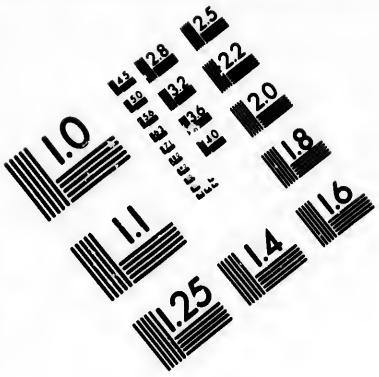


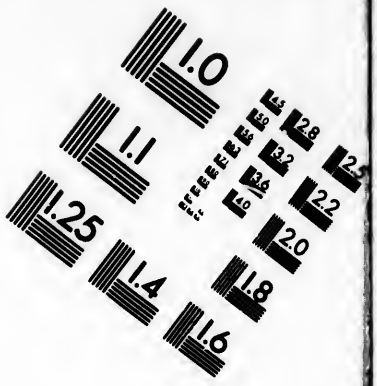
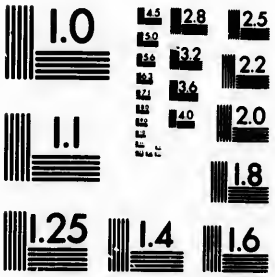
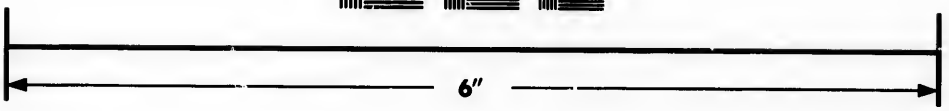
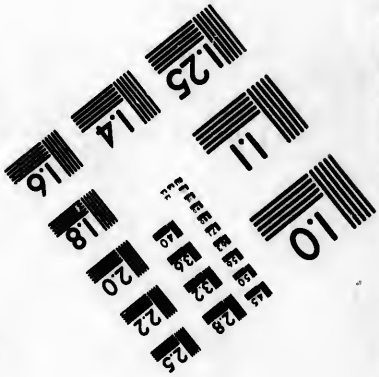


IMAGE EVALUATION
TEST TARGET (MT-3)







Photographic
Sciences
Corporation

23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503

Technical and Bibliographic Notes/Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming, are checked below.

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- [x] Coloured covers/ Couverture de couleur
- [ ] Covers damaged/ Couverture endommagée
- [ ] Covers restored and/or laminated/ Couverture restaurée et/ou pelliculée
- [ ] Cover title missing/ Le titre de couverture manque
- [ ] Coloured maps/ Cartes géographiques en couleur
- [ ] Coloured ink (i.e. other than blue or black)/ Encre de couleur (i.e. autre que bleue ou noire)
- [ ] Coloured plates and/or illustrations/ Planches et/ou illustrations en couleur
- [ ] Bound with other material/ Relié avec d'autres documents
- [ ] Tight binding may cause shadows or distortion along interior margin/ La reliure serrée peut causer de l'ombre ou de la distortion le long de la marge intérieure
- [ ] Blank leaves added during restoration may appear within the text. Whenever possible, these have been omitted from filming/ Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- [ ] Additional comments:/ Commentaires supplémentaires:

- [ ] Coloured pages/ Pages de couleur
- [ ] Pages damaged/ Pages endommagées
- [ ] Pages restored and/or laminated/ Pages restaurées et/ou pelliculées
- [x] Pages discoloured, stained or foxed/ Pages décolorées, tachetées ou piquées
- [ ] Pages detached/ Pages détachées
- [x] Showthrough/ Transparence
- [ ] Quality of print varies/ Qualité inégale de l'impression
- [ ] Includes supplementary material/ Comprend du matériel supplémentaire
- [ ] Only edition available/ Seule édition disponible
- [ ] Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image/ Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées á nouveau de façon à obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below/
Ce document est filmé au taux de réduction indiqué ci-dessous.

10X	12X	14X	16X	18X	20X	22X	24X	26X	28X	30X	32X
					X						

The copy filmed here has been reproduced thanks to the generosity of:

Library of the Public
Archives of Canada

The images appearing here are the best quality possible considering the condition and legibility of the original copy and in keeping with the filming contract specifications.

Original copies in printed paper covers are filmed beginning with the front cover and ending on the last page with a printed or illustrated impression, or the back cover when appropriate. All other original copies are filmed beginning on the first page with a printed or illustrated impression, and ending on the last page with a printed or illustrated impression.

The last recorded frame on each microfiche shall contain the symbol → (meaning "CONTINUED"), or the symbol ▽ (meaning "END"), whichever applies.

Maps, plates, charts, etc., may be filmed at different reduction ratios. Those too large to be entirely included in one exposure are filmed beginning in the upper left hand corner, left to right and top to bottom, as many frames as required. The following diagrams illustrate the method:

L'exemplaire filmé fut reproduit grâce à la générosité de:

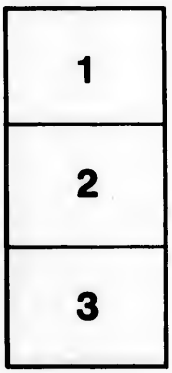
La bibliothèque des Archives
publiques du Canada

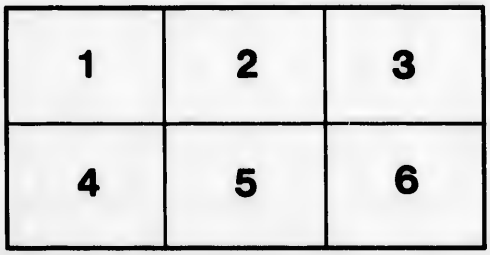
Les images suivantes ont été reproduites avec le plus grand soin, compte tenu de la condition et de la netteté de l'exemplaire filmé, et en conformité avec les conditions du contrat de filmage.

Les exemplaires originaux dont la couverture en papier est imprimée sont filmés en commençant par le premier plat et en terminant soit par la dernière page qui comporte une empreinte d'impression ou d'illustration, soit par le second plat, selon le cas. Tous les autres exemplaires originaux sont filmés en commençant par la première page qui comporte une empreinte d'impression ou d'illustration et en terminant par la dernière page qui comporte une telle empreinte.

Un des symboles suivants apparaîtra sur la dernière image de chaque microfiche, selon le cas: le symbole → signifie "A SUIVRE", le symbole ▽ signifie "FIN".

Les cartes, planches, tableaux, etc., peuvent être filmés à des taux de réduction différents. Lorsque le document est trop grand pour être reproduit en un seul cliché, il est filmé à partir de l'angle supérieur gauche, de gauche à droite, et de haut en bas, en prenant le nombre d'images nécessaire. Les diagrammes suivants illustrent la méthode.





PROCEEDINGS

OF THE

CONFERENCE

OF THE

BISHOP, CLERGY AND LAITY,

OF THE

DIOCESE OF MONTREAL,

HELD ON THE 16TH JANUARY, 1856,

AT THE

NATIONAL SCHOOL HOUSE,

MONTREAL.

Montreal
PRINTED BY JOHN LOVELL, ST. NICHOLAS STREET.
1856.

PROCEEDINGS

OF THE

CONFERENCE

OF THE

BISHOP, CLERGY AND LAITY,

OF THE

DIOCESE OF MONTREAL,

HELD ON THE 16TH JANUARY 1856,

AT THE

NATIONAL SCHOOL HOUSE,

MONTREAL.

Montreal
PRINTED BY JOHN LOVELL, ST. NICHOLAS STREET.
1856.

DIOCESE OF MONTREAL.

A MEETING of the Clergy of the Diocese of Montreal and of Lay Delegates from the several Congregations, called by Circular from the LORD BISHOP, to take into consideration the necessity or propriety of establishing a DIOCESAN SYNOD for this Diocese, was held in the City of Montreal, on Wednesday, the 16th of January, 1856.

Divine Service was celebrated in the Cathedral at half-past ten o'clock, A. M.; Morning Prayers were said by the Revd. Canons Gilson and Bancroft, the Lessons were read by the Revd. Canon Townsend, and the Ante-Communion Service by the Dean, Archdeacon Lower taking the Epistle. A Sermon appropriate to the occasion was preached by the Lord Bishop, after which the Holy Communion was administered.

At one o'clock, the Clergy and Lay Delegates assembled at the National School House, under the presidency of the Bishop.

Rev. E. J. Rogers was appointed Clerical Secretary, and J. Armstrong Esq., Lay Secretary.

The names of the Clergy having been called and the certificates of Delegates having been presented, the following lists were drawn up: those in Italics were absent.

PARISH OR MISSION.	CLERGY.	DELEGATES.
Abbotsford	Revd. F. Robinson	J. Drake, *S. Bacheldor.*
Aylmer	" J. Johnston	G. J. Marston.
Bedford		
Berthier		J. Armstrong, J. Bostwick.
Brome	" R. Lindsay	L. M. Knowlton, H. S. Forster.
Buckingham		
Chambly		Col. Austin, Maj. Campbell, C. B.
Christieville	" J. A. McLeod	W. McGinnis, Hon. R. Jones.
Clarenceville	" Canon M. Townsend.	A. H. Vaughan, D. Derrick.
Clarendon	" J. S. Sykes	
Cowansville	" J. C. Davidson	
Coteau du Lac	" J. Mountain	A. Perry.
Dunham	" Jos. Scott	S. Baker, *Thos. Selby.*
Edwardstown	" E. G. Sutton	J. Charters.
Farnham	" W. Jones	Geo. Adams.
Frost Village	" D. Lindsay	Asa Forster.
Granby	" T. Machin	Dr. Abbott.
Grenville	" C. Forest	
Hemmingford	" T. Musse..	F. D. Fulford, G. N. Johnson.

