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CANADA.

PAPERS

RELATIVE TO

LEGISLATIVE PROCEEDINGS IN
CANADA.

Presented to both Houses of Parliament by Command of Her Majesty,
July 1854.



LONDON:

PRINTED BY GEORGE EDWARD EYRE AND WILLIAM SPOTTISWOODE,
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.
FOR HER MAJESTY'S STATIONERY OFFICE.

1854.

SCHEDULE.

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P A P E R S

RELATIVE TO

LEGISLATIVE PROCEEDINGS IN CANADA.

No. 1.

CANADA.
No. 1.

COPY of a DESPATCH from Governor General the Earl of ELGIN AND KINCARDINE to the Duke of NEWCASTLE.

(No. 5.) Government House, Quebec, June 15, 1854.
MY LORD DUKE, (Received July 3, 1854.)

I HAVE the honour to transmit herewith a copy of the speech with which I opened the session of the Provincial Legislature on the 13th instant, together with a copy of the address in reply presented to me by the Legislative Council, and of my answer thereto.

I have, &c.
(Signed) ELGIN AND KINCARDINE.

The Duke of Newcastle,
&c. &c. &c.

Enclosure 1 in No. 1.

Encl 1 in No. 1.

Honourable Gentlemen of the Legislative Council,
Gentlemen of the Legislative Assembly,

DURING the recess the province has sustained, I regret to say, serious loss by fire in the destruction of the Houses of Parliament, and of the building which was subsequently secured for the temporary occupation of the Legislature. The best arrangements practicable under the circumstances have been made for your accommodation.

Her Majesty the Queen, our most Gracious Sovereign, having failed in her anxious and protracted endeavours to preserve for her people the blessings of peace, has felt herself called upon, by regard for an ally, the integrity and independence of whose empire have been recognized as essential to the peace of Europe, by the sympathies of her people with right against wrong, and by a desire to avert from her dominions most injurious consequences, to take up arms in conjunction with the Emperor of the French, for the defence of the Sultan. The manifestations of loyalty to the Sovereign and sympathy with the parent state, which have been so general throughout the province at this conjuncture, will, I am confident, be heartily responded to by the Legislature. The cordial co-operation of England and France in this war is well calculated to call forth the sympathies of the inhabitants of a country peopled mainly by the descendants of those two powerful empires.

Having during my recent visit to England been honoured by the Queen's command to endeavour to effect the settlement of various important questions bearing upon the interests of the British North American Provinces, which had been long pending between the Governments of Great Britain and the United States, I proceeded to Washington, where after frank discussion with the authorities of the United States, I was enabled to conclude a treaty which now awaits ratification upon terms which it is my firm conviction will prove in the highest degree advantageous to the colonies generally, as well as to the United States; a measure to give effect to that treaty will be submitted for your approval.

I will communicate to you a Despatch which I have received from the Secretary of State for the Colonies, with reference to the addresses to the Queen from the two houses

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of the Legislature, on the subject of the constitution of the Legislative Council, transmitted by me at the close of the last session of the Provincial Parliament, in order that they might be laid at the foot of the throne.

I recommend to your consideration the passing of a law for bringing into early operation the Act of last session which extends the elective franchise, in order that constitutional expression of opinion may be obtained as speedily as possible under the system of representation recently established, on the various important questions on which legislation is required.

Gentlemen of the Legislative Assembly,

The public accounts for the past year, and the estimates for the present year, will be submitted to you without delay, and I rely with confidence on your willingness to make the necessary provision for the exigencies of the Government.

The prosperous condition of the revenue may suggest to you the propriety of making such reductions in the tariff as may be compatible with security to the public creditor, and efficiency in the public service.

Honourable Gentlemen and Gentlemen,

During my sojourn in England I was much struck by the proofs which I received from all quarters of increasing interest in Canadian affairs, and I trust that my acquaintance with the province, derived from long residence within it, may have enabled me to render some service, in spreading more widely a knowledge of its resources, and of the feelings of the inhabitants.

Although a state of warfare has a necessary tendency to restrict operations, involving large expenditures of capital, I feel confident that the credit of Canada has attained a position in English opinion which it never before achieved, and that to enable you to retain it nothing is required but prudence in your undertakings, and the maintenance of the high character for fidelity to pecuniary engagements which the province has at all times borne.

Encl. 2 in No. 1.

Enclosure 2 in 1.

To his Excellency the Right Hon. James Earl of Elgin and Kincardine, Knight of the most Ancient and most Noble Order of the Thistle, Governor General of British North America, and Captain General and Governor-in-Chief in and over the provinces of Canada, Nova Scotia, New Brunswick, and the Island of Prince Edward, and Vice Admiral of the same, &c. &c.

