nays were taken as follows:

Messrs.	YEAS.		
Bidwell,	Cook,	Merritt,	Samson,
Boulton,	Fraser, A.	Morris,	Shade,
Buell,	Howard,	Perry,	Shaver,
Campbell,	Jarvis,	Robinson,	Vankoughnet,
Chisholm,	Lewis,	Roblin,	White.—22.
Clark,	Macdonald, A.		

NAYS.



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Messrs.,

Dufcombs, Lewis,
Berczy, Crooks,
Brown, Fraser, D.
Burwell,

NATs.

Randal,
Jones,
Ketchum,

W. Wilson,
Macdonald, D.
McNeill, G.—9

Journal of the
House of Assembly,
24th Feb.,
1834.

The question was carried in the affirmative by a majority of thirteen and ordered accordingly.

JOURNALS OF THE LEGISLATIVE COUNCIL.

25TH FEBRUARY, 1834.

Journal of the
House of Assembly,
25th Feb.,
1834.

His Honour the Speaker reported to the House that a deputation from the Commons House of Assembly had brought up a bill, intituled "An act to provide for the sale of the Clergy Reserves in this Province, for the purposes of general education in the same;" to which they requested the concurrence of this House.

The bill, intituled "An act to provide for the sale of the Clergy Reserves in this Province, for the purposes of general education in the same," was then read.

JOURNALS OF THE HOUSE OF ASSEMBLY.

16TH JANUARY, 1835.

Journal of the
House of Assembly,
16th Jan.,
1835.

Mr. Perry, seconded by Mr. Chisholm, moves for leave to bring in a bill for the sale and leasing the Clergy Reserves in this Province for the purposes of general education, and that the thirty-first rule of this House be dispensed with, so far as relates to the said bill.—Which was granted, and the bill read.

On motion of Mr. Perry, seconded by Mr. Shaver,

Ordered, that the bill be referred to a select Committee of five members, to examine and amend; and report the same to this House; and that Messrs. Perry, Morrison, Small, Chisholm, and Norton, do compose said Committee.

10TH FEBRUARY, 1835.

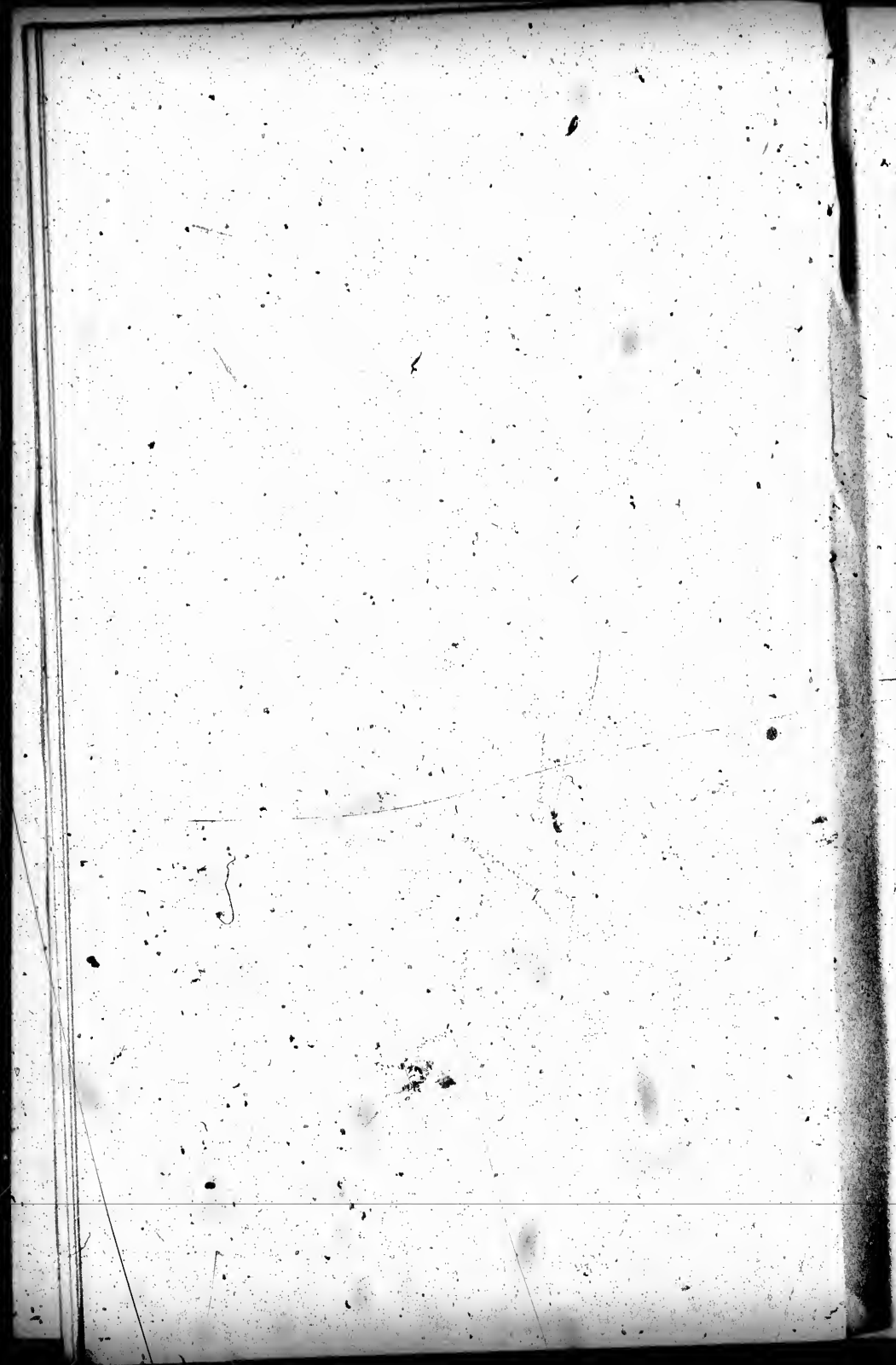
Mr. secretary Rowan brought down from his Excellency the Lieutenant Governor several messages and documents.

The messages were read by the Speaker as follows:

J. COLBORNE.

The Lieutenant Governor, with reference to an Address last Session transmits to the House of Assembly a return of lands set apart for Glebes, &c., statements of receipts and payments of monies arising from sales of Clergy Reserves by the Commissioner of Crown lands, and other documents connected with the arrangements authorized by his Majesty's Government for the support of the Clergy. The Inspector

General



General will furnish the Assembly with any further Vouchers relative to these accounts which may be required, and specified by the House.

Journals of the
House of Assembly,
10th Feb.,
1835.

Government House.
10th February, 1835.

On motion of Mr. Perry, seconded by Mr. Bruce,

Ordered, that the message of his Excellency, and accompanying documents of this day, relative to the Clergy Reserves, be referred to the Committee to whom was referred the Clergy Reserve bill.

21st FEBRUARY, 1835.

21st Feb., 1835.

Mr. Perry, from the select Committee to which was referred the bill for the sale of the Clergy Reserves, informed the House that the Committee had agreed to report the bill, as delivered to them for examination, whenever the House would be pleased to receive the same.

The report was received, and the bill was ordered to be read a second time on Monday next.

2D MARCH, 1835.

Pursuant to the order of the day, the bill to authorize the sale of the Clergy Reserves was read the second time.

2nd March, 1835.

The House was put into Committee on the bill.

Mr. Hopkins in the Chair.

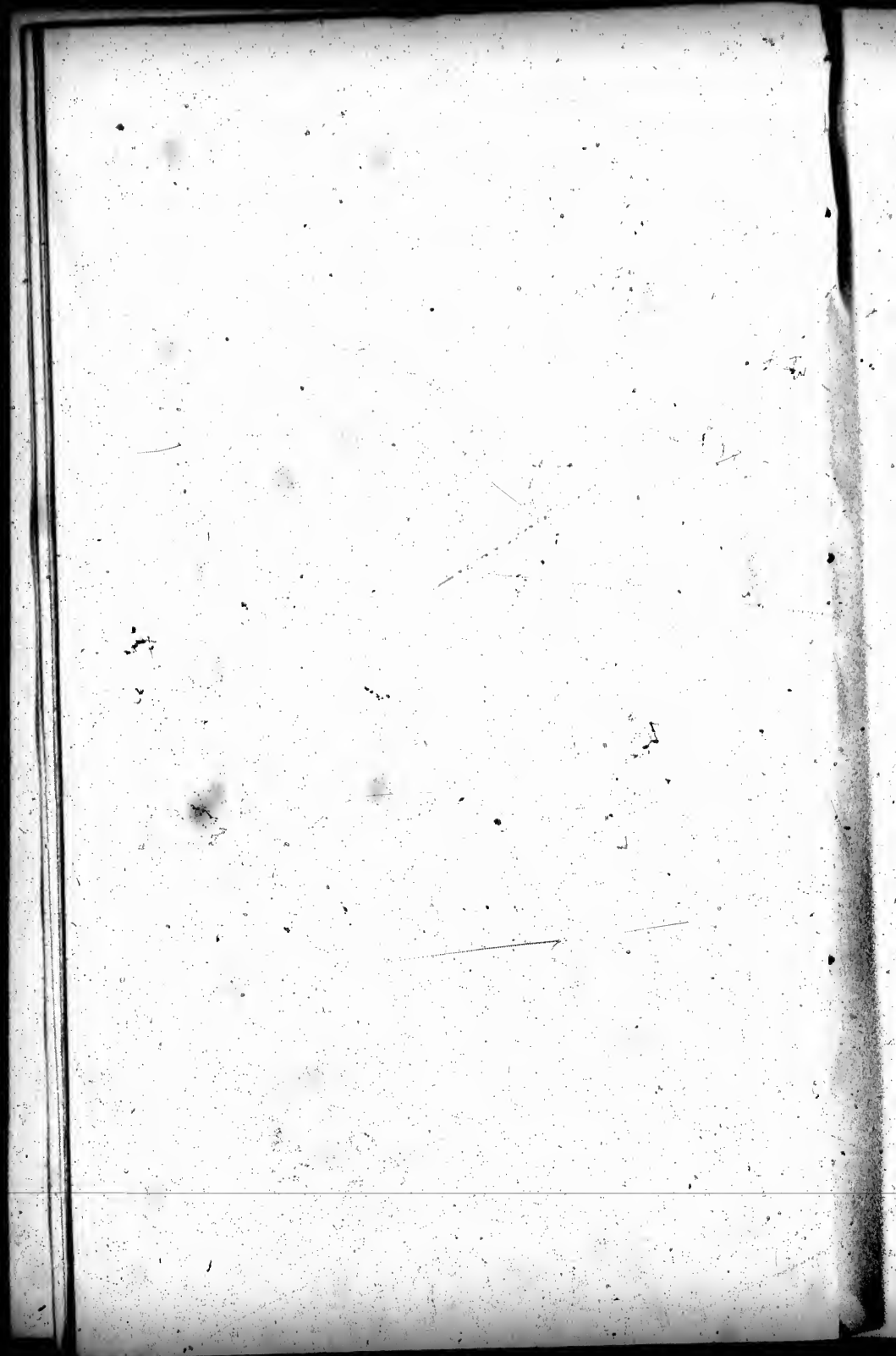
The House resumed.

Mr. Hopkins reported that the Committee had gone through the bill, amended the same, and submitted it for the adoption of the House.

On the question for receiving the report, Mr. Morris, seconded by Mr. Walsh, moves that the report be not received, but that the bill be referred to the consideration of a select Committee, with instructions to report to the House in what manner the Clergy Reserves may be most usefully applied to the support of Religion in this Province, by giving aid to the various denominations of Christians in the maintenance of their religious teachers, or in the erection of places of Worship, as the said denominations may think proper.

On which the Yeas and Nays were taken as follows:

Messrs.	YEAS.			
M'Kay,	Robinson,	Walsh,	Wilkinson,—6	
Morris,	Taylor,			
			NAYS.—Messrs.	



Messrs.

NAYS.

Alway,	Lount,	Norton,	Small,
Bruce,	M'Crae,	Parke,	Smith,
Chisholm,	M'Donell, Storm't Perry,		Sol. General,
Cook,	M'Intosh,	Richardson,	Strange,
Duncombe, Oxford, Mackenzie,		Roblin,	Thorburn,
Duncombe, Norfolk, M'icking,		Rykert,	Wells,
Durand,	Macnab,	Rymal,	Wilson,
Gibson,	Malloch,	Shaver,	Woolverton,
Gilchrist,	Moore,	Shibley,	Yager.—38.
Hopkins,	Morrison,		

Journals of the
House of Assembly,
19th February,
1835.

The question of amendment was decided in the negative by a majority of thirty-two, and the Report was received.

On the Question for the third reading of the Bill on Wednesday next, the Yeas and Nays being taken, were as follows:

Messrs.

YEAS.

Alway,	Lount,	Norton,	Smith,
Bruce,	M'Crae	Parke,	Strange,
Chisholm,	M'Donell, Storm't Perry,		Taylor,
Cook,	M'Intosh,	Richardson,	Thorburn,
Duncombe, Oxford, Mackenzie,		Roblin,	Walsh,
Duncombe, Norfolk, M'icking,		Rykert,	Wells,
Durand,	Macnab,	Rymal,	Wilkinson,
Gibson,	Malloch,	Shaver,	Wilson,
Gilchrist,	Moore,	Shibley,	Woolverton,
Hopkins,	Morrison,	Small,	Yager.—40.

Messrs.

NAYS.

M'Kay,	Morris,	Robinson,	Sol. General—4
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The Question was carried in the affirmative by a majority of thirty-six, and the Bill was ordered to be read a third time on Wednesday next.

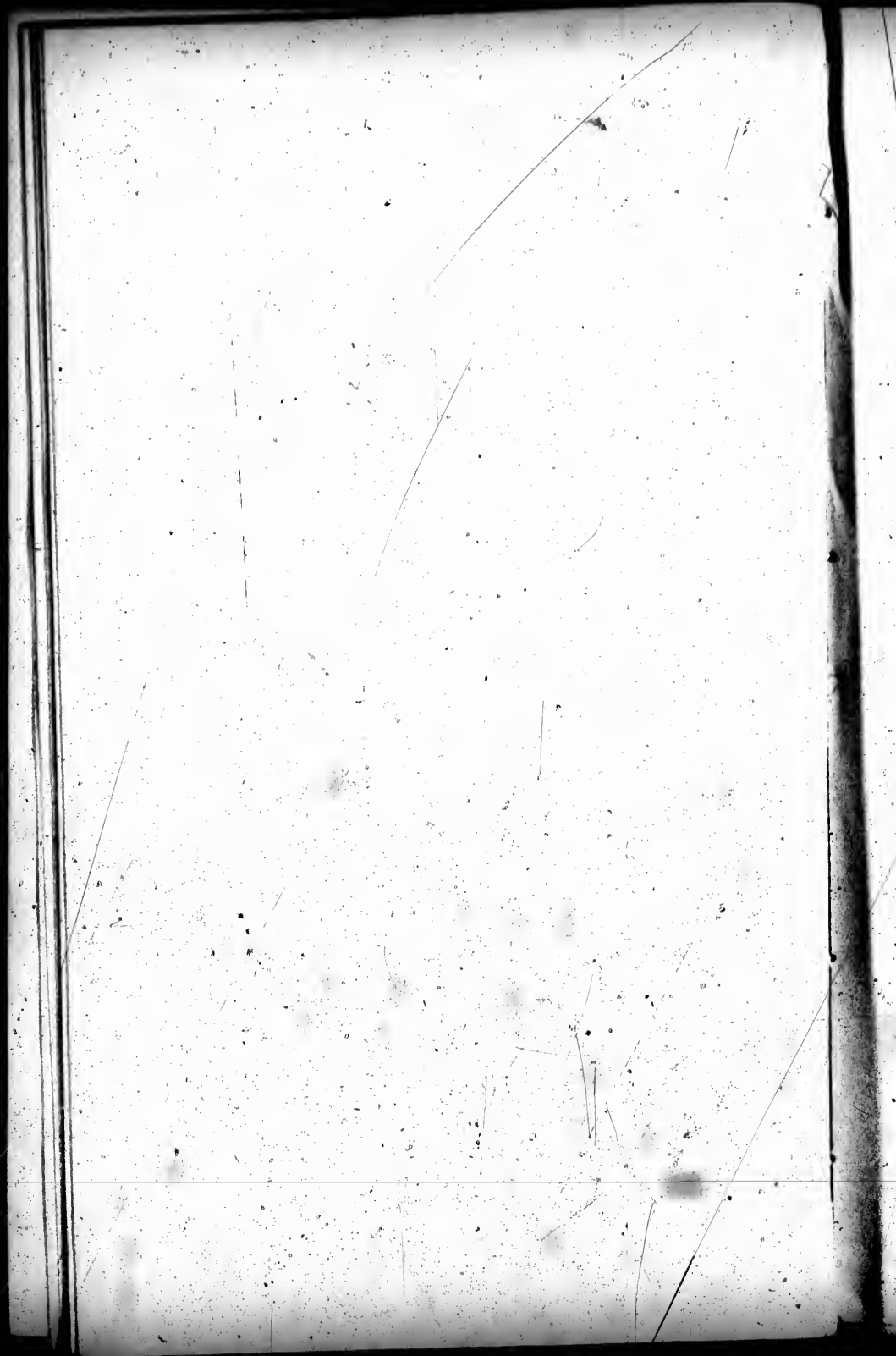
4TH MARCH, 1835. 4th March, 1835.

Pursuant to the order of the day, the Clergy Reserves Sale Bill was read a third time.

On the question for passing the Bill,

Mr. Solicitor General, seconded by Mr. Boulton, moves, in amendment, "That the Bill do pass this day three months,"—On which debates ensued.

On the question of the Solicitor General, That the Bill might pass
this day



this day three months, the Yeas and Nays being taken, were as follows: Journals of the House of Assembly, 4th March, 1894.

Messrs.		YEAS.	
Boulton,	M'Lean,	Robinson,	Sol. General—4
Messrs.		NAYS.	
Alway,	M'Crae,	Morris,	Smith,
Bruce,	M'Donell of	Morrison,	Strange,
Caldwell,	Glengarry,	Norton,	Taylor,
Chisholm,	M'Donell of	Parke,	Thorburn,
Cook,	Stormont.	Perry,	Waters,
Duncombe of	M'Intosh,	Richardson,	Wells,
Norfolk.	M'Kay,	Roblin,	Wilkinson,
Durand,	Mackenzie,	Rykert,	Wilson,
Gibson,	M'Micking,	Rymal,	Woolverton,
Gilchrist,	Mallach,	Shaver,	Yager.—43.
Hopkins,	Merritt,	Shibley,	
Lount,	Moore,	Small.	

The Question was decided in the Negative by a majority of thirty-nine.

In amendment to the Question for passing the Bill,

Mr. Morris, seconded by Mr. Robinson, moves, "That the Bill do not now pass, but that it be referred to the consideration of a Select Committee, with instructions to report to the House in what manner the Clergy Reserves may most usefully be applied to the support of Religion by aiding the several denominations of Christians in this Province in the maintenance of their Religious teachers."

On which the Yeas and Nays were taken as follows;

Messrs.		YEAS.	
M'Lean,	Morris,	Robinson,	Taylor.—4.
Messrs.		NAYS.	
Alway,	Hopkins,	Moore,	Small,
Boulton,	Lount,	Morrison,	Smith,
Bruce,	M'Crae,	Norton,	Sol. General,
Caldwell,	M'Donell of	Parke,	Thorburn,
Chisholm,	Stormont.	Perry,	Waters,
Cook,	M'Intosh,	Richardson,	Wells,
Duncombe of	M'Kay,	Roblin,	Wilkinson,
Norfolk,	Mackenzie,	Rykert,	Wilson,
Durand,	M'Micking,	Rymal,	Woolverton,
Gibson,	Malloch,	Shaver,	Yager.—41.
Gilchrist,	Merritt,	Shibley,	

The question



The question of amendment was decided in the negative by a majority of thirty-seven. Journal of the House of Assembly, 11th March, 1835.

On the Question for passing the Bill the Yeas and Nays being taken, were as follows:

Messrs.	YEAS.	
Alway,	M'Donell of Stormont,	Rykert,
Bruce,	M'Intosh,	Rymal,
Caldwell,	M'Kay,	Shaver,
Chisholm,	MacKenzie,	Shibley,
Cook,	M'Micking,	Small,
Duncombe of Norfolk,	Malloch,	Smith,
Durand,	Merritt,	Strange,
Gibson,	Moore,	Thorburn,
Gichrist,	Morrison,	Waters,
Hopkins,	Norton,	Welb,
Lount,	Parke,	Wilson,
M'Crae,	Perry,	Woolverton,
	Richardson,	Yager.—39.
	Roblin,	
Messrs.	NAYS.	
Boulton,	Morris,	Taylor,
M'Lean,	Robinson,	Wilkinson.—7.
	Solicitor General,	

The question was carried in the Affirmative by a majority of thirty-two, and the Bill was signed.

Mr. Perry, seconded by Mr. Morrison, moves, "That the Bill be intitled, "An Act for the disposal of the Clergy Reserves in this Province, for the purposes of general Education."

Which was carried, and Messrs. Perry and Roblin were ordered by the Speaker to carry the same up to the Honourable the Legislative Council, and to request their concurrence thereon.

19th MARCH, 1835.

J. COLBORNE.

10th March, 1835.

The Lieutenant Governor transmits to the House of Assembly Statements of the Receipts and Expenditure on account of the sale of Crown Lands and Clergy Reserves for the half-year ending the 31st December, 1834.

Government House,
18th March, 1835.

27th MARCH,

27th MARCH, 1835.

Journals of the
House of Assembly
27th March,
1835.

Message from the Legislative Council read:

MR. SPEAKER,

The Legislative Council have passed the accompanying resolutions on the subject matter of the Bill intituled, "An Act for the disposal of the Clergy Reserves in this Province for the purposes of general Education;" to which they request the concurrence of the Commons House of Assembly.

JOHN B. ROBINSON,
Speaker.

Legislative Council Chamber,
26th day of March, 1835.

Resolutions of Legislative Council on Clergy Reserve Bill:

Resolved—That his late Majesty King George the Third, having been graciously pleased, by Message to both Houses of Parliament, to express his Royal desire, to be enabled to make a permanent appropriation of lands in this Province for the support and maintenance of a Protestant Clergy within the same, provision was made for that purpose by Parliament in the statute passed in the thirty-first year of His Majesty's Reign, Chapter 31, by directing a reservation of lands to be made and set apart in the proportion of all the lands that should be granted by His Majesty in the said Province, and by declaring that all and every the rents, profits or emoluments which might at any time arise from such lands so allotted and appropriated as aforesaid should be applied solely to the maintenance and support of a Protestant Clergy within the Province, and to no other use or purpose whatever.

Resolved—That such allotments and appropriations as the act directs having been made from time to time, and continuing to be set apart under the designaion of Clergy Reserves, a claim was advanced in the year 1821, on behalf of the Church of Scotland, to be allowed to share in those Reserves, or in the rents, profits or emoluments to be derived from them, which claim was made and has been urged upon the footing of a legal claim, grounded on the Construction of the statute, and on the rights of the Church of Scotland, as a Church established in one part of the United Kingdom.

Resolved—That it has been advanced by other portions of the people of this Province, that all Protestant Denominations have a right, in common with the Church of England, to have their Clergy supported from the Reserves in question, and that no exclusive right can be vindicated under the act in favour of any one or more Protestant Churches.

Resolved,—

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Resolved—That efforts have also been made to procure a total abolition of this provision for the support of religion, by obtaining an act of the Provincial Legislature, directing the sale of the Reserves, and the appropriation of the proceeds to purposes of general Education.

Journal of the
House of Assembly,
17th March,
1835.

Resolved—That by these conflicting claims and opposing views in regard to a subject of so great interest and importance in the minds of His Majesty's subjects in this Province have for a long period been rendered anxious and unsettled; and in the opinion of the Legislative Council, it is for many reasons much to be desired that a speedy and final settlement should take place of the questions which have arisen upon the effect of the enactments referred to, and that it should be plainly, certainly, and firmly established to what specific objects the Clergy Reserves shall be permanently applied.

Resolved—That the Legislative Council, confiding in the wisdom and justice of His Majesty and the Imperial Parliament, think it expedient and proper humbly to address His Majesty and both Houses of Parliament, representing that the Legislature of this Province has been unable to concur in any measure respecting the Clergy Reserves; and earnestly requesting that the Imperial Parliament will, with as little delay as possible, making such an enactment on the subject as cannot appear to leave any reason for doubt or question in regard to the objects to which the proceeds of the Clergy Reserves are to be applied; and that, having regard to the present condition and future welfare of this colony, and maturely considering whatever has been urged or may be urged in regard to these Reserves, they will, by some measure which shall be final and unequivocal, make such an appropriation of them as shall appear to be most consistent with a due regard to Religion, to the principles of our Constitution, and to the permanent welfare and tranquillity of the Province.

Truly extracted from the Journal of the Legislative Council of the
26th day of March, 1835.

GRANT POWELL,
Clerk, Legislative Council.