PARISH OR MISSION.	CLERGY.	DELEGATES.
Huntingdon	Revd. F. S. Neve	J. Morrison, *A. Cunningham.*
Henryville	" E. Du Vernet	H. Martin.
Lachine	" J. Flanagan	Col. Wilgress, Mr. Newman.
Lacolle	" J. Cornwall	W. Bowman, Col. Hoyle.
Lapralrie	" R. Lonsdell	
Mascouche	" G. de C. O'Grady	Hon. J. Pangman, E. Ranson.
Milton	" G. Slack	C. Gillespie.
Montreal. Cathedral	" Dean Bethune	Hon. Geo. Moffatt, Hon. Judge McCord.
Montreal. Cathedral	" Arch. Lower	
Montreal. St. George's Ch	" W. T. Leach	J. Crawford, I. J. Gibb.
Montreal. St. George's Ch	" W. B. Bond	
Montreal. Trinity	" A. D. Campbell	J. Campbell, Geo. McCrae.
Montreal. St. Stephen's	" R. R. Burrage	J. Knox, Mr. Gough.
Montreal. St. Luke's	" Canon Gilson	*Hon. Judge Aylwin, J. M. Ferris, M.P.P.*
New Glasgow	" A. Lockhart	
Ormstown	" W. Brethour	A. H. Campbell, A. N. Rennie.
Rawdon	" C. Rollit	Jas. Swift.
Russeltown	" J. Fulton	*Wm. Barret.*
Sabrevois	*Vacant.*	
St. Andrew's	" W. Abbott	H. Schneider, J. Wainwright, Jr.
St. Armand, E.		D. Westover.
Do W.	" C. Wetherall	W. Roberts, *Hon. P. Moore.*
Do W.	" R. Whitwell	
St. John's	" Canon Bancroft	E. Montizambert, I. Coote.
St. Martin	" T. A. Young	Dr. Smallwood, G. H. Monk.
Shelford	*Vacant.*	R. A. Ellis.
Sherrington		
Stanbridge East		
Sorel		
Sutton		
Vaudreuil	" Jas. Pyke	R. Shepherd.
L'Acadie		
Garrison Chaplain	" E. J. Rogers	
St. Hyacinthe	" J. Godden	

After prayers had been said by His Lordship, the Right Rev. Prelate proceeded to state the objects of the Meeting.

He said they were met to deliberate on serious and solemn matters affecting not only themselves but others. They were met to take measures for the improvement of the position of the Church, and they must not forget they were before God and man. His Lordship said he was glad to see so many of the Clergy and Laity present. It was true there were some who were absent, but considering the present state of the weather he was glad to see so many come together. It was a pleasing evidence of the great interest taken in the question before them by the members of the Church in this Diocese. They had already had the matter under discussion on two previous occasions; and he trusted that their present proceedings would result in some benefit to the body of which they were members.

Hitherto the Church in this Diocese had been strictly a Missionary Church, presided over by a Bishop paid by a Society in England. But that stage of its existence was passing away, the funds provided from home were being withdrawn, and new rules became necessary in order that the Church might carry on her work. Still the Church in this Diocese was truly part and parcel of the Church of England, tied to that latter Church by the vows of the Bishop and Clergy and by the Liturgy and Services which were used

and acknowledging the Queen's supremacy and the spiritual superiority of the Archbishop of Canterbury. But in England the Church had a system of discipline, &c., which was wanting here, where, at present, everything depended on the will of the Bishop, and his ability to carry out that will subject to appeal to the Archbishop of Canterbury. In this position application had been made to the British Parliament to pass such laws as would enable the Church in the Colony to provide what was wanting. That request was immediately assented to by the Church and the Government; therefore, he presumed, by the Queen. A Bill to that effect was passed through the House of Lords, but was stopped in the House of Commons, because if the Act had passed, it was said, it would have created a regular Church establishment, with the authority of an Imperial Law, over-riding the law of the Colony, and placing the Church of England in a position superior to that of any other Church. A modified Bill was again introduced, in order to relieve the Church in Canada from the effect of the Act 25th Henry VIII; but this was also thrown out on grounds similar to those upon which the other Bill had been rejected. Then came the question, what was to be done? In 1853 in the Debate on the latter of these "Colonial Church Bills," the Attorney General, (Sir F. Thesiger,) had stated in his place in Parliament, "that the Church of England in the Colonies was in a most disadvantageous position, deprived of privileges and freedom of action possessed by other denominations, and by the Mother Church. This arose from the Colonies not having the Ecclesiastical Rights which exist in England, especially the jurisdiction of spiritual courts; in consequence of which the Colonial Bishop had an arbitrary and irresponsible power. But, as in his opinion, the Act of submission (25 Henry VIII) did not apply to the Colonies, it was not necessary to permit the Clergy and Laity there to assemble and make regulations, since no law forbade it; therefore the Bill must be intended to give a legal sanction to something not now sanctioned by law." Subsequently the present Solicitor General (Bethell), Sir Fitzroy Kelly, Mr. Napier and Mr. Stephens on special application from the Bishop of Adelaide gave the following opinion:—

"We are of opinion that the Act of Submission (25 Henry VIII. c. 19) does not extend to prohibit or render illegal the holding of Diocesan Synods within the Diocese of Adelaide.

"(Signed,) "Richard Bethell,
"Fitzroy Kelly,
"Joseph Napier,
"A. J. Stephens."

And if Synods are not illegal in the Colony of Adelaide, we may conclude not in the Colony of Canada.

The object sought was merely to regulate the discipline and temporalities of the Church, without interfering with any not in her pale.—It is said that Diocesan Synods in the Church of England had not been held since the Reformation, and, therefore, should not be held now. That was a mistake. They

were held in the Diocese of Norwich, until down to the great rebellion; in St. Asaph, and also in Kilmore by Bishop Bedell in 1638,* when Canons were passed, Lord Stratford being then Lord Deputy of Ireland, and not having any legal power to prevent it. And very recently a Synod had been held in the Diocese of Exeter. It is true that the Church in England being the established Church, if she wanted a Church Discipline Act, or Church Building Act, she applied to Parliament, through her Bishops, and got it, so that Diocesan Synods fell into disuse. Still in every case like that of the Colonial Church, when ceasing to be the state establishment, as the Church in Scotland, and in the United States, such Synods were found necessary and continued to be held. They had also been held in the Diocese of Sodor and Man, which was not under the jurisdiction of the English laws: where the excellent Bishop Wilson in 1703, framed a code of ecclesiastical constitutions, which he read to his clergy, and which were afterwards passed into a law by the authorities of the Island. And speaking of that Diocese, Lord Chancellor King said, "if the ancient discipline of the Church were lost, "it might be found in all its purity in the Isle of Man."

The members of the Church would not have approved his (the Bishop's conduct) if he had thus brought down a whole body of constitutions, and therefore, he had endeavored to get the advice of clergy and laity, that together they might consider what was necessary to place the Church of England in the same position as the Presbyterians and other bodies; otherwise everything must, as now, be carried on by the Bishop *ex mero motu*. There were other reasons why the Church should be represented by a constituted body; for example, the Clergy Reserves Act allowed clergymen to commute, with the sanction of the religious bodies to which they belonged; but at present as there was no other representative of the body, the Bishop's will was alone capable of being consulted.

His Lordship then read a letter, of which he had received a copy, from the late Sir W. Molesworth, as Secretary for the Colonies to the Governor General in answer to an application from the Canadian Legislature, asking for legal authority to be granted to the Church of England in Canada, to hold Synods and also to elect her own Bishops. It was stated in the letter on the authority of the Law Officers of the Crown that there were difficulties in the way of passing any Imperial Act for those purposes, and consti-

---

* "In September, 1638, he (Bishop Bedell) convened a Synod, in which he made many excellent Canons that are still extant; but offence was taken at this by some who were in power, and who questioned the legality of the meeting; and some talk there was, says his Biographer, of calling him in question for it, either in the Star-chamber, or High-Commission Court; but his Archdeacon, Thomas Price, who was afterwards Archbishop of Cashel, gave such an account of the matter as satisfied the state. Archbishop Usher is said to have advised those who moved to have the Bishop brought up upon this charge, to let him alone, lest he should thereby be provoked to say more for himself than any of his accusers could say against him."—See Burnet's Life of Bishop Bedell.

tutional objections to granting the right of electing Bishops, but with reference to the electing of Bishops, in practice the difficulty might be got over, as he Sir W. Molesworth was willing to receive any nomination, which the Governor General might send home after consultation with the authorities of the Church in Canada, and he would lay the same before the Queen. Now if we had a regular representative body like a Synod on such occasions the mind of the Church might be authoritatively arrived at. Otherwise to attempt to get at it by petitions or such like declarations of opinion, there might be so many contradictory ones, that no definite result could ensue.

The Church acting in Synod would have a position and a voice which would be positively and substantively heard, nor will it infringe any law. The decision of the Crown Law Officers of England while it seems to raise great objections to giving a legal status to any Synodical action here, by any Imperial Statute, does not touch the question of their meeting and framing rules for the guidance of their own body, subject to all existing canons. He would be glad to hear the opinions of others on the subject. He was sure it would do much to disabuse the minds of many respecting the formation of the Synod. It had been stated that this measure would give the Bishop an unlimited power. This was not the case, for it was most apparent that it would rather limit that power and authority. This action had been taken by him honestly and in good faith. He hoped the proceedings of the meeting would be carried on in such a manner as would not cause a single regret for the way in which they had been conducted. He had issued notices calling this meeting before he received Sir William Molesworth's despatch; but had he not done so he should still have probably thought it his duty to issue them, as he had promised them to do it, and had been called on repeatedly to know when he would do so, and by no one more frequently than by the Rector of St. Johns (Mr. Bancroft). Had he declined doing so, it would have been said that he wished to prevent the expression of opinion. He had considered it his duty to give them an opportunity for discussion, and he hoped they would give free expression to their opinions. He had no object but the good of the Church.

