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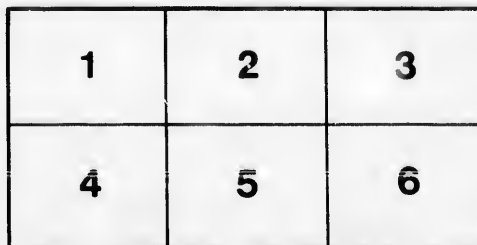
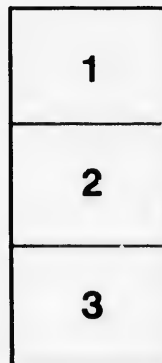
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CANADIAN CHURCH ROBBERY,

BEING A BRIEF SERIES

OF

LETTERS AND PAPERS,

BY THE

REV. W. J. D. WADDILOVE.

Newcastle-upon-Tyne:

PRINTED AT THE JOURNAL OFFICE, BY JOHN HERNAMAN,
19, GREY-STREET.

1840.

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TO THE
CHRISTIAN INHABITANTS OF GREAT BRITAIN.

Thou shalt not remove thy neighbour's land mark, which they of old time have set in thine inheritance which thou shalt inherit, in the land that the Lord giveth thee to possess it.—Deut. xix. 14

Nor was the precept here written limited in its application to the Jewish Polity, but equally applies to earlier and to later ages of the world, and to all parts of it. Job, describing the various iniquities prevalent among those “who know not God,” or when “they know Him, glorify Him not,” (Rom. i. 21.) commences his catalogue thus—“Why, seeing times are not hidden from the Almighty, do they that know Him, not see His days? **SOME REMOVE THE LANDMARKS;**” and it deserves to be considered in the present day how the catalogue is closed—“They are exalted for a little while, but are gone and brought low, and cut off as the tops of the ears of corn.”—Job xxiv. 2—24.

The substance of the following Letters, having been mentioned at various times in conversation, it was urged upon me, that I was not justified in withholding the information they contain, and that I ought to take some steps to throw light upon the subject—a task I very unwillingly undertook. To write a book I was not qualified; and if I did, probably few would read: but an off-hand Letter on the subject in a Newspaper might stand some chance amongst the friends of the Canadian Emigrants; and as that seemed to carry the least appearance of pretension, and only required a signature to verify the statements, I adopted that course, much influenced in my own mind by the fact, that while the matter was under cogitation, the two extraordinary documents which are appended, were sent to me from Montreal.

In the course of my reading and experience, I cannot lay my finger upon any subject which has been treated so unfairly, and with such an utter disregard of propriety, of law, and of equity, as the case of the Canadian

Reserves. They have been made the subject of bitter animosity between the two best Churches now in Europe ;—and why ? *not with a view to benefit either, but to destroy both.*

The principle, “divide et impera,” has been the favourite instrument, from the days of Jeroboam—“If this people go up to do sacrifice in the House of the Lord at Jerusalem, then shall the heart of this people turn again unto their Lord ;”—so he set up calves of gold, one in Dan, the other in Bethel.—I. Kings xii. 27—30.

It may be said, these are ancient things, and have little bearing on the extraordinary wisdom of the 19th century. This may be good logic in the world, but happily there still remain a few who know that “what was written aforetime” was written with a view to futurity ; and thus St. Paul, in his II. Thess. xi., and St. John, Revel. xi. 9-13-20-24, carry on the connection to their day, and enable us to distinguish what spirit is at work, when we see measures adopted, *all bearing to the same point.*

Few will deny, that the strongest barrier against the tyranny of the Romish Hierarchy, lies in the wealth and intelligence of the Protestant Episcopate in Britain, combined as she always has been, *when the purity of the faith is threatened*, with “birds of every feather” reposing beneath her branches.—Ezek. xvii. 22—24.

My next position is equally incontestible ;—that the second place in the army of Christ belongs to the less wealthy, but as intelligent, Establishment of Scotland.

I need not draw the inference as to the tactics of a crafty foe.

It is not that the combined phalanx of Romanism and Infidelity love Scotland better ; but, for the reason assigned, they hate the Church of England more ; and if her foundations can be sapped by creating and fostering jealousies between the two, no problem is Euclid can be with more certainty demonstrated than this, viz., that all else will fall an easy prey.

The Romanist and Infidel may then divide, or quarrel over the spoil—while the flocks in charge of the Protestant Churches wander from hill to hill. The prevailing opinion that the energy of the English Church is called forth, on the subject of Canadian Reserves, by any feeling of jealous greediness—is an idea too contemptible to be argued—but there is a principle of

permanent order or permanent disorder bound up in the question, which leaves no alternative—and the only fair ground on which to put the case—and bring it to equitable issue—is simply this—

Has the Church of England, as far as her means went, been faithful or faithless to her trust!

If the last, “let out the vineyard to other husbandmen.”

If the first—a point easily capable of proof—then why has there been so little return of fruit!

The following letters and documents will shew—

“Ye shall no more give the people straw to make brick, yet the tale of bricks which they did make heretofore, you shall lay upon them—you shall not diminish ought thereof.”—Exod, v. 7-8.

During the French war the emigration was comparatively trifling, but under the distressing effects of a legislative act in 1819, the number of emigrants rose at once to 12,000, and so on to 60,000 per annum, in 1833.

Did this nominally Christian nation perform its duty in this new state of things?

My answer is decidedly—NO.

Let him, then, who is without sin in this matter, cast the first stone at the Church.

If, as I believe, there are none without taint—then, instead of cherishing discord, to perpetrate an act, not more unjust than *unchristian* and *impolitic*—unite to provide in a liberal manner for the permanent support and maintenance of both the Churches left you by your fathers, as part and parcel of the Constitution under which you live, and “see that ye fall not out by the way.”

I have hitherto spoken of the Reserves Question solely, as it bears upon the two Established Churches of the Empire, holding those establishments to be based upon the most liberal toleration consistent with the permanent security of that pure Faith, for the preservation of which, the Universal Church was instituted by its Divine author. I wish, therefore, in conclusion, to add a few words to others equally interested in that preservation.

In the ocean there are two currents performing alike their Creator's behest, though flowing different ways. Now, I apprehend, in the Spiritual

sea, the same may advantageously occur. If, (which is consistent with the experience of every man, and will be unquestionable so long as the History of Romanism exists,) there is a tendency to degenerate, inseparable from establishments, consisting of fallible men—the principle of extended toleration towards those who hold the same faith, though differing in minor matters, affords a safe and easy remedy. The purest silver is dependent for its brightness on the leather and the rubbing, and those who remember the general condition of both establishments, when John Wesley commenced the application of a stimulant, can scarcely do otherwise than thank God for that improving dispensation. Now, no man of his day held the principle of establishment more strongly than Wesley ; but he saw, what every one must see who looks deeply into the subject, that there was at that time (increased a thousand fold since) a vast mass of an increasing population which no establishment could reach—and I will go further, which no establishment should be possessed of power or means to reach—for this simple reason, that such an aggrandizement would afford too strong a temptation to eradicate toleration, and walk in the steps of Rome. Popery is not limited to an Episcopal Communion, for it is clear from Cyprian that the first abettor of Popish abuse and superstition, was not a bishop, but a presbyter during Cornelius' vacancy of the Episcopal chair, and at this moment I do not think it would be difficult to point to some individuals, who carry their claim to spiritual supremacy as vicegerents of Jesus, to an extent of which Victor would not have been ashamed—and, apart from the errors and superstitions of the Papacy, setting up notions far more dangerous to the peace of the commonwealth—than were held by many that occupied the throne of the Vatican, as a restraint upon them.

The means of an establishment should be as ample as is consistent with safety ; and under the shadow of that efficient establishment, the miners of Cornwall and the pitmen of the North prove to us what there should be, as a necessary auxiliary, a favoured secession, holding the same doctrines, but not confined within the same stringent rules.