Mr. Perry, seconded by Mr. Bruce, moves, "That the Resolutions sent down to this House from the Honourable the Legislative Council, on the subject of the Clergy Reserves, be referred to a Select Committee, with power to send for persons and papers, and leave to report thereon; and that Messrs. Roblin, M'Micking, Shaver and Duncombe of Norfolk, do compose said Committee."

On which the yeas and nays being taken, were as follows:

Messrs.

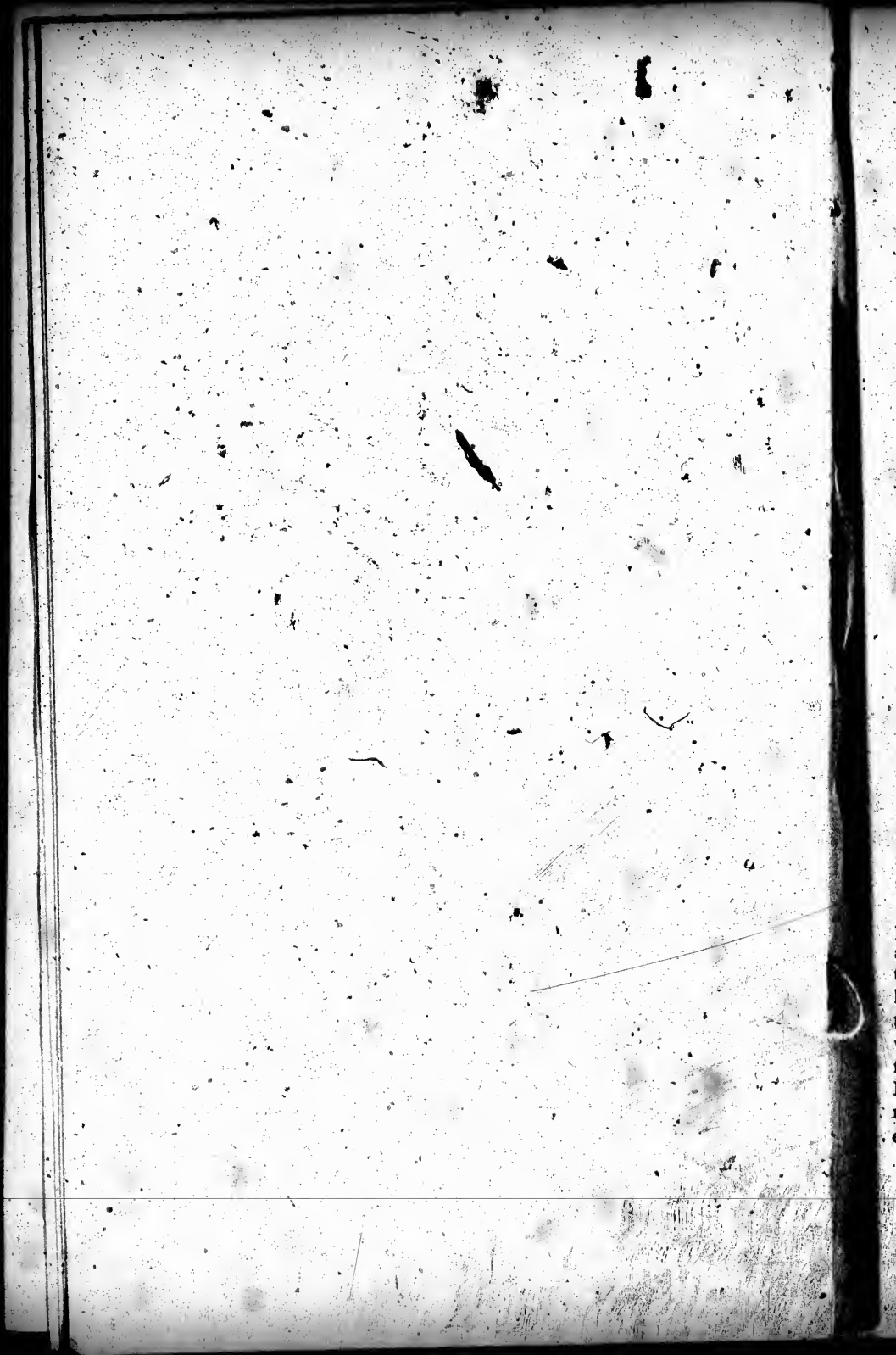
YEAS.

Alway,

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Bruce,



Bruce,	Lount,	Shaver,
Chisholm,	M'Donnell of Stormont,	Shibley,
Cook,	M'Intosh,	Smith,
Oornwall,	Mackenzie,	Thorburn,
Duncombe of Oxford,	M'Micking,	Waters,
Duncombe of Norfolk,	Moore,	Wells,
Durand,	Perry,	Wilson,
Gilchrist,	Roblin,	Yager.—28.
	Rykert,	

Journals of the
House of Assembly,
17th March,
1836.

NAYS.

Messrs. Gowan.

Walsh.—2.

The question was carried in the affirmative by a majority of twenty-six, and ordered accordingly.

10th APRIL, 1835.

10th April, 1836.

Mr. Perry, from the Select Committee to which were referred the resolutions sent down from the Honourable the Legislative Council on the subject of the Clergy Reserves, reported that the Committee had agreed to a resolution which he was ready to submit whenever the House would be pleased to receive the same.

The Report was received, and the Resolution was read as follows:

Resolved—That this House has repeatedly expressed their opinion that the lands appropriated for the support and maintenance of a Protestant Clergy within this Province, commonly called "The Clergy Reserves," ought, for various reasons, to be sold: That it would be unjust to apply the monies arising from the sale of the same, to the benefit of one or more favoured religious denominations; and that it would be impracticable, and for many considerations inexpedient, to distribute the monies arising therefrom among all denominations; and that this House has been unremitting in its endeavours to procure the sale of these lands, and the application of the funds produced by such sale to objects of great importance and interest to the people of this Province: That with this view, the House has heretofore repeatedly passed Bills providing for the sale of the Clergy Reserves, and the appropriation of the monies arising therefrom to the support of Education; which Bills have been rejected without amendment by the Legislative Council: That with the same view this House has repeatedly made known, by humble and dutiful addresses to His Majesty, their wishes and opinions, and the wishes and opinions of His Majesty's faithful subjects in this Province, on this highly important subject; and this House takes this opportunity of declaring that these wishes and opinions, both on the part of this House and of their constituents, remain entirely unchanged: That during the second session of the last Parliament,

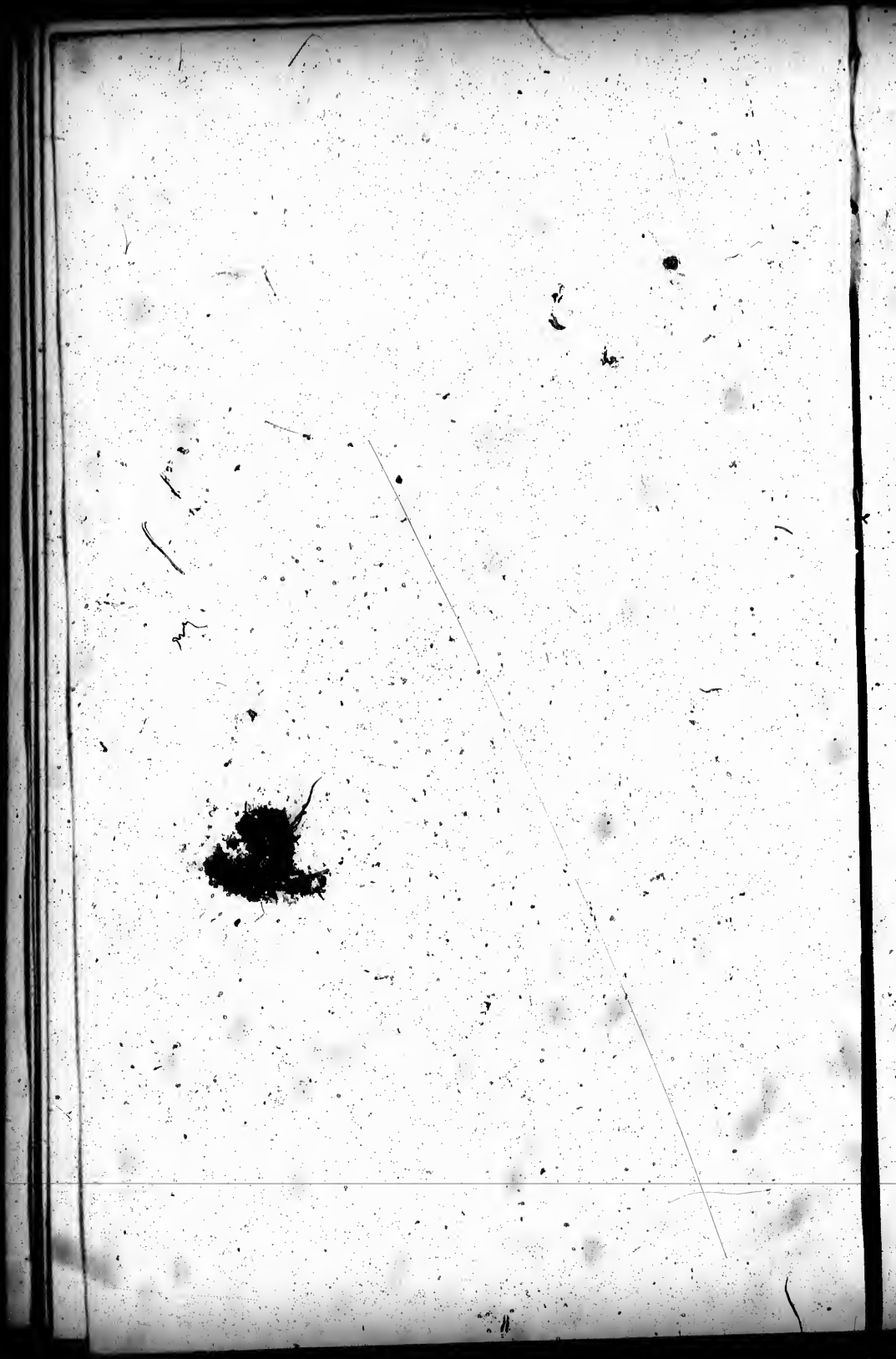
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ment his Excellency the Lieutenant Governor, by message, informed this House, that he had received His Majesty's instructions to declare that the representations which had at different times been made to His Majesty and his Royal Prodecessors, of the prejudice sustained by his Majesty's faithful subjects of this province from the appropriation of the Clergy Reserves, had engaged his Majesty's, most attentive consideration, and his Majesty has most graciously been pleased to invite the House of Assembly to consider how the powers given to the Provincial Legislature, by the constitutional Act, to vary or repeal the provisions which it contains for the allotment and appropriation of the Clergy Reserves, could be most advantageously exercised for the spiritual and temporal interests of His faithful subjects in this province: That this House, in compliance with his Majesty's wishes, thus graciously expressed, and with the strong and well known desires of his Majesty's faithful subjects in this Province, has passed a bill, during the present session, to provide for the sale of the Clergy Reserves, and to apply the monies arising from such sale to the support of education: That the Legislative Council has not passed the said bill, has not amended it, and has not passed any other bill on that subject: That, under these circumstances, this House cannot but express the extreme astonishment with which it has received the representations of the Legislative Council, that the Legislature of this Province has been unable to concur in any measure respecting the Clergy Reserves; and although this House has little expectation that the Legislative Council, as now constituted, will comply with the wishes of the people of the Province, yet it feels bound to declare that this House is, and always has been, ready and anxious to concur in any just and reasonable measure whatever, by which the Clergy Reserves could be applied to such useful purposes as would be most advantageous to His Majesty's faithful people in this Province, and most conformable to their well-known wishes: That this House cannot but express its confident hopes that His Majesty will not be induced by any representation, whether secret or open, to depart from the gracious intentions which he has been pleased to intimate of complying with the earnest and repeated solicitations of His Majesty's faithful subjects in this Province on that subject; that this resolution be laid before his Excellency the Lieutenant Governor; and that his Excellency be requested to transmit the same to the Secretary for the Colonies, and call the early attention of His Majesty's Government to the importance of the same, to the interest, peace, welfare, prosperity and happiness of His Majesty's faithful people of this Province.

Journal of the
House of Assem-
bly, 16th April,
1826.

On motion of Mr. Perry, seconded by Mr. Chisholm.

Ordered, That the resolution be engrossed, and read again to-morrow.



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11th April, 1835.

Journals of the
House of Assem-
bly, 11th April,
1835.

Pursuant to the order of the day, the resolution in relation to the future disposition of the Clergy Reserves was read a second time.

On the question for adopting the same, the yeas and nays were taken as follows:

Messieurs	YEAS.		
Alway,	Gilchrist,	Parke,	Smith,
Bruce,	M'Intosh,	Perry,	Waters,
Chisholm,	M'Mickings,	Roblin,	Wells,
Cook,	Malloch,	Rymal,	Wilson,
Duncombe of Norfolk,	Moore,	Shaver,	Woolverton,
Durand,	Morrison,	Shibley,	Yager.—24.

Messieurs	NAYS.		
Brown,	M'Lean,	Strange,	Walsh,
Caldwell,	Morris,	Taylor,	Wilkinson—10.
M'Donnell of Glengary,	Robinson,		

The Question was carried in the affirmative by a majority of Fourteen, and the Resolution was adopted accordingly.

On motion of Mr. Shaver, seconded by Mr. Roblin,

Ordered, That Messrs. Duncombe of Norfolk and Perry be a Committee to wait on his Excellency with the Resolution and present the same.

15TH APRIL, 1835.

Journals of the
House of Assem-
bly 15th April,
1835.

Mr. Perry, from the Select Committee to wait on his Excellency the Lieutenant Governor with the Address of this House requesting his Excellency to transmit to His Majesty's Government copy of a Resolution passed by this House in relation to the Clergy Reserves reported delivering the same, and that his Excellency had been pleased to say that he would transmit the Resolution.

JOURNALS OF THE LEGISLATIVE COUNCIL.

9TH MARCH, 1835.

Journals of the
Legislative Coun-
cil, March 9,
1835.

His Honour the Speaker reported to the House, That a Deputation, from the Commons House of Assembly had brought up a Bill, intituled "An Act for the Disposal of the Clergy Reserves in this Province for the Purposes of general Education," to which they requested the Concurrence of this House.

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The Bill, intituled "An Act for the disposal of the Clergy Reserves in this Province for the Purposes of general Education," was read,

Journals of the
Legislative Cou-
cil, 24
March, 1835.

And it was Ordered, That the same be read a Second Time on Monday next, and that in the meantime it be printed for the use of members; and Ordered, That the members in town be summoned to attend in their places on that day.

16TH MARCH, 1835. 16th March, 1835.

Pursuant to the Order of the Day, the Bill, intituled "An Act for the Disposal of the Clergy Reserves in this Province for the Purposes of general Education," was read a Second Time;

And it was Ordered, That it be referred to a Select Committee, with power to send for persons and papers, and to report thereon by amendment or otherwise; and Ordered, That the Honourable Mr. Clark, the Honourable and Venerable the Archdeacon of York, and the Honourable Messieurs Markland, Elmaley, and Crooks, do compose the same for that purpose.

20TH MARCH, 1835. 20th March, 1835.

The Honourable Mr. Markland, from the Select Committee to whom was referred the Bill, intituled "An Act for the Disposal of the Clergy Reserves in this Province for the Purposes of general Education," presented their Report.

Ordered, That it be received;

And the same was read by the Clerk as follows:—

The Select Committee appointed to report upon the Bill, intituled "An Act for the Disposal of the Clergy Reserves in this Province for the Purposes of general Education," have taken the same into consideration, and concur in not recommending it to your Honourable House, but have agreed upon certain Resolutions, which they beg leave to offer for its adoption.

Resolved, That His late Majesty King George the Third, having been graciously pleased, by Message to both Houses of Parliament, to express His Royal desire to be enabled to make a permanent appropriation of Lands in this Province, for the support and maintenance of a Protestant Clergy within the same, provision was made for that purpose by Parliament in the statute passed in the 31st year of His Majesty's reign, cap. 31, by directing a reservation of lands to be made and set apart in the proportion of all the lands that should be granted by His Majesty in the said Province, and by declaring that all and every the rents, profits, or emoluments which might at any time arise

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arise from such lands so allotted and appropriated as aforesaid should be applied solely to the maintenance and support of a Protestant Clergy within the Province, and to no other use or purpose whatever.

Journals of the
Legislative Council,
20th March,
1835.

Resolved, That such allotments and appropriations as the Act directs having been made from time to time, and continuing to be set apart, under the designation of Clergy Reserves, a claim was advanced in the year 1821, on behalf of the Church of Scotland, to be allowed to share in those Reserves, or in the rents, profits, or emoluments to be derived from them, which claim was made and has been urged upon the footing of a legal claim, grounded on the construction of the statute, and on the rights of the Church of Scotland, as a Church established in one Part of the United Kingdom.

Resolved, That it has been advanced by other portions of the people of this Province, that all Protestant denominations have a right, in common with the Church of England, to have their Clergy supported from the Reserves in question, and that no exclusive right can be vindicated under the Act in favour of any one or more Protestant Churches.

Resolved, That efforts have also been made to procure a total abolition of this provision for the support of Religion, by obtaining an Act of the Provincial Legislature, directing the sale of the Reserves, and the appropriation of the proceeds to the purposes of general education.

Resolved, That by these conflicting claims and opposing views in regard to a subject of so great interest and importance, the minds of His Majesty's subjects in this Province have for a long period been rendered anxious and unsettled, and, in the opinion of the Legislative Council, it is for many reasons much to be desired that a speedy and final settlement should take place of the questions which have arisen upon the effect of the enactments referred to, and that it should be plainly, certainly, and firmly established to what specific objects the Clergy Reserves shall be permanently applied.

Resolved, That the Legislative Council, confiding in the wisdom and justice of His Majesty and the Imperial Parliament, think it expedient and proper humbly to address His Majesty and both Houses of Parliament, representing that the Legislature of this Province has been unable to concur in any measure respecting the Clergy Reserves; and earnestly requesting that the Imperial Parliament will, with as little delay as possible, make such an enactment on the subject as cannot appear to leave any room for doubt or question in regard to the objects to which the proceeds of the Clergy Reserves are to be applied, and that, having regard to the present condition and future welfare of this colony and maturely considering whatever has been urged or may be urged

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urged in regard to these Reserves, they will, by some measure which shall be final and unequivocal, make such an appropriation of them as shall appear to be most consistent with a due regard to Religion, to the principles of our Constitution, and to the permanent welfare and tranquillity of the Province.

Journals of the
Legislative Coun-
cil, 26th March,
1835.

Ordered. That the last-mentioned Bill, and the Report of the Select Committee thereon, be referred to a Committee of the whole House on Thursday next; and, Ordered, That the members in town be summoned to attend in their places on that day.

26th March, 1835. 26th March, 1835

Pursuant to the order of the day, the House was put into Committee of the whole upon the Bill intituled, "An Act, for the disposal of the Clergy Reserves in this Province for the purposes of General Education, and the report of the Select Committee thereon.

The Honourable Mr. Markland took the Chair.

After some time the House resumed.

The Chairman reported, That the Committee had taken the said Bill, and the report of the Select Committee thereon, into consideration, and recommended the series of Resolutions therein referred to, together with a further resolution, to the adoption of the House.—Ordered to be received;

And the said resolutions were then read by the Clerk as follows:—

Resolved, That his late Majesty King George the Third having been graciously pleased, by Message to both Houses of Parliament, to express his royal desire to be enabled to make a permanent Appropriation of Lands in this Province for the Support and Maintenance of a Protestant Clergy within the same, Provision was made for that Purpose by Parliament in the Statute passed in the 31st Year of His Majesty's Reign, Chap. 31, by directing a Reservation of Lands to be made and set apart in the Proportion of all the Lands that should be granted by His Majesty in the said Province, and by declaring that all and every the Rents, Profits, or Emoluments which might at any Time arise from such Lands so allotted and appropriated as aforesaid should be applied solely to the Maintenance and Support of a Protestant Clergy within the Province, and to no other Use or Purpose whatever.

Resolved, That such Allotments and Appropriations as the Act directs having been made from Time to Time, and continuing to be set apart, under the Designation of Clergy Reserves, a Claim was advanced in the year 1821, on behalf of the Church of Scotland, to be allowed to share in those Reserves, or in the Rents, Profits, or Emoluments



ments to be derived from them, which Claim was made and has been urged upon the Footing of a legal Claim, grounded on the Construction of the Statute, and on the Rights of the Church of Scotland, as a Church established in one Part of the United Kingdom.

*Journal of the
Legislative Council
25th March,
1836*

Resolved, That it has been advanced by other Portions of the People of this Province that all Protestant Denominations have a Right, in common with the Church of England, to have their Clergy supported from the Reserves in question, and that no exclusive Right can be vindicated under the Act in favour of any One or more Protestant Churches.

Resolved, That Efforts have also been made to procure a total Abolition of this Provision for the Support of Religion, by obtaining an Act of the Provincial Legislature directing the Sale of the Reserves, and the Appropriation of the Proceeds to Purposes of general Education.

Resolved, That by these conflicting Claims and opposing Views, in regard to a Subject of so great Interest and Importance, the Minds of His Majesty's Subjects in this Province have for a long Period been rendered anxious and unsettled, and in the Opinion of the Legislative Council it is for many Reasons much to be desired that a speedy and final Settlement should take place of the Questions which have arisen upon the Effect of the Enactments referred to, and that it should be plainly, certainly, and firmly established to what specific Objects the Clergy Reserves shall be permanently applied.

Resolved, That the Legislative Council, confiding in the Wisdom and Justice of His Majesty and the Imperial Parliament, think it expedient and proper humbly to address His Majesty and both Houses of Parliament, representing that the Legislature of this Province has been unable to concur in any Measure respecting the Clergy Reserves; and earnestly requesting that the Imperial Parliament will, with as little Delay as possible, make such an Enactment on the Subject as cannot appear to leave any room for Doubt or Question in regard to the Objects to which the Proceeds of the Clergy Reserves are to be applied, and that, having regard to the present Condition and future Welfare of this Colony, and maturely considering whatever has been urged or may be urged in regard to these Reserves, they will, by some Measure, which shall be final and unequivocal, make such an Appropriation of them as shall appear to be most consistent with a due Regard to Religion, to the Principles of our Constitution, and to the permanent Welfare and Tranquility of the Province.

Resolved, That it is the Opinion of this Committee that the same Select Committee to whom was referred the Bill sent up from the Assembly

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Assembly, intituled "An Act for the Disposal of the Clergy Reserves in this Province for the Purposes of general Education," be instructed to report upon the Principles and Details of the Bill; and also upon the Provision made by Law for the Support of Religion in this Province, as well as upon the Questions which have arisen respecting it, and the Measures which have been taken in England and in this Country in relation to the same.

*Journal of the
Legislative Coun-
cil, 20th March,
1835.*

The said Resolutions being read a Second Time, and the Question of Concurrence put on each, they were severally agreed to by the House:

And it was ordered, That a Copy of the first Six Resolutions be sent to the Commons House of Assembly, by the Master in Chancery, for their Concurrence.

4TH APRIL, 1835.

4th April, 1835.

The Honourable and Venerable the Archdeacon of York, from the Select Committee to whom was again referred the Bill, intituled "An Act for the Disposal of the Clergy Reserves in this Province for the Purposes of general Education," presented their further Report:

Ordered that it be received; and,

The same was then read by the Clerk.

5TH APRIL, 1835.

5th April, 1835.

The Order of the Day being read for the House to be put into a Committee of the Whole upon the further Report of the Select Committee to whom was referred the Bill, intituled "An Act for the Disposal of the Clergy Reserves in this Province for the Purposes of general Education,"

It was Ordered to be discharged, and that the same do stand upon the Order of the Day for To-morrow.

9TH APRIL 1835.

9th April, 1835.

Pursuant to the Order of the Day, the House was put into a Committee of the Whole upon the further Report of the Select Committee to whom was referred the Bill, intituled "An Act for the Disposal of the Clergy Reserves in this Province for the Purposes of general Education."

The Honourable Mr. Allan took the Chair.

A Message being announced, the Chairman left the Chair, and the House formed.

The House was then again put into a Committee of the Whole upon the further

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The Report of the Select Committee to whom was referred the Bill, intituled "An Act for the Disposal of the Clergy Reserves in this Province for the Purposes of general Education." Journal of the Legislative Council, 21st April, 1835.

The Honourable Mr. Allan took the Chair.

After some time the House was resumed.

The Chairman reported that the Committee had gone through the said Report of the Select Committee, and recommended the same to the Adoption of the House.

Ordered, that the Report be received;

And, Ordered, that it be referred (together with the Resolutions on the same Subject) to the same Select Committee, with Instructions to frame an Address to the King and the Two Houses of, the Imperial Parliament thereon.

13TH APRIL 1835. 13th April, 1835.

The Honourable Mr. Clark, from the Select Committee appointed to prepare an Address to His Majesty, on the Subject Matter of the Appropriation of the Clergy Reserves in this Province, reported a Draft thereof, which he read in his Place.