A discussion here arose relative to the mode of the appointment of some of the Lay Delegates, and a petition was presented from members of St. George's Church, complaining that its Delegates had been chosen by a Vestry of Proprietors, instead of Pewholders.

His Lordship said he had had an explanation of the matter, and that it was simply that the Delegates had been appointed by the Vestry; the latter body, however, had been authorised so to do by a majority of the Pewholders, present at the meeting called for the election of the Delegates.

The Petition having been read, a motion was made that a Committee be appointed to investigate the case, which was negatived.

Mr. Justice McCord then rose to move the following Resolution. "That there is a necessity for the establishment of a Diocesan Synod within this

Diocese; that the Bishop, Clergy, and Laity here assembled be the Synod of this Diocese, and do now proceed to consider the Report of the Sub-Committee on the Declaration and Constitution."

Mr. Justice McCord then said the meeting was called together for a special purpose, and he wished to introduce a motion which would bring under their notice the business for which they were assembled. The first point was, does any legal impediment exist to prevent the formation of a Synod? The second, is there not an urgent necessity for the formation of a Synod? In reference to the first point he maintained, that the Act of Submission, Henry VIII., never formed any part of the law of Canada. A proof of which was the 18th Vic. cap. 2. There have never been any Ecclesiastical Courts in Canada; then the Act of Submission can have no reference to this Colony. Some had expected that he, as one of the delegates from the Cathedral, would vote against the formation of the Synod. This, however, he would not do. He might be asked why then did he agree to a petition a year or two ago to remove what never had existed? At that time it was his opinion that the simplest mode of action was to apply to Parliament for an act whereby to govern themselves. Such an act was refused. They must, therefore, go on and take steps for their own government. In the bill which was introduced in January, 1853, there was the following clause—"And whereas it is desirable to remove all connection between Church and State," &c. Those who drafted the bill well knew what they were doing. God forbid that he should say that he wished to be separated from the spiritual government of the Archbishop of Canterbury. He then read an extract from the *Colonial Church Chronicle*, which fully explained what his opinions on the subject were. He saw no objection to the formation of a Synod—which should discuss the temporal interests of the Church. He did not intend that they should touch the fundamental principles of it. Much has been said about the illimitation of authority which would be conferred upon the Bishop by this measure. He feared no such thing. The well-being of the Church depended upon the free action of the laity. He, therefore, proposed that they should follow the action of their brethern of Australia, Toronto, and Nova Scotia, and form a Synod in this Diocese.

The Rev. Canon Townsend briefly seconded the motion.

Mr. Montizambert said, the invitation of the Bishop was for the Churches to appoint delegates; 1st, to consider the propriety of having a Synod; 2nd, if that were determined in the affirmative, then to determine the general principles on which it should be based; 3rd, to appoint a Committee to prepare a constitutional declaration, to be submitted at a subsequent meeting of the delegates. Now, the Judge's resolution jumped over all these points, and asked the meeting to declare itself a Synod, and adopt the report of some sub-committee of which he then heard for the first time, and which certainly could not be a committee of that body. The only authority the delegates had was to consider the propriety of having a Synod, and they could not declare themselves a Synod without usurpation on their congregations.

After some further conversation, the Honble. Judge McCord withdrew his original motion, and moved to resolve simply,—"That there is a necessity for the establishment of a Diocesan Synod within this Diocese."

Rev. A. D. Campbell moved in amendment,—"That the Clergy and Lay Delegates now assembled, not recognizing a Diocesan Synod apart from the Crown, as lawful and constitutional, decline to proceed to such organization." Notwithstanding all that had been said by the learned Judge, he could not help believing this measure to be unconstitutional and illegal. This was evidently the result of all the authorities. For instance, with respect to the Bill of 3rd May, 1854, the Solicitor General had given it as his opinion, that though there were a Synod, still the Bishop would have no power to examine witnesses unless the Legislature of the Colony gave that power, or unless the members of the Church would act something like the Wesleyan Methodists. The same gentleman also said that the Bishop, Clergy, and Laity could not meet for ecclesiastical purposes without incurring the penalties provided by law. Thus, two officers of the Crown held two different opinions. But, besides this, he saw by the Canons that Synods must be assembled by the Queen's authority, and their decisions must be ratified by the Queen. After some further remarks, the Rev. gentleman said that he protested against the establishing of a Synod in the Diocese of Montreal without proper authority. One thing had characterized the Church of England—loyalty unfeigned, together with a care of the royal prerogative. How was this sentiment to be reconciled with the present movement, which seemed like what he had heard mentioned as an attempt to keep up with the march of events on this continent, and while shaking off allegiance, to claim a power not possessed by any ecclesiastical body in England or Ireland. If that were the intention, he did not think the means well chosen. The Church in that Diocese was not pecuniarily independent of England, and yet there seemed a disposition to unfurl the flag of ecclesiastical revolution. He knew the value of Synods, and advocated them; but it was with the understanding that they should be obtained in a constitutional manner. He had taken an oath to acknowledge the Sovereign of the Empire; the Bishop had taken another oath at his consecration, and his letters patent bound him to obedience to the Archbishop of Canterbury as his ecclesiastical superior. His Lordship must know that that eminent prelate himself could not legally hold a Synod, and it was clear that a suffragan bishop could not do what he could not do.

Mr. Bowman seconded the motion. He did not think the opinions of lawyers worth much unless backed by judicial decisions or Acts of Parliament. Lawyers frequently gave opinions, one on one side and the other on the other. But it seemed to him that the very opinion which the Bishop had read went entirely against the proposition now made. It said, indeed, that a Synod might be held by royal license, but that in order to legislate, such body must have the authority of Parliament. The meeting was then assembled without sanction of law, and the whole tenure of the opinion which had been read proved it, since he took it for granted no writ from the Queen had been granted.—Mr. Bowman then read Blackstone's definition of

prerogative—"that special pre-eminence which the King hath over and above all other persons"—"singular and eccentrical"—"which the King enjoys alone in contradistinction to others"—and not "in common with any of his subjects." The same author said the King alone could be the head and supreme governor of the national Church, and in spite of what had been said about the inapplicability of the 25th Henry VIII, in Canada, he saw nothing to show that it was not law in this Province; for the members of that meeting were a part of the Church of England, and when the Church came, her law must have come with her. As to there being no Courts, these things might be excepted, as some things were excepted, in the Bishop's letters patent. Blackstone also said: "In virtue of this authority the King "convenes, prorogues, restrains, regulates and dissolves all ecclesiastical "Synods or convocations"; and under the head of Archbishop, he said: "The "Archbishop, upon receipt of the King's writ, calls the Bishops and Clergy "of his Province to meet in Convention, but without the King's writ he "cannot assemble them." All this shows that this meeting is illegal and unconstitutional, and we are liable to the penalties which the law provides. He could not understand how any clergyman—especially one with a tender conscience—could vote for the Synod. Such an one would violate half his oath, since it was evident that there must be reason to think the laws in force, or there would have been no petition for their repeal. As to the laity there was a law of the land, the Temporalities Act, which said who should be entitled to vote on these matters. That law gave the right to the pew-holders, and to them alone; yet the circular sent to the several congregations disfranchised a large number of persons possessing legal rights.

The Dean of Montreal thought there was ample authority for the belief that the holding of a Synod would be perfectly legal. The opinion opposed to that view was that of the Solicitor General, when bringing forward in Parliament a favorite measure which he backed by this argument. He did not regard that expression as the enunciation of a legal opinion, nor one that could be put against the well considered opinion of the other law officers of the Crown, given professionally and with their professional reputations at stake. As to loyalty, if he thought he was infringing the prerogative he would not be there; and as to the half of his oath, he intended, as he had done on a previous occasion, to move a declaration saving the Supremacy of the Crown.

A Voice: And lose it as you did before.

Dr. Bethune.—But if the Synod be legal—then *cui bono?* He said very much. He had seen this in the United States, and he read an extract from a work by Mr. Hoffman, in which it was stated that the sentences in the Church Courts were held in the Civil Courts to be conclusive evidence of the things they alleged, if there had been no irregularity in the proceedings, according to the rule of the Church Court where the affair was tried. For instance, suppose a clergyman were convicted for immoral conduct and dismissed from his cure, and suppose he brought an action subsequently for damages, all that the Civil Court could do, would be to inquire if everything

had been done in accordance with the [illegible]s of the religious society to which the clergyman might belong, and if so [illegible]y turned him out of Court. Here there were no such powers. The Bishop might appoint a commission to inquire into charges against a clergyman, but he could not enforce his sentence without getting the clergyman to sign a bond to submit. But with the Synod established here, the Civil Courts could treat the ecclesiastical authority as they did in the United States, since in the United States, they have no direct statute laws which make the Law Courts take notice of the Church Courts. Returning to the subject of the allegiance of the Clergy he said that if, after organizing the Synod, the Queen's mandate should be issued forbidding them to proceed, he would be the first to render obedience; but there was no probability of that, since the Bills intended to authorize the holding of a Synod were brought in, one by a Minister of the Crown, and the other by the Archbishop of Canterbury.