Would I then, when I contend for preserving the Reserves of the Establishment in Canada, as the only *possible counterpoise* to the alarming aggrandizement of Popery, and its immense resources—Would I deprive either

the Kirk or Wesleyans of an adequate support ! No ;—but I would not rob Peter to pay Paul, remembering the solemn declaration in Isa. lxi. 8.—“ I the Lord love judgment : I hate robbery for burnt offering.” Nor, professing to be a Christian nation, would I hypocritically *pretend anxiety* to spread the Word of God—“to make a sacrifice to Jehovah,” “out of that which cost me nothing,”—which was not *mine*, but *another's*. “Will a man rob God.”

Prove the delinquency of the Church *in the execution of their trust* ; and then, upon every principle, human and divine, you are free to transfer that trust into other hands, for the *special purpose* to which the lands were devoted in 1791 :—*till then*, I have no hesitation in declaring, that the moment you sanction, as the parent state, the sacrilegious bill sent over by Mr. P. Thomson, the price of your *political expedience* is this—Malachi iii. 8.

“Ye are cursed with a curse, for ye have robbed ME—even this whole nation.”

And next to the heinousness of such a robbery is the valuable and most useful set of men—the Clerical Body—in company with the most dirty objects of political party, year after year, to defend the interests of the clergy, entrusted to them under the most solemn sanctions, through the odium, as though they were contending for selfish interests.

But you may do your worst, if you choose to run the hazard—it is not the first time that Zion has been beleaguered by her enemies, and she knows who hath said—

“Though ye have lien among the pots yet shall ye be as the wings of a dove covered with silver, and her feathers with yellow gold,” for “the Lord hath said, I will bring again from Bashan, I will bring my people again from the depths of the sea.”

W. J. D. WADDILOVE,

Agent for the late Bishop of Quebec's Canadian Travelling Missions
among the Destitute.

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CHURCH ROBBERY IN CANADA.

TO THE EDITOR OF THE NEWCASTLE JOURNAL.—No 1.

Beacon Grange, Feb. 15, 1840.

DEAR SIR,—As I see by the last American Papers that the Governor-General, Poulett Thomson, is making short work with the Church in Upper Canada, and that Her Majesty's Solicitor-General has introduced a Bill, by his directions, into the House of Assembly, (which has passed it,) to settle the question of the Church Reserves, without reference either to justice or propriety—will you allow me a brief space in your paper, first, to shew the Clergy and friends of the Church the nature of the Bill, and then to give a short specimen from a parliamentary document, (one of those useful publications of which we have lately heard so much,) to shew them, also, the nature of that Voluntary System which is to succeed to the Church of our Fathers.

First—The Bill is to provide for the Sale of all the Church Reserves, in the hands of five (Locusts) Government Commissioners. Then, one-half of the produce is to be divided between the Churches of England (to whom, according to the legal opinion of Mr. Justice Patteson, in 1824, the whole belongs); our Sister, the Church of Scotland; and the Secession Synod of that Church.

The other half is to be divided among the two dozen various sects or separatists from the Vatican to the rational Christian Owen's disciples—for the only qualification necessary is assuming *the name Christian*; easily done when any thing can be got by it.

This, however, bad as it is, is not the worst feature, when we consider that the great mass of our emigrants are of the poorest class; for the distribution amongst these various and undefinable claimants is to be apportioned in direct opposition to the Scriptural principle, by which the Religion of Christ has hitherto been distinguished—"To the poor the Gospel is preached." The new reading is—"To the rich a gospel is to be preached,—for the division of spoil is to be distributed in proportion—not to the need of the people, but to the *amount of subscriptions* each annually raises in support of their form of religious worship—thus reversing Jehovah's declaration, "The poor shall be filled with bread, but the rich sent empty away."

Apart from any other question, surely nothing can be more iniquitous than thus to rob the poor who are unable to subscribe, to provide fanciful systems for those whose subscriptions shew they could provide for themselves, if they would.

I am next to give a specimen of the Voluntary System proposed by these legislators ; and I take it without remark from the Report of Lord Gosford, Sir Geo. Gipps, and Sir Charles Grey. I must add, however, that in my own mind, I am not disposed to implicate the last in any such absurd, wild, and irreligious proposition.—But to the extract.

Appendix to 1st Report of Canada Commissioners, No. 12. Dec. 17th, 1835. Hon. G. Moffat and Hon. P. McGill examined.

After some leading questions relative to the Reserves, the drift and bearing of which are sufficiently apparent, comes the following :

“Suppose the province divided into districts, in each of which there should be a building for worship, and a Minister’s house, and a small glebe, and a very moderate stipend annexed, the whole being property of the state ; and that on the death of the Incumbent, three-fifths of the inhabitants should be allowed to petition for the appointment of a minister for life from any one of the four *sects*,” (these being stated in the former question, to be Church of England, Roman Catholics, Church of Scotland, and Wesleyans,) “and that it should be lawful for the governor, on such petition, to appoint accordingly ; what would be your opinion of such a plan ?” !!!

“I am of opinion that such a plan would be inexpedient, for the remaining two-fifths would have great reason to complain. With the exception of Lower Canada, where Roman Catholics prevail, I do not think that in any district, parish, or township, three-fifths would be found to concur.”—Now mark !

“If three-fifths did not concur, *would it not be an easy mode* of delivering the Government (Christian !!!) from the burden of supporting an established clergy ?

Both Gentlemen evidently were aghast at such a proposition, and Mr. McGill answered—“I have not directed my thoughts particularly to this, and I did not come prepared for such an examination.”

The Representatives of the British Government, however, seem not to have been taken aback by this reproof, for the examiner proceeds—

“When you say the other two-fifths would have reason to complain; do you bear in mind the circumstance that they would see at the same time, that in those districts were persons of their persuasion formed a majority, (be they Turk or Heathen the rule applies,) their ministers were supported out of the funds of the public ?” “I think that in very few places three-fifths would concur ; but even if they did, I do not think the other two would be satisfied.”

No remark is necessary upon such a heinous anti-christian proposition from British Statesmen, further than to ask, how any clergy can teach their people to reverence a Government which thus sets the rights of the Almighty at defiance to save a penny ?

I remain, your’s truly,

W. J. D. WADDILOVE.

CANADIAN CLERGY RESERVES.

TO THE EDITOR OF THE NEWCASTLE JOURNAL.—No. 2.

DEAR SIR,—As you have kindly inserted in your Journal to-day my Letter, regarding the Plunder of the Canadian Church, and as I referred, in that letter, to a high legal opinion, given very early in the unhappy conflict which has led to this system of robbery—will you do me the favour, (for the sake of your readers, equally shocked as myself,) to insert the document to which I have alluded. I believe the Kirk of Scotland has few more attached friends than myself, and grieved have I long been to see the Papist, the Infidel, and the Nothingarian, successfully sapping the foundations of Zion, under the shadow of her venerated name. I am deeply convinced that while the two Churches, (*agreeing in all that is important, and only differing in points which must pass away,*) carry on the work of their common master, with united hearts—"The gates of hell shall never prevail against either;" but we have it from the same high authority, that "a house divided against itself is a house *founded on sand*"; and how much more certain must be the issue when the division is caused by unjust aggression. The windows of Heaven are wide enough for all."—Malac. iii. 6-12.

Your's truly,

J. W. D. W.

Bacon Grange, Feb. 22, 1840.

Fiat Justitia, ruat Cælum.

Queries in case, as to the Reserved Lands allotted for the support of a Protestant Clergy in the Provinces of Upper and Lower Canada.

Whether the Provisions of the Act 31 Geo. III. cap. 31. (1791-2) regulating the allotment for the support and maintenance of "a Protestant Clergy within the same," are, or are not, in your judgment, applicable only to the Clergy of the Church of England?