Ordered, that the Report be received;

And the Draft was then again read by the Clerk;

And it was Ordered, that the House be put into a Committee of the Whole presently; to take the said Address into Consideration.

The House was then put into a Committee of the Whole accordingly.

The Honourable Mr. Clark took the Chair.

After some Time the House was resumed.

The Chairman reported that the Committee had gone through the said Address, and recommended the same without Amendment to the Adoption of the House.

Ordered, that the Report be received;

And, Ordered, that the said Address be ingrossed, and the same read a Third Time on Munday next.

Pursuant to the Order of the Day, the Address to the King on the Subject Matter of the Appropriation of the Clergy Reserves in this Province, was read a Third Time, and passed.

Whereupon the Speaker signed the same.

Ordered,

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Ordered, that an Address be presented to his Excellency the Lieutenant Governor, in the following Words:—

Journals of the
Legislative
Council, 13th
April, 1835.

To his Excellency Sir John Colborne, Knight Commander of the Most Honourable Military Order of the Bath, Lieutenant Governor of the Province of Upper Canada, and Major General commanding his Majesty's Forces therein, &c. &c. &c.

May it please your Excellency,

The Legislative Council have passed an humble Address to His Majesty, on the Subject of the Clergy Reserves in this Province, which they pray your Excellency will be pleased to transmit, together with the accompanying Documents, to his Majesty's Principal Secretary of State for the Colonies, to be by him laid at the Foot of the Throne.

Ordered, that the Honourable Messieurs Dickson and Crookshank be a Committee to wait upon the Lieutenant Governor to know when his Excellency would be pleased to receive this House with the Address to the King.

On Motion made and seconded, it was

Ordered, that One thousand Copies of the Resolutions, as also the Report of the Select Committee, with the Appendix and the Address to His Majesty, on the Subject Matter of the Appropriation of the Clergy Reserves in this Province, be printed in a Pamphlet Form.

14TH APRIL, 1835.

14th April, 1835

The Honourable Mr. Dickson, from the Committee appointed to wait upon the Lieutenant Governor to know when his Excellency would be pleased to receive this House with their Address to the King on the Subject Matter of the Appropriation of the Clergy Reserves in this Province, reported that they had done so, and that his Excellency had been pleased to name this Day, at the Hour of Twelve of the Clock at Noon, for receiving the same.

At the Time appointed the Legislative Council proceeded to the Government House with their Address to the King on the subject matter of the appropriation of the Clergy Reserves in this Province; and being returned,

His Honour the Speaker reported, that his Excellency had been pleased to receive the Address of this House to the King, and to reply thereto as follows:

Gentlemen,

I will take an early opportunity of transmitting to the Secretary of State for the Colonies this Address to the King on the important subject of the Clergy Reserves, to be laid before His Majesty.

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JOURNALS OF THE HOUSE OF ASSEMBLY.

20TH JANUARY, 1836.

Pursuant to notice, Mr. Perry, seconded by Mr. C. Duncombe, moves for leave to bring in a Bill for the sale of the Clergy Reserves in this Province, for the purposes of education; which was granted, and the Bill read.

Journals of the
House of Assem-
bly, 20th Janu-
ary, 1836.

Ordered, that the Clergy Reserve sale Bill be read a second time to-morrow.

20TH FEBRUARY, 1836.

Pursuant to the order of the day, the Clergy Reserve Bill was read a second time.

20th February,
1836.

On the Question for the House to go into Committee of the whole on the Bill:

In amendment, Mr. Perry, seconded by Mr. Roblin, moves, "That the House do go into Committee on the Bill on Monday next, and that it be the first item on the order of the day for that day"; which was carried.

22D FEBRUARY 1836.

Pursuant to the order of the day, the House was again put into Committee of the whole on the Clergy Reserve sale Bill.

22nd February,
1836.

Mr. M'Crae in the Chair.

The House resumed.

Mr. M'Crae reported, that the Committee had gone through the several clauses of the Bill, amended the same, and submitted it for the adoption of the House.

On the question for receiving the report,

Mr. Solicitor General, seconded by Mr. M'Lean, moves that the Report be not now received, but that it be

Resolved, That whereas the Right Honourable the Secretary of State for the Colonies, having, in his despatch of the 5th December last, addressed to his Excellency Sir Francis Bond Head, intimated that His Majesty would consider the constitutional objections to the interposition of the Imperial Parliament in the long-agitated question of the Clergy Reserves at an end, if both branches of the Legislature should unite in application to that body to interpose its paramount authority: And whereas all efforts heretofore made by the Legislative Council and House of Assembly to concur in a measure acceptable to both on



both on this important subject have been ineffectual; and as there is no reason to suppose that the differences that exist between the Council and Assembly will be reconciled, it is therefore expedient to pray for the mediation of our gracious Sovereign, and dutifully to express our desire that He will be pleased to recommend to the Imperial Parliament to take the matter into its consideration, and to enact such laws with respect to the future appropriation and management of the Clergy Reserves in this Province, as shall in its wisdom, be thought most conducive to the peace and welfare, moral and religious instruction of the people in this Province.

Journal of the
House of Assembly,
17th Feb
1856.

On which the yeas and nays, being taken, were as follows:

Messrs.

Boulton,

YEAS.

M'Lean,

Robinson,

Sol. General—4.

Messrs.

NAYS.

Bruce,

Chesser,

Chisholm,

Cook,

Duncombe, Oxford,

Duncombe, Norfolk,

Durand,

Dunlop,

Gibson,

Gilchrist,

Hopkins,

Lount,

M'Donell, Glengarry,

M'Donell, Stormont,

M'Intosh,

Mackenzie,

M'Micking,

Malloch,

Moore,

Morrison,

Norton,

Parke,

Perry,

Roblin,

Rykert,

Rymal,

Shaver.

Shibley,

Smith,

Thorburn,

Walsh,

Waters,

Wilson,

Woolverton

Yager—35.

The question was decided in the negative by a majority of thirty-one, and the Report was received.

On the Question for the third reading of the Bill on Wednesday next, the Yeas and nays were taken as follows:

Messrs.

YEAS.

Bruce,

Chesser,

Chisholm,

Cook,

Duncombe, Oxford,

Duncombe, Norfolk,

Durand,

Dunlop,

Gibson,

Gilchrist,

Hopkins,

Lount,

M'Donell, Stormont,

M'Intosh,

Mackenzie,

M'Micking,

Malloch,

Moore,

Morrison, Shibley,

Norton, Smith,

Parke, Thorburn,

Perry, Waters,

Roblin, Wilson,

Rykert, Woolverton.

Rymal, Yager—33.

Messrs.

NAYS.

Boulton,

M'Lean,

Robinson,

Solicitor General,

Walsh—5.

The question



The question was carried in the affirmative by a majority of twenty-eight; and ordered accordingly.

Journal of the
House of Assembly,
24th Feb.,
1836.

24TH FEBRUARY, 1836.

24th Feb., 1836.

Pursuant to the order of the day, the Clergy Reserve sale Bill was read the third time.

On the question for passing the Bill, the yeas and nays being taken were as follows:

Messrs.

YEAS.

Bruce,
Chesser,
Chisholm,
Cornwall,
Duncombe, Norfolk,
Durand,
Dunlop,
Gibson,
Gilchrist,

Hopkins,
Lewis,
Lount,
McCrae,
D'Donell, Glengarry,
M'Donell, Stormont,
M'Donell, Northumb.
M'Intosh,
M'Kay,

Mackenzie, Small,
Morrison, Smith,
Norton, Strange,
Parke, Waters,
Perry, Wells,
Roblin, Wilson,
Ryker, Woolverton.
Shaver, Yager—35.
Shibley,

Messrs.

NAVS.

Houlton,
McLean,

Robinson,

Solicitor General, Wilkinson—5.

The question was carried in the affirmative by a majority of thirty.

Mr. Perry, seconded by Mr. Lount, moves, "That the Bill be intitled 'An Act for the disposal of the Clergy Reserves in this Province for the purposes of general education,'" which was carried; and Messrs. Perry and Lount were ordered by the Speaker to carry the Bill up to the Honourable the Legislative Council, and to request their concurrence thereto.

7TH MARCH, 1836.

7th March, 1836.

F. B. HEAD,

The Lieutenant Governor transmits to the House of Assembly the accompanying copy of a despatch from His Majesty's Secretary of State for the colonies with reference to a resolution of the Assembly at the last Session, on the subject of the Clergy Reserves.

Government House,
7th March, 1836.

22ND MARCH, 1836.

22nd March, 1836.

Mr. Speaker reported, That the master in Chancery had brought down from the Honourable the Legislative Council the Bill sent up from

from this House, intituled "An Act for the disposal of the Clergy Reserves in this Province for the purposes of general education," which that Honourable House had passed, with some amendments, to which the concurrence of this House was requested.

*Journals of the
House of Assembly,
27th March,
1859.*

The amendments made by the Honourable the Legislative Council in and to the Bill, intituled "An Act for the disposal of the Clergy Reserves in this Province for the purposes of general education," were read the first time, as follows:

"Amendments made by the Legislative Council in and to the Bill sent up from the Commons House of Assembly, intituled 'An Act for the disposal of the Clergy Reserves in this Province for the purposes of general education.'

"In the Title:—After 'Act' expunge the remainder, and insert 'to repeal part of an Act passed in the parliament of Great Britain, intituled 'An Act to repeal certain parts of an Act passed in the fourteenth year of his Majesty's reign, intituled 'An Act for making more effectual provision for the government of the Province of Quebec in North America,' and to make further provision for the government of the Province, and to vest certain lands therein mentioned in His Majesty, to be applied for the maintenance of public worship and the support of religion within this Province.'

"Press 1. Line 1. After 'Whereas' expunge the remainder of the Bill, and insert 'in and by an Act of the parliament of Great Britain passed in the thirty-first year of the reign of His late Majesty King George the Third, intituled 'An Act to repeal certain parts of an Act passed in the parliament of Great Britain, intituled 'An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled 'An Act for making more effectual provision for the government of the Province of Quebec in North America,' and to make further provision for the government of the said Province,' it is among other things recited and declared, that His said late Majesty had been graciously pleased, by message to both Houses of Parliament, to express His royal desire to be enabled to make a permanent appropriation of lands in the said Provinces for the support and maintenance of a Protestant Clergy within the same, in proportion to such lands as had been already granted within the same by His Majesty; and further, that such provision might be made with respect to all future grants of land within the said Provinces respectively as might best conduce to the due and sufficient support and maintenance of a Protestant Clergy within the said Provinces, in proportion to such increase as should happen in the population and cultivation thereof: And whereas, for the purpose of more effectually fulfilling His said Majesty's gracious intentions as aforesaid, and of providing for the due execution

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execution of the same in all time to come, certain provisions were made in and by the said Act respecting the support and maintenance of a Protestant Clergy within the said Provinces, which provisions are contained in the thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth, thirty-ninth, fortieth, forty-first, and forty-second clauses of the said Statute passed in the thirty-first year of the reign of His late Majesty King George the Third; and are in the words following; that is to say,

*Journals of the
House of Assembly,
17th March,
1824.*

"35. And whereas by the above-mentioned Act passed in the fourteenth year of the reign of His present Majesty it was declared, that the Clergy of the Church of Rome in the Province of Quebec might hold, receive, and enjoy their accustomed dues and rights with respect to such persons only as should profess the said religion; provided nevertheless, that it should be lawful for His Majesty, His heirs or successors, to make such provision, out of the rest of the said accustomed dues and rights, for the encouragement of the Protestant religion, and for the maintenance and support of a Protestant Clergy within the said Province, as He or they should from time to time think necessary and expedient: And whereas by His Majesty's royal instructions, given under His Majesty's royal sign manual on the third day of January in the year of our Lord one thousand seven hundred and seventy-five, to Guy Carleton Esquire, now Lord Dorchester, at that time His Majesty's Captain General and Governor in Chief in and over His Majesty's Province of Quebec, His Majesty was pleased, amongst other things, to direct, that no incumbent professing the religion of the Church of Rome, appointed to any parish in the said Province, should be entitled to receive any tithes for lands or possessions occupied by a Protestant, but that such tithes should be received by such persons as the said Guy Carleton, Esquire, His Majesty's Captain General and Governor in Chief in and over His Majesty's Province of Quebec, should appoint, and should be reserved in the hands of His Majesty's Receiver General of the said Province, for the support of a Protestant Clergy in His Majesty's said Province, to be actually resident within the same, and not otherwise, according to such directions as the said Guy Carleton, Esquire, His Majesty's Captain General and Governor in Chief in and over His Majesty's said Province, should receive from His Majesty in that behalf; and that in like manner all growing rents and profits of a vacant benefice should, during such vacancy, be reserved for and applied to the like uses. And whereas, His Majesty's pleasure has likewise been signified to the same effect in His Majesty's royal instructions, given in like manner to Sir Frederick Haldimand, Knight of the most honourable Order of the Bath, late His Majesty's Captain General and Governor in Chief in and over His Majesty's said Province of Quebec, and also in His Majesty's royal instructions given in like manner to the said Right Honourable Guy Lord Dorchester, now His Majesty's

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Majesty's Captain General and Governor in Chief in and over His Majesty's said Provinces of Quebec; and be it enacted, by the authority aforesaid, That the said declaration and provision contained in the said above-mentioned acts, and also the said provision so made by His Majesty in consequence thereof, by his instructions above recited, shall remain and continue to be of full force and effect in each of the said two Provinces of Upper Canada and Lower Canada respectively, except in so far as the said declaration or provisions respectively, or any part thereof, shall be expressly varied or repealed by any act or acts which may be passed by the Legislative Council and Assembly of the said Provinces respectively, and assented to by His Majesty, his heirs or successors, under the restriction hereinafter provided.

*Journals of the
House of Assembly,
27th March,
1836.*

36. "And whereas, His Majesty has been graciously pleased by message to both Houses of Parliament, to express his royal desire to be enabled to make a permanent appropriation of lands in the said Provinces for the support and maintenance of a Protestant Clergy within the same, in proportion to such lands as have been already granted within the same by His Majesty; And whereas, His Majesty has been graciously pleased by his said message, further to signify his royal desire that such provision may be made, with respect to all future grants of land within the said Provinces respectively, as may best conduce to the due and sufficient support and maintenance of a Protestant Clergy within the said Provinces, in proportion to such increase as may happen in the population and cultivation thereof; therefore, for the purpose of more effectually fulfilling His Majesty's gracious intentions as aforesaid, and of providing for the due execution of the same in all time to come, be it enacted by the authority aforesaid, That it shall and may be lawful for His Majesty, His heirs or successors, to authorize the Governor or Lieutenant Governor of each of the said Provinces respectively, or the person administering the government therein, to make, from and out of the lands of the Crown within such Provinces, such allotment and appropriation of lands for the support and maintenance of a Protestant Clergy within the same, as may bear a due proportion to the amount of such lands within the same as have at any time been granted by or under the authority of His Majesty; and that whenever any grant of lands within either of the said Provinces shall hereafter be made by or under the authority of His Majesty, His heirs or successors, there shall at the same time be made in respect of the same a proportionable allotment and appropriation of lands for the above-mentioned purpose within the township or parish to which such lands so to be granted shall appertain or be annexed, or as nearly adjacent thereto as circumstances will admit; and that no such grant shall be valid or effectual unless the same shall contain a specification of the lands so allotted and appropriated in respect of the lands to be thereby granted; and that such lands so allotted and appropriated shall

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be, as nearly as the circumstances and nature of the case will admit of the like quality as the lands in respect of which the same are so allotted and appropriated, and shall be, as nearly as the same can be estimated, at the time of making such grant, equal in value to the seventh part of the Lands so granted.

*Journals of the
House of Assembly,
17th March,
1864.*

37. " And be it further enacted by the authority aforesaid, That all and every the rents, profits, or emoluments which may at any time arise from such lands so allotted and appropriated as aforesaid shall be applicable solely to the maintenance and support of a Protestant Clergy within the Province in which the same shall be situated, and to no other use or purpose whatever.

38. " And be it further enacted by the authority aforesaid, That it shall and may be lawful for His Majesty, His heirs or successors, to authorize the Governor or Lieutenant Governor of each of the said Provinces respectively, or the person administering the government therein, from time to time with the advice of such Executive Council as shall have been appointed by His Majesty, His heirs or successors, within such Province, for the affairs thereof, to constitute and erect, within every township and parish which now is or hereafter may be formed, constituted, or erected within such Province, one or more Parsonage or Rectory, or Parsonages or Rectories, according to the establishment of the Church of England; and from time to time, by an instrument under the Great Seal of such Province, to endow every such Parsonage or Rectory with so much or such a part of the lands so allotted and appropriated as aforesaid in respect of any lands within such township or parish which shall have been granted subsequent to the commencement of this Act, or of such lands as may have been allotted and appropriated for the same purpose by or in virtue of any instruction which may be given by His Majesty in respect of any lands granted by His Majesty before the commencement of this Act, as such Governor, Lieutenant Governor, or person administering the government shall, with the advice of the said Executive Council, judge to be expedient under the then existing circumstances of such township or parish.

39. " And be it further enacted by the authority aforesaid, That it shall and may be lawful for His Majesty, his heirs or successors, to authorize the Governor, Lieutenant Governor, or person administering the government of each of the said Provinces respectively, to present to every such Parsonage or Rectory an incumbent or minister of the Church of England who shall have been duly ordained according to the rites of the said Church, and to supply from time to time such vacancies as may happen therein; and that every person so presented to any such Parsonage or Rectory shall hold and enjoy the same, and all rights, profits, and emoluments thereunto belonging or granted, as fully

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fully and amply, and in the same manner, and on the same terms and conditions, and liable to the performance of the same duties, as the incumbent of a Parsonage or Rectory in England.

40. " Provided always, and be it further enacted by the authority aforesaid, That every such presentation of an incumbent or minister to any such Parsonage or Rectory, and also the enjoyment of any such Parsonage or Rectory, and of the rights, profits, and emoluments thereof, by any such incumbent or minister, shall be subject and liable to all rights of institution, and all other spiritual and ecclesiastical jurisdiction and authority, which have been lawfully granted by His Majesty's Royal Letters Patent to the Bishop of Nova Scotia, or which may hereafter, by His Majesty's royal authority, be lawfully granted or appointed to be administered and executed within the said Provinces, by either of them respectively, by the said Bishop of Nova Scotia, or by any other person or persons, according to the laws and canons of the Church of England which are lawfully made and received in England.

41. " Provided always, and be it further enacted by the authority aforesaid, That the several provisions hereinbefore contained respecting the allotment and appropriation of lands for the support of a Protestant Clergy within the said Provinces, and also respecting the constituting, erecting, and endowing Parsonages or Rectories within the said Provinces; and also respecting the presentation of incumbents or ministers to the same; and also respecting the manner in which such incumbents or ministers shall hold and enjoy the same, shall be subject to be varied or repealed by any express provisions for that purpose contained in any Act or Acts which may be passed by the Legislative Council and Assembly of the said Provinces respectively, and assented to by His Majesty, His heirs or successors, under the restriction hereinbefore provided.

42. " Provided nevertheless, and be it further enacted by the authority aforesaid, That whenever any Act or Acts shall be passed by the Legislative Council and Assembly of either of the said Provinces, containing any provisions to vary or repeal the above recited declaration and provisions contained in the said Act passed in the fourteenth year of the reign of His present Majesty; or to vary or repeal the above recited provision contained in His Majesty's royal instructions given on the third day of January in the year of our Lord one thousand seven hundred and seventy-five, to the said Guy Carleton, Esquire, now Lord Dorchester; or to vary or repeal the provisions hereinbefore contained for continuing the force and effect of the said declaration and provisions; or to vary or repeal any of the several provisions hereinbefore contained respecting the allotment and appropriation of lands for the support of a Protestant Clergy within the said Provinces, or respecting the constituting, erecting, or endowing Parsonages or Rectories,



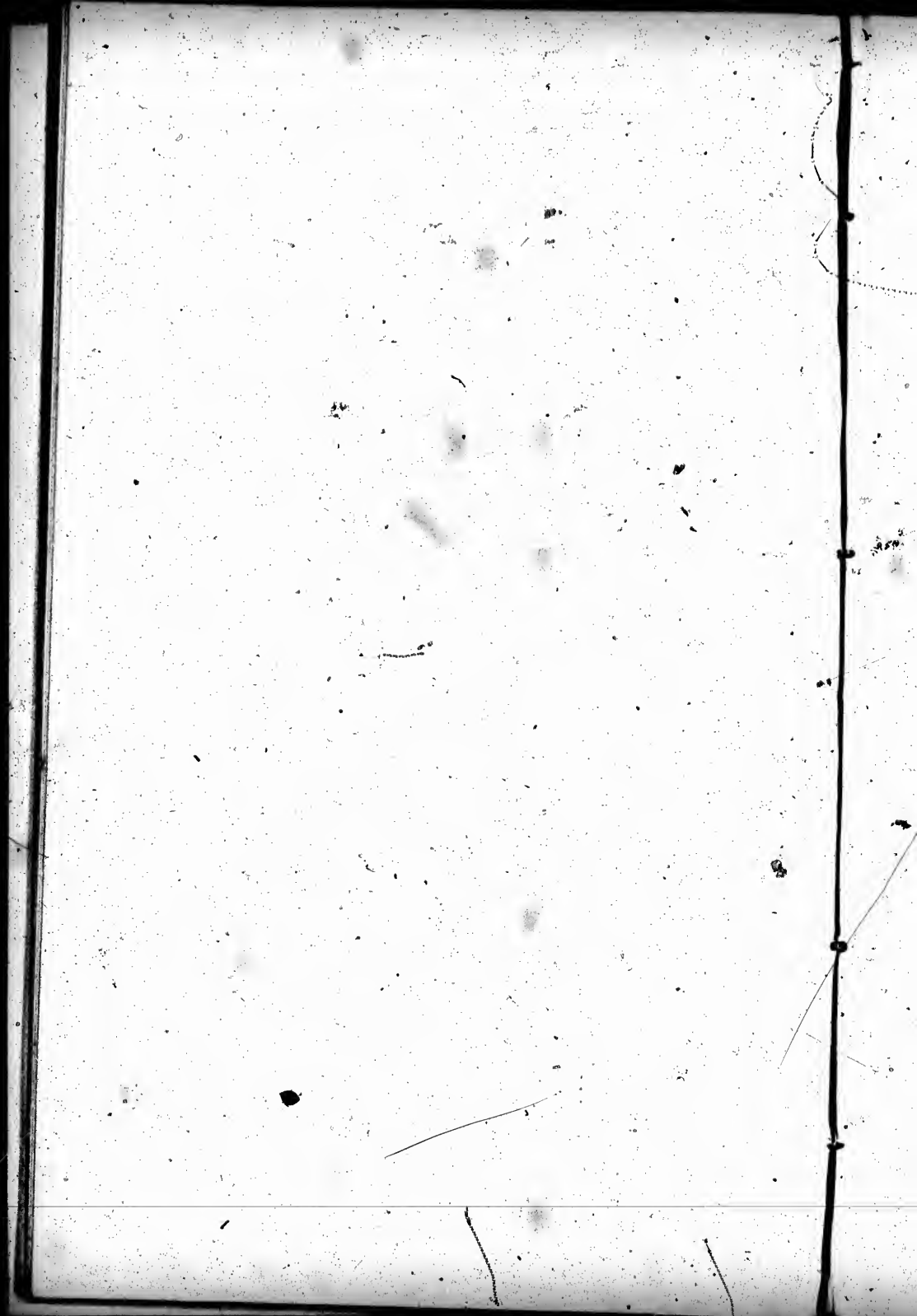
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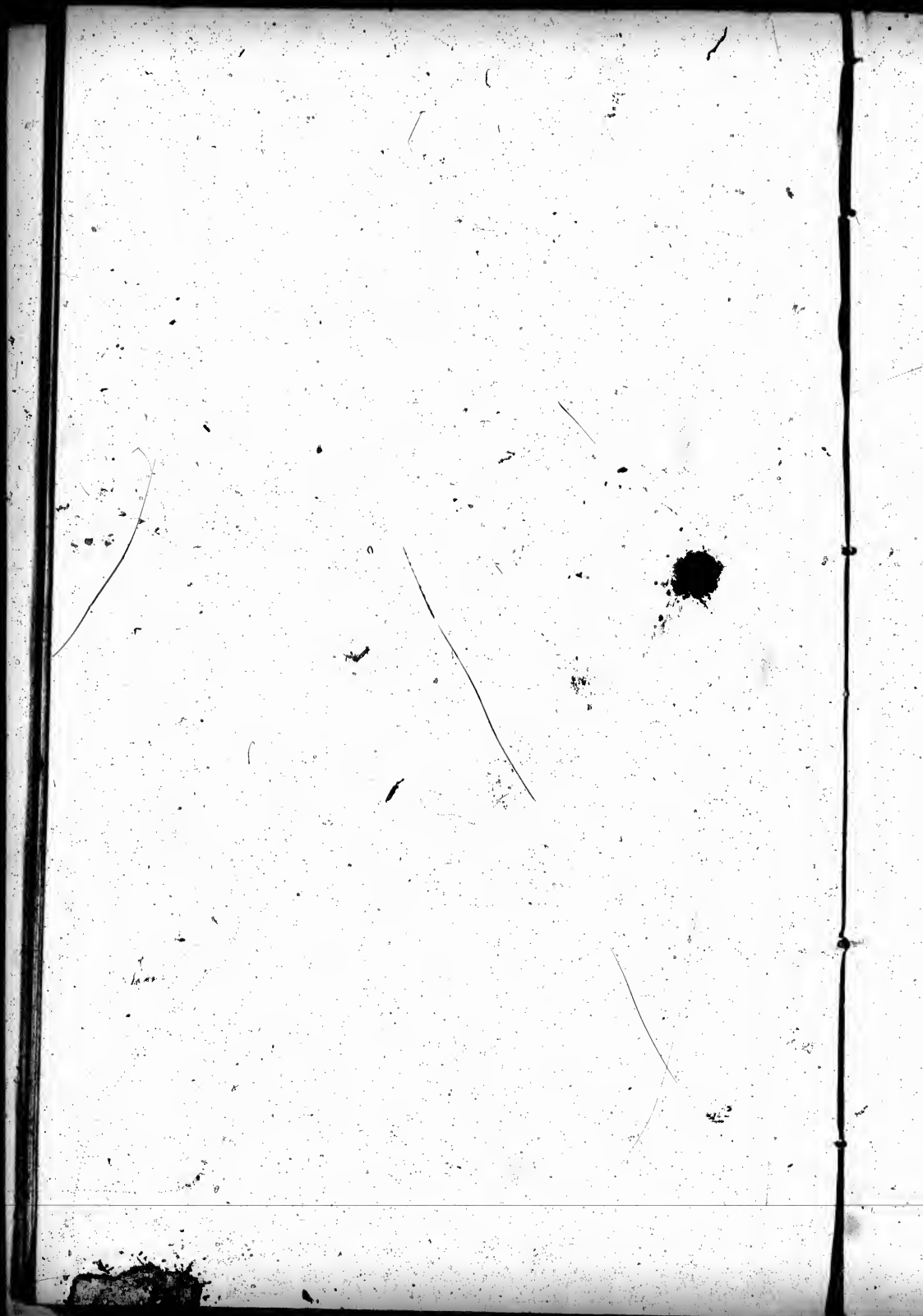