May it please your Excellency,

We, Her Majesty's dutiful and loyal subjects, the Legislative Council of Canada in Provincial Parliament assembled, respectfully thank your Excellency for your gracious speech from the throne at the opening of the present session.

We regret the serious loss which the province has sustained during the recess in the destruction by fire of the Houses of Parliament, and of the building which was subsequently secured for the temporary occupation of the Legislature; and we feel satisfied that the best arrangements practicable under the circumstances have been made for our accommodation.

We assure your Excellency that we do heartily respond to the manifestations of loyalty to our Sovereign and sympathy with the parent state, which have been so general throughout the province at this conjuncture, when Her most Gracious Majesty the Queen, having failed in her anxious and protracted endeavours to preserve for her people the blessings of peace, has felt herself called upon by regard for an ally, the integrity and independence of whose empire have been recognized as essential to the peace of Europe by the sympathies of her people, with right against wrong, and from a desire to avert from her dominions most injurious consequences, to take up arms in conjunction with the Emperor of the French for the defence of the Sultan; and we agree with your Excellency in thinking that the cordial co-operation of England and France in this war is well calculated to call forth the sympathies of the inhabitants of a country peopled, mainly, by the descendants of those two powerful empires.

We learn with pleasure that your Excellency was honoured during your recent visit to England by the Queen's commands to endeavour to effect the settlement of various important questions bearing upon the interests of the British North American Provinces, which had been long pending between the Government of Great Britain and the United States, and that your Excellency accordingly proceeded to Washington, where, after frank discussion with the authorities of the United States, you were enabled to conclude a treaty which now awaits ratification, upon terms which it is your Excellency's firm conviction will prove in the highest degree advantageous to the colonies generally, as well as to the United States. We beg leave to assure your Excellency that any measure to give effect to that treaty, which may be submitted for our approval, will receive our attentive consideration.

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Our respectful attention will also be given to the communication by your Excellency of the Despatch which you have received from the Secretary of State for the Colonies, with reference to the addresses to the Queen from the two houses of the Legislature on the subject of the constitution of the Legislative Council, transmitted by your Excellency at the close of the last session of the provincial Parliament, in order that they might be laid at the foot of the throne.

We will also carefully consider the propriety of passing a law for bringing into early operation the Act of last session which extends the elective franchise, in order that a constitutional expression of opinion may be obtained as speedily as possible under the system of representation recently established on the various important questions on which legislation is required.

We learn with satisfaction that your Excellency during your sojourn in England received from all quarters striking proofs of increasing interest in Canadian affairs; and we have no doubt your Excellency's acquaintance with the province, derived from long residence within it, enabled your Excellency to render service in spreading more widely a knowledge of its resources and of the feelings of its inhabitants.

Although a state of warfare has a necessary tendency to restrict operations involving large expenditures of capital, we agree with your Excellency in feeling confident that the credit of Canada has attained a position in English opinion which it never before achieved, and that to enable us to retain it nothing is requisite but prudence in our undertakings, and the maintenance of the high character for fidelity to pecuniary engagements which the province has at all times borne.

Legislative Council, Wednesday, June 14, 1854.

Resolved,—That the said address be presented to his Excellency the Governor General by the whole house.

Ordered,—That such members of the Executive Council as are members of this house do wait on his Excellency the Governor General humbly to know what time his Excellency will be pleased to appoint to be attended with the said address.

(Attest) J. F. TAYLOR,
Clerk of Legislative Council.

Enclosure 3 in No. 1.

Encl. 3 in No. 1.

Honourable Gentlemen,

I THANK you for your loyal address, and I rely on your support in all measures calculated to secure and advance the prosperity of the province.

No. 2.

No. 2.

COPY of a DESPATCH from Governor General the Earl of ELGIN AND
KINCARDINE to the Duke of NEWCASTLE.

(No. 12.)

Government House, Quebec, June 22, 1854.

(Received July 10, 1854.)

MY LORD DUKE,

I HAVE the honour to enclose herewith the copy of a speech which I delivered from the throne this day in proroguing the Parliament of the province, and I beg at the same time to solicit your Grace's attention while I state as succinctly as I can the grounds on which I formed the resolution which has given occasion for the delivery of this speech.