His Lordship said he thought there was a confusion in the minds of some persons between the idea of a legislative synod, whose determinations might be enforced by Parliamentary authority, and that of a synod meeting as other bodies did to regulate their own concerns. The opinion of the three eminent lawyers given to the Bishop of Adelaide was, that there was nothing illegal in holding a Diocesan Synod. He had received a letter from the Bishop of Adelaide, communicating to him that opinion, from which he would read an extract:

"I have been advised (upon consulting the Solicitor General, F. Kelly, J. Napier and A. J. Stephens,) that 25 Henry VIII, ch. 19, does not render illegal Diocesan Synods. Each Bishop can summon them, and invite laymen to be present at them. It is (*infra vires*) within the administrative power of such Synods to make Diocesan regulations adopting, and applying the Canons of 1603 to the use of the Diocesan Church, to make trusts, and a general trust deed, which shall bind the clergy, signing and agreeing thereto. And the civil courts will have to give effect to such compact. No Diocesan Synod can make a *law* binding the Metropolitan to decide according to it: but they may apply existing Provincial canons and ecclesiastical law to the exigency of the case.

Rev. Mr. Bancroft was in favor of conventions, and if he believed that conventions like those which were held in the States could be obtained here, he would change his vote, for he had come to vote against the Synod. He intended to do so, first, on account of its illegality, and next, because it would not supply the necessity which was spoken of. It was said the Bishop here wanted power, but this sounded strange to him, who was used to the organization of the United States, where everything was carried on so systematically, with respect alike to laity, clergy, and Bishops, that he had seen three Bishops deposed. He had already heard the letter of Sir William Molesworth read, and he was at Quebec when Mr. Cameron made his noble speech in favor of applying to the Imperial Parliament for power for the Church here to regulate its own concerns, and his opinion was, that the election of Colonial Bishops was a mere subsidiary matter slipped in with others

of far more importance. The great demand was for self-government. Now the answer had come: We cannot give it you now, but wait a little and we will try to accomplish what you desire, and as to the election of the Bishops that may be managed by a side wind. Let the Church here then wait till power was given which was not now possessed. Returning to the subject of the power now exercised by the Bishop, he said that that dignitary was now selected by the Crown, sent out a stranger among clergy laboring here all their lives, that he might surround himself entirely with strangers, and might thus in a very short time contrive to carry everything according to his own will. In saying this there was no personal feeling, for he blessed God on his knees for the present Bishop; but he believed that a match was being put to a train which would lead God only knew whither. It was the Judge to whom he alluded as having said the Bishop wanted power.

Hon. Judge McCord said it was a mistake to suppose he had said so.

Rev. Mr. Bancroft continued. Here the Bishop had the entire control as to the admission of candidates for orders, and conducted all examinations by himself or his Chaplains, and he could conceive of a Bishop thus sent from abroad imposing tests which he could not take, and did not desire his children should ever take. It was, perhaps, a thing of the past; but it was well known that, formerly, it was hard for any man to obtain orders who had not been educated at Lennoxville. All that was differently managed in the United States, where students merely had to show their fitness by passing a suitable examination. In the same way here, the erection of new parishes, the licensing or refusing to license clergymen, and the enormous power of disposing, at will, of nine-tenths of the Clergy of the Diocese, were all in the hands of the Bishop. How would the Synod remedy that?—Could it frame any regulations which would have the force of law. Some said no, and some yes.

Very Rev. the Dean.—No one says yes.

Rev. Mr. Bancroft—The Rev. Dean ought to know, from his experience, that here, where Rome was the established Church, they could get no aid to establish a system like that in New York.

The Dean.—I know nothing of the sort. We have the Temporalities Act, than which nothing can be better.

Mr. Bancroft thought the evils which could be remedied were imaginary ones only, as the Diocese had flourished in spite of them; and he was sure that if the Bishop would propose to give the Church a convention possessing the powers of any of those in the United States, it would be at once voted down.

Mr. McCrae remarked, that if the 25 Henry VIII., had no authority here, that was only a declaratory law, and however much he respected the opinion of the learned Judge (McCord), he believed that gentleman himself would be disposed to be guided by the opinions of Blackstone (which he quoted in support of his views).—Cripps, on Church and Clergy Law, held the same opinion as Blackstone, and, in fact, he could not believe that it would be said that the Church had existed here for so many years without

any law, and was acting on a mere patent. But even by the terms of the Bishop's patent, it was plain that he was acting under the superior authority of the Archbishop of Canterbury, and must, therefore, be bound as the Archbishop's dependant. There seemed to be some difference of opinion among lawyers on these points; but taking the most authoritative—that by the Bishop—he held it was extremely opposed to the proceedings now taken. As to the laity, they could not be bound by anything that was done there while there were delegates present whose right was not acknowledged. Indeed, that was the case with all Synods, and Burns, on Ecclesiastical Law, said that convocations could neither bind laymen nor make canons without the sanction of Parliament. It appeared, too, that convocations in England had been given up because they had produced confusion, and he feared the Synod here would give occasion to wrangling and scandal.

Archdeacon Lower, after repudiating the imputation of disregard to their oaths, which had been made upon some clergymen, went on to say that it was true the Law Officers of the Crown had said the determinations of the Synod would have no force till they were legalized, and that they could not be legalized; but that was not what was asked. The point was, that in holding this Synod, no law was contravened. This was shown by the conduct of the law officer with respect to the Synod held at Exeter, which, after search into precedents, they said they could not find to be illegal. The same thing must be true of Colonial Synods, and as to 25 Henry VIII., that could not apply to Colonial Dioceses since they were not known when it was passed. If the Synods were illegal, every other body organized for Church Government must be so too—for instance, the Church Society.

Rev. Mr. Bancroft—That is authorized by law.

Archdeacon Lower—In spirit, it must be illegal, at any rate; but he did not think it any infringement of the prerogative. Indeed, if the arguments against the Synod were good for anything, they were good against all self-government whatever. As to how a Synod would work after it was organized, no one could tell. But, *solvitur ambulando*.

Rev. Mr. Whitwell thought Synods necessary for discipline.

Mr. Montizambert thought the Rev. Archdeacon had made a distinction without a difference, and that there was no such distinction in the opinion of the Attorney General, as that between the giving legal power to a Synod, and the acknowledging of the legality of a Synod. The Attorney General treated the question as one between what was lawful and what was not. He said, you may meet together; but to do what? To do anything you must have legal authorization.—That related expressly to the idea of the Church of England doing what was done by other religious bodies. The law officers said this—there is no reason why you should not be put on the same footing as other bodies, but there is an obstacle in the shape of an Act of Parliament.—Now, here it was proposed to get rid of this obstacle, not by repealing, but by ignoring it.—Then, there was an impression that because there was great difficulty in repealing the law its violation would be winked at; but that was far too shadowy ground to go on in such matters;

and the bringing in of a bill twice to repeal the law showed that it was looked upon as a real obstacle in the way. The ministry were exposed to all the criticism of the opposition, yet no member of Parliament pretended the ministry were trifling with the House by repealing something which had no existence. The Solicitor General when he brought those bills into the House of Commons made himself responsible for the opinion he gave as to their necessity in order to place the Church of England in the Colonies on the same footing as other bodies. It might be wished that these laws had passed; but that was a different thing from acting as if they were passed. On one side there was an army of legal opinions; on the other, the single opinion given with respect to the Diocese of Adelaide, which was, perhaps, not in the same position. He might mention further, as authority, with respect to the vitality of the 25 Henry VIII., that Baron Mazeres, who was Attorney General at Quebec, believed that the 1st Elizabeth was in force in the Province of Quebec, and that that act expressly extended the 25 Henry VIII, to the Colonies. Old residents in the Colony would remember that it was once doubted whether that law did not apply even to the appointment of a Roman Catholic Bishop. In addition to all these authorities, there was the opinion of all the eminent Provincial lawyers who, last session, unanimously concurred in an address to the Queen, founded on the opinion that the laws, now said to be null, were in force. The opinions and conduct of the Hon J. H. Cameron carried especial weight, when it was remembered that that gentleman was understood to enjoy the confidence of the Bish po of Toronto. In Toronto a Synod had been declared necessary, yet before that declaration had been acted upon, and two years after it was made, Mr. Cameron applied to the Legislature to obtain an authorization to proceed. This showed that he considered such an authorization necessary. Mr. Montizambert then showed in what respect the Bishopric of Montreal might differ from that of Adelaide, inasmuch as the former was merely set off from another Diocese by letters patent; and inasmuch as it had been acknowledged in a special manner by the Provincial Parliament in the Temporalities Act, which, among other things, provided for a deficiency in the letters patent, by declaring that the District of St. Francis should make part of the Diocese, that District having been omitted from both Dioceses in the letters patent. Now that the Temporalities Act had provided for the temporal government of the Church in certain sections, and a Synod proposing to govern the whole Church, seemed to him to clash with that law. If the proposition to establish a Synod were now carried, he feared a division in the Church would result; one party yielding a conscientious obedience—the other setting the Synod at defiance, when the question would be brought before the Courts, and scandal and injury to the Church would be the result. If there were only doubts, it would be desirable to have them removed before proceeding farther.