tories within the said Provinces, or respecting the presentation of incumbents or ministers to the same, or respecting the manner in which such incumbents or ministers shall hold and enjoy the same; and also that whenever any Act or Acts shall be so passed, containing any provisions which shall in any manner relate to or affect the enjoyment or exercise of any religious form or mode of worship, or shall impose or create any penalties, burdens, disabilities or disqualifications in respect of the same; or shall in any manner relate to or affect the payment, recovery, or enjoyment of any of the accustomed dues or rights hereinbefore mentioned; or shall in any manner relate to the granting, imposing, or recovering any other dues, or stipends, or emoluments whatever, to be paid to or for the use of any minister, priest, ecclesiastic, or teacher, according to any religious form or mode of worship in respect of his said office or function, or shall in any manner relate to or affect the establishment or discipline of the Church of England, amongst the ministers, and members thereof within the said Provinces; or shall in any manner relate to or affect the King's prerogative touching the granting of waste lands of the Crown within the said Provinces; every such Act or Acts shall, previous to any declaration or signification of the King's assent thereto, be laid before both Houses of Parliament in Great Britain; and that it shall not be lawful for His Majesty, his heirs or successors, to signify His or their assent to any such Act or Acts until thirty days after the same shall have been laid before the said Houses, or to assent to any such Act or Acts in case either House of Parliament shall within the said thirty days address His Majesty, His heirs or successors, to withhold his or their assent from such Act or Acts; and that no such Act shall be valid or effectual to any of the said purposes, within either of the said Provinces, unless the Legislative Council and Assembly of such Province shall, in the Session in which the same shall have been passed by them, have presented to the Governor, Lieutenant Governor, or person administering the government of such Province, an address or addresses, specifying that such Act contains provisions for some of the said purposes hereinbefore specially described; and desiring that, in order to give effect to the same, such Act should be transmitted to England without delay for the purpose of being laid before parliament previous to the signification of His Majesty's assent thereto.

Journals of the
 House of Assembly,
 27th March,
 1836.

"And whereas, since the passing of the said Act, divers allotments and appropriations of land have been made within the Province of Upper Canada, in pursuance of the aforesaid provisions for the support and maintenance of a Protestant Clergy, which allotments are commonly known by the name of Clergy Reserves, and have been made in the proportion of one-seventh of the lands granted or to be granted within the said Province: And whereas, of these allotments of land, some portions have been demised by His said late Majesty, or His

successors



successors, for terms of years, and other portions have been from time to time sold under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the seventh and eighth years of the reign of His late Majesty King George the Fourth, intituled "An Act to authorize the sale of a part of the Clergy Reserves in the Provinces of Upper and Lower Canada," under the provisions of which Act the monies accruing from such lands sold are to be appropriated, applied, and disposed of for the purposes for which the said lands were so reserved as aforesaid, and for no other purpose whatsoever, and the residue of the said allotments or Reserves, not being leased or otherwise disposed of, continue vested in the Crown, subject to the provisions of the Act first herein recited:

Journal of the
House of Assembly,
17th March,
1850.

"And whereas doubts have arisen respecting the proper legal construction of the said Act passed in the thirty-first year of the reign of His late Majesty King George the Third, and it has been made a question to what sects or denominations of Protestants the term "Protestant Clergy," used in the said Act, was intended to be applicable, and what Clergy can right claim to participate, or can be legally admitted to participate, in the advantages of the said allotments or Reserves:

"And whereas the continuance of such doubts, and the controversies to which they have given rise, are in a high degree prejudicial to the peace and good government of this Province, and unfavourable to the spiritual and temporal interests of the people thereof, and it is expedient to put an end to such doubts and controversies by enabling His Majesty, His heirs or successors, to dispose of the said allotments or appropriations of land, and of the monies which have accrued or may hereafter accrue from the sale or other disposal of the same, or any part thereof, in such manner as to His Majesty, His heirs or successors, may seem just and fit for the maintenance of public worship and the support of religion within this Province:

"Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the parliament of Great Britain, intituled, An 'Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled 'An Act for making more effectual provision for the government of the Province of Quebec, in North America, and to make further provision for the government of the said Province' and by the authority of the same, that the thirty-sixth and thirty-seventh clauses of the said Statute, and so much of the thirty-eighth clause thereof as relates to the endowment of any Parsonage or Rectory with land, shall be and the same are hereby repealed, and that all and every the lands which are

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now vested in His Majesty, and which before the passing of this Act were reserved, allotted, and appropriated for the maintenance and support of a Protestant Clergy within this Province, under the authority of the said Act of the parliament of Great Britain passed in the thirty-first year of His said late Majesty's reign, shall be and remain vested in His Majesty, His heirs and successors, freed and absolutely discharged from all and every of the trusts, conditions, limitations, or restrictions contained in or imposed or declared by the said last-mentioned Act: Provided always, nevertheless, that the said lands are by this Act vested in His Majesty, His heirs and successors, discharged from the trusts and conditions aforesaid, to the intent and in order that the same lands may be, by His Majesty, His heirs and successors, or by and under the authority of the parliament of the United Kingdom of Great Britain and Ireland, applied and appropriated, by way of endowment or otherwise, solely for the maintenance of public worship and the support of religion within this Province, and to no other use or purpose whatsoever.

*Journals of the
House of Assembly,
27th March,
1836.*

II. "And be it further enacted by the authority aforesaid, That nothing in this Act contained shall extend to interfere with or make void any grant, sale, or lease which before the passing of this Act may have been made of any part or portion of the said allotments or appropriations of land called Clergy Reserves: Provided nevertheless, that the monies which shall have arisen and accrued, and which now remain unexpended, or which shall hereafter arise and accrue, from such sale, or in consequence of such lease having been made, shall be applicable to the same purposes to which the lands so allotted and appropriated as aforesaid shall be applicable after the passing of this Act, and to no other; and that such monies shall be paid over, applied, and accounted for in such manner and form as His Majesty, His heirs or successors, shall be graciously pleased to direct.

III. "And be it further enacted by the authority aforesaid, That from and after the passing of this Act, no grant, sale, lease, or other disposition of any of the said allotments or appropriations of land, or of any part thereof, shall be made otherwise than in pursuance of instructions which shall from time to time be given by His Majesty, His heirs or successors, after the passing of this Act."

JOHN B. ROBINSON,

Speaker.

Legislative Council Chamber,
22d day of March, 1836.

On the question for the second reading of the amendments to-morrow,

In amendment,



In amendment—Mr. Perry, seconded by Mr. Shibley, moves, "That the amendments made to the Clergy Reserve Sale Bill be referred to a select committee, composed of Messrs. C. Duncombe, Morrison, Shaver, and McMicking, with power to send for persons and papers, and leave to report thereon."—Which was ordered.

Journal of the House of Assembly, 31st March, 1836.

7TH APRIL, 1836.

7th April, 1836.

Mr. Perry, from the Select Committee to which was referred the amendments made by the Honourable the Legislative Council in and to the Bill intituled "An Act for the disposal of the Clergy Reserves in this Province for the purposes of general education," informed the House, "That the Committee had agreed to a report and some amendments to the amendments made by the Honourable the Legislative Council, both of which he was ready to submit whenever the House would be pleased to receive the same."

The Report was received, and read as follows:

To the Honourable the Commons House of Assembly.

The Committee to which was referred the amendments made by the Honourable the Legislative Council in and to the Bill intituled "An Act for the disposal of the Clergy Reserves in this Province for the purposes of general education," have agreed to and beg leave to make the following Report:

Your Committee have examined the amendments to the Bill aforesaid made by the Honourable the Legislative Council, and find that nothing remains of the Bill as sent up from your Honourable House but the word "whereas." The preamble adopted by the Honourable the Legislative Council consists chiefly of extracts from the British Act 31st Geo. III. Chap. 31. The enacting clauses adopted by the Honourable the Legislative Council are few and short, and amount merely to the repeal of certain portions of the said 31st of George the Third, and to vesting in His Majesty certain of the Clergy Reserves, and also the money arising from those already sold or leased to be applied and apportioned for the purpose of supporting public worship and religion in this Province, and to no other use or purpose whatsoever.

Your Committee are fully impressed with the belief that public or government grants to religious sects or denominations are highly objectionable. To bestow them partially upon one or more religious bodies, to the exclusion of others of His Majesty's subjects would be unjust; to distribute them equally among all would be impracticable; and the application of public monies to such purposes is, in the opinion

of



of the Committee, likely to corrupt and degrade religion, and to endanger the liberties of the country, converting the ministers of the Gospel into the stipendiaries and partisans of those who have the power and inclination to bestow these gratuities upon them.

*Journal of the
House of Assembly,
7th April,
1836.*

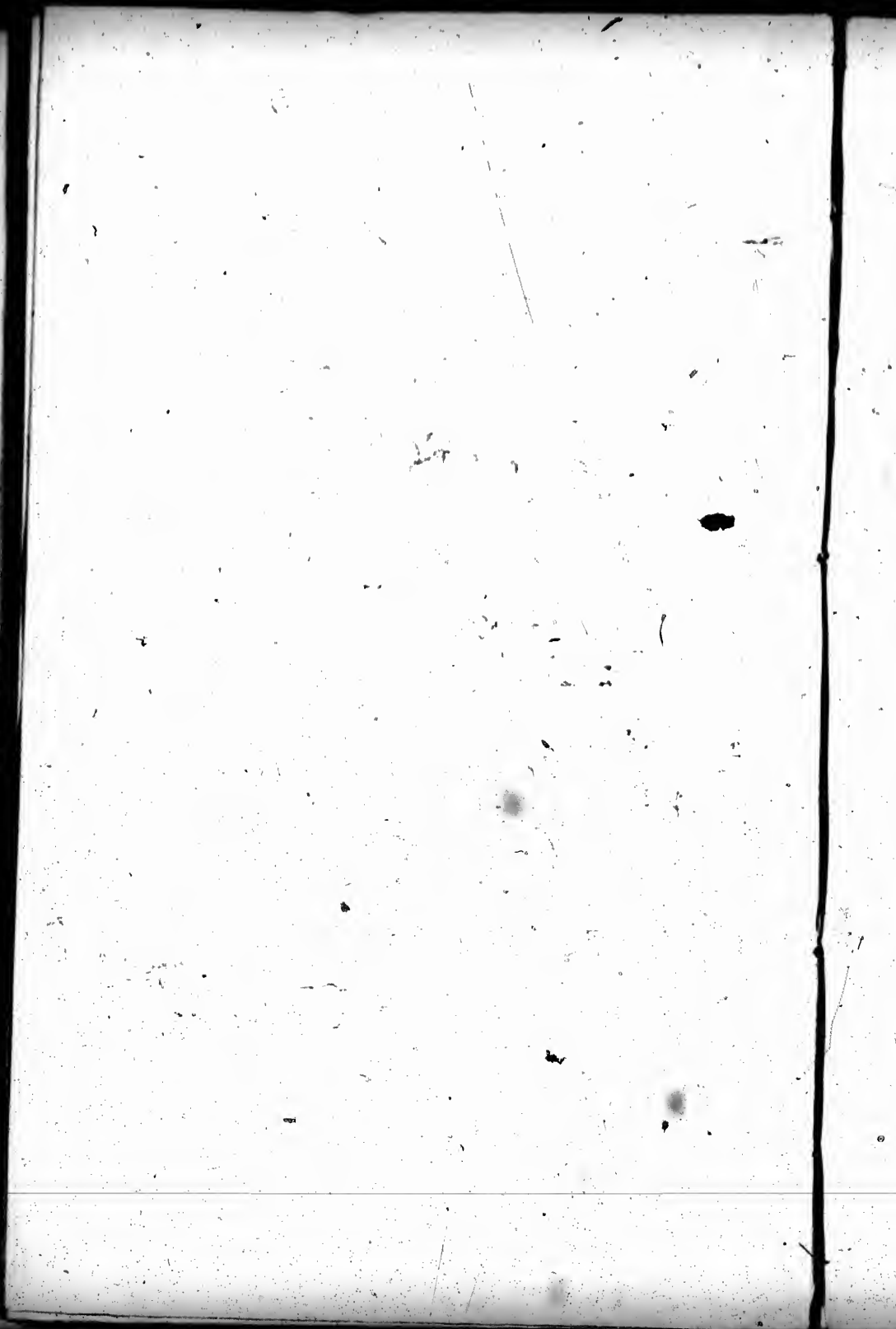
Your Committee would observe, that although they believe every proposition set forth in the preamble of the Bill sent up by your Honourable House to be strictly true and correct; and although they also believe the several clauses of the Bill to be just and useful; yet in order to show to the country and His Majesty's government that your Honourable House were guided by just principles in their proceedings on this great and important measure, and anxious to have the matter settled; in short, to prove that the object of your Honourable House is measures, not men, and that they are not disposed to adhere pertinaciously to any particular mode which they might prefer in the disposal of these Reserves, your Committee would recommend that the amendments to the Bill be acceded to by your Honourable House, with no other alteration than merely to direct the proceeds of the said Reserves to be appropriated for the purposes of general education in such a way and manner as to enable all His Majesty's subjects in this Province, of whatever creed or order, indiscriminately to participate in the same.

Your Committee cannot refrain while on this subject, from remarking on the late proceedings in regard to the Clergy Reserves, and the disposal of the proceeds arising therefrom, and which (in their opinion) ought immediately to engage the serious consideration of the Legislature.

It appears by a Return sent down to the House, that during the last year no less than forty-four Parsonages or Rectories have been constituted, erected, and endowed with portions of the Clergy Reserves, in general varying from 400 to 800 acres, and ministers of the Church of England have been or are to be presented to the same.

It further appears by Returns, that up to the 31st of December, 1835, there had been paid into the military chest, arising from sales of Clergy Reserves, rising of £61,000, over and above the sum of more than £4,000 paid as interest on the several sales, besides the present rent from certain portions of them already leased, amounting to upwards of £4,000 annually; all of which appear to be exclusive of the expense incurred in selling, collecting, &c.

It further appears that the Reverend Dr. Strachan received in the year 1835 the sum of £300, for the purpose of aiding in the erection of a Parsonage House for himself, which he has never used for that purpose,



purpose, but kept (according to his own explanation) until this time, in hopes of procuring £200 more in addition.

*Journal of the
House of Assembly,
7th April,
1836.*

This is a state of things no less alarming than disgusting, when it is considered what the prevailing opinions and feelings throughout the country are known to be on this all-important and interesting subject, and which call aloud for immediate remedy:

All which is respectfully submitted.

PETER PERRY,

Chairman.

Committee Room, House of Assembly,
7th day of April, 1836.

The amendments were read as follows:—

“ Press 8. Line 22. of the amendments, after the word ‘thereof’ expunge the remainder of the preamble, and insert ‘for the purposes of general education throughout this Province.’

“ Press 9. Line 12. After the word ‘lands’ insert ‘and the proceeds arising therefrom.’

Press 9. Line 14. After the word ‘appropriated’ expunge the remainder of the clause, and insert ‘for the purposes of general education throughout this Province, in such way and manner as to enable all His Majesty’s subjects, of every religious creed and order, indiscriminately to partake in the benefits to be derived therefrom.’

“ Press 9. Line 18. Expunge the word ‘grant.’”

The amendments were read a second time, and the House was put into a Committee of the whole on the Bill:

Mr. Donald McDonell in the Chair.

The House resumed.

The Chairmain reported that the Committee had agreed to the amendments as amended, and submitted the same for the adoption of the House.

The Report was received.

On the question for the third reading of the amendments, as amended, to-morrow, the yeas and nays were taken as follows:—

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17th.—You are to give warrants under your hand for the issuing of public monies for all public services, and we do particularly require you to take care that regular accounts of all receipts and payments of public monies be duly kept, that the same from time to time be duly audited by our Executive Council, and that copies thereof, attested by you, be transmitted every half year, or oftener if there should be occasion, to our Commissioners of our Treasury, or to our High Treasurer for the time being, and duplicates thereof by the next conveyance, in which accounts shall be specified, every particular sum raised or disposed of, to the end that we may take such measures as we may deem necessary for the examination of the said accounts, and that we may be satisfied of the right and due application of the revenues of our said Province of Upper Canada, and with the probability of the increase or diminution of it under every head and article thereof.

18.—Whereas by an Act of Parliament of Great Britain, passed in the fourth year of the reign of our dearest father, his late Majesty King George the Third, entitled, "An Act to prevent paper Bills of Credit hereafter to be issued in any of His Majesty's Colonies and Plantations in America, from being declared a legal tender in payment of money, and to prevent the legal tender of such Bills as are now subsisting, from being prolonged beyond the periods, limited for calling in, and sinking the same." It is enacted, that no Paper Bills or Bills of Credit, should be created or issued by an Act, Order, Resolution, or Vote of Assembly, in any of our Colonies or Plantations, in

third time to-morrow.

JOURNALS OF THE LEGISLATIVE COUNCIL.

26TH FEBRUARY, 1836.

Journals of the
Legislative Council,
26th Feb.,
1836.

The Honourable the Speaker reported to the House, that a deputation from the Commons House of Assembly, had brought up a Bill, intituled "An Act for the disposal of the Clergy Reserves in this Province for the purposes of general education;" to which they requested the concurrence of this House.

The said Bill was then read; and it was,

Ordered, That it be read a second time to-morrow.

Pursuant to the order of the day, the Bill, intituled "An Act for the disposal of the Clergy Reserves in this Province for the purposes of general education," was read a second time; and it was,

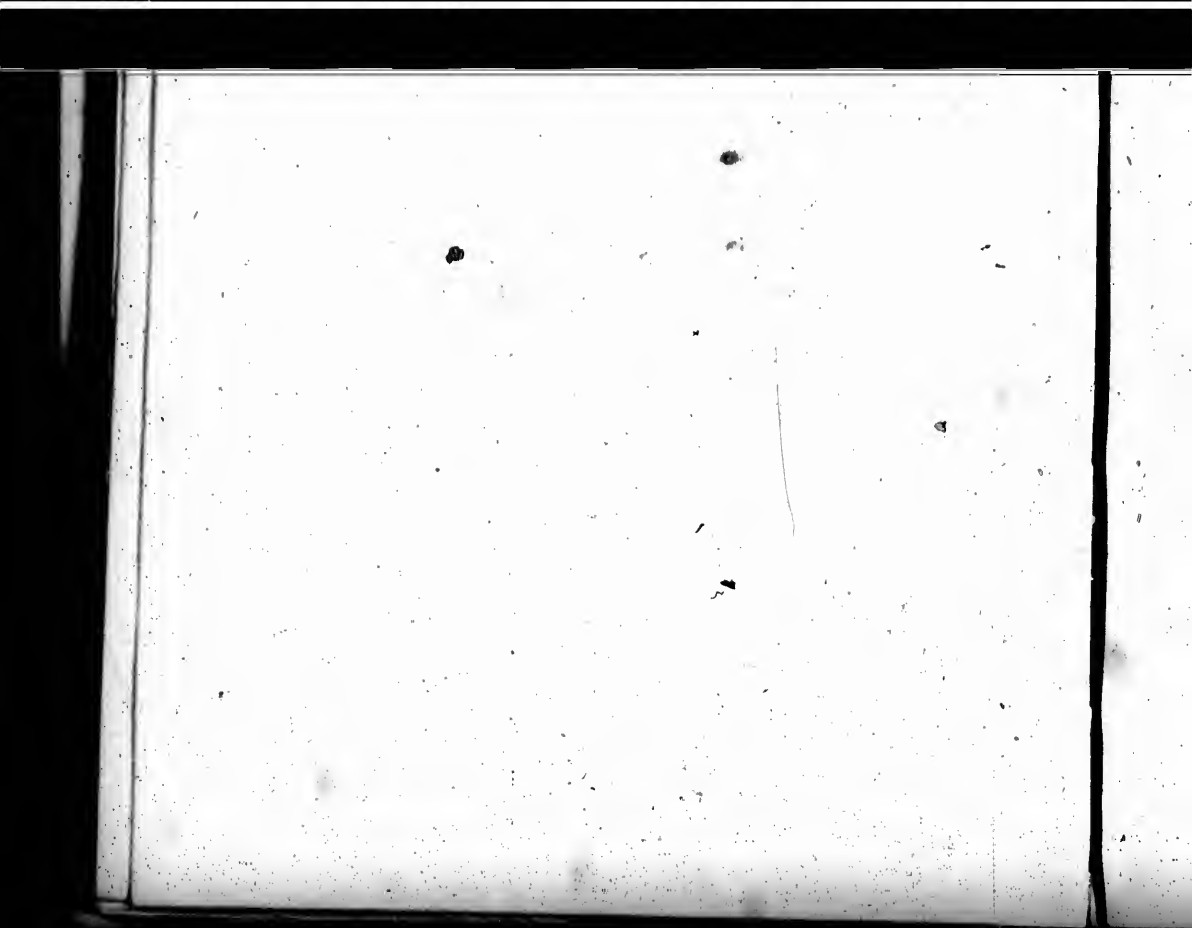
Ordered, That the House be put into a Committee of the whole, on Tuesday next, to take the same into consideration.

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which such Certificates, Notes or Debentures, which may be voluntarily accepted in payment by the Public Creditor, shall be made a legal tender to the Treasury for taxes, duties and other payments, to the Public Treasury.

19th.—You shall not remit any fines or forfeitures whatsoever above the sum of ten pounds, nor dispose of any forfeitures whatsoever until, upon signifying unto the Commissioners of our Treasury, or our High-Treasurer for the time being, the nature of the offence and the occasion of such fines and forfeitures, with the particular sums or value thereof, (which you are to do with all speed), you shall have received our directions thereon; but you may, in the meantime, suspend the payment of the said fines and forfeitures.

20th.—And you are on every occasion to transmit to us, through one of our principal Secretaries of State, with all convenient speed, a particular account of all new establishments of Jurisdictions, Courts, Offices and Officers, Powers, Authorities, Fees and Privileges granted and settled within our said Province of Upper Canada, as likewise an account of all the expenses (if any) attending the establishment of the said Courts and Offices.

21st.—It is our further will and pleasure, that all Commissions to be granted by you to any person or persons to be Judge, Justice of the Peace, or other necessary Officer, be granted during pleasure only.

And you are to cause to be read and published unto you, in the reign of our dearest Father, his late Majesty King George the Third, therein recited, and of those our instructions to you, and according to such further powers and instructions as you shall at any time hereafter receive under our signet and sign manual, or by our order in our Privy Council.

2nd.—And you are, with all due solemnity, before the members of our Executive Council, to cause our said Commission to be read and published, which being done you shall then take, and also administer to each of the members of our said Executive Council, the several oaths, and subscribe to the declaration therein required.