2. It may probably be in your Grace's recollection, that during the course of the last session of the Provincial Parliament, two Acts were passed which had for their object to effect very material changes in the constitution of the popular branch of the Provincial Legislature. The former of these Acts raised the number of parliamentary representatives from 84 to 130: this addition to the House of Assembly being so effected as to equalize to a greater extent than is now the case population and representation. By the terms of the Constitutional Act, an Act of this nature could not become law unless it received in each branch of the Legislature, on the second and third readings, the support of at least two thirds of the members. In the passage of this Act through the Provincial Parliament these conditions were complied with, and having received a notification of this fact by address in the mode prescribed by the Constitutional Act, I assented to it in Her Majesty's name on the 14th June 1853.

B

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3. The second of the Acts to which I have referred was entitled "An Act to extend the Elective Franchise, and better to define the Qualifications of Voters in certain Electoral Divisions, by providing a System for the registration of Voters," and the intentions of the Act, as stated in the title, were duly carried out in its provisions.

4. While these proceedings were taking place in the Provincial Parliament, the Imperial Parliament passed an Act repealing the Imperial Statute which had regulated, since the year 1840, the distribution of the fund commonly known as the Clergy Reserve Fund of Canada, and leaving the future application of this fund, as a matter of local concern, to the determination of the local Legislature. This important statute having been duly sanctioned by Her Majesty, reached me shortly before the prorogation of the Provincial Parliament.

5. The course which the Provincial Government ought to take at this juncture, whether in reference to the measures of constitutional change which had been enacted by the local Parliament, or to the Act respecting the Clergy Reserves which the Imperial Legislature had passed, became necessarily at an early period of the recess the subject of deliberation in the Provincial Cabinet. Some members of this body were strongly pledged to the secularization of the reserves, and it was believed that a proposal to carry out a measure of this description would be supported by a majority in the existing Assembly. After full consideration and discussion, however, my Executive Council arrived unanimously at the conclusion, that apart altogether from the merits of secularization, it would not be consistent with their duty to undertake to legislate upon this subject in the Parliament as then constituted. The Clergy Reserve question was one on which it was notorious that the public mind, in Upper Canada more especially, was much divided, and the imperial statute on the subject had been repealed for the express purpose of facilitating a settlement which should be final and in accordance with the deliberate views and convictions of the people of the province. To attempt, therefore, to settle such a question in a Parliament which had been already declared by its own vote to be an imperfect representation of the people, and by the exercise of what might be deemed the influence of the Government, was a course of proceeding obviously open to serious objection. In these views of the Executive Council I entirely concurred.

6. An immediate dissolution of Parliament was apparently the readiest mode of escape from the perplexities to which I have referred. But here again a difficulty presented itself. In order to give time for the completion of the system of registration which formed part of the measure, the first day of January 1855 had been fixed as the period at which the Act for extending the franchise should come into operation. To give it effect at an earlier time, further legislation was required. It was therefore finally resolved by the Government that the then subsisting Parliament should be allowed to meet again for the purpose of legislating on this and other necessary matters, preparatory to a dissolution, after which the opinion of the Legislature, as constituted under the extended Representation and Franchise Acts, might be taken on those important questions, the settlement of which was anxiously desired by the people of the province.

7. In accordance with this determination, in my speech from the throne which I transmitted to your Grace by the last mail, with my Despatch No. 5 of the 15th instant, I recommended the passing of a law for bringing into early operation the Act of the preceding session which had extended the elective franchise, in order that a constitutional expression of opinion might be obtained as speedily as possible under the system of representation recently established, on the various important questions on which legislation was required, and I invited legislation in the then existing Parliament on two other subjects only; the one of these subjects being the Reciprocity Treaty, to give effect to which it was desirable that an Act of the Provincial Parliament should be passed without delay, and the other the Tariff, in which the prosperous condition of the revenue justified certain reductions.

8. The first amendment to the address was moved by the Honourable Mr. Sherwood, a leading member of the conservative party, who objected to the late period at which the Parliament had been convened. The explanations on this head, however, were deemed sufficient by the majority of the Assembly, and this amendment was accordingly rejected by 40 votes to 29.

Mr. Cauchon, a French Canadian member, then moved, that at the end of the fourth paragraph of the address in answer to the speech delivered at the opening of the session, the following words should be inserted:—"That this House sees with regret that his Excellency's government do not intend to submit to the Legislature during the present session a Bill for the immediate settlement of the seigniorial question;" to which amendment, Mr. Hartman, an Upper Canadian member, of the liberal party, moved as an amendment, to leave out all the words after "House," and add the following instead thereof:—"regret that his Excellency has not been advised to recommend during the present session a measure for the secularization of the clergy reserves, and also a measure for the abolition of the seigniorial tenure." The ministerial and conservative parties concurred in opposing this motion, which was accordingly defeated by a majority of 54 votes to 16. Mr. Sicotte, another French Canadian member, then moved that the words, "or one for the immediate settlement of the clergy reserves," should be added to the end of Mr. Cauchon's amendment, and this motion was carried by 42 votes against 29; the conservative members availing themselves of the ambiguity of the word "settlement," to join the party who were censuring the administration for not having introduced during the then session a Bill for secularizing the clergy reserves.