And in the former case, whether the Governors of the Provinces, acting under Her Majesty's authority, could make any appropriation to the Ministers of other Churches, without directly contravening the Act?

OPINION OF MR. PATTESON.

I have delayed answering the case a few days, only because it appeared to me so clear, that I was afraid I had not seen the difficulty, if there be any.

"I am of opinion that the provisions of 31 Geo. III. are applicable only to the Clergy of the Church of England. Whatever might have been the original meaning of the expression '*a Protestant Clergy*,' in the 14 Geo. III., it appears to me that the subsequent Instructions and Message of His Majesty, recited in 31 Geo. III., together with the Provisions of that Act, (and especially that which speaks of Institution and of the Spiritual Jurisdiction of the Bishop), plainly point out that the expression is to be understood as referring to the Clergy of the Church of England only. '*A Protestant Clergy*,' evidently means one single and entire body of persons; now the Clergy of the Church of England,

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ADDILOVE.

and those of the Kirk of Scotland, can never form one body. If, therefore, the Clergy of the Church of Scotland be let in, there is no reason why any other Denomination of Dissenters should not be admitted, and the words, '*a Protestant Clergy*,' must then be taken to mean Protestant Ministers or Teachers, which appears to me to be absurd. The expression was used in contradistinction to the ROMISH CLERGY, and although I am not prepared to say that an Establishment similar to the Kirk of Scotland, might not have satisfied the words of 14 Geo. III., yet I am quite convinced, that it would not have satisfied those of the 31 Geo. III. Being of opinion, therefore, that the Acts contemplate one single body of Protestant Clergy, I have no doubt that the Clergy of the Church of England are that body—and the erecting the Provinces into a Bishopric, and every thing done since, plainly shows that such is the right interpretation. I am also of opinion, that the Governors of the Provinces, acting under His Majesty's orders, cannot legally make any appropriation to the Ministers of other Churches. I think that nothing short of an Act of the Legislature, confirmed in England can authorize them to do so. The Charter* of April, 1819, would create a difficulty in the passing any such Act, and without a new Act, that Charter alone would almost decide the question.

"*Temple, May 20th, 1824.*" (Signed) "JOHN PATTESON."

* Mr. Justice Patteson here alludes to the Charter instituting the Corporation for the Management of the Clergy Reserves.

N.B. The opinion of the Learned Judge as to the sense of the Legislature, in 31 Geo. III. is confirmed by the fact—that in the same session (1791) in which this Act passed, "Sir Gilbert Elliott endeavoured to obtain an exemption from the operation of the Test Act, in favour of the Members of the Scottish Church, which was negatived by a majority of 87."—*Ann. Reg.* 1791, Page 154.

Moreover, the few itinerant preachers calling themselves of "the Kirk of Scotland," were not recognized by that Church till within a very few years; nor were any Clergy sent out by that Church, or any notice or care taken of the spiritual interests of the emigrant, till the establishment of a Missionary Society at Glasgow, about 1824, arising, doubtless, out of the singular conduct of the Colonial office, and the political bearings of this dispute; whereas, the Church of England has been engaged in the task of providing Clergy for the North American Provinces (however inadequately from the want of means) since the days of William III. 1704; and further, the Clergy of the Church of England passed, with their Royalist brethren, out of the States during the American war, and settled with them in Canada; while, on the other hand, the Dissenters of all denominations, Church of Scotland included, mainly took part with the revolt, and continued members of the American Commonwealth. Add to these considerations the facts of the Rebellion of 1715 and 1745, taking place within less than thirty years of the time when the expression "*a Protestant Clergy*" is used by the Legislature—that a soreness and ulceration existed between the Government and Scotland, even within the memory of many now alive,—that the very principles of Monarchy and Establishment were in peril when the Act of 1791 was passed, in consequence of the French Revolution; and that Edinburgh, Glasgow, and many parts of Scotland were deeply implicated in the "Corresponding and Affiliated Societies" of the day: and it seems hardly possible to conceive that any other Clergy were in the consideration

If, therefore, the reason why any other words, 'a Protestant or Teachers, which tradition to the Establishment words of 14 Geo. I. those of the 31 template one single of the Church of to a Bishopric, and interpretation. I ting under His Ma- Ministers of other legislature, confirmed April, 1819, would out a new Act, that N PATTESON."

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of Parliament, but those specially described in the 39th and 40th Clauses of 31 Geo. III. cap. 31,—“who shall have been *duly ordained according to the Rites de l'Eglise Anglicanne*,” and who were bound by institution to submit to the “spiritual and ecclesiastical authority of the Bishop of Nova Scotia, *according to the laws and canons of the Church of England*, which are legally established and received in England.”

On the 25th March, 1791, the Report of the Committee on the Bill was made to the House, and in the ensuing debate Mr. Fox expressed his disapprobation, of giving so large a portion as one-seventh to the Clergy. Mr. Pitt defended this enactment: “That this proportion (a proportion much less than one-tenth of the produce of the lands,) had become almost an established custom in England, *where land was given in Commutation for Tithes*.”—*Ann. Reg. 1701, page 112*. Now this principle can only be applicable to the Clergy of the Church of England, for Tithes, or Tithe, in the Scottish Church, are upon an entirely different footing.

EXTRACTS FROM THE ACT OF 1791.

Clause 36. Is the general declaratory Clause, enacting, “a permanent Appropriation for the support and maintenance of a Protestant Clergy” and rendering illegal and invalid any Grant wherein such proportionate Allotment shall not be annexed.

Cl. 37. Limits the Rents, Profits, and Emoluments, “to the maintenance of a Protestant Clergy, AND TO NO OTHER PURPOSE WHATEVER.”

Cl. 38. Authorizes specifically “the constituting and erecting within every Township, or Parish, which now is, or hereafter may be formed, constituted, or erected—one or more Parsonage, or Rectory.”

Cl. 39. Limits the persons to be presented to such Parsonages or Rectories, viz.—“An Incumbent or Minister of the Church of England, who shall have BEEN DULY ORDAINED ACCORDING TO THE RITES OF THE SAID CHURCH—(Suivant les Rites et usages de l'Eglise Anglicanne)—such persons to hold and enjoy the same as fully (aussi pleinement) and amply (et amplement,) and in the same manner (et de la meme maniere,) and on the same terms and conditions (et aux memes termes et conditions,) and liable to the performance of the same duties (et sujette a l'exécution des memes fonctions,) as an Incumbent of a Benefice or Cure in England (qu'un Beneficier d'un Benefice or Cure en Angleterre.”)

Cl. 40. Renders THESE CLERGY SUBJECT AND LIABLE TO ALL RITES OF INSTITUTION, AND ALL OTHER SPIRITUAL AND ECCLESIASTICAL AUTHORITY OF THE BISHOP OF NOVA SCOTIA, or such other Authority as may hereafter be lawfully granted by His Majesty, within the said Provinces, or either of them respectively according to the *Laws and Canons of the Church of England—which are legally established and received in England*. (Conformement aux loix et Canons de l'Eglise Anglicanne, qui sont legalement etablis et reeus en Angleterre.

Cl. 41. Provides in case of any change in these enactments, that such change cannot be valid except under the restriction provided in

Cl. 42. “That it shall ‘NOT BE LAWFUL’ for His Majesty, his heirs or successors, to signify his or their assent to any such Act or Acts, until thirty days after the same shall have been laid before the two Houses of the Imperial Parliament—or to assent to any such Act or Acts, in case either House of Parliament shall, within the said thirty days address His Majesty, his heirs and successors, to withhold his or their assent. And no such Act shall be valid or effectual to the purpose of any such change within either of the said Provinces, unless the Legislative Council and Assembly of such Province shall, in the Session in which the same shall have been passed by them, have presented to the Governor, or &c. an

address or addresses specifying that such Acts contains provisions for some of the said purposes herein before specially described, and desiring that in order to give effect to the same, such Act should be transmitted without delay, for the purpose of being laid before Parliament, previous to the signification of His Majesty's assent thereto.