3rd.—You shall also administer, or cause to be administered, the oaths mentioned in our said Commission to all persons, except as hereafter mentioned, that shall be appointed to hold or exercise any office, place of trust or profit, in our said Province, previous to their entering on the duties of such office, and you shall also cause them to make and subscribe the aforesaid declaration; but in cases where any such office, place of trust or profit, in our said Province of Upper Canada, shall be conferred on any of our subjects who may profess the religion of the Church of Rome, you shall, so often as any such person shall or may be admitted into any such office, place of trust or profit, administer, or cause to be administered to him, the oath prescribed in and by an Act of Parliament passed in the fourteenth year of the reign of his late Majesty King George the Third, intituled, "An Act for making more effectual provision

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proved of by the Justices in open Court, which Rule you are in like manner to see observed with relation to all proceedings of our Executive Council of Upper Canada, and that all orders there made be first read and approved in such Council before they are entered upon the Council Books.

25th.—You are to take care that all Writs within the said Province of Upper Canada be issued in our name.

26th.—You shall take care, with the advice and assistance of our Executive Council, that such prisons as may at any time be necessary, be erected, and that the same, or any other already erected, be kept in such a condition as may effectually secure the prisoners which now are or may hereafter be confined in them.

27th.—You shall not suffer any person to execute more Offices than one by deputy.

28th.—You shall not, by color of any power or authority hereby or otherwise granted, or mentioned to be granted unto you, take upon you to give, grant, or dispose of any place or office within our said Province, which now is or shall be granted under the Great Seal of this Kingdom, or to which any person is or shall be appointed by Warrant under our Signet and Sign Manual, any further than that you may, upon the vacancy of any such office or place, or upon the suspension

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in the like manner and form, and subject to such appeal therefrom as such appeals might have been before the passing of the above recited Act, heard and determined by the Governor and Council of Quebec. In order, therefore, to carry the said Act into execution, our will and pleasure is, that you do in all civil causes, on application being made to you for that purpose, permit and allow appeals from any of the Courts of Common Law in our said Province unto you and the Executive Council of the said Province of Upper Canada, in manner prescribed by the above mentioned Act, and you are for that purpose to issue a Writ as nearly in the accustomed manner, before the passing of the above mentioned Act in respect of such appeals, as the case will admit, returnable before yourself and the Executive Council of the said Province, who are to proceed to hear and determine such appeals, wherein such of the Executive Council as shall be at that time Judges of the Court from whence such appeals shall be so made to you and to our said Executive Council as aforesaid, shall not be admitted to vote upon the said appeal, but they may, nevertheless, be present at the hearing thereof, to give the reasons of the judgment given by them in the causes wherein such appeal shall be made; provided, nevertheless, that in all such appeals the sum or value appealed for do exceed the sum of three hundred pounds sterling, and that security first duly given by the Appellant to answer such charges as shall be awarded in case the first sentence be affirmed; and if either party shall not rest satisfied with the judgment of you and such Executive Council as aforesaid, our will
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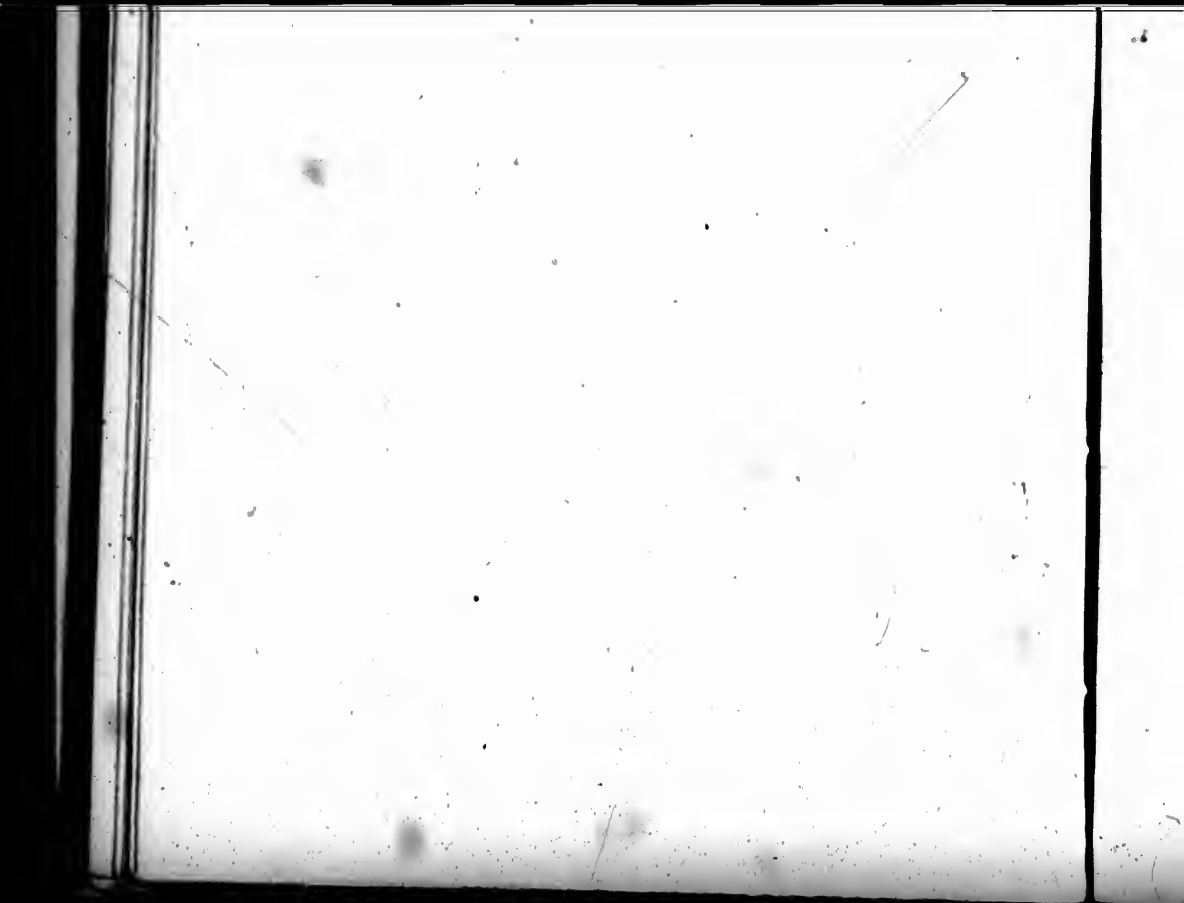
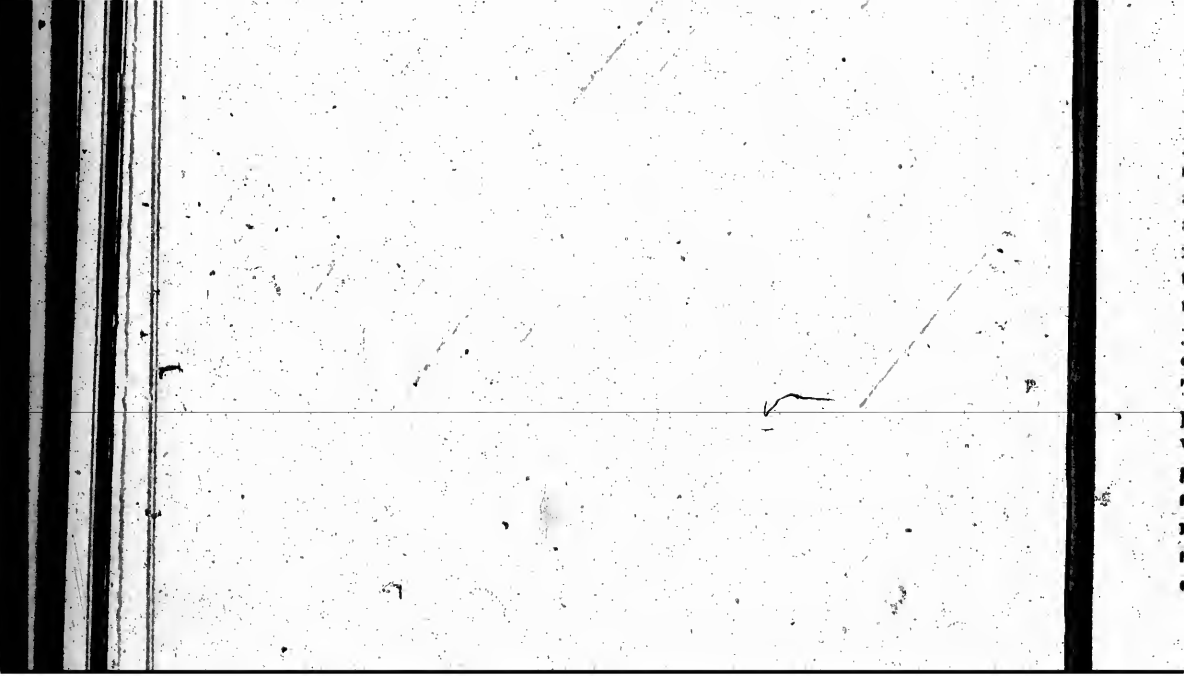
130th.—And whereas nothing can more effectually tend to the speedy settling of our said Province of Upper Canada, the security of the property of our subjects, and the advancement of our revenue, than the disposal of such Lands as are our property, upon good and reasonable terms, and the establishing of a regular and proper method of proceeding with respect to the passing of grants of such Lands, it is our will and pleasure that all and every person or persons who shall apply for any grant or grants of Land, shall, previous to their obtaining the same, make it appear that they are in a condition to cultivate and improve the same; and in case you shall, upon a consideration of the circumstances of the person or persons applying for such grants, think it advisable to pass the same, you are, in such case, to cause a Warrant to be drawn up, directed to the Surveyor General, or other Officer, empowering him or them to make a faithful and exact survey of the Lands so petitioned for, and to return the said Warrant within six months at farthest from the date thereof, with a plot or description of the Land so surveyed thereunto annexed; and when the Warrant shall be returned by the said Surveyor, or other proper Officer, the grant shall be made out in due form, and the terms and conditions required by these our instructions be particularly and expressly mentioned therein; and it is our will and pleasure that the said grants shall be registered within six months from the date thereof, in the Registrar's Office, and a docket thereof be also entered in our Auditor's Office, copies of all which en-

also to permit appeals unto us in our Privy Council in all cases of fines imposed for misdemeanors, provided the fines so imposed amount to or exceed the sum of one hundred pounds sterling, the Appellant first giving good security that he will effectually prosecute the same, and answer the condemnation if the sentence by which the fine was imposed in your government shall be confirmed.

5th.—And that we may be always informed of the names and characters of persons fit to supply the vacancies which may happen in our said Executive Council, you are, in case of any vacancy in the said Council, to transmit to us, through one of our principal Secretaries of State, the names and characters of such three persons, inhabitants of our said Province of Upper Canada, whom you may esteem best qualified for fulfilling the trust of such Executive Councillor.

6th.—And in the choice and selection of such persons proposed to fill such vacancy in our said Executive Council, as also of the chief Officers of Justice, you are always to take care that they may be men of good life, well affected to our government, and of abilities suitable to their employment.

7th.—And whereas we are sensible that effectual care ought to be taken to oblige the members of our Executive Council to a due attendance, it is our will and pleasure, in order to prevent the many inconveniences which may happen for want of a quorum of the Council to transact business as occasion may require, that if any of the members of our



one person, being master or mistress of a family, in any Township so to be laid out, which shall contain more than one acre; that no Park Lot shall be granted to any one person, being the master or mistress of a family, in any Township so to be laid out; which shall contain more than twenty-four acres; that no Farm Lot shall be granted to any one person, being master or mistress of a family, in any Township so to be laid out, which shall contain more than two hundred acres. It is our will and pleasure, and you are hereby allowed and permitted to grant unto every such person or persons such further quantity of land as they may desire, not exceeding one thousand acres over and above what may heretofore have been granted to them; and in all grants of land to be made by you as aforesaid, you are to take care that due regard be had to the quality and comparative value of the different parts of lands comprised within any Township, so that each Grantee may have, as nearly as may be, a proportionate quantity of Land of such different quality and comparative value, as likewise that the breadth of such tract of Land to be hereafter granted be one-third of the length of such tract, and that the length of such tract do not extend along the banks of any River, but into the main land, that thereby the said Grantees may have each a convenient share of what accommodation the River may afford for navigation or otherwise.

33rd.—And as a further accommodation to our subjects, who shall become

10th.—And whereas by the aforesaid recited Act, passed in the Thirty-first year of the Reign of our dearest Father, His late Majesty King George the Third, it is provided that the Seats of the Members of Our Legislative Council, shall become vacant in certain cases, mentioned in the said Act. It is our Will and Pleasure, that if any Member of our said Legislative Council, shall, at any time, leave our said Province, and reside out of the same, you shall report the same to us by the first opportunity, through one of our Principal Secretaries of State, and you are also in like manner, to report whether such Member of the said Council, is absent by your permission, or by the permission of Our Lieutenant Governor, or Commander-in-Chief of the said Province, for the time being, and you are also in like manner, to report, if it shall come to your knowledge, that any such Member shall at any time take, or have taken, the oath of allegiance, or obedience to any Foreign Prince or Power, or shall be attainted for Treason in any Court of Law, within any of our Dominions, that we may take such measures thereupon as We shall think fit, and you are to have special care that the several provisions of the said Act, respecting the several cases in which persons may, or may not, be entitled to receive Writs of Summons to the said Legislative Council, or to hold their places therein, shall be duly executed.

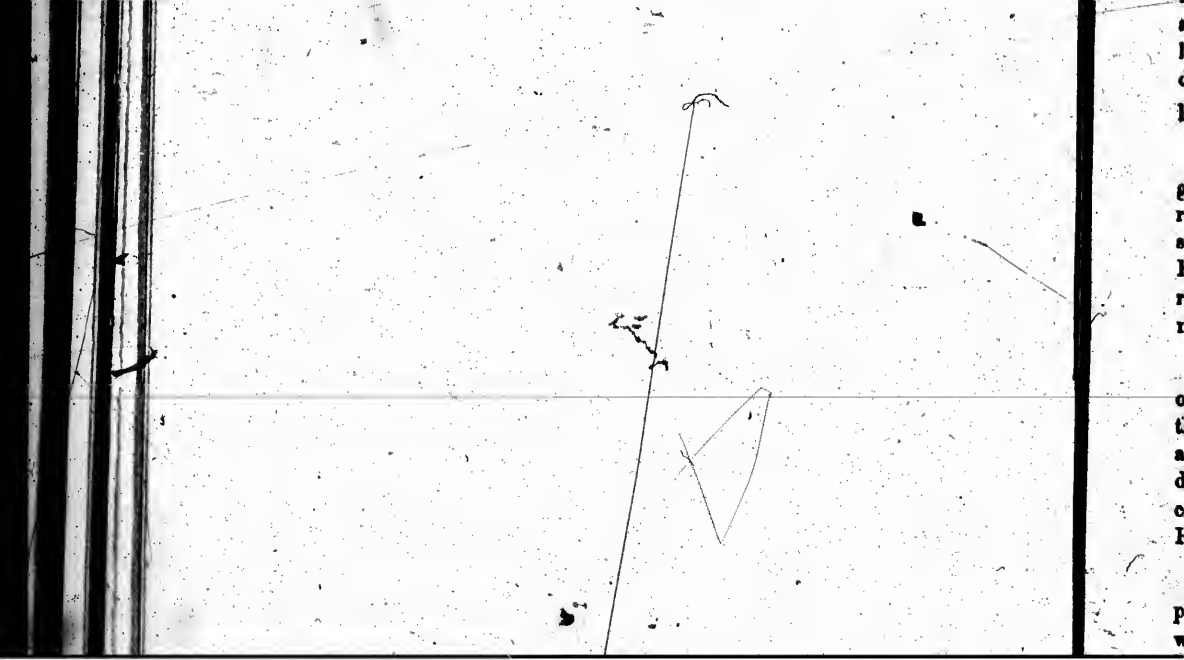
11th.—And for the execution of so much of the powers vested in you, by our said Commission, and by virtue of the said Act, as relates to the declaring that you assent in our name to Bills passed by the
Legislative



35th.—Whereas the reserving such bodies of Land, within our Province of Upper Canada, where there are considerable growths of Timber, fit for the use of Our Royal Navy, it is a matter of the utmost importance to our Service, it is our will and pleasure, that no Grants whatever, be made of Lands in any District or Tract of our said Province of Upper Canada, until our Surveyor General, or his Deputy lawfully appointed, shall have surveyed the same, and marked out as reservations to us, our heirs and successors, such parts thereof as shall be found to contain any considerable growth of Masting or other Timber fit for the use of Our Royal Navy, and more especially upon the Rivers, and you are hereby instructed to direct our Surveyor General of Lands, in our said Province, from time to time, with all due diligence, to complete the Surveys, and mark out the reservations as aforesaid, in the most convenient parts of our said Province, and you are from time to time, to report the number, extent and situation of such reservations. And you are further, to direct our Surveyor General, not to certify any Plots of Ground, ordered and surveyed for any person or persons, in order that Grants may be made out for the same, until it shall appear to him by a Certificate, under the hand of our Surveyor General of Woods, or his Deputy, that the Land so to be granted, is not part of or included in any District marked out as a Reservation for us, our heirs and successors, as aforesaid, for the purpose hereinbefore mentioned.

Law: That no Law or Ordinance whatever, be suspended, altered, continued, revived, or repealed, in general words; but that the title and date of such Law or Ordinance, shall be particularly mentioned in the enacting part: That in case any Law or Ordinance, respecting private property, shall be passed without a saving of the right of us, our heirs and successors, and of all persons, or bodies politic, or corporate, except such as are mentioned in the said Law or Ordinance, you shall declare that you withhold our assent from the same, and if any such Law or Ordinance shall be passed without such saving, you shall in every such case, declare that you reserve the same for the signification of our Royal pleasure thereon: That in all Laws or Ordinances for levying money, or imposing fines, forfeitures, or penalties, express mention be made, that the same is granted to us, our heirs, and successors, for the public uses of the said Province, and the support of the Government thereof, as by the said Law shall be directed, and that a Clause be inserted, declaring that the due application of such money, pursuant to the directions of such Law, shall be accounted for unto us, through our Commissioners of our Treasury, for the time being, in such manner and form as We shall direct.

12th.—And whereas We have by our said Commission, given you full power and authority, subject therein specified, and to these our instructions in that behalf, to issue Writs of Summons and Election, and to call together the Legislative Council and Assembly of our said Province of Upper Canada, and for the purpose of electing the Members of the Assembly of our said Province of Upper Canada, have also given



advisable of the said Terms and Conditions, respecting the granting of lands, in which Proclamation, it may be expedient to add some short description of the natural advantages of the soil and climate, and its peculiar convenience for Trade and Navigation.

87th.—And it is Our further will and pleasure, that all the foregoing instructions to you, as well as any which you may hereafter receive, relative to the passing Grants of Land, in conformity to the said Act, passed in the Thirty-First year of the Reign of Our Dearest Father, His late Majesty King George the Third, be entered upon record, for the information and satisfaction of all parties whatever, that may be concerned therein.

88th.—And whereas it hath been represented to Us, that many parts of the Province under your Government, are particularly adapted to the growth and culture of Hemp and Flax. It is therefore Our Will and pleasure, that in all Surveys for Settlements, the Surveyor be directed to report whether there are any, or what quantity of Lands contained within such Surveys for the production of Hemp and Flax.

89th.—And whereas it hath been represented to Us, that several parts of Our Province of Upper Canada, have been found to abound with Coals; it is Our Will and pleasure, that in all grants of Land to

14th.—And whereas in the said Act, it is provided, that in certain cases, Acts passed by the Legislative Council and Assembly of the Province, shall, previous to any signification of our assent thereto, be laid before both Houses of our Parliament of this Kingdom. And whereas, it is also provided in the said Acts, that in certain cases, provision may be made by the Acts of the Legislative Council and Assembly of the Province, assented to by us, our heirs and successors, (thereby reserving the power of giving such assent to us, our heirs, or successors only,) you are to take especial care, that in every such case, you are to declare that you reserve such Bills, for the signification of our pleasure thereon, and you will likewise reserve for such signification, every other Bill which you shall consider to be of an extraordinary or unusual nature, or requiring our especial consideration and decision thereupon, particularly such as may affect the property, credit, or dealings of such of our subjects as are not usually resident within our said Province, or whereby duties shall be laid upon British or Irish Shipping, or upon the produce or manufactures of Great Britain or Ireland.

15th.—And whereas Laws have formerly been enacted, in several of our Plantations in America, for so short a time, that our Royal assent or refusal thereof, could not be had before the time for which such Laws were enacted, did expire, you shall not assent in our name, to any Law that shall be enacted for a less time than two years, except in cases of imminent necessity, or immediate temporary expediency. And you shall not declare our assent to any Law containing provisions, which



shall have been disallowed by us, without express leave for that purpose, first obtained from us, upon a full representation by you, to be made to us, through one of our principal Secretaries of State, of the reasons and necessity of passing such Law.

Instructions to
Earl Dalhousie
April 13th, 1807.

16th.—Whereas we have thought fit, by our orders in our Privy Council, to disallow certain laws passed in some of our Colonies and Plantations in America, for conferring the privilege of naturalization on persons being aliens, and for divorcing persons who have been legally joined together in holy marriage; And whereas Acts have been passed in others of our said Colonies to enable persons who are our liege subjects by birth or naturalization, to hold and inherit lands, tenements, and real estates, although such lands, tenements, and real estates had been originally granted to or purchased by aliens, antecedent to naturalization, it is our will and pleasure, that you do not, upon any pretence whatsoever, give your assent to any Bill or Bills that may hereafter be passed by the Legislative Council and Assembly of the said Province under your government, for the naturalization of aliens, nor for the divorce of persons joined in holy marriage, nor for establishing a title in any person to lands, tenements, and real estates, in our said Province, originally granted or purchased by aliens antecedent to naturalization.

17th.—You are to give warrants under your hand for the issuing of public monies for all public services, and we do particularly require you to take care that regular accounts of all receipts and payments of public monies be duly kept, that the same from time to time be duly audited by our Executive Council, and that copies thereof, attested by you, be transmitted every half year, or oftener if there should be occasion, to our Commissioners of our Treasury, or to our High Treasurer for the time being, and duplicates thereof by the next conveyance, in which accounts shall be specified, every particular sum raised or disposed of, to the end that we may take such measures as we may deem necessary for the examination of the said accounts, and that we may be satisfied of the right and due application of the revenues of our said Province of Upper Canada, and with the probability of the increase or diminution of it under every head and article thereof.

18.—Whereas by an Act of Parliament of Great Britain, passed in the fourth year of the reign of our dearest father, his late Majesty King George the Third, entitled, "An Act to prevent paper Bills of Credit hereafter to be issued in any of His Majesty's Colonies and Plantations in America, from being declared a legal tender in payment of money, and to prevent the legal tender of such Bills as are now subsisting, from being prolonged beyond the periods, limited for calling in, and sinking the same." It is enacted, that no Paper Bills or Bills of Credit, should be created or issued by an Act, Order, Resolution, or Vote of Assembly, in any of our Colonies or Plantations, in

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Instructions to
Earl Bathurst,
April 12th, 1763.

America, to be a legal tender in payment, and that any such Act, Order, Resolution, or Vote, for creating or issuing such Paper Bills or Bills of Credit, or for prolonging the legal tender of any such then subsisting and current in any of the said Colonies, and Plantations, should be null and void. And whereas by another Act, of our said Parliament, passed in the thirteenth year of the Reign of our dearest Father, His Late Majesty King George the third, intituled "An Act to explain and amend the above recited Act, passed in the Fourth year of our Reign as aforesaid." It is enacted that any Certificates, Notes, Bills or Debentures which shall, or may, be voluntarily accepted by the Creditors of the Public, within any of the Colonies in America, as security for the payment of what is due, and owing to the said Public Creditors may, be made and enacted by the General Assemblies, of the said Colonies respectively, to be a tender to the Public Treasurers in the said Colonies, for the discharge of any Duties, charges or debts whatsoever due to any, payable at or in the said Public Treasuries of the said Colonies, in virtue of Laws passed within the same, and in no other case whatsoever. It is our will and pleasure, that you do in all things conform yourself to the provisions of the said recited Acts, both with respect to the not assenting to any Bills which may be presented to you for the purpose of issuing or creating Paper Bills or Bills of Credit, to be a legal tender in payment, and the assenting to any Bills, by which such Certificates, Notes or Debentures, which may be voluntarily accepted in payment by the Public Creditor, shall be made a legal tender to the Treasury for taxes, duties and other payments, to the Public Treasury.

19th.—You shall not remit any fines or forfeitures whatsoever above the sum of ten pounds, nor dispose of any forfeitures whatsoever until, upon signifying unto the Commissioners of our Treasury, or our High Treasurer for the time being, the nature of the offence and the occasion of such fines and forfeitures, with the particular sums or value thereof, (which you are to do with all speed), you shall have received our directions thereon; but you may, in the meantime, suspend the payment of the said fines and forfeitures.