9. It will be obvious to your Grace, from the above statement of facts, that a most embarrassing situation was created by this vote. It pledged the then subsisting Parliament to settle the question of the clergy reserves, and it was carried by a combination of parties holding opposite views with respect to the terms on which the settlement should be effected. It was my decided opinion that no measure on this subject short of a measure of entire secularization could possibly have been carried through that House of Assembly, with the prospect, more especially, of an immediate dissolution hanging over the heads of its members. Against a measure of secularization carried under such circumstances the friends of religious endowments would, I conceived, have had good cause to complain. But if, on the other hand, out of the heterogeneous elements of which the majority was composed, I had been able to form a conservative administration, and with the aid of that administration to pass a measure for perpetuating the endowment, I felt confident that in place of settling this vexed question, I should by so doing only have given the signal for renewed and more violent agitation. The advocates of secularization would never have admitted the permanency of a settlement effected by a Parliament so peculiarly circumstanced, and the ministerial party might reasonably have been expected to assert in opposition the views on this subject for which they had incurred the sacrifice of office. Moreover, the position of the House of Assembly itself, in reference to the point which had been raised, was an anomalous one. On the issue whether or not it was seemly that a certain class of questions should be dealt with before the dissolution, which would bring into operation a more perfect system of popular representation, that body might be said to be a party to the suit. Its verdict, therefore, in the particular case, could hardly be held to carry with it the authority which, under ordinary circumstances, would attach to the decision of the popular branch of the Legislature. It is further to be observed, that the Legislative Council, by the terms of their address in reply to the speech from the throne which I transmitted in my Despatch No. 5, of the 15th instant, had virtually expressed their approval of the policy adopted by the administration.

10. Under these circumstances, when the members of the Executive Council informed me that they were prepared to ask the judgment of the country on the policy of the postponement of the clergy reserve and seigniorial tenure questions which they had adopted with my full approval and sanction, I did not think that I should be justified in refusing to act on the advice tendered by them, and to dissolve Parliament for this purpose; and having obtained from the law officers of the Crown a joint opinion in favour of the legality of the course recommended to me, I summoned the House of Assembly to the Council Chamber in the usual manner, and delivered the speech, of which the copy is herewith enclosed.

I have, &c.

The Duke of Newcastle, (Signed) ELGIN AND KINCARDINE.
&c. &c. &c.

CANADA.

Encl. in No. 2

Enclosure in No. 2.

HONOURABLE GENTLEMEN of the Legislative Council.

Gentlemen of the Legislative Assembly.

WHEN I meet you at the commencement of the present session, I expressed the hope that you would proceed without delay to pass such a law in reference to the period appointed for introducing the amended franchise, as would have enabled me to bring at once into operation those important measures affecting the representation of the people in Parliament, which were adopted by you with such singular unanimity last session. Having been disappointed in this expectation, I still consider that it is due to the people of the province, and most respectful to the decision of the Legislature, that I should take such steps as are in my power to give effect to the law by which the Parliamentary representation of the people is augmented, before calling the attention of Parliament to questions on which the public mind has been long agitated, and the settlement of which it is most desirable to effect in such a manner as will be most likely to secure for it the confidence of the people.

I have come, therefore, to meet you on the present occasion for the purpose of proroguing this Parliament with a view to an immediate dissolution.

No. 3.

No. 3.

COPY of a DESPATCH from Governor General the Earl of ELGIN AND KINCARDINE to the Duke of NEWCASTLE.

(No. 13.)

Government House, Quebec, June 24, 1854.

(Received July 10, 1854.)

MY LORD DUKE,

WITH reference to my Despatch, No. 12, of the 22nd instant, I have the honour to enclose herewith a number of the official gazette of the province, containing copies of proclamations, dissolving the provincial Parliament, directing the immediate issue of writs for summoning a new Parliament, and requiring the same to meet on Thursday, the 10th day of August next.

I have &c.

The Duke of Newcastle,
&c. &c. &c.

(Signed) ELGIN AND KINCARDINE.

Encl. in No. 3.

Enclosure in No. 3.

(Extract from the *Canada Gazette*, dated Quebec, Saturday, June 24, 1854.)