Now, no other Clergymen, except those of the Church of England, *can*, by any construction, satisfy Clauses 38, 39, and 40.

And no other Clergy but Episcopal, *will* submit to the Spiritual jurisdiction or authority enacted Clause 40.

Yet, in the face of all this, Sir FRANCIS HEAD states, p. 280, "That in order to *help the question to a conclusion!!!* he recommended the Reserves should be divided among the Churches of England, Scotland, ROME! and Wesleyan Methodists;"—*the first and last alone*, in any respect acknowledging the Ecclesiastical and Spiritual authority of the Episcopal rites and canons 'de l'Eglise Anglicanne,' and three out of the four conscientiously opposed (with the constitution of Britain) to the creed and practices of the Church of Rome.

And in 1840, Governor Poulett Thomson directs Her Majesty's Attorney-General to bring into the House of Assembly of Upper Canada, a bill (*which that House has passed*) for the *sale of the Clergy Reserves*, providing that *half* of the produce of the sale shall be divided between the Church of England and the Church of Scotland, including the United Secession Synod; that the other half shall be divided among the various denominations of religionists, claiming the name of Christian, however far removed in opinion or practice from the simplicity that is in Jesus.

THE CHURCH, AND EDUCATION IN CANADA.

TO THE EDITOR OF THE NEWCASTLE JOURNAL.—No. 3.

DEAR SIR,—Having in two former letters shewn the havoc which modern systems of (mis) government (if left unchecked) are making upon the national "pillar of the faith" in Canada, and intending, if it meets your indulgence, to shew the mercantile community that the same system is sacrificing their own class also, *at the shrine of Daniel O'Connell*, and the Roman Priesthood, an intermediate step seems necessarily to be shewing *how* these voracious sticklers for General Education have been, and are, conducting themselves, as regards "Education upon Protestant principles," in the province of Lower Canada. I believe you know I have no inclination to meet Sophists in argument, having read Hudibras in former days; but with no more words of my own than I can possibly help, my wish is to state plain fact upon authentic evidence,

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leaving others to draw their own inferences as to the iniquity of such proceedings—rendered still more glaringly iniquitous by the contrast it forms with their conduct towards a class who hold, in the language of the Litany of Edward VI. "the detestable errors of the Pope of Rome."

"No one can question the authenticity of one of those large blue folios, which seem to have turned the island mad of late; I, therefore, have recourse to the Appendix, No. 10, First Report of the Triumvirate Commissioners; first, stating a singular specimen of legislative justice—and what makes the fact still more singular, is, that the same page (12 of Report) which relates the circumstance, contains a *recommendation* "that the Royal Institution should be left to be assisted by the assembly, which we believe has always shewn itself liberal in encouraging the promotion of Education!! The fact is this; the Rev. Mr. Burrage was sent out by government as master of the school, at Quebec. He was guaranteed a salary of £200 per annum, paid out of the Jesuits' estates. Lord Ripon gave up these estates, in his liberality, without conditioning for the fulfilment of the pledges by which they were burdened. What follows? These *exemplary liberals* of the Assembly, (if we are to believe the Commissioners), bring in a bill, in 1833, (as soon as the quarry was safe within their grasp), to reduce the salaries of the Protestant schoolmasters of Quebec and Montreal, from £200 per annum to £100! and at the same time required them to teach 20 additional free scholars, thus liberally entailing upon them the expense of additional assistants at the very moment when their remuneration was diminished one half!!! Yet, in the tail of such a statement, the perpetrators of this act of cruel injustice and breach of faith, are to be *complimented upon their extreme liberality in grants for education*, by British Commissioners!! but I forget myself: these were Protestant school-masters—members of the *National Church*:—why National? That all might be entitled to "a share in her spoil." But to Appendix, No. 10, p. 35,

APPLICATION FROM THE PRESIDENT OF THE
ROYAL INSTITUTION FOR THE ADVANCEMENT OF LEARNING
IN THE PROVINCE OF LOWER CANADA.

To His Majesty's Commissioners of Enquiry, &c. &c.—The undersigned, having been authorized by a resolution of the Corporation of, &c. "to bring under the consideration of His Majesty's Commissioners the necessity, before the Crown lands or revenues thereof are surrendered to the provincial legislature, of reserving to the Crown the power of making endowments out of those lands or revenues, for the support of the Grammar Schools of Royal foundation, heretofore established in this province, and in aid of the private endowments of M^cGill College, at Montreal, and for the future extension of that establishment, or the foundation of a university, or other sufficient collegiate institutions in the province, in conformity to the Royal promise, recited in the preamble of the School Act of 1801," respectfully submits to His Majesty's Commissioners a statement of the grounds on which the Board of the Royal Institution solicits the attention of the Commissioners to this subject. The claim for a Royal endowment



out of the Crown Lands, for institutions of education in this province, may be stated as resting, 1st, on the pledge, contained in a communication of the Royal intention, to this effect, made by the Governor of the province to the Provincial Legislature, and recited in the preamble of the above named Provincial Statute of 1801; 2nd, on the measures which were taken shortly afterwards by the Provincial Government, in pursuance of that promise;—3rd, on the fulfilment of a like pledge, given nearly at the same time, for the benefit of the inhabitants of Upper Canada, who accordingly now enjoy the advantage of such an endowment;—4th, on the fact that all the other North American Colonies have had such endowments granted by the Crown;—5th, on the establishment of the Royal Grammar Schools at Quebec and Montreal, with a provision for the salaries of the Masters, out of the revenues of the Jesuits' estates;—6th, on the incorporation of McGill College, under a Charter from the Crown, with the declared intention, on the part of His Majesty's Government, at one period, (before Popery gained the ascendant,) to assign the revenues of the Jesuits' estates in aid of the private foundation of that institution; and, lastly, on the total absence of any other means or resource, by which the inhabitants of this Province, speaking the English language, can hope to see an Institution established, to which they could send their children for instruction in the higher branches of education. The promise of an endowment in land, conveyed by the Message referred to in the Act of 1801, and the measures adopted by His Majesty's Government, in consequence thereof, were stated by the Royal Institution in a Memorial to the Earl of Dalhousie in 1826, and as a Member of the Board has, by their request, placed before His Majesty's Commissioners a copy of that Representation, it is unnecessary for the undersigned again to state the terms of that pledge, or the nature of those measures. It may, however, be proper to add, that the act of 1801 was passed for the establishment and regulation of free lands, and other institutions of Royal foundation, of a more comprehensive nature; and that it is under this act that the Corporation of the Royal Institution has been established, and has received the devise and bequest under the will of the late Mr. McGill, under which McGill College has been chartered by the Crown. Under this Act many elementary schools were established and provided for out of the public revenues; but *no measures* were taken for creating the Corporation contemplated by the Act; or for establishing Schools for the higher branches of education, till 1815-16, when His Majesty's government ordered that the Royal Institution should be organized, (with a view in particular to take advantage of the bequest of Mr. McGill, who died in 1813), and *at the same time directed that the funds of the Jesuits' estates* (given up unconditionally by Lord Ripon ten years after!) should be applied to the erection of a college under that bequest; and in the year 1816, masters were engaged, and *sent out from England*, who were to have charge of Royal Grammar Schools, then directed to be established at Quebec and Montreal, with a suitable provision out of those estates. (How this pledge and Royal engagement has been fulfilled since the Jesuits' estates were given up, has already appeared in my preamble to this document.) These measures, which were considered as the first steps towards the execution of the promises made by the Crown to assign an endowment for education, were followed by the incorporation of McGill College, under a Royal Charter, in 1821, of which the Royal Institution are the visitors; but it was not until 1829, after a long course of litigation, that the Royal Institution came into possession of the landed property and buildings near Montreal, devised by Mr. McGill; nor was it till a few months ago that the judgment was obtained before His Majesty's Privy Council for the sum of £10,000 also bequeathed by Mr. McGill, in trust for the Royal Institution. This legacy, though now amounting with accumulated interest to £22,000, is manifestly insufficient without the aid of further endowment, for the establishment and maintenance of an University, as contemplated by the Testator, or even of a single College. Mr. Cochrane proceeds to point out the necessity of provision being made for Academical Institutions