20th.—And you are on every occasion to transmit to us, through one of our principal Secretaries of State, with all convenient speed, a particular account of all new establishments of Jurisdictions, Courts, Offices and Officers, Powers, Authorities, Fees and Privileges granted and settled within our said Province of Upper Canada, as likewise an account of all the expenses (if any) attending the establishment of the said Courts and Offices.

21st.—It is our further will and pleasure, that all Commissions to be granted by you to any person or persons to be Judge, Justice of the Peace, or other necessary Officer, be granted during pleasure only.



22nd.—You are not to suspend any of the members of the said Executive Council, or to suspend or displace any of the Judges, Justices, Sheriffs, or other Officers or Ministers within our said Province of Upper Canada, without good and sufficient cause; and in case of such suspension or removal, you are forthwith to transmit your reasons for the same to one of our principal Secretaries of State.

Instructions to
Earl Dalhousie,
April 12, 1825.

23rd.—And whereas frequent complaints have been made of great delays and undue proceedings in the Courts of Justice in several of our plantations, whereby many of our good subjects have very much suffered,—and it being of the greatest importance to our service, and to the welfare of our plantations, that justice be every where speedily and duly administered, and that all disorders, delays, and other undue practices in the administration thereof be effectually prevented, we do particularly require you to take especial care that in all Courts where you are authorised to preside, justice be impartially administered, and that in all other Courts established within our said Province, all Judges and other persons therein concerned do likewise perform the several duties without delay or partiality.

24th.—You are to take care that no Court of Judicature be adjourned but upon good grounds, and also that no orders of any Court of Judicature be entered or allowed which shall not be first read and approved of by the Justices in open Court, which Rule you are in like manner to see observed with relation to all proceedings of our Executive Council of Upper Canada, and that all orders there made be first read and approved in such Council before they are entered upon the Council Books.

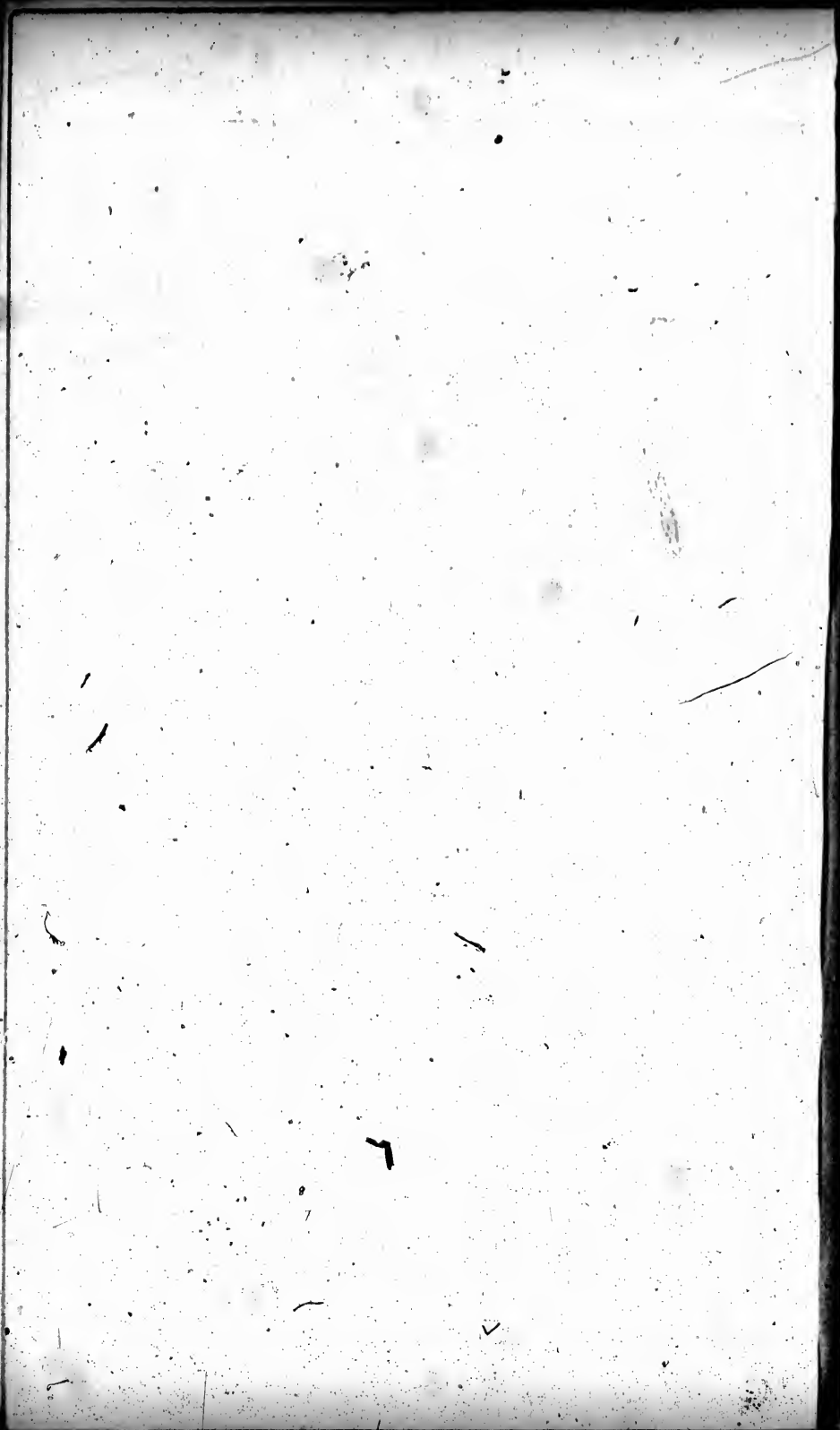
25th.—You are to take care that all Writs within the said Province of Upper Canada be issued in our name.

26th.—You shall take care, with the advice and assistance of our Executive Council, that such prisons as may at any time be necessary, be erected, and that the same, or any other already erected, be kept in such a condition as may effectually secure the prisoners which now are or may hereafter be confined in them.

27th.—You shall not suffer any person to execute more Offices than one by deputy.

28th.—You shall not, by color of any power or authority hereby or otherwise granted, or mentioned to be granted unto you, take upon you to give, grant, or dispose of any place or office within our said Province, which now is or shall be granted under the Great Seal of this Kingdom, or to which any person is or shall be appointed by Warrant under our Signet and Sign Manual, any further than that you may, upon the vacancy of any such office or place, or upon the suspension

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of any such Officer by you as aforesaid, put in any fit person to officiate in the interval till you shall have represented the matter unto us, through one of our principal Secretaries of State, which you are to do by the first opportunity, and till the said office or place is disposed of by us, our heirs or successors, under the Great Seal of this Kingdom, or until some person shall be appointed thereunto, under our Signet and Sign Manual, or until our further directions be given therein. And it is our express will and pleasure that you do give reasonable support unto the Patent Officers in the enjoyment of their legal and established fees, rights, privileges and emoluments, according to the true intent and meaning of their respective Patents.

Instructions to
Saml. Dethhouse,
April 12, 1698.

20th.—And whereas several complaints have been made by the Officers of our Customs in our Plantations in America, that they have frequently been obliged to serve on Juries, and personally to appear in arms whenever the Militia is drawn out, and thereby are much hindered in the execution of their employments, our will and pleasure is, that you take effectual care and give the necessary directions that the several Officers of our Customs be excused and exempted from serving in any Juries, or personally appearing in arms in the Militia, unless in cases of absolute necessity, or serving any particular Offices which may hinder them in the execution of their duties.

30th.—And whereas nothing can more effectually tend to the speedy settling of our said Province of Upper Canada, the security of the property of our subjects, and the advancement of our revenue, than the disposal of such Lands as are our property, upon good and reasonable terms, and the establishing of a regular and proper method of proceeding with respect to the passing of grants of such Lands, it is our will and pleasure that all and every person or persons who shall apply for any grant or grants of Land, shall, previous to their obtaining the same, make it appear that they are in a condition to cultivate and improve the same; and in case you shall, upon a consideration of the circumstances of the person or persons applying for such grants, think it advisable to pass the same, you are, in such case, to cause a Warrant to be drawn up, directed to the Surveyor General, or other Officer, empowering him or them to make a faithful and exact survey of the Lands so petitioned for, and to return the said Warrant within six months at farthest from the date thereof, with a plot or description of the Land so surveyed thereunto annexed; and when the Warrant shall be returned by the said Surveyor, or other proper Officer, the grant shall be made out in due form, and the terms and conditions required by these our instructions be particularly and expressly mentioned therein; and it is our will and pleasure that the said grants shall be registered within six months from the date thereof, in the Registrar's Office, and a docket thereof be also entered in our Auditor's Office, copies of all which en-
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tries shall be regularly returned by the proper officer to our Commissioners of our Treasury.

Instructions to
Earl Bathurst,
April 13, 1763.

31st.—And for the further encouragement of our subjects, it is our will and pleasure that the Lands to be granted by you as aforesaid shall be laid out in Townships, and that each inland Township shall, as nearly as circumstances will admit, consist of ten miles square, and such as shall be situated upon a navigable River or water, shall have a front of nine miles, and be twelve miles in depth, and sub-divided in such manner as shall be found most advisable for the accommodation of the settlers, and for making the several reservations for public uses, and particularly for the support of the Protestant Clergy, agreeably to the above-recited Act, passed in the thirty-first year of the reign of our dearest Father, his late Majesty King George the Third.

32nd.—And whereas great inconveniencies have heretofore arisen in many of our Colonies in America, from the granting excessive quantities of Land to particular persons, who have never cultivated or settled the same, and have thereby prevented others more industrious from improving such lands,—in order, therefore, to prevent the like inconveniencies in future, it is our will and pleasure that you observe the following directions and regulations in all grants to be made by you as aforesaid, that is to say, That no Town Lot shall be granted to any one person, being master or mistress of a family, in any Township so to be laid out, which shall contain more than one acre; that no Park Lot shall be granted to any one person, being the master or mistress of a family, in any Township so to be laid out, which shall contain more than twenty-four acres; that no Farm Lot shall be granted to any one person, being master or mistress of a family, in any Township so to be laid out, which shall contain more than two hundred acres. It is our will and pleasure, and you are hereby allowed and permitted to grant unto every such person or persons such further quantity of land as they may desire, not exceeding one thousand acres over and above what may heretofore have been granted to them; and in all grants of land to be made by you as aforesaid, you are to take care that due regard be had to the quality and comparative value of the different parts of lands comprised within any Township, so that each Grantee may have, as nearly as may be, a proportionate quantity of Land of such different quality and comparative value, as likewise that the breadth of such tract of Land to be hereafter granted be one-third of the length of such tract, and that the length of such tract do not extend along the banks of any River, but into the main land, that thereby the said Grantees may have each a convenient share of what accommodation the River may afford for navigation or otherwise.

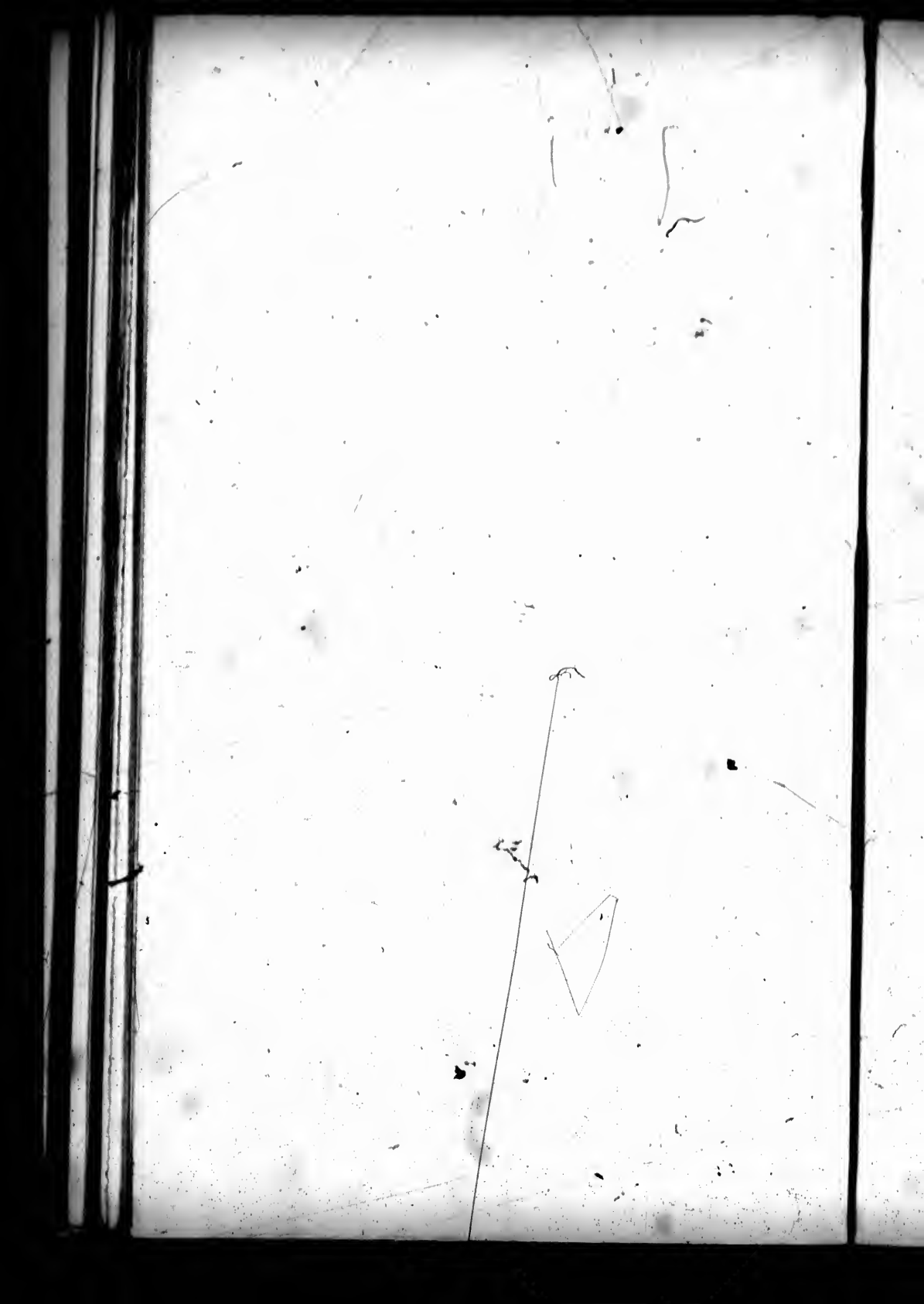
33rd.—And as a further accommodation to our subjects, who shall
become

become Settlers, as aforesaid. It is our will and pleasure, that the said Townships, and the respective allotments within the same, together with the lands, to be reserved, as aforesaid, shall be seen and laid out by our Surveyor General of Lands, for the said Province, or some skillful person, authorised by him for that purpose, which Surveys, together with the Warrants and Grants, and the respective allotments, shall be made out for, and delivered to the several Grantees, free of any expence or fee whatever, other than such as may be payable to the different Officers, according to the Table of Fees, established upon Grants of Land made in the said Province.

Instructions to
Earl Bathurst,
April 12, 1792.

34th.—And in order to prevent any persons disaffected to us and our Government, from becoming Settlers in our said Province of Upper Canada. It is our will and pleasure, that no Warrants for surveying Lands, be granted by you or the Lieutenant Governor, or person administering the Government, for the time being, unless the person or persons applying for the same, do, at the time of making such application, besides taking the usual oaths directed by Law, also make and subscribe the following declaration, in your or his presence, or in the presence of such person or persons, as shall by you or him be appointed for that purpose, that is to say,—I, A. B., do promise and declare that I will maintain and defend, to the utmost of my power, the authority of the King in his Parliament, as the Supreme Legislature of this Province.

35th.—Whereas the reserving such bodies of Land, within our Province of Upper Canada, where there are considerable growths of Timber, fit for the use of Our Royal Navy, it is a matter of the utmost importance to our Service, it is our will and pleasure, that no Grants whatever, be made of Lands in any District or Tract of our said Province of Upper Canada, until our Surveyor General, or his Deputy lawfully appointed, shall have surveyed the same, and marked out as reservations to us, our heirs and successors, such parts thereof as shall be found to contain any considerable growth of Masting or other Timber fit for the use of Our Royal Navy, and more especially upon the Rivers, and you are hereby instructed to direct our Surveyor General of Lands, in our said Province, from time to time, with all due diligence, to complete the Surveys, and mark out the reservations as aforesaid, in the most convenient parts of our said Province, and you are from time to time, to report the number, extent and situation of such reservations. And you are further, to direct our Surveyor General, not to certify any Plots of Ground, ordered and surveyed for any person or persons, in order that Grants may be made out for the same, until it shall appear to him by a Certificate, under the hand of our Surveyor General of Woods, or his Deputy, that the Land so to be granted, is not part of or included in any District marked out as a Reservation for us, our heirs and successors, as aforesaid, for the purpose hereinbefore mentioned, and



and in order to prevent any deceit or fraud from being committed by the persons applying for Lands in this respect. It is our will and pleasure, that in all Grants to be hereafter made for lands within Our said Province of Upper Canada, the following proviso and exceptions be inserted, that is to say, "and provided also, that no part of the Parcel or Tract of Land, hereby granted to the said
 "and his heirs, be within any reservation heretofore made and marked for us, our heirs and successors, by our Surveyor General of Woods, or his lawful Deputy, in which case this Our Grant for such part of the Land, hereby given and granted to the said
 "and his heirs, for ever, as aforesaid, and which shall upon a Survey thereof being made, be found within any such reservations, shall be null and void, and of none effect, anything herein contained to the contrary notwithstanding."

Instructions to
 Earl Bathurst,
 April 13th, 1792.

86th.—And whereas, it is necessary, that all persons who may be desirous of settling in our said Province, should be fully informed of the conditions and terms upon which Lands will be granted within Our said Province of Upper Canada, in the manner prescribed in and by the said Act, passed in the Thirty-First year of the Reign of Our Dearest Father, His late Majesty King George the Third, you are therefore, as soon as possible, to cause a publication to be made by Proclamation, or otherwise, as you shall in your discretion think most advisable of the said Terms and Conditions, respecting the granting of lands, in which Proclamation, it may be expedient to add some short description of the natural advantages of the soil and climate, and its peculiar convenience for Trade and Navigation.

87th.—And it is Our further will and pleasure, that all the foregoing instructions to you, as well as any which you may hereafter receive, relative to the passing Grants of Land, in conformity to the said Act, passed in the Thirty-First year of the Reign of Our Dearest Father, His late Majesty King George the Third, be entered upon record, for the information and satisfaction of all parties whatever, that may be concerned therein.

88th.—And whereas it hath been represented to Us, that many parts of the Province under your Government, are particularly adapted to the growth and culture of Hemp and Flax. It is therefore Our Will and pleasure, that in all Surveys for Settlements, the Surveyor be directed to report whether there are any, or what quantity of Lands contained within such Surveys for the production of Hemp and Flax.

89th.—And whereas it hath been represented to Us, that several parts of Our Province of Upper Canada, have been found to abound with Coals; it is Our Will and pleasure, that in all grants of Land to be





be made by you, a Clause be inserted, reserving to Us, our heirs and successors, all Coals, and also all Mines of Gold, Silver, Copper, Tin, Iron, and Lead, which shall be discovered upon such Lands.

Instructions to
Earl Dalhousie,
April 13th, 1850.

40th.—You shall cause a Survey to be made of all considerable Landing places and Harbours, in Our said Province, in case the same shall not have already been done, and report to Us, through one of Our principal Secretaries of State, how far any Fortifications be necessary for the security and advantage of the said Province.

41st.—Whereas the establishment of proper regulations on matters of Ecclesiastical concern, is an object of very great importance, it will be your indispensable duty, to take care that no arrangements in regard thereto, be made, but such as may give full satisfaction to Our new Subjects, in every point to which they have a right to any indulgence on that head, always remembering that it is a toleration of the free exercise of the Religion of the Church of Rome only, to which they are entitled, but not to the powers and privileges of it as an Established Church, that being a preference which belongs only to the Protestant Church of England.

42nd.—And upon these principles therefore, and to the end that Our just Supremacy in all matters, Ecclesiastical as well as Civil, may have its due scope and influence, it is Our Will and pleasure, First, that all Appeals to a correspondence with any Foreign Ecclesiastical Jurisdiction, of what nature or kind soever, be absolutely forbidden, under very severe penalties. Secondly, that no Episcopal or Vicarial powers be exercised within our said Province, by any person professing the Religion of the Church of Rome; but such only as are indispensably and indisputably necessary to the free exercise of the Romish Religion, and in those cases, not without a License and permission from you, under the Seal of Our said Province, for and during Our Will and pleasure, and under such other limitations and restrictions as may correspond with the spirit and provisions of the Act of the Fourteenth year of the Reign of Our Dearest Father, His late Majesty King George the Third, "for making more effectual provision for the Government of the Province of Quebec," and no person whatever, is to have Holy Orders conferred upon him, or have the care of Souls, without a License for that purpose, first had and obtained from him. Thirdly, that no person professing the Religion of the Church of Rome, be allowed to fill any Ecclesiastical Benefice, or to have or to enjoy any of the Rights or profits belonging thereto, who is not a Canadian by Birth, (such only excepted as are now in possession of any such benefices,) and who is not appointed thereto, by Us, or under Our authority, and that all Right or Claim of Right, in any other person whatever, to nominate, present or appoint to any vacant benefice, other than such as may lay claim to the patronage of Benefices, as a Civil Right, be absolutely abolished;

abolished; no person to hold more than one benefice, or at least, not more than can reasonably be served by one and the same Incumbent. Fourthly, that no person whatever, professing the Religion of the Church of Rome, be appointed Incumbent of any Parish, in which the majority of the Inhabitants shall solicit the appointment of a Protestant Minister, in such case, the Incumbent shall be a Protestant, and entitled to all Tythes payable within such Parish; but, nevertheless, the Roman Catholics may have the use of the Church, for the free exercise of their religion, at such time as may not interfere with the Religious Worship of the Protestants, and in like manner, the Protestant Inhabitants in every Parish, where the majority of the Parishoners are Roman Catholics, shall, notwithstanding, have the free use of the Church, for the exercise of their Religion, at such times as may not interfere with the religious worship of the Roman Catholics. Fifthly, that no Incumbent, professing the Religion of the Church of Rome, appointed to any Parish, shall be entitled to receive any Tythes for Lands, or possessions occupied by a Protestant; but such Tythes shall be received by such persons as you shall appoint, and shall be reserved in the hands of Our Receiver General, as aforesaid, for the support of a Protestant Clergy, in Our said Province, to be actually resident within the same, and not otherwise, according to such directions as you shall receive from Us, in that behalf, and in like manner, all growing Rents and profits of a vacant benefice, shall, during such vacancy, be reserved for and applied to the like uses. Sixthly, that all persons professing the Religion of the Church of Rome, who are already possessed of or may hereafter be appointed to any Ecclesiastical Benefice, or who may be licensed to exercise any power or authority, in respect thereto, do take and subscribe before you, in Council, or before such person as you shall appoint to administer the same, the Oath required to be taken and subscribed by the aforesaid Act of Parliament, passed in the Fourteenth Year of the Reign of Our Dearest Father, His late Majesty King George the Third, entitled "An Act for making more effectual provision for the Government of the Province of Quebec, in North America." Seventhly, that all Incumbents of Parishes, professing the Romish Religion, not being under the Ecclesiastical Jurisdiction of the Bishop of Quebec, shall hold their respective benefices during their good behaviour, subject, however, in case of any conviction for Criminal offences, or upon due proofs of seditions, attempts to disturb the peace and tranquility of our Government, to be deprived or suspended by you. Eighthly, that such Ecclesiastics as may think fit to enter into the Holy State of Matrimony, shall be released from all penalties to which they may have been subjected in such cases, by any authority of the See of Rome. Ninthly, that freedom of the burial of the dead, in the Churches and Church Yards, be allowed indiscriminately to every Christian persuasion. Tenthly, that the Royal Family be prayed for, in all Churches and places of Public Worship, in such manner and form



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form as is used in this Kingdom, and that our Arms and Insignia be put up not only in all such Churches and places of Holy Worship, but also in all Courts of Justice, and that the Arms of France be taken down, in any such Church or Court, where they may at present remain.

*Instructions to
Earl Dalhousie,
April 18th, 1808.*

43rd.—You are to permit liberty of conscience, and the free exercise of all such modes of religious worship as are not prohibited by law, to all persons who may inhabit and frequent the Province of Upper Canada, provided they be content with a quiet and peaceable enjoyment of the same, without giving offence or scandal to the Government.

44th.—It is our will and pleasure to reserve to you the granting of Licenses for Marriages, Letters of Administration, and probates of Wills, as heretofore exercised by you and your predecessors, and also to reserve to you, and to all others to whom it may lawfully belong, the patronage and right of presentation to benefices; but it is our will and pleasure that the person so presented shall be intituled by the Bishop, or his Commissary duly authorised by him.

45th.—You are to take especial care that God Almighty be devoutly and duly served throughout your Government, that the Lord's Day be duly kept, and the services and prayers appointed by and according to the Book of Common Prayer, be publicly and solemnly performed throughout the year.