PROVINCE OF CANADA.

Legislative Chambers, Quebec, June 22, 1854.

THIS day, at three o'clock, p.m., his Excellency the Governor General proceeded in state to the chamber of the Legislative Council. The members of the Legislative Council being assembled, his Excellency commanded the attendance of the Legislative Assembly, and that House being present, his Excellency was pleased to deliver the following speech.

[As printed above.]

PROCLAMATIONS.—Province of Canada.

ELGIN and KINCARDINE.

[L. S.]

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c. &c. &c.

To our beloved and faithful the Legislative Councillors of the Province of Canada, and the Knights, Citizens, and Burgesses elected to serve in the Legislative Assembly of our said province, and to all whom it may concern,—Greeting:

A PROCLAMATION.

WHEREAS we have thought fit, by and with the advice and consent of our Executive Council of our province of Canada, to dissolve the present provincial Parliament of our said province, which stands prorogued to the twenty-ninth day of July next. Now Know Ye, that we do for that end publish this our royal proclamation, and do hereby dissolve the said provincial Parliament accordingly; and the legislative councillors, and the

knights, citizens, and burgesses of the Legislative Assembly are discharged from their meeting and attendance on the said twenty-ninth day of July next.

In testimony whereof, we have caused these our letters to be made patent, and the great seal of our said province to be hereunto affixed: Witness, our right trusty and right well-beloved James, Earl of Elgin and Kincardine, Knight of the most ancient and most noble Order of the Thistle, Governor General of British North America, and Captain General and Governor in Chief in and over our provinces of Canada, Nova Scotia, New Brunswick, and the island of Prince Edward, and Vice Admiral of the same, &c. &c. &c. At our Government House, at our City of Quebec, in our said province, this twenty-third day of June, in the year of our Lord, one thousand eight hundred and fifty-four, and in the eighteenth year of our reign.

By command,
FELIX FORTIER, C. C. Chy.

Province of Canada.

ELGIN and KINCARDINE.

[L S.]

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c. &c. &c.

To all to whom these presents shall come,—Greeting:

A PROCLAMATION.

WHEREAS we are desirous and resolved, as soon as may be, to meet our people of our province of Canada, and to have their advice in provincial parliament; we do make known our royal will and pleasure to call a provincial parliament, and do further declare that by the advice of our Executive Council, we have this day given orders for issuing our writs in due form, for calling a provincial parliament in our said province, which writs are to bear date on this twenty-third day of June, and to be returnable on the tenth day of August next, except however, the writs for the counties of Saguenay and Gaspé, and for the united counties of Chicoutimi and Tadoussac, which writs will be returnable on the first day of September next.

In testimony whereof, We have caused these our letters to be made patent, and the great seal of our said province of Canada to be hereunto affixed: Witness, our right trusty and right well-beloved cousin James, Earl of Elgin and Kincardine, knight of the most ancient and most noble order of the Thistle, Governor General of British North America, and Captain General and Governor in Chief in and over our provinces of Canada, Nova Scotia, New Brunswick, and the island of Prince Edward, and Vice Admiral of the same, &c. &c. &c. At our government house, in our city of Quebec, in our said province, this twenty-third day of June, in the year of our Lord, one thousand eight hundred and fifty-four, and in the eighteenth year of our reign.

By command,
FELIX FORTIER, C.C. Cy.

Province of Canada.

ELGIN and KINCARDINE.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c. &c. &c.

To all to whom these presents shall come—Greeting.

A PROCLAMATION.

Know ye, that we being desirous and resolved, as soon as may be, to meet our people of our province of Canada, and to have their advice in Provincial Parliament, do hereby, by and with the advice of our Executive Council of our said province, summon and call together the Legislative Assembly, in and for our said province, to meet at our city of Quebec, in our said province, on Thursday the tenth day of August next, then and there to have conference and treaty with the great men and Legislative Council of our said province.

In testimony whereof, we have caused these our letters to be made patent, and the great seal of our said province of Canada to be hereunto affixed: Witness our right trusty and right well-beloved cousin James, Earl of Elgin and Kincardine, Knight of the most ancient and most noble order of the Thistle, Governor General of British North America, and Captain General and Governor in Chief in and over our provinces of Canada, Nova Scotia, New Brunswick, and the island of Prince Edward, and Vice Admiral of the same, &c. &c. &c. At our Government house, in our city of Quebec, in our said province, this twenty-third day of June, in the year of our Lord, one thousand eight hundred and fifty-four, and in the eighteenth year of our reign.

By command,
FELIX FORTIER, C.C. Cy.

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