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of a minor nature, and then states the fact regarding the Schools at Montreal and Quebec, that though *sent out by His Majesty's Government* at the time, yet the masters have been left without support from 1832, *when the Jesuits' estates were unconditionally given up!* and he adds, that there is no reasonable ground to hope that any relief will be afforded to the teachers of these Royal Establishments, unless His Majesty, in his bounty and justice, shall secure a provision for them out of his land revenues, at least equal to that upon the *promises* of which the Establishments were originally formed. He then recites what has been done in the other Colonies, where, by the way, the interests of Popery are not so triumphant) and continues, "while such provision has been made for education in the neighbouring Colonies, and while the establishments for education of that part of this Province which is of French extraction, and of the Roman Catholic persuasion, are *extensive, and supported by large endowments*, which, though originally derived from private donations, have been secured by capitulations granted by the Crown, or have been *left by its sufferance and indulgence in their possession*) the other inhabitants of the Province feel the want of the same advantage. It is true that the seminaries here alluded to, are nominally open to all classes of the population, but they are practically closed—for it is an undoubted fact that an almost universal and insuperable reluctance appears to exist among those classes to avail themselves of the means of instruction so afforded to their youth—(the reason of this may be easily guessed)—and the few instances of young persons of that description being educated in these seminaries have been, and are infrequent—and bear no assignable proportion to the number **SENT OUT OF THE PROVINCE** for education. Independently of this consideration, the range of instruction in one of these seminaries is necessarily limited by particular circumstances, and in neither of them is an education afforded, either founded upon the principles, or conducted in the manner to which, whether from prejudice, or enlightenment, those who belong to a different class of the population, would give a decided preference;—and the same observation applies, and will, it is believed, long continue to apply, to other seminaries of more recent origin, which have been founded with the most praiseworthy zeal by the Roman Catholic Priesthood, aided by grants from the legislature, in those parts of the province inhabited by a population of French extraction. Circumstances in the political condition of this province, to which the undersigned is desirous not to advert in a more particular manner (viz. British interests being overlaid by French majorities) but which can neither be kept wholly out of sight, nor their influence changed, as he believes, except in a long lapse of time, render it improbable THAT ANY PERMANENT establishment, or encouragement, can be expected, except direct from the Crown, for such institutions in the higher branches of education, as would be acceptable to that part of the community deriving its origin from the mother country. It is a' once an evidence of the state of things here described, and of the strength of the feelings and prepossessions from which it has originated, that persons wishing to give their children an enlarged and complete education, have been compelled to send them out of the province, either to Great Britain—to Upper Canada—Nova Scotia—or even to the United States—and it is a fact, that at the present moment there are at a private institution for classical education, in the State of Vermont, nineteen young persons from this province, or the adjacent parts of Upper Canada (chiefly belonging to the most respectable families of British origin) who have been driven to this resource for the better education of their children, in consequence of the absence of any well endowed and established seminary of their own principles in the province. The Royal Institution are aware it does not belong to the duties of His Majesty's Commissioners to set apart endowments for education from the Crown Lands; but they have drawn the attention of the Commissioners to the subject, in the apprehension that, by the measures which the Commissioners are now framing for surrendering the Crown lands, or the revenues, to the Provincial Legislature, the Crown will be precluded hereafter, (as in the instance of the Jesuits' estates,) from exercising any power of providing for this important

object out of its territorial possessions, unless such power be expressly and in terms reserved to it, or a sufficient provision previously assigned.

(Signed) ANDREW WILLIAM COCHRANE,
President of the Royal Institution.

Quebec, 24th December, 1835.

This statement will show to the British people at home (if you favour me by its insertion) how pledges and promises have been made and kept in Lower Canada—as respects the interests and advantages of the Protestant Settlers. My next will show how Pledges *which our fathers NEVER GAVE*—and PROMISES WHICH THEY NEVER MADE—have, by political contrivances, and political connivances, been poured, even to overflowing, into the bosom of that Church—which our fathers shed their blood to get rid of—and adherence to which cost the House of Stuart the throne—to the aggrandisement of the House of Brunswick.

I remain, Dear Sir, yours truly,

W. J. D. W.

Beacon Grange, March 6, 1840.

The petition to Lord Dalhousie, alluded to above, ran thus—

MOST HUMBLY SHEWETH,—That in the provincial statute of 1801, under which this Corporation has been instituted (observe this is but ten years after the passing of the Constitutional Act 31 Geo. III.), it is stated that "His Majesty had been graciously pleased to signify his Royal intentions that a suitable provision of the waste lands of the Crown should be set apart, and the revenues appropriated to those purposes," for the accomplishment of which this Corporation was established; and that your petitioners cannot but consider this EXPLICIT, PUBLIC, and SOLEMN declaration of the Royal purpose, as carrying with it a *pledge peculiarly strong*, more particularly as the act itself was reserved by the provincial government, for the *express signification* of His Majesty's pleasure thereon, and was thereby brought under the special consideration of His Majesty's Government of the day, before it received the final sanction of His Majesty. The petition then goes on to state, that having referred to sundry documents lodged in the office of their Secretary, they find, November 11th, 1801, that his Excellency Lieut.-Governor Milner informed the Executive Council that His Majesty "being desirous to afford all possible encouragement to his Province of Lower Canada, in carrying into execution an object of so much importance as the instruction and education of youth, had signified to him, through his Grace the Duke of Portland, his Royal pleasure that he should, upon consulting His Majesty's Executive Council, report in what manner, and to what extent it would be proper to appropriate a portion of the Crown lands, or revenues arising therefrom, for this purpose;" and that his Excellency referred the matter to a committee. That the Report was approved in Council, June 27th, 1803, recommending an appropriation of sixteen Townships, and that the Governor promised to transmit the same to the then Secretary of State, for His Majesty's Royal pleasure. That it appears from a despatch dated Sept. 9th, 1803, (a copy of which is in the archives of the institution) that His Majesty was graciously pleased to APPROVE THE APPROPRIATION of a quantity of land for the foundation of two seminaries, one at Quebec, and one at Montreal, upon the scale recommended by the Council, viz. to the extent of 20,000 acres for each School (not one acre of which has been assigned!!!) This document p. 37-38, is signed by the late Chief Justice, Feb. 10th, 1836.

T. SEWELL, President.

CHURCH ROBBERY IN CANADA.

TO THE EDITOR OF THE NEWCASTLE JOURNAL.—No. 4.