46th.—You are to take care that the Churches which are or may be hereafter erected in our said Province of Upper Canada, be well and orderly kept.

47th.—You shall recommend to the Legislative Council and General Assembly of the Province of Upper Canada, to settle the limits of parishes in such manner as shall be deemed most convenient.

48th.—You are to use your best endeavour that each Minister be constituted one of the Vestry, in his respective parish, and that no Vestry be held without him, except in case of sickness, or that after notice given of a Vestry, he omit to come.

49th.—It is our will and pleasure that you recommend to the Legislative Council and Assembly of our said Province of Upper Canada, to make due provision for the erecting and maintaining of Schools, where youth may be educated in competent learning, and in knowledge of the principles of the Christian Religion.

50th.—And it is our further will and pleasure, that no person shall be allowed to keep a School in the Province of Upper Canada, without your License first had and obtained, in granting of which you are to pay the most particular attention to the morals and qualifications of the

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the persons applying for the same and in all cases where the School has been instituted or appointed for the Education of members of the Church of England, or where it is intended that the Schoolmaster should be a member of the Church of England; you are not to grant such Licenses except to persons who shall first have obtained from the Bishop of Quebec, or one of his Commissaries, a Certificate of their being properly qualified for that purpose.

Instructions to
Earl Dalhousie,
April 13th, 1790.

51st.—And it is our further will and pleasure that, in order to suppress every species of vice, profaneness and immorality, you do forthwith cause all Laws made against blasphemy, profaneness, adultery, fornication, polygamy, incest, profanation of the Lord's Day, swearing, and drunkenness, to be strictly put in execution in every part of the Province of Upper Canada, and that for this purpose you do direct, that the Constables and Churchwardens of the several parishes do make presentment, upon oath, of any of the vices before mentioned, to the Justices of the Peace, in their Session, or to any other of the temporal Courts; and you are earnestly to recommend to the Legislative Council and Assembly to provide effectual Laws for the restraint and punishment of all such of the afore-mentioned vices against which no Laws are, as yet, provided, or in cases where the Laws already made are found to be insufficient; and in order to discountenance vice, and promote the practice of virtue, to the utmost of your power, we do hereby strictly command and enjoin you to appoint no person to be a Justice of the Peace, or to any trust or employment, whose notorious ill life or conversation may occasion scandal.

52nd.—You are not to present any Protestant Minister to any Ecclesiastical Benefice, within our said Province, by virtue of the said Act, passed in the thirty-first year of the reign of his late Majesty King George the Third, and of our Commission to you, without a proper Certificate from the Bishop of Quebec, or his Commissary, of his being conformable to the doctrine and discipline of the Church of England.

53rd.—And you are to take especial care that the Table of Marriages established by the Canons of the Church of England, be hung up in all places of public worship, according to the rites of the Church of England.

54th.—It is our will and intention that the Peltry of the interior country shall be free and open to all our subjects, inhabitants of any of our Colonies, who shall, pursuant to what was directed by the Royal Proclamation of 1763, obtain Trading Licenses from the Governor of any of our said Colonies, under penalties, to observe such regulation as shall be made by our Legislature, of our Province of Upper Canada, for that purpose. These regulations, therefore, when established, must be made public throughout all our American possessions, and they must

must have for their object the giving every possible facility to that Trade which the Nature will admit, and which may be consistent with fair and just dealing towards the Native Indians with whom it is carried on. The fixed stated times and places for carrying on the Trade, and adjusting modes of settling Tariffs of the price of Goods and Furs, and, above all, the restraining the sale of Spirituous Liquors to the Indians, will be the most profitable and effectual means of answering the ends proposed.

Instructions to
Earl Bathurst,
April 13th, 1760.

55th.—And whereas it is expedient for our service, that we should, from time to time, be informed of the state of the Trade and Fisheries, as well as of the population of the said Province of Upper Canada, it is our will and pleasure that you do transmit to us, through one of our principal Secretaries of State, and to our Committee of our Privy Council for Trade and Foreign Plantations, for their information, yearly, and every year, a full and particular account of the state of the Fur and Peltry Trade, the nature and extent of the several Fisheries carried on by our subjects, or others, either on the Lakes or Rivers of the said Province, the state of the cultivation, particularly specifying the quantity of Grain, Hemp, and Flax produced, and of any other important branch of Trade which may, in your opinion, be undertaken, and advantageously carried on, by our subjects; the number of inhabitants, distinguishing them under different heads of men, women, and children, inserting in such account the number of persons born, christened, and buried, and any extraordinary influx or emigration from our said Province, specifying, at the same time, the number of slaves and the number of our subjects capable of bearing arms in the Militia, the number and tonnage of Shipping and Craft employed upon the Lakes and Rivers in, or contiguous to, the Province of Upper Canada, together with any information on these or any other points of the like nature, which may be proper to be communicated to us.

56th.—And whereas you will receive from our Commissioners for executing the Office of High Admiral of our United Kingdom of Great Britain and Ireland, and of the Plantations, a Commission constituting you Vice-Admiral of our said Province of Upper Canada; you are required and directed carefully to put in execution the several powers thereby granted to you.

57th.—Whereas it is absolutely necessary that we be exactly informed of the state of defence of all our Plantations in America, as well in relation to the stores of war that are in each Plantation, as to the Forts and Fortifications there, and what more may be necessary to be built for the defence and security of the same: you are, from time to time, to transmit an account thereof with relation to our said Province of Upper Canada in the most particular manner, and you are therein to express the present state of the arms, ammunition, and other

stores

stores of war belonging to the said Province, either in any public Magazine or in the hands of private persons, together with a state of all places either already fortified or that you may judge necessary to be fortified for the security of our said Province: and you are to transmit the said accounts to us through one of our principal Secretaries of State, and also duplicates to our Master General or principal Officers of our Ordnance, which accounts are to express the particulars of Ordnance Carriages, Balls, Powder, and all other sorts of Arms and Ammunition in our Public Stores, and so from time to time of what shall be sent to you or bought with the public money, and to specify the time of the disposal, and the occasion thereof, and other like accounts, half-yearly in the same manner.

Instructions to
Earl Dalhousie,
April 13th, 1820.

58th.—And in case of distress of any other of our Plantations, you shall, upon application of the respective Governors thereof to you, assist them with what aid the condition and safety of our said Province under your Government can spare.

59th.—If anything shall happen which may be of advantage or security to our Province, under our government, which is not herein or by your Commission provided for, we do allow unto you, with the advice and consent of our said Executive Council, to take order for the present therein provided; nevertheless, that what shall be done be not repugnant to our Commissions and Instructions, and to the said Acts passed in the fourteenth and thirty-first years of the reign of our dearest Father, his late Majesty King George the Third, giving unto us, through one of our principal Secretaries of State, speedy notice thereof, that you may receive our ratification if we shall approve the same; provided, always, that you do not, by color of any power or authority hereby given you, commence or declare War without our knowledge and particular commands therein, except it be for the purpose of preventing or repelling Hostilities, or unavoidable emergencies, when the consent of our said Executive Council shall be had, and speedy notice given thereof, to us, through one of our principal Secretaries of State.

60th.—And whereas great prejudice may happen to our service, and to the security of our said Province, by your absence, or the absence of Our Lieutenant Governor, for the time being, you shall not upon any pretence whatsoever, come to Europe, without having first obtained leave for so doing, from Us, under our Signet and Sign Manual, or by our Order in Our Privy Council.

61st.—And whereas We have thought fit by our Commission, to direct that in case of your death or absence from our said Province and in case there be at that time, no person commissioned or appointed by us, to be our Lieutenant Governor, or appointed by us to administer the Government within the Province, in the event of the death or
absence

absence of you, and of our Lieutenant Governor of the said Province, the Senior Member of the Executive Council, who shall be at the time of your death or absence, residing within our said Province of Upper Canada, (subject to such other nomination and appointment by you, under the Great Seal of Our said Province, as in Our said Commission, is in that behalf mentioned,) shall take upon him the Administration of the Government, and execute Our said Commission and Instructions, and the several Powers and Authorities therein contained, in the manner thereby directed. It is, nevertheless, our express Will and pleasure, that in such case, the person so administering the Government, shall forbear to assent to any Acts but what are immediately necessary for the welfare of our said Province, without our particular Orders for that purpose, and that he shall not take upon him to dissolve the Assembly then in being, nor to remove or suspend any of the Members of our said Executive Council, nor any Judges, Justices of the Peace, or other Officers, Civil or Military, without the advice and consent of the majority of the said Executive Council, and he is, by the first opportunity, to transmit to us, through one of our principal Secretaries of State, the reasons of such alterations, signed by him and the Council, and our Will and pleasure is, that the above Instructions with respect to such Senior Councillor, shall also be equally observed by, and binding upon such other Executive Councillor as may be nominated and appointed by you, under the Great Seal of our said Province, by virtue of our said Commission in the behalf.

Instructions to
Earl Dalhousie,
April 12th, 1829.

62nd.—And whereas, by our different Commissioners, we have appointed you to be our Governor and Commander-in-Chief of our Provinces of Upper Canada and Lower Canada, our Province of Nova Scotia, our Island of Prince Edward, as well as of our Province of New Brunswick; And it is our intention that the Lieutenant-Governor commanding in our said Provinces of Upper Canada, New Brunswick, and Nova Scotia, and the Island of Prince Edward, should have and enjoy the full salaries, perquisites, and emoluments granted to them and arising from their respective Governments, in as full and ample a manner as if the said Governments were under disjoint Governors-in-Chief. It is, therefore, our will and pleasure that you shall not, at any time or times, when you shall be resident and commanding-in-chief in either of our said Provinces of Upper Canada, Nova Scotia, or New Brunswick, or the Island of Prince Edward, have or receive any part of the said salaries, perquisites, or emoluments, but that the same shall continue to be paid and satisfied to the Lieutenant-Governors of our said Provinces and Islands respectively, in the like manner as they usually are during your absence therefrom.

63rd.—And you are, upon all occasions, to send to us, through one of our principal Secretaries of State, a particular account of all your proceedings and of the condition of affairs within your Government.

I, Henry Palham, Duke of Newcastle, do hereby certify, unto all whom it may concern, that the above is a true and correct copy of the Instructions under the Royal Sign Manual and Signet to the Earl of Dalhousie as Governor of Upper and Lower Canada, as dated the Thirteenth day of April, 1820. Given under my hand and Seal of Arms, at Downing Street, London, this Twentieth day of April, 1854.

Instructions to
Earl Dalhousie,
April 13th, 1820.

Extract from Commission, under the Great Seal to Lord Aylmer, as Governor of Upper and Lower Canada, dated 24th November, 1830.

Extract from
Commission, un-
der the Great Seal
to Lord Aylmer,
as Governor of
Upper and Lower
Canada, dated
24th Nov., 1830.

"William the Fourth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, To our right, trusty, and well-beloved Matthew, Lord Aylmer, Knight, Commander of the Most Honorable Military Order of the Bath, Lieutenant General of Our Forces, Greeting: Whereas, His late Majesty, Our Dearest Brother, did by certain Letters Patent, bearing date at Westminster, the 13th day of April, 1820, in the First year of His Reign, constitute and appoint Our right, trusty, and right well-beloved Cousin and Councillor, George, Earl of Dalhousie, then Lieutenant-General of His Forces, to be Captain-General and Governor-in-Chief in and over the Provinces of Upper and Lower Canada, during the Royal pleasure, as by the said recited Letters Patent, relation being thereunto had, may more fully and at large appear. Now know you, that We have revoked and determined, and by these presents do revoke and determine the said recited letters patent, and every clause, article, and thing therein contained. And further know you, that We, reposing especial trust and confidence in the prudence, courage, and loyalty of you, the said Matthew Lord Aylmer, of Our especial Grace, certain knowledge, and mere motion, have thought fit to constitute and appoint you to be Our Captain-General and Governor-in-Chief, in and over our Province of Upper Canada, and in and over Our Province of Lower Canada, respectively bounded by a Line to commence at a Stone Boundary on the North Bank of the Lake Saint Francis, at the Cove West of the Point au Baudet, in the limit between the Townships of Lancaster and the Seigneurie of New Longueuil, running along the said limit in the direction of North thirty-four degrees West, to the Westernmost Angle of the said Seigneurie of New Longueuil; thence along the North Western Boundary of the Seigneurie of Vaudreuil, running North twenty-five degrees East, until it strikes the Ottawa River; to ascend the said River, into the Lake Torniscaming, and from the head of the said Lake, by a Line drawn due North, until it strikes the Boundary Line of Hudson's Bay. The Province of Upper Canada to comprehend

hend all such Land, Territories, and Islands, lying to the Westward of the said Line of division, as were part of Our Province of Quebec; and the Province of Lower Canada, to comprehend all such Lands, Territories, and Islands, lying to the Eastward of the said Line of division as were part of Our said Province of Quebec; and we do hereby require, and command you to do and execute all things in due manner, that shall belong to your said Command, and the trust We have reposed in you, according to the several powers, provisions, and directions granted or appointed you, by virtue of Our present Commission, and of an Act passed in the Thirty-first year of the Reign of His late Majesty, King George the Third, intituled, "An Act to repeal certain parts of an Act passed in the 14th year of His Majesty's Reign, intituled, [redacted] for making more effectual provision for the Government [redacted] in North America, and to make further provision "for the Government of the said Province," and of such instructions, as have been given to the Earl of Dalhousie, late Captain-General and Governor-in-Chief of Our said Provinces, or which may from time to time be given you, in respect of the said Provinces, or either of them, by Us, under our Signet and Sign Manual, or by Our Order in Our Privy Council, or through one of Our principal Secretaries of State, and according to such Laws as are now in force, or shall hereafter be made or established within Our said Provinces of Upper Canada and Lower Canada, under, and by virtue of such powers, provisions, and directions, as aforesaid."

Extract from Commission, under the Great Seal to Lord Aylmer, as Governor of Upper and Lower Canada, dated 24th Nov. 1830.

A true Extract.

NEWCASTLE.

Copy of Instructions under the Royal Sign Manual, and Signet, which accompanied the Commission, under the Great Seal to the Earl of Gosford, as Governor of Upper and Lower Canada.

Copy of Instructions under the Royal Sign Manual, and Signet, which accompanied the Commission, under the Great Seal to the Earl of Gosford, as Governor of Upper and Lower Canada.

Instructions to Our Right, Trusty, and Right well-beloved Cousin and Councillor, Archibald, Earl of Gosford, Our Captain-General and Governor-in-Chief, in and over Our Province of Upper Canada, or in his absence, to our Lieutenant-Governor, or the Officer Administering the Government of Our said Province for the time being. Given at Our Court of St. James's, this 7th day of July, 1835, in the sixth year of our Reign.

Whereas, by Our Commission under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing date at Westminster the twenty-fourth day of November, 1830, in the first year of Our Reign, We did constitute and appoint, Our Trusty and well-beloved Matthew, Lord Aylmer, to be Our Captain-General and Governor-in-

Chief

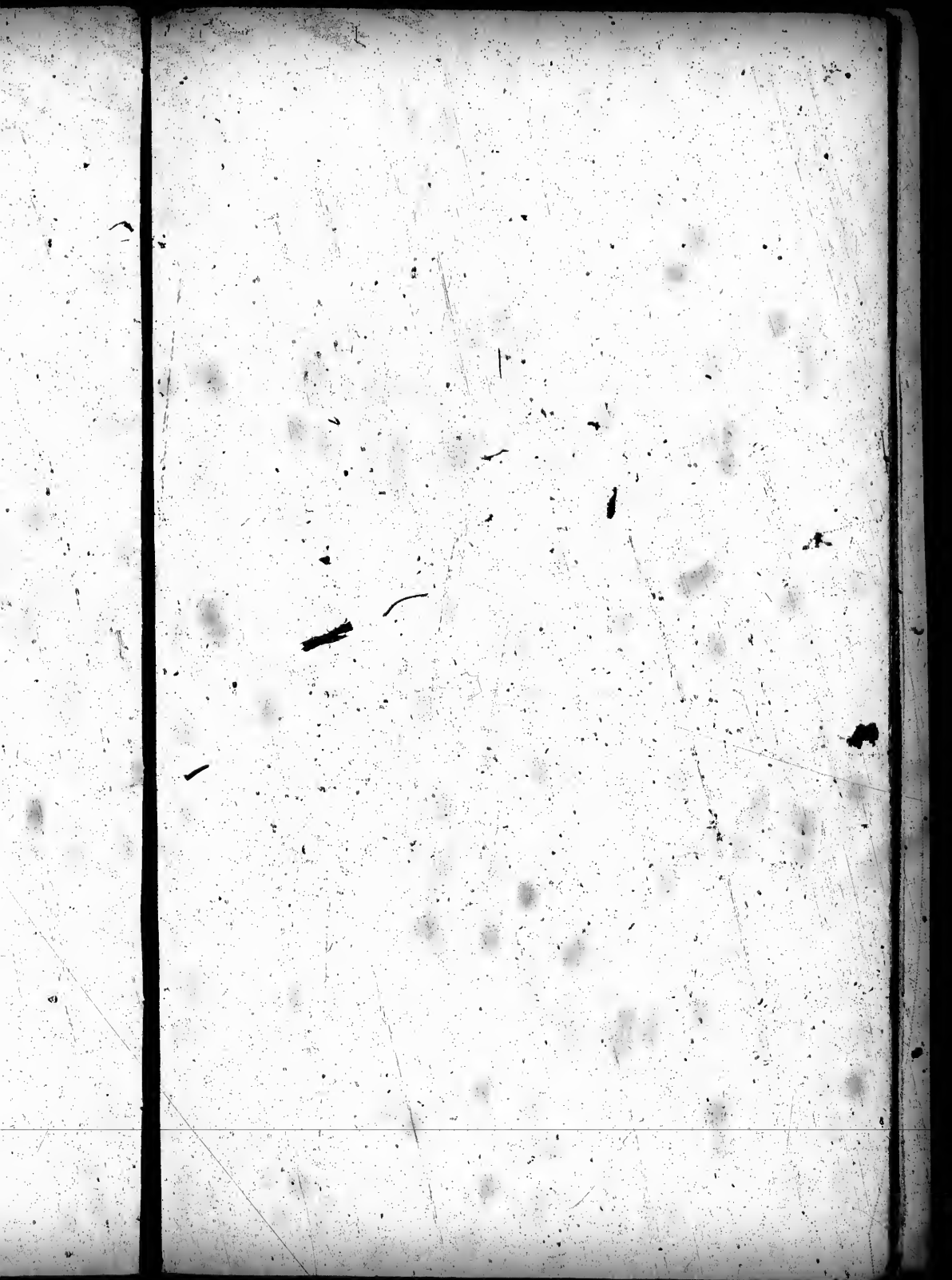
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Chief, in and over our Province of Upper Canada, and in and over Our Province of Lower Canada. And, whereas, We did require and command him, the said Matthew Lord Aylmer, to do and execute all things in due manner, that shall belong to his said command, and the Trust we had reposed in him, according to the several powers and authorities granted or appointed him by his said Commission, and the Instructions therein referred to; and according to such further powers instructions and authorities as should at any future time be granted to, or appointed him, under Our Signet and Sign. Manual, or by Our Order in Our Privy Council, or through one of Our principal Secretaries of State. And, whereas, by our Commission, under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing date the second day of April, 1835, in the 5th year of our Reign, constituting Our Right, Trusty, and Right well-beloved Cousin and Councillor, William Pitt, Earl Amherst, to be Captain-General and Governor-in-Chief, in and over the aforesaid Provinces of Upper Canada and Lower Canada, We did revoke and determine the said Commission, bearing date the 30th day of November, 1830. And further: Whereas, by a certain other Commission, bearing date at Westminster the 1st day of July, 1835, in the sixth year of Our Reign, We did revoke the said last mentioned Commission of the second day of April, 1835, to the said William Pitt, Earl Amherst, and did constitute and appoint you, the said Archibald, Earl of Gosford, to be Our Captain-General and Governor-in-Chief, in and over Our said Provinces of Upper and Lower Canada; and did, by such last mentioned Commission of the 1st day of July, 1835, require you to conform to our instructions accompanying the same, and to such further instructions as should be thereafter addressed to you, in the manner therein mentioned. Now, therefore, by these Our instructions, We do hereby require, and direct, that for the present, and until Our further pleasure herein shall be signified, you do, in the execution of the Commission so given to you as aforesaid, conform to, and abide by, the instructions referred to in the Commission given to the said Matthew Lord Aylmer, under date the twenty-fourth day of November, 1830, or by such other instructions as may have been subsequently addressed by Us to the said Matthew Lord Aylmer, or to the Officer Administering the Government of Our said Province of Upper Canada.

Copy of Instructions under the Royal Sign Manual, and Signet, which accompanied the Commission, under the Great Seal to the Earl of Gosford, as Governor of Upper and Lower Canada.

I, Henry Pelham, Duke of Newcastle, do hereby certify unto all whom it may concern, that the above is a true and correct copy of the Instructions under the Royal Sign Manual and Signet, to the Earl of Gosford, as Governor of Upper and Lower Canada, as dated 7th day of July, 1835. Given under my hand and Seal of Arms at Downing Street, London, this 20th day of April, 1854.

NEWCASTLE.



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IN CHANCERY.

The Honourable WILLIAM B. RICHARDS, Attorney General of Upper Canada, on behalf of Her Majesty, *Plaintiff*,

and

The Rev. HENRY JAMES GRASSETT, and others, *Defendants*.

It is hereby agreed between the Solicitors, for all parties, that the foregoing Documents and Extracts, may be read on the hearing and otherwise in this cause, without the production or proof of the originals, or evidence of the authenticity and genuineness thereof, so, however, as not to prejudice any question which may arise as to the admissibility thereof, in evidence, or to the effect thereof on the matters in issue, both of which points are left open for argument. And these admissions are made, and the said Extracts and Documents hereinbefore printed, are to be read as aforesaid, saving all just exceptions.

J. HILLYARD CAMERON,

Solicitor for Defendant.

JOS. C. MORRISON,

Solicitor for Plaintiff.

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ENCLOSURE IN No. 8.

REPORT OF THE ARCHDEACON OF YORK.

Enclosure in No. 8.

Toronto, Upper Canada, 19th Oct, 1837.

Sir,—I have the honour to acknowledge your letter of the 11th ult, transmitting to me, by Deane of His Excellency the Lieutenant Governor, a copy of a Despatch of the Right Honourable Lord Glenelg, Her Majesty's Secretary of State for the Colonies, dated the 26th day of July last, respecting the establishment of certain Rectories in this Province, and the endowing them with Lands for the support of the resident clergyman.

I perceive that his Lordship had been pleased to direct that a reference should be made to me as Archdeacon of this portion of the Province upon the subject of this despatch and its enclosures, in order that I may state to his Lordship whether in the case which he has submitted for the opinion of the Law officers in England any fact or circumstance has been left unnoticed which might have influenced their decision.

I am thankful for the opportunity thus afforded me of communicating officially the following facts in vindication of the course which has been pursued in this part of His Majesty's dominions for affording in this respect, but a very moderate provision for a very small number of the resident clergy of the Church of England.

The clear and express Enactments of the Statute 21st Geo. 3d. Chap. 31, providing for the creation of Parishes in Upper Canada, could not for many years be acted upon in this Province, because it contained almost a dense forest till after the American War of 1812. Few or no reserves were leased, and consequently there were no funds at the disposal of the Government; the few Clergymen of the Church of England then resident in the Colony, were supported as Missionaries by annual salaries derived from the British Government, and from the venerable Society for the Propagation of the Gospel in Foreign parts. But though the situation of the Colony rendered it inexpedient, or rather impossible to erect Parsonages and Rectories, the delay did not arise from any doubt on the part of the Provincial Government that full and sufficient power was given to the Governor or Lieutenant Governor in Council, by the Royal Commission, and the Instructions with which it was accompanied; had there been the slightest hesitation on this point in Upper Canada, it would have been removed by the proceedings in the Sister Province. So far back as June, 1801, at the instance, I believe, of the Lord Bishop of Quebec steps were taken to establish Parishes and Rectories in Lower Canada; and, in like manner, since the peace of 1816, such proceedings have been, from time to time, had in this Province, as seemed best calculated

to church, and gradually to build up the Church as a permanent establishment, for the religious instruction of the inhabitants according to the principles, rites, and ceremonies of the National Church of England.

On the 9th of March, 1815, the Executive Council, under the administration of General Sir Gordon Drummond, in reporting on the petition of the Reverend John Strachan for remuneration for moneys expended on the Parsonage House of Cornwall; for the residence of the Minister of the Church of England, recommended "that whenever a Church is erected, and a Minister appointed to reside in any Township, the Wardens may be authorized to erect a Parsonage House, by anticipating the produce of the Clergy Reserves in the Township, by a loan of a sum not exceeding four hundred pounds, the principal and interest of which Loan shall be paid by such person as may be charged with the receipt of the Clergy Reserve rents within the Township, as they may become productive. That the charge on Insurance and ordinary tenant's repairs shall be defrayed by the Incumbent, and all other repairs by such means as the building."