Rev. Mr. Bond.—I am in favour of a Synod, but it must be one in accordance with law, and free and untrammelled; let such an one be formed, and we will go with you in carrying out its objects with all our heart, but the Synod now had in contemplation I do not consider either legal or free, and with

such a feeling, which widely prevails, it would be most impolitic to press o the matter. Why not delay yet for a little season? There can be no such urgent reason for precipitancy; we have gone on now for many years without a Synod, and the Church has prospered wondrously; why not wait and see the result of pending legislation? Under your Lordship's rule we have until lately been an united body; party walls of difference have been broken down, and party feelings well nigh driven away, and I for my part can say that I have frequently kept out of view my private opinions for the sake of unity; let us not then risk all this by forming a Synod *after a precedent*, which all history and experience declare to be conducive only to division and confusion, let us read history to profit thereby; does it not declare that such gathering together of the clergy has only gendered strife? Let us consider the action of others for our own instruction; does not the result of such a meeting in a neighbouring Diocese, where a large minority of both clergy and laity remained away altogether, warn us that we should proceed with the utmost caution? I am not prepared to argue the legal question, and it is not necessary; it has been so ably dealt with. I am, however, convinced that grave doubts may be felt upon the matter. It has been argued that Synods have been held from time to time ever since the Reformation, as well as before. I think this is a mistake, a Synod *strictly speaking* has not been held since the Reformation, Dr. Hook being my authority for the statement. The Synod at Exeter has been specially referred to as a precedent, but I do not think that such are *rightly* called Synods, they are meetings of the Clergy it is true, but certainly not what is contemplated by this present meeting. Again it has been argued by the Very Rev. the Dean, that a Synod is *necessary* because as things now exist, discipline cannot be enforced, without rendering the authorities liable to an action at law. I do not believe that the formation of a Synod would remove this difficulty; indeed the venerable the Archdeacon has argued that it is not contended that the acts of the Synod would have a legal power in the community, but only be binding on the consciences of our members. I therefore place the statement of the Archdeacon against that of the Dean. I must therefore vote against the proposition before the meeting, and I would implore you, my Lord, not to press on this matter at the present moment.

Rev. Mr. JOHNSON thought the spirit which had prevailed that day was a proof that nothing need be feared from differences for the future; and thinking the State had thrown off all charge of the Church, he desired to be relieved from State trammels. He desired that the laity of the Church should take such part in her government as would make them feel an interest in her concerns, for it was well known that at present, with a body of laity as pious as that of any other religious body in the Province, the lay members of the Church of England could scarcely be induced to attend parish meetings, and threw the whole burden of the government of the Church on the clergy.

The meeting then adjourned at ½ past 6, till Thursday.

THURSDAY.

After Morning Prayers at the Cathedral, the Bishop proceeded to the National School, and having taken the chair at 12 o'clock, called on the Rev. Mr. McLeod to resume the debate.

Rev. Mr. McLeod said, that he regarded any action upon the question at this time as unconstitutional while wanting the express sanction of the Crown. It was proposed first to seize the necessary authority, and then to ask for it.—The answer of the Colonial Secretary was not an authority to call a Synod, and although the Dioceses of Toronto and Nova Scotia had organized Synods, yet their action did not make ours more legal. He considered that they could not remain an integral portion of the Church of England, unless they obtained an express authority from its head, which as yet they had not. A Synod here would frame new Canons, and impose disabilities upon existing members of the English Church to which they are not subject elsewhere. He was a member of the Church of England, and yet he could not take orders here without subscribing to these new canons. He preferred to remain a member of the Church of England until authority was given to form a Synod, to becoming a member of the Protestant Episcopal Church of Canada. He was not desirous that those who had been already received as members of the Church should have new tests imposed upon them, and they should find that without signing the new canons they could not continue in her communion. He should, therefore, vote for the amendment, and against the establishment of a Synod.

Rev. Mr. Scott said, unanimity upon a subject of so much importance was much to be desired, and as there was a question as to the legality of their action, probably the better course would be to postpone the matter to a future time. He believed that upon the question of the desirableness of a Synod there was no dissent, and as delay could not be injurious, he thought it would be better to postpone the matter until a future period, when the peculiar circumstances in which they were placed would be changed.

Mr. Armstrong said, that he saw no advantage to be gained by delay, the matter had been under discussion for three or four years, in three or four years more they would be no nearer to a conclusion than they were then. Everything had been done to raise a prejudice against the Synod, and every argument brought against it which could be brought; and he hoped the meeting would come to a decision today. He regretted that His Lordship had not done as Bishop Wilson did in 1703, form the Synod and make the rules for it. He was a Canadian, and he claimed for the members of the Church in Canada as much piety, learning and charity as was possessed by the members of any other country, nor did he fear the imputation of disloyalty attempted to be fastened upon those who like him thought that in advocating a Diocesan Synod, they advocated no more than a well ascertained constitutional right. It had been said heretofore that the Bishop had too much power, and that absolute power in a free country was equally dangerous to the holder of it, and the people. He admitted that his power was great, so great that it destroyed itself, and he was afraid to exercise any of it. He

needs some one to consult in the exigencies of the Church, and this Synod would give him a council, and while it removed in a degree his individual responsiblity, would make his power more a reality than it is. Now if he dared do anything of his own motion he would be accused of tyranny, and a cry would be raised against him from one end of the country to another, that he was endeavouring to persecute his Clergy. I desire to limit the power of the Bishop, to place you, my Lord, in a position to be above this clamour, not to make the Bishop independent of the Church, but to unite the authority of the Church and the Bishop together, and none will be better pleased with this result than your Lordship. The attempt to assimilate a Diocesan Synod with a Convocation was futile, there was no likeness between them. Earl Shaftesbury, the leader of the Evangelical Party in the Church of England, who had spoken strongly against Convocations, had declared himself just as strongly in favor of Diocesan Synods. Talk of treason in such organization; if the chief law officers of the Crown in England had found nothing contrary to prerogative, nothing unconstitutional or illegal in such at Adelaide, how came it that there could be the contrary here. But it was said that there was something peculiar in the position of Adelaide; but gentlemen had not told us the peculiarity; was it the difference of hemisphere, or the difference of distance that made this peculiarity. Gentlemen had discovered that the Attorney General and Solicitor General of England and Attorney General of Ireland did not know the law, and they had to come to Canada, a country where from their having been no Ecclesiastical Courts, ecclesiastical law was better known to the scholar than to the lawyer, in order to learn it. We are called on to believe that on this subject there is ignorance everywhere but here, and it is reserved for us alone to show our wisdom. It is felt desirable that the Church in Canada should elect her own Bishops; how was this to be effected without a Synod, were the claims of the candidates to be hawked through the streets? We are told that the Church is in danger; well, there was no novelty in that; whenever the peculiar notions of some persons were assailed, and arguments failed, the cry commonly arose that the Church is in danger; but if the Church is in danger it is from the acts of its own members in making a factious opposition to a wise and salutary organization. It was said the Synod was contrary to the spirit of the age, and the institutions under which we live; could absurdity go further? Representative institutions, a Synod consisting of the three estates, the Bishop, Clergy and Laity in deliberative assembly upon the affairs of the Church, against the spirit of the age!

Major Campbell desired to proceed to a decision at once; he saw no good to be obtained by delay. Heretofore the power of the Bishop had been the great bug-bear in the Church, and now when His Lordship desired to divest himself of a portion of that power, and divide it with the Synod, those who had clamoured against this great power the loudest now opposed its distribution. As to the cry of disloyalty, he was not afraid of that, twenty-one years in Her Majesty's service, and the decoration of one of her honora-

ble orders of knighthood, were guarantees that he would be little likely to infringe any prerogative of the Crown. Some gentlemen had proposed to wait until the House of Commons should pass an act to do away with the fancied disabilities; he could only tell them from his knowledge of that body that they would wait until Doomsday.

Mr. A. H. Campbell said, that he had heard nothing to convince him that a Synod such as was proposed was not illegal; the difference in names made no difference in fact, and whether it was called a Synod or a Convocation still it clearly came under the penalties of the 25th of Henry VIII. Such a Synod could not be held in England, where the powers of the Church were certainly as great as those of the branch in Canada. He was acquainted with no instance but that in the Diocese of Exeter, and he had not information to show that that case was analogous. He conceived that it was not; the Bishop of Exeter knew better. The question is, does the Ecclesiastical law of England extend to the Clergy in the Colonies but not to the Church; does it bind the Clergy, but not the Laity? The Church in Canada was clearly a part of that of England; the Archbishop of Canterbury was its Metropolitan; its Bishops obtained their ordination and all their powers from England, and acknowledged the Queen as their supreme head. Whatever disability applied to the Church in England, applied to it here until such time as removed by competent authority. No convocation could be held in England without an express writ from the Crown. The Act of Submission which bound the Clergy in England, bound them here. Any infraction of the act brought them within its penalties. He would ask those who held a contrary opinion if they thought their ordination vows ceased to bind them when they ceased to reside in England? The oath of supremacy was taken by clergymen on ordination in Canada, equally with those in England; when were they discharged from that? You are aware of the origin of the Act 25 Henry VIII, chap. 19, commonly called the Act of Submission—that the clergy having in the 22nd year of that Reign, incurred the penalties of a præmunire, made submission, in consideration of which, and of their acknowledgment of the King's supremacy, a free pardon was granted. By that Act it is enacted as follows: 'Whereas the King's humble and obedient servants, the clergy of the realm of England, have not only acknowledged according to the truth, that the Convocation of the same clergy is always, hath been, and ought to be assembled only by the King's writ; but also submitting themselves to the King's Majesty, have promised, in *verbo sacerdotis*, that they will never from henceforth presume to attempt, allege, claim, or put in use, enact, promulge and execute any new canons, constitutions, ordinances, provincial or other, or by whatsoever name they shall be called in the Convocation, unless the King's most royal assent and license may to them be had, to make, promulge and execute the same, and that his Majesty do give his most royal assent and authority in that behalf: It is therefore enacted according to the said submission, that they nor any of them shall presume to attempt, allege, claim, or put in use, any constitutions or ordinances provincial, by whatsoever name or names they may be called in their convocations in time coming (which always shall be assembled by

authority of the King's writ,) unless the same clergy may have the King's most royal assent and license to make, promulge and execute such canons, constitutions and ordinances, *provincial or synodal:* upon pain of every one of the said clergy doing contrary to this act, and being thereof convicted, to suffer imprisonment, and make fine at the King's will."