DEAR SIR,—In my first and second letters I showed your readers the plan of sacrilege in progress for destroying the permanence of Protestant Christian Principles in Canada, and I hope might convince some of my brothers in the sister church (not steeped in the mire of faction) what an ill work has been going on under their name, terminating in robbery upon us, without *any great advantage to themselves*. In my second, I shewed how the same Satanic principle had been at work in the case of the Royal Institution, and the Schools of Quebec and Montreal, and that, in fact, the Crown of Great Britain—the fountain of honour—and, as it used to be thought, the bulwark of truth and fair dealing—had been plunged into a system of faithlessness and breach of promise towards its subjects of the national religious principles, of which no English private gentleman could have been guilty, without a fair claim to a mission to Coventry. I have promised you, for the information of the mercantile interests of the empire, a document to prove that it is their turn next, and that the attack upon mercantile industry, talent, and capital, has already commenced at Montreal, and that they also must be added as an ingredient of the great sacrifice to Baal and his compeers; as, however, it was stated in the House of Lords last spring (in reply to his Grace the Archbishop of Canterbury) by two Noble Lords who had held, at various periods, the Colonial Seals, that there were “circumstances in the capitulation” which made these singularly anti-Protestant arrangements *inevitable*, and as, if these statements were correct, the document I purpose to send you would be deprived of much of its force, I think it may be advisable, before I present it to you, to show from the records of those days that such representation was entirely erroneous, and that so far from the city of Montreal being then so circumstanced as to require the terms of the capitulation to be *strained* from their plain, grammatical meaning, the actual fact was, that the terms were granted by the stop-watch, and a few minutes’ hesitation would have caused the city to be bombarded about their ears. The articles also show that the claims now set up were actually presented to General Amherst, and positively and distinctly rejected. The records to which I refer are the original letters which passed upon the subject, and which may be found in the *State Papers*, “*Annual Register*, 1760, page 220. Few of your readers having the means to refer to them, there is no remedy but to make a transcript.

LETTER FROM MONS. VAUDREUIL TO GENERAL AMHERST.

Montreal, Sept. 7th, 1760.

SIR,—I send to your Excellency M. de Bongainville, Colonel of Foot, accompanied by M. de Lac, Captain in the Regiment de la Reine; you may rely on all that the said Colonel shall say to your Excellency in my name.

I have, &c.

VAUDREUIL.

GENERAL AMHERST'S ANSWER TO THE ABOVE.

Camp before Montreal, Sept. 7th, 1760.

SIR,—I am to thank your Excellency for the letter you honoured me with this morning by Capt. Bongainville, since which, the terms of capitulation *which you demand* have been delivered to me. I send them back to your Excellency, with those I have resolved to grant you; and there only remains for me to desire that your Excellency will take a determination as soon as possible, AS I SHALL MAKE NO ALTERATION IN THEM. If your Excellency accepts of these conditions, you may be assured that I will take care they shall be duly executed, and that I shall take a particular pleasure to alleviate your fate as much as possible, by procuring to you and to your suite all the conveniences that depend on me.

I have, &c.

JEFF. AMHERST.

SECOND LETTER FROM M. VAUDREUIL TO GEN. AMHERST.

Montreal, Sept. 7th, 1760.

SIR,—I have received the letter your Excellency has honoured me with, as well as the answer to the articles which I had caused to be proposed to you by M. de B. I send the said Colonel back to your Excellency, and I persuade myself that you will allow him to make, by word of mouth, a representation to your Excellency, which I cannot dispense with myself from making.

I have, &c.

VAUDREUIL.

GENERAL AMHERST'S ANSWER TO M. V.'S SECOND LETTER.

Camp before Montreal, Sept. 7th, 1760.

SIR,—Major Abercrombie has delivered to me the letter with which your Excellency has honoured me, in answer to that which I had addressed to you with the conditions on which I expect that Canada shall surrender. I have already had the honour to inform your Excellency that *I should not make any alteration in them*: I cannot deviate from this resolution; your Excellency will therefore please to take a determination immediately, and acquaint me in your answer whether you will accept them or not.

I have, &c.

JEFF. AMHERST.

LETTER FROM M. LEVIS TO GENERAL AMHERST.

Montreal, Sept. 7th, 1760.

SIR,—I send to your Excellency M. de Lapause, Assistant Quarter Master General to the Army, on the subject of the *too rigorous Article*, which you impose on the troops by the capitulation, and to which it *would not be possible for us* to subscribe: be pleased to consider the severity of that Article. I flatter myself that you will be pleased to give ear to the representations that officer will make to you on my part, and have regard to them.—I have, &c.

LE CHEVALIER DE LEVIS.

GENERAL AMHERST'S ANSWER TO M. DE LEVIS.

Camp before Montreal, Sept. 7th, 1760.

SIR,—The letter which you have sent me by M. de Lepause, has this instant been delivered to me: ALL I have to say in answer to it is, that *I cannot alter in the least*, the conditions which I have offered to the Marquess de Vaudrenil, and I expect his *definitive answer* by the bearer on his return. On every other occasion I shall be glad to convince you of the consideration with which I am, &c.

JEFF. AMHERST.

N. B.—“These two letters shew palpably, not only that General Amherst meant what he said, but that the capitulators knew what he meant; and had not even the folly to make any objections, except upon some point of military degradation.”

THIRD LETTER FROM M. DE VAUDREUIL TO GEN. AMHERST.

Montreal, Sept. 8th, 1760.

SIR,—I have determined to accept the conditions which your Excellency proposes. In consequence whereof, I desire you will come to a determination with regard to the measures to be taken relative to the signing of the said articles.

I have the honour, &c.

VAUDREUIL.

The last two letters exchanged, relating to mere form of taking possession, I need not trouble you with.

Then follow the articles, the French version which I have seen, and which shews the original wording presented, and the specific

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VAUDREUIL.
LETTER.

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VAUDREUIL.

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alterations in that wording made by General Amherst, are even stronger in favour of the British Settlers at Montreal, than the version given in the *Annual Register*. I shall now add a brief extract from the propositions made by France, and presented to Lord Chatham, then Mr. Pitt, July 15th, 1761 :—

France cedes and guarantees all Canada to England forever upon four conditions:
1st. That the religion of Rome may be publicly confessed and exercised there.
2nd. That the French may retire to French Colonies with their effects, the English providing means of transport.
3rd. That the limits of Canada and Louisiana be finally settled.
4th. Liberty to fish on the banks of Newfoundland.

On the 20th of July, 1761, Mr. Pitt gave in substance the following answer :—

"That Great Britain will never recede from her claim of the total and unconditional cession of all Canada and its appurtenances."

Extract from the fourth Article of the definitive Treaty of Peace, concluded at Paris, Feb. 10th, 1763 :—

"His Most Christian Majesty cedes and guarantees to his said Britannic Majesty in full right Canada with all its dependences, in the most ample manner and form, without restriction. His Britannic Majesty on his side agrees to grant the liberty of the (R.) Catholic Religion to the inhabitants of Canada, and will give the most effectual orders that his Majesty's new Roman Catholic subjects may profess the worship (no more) of their religion according to the rites of the Romish Church, as far as the laws of Great Britain permit."

Extract from the Proclamation, dated 7th October, 1763 :—

"All persons inhabiting in, or resorting to our said Colonies, may confide in our Royal protection for the enjoyment of the benefit of the laws of our realm of England."

And then power is given to the Governors to grant, &c. as stated by the merchants of Montreal in the document I shall send.

Extract from the King's reply to an address from the Archbishop of Canterbury, and Bishops and Clergy of the Province in convocation assembled, referring to this very subject—the spread and encouragement of Protestant principles in the newly acquired province of Canada.

"It will ever be my sincere desire to extend our most holy Religion throughout the vast dominions added to the Crown by the late honourable and advantageous peace ; in this pious work, I am persuaded, I shall have the hearty and zealous assistance of my faithful Clergy, and they may be assured of my constant protection and support."

The Act 14 Geo. III., 1774, which first authorized the Roman Catholic Priesthood to receive any of their dues, and even then limited the grant only to those of their own persuasion, (expressly reserving the residue for the encouragement of the Protestant Church,) sufficiently marks the sense in which "the freedom of worship," stipulated for by the French king, and granted by the English, "as far as the laws of the realm of Great Britain would permit," must, and can only be understood—a liberal toleration, as clearly distinguished from any thing more—and the clause which specifically "excepts the religious communities," must of necessity be interpreted by these facts, not by the sophistical arguments of the triumvirate commission. No. 14, 5th Report, page 146.

The last extract with which I shall trouble you, is to show by the evidence of an eye witness, how utterly absurd in the supposition that the Canadians were in a condition to prescribe terms or interpretations to the conquerors, when they passed from the French to the British Crown; indeed their own histories prove the reverse.