The Report in Council, suggesting this principle for future guidance in building and erecting Parsonage Houses, was transmitted to the Right Honourable Lord Bathurst, Principal Secretary of State, for the approbation of His Royal Highness the Prince Regent. To this an answer was returned by Lord Bathurst, dated the 10th October, 1815:—"The claim of the Reverend Doctor Strachan, the present Minister of York, appears from the Report of the Council to be deserving of consideration, and you will therefore consider yourself authorized to make the payment which they have recommended."

As the fund arising from the rents of Clergy Reserves, under lease, accumulated very slowly, application was made to His Majesty's Government by the first Bishop of Quebec, soliciting that the clergy in a corporate capacity might be entrusted with the power of leasing; and accordingly the Corporation for managing the Clergy Reserves in Lower Canada was established by an instrument under the Great Seal of that Province in 1816, which instrument had been originally draughted in that Colony by the Law Officers of the Crown. This draught was sent to the Secretary of State for the Colonies, Lord Bathurst, for the approval of the King's Government, and it was returned with the sanction of Government and an order to Sir John Sherbrooke to cause Letters Patent of Incorporation to be issued in the terms of the draught. A similar Instrument, at the instance of the Bishop, was recommended by the Executive Council of this Province on the 20th October, 1818, and was made Patent, under the Great Seal of Upper Canada, on the 20th of April, 1819. Since that period

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pious, greater facilities have been afforded to the issue of leases, and that number has in consequence rapidly increased. Business in
No. 2.

About the same time, the Lord Bishop of Quebec had earnestly pressed upon the consideration of His Majesty's Government the expediency of dividing the Province into Parishes; and, it appears, in consequence of his Lordship's application, an instruction from the Secretary of State was transmitted by Mr. President Smith, then administering the Government, dated the 2nd day of April, 1818, conveying the authority of His Royal Highness the Prince Regent for creating Parishes and Rectories in conformity to the Statute 57th Geo. 3, Chap. 31, Sec. 25.

The principle already adopted in this Province, for building Parsonage Houses, appeared so much in accordance with the spirit of this instruction, that the Colonial Government was encouraged to proceed as fast as the small means at their disposal allowed, in the hope of at least furnishing, at no distant period, comfortable places of residence for the Missionaries then in the Province. As small Parishes of Land were attached to each Parsonage on its erection, it was believed that it would be easy to complete the endowment with due portions of the Glebe and Clergy Reserves, when the Bishop should think proper to proceed to institution. This gradual mode of establishing the Church, though necessarily slow, from the smallness of the funds, was, nevertheless, following by degrees the increasing settlement and cultivation of the Province, and meeting, in as far as the Government was able, its growing wants for religious instruction. Upper Canada, even in 1818, was still in comparison a wilderness; and, therefore, no measure of a general character, constituting and creating Townships (many without any inhabitants) into Parishes and Rectories would have been found beneficial. Moreover, it could not be known where the population would most speedily congregate; it was, therefore, thought most useful and advisable to husband the scanty funds, and reserve them for applications from populous Townships and places as they offered, and decide upon the amount of assistance to be given according to their particular merits. In this way Parsonage Houses were built, or partly so, at Cornwall, Brockville, Bath, Cabourg, and Alton, and promises made to many other places, so soon as the growing funds, arising from leases, would permit.

Had not their limited means prevented the Provincial Government from proceeding to any extent with the commands of His Royal Highness the Prince Regent, communicated in this instruction, the question of tithes at this time raised, till finally set at rest, would have dictated the same course of proceeding. It was considered by the Government of this Province, that under the comprehensive words of the 39th Section of the Statute, the regularly inducted Rector of any

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Public of History, created in violation of His Royal Majesty's
instructions, might claim to be entitled to office, notwithstanding the
evident intention of the Statute that the Clergy of the established
Church should receive their stipends from the profits of the Clergy
Reserves.

I was not surprised that a claim to office would be put
forward by the House or individuals, but it was possible, and to
prevent inconvenience and delay, it was thought prudent to be
proceed in the full sense of the Royal Instructions which had been
transmitted to the Governor, to be passed by the Colonial Legislature
before the 1st of January should occur upon the Exchequer being
open in the Province.

A short Act was passed by both Houses of the Legislature of the
Colony, declaring that no office should be claimed, demanded, or
received by any Ecclesiastical Person, Bishop or Vicar of the Protestant
Church within the Province, any law, custom, or usage to the
contrary notwithstanding. In this statement, which the wisdom of
this House had the pleasure of bringing forward, the friends of the
Church of England fully concurred, for they never desired to retain
anything more than they were entitled to by the most obvious
construction of a Statute Act of the British Parliament. The Act,
being necessarily reserved for the assent of His Majesty, did not
though noticed in the Royal Instructions, to receive the requisite
assent in England, until the limited period of six years had elapsed,
and it could not therefore become a Law.

In the year 1851, a similar Bill was passed, of which a copy
accompanies this Letter, and which in conformity with the provisions
of the forty-second Section of 21st Geo. 3, Chap. 21, received the
assent of His Majesty and the Imperial Parliament, and was
published on the 10th February, 1851.

It was this effort to regulate on the part of the National Church,
any thing which could reasonably seem injurious in the provision
made by law for her support, that gave occasion to the discussion of a
question, of which I may truly say, that it was started with no
idea of the results to which it has been unexpectedly confined to lead.

Before it can be ultimately disposed of, it will be necessary that the
sense of Parliament should be pronounced upon the regulations to be
deduced from history, from the principles of the Constitution, from the
plain words of the Statute, from numerous other Acts of the British
Parliament, and from a series of public Acts in England and the
Colony, in which the Imperial and the Government may be very easily
and satisfactorily traced. I shall say no more upon this subject
than that, if the Church of Scotland had a right to be regarded as the

yielding support, without at the same time bringing these party into
 collision and building violence in the clergy. There was also a
 reluctance to adopt any temporary or partial arrangement, while
 business was left to act naturally and make a general appropriation
 of the Clergy Reserves by dividing the whole province into Parishes,
 and allocating each with a sufficient portion of land, while the question
 had been brought under the consideration of Parliament and the
 Government in England. These various points were made still more
 prominent by the passing of 7 and 8 Geo. 4. chap. 62, authorizing the
 sale of part of the Clergy Reserves, as it directed the moneys arising
 from the sale to be placed in the British funds, and so removed them
 from the more immediate control of the Colonial Government.
 However, from the English limited Reserves under lease, by
 which means the present and future wants were in some degree
 diminished. These difficulties of the moment for the Clergy during
 the short residence of Sir Francis Blandford's Administration; they
 likewise furnished sufficient matter for inducing Sir John Colborne to
 take issue for compensation. In the meanwhile, and continued to be
 given as before towards the creation of Parishes, houses at Toronto,
 Port Hope, Woodstock, London, King's Place, &c. as the funds allowed.
 The Clergy were not urgent, and did not press any general plan,
 regarding in the faith of the Government, which they saw was doing all
 in its power; they waited in tranquillity, fully assured that the interests
 of the Church would not be lost sight of, and that when the proper
 time arrived, a general measure for constituting and creating Parishes
 and Rectories would be adopted, or in case no means were at the
 disposal of the proper authorities to make it efficient.

These matters continued for some length of time; but during the
 latter part of Sir John Colborne's Administration, the propriety of
 turning the lands to some account for the support of the Clergy,
 engaged the consideration of the Secretary of State, as appears from
 the copies of despatches which accompany my Lord Glenelg's
 correspondence with His Excellency the Lieutenant Governor. Indeed,
 some such course had become absolutely necessary, for His Majesty's
 Government had by its late arrangements, in some degree, withdrawn
 from a most meritorious class of the Ministers of the Church, that
 steady support which they had enjoyed, and which they had little
 reason to expect would ever have been denied them. It was, therefore,
 but a natural sentiment of justice which impelled Lord Glenelg to
 enforce upon Sir John Colborne the repayment of this loss, by securing,
 in a permanent manner, a small fraction of that provision which an act
 of the British Parliament had assured to them for their support.
 Moreover, the result of the negotiations, since entered into by the
 Secretary of State for the Colonies with the Society for the Propagation
 of the Gospel in Foreign parts, being only of a temporary nature, and
 implying

implying the distinctness of any advice to the successor of the present incumbent, the Colonial Government was obliged without delay to take such measures as might enable it in some degree to meet the ordinary contingency. They were also obliged to take active steps to be taken by the Clergy themselves, as appears from the address to Government on the 24th February, 1855, which contains the late Government's protest.

It is not necessary for considering Lord Godolphin's letter as a measure of expediency in accordance with the requirements of the 56th section of 51 George 3. chap. 21; it is rather to be deemed an evidence of the Government's intention, no longer to placate, under any circumstances, being opposing towards the permanent establishment of the Church. To have met additional necessity would have been superfluous, as the Royal Instructions already mentioned were, and still are, more than sufficient to enable His Excellency the Lieutenant Governor in Council to suspend and even Passenger and Revenue with competent Endowments throughout the Province, instead of the very small number to which they have been unfortunately limited.

I would not presume to offer any further explanation of the delay which occurred in carrying the Intimation into effect, because Sir John Colborne is in the Country and may be easily referred to.

I think, however, that the measure of constituting these Bishops was no sudden Resolution, but, on the contrary, it was a long time in progress; that it was retarded by varying opinions upon some points of detail, as well as by the difficulties already noticed; but that, nevertheless, much progress was made in it, and it was, in fact, substantially executed before Sir John Colborne had the slightest intimation of an intention to supersede him in his Government.

When this intimation did arrive, His Excellency certainly manifested an unequivocal anxiety to lose no time in completing what had been much more than begun, and did hasten it as much as was in his power.

His motives for this were, probably, in the first place, not to leave to the power of chance what he felt it to be his duty to secure, and, in the next place, to avoid the appearance of leaving to his successor, the performance of an Act which he might imagine would, with some licence his popularity.

However this may be, I have no doubt that the measure in question is precisely that Act of Lieutenant General Colborne's administration, of which the remembrance will ever be most satisfactory to him as a man and a Christian.

With respect to what I find has been said by the friends of the Church of Scotland in regard to the ecclesiastical jurisdiction over other

other sects, which the endowment of these Rectories has conferred upon the Church of England, it is not easy to understand how any number of persons residing in the country could prevail upon themselves to express any serious apprehensions on that score.

Parishes have been for many years created within the Province of Lower Canada, under the same Act of Parliament, and in the other Colonies of British North America, in the West India Islands, and in New South Wales. These Rectories, which are now complained of, have been established nearly two years, and the experience of the past, and the observation of the present, must have equally shown that no person of any other religious community has the slightest reason to suppose that his civil or religious liberty, his person, or his property, will be in any manner interfered with in consequence of these Rectories or endowments. It is in fine notorious that the rights of marriage, baptism, and sepulture, are, by the laws of the Province common to the teachers of all other Christian denominations with the Clergy of the Church of England.

Whatever, therefore, may have been stated, it is very certain that no such apprehension is, or can have been felt.

With respect to the land annexed as an endowment, it is, in almost every instance, an insignificant fraction of those Reserves to which the Church of England in this Province has a claim, which ought to be regarded as sacred.

In value, it is so small as to be chiefly acceptable to supply fire wood, and in most cases, being wild and totally uncultivated, it will yield nothing without incurring a considerable expence; even the very best of the endowments, yield a very trifling emolument, and will not for a long time make up for the fifteen per cent. recently deducted from the narrow salary of the incumbents. Indeed, these endowments, looking to futurity, when the country is populous and well cultivated, can scarcely be anticipated in any instance to supply an adequate provision for the sustenance of an educated Minister of the Gospel, and ought not, therefore, to have roused the jealousy of any body of Christians. It must be further borne in mind, that the greater number of these endowments consist of lands which have been in the possession of the several incumbents by means of occupation, from their first settlements in the province, without notice or complaint, and that the only difference now is a greater security of title.

I do not know that the establishment of the Rectories has called forth the language of complaint from any religious community except the members of the Church of England, of whose members it is remarkable that their general and unopposed loyalty to the Church of England in this Province appears to have constantly increased in proportion to the

against aggressions which they have made upon her rights, and the continuance which those aggressions have unexpectedly received.

Enclosure is
No. 5.

Even the House of Assembly, after much discussion, occasioned chiefly by five or six members belonging to the Church of Scotland who have since, passed the following resolution by a majority of thirteen: "That this House regards as inviolable the rights acquired under the patents by which Rectories have been endowed, and cannot, therefore, either invite or sanction any interference with the rights thus established." It is true other resolutions were passed disapproving of their establishment: but to call in question the patents by which they were constituted and erected, would have been, as many of the speakers wisely averred, to disturb and unsettle the titles to property throughout the whole Province.

In recapitulation I beg to state, 1st. That however sensible I am of the consideration of His Majesty's Government in making the reference which occasions this letter, I cannot but regret that before submitting to the Crown Officers of England, a statement of a case which has led to their expressing an opinion against the legal validity of the Act which has been called in question, the same inquiry was not made which it has been thought just and prudent to institute: before their opinion should be acted upon.

2nd. That the case stated for the opinion of the Crown Officers must have conveyed to them clearly the impression, that from the year 1791 to the time of creating these Rectories, no authority had been conveyed from His Majesty through his Secretary of State, such as the 38th clause of the Statute 31st George 3, chap. 33, requires; that their opinion is founded upon this impression, and rests, therefore, upon the supposed non-existence of an instrument, two of which, of different dates, are now before me, and are recorded in the proceedings of the Executive Council of this Province.

3rd. That this provision, made for the raising Clergy of the Established Church, partial and inefficient as it unfortunately is, stands upon the express provisions of an Act of Parliament, and the execution of a power given by the King, in exact conformity to its enactments; it cannot, therefore, be destroyed to gratify the uncharitable feeling of any person or party, and nothing can deprive the Clergy of the Church of England in this Province of the rights thus secured to them but the over-ruling power of the same Legislature which conferred them. I need not say that an Act of Parliament which should say that for its object would be such an Act as never yet has dishonoured the supreme Council of the Empire.

I observe that the letter of my Lord Glenelg suggests the possibility, though it by no means expresses an expectation of desire, that I may

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be found willing to surrender, or to concur in surrendering voluntarily the endowments which the King has annexed to the several Rectories. Happily the provident caution of Parliament has not placed it in the power of any individual to be the instrument of so much injustice; it is not in my discretion to make any surrender of the kind; if it were, I believe it would not be necessary to assure any one who is personally acquainted with me that I would as readily surrender my life.

I have laboured, earnestly, for nearly forty years, through good report and bad report, in promoting the peace and happiness of this Province and its attachment to the Parent State; during more than thirty-four years of that period I have been zealously, and, I trust, successfully, employed in promoting the cause of true religion, and in the discharge of the sacred duties of a Clergyman, and have uniformly acted towards all other Christian denominations with a Christian spirit, which the respectable portions of them will readily acknowledge. I am now approaching the evening of my life, and, assuredly, I shall never incur the reproach of having sacrificed any portion of the interests of the Church to which I have the happiness to belong, in the wild hope of constituting her enemies, or from the culpable desire of avoiding the unpopularity which it seems to be feared must attach to those who fairly maintain the religion of our Sovereign and of the British Empire.

I have not failed to notice that from the tenor of my Lord Glenelg's despatch, it is to be inferred that the petitioners in the name of the Church of Scotland have claimed for their Church the right to be treated in this part of the Queen's dominions, upon a footing of perfect equality with the united Church of England and Ireland.

It is not credible that any number of enlightened members of the Church of Scotland can have imposed so far on their own judgment as to believe that it was reserved for two or three laymen in the Legislature of a remote Colony, to discover rights and relations resulting from the Act of Union, which had escaped consideration and notice in all parts of the British dominions during more than a century. They cannot but be aware that the Act of Union did but protect the rights and privileges of the Church of Scotland within the Kingdom of Scotland, in express words, while, in language as express, it guarded all the rights and privileges of the national Church of the Empire in every other part of the British dominions.

They must, beyond all question, know and feel that the claim which they have originated in Upper Canada, to constitute of right a second Church establishment in a British Colony, is a novel pretension, at variance with the principles of the Constitution and not to be reconciled to the frequently declared sense of Parliament from the time of the Union to the present moment, to the Acts of the Government both in

the Mother country and in the Colonies, or to the understanding which has universally prevailed on this point in all parts of the Empire; and there can be as little question that they must have been exceedingly surprised at the facility with which they have been allowed to advance, step by step, in pretensions, unsupported by the Constitution, by history, by law, or by reason; but which, when they are carried to their full extent, must tend to produce confusion and to unsettle the Ecclesiastical condition of the Empire.

The error will be perceived when it is too late to remedy it; and it will be found that the well-established principles of the Constitution have been deserted for the purpose of pursuing what will turn out to be any thing but a wise or popular cause.

I have, &c.

JOHN STRACHAN, D.D., LL.D.
Archdeacon of York, Upper Canada.

(Signed)
John Joseph, Esq.

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IN CHANCERY.

*Monday, the twelfth day of May, in the nineteenth year of
the reign of Her Majesty Queen Victoria, and in the
year of Our Lord, 1856.*

Between the Honourable WILLIAM BULL RICHARDS, Attorney
General of Upper Canada on behalf of Her Majesty,
and *Informant,*

The Reverend HENRY JAMES GRASSETT, The Honourable
Right Reverend JOHN STRACHAN, Lord Bishop of Toronto,
and the Church Society of the Diocese of Toronto,
Defendants.

This Cause having come on to be heard before this Court on
the eighteenth, nineteenth and twentieth days of September last, in
the presence of Counsel for all parties, upon opening of the matter,
and upon hearing read the pleadings and evidence in this Cause, and
upon hearing what was alleged by Counsel aforesaid, this Court did
order that this Cause should stand for Judgment, and this Cause
standing for Judgment this day accordingly, this Court doth in the
presence of Counsel aforesaid, order and decree that the Informa-
tion filed in this Cause do stand dismissed out of this Court.

A. GRANT,
Registrar.

(Entered A. G.)

REASONS OF APPEAL.

The Appellant submits that the above Decree, which was made
in this Cause in Chancery, in favor of the Defendants, (now the
Respondents) is erroneous, and ought to be reversed or varied, for
the following (among other)

REASONS:

1st. Because the Lieut. Governor Sir John Colborne, had not
at any time authority to issue the patent in question, or to establish

the



MICROCOPY RESOLUTION TEST CHART

(ANSI and ISO TEST CHART No. 2)



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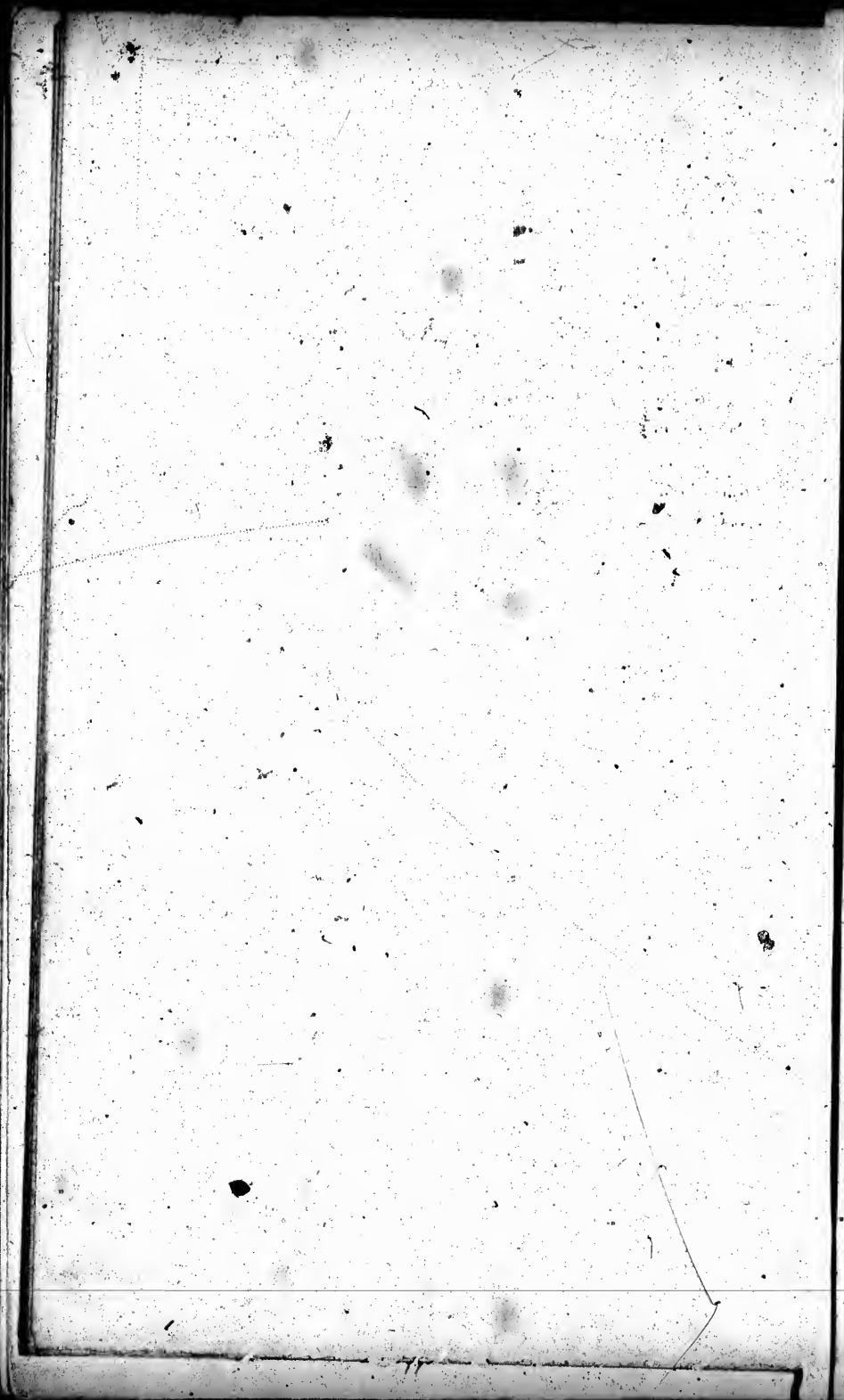
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APPLIED IMAGE Inc.

1853 East Main Street
Rochester, New York 14609 USA
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(716) 288-5989 - Fax



the said Rectory therein mentioned, or to endow the same with the lands contained in the said patent.

2nd. Because if he ever had such authority, the same was afterwards and before issuing the said patent, revoked, nullified or suspended expressly or by implication.

3rd. Because the issuing of the said patent, and the erection and endowment of the said Rectory at the time aforesaid, were all against the mind and intention in that behalf, of His said then Majesty and his Government.

4th. Because the transactions complained of, took place under such circumstances of mistake, as are sufficient to avoid the said patent.

5th. That the said patent is void for not defining the boundaries of the Parish, and for not naming the grantee.

SKEFFINGTON CONNOR, Q. C.

O. MOWAT, Q. C.

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IN THE COURT OF ERROR AND APPEAL.

BETWEEN the Hon. W. B. RICHARDS, Attorney General
of Upper Canada, on behalf of Her Majesty,

Appellant.

AND

The Hon. and Right Reverend JOHN STRACHAN,
Lord Bishop of Toronto; the Rev. HENRY JAMES
GRASETT; and the CHURCH SOCIETY OF THE
DIOCESE OF TORONTO,

Respondents.

The Respondents are advised and submit, that the Decree is according to law and equity; and they humbly pray that the Appeal may be dismissed with costs, and that the Decree of the Court below may be affirmed, for the following (among other)

REASONS :

1st. Because the Lieut. Governor, Sir John Colborne, on the 15th day of January, 1836, and previously thereto, was legally and fully authorized and empowered to issue the Patent in question, and to establish the Rectory therein mentioned, and to endow the same with the lands contained in the said Patent.

2ndly. Because the power to constitute, erect, and endow the said Rectory, and to issue the said Patent was a valid and subsisting power legally exercised by His Excellency Sir John Colborne, in the issuing of the said Patent; and the Appellant has failed to establish the alleged mistake on the part of His Excellency, or his Executive Council, on which the Patent in question is impeached.

3rdly. Because the authority conferred on Sir John Colborne, by His Majesty King George the Fourth, to erect and endow the said Rectory, was an exercise of the powers vested in the Crown, by virtue of the Imperial Act, 31 Geo. III. ch. 31, and it was not competent to the Crown afterwards to revoke or suspend the authority so conferred.

4thly. For, that subsequently to the issuing of the Letters Patent in question, the Right Honourable Lord Glenelg, while he was Principal Secretary of State for the Colonies, and having full knowledge of the fact, that the said Letters Patent had issued, and of the circumstances under which they had been issued, recognized, and avowed, on behalf of the Crown and Executive Government of Great Britain, the inviolability of the rights acquired thereunder.

5thly. Because the said Patent is not void for not defining the boundaries of the Parish, or for not naming a Grantee, but is valid in law, being in conformity with the provisions of the Imperial Act, 31 Geo. III. ch. 31.

J. HILLYARD CAMERON, Q.C.
SECKER BROUGH.

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