At page 7 of Cripp's Church and Clergy Law, also, we find "in virtue of his authority as Supreme Head of the Church, the Sovereign convenes, prorogues, restrains, regulates and dissolves all Ecclesiastical Synods or Convocations," and at page 27, it follows from what has been here said, that no regulations made by the convocation could be binding, even upon Church Wardens, much less upon the people generally, even as regards church or churchyard, or other things ecclesiastical, or even as to the mode of ordering divine service; and as regards the clergy themselves, the following summary of what has been decided by the Judges as to the full meaning of the act of submission, shows that the power of the convocation over them is very limited, for it has been resolved upon that statute.

1st. That a convocation cannot assemble at their convocation without the *consent* of the King.

2nd. That after their assembly, they cannot confer to constitute any new canon without the *assent* or license of the King.

3rd. When they, upon any conference, conclude any canons, yet they cannot execute any of their canons without the Royal assent.

4th. That they cannot execute any after the Royal assent, but with these four limitations.

The first of which, is that they be not against the prerogative of the King.

The case of the Synod of the Diocese of Exeter had been referred to. There the Bishop was an exceedingly astute man, who would manage, if any one could, to keep within the law. But should they seek to evade it? The clergy and laity might indeed be called together by the Bishop as an advising Council, but not as was sought now to be done as a legislative body. The ecclesiastical law of England, and this act of submission was the law of the Church of England here to which the Bishop by his consecration oath and the clergy by their ordination vows were bound to submit. Was not the Queen supreme head of the Church here as well as there? It was true, as had been said, that the Church here had no legal standing—it was only a missionary church in connection with the establishmeut of the mother country, but that only affected its status so far as regarded the laity. The act referred to had never been repealed, and applied to the clergy of the church wherever they might be. The ecclesiastical law did not, of course, reach the laity unless they voluntarily brought themselves within its jurisdiction, but the clergy were bound by it wherever they might be. He would ask the Ven. Archdeacon, when he got rid of the obligations of his oath as interpreted by these lawyers? Was it when he lost sight of the shores of England? or when he set foot on Canadian soil, or was it in his transit through the United States? (Archdeacon.—Never!) But even if the law did not reach us here so as to be binding upon the laity, the oath of supremacy

taken by the clergy went with them everywhere, and why was that oath imposed? In order that even in places where the act might not be binding the clergy might be bound by the oaths taken at their ordination. With regard to the opinion given to the Bishop of Adelaide, before giving it any weight he would like to see what the case was which was laid before Counsel. He had had enough to do with lawyers to know how a very slight modification of statement might lead to a very great change in the opinion given. He could suppose such a statement of the case respecting the object of the Synod and the conditions under which it would be held as would lead a lawyer to declare he saw no legal objection to it. For instance if the authority of the Colonial Legislature had been or was to be obtained that would be obtaining the consent of the Crown. He would here cite the opinion of Sir G. Stephens, a very eminent man long connected with the Colonial Office and versed in the laws affecting the Colonies:

"It is, however, maintained, that except by the intervention of Parliament (that is by the Imperial Parliament) the Colonial Church cannot be relieved from the disabilities under which it labors, nor invested with the powers of which it stands in need. I must avow my dissent from this opinion also, (not the opinion that disabilities existed, but that the action of the Imperial Parliament was necessary to remove them.) I hold that all our Colonial Legislatures are already competent to adapt the Ecclesiastical Law to their respective local exigencies. In proof of that I refer to the Statute Books of the West India Colonies, in which will be found a long series of enactments of that nature, commencing with the year 1826, and continued till the present time. But if we adopt the contrary opinion, and hold that the requisite power is not inherent in the legislatures of the different colonies, what is the legitimate inference? Not surely that Parliament should assume to itself the exercise of that power—(not that it should be assumed by Synods,) but that Parliament should confer it upon them, (the Provincial Legislatures)."

He thought that if any doubt existed respecting the legality of the establishment of a Synod farther action should be postponed until those doubts were removed. No one could deny they existed. He had no doubt. He felt quite certain of the illegality of the proceeding, but others did doubt, and while any believed it illegal or doubted would it not be wiser and better not to force the matter on? Believing it to be illegal, he and others could not take part in the proceedings, if it were determined to go on, and to do so would only lead to division in the Church. He would not enter then on a discussion of the proposed Constitution. It was not the time to do so. For his part he was not possessed of sufficient information to discuss it as it should be discussed, and he believed many others there were in a similar position.

Rev. Canon GILSON said, that for his part he had no intention of renouncing his obedience to the Ecclesiastical Law of England, neither had he, in crossing the Atlantic, dispensed with the objection of the Oath of Supremacy. If the establishment of a Diocesan Synod would involve the violation of law or of the supremacy of the Crown, he for one would have no part in it. But he contended that Diocesan Synods were perfectly legal. National and Provincial Synods he allowed could not be held without Royal

authority either in or out of England. But it was otherwise with Diocesan Synods, such as that which it was now proposed to establish. These were forbidden by no law, and no obligations binding upon the Clergy or Laity would be infringed by their being held. He contended that this was the case for the following reasons:—That in no instance where the question of their legality had been proposed had any adverse opinion been given. In the instances relied upon where a seemingly adverse opinion had been given other points had been mixed up with the question. This was the case in regard to the despatch of the late lamented Colonial Secretary, on which so much stress had been laid. That was an answer to a petition begging for the liberation of the English Church in Canada from all her present disabilities; the same remark applied to those quotations which had been made from debates in the House of Commons. But on the other hand when the question had been put simpliciter, without mixture with any extraneous subjects, "is there any legal impediment to the Church holding Diocesan Synods?" There had been but one answer. It was so in the instance of the Exeter Diocesan Synod. The first Minister of Her Majesty was asked in his place in the House of Commons whether it was illegal, and he answered, on the authority of the Law Officers of the Crown, that it was lawful. And this answer was given at a time when an opposite reply would have found favour both with the people and the press of England. It had indeed been said in the room that that was not a Diocesan Synod, but no one had said so in Parliament, no such assertion had been made by the writers in the public prints. The other instance in which the question had been answered in a like manner, was that already quoted by the Lord Bishop, that of the Diocese of Adelaide. But he would go farther and would maintain the lawfulness of Diocesan Synods from the fact, that at no time had the Law of England forbidden their assembling. It has indeed been affirmed again and again in the course of the debate that the Act of Submission of Henry VIII, had done this. But not to dwell on the recorded opinion of the Attorney General that the Act does *not apply to the Colonies*, he maintained that it did not apply to *Diocesan Synods* at all but to *Convocation*. This was clear from its own words which had just been read. But it was further evident from well known historical facts. Just after that Act was published, and by the very men who were parties to its framing, Cranmer and his coadjutors in the great work of the Reformation, a body of laws was drawn up for the holding and regulation of Diocesan Synods. In the well known work "Reformatio Legum;" a work which would have become an authorized document of the English Reformed Church, but for the untimely death of Edward VI, in that work, completed in 1551, there was not only a recognition of Diocesan Synods, as an existing fact, but provision was made for their continuance. Was it likely that our Reformers, acting as Commissioners under the authority of the Act of Henry, would stultify themselves by dealing with these institutions as lawful, which, according to the opinion of gentlemen opposite, were by that Act rendered unlawful. Again much stress had been laid upon the Oath of Supremacy taken by the Clergy when admitted to Holy Orders; and they had been warned that they

would violate one-half of that oath if they took part in a Diocesan Synod. But he was persuaded that such would not be the case. That oath bound them to regard the Sovereign as supreme "over all persons and in all causes, ecclesiastical as well as temporal." Now that supremacy was not an arbitrary, but a constitutional one, limited by the coronation oath. And that oath expressly covenanted that the Sovereign shall govern the people of England according to the "customs," and the clergy according to the "privileges" secured to them by law. And amongst these customs and privileges, was that of meeting in Diocesan Synod. This he affirmed not only on historical testimony, which proved that from the time of our Saxon forefathers, uninterrupted except by the aggression of the Papal influence, such Synods had been held in the Dioceses of England, but on the fact that at the time when the Oath of Supremacy was first required, they were treated as well known institutions. For in the reign of Elizabeth in letters of the Council to the several Bishops they were spoken of in exactly the same manner as Visitations. And this view again was confirmed by the Canons of 1603. While in the 139th Canon, the royal authority is spoken of as requisite for the assembling of a *National* Synod, yet in the 119th "Visitations and Synods," evidently *Diocesan* Synods are spoken of as customary and usual institutions. How then with these historical facts before us, can we say that the act of submission, or the oath of supremacy interferes with the legal holding of such Church assemblies as that which was now proposed for this Diocese. But he would go a step further in this argument, and would maintain the legality of Diocesan Synods, on the ground that no attempt has ever been made to prevent them from being held. They had been held as they had heard from his Lordship again and again in England and Ireland down to the time of the great rebellion; but what instance was there of the authority of the Crown or of Parliament being called into action to put them down. In the Episcopal Church of Scotland again they were held regularly, and though in that country the supremacy of the Crown was recognised as well as in England; and though the temporal power has, to within no very distant period, been opposed to the freedom of that Church, yet no attempt was ever made to enforce those laws which were said to render them illegal. And to come to our own time; Diocesan Synods had been held in Exeter, in New Zealand, where regulations for the local well being of the Church had been made; in Adelaide, in Nova Scotia, and in Toronto. If then they were contrary to law; if those who took part in them infringed the statute of Henry VIII, and violated the "Oath of Supremacy," how did it happen that those who were zealously opposed to them had not called these acts into force to interrupt their proceedings? It was said by Mr. Roebuck in the debate on the bill of 1853, when referring to Synodical action of the Church, "we have put down all that and we do not intend that it shall be revived." But it had been revived; and yet who has ever heard that either Mr. Roebuck or any other enemy to the freedom of the Church, has put it down by an appeal to those laws and statutes which we have been told again and again made it illegal for either clergy or laity to take part in such a work. From these facts he came to the conclusion that they were doing

no unlawful act in establishing a Synod in this Diocese, and that they were doing a work which was *desirable*, had been already admitted by most of the speakers opposite; he should therefore have no hesitation in supporting the original motion.