Extract from a letter of an officer in Col. Frazer's regiment, dated St. Valier, near Quebec, Feb. 19th, 1761:—

"You may easily conjecture that the several parts of this country which we have been traversing for these two years with the calamities of war, are greatly ruined, and its poor inhabitants reduced to the greatest extremities and want; a great number of whom would certainly have perished this winter had not a most humane act of British generosity been shown them, by collecting among ourselves money for buying the necessaries of life for these needy wretches. Every private man, serjeant, corporal, and drummer in our regiment, has, of their own accord, contributed one week's pay for the relief and support of these distressed Canadians; each subaltern officer has given £1; each captain £3; and the major £5 sterling; so that we are now returning good for evil, and entirely forgetting that they scalped so many of our countrymen last year."

We, dear Mr. Editor, have lived to see—evil again returned for good, and I can scarcely express to you the astonishment with which I behold these aggressions day by day upon the peace and comfort of the British Settlers, whose industry, talent, and capital *alone*, have changed the city of Montreal from a mere military station, and an embarrassed factory, and the Canadian people from serfs to freemen (*si bona sua norint*,) when I recollect the fulsome and complimentary language of their own historians, before pampering had "taught Jeshurun to kick." We need, however, but look to Ireland for the clue.

A nearly similar case to that of Montreal, occurred at Manilla, Oct. 6th, 1762. The French histories of the time acknowledge, that, had not the above correspondence and submission taken place, General Amherst had resolved, when he encamped before the city, *to commence the storm by day break the following morning*. On the 6th of Oct., 1762, General Draper and Admiral Cornish sat down before Manilla with a like intention. To preserve the city from pillage, the General gave terms to the authorities upon a solemn promise of signing the articles of capitulation which he should dictate. Some time after, the Spanish Government brought a charge against Gen. D. relative to this; the terms were, (like Lord Amherst's,) more stringent than they liked, *when the danger was over*; he defended himself in a letter to Lord Halifax, the then Secretary of State, by stating "that it is a known and universal rule of war among the most civilized nations, that places taken by storm (as was nearly being the case with Montreal) without any capitulation, are subject to all the miseries that the conquerors may choose to inflict." As conquerors, says General Draper, (and General Amherst clearly acted upon the same view,) "we took the pen, and dictated the terms we chose to grant." In both cases, the horrors of a pillage, or an absolute submission to the term proposed, in their plain and literal meaning, was the only alternative presented

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to the besieged; they chose the last, escaped the horrors, and it is not for ministers or statesmen of the present day to screen their own misdoing, as if they were the inevitable results of General Amherst's capitulation; for upon *these especial points he was particularly firm and guarded*. The truth is, and it cannot be denied, that all these consequences and difficulties have followed from a line of policy adopted four years after the cession of the colony by France, and the origin of them can be easily traced to that headlong folly which plunged the nation into the first American war. *The aggrandizement of Romanism, in Canada, was to be a bridle in the jaws of British freemen*, and Stamp Acts, &c. &c. were to be forced down their throats by the aid of French bayonets. Into this, however, I shall not enter; suffice it to have paved the way for the document of the citizens of Montreal, by shewing that the ostensible ground for their oppression is opposed to fact, and that it is based upon a system of political chicanery and anti-christian compromise, which, if there be truth in scripture, (as I told a leading Minister about 14 years ago,) can only end in the utter subversion of British power: whether I was right or wrong, you know, and so does he *now*. "Thou hast been in Eden, the garden of God; thou wast the anointed Cherub: thou wast upon the holy mountain of God; but thou hast sinned, and I will destroy thee, O covering Cherub, from amidst of the stones of fire; thine heart was lifted up because of thy beauty, and I will bring thee to ashes upon the earth, in the sight of all that behold thee."—Ezek. xxviii. 3-19. The Montreal document I will send you, without further comment, as soon as it is returned to me.

I remain your obliged and faithful servant,

W. J. D. W.

Beacon Grange, March 13, 1840.

CHURCH ROBBERY IN CANADA.

TO THE EDITOR OF THE NEWCASTLE JOURNAL.—No. 5.

SIR,—Allow me to send you the following extract from the 5th Report of the Canada Commissioners, dated Quebec, Oct. 24th, 1836, as further explanatory of the statement of the Montreal Merchants, inserted in your last.

(Pages 145-6.)

12.—"The treaty of peace, concluded on the 10th of February, 1763, empowered subjects of France who might not be disposed to *remain* in Canada, under the dominion of England, to remove from the country, and sell their property, *provided it were to British subjects, and within eighteen months.*"

NOTE.—The ecclesiastical bodies were *specifically excluded* by the 33rd Art. of the Capitulation, as clearly understood in 1774,

see 14 Geo. III. ch. 88; besides which, it could, by no reasonable construction, be applied to proprietors actually resident in Paris.

13.—“On the 29th of April, 1764, the Seminary of St. Sulpice, at Paris, passed a deed of gift, which ceded to the Seminary of Montreal, as far as by such deed it could, all right and title whatever to the Seigneurie of Montreal, and other St. Sulpician estates in Canada.”

NOTE.—It may be here observed, that this was months after the property was *forfeited by the conquest*; and that it was also in direct contravention, even of the rule of the French King, 1733, prohibiting the Ecclesiastics in Canada, to hold lands. The Commissioners proceed,

“The validity of this Act has been the subject of much difference of opinion. It has been very generally denied by the English lawyers, who have been consulted upon it; by others it has been maintained. There seems little doubt that if the country had remained under the dominion of France, no such Act could have been valid without the ratification of the French King,” (who would not have contravened his own established rule of 1733); “but the impossibility of that condition being fulfilled after the conquest, at least by the King of France, has been argued by some to avoid the effect of its omission.” What an argument!! “However this may be, it appears by a certified extract, of which M. Quiblier has furnished us a copy, from the proceedings of the Seminary of St. Sulpice, at Paris, that, before executing the cession, a communication was received from the French Ambassador at London, to the following effect:—“My Lord Halifax, lui a dit que quoique le Roi d'Angleterre se fût engagé par le traité à laisser en Canada le libre exercice de la Religion Catholique et Romaine, SUIVANT LES LOIS d'Angleterre il ne s'ensuivait pas que des bienfonds, situés en Canada, passent continuer d'appartenir à des Français, vivants en France, et sujets du Roi de France. Que sa Majesté Britannique consent que les Pretres du Séminaire de Montreal continuent à en jouir, mais sans dépendance du Séminaire de Paris.”

NOTE.—Now, taking into consideration that this title was in direct contravention of the capitulation—directly opposed to the precise expression of the Act 14, Geo. III.,—never acknowledged in Canada—or OPENLY at home by Parliament—considered invalid from that day to this by British lawyers, how do these Commissioners proceed? It is a constitutional rule, that “the King of England” is bound by “the Law of England.” Well?

“Unless,” say they, “the correctness of the Ambassador’s representation be impugned, it follows, that the deed of gift in 1764, whatever may have been its sufficiency, or insufficiency in point of law, was passed in conformity with what had been stated to be the desire of the King of England, and that the Act of transfer was sanctioned by his authority, as far as the existing state of law and opinion seemed to allow. In 1774, the validity of the Seminary’s title was questioned by Sir James Marriot, who was employed by the English Government to make the plan of a code of laws for the province of Quebec. He expressed doubts of the Seminary being legally in possession, but the Government did not act upon his opinion.”

NOTE.—The statement of the Censitaires will shew that the late Chief Justice Sewell was *decidedly against the claim*; as also that orders were given to Lord Aylmer to try the question;—why he did not act upon his orders, in justice to all concerned, remains a mystery, only, perhaps, to be explained by documents in the bureaux of Papineau and O’Connell.