Mr. RENNIE said that there was no Diocesan Synod in Exeter so called—half of the Clergy would not take part in it, and no Canons were passed or action taken. Therefore, it escaped the censure of the law.

Canon GILSON—Only three rural Deaneries were unrepresented. The great majority of the Parishes were.

Rev. A. D. CAMPBELL said, if one rural Deanery refused to join it was not a Synod.

The BISHOP called Mr. Campbell's attention to the 140th Canon of the Church of England, which his Lordship read to the meeting.

The Rev. A. D. CAMPBELL said as he supposed the discussion of the amendment was concluded, it fell to him to reply. He would refer the meeting to the 21st article of the Church, as furnishing a reason for not proceeding. In the declaration at the beginning of the Prayer book which was also binding on the Clergy, the supremacy of the Crown was distinctively affirmed, and it was a law if any differences took place with regard to the interpretations of the Canons, Articles, &c., it should be settled by decree under the broad seal. Would they be acting in obedience to these laws of the Church, if they proceeded to hold a Synod without the sanction of the Crown, in despite of its authority. Oh! they were told, the object was not to make Canons, but to adapt those already in force to the wants of the Diocese. That is, they would put an interpretation on the Canons—such an interpretation as neither he nor his children ought to be bound by. Those interpretations would be virtually Canons to which it would be expected he should be obedient. It would lead to the introduction of new tests other than those now recognised by the Church—tests with which he ought not to be burdened. And, if a portion of the Church should refuse to be bound by them they would lead to a dissention and a split. The 37th Article again stated the Queen had the chief authority in the Church. But it was said, the law which makes the license of the Crown necessary, applies only to the convocation. It does not prevent the holding of a Synod. That argument amounted to this then that the subordinate body—the Diocesan Synod—could do that which the supreme body of the Church, the Convocation could not do! That seemed to him absurd. Why did they not hold convocation, in England? Because they were afraid unseemly strifes and dissensions would grow up, and the Church be rent asunder. Was there not danger of a similar result here? With regard to the case of Adelaide there was probably something peculiar. The Colonial authorities might have been given jurisdiction over the matter, in the new constitutions accorded to them. We here are subject to the See of Canterbury; there they have a Province and Metropolitan of their own, (several cries—they had not when the opinion was given). If the Archbishop cannot call together the convocation of his Province, the Bishop here cannot do what his ecclesiastical superior cannot—and call together a Diocesan Synod. Again, if they held such a Synod, they not only

contravened the Imperial statute, but they set aside the Provincial Act providing for the Temporalities of the Church. By that act the Vestry of each Parish is erected into a corporation with power to do many acts which it is now proposed to vest in this new body unrecognized by law. The civil power was supreme over the ecclesiastical, and the rights of these parishes would be recognized in the Courts if they chose to act independently of the Synod. The civil power was, of course, supreme only in matters purely ecclesiastical, not doctrinal. He hoped the matter would not be pressed on. If it were he and other persons present, who thought and acted with him, would be compelled to retire under protest, and an unseemly division in the Church would ensue.

Hon. Mr. MOFFATT would like to ask the Rev. gentleman if he intended to say that at the time the opinion cited had been given to the Bishop of Adelaide, his Diocese did not form part of the Province of Canterbury and that the change giving it an Australian Metropolitan did not take place long afterwards.

Rev. Mr. CAMPBELL—That might have been the case.

Col. WILGNESS implored those present to pause ere they proceeded farther towards the establishment of a Synod. He saw reason to apprehend serious dissensions and heart-burnings, perhaps an open rupture in the Church as likely to spring out of such a step, and he begged them not to take it hastily.

The amendment proposed by the Rev. A. D. Campbell was then put to the meeting, and lost on the following division:

CLERGY.

Ayes:—Rev. Messrs. McLeod, Forest, Flanagan, Cornwall, Bond, Campbell, Brethour, and Canon Bancroft.—8.

Nays:—Rev. Messrs. Robinson, Johnston, Lindsay, (R.,) Canon Townsend, Sykes, Davidson, Mountain, Scott, Sutton, Jones, Lindsay, (D.,) Machin, Mussen, Neve, Du Vernet, Lonsdell, O'Grady, Slack, Dean Bethune, Archdeacon Lower, Canon Leach, Burrage, Canon Gilson, Lockhart, Rollit, Fulton, Abbott, Whetherall, Whitwell, Young, Pyke, Rogers, and Godden.—33.

LAITY.

Ayes:—Messrs. John Bostwick, Wm. McGinnis, Hon. R. Jones, Col. Wilgress, W. Newman, Wm. Bowman, Col. Hoyle, John Campbell, George Macrae, A. H. Campbell, A. N. Rennie, E. L. Montizambert, Isaac Coote, and Dr. Smallwood.—14.

Nays:—Messrs. J. Drake, G. J. Marston, J. Armstrong, L. M. Knowlton, H. S. Foster, Major Campbell, Colonel Austin, Amos H. Vaughan, David Derrick, A. Perry, Stevens Baker, George Adams, Asa Foster, John Morrison, Henry Martin, Hon. J. Pangman, Edward Ranson, Charles Gillespie, Hon. Geo. Moffatt, John Crawford, I. J. Gibb, W. J. Knox,——Gough, Henry Schneider, John Wainwright, D. Westover, Wm. Robert, G. H. Monk, R. A. Ellis, and Robert Sheppard.—30.

The BISHOP then said he supposed the vote just taken might be considered as expressing the opinions of the meeting with respect to the necessity for

the formation of a Synod.* He desired at that stage of the proceedings to make a few remarks. He felt a deep responsibility rested on himself in this matter, but his first wish had been to have it so brought before the Clergy and Laity of his Diocese as to enable them to understand fully the real state of the question. They had had something substantive before them which had awakened feelings of interest and called forth the opinions of both Clergy and Laity. But he did not desire to have the constitution and rules for the government of a Synod hastily adopted. He wished them to be duly considered and intelligently discussed. It was not likely they could retain all the delegates here a sufficient time to discuss them as they should be now, and he therefore thought it best, not on account of any threats of withdrawal, but to give full time and opportunity to all to consider them, not to proceed further than to affirm the necessity for a Synod on the present occasion. He had never wished to force Synods upon his people. They had been demanded from him repeatedly by both Clergymen and laymen, and he saw there was a need of some such organization. Rev. Mr. Campbell said he had his Cathedral chapter as a Council. But he (the Bishop) asked if it was not notorious, that the greatest jealousy and ill-feeling would prevail if that body, of his own appointment, were given the government of the Diocese. He had had but one wish in this proceeding, as in the remodelling of the Church Society, to call in to aid and counsel him in the government of his Diocese, the Clergy and representatives of the Laity. Those who had acted with him in that Society knew that he had sought to place the representation of the Laity upon the broadest basis, and when the Rectories had been given up to that Society to manage, he had himself suggested their being handed over to the Vestries as most interested in their proper management. In all his proceedings, since he came into the Diocese, this had been the principle on which he had acted. In taking steps for assembling a Synod he was not of opinion he had shown himself disloyal to his Queen. He felt no one could justly lay that to his charge. He was bound by his consecration oath and trusted he should always feel the full force of that obligation. He recognised the supremacy of the Queen and of the law, here as in England: here as there, all writs run in the Queen's name. But other bodies met under the authority of the Queen and of the law, why should not they? He did not feel that in meeting thus they would be contravening any law. With regard to the objection raised to our Synodical Meetings here, that it would give rise to unseemly contentions, because such had been the case at the Meetings of Convocation in England in former years, the argument did not apply. There the disputes were about doctrinal questions. Such questions could not come before their Synod. There too it might be, and was urged, he would not say how justly, that they had no need of Convocation or Synods, for Parliament gave them the necessary legislation, and

* Judge McCord the mover of the original resolution was unable to attend on the second day, being obliged to be present in Court.

Honorable Mr. Justice Aylwin also, who would have voted with the majority, was also detained by judicial business at Quebec.

through the Ecclesiastical Courts discipline was maintained. But here the Church was not represented or recognised in Parliament, nor had we Ecclesiastical Courts. In this country the practical good sense of the members of every other religious body had given them some such organization as this, and enabled them to work its machinery to their benefit. He did not believe the practical good sense of the members of the Church of England was any less, or that it would fail them in any effort to carry on the affairs of their Church. With regard to the remarks of Sir Geo. Stephens (who was recognised as a great authority in Colonial affairs), contained in a letter addressed, he believed, to Lord Harrowby, he thought it had no bearing on their case here. It probably arose out of a project to confer powers upon churchmen in a colony. For instance when the first act for the enfranchisement of the Church in these Colonies was introduced, he being in England, sent out a copy of the bill to the Dean, who replied, after taking legal advice, that it would confer full power on them as if passed by the Provincial Parliament. It was against the conferring of powers by the Imperial Parliament, thus infringing on the recognised authority of the Provincial Legislatures, and that alone that Sir G. Stephens declares. It was no question with us of passing rules by a Synod to have the force of law. It had given him great satisfaction to mark the admirable tone and temper in which the discussion of the subject had been conducted on both sides. He was sure the delegates would go back with a vast deal of information acquired here respecting the constitution and probable working of a Synod, and he looked forward to the time when they would regularly assemble at periodical intervals. Everything tended in that direction. The increased facilities of transit, and the recent Municipal Act, tending to draw out the capacity of the people for self-government, would make such meetings easy and desired. The laity of the Church would soon feel they had the same right to, and same ability for self-government in Church matters as other bodies. The meeting very fully and fairly represented the intelligence and respectability of the Church people of the Diocese: out of 53 clergymen 41 were present, only 12 absent. Only three of these were not heard from. They probably intended to come but had been kept back by the storm: the other nine had sent him letters explaining the reasons of their absence; being either their own illness, or that of a member of their families, or urgent ministerial duty. Eight out of the nine Rectories were represented, and all the City Churches, so that all the principal congregations were represented, and 49 lay delegates had been in attendance. Only nine missions were entirely unrepresented. He had heard of no refusal to elect delegates. Those who supported Mr. Campbell in his opposition to the Synod had exerted themselves to the utmost he believed,—and he by no means blamed them for doing so. Yet, notwithstanding these exertions, a vast majority had declared themselves favorable to a Synod. He did not wish to hurry the matter on unfairly. He had thought it best to send out the draft of "Constitution and Rules" framed by the Sub-Committee for their consideration. Had he not done so, he did not believe they would have had a tithe of the interesting discussion

of the matter which had now been drawn out. But he had communicated to several of his Clergy the fact that he hardly expected to carry anything into execution now, and he was quite willing to adjourn to give more time to those who desired it. He desired, as their Bishop, to thank those brethren of the laity who had come to the meeting, at so much trouble, and expense, he doubted not to many of them, for their assistance and advice; and to express his gratification that the subject had been discussed in that full, frank, free manner, and in such a tone that they need not be ashamed to have their debates go forth to the world.

Rev. Mr. CAMPBELL desired to explain; he had used no threats about withdrawal; he had only said they would with much regret be forced to take that step. He had not spoken of the Dean and Chapter as a governing or legislative body in the Church, but as the Bishop's advising council.

Mr. MONTIZAMBERT said he felt it his duty to propose another amendment, and he found his task lightened by the remarks which had just fallen from His Lordship. He thought the amendment would meet his views. No one could deny that doubts existed respecting the legality of the Synod, and it was wise delay should be granted to clear up those doubts. An application was also pending before the Imperial authorities. They should wait a little longer to see the result. The amendment he held in his hand merely assigned these as the reasons for the postponement which His Lordship had himself declared advisable.

Rev. Mr. BOND seconded the Resolution. He yielded to no man in respect or attachment for the Bishop, but he could not conscientiously proceed to form a Synod.

Rev. Mr. SLACK deprecated any further discussion.

The Rev. Canon BANCROFT said: We have a right to be regarded as an integral portion of the Church of England, and to expect that the power shall be given us to manage, under certain restrictions, our own internal affairs. In answer to an application made by the Provincial Parliament to the Imperial Parliament, we are told that there are difficulties in the way, but that the matter is still under consideration. Let us await the decision of the Home Authorities; and if a petition will hasten the decision, let us draw up such a petition. Let us say that we want legally and constitutionally the power, under proper safeguards, of managing our own affairs; and that we want it from the authority to which the Clergy among us are bound by their oath to submit. We ought to have this power, not from our Diocesan, but from the Church of England. It is the opinion of the Lay Delegates of the Parish of which I have the honor to be Rector, both of them men of intelligence, one of them Law Clerk of the Legislative Council, and a lawyer of more than twenty years' standing, who has devoted days and nights to the study of this subject, that our present movement is illegal. Whether it be so, or not—shall we suffer by a little longer delay? Must the question be decided to-day? If we can, by waiting a little, carry the voice of the people with us; if we can then meet constitutionally and effectively, is it not wise to delay? I as a Clergyman am free to preach the Gospel, and the

laity are free to worship after the manner of their fathers. We have a wise and prudent Bishop, under whose government we are contented and happy; and no interest is materially suffering, that would be remedied by the establishment of a Synod on the basis now proposed. Gentlemen say we must make a beginning without an end; for the constitution once formed on the basis proposed will be, in my judgment, virtually unalterable. I am a lover of peace, and therefore, urge this delay. How can we in the face of that document received from England, and which, I hope, will be printed—how can we, with any propriety proceed until we have again heard from the Home Authorities. Do we want to forestall action and force them to carry out their views? Would it not be wise and expedient for us to wait and hear what they have to say, before we act? Under the circumstances, I feel that I cannot remain and become a party to proceedings which a majority of this meeting appear to have pledged themselves to carry. In the state of the Church in England—in the state of the Church here, I see reasons why we should delay for a little this movement, and many grounds for apprehending danger if we proceed with it. I have no feelings but those of respect and love for my Diocesan, and kindness towards my brethren of the Clergy and Laity. I shall endeavour to do my part faithfully as a minister of Christ, to my Parish and the Diocese, and when I can see my way clear to act constitutionally in the matter of a Convention, and can feel that the Church will be benefitted, I shall be as ready as any to waive my own individual opinions, where truth and principle are not compromised, for peace-sake.

Hon. Mr. Moffatt had hoped that after what had fallen from His Lordship no further amendment would have been offered. He hoped this would be withdrawn—all seemed agreed about the advisability of a Synod. The resolution did not declare it legal—and His Lordship did not desire them to proceed to pass a constitution. He was quite willing to vote for a postponement to avoid anything like a split among them, though he believed their action would be quite legal.—There would be less dificulty about obtaining the assent of the Imperial Parliament if the right to hold Synods had been asked for simply, not mixed up with other things. With regard to the Provincial Parliament he believed if they went on and established their Synod they could get it sanctioned. Such was his experience when he had charge of the Temporalities Bill. He believed unless that body had very much changed since that time they would sanction anything reasonable.

Rev. D. Lindsay supported the same views.

Mr. A. H. Campbell said several had not admitted the necessity or advisability of a Synod. He for one had not done so, though he admitted his feelings were in favor of some such body, if he could get such a one as he wanted.

Mr. Macrae took similar ground. He did not want a Synod. He had already said he was quite willing to leave the government of the Church in the hands of the Bishop.

The Ven. Archdeacon Lower held the majority could not adopt the

amendment without stultifying themselves and admitting what they had denied by voting against Mr. Campbell's amendment.

Major CAMPBELL, C. B., could not vote for the amendment, though quite willing to assent to the postponement.

Mr. MONTIZAMBERT replied. The Ven. Archdeacon was in error. The previous motion declared an illegality to exist. This only said there were doubts about the legality.

Several attempts were made to compromise by incorporating the whole or a part of the amendment with the main motion, but failed. After which the amendment was put and lost on a division, the numbers being:

	Ayes.	*Nays.*
Clergy	8	33
Laity	14	32
	22	65

The main motion was then so amended as to affirm that a Synod was desirable, instead of stating there was a necessity for one.

Rev. A. D. CAMPBELL asked His Lordship if, should the minority remain and vote on that motion, he would consider them bound by the vote of the majority, or compromised in any way?

His LORDSHIP said, no farther than they were when they came there that morning.

After some further consultation, Rev. Mr. CAMPBELL said he and his friends felt doubts about the extent to which they should be committed if they staid to vote. They would therefore retire from the meeting. The minority, with the exception of the Rev. Messrs. Bond and Cornwall, and Mr. Montizambert, withdrew from the room. The motion was then put and carried, with only those three votes against it.

Major CAMPBELL desired to return thanks to those gentlemen of the minority who had had the courage and manliness to remain, who although defeated yet had not deserted their colors; and he hoped that their names would go forth to the world that they might receive the full credit which their conduct deserved.

A resolution was then passed, that the Bishop's statement should be entered on the minutes as the reason of adjournment, which was done as follows, having been moved by the Hon. G. MOFFATT, and seconded by the very Rev. the DEAN:

"That the Bishop having informed the meeting after the first division, that being satisfied with such a decided manifestation of opinion respecting the desirableness of establishing a Diocesan Synod, and being anxious that the details of its Constitution should undergo the fullest consideration, while it was very inconvenient for the Clergy and Lay Delegates to remain in Montreal for a sufficient time on the present occasion for the purpose of entering with due deliberation upon the subject, His Lordship did not wish to advise any farther proceedings immediately,—this meeting therefore wish now to

place this expression of His Lordship's opinion on record, as the reason why they postpone any farther discussion."

His Lordship having left the Chair, and the Hon. Mr. Moffatt been called to it, the thanks of the meeting were, on motion of the Rev. Mr. Whitwell, seconded by the Rev. Mr. Cornwall, tendered to the Lord Bishop for the candid and considerate manner in which he had consented to postpone the further consideration of the subject, and on motion of Rev. Canon Townsend, seconded by the Hon. John Pangman, for the courteous, impartial and able manner in which he had presided.

In reply, the Bishop congratulated those present on the temperate and Christian tone which had pervaded their discussions, even on the part of those who differed most widely and earnestly in opinion.

He then dissolved the meeting, pronouncing the apostolical benediction.

The Session had continued from 12 o'clock till half past 5, p. m.

ord, as the reason why

. Moffatt been called
Rev. Mr. Whitwell,
Lord Bishop for the
ited to postpone the
ev. Canon Townsend,
s, impartial and able

n the temperate and
even on the part of
n.
tolical benediction.
ast 5, p. m.