Now, Mr. Editor, for the information of your countrymen, will you be kind enough to *turn the picture*, and enable them to draw their own inferences. In the year 1791, the same King of

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England sent a message to the legislature, calling upon them to enable him *by law* to make a provision for the National Church, as the bulwark of Protestant principle in the Canadas. Mr. Pitt and Mr. Burke defended the proposal against the revolutionary opinions of those eventful days, (Popery then worked under a mask,) and by an act, sanctioned by the *three constituent parts of the legislature*, an arrangement was made, (known to Mr. P. Thomson under the name "Church Reserves.") I have already given you some information as to the intermediate time, and will therefore (for brevity's sake) pass to the year 1819. In that year a Board was *legally incorporated for the management of these reserves* ; thus the legislature and government of that day put their seal and sanction to the acts of their predecessors in 1791. But about 1823 a new light was shed upon the world. Pastorini's Prophecies, &c. (see Irish Reports of 1825.) frightened "the isle from its propriety," and step after step was conceded till these very commissioners, *who recommend the incorporation of a society of Romanist Priests*, to enable them to *fleece British merchants*, and enjoy, under the sanction of law, property to the amount of £500,000, which they had been enabled to raise a claim to merely by unjustifiable connivance ; these very self-same commissioners, I say, harping upon a smuggled promise given by a Popish inclined minister in his master's name in 1764, *recommend the entire subversion of the open and well-considered acts of the same monarch in behalf of the national faith ; confirmed by the other two branches of the legislature in 1791 !* and in reliance upon which 450,000 British Protestants have emigrated to the Canadas, a very great proportion of them *to escape from Popish tyranny in Ireland, and all expecting to enjoy in their adopted country the blessings, spiritual and civil, which used to be the glory of the mother land.*

Accept, Sir, my grateful thanks for the opportunity you have given me to speak my mind as to the iniquitous treatment of our emigrant countrymen, and the sacrilegious robbery of the National Church. If a comparison between the incorporation of the priests of St. Sulpice, as described in the statement of the Censitaires (British merchants) of Montreal, and the *dis-incorporation* of "the church of our fathers," manifested in Mr. Poulett Thomson's bill of confiscation, **ALREADY LAID** upon the tables of the legislature, does not rouse Britons, as one man, the glory of Britannia has *already returned* to the depths "*of the azure main,*" from which she sprung.

I remain your obliged and faithful servant,

W. J. D. W.

Beacon Grange, March 17, 1840.

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courage or distresses, the conquerors granted terms of especial favour. That communities, so situated, could not retire, according to treaty; and if they could not retire, they could not take away their personal estates. If, therefore, it be true in fact, that the estates in question were, at the conquest, held by the individuals by whom they were then occupied, in right of the foreign community of the Ecclesiastics of the Church of St. Sulpice, of Paris, either in the under tenancy, or in trust for them, or by deputation, they then necessarily fell to His Majesty, of whom the present possessors must in law be intended, to hold them as Trustees for such uses as His Majesty may be pleased to declare.

Communities (or Congregations as they are called in the Canon Law,) were, in France, composed of different houses of secular or regular priests, each of which had their particular Superior, but were all under the government of one head; every Congregation or Community of secular Ecclesiastics, in particular (of which description was the Congregation or Community of the St. Sulpicians,) had their Superior General. I beg leave, also, to premise, that by the law of France, no Congregation could, without the authority of the Crown, alienate or transfer their estates or effects, nor could such Societies, from the nature of them, be devisable, and, therefore, one part of the same Congregation could not transfer to another part. These principles, which are stated as well in the Report of Sir James Marriot, as in the Observations and Remarks of His Majesty's Attorney and Solicitor Generals of this Province, referred to me by your Excellency's order, I conceive to be unquestionable.

The Society or Community of "the Ecclesiastics of the Church of St. Sulpice, of Paris," usually called the Seminary of St. Sulpice, was established at Paris about the middle of the seventeenth century. There existed also at that time in France, another Society of priests and laymen, associated for the purpose of converting the natives of New France, or Canada, to the Christian Faith, to whom the Company of New France, who then held the whole of Canada of the Crown, had, in the year 1640, made a grant of the Island of Montreal, to be held by them on Fief. This Society for the conversion of the Indians, had made some improvements upon the Island of Montreal, but in the year 1663, conceiving that the great object of their Association would be better effected by the Ecclesiastics of the Community or Seminary of St. Sulpice, who had before sent zealous missionaries to the Colony, they executed to them—that is to the Seminary of St. Sulpice, of Paris, a donation, or deed, or gift of the whole Island of Montreal, subject to one condition, among others, which is expressed in these remarkable words:—" *Que le domaine et propriété de la dite Isle sera inseparablement uni au dit Seminaire sans en pouvoir être séparé pour quelque cause et occasion que ce soit.*"

It must be noticed, that, at this time, there was not any section or division of Saint Sulpicians established in Canada, those who were in the Colony being Missionaries only from the Society at Paris, who, upon acquiring the Island of Montreal, and not before, formed the resolution of establishing a branch of their House, or Community, at Montreal, under the title of the Seminary of Montreal, and, for this purpose in the year 1667, by memorial to his most Christian Majesty, they stated the above mentioned donation, the success which had hitherto attended the Priests, who had been sent to Canada by them as Missionaries, and their further intention of increasing the number of Priests in the Colony to fourteen,



praying that His Majesty would be pleased to grant to them Letters Patent to enable them to hold the Island of Montreal in mortmain, and give them an authority to create a Seminary at Montreal, and to constitute the Priests whom they should send over, and their successors, a Community, which His Majesty was pleased to do, by Letters of the month of May, 1667, in the following words—"Les Ecclesiastiques du Seminaire de St. Sulpice du Fauxbourg St. Germain, Paris, nous ont remontré que, &c. Nous leurs avons permis et permettons par ces presentes signées de notre main d'eriger une Communauté et Seminaire d'Ecclesiastiques dans la dite Isle de Montreal, &c. Et pour d'autant plus faciliter la d'te Etablissement, nous avons loué agré et approuvé louons, agreeons et approuvons la dite donation portée par le Contrat du dit jour neuvième de Mars, mil sept cent soixante trois, cy attaché sous le contrescel de notre Chancellerie, et de notre plus ample grace, nous avons amorti amor tissons à perpetuité la dite terre et Seigneurie de Montreal comme a Dieu ded ée et consacrée, voulons quelle soit unie à perpetuité à leur Société; sans pouvoir être obligée ni hypothéquée ni aliénée par aucun d'entreux en particulier, pour quelque cause et raison que ce soit pour enjouir *par eux et leurs Successeurs* du dit Seminaire et Communauté."

I cannot say whether the Seminary of St. Sulpice, under the authority given by these Letters Patent, did, by any Act, erect the Seminary of Montreal, and declare its members a community, or not. If they did not, there is no such Seminary, for the power to erect is given to the Society at Paris, and if never exercised, was in abeyance at the conquest, and if they did, they would not exceed the authority given. The Royal Letters Patent above-mentioned were certainly enregistered in the Superior Council of Quebec, on the 27th September, 1677, and the preamble to the Act of enregistration is in these words:—"Vu la requete presentée par Messire François Lefevre, l'un des *Prêtres du Seminaire de St. Sulpice de Paris, Seigneurs de l' Isle de Montreal*, et Superiour du Seminaire du dit Montreal, tendante à ce qu'il plaise au Conseil entretenir les Lettres d'établissement d'un Seminaire d'Ecclesiastiques dans l'Isle de Montreal, *dependante de celui de St. Sulpice*," &c.

From what has been cited, it appears certain that the Seminary of Montreal was no more than a subordinate branch—a dependent section of the Society of St. Sulpice of Paris, and that the priests of the Seminary of Montreal, being, in fact, members of the Society of Paris, as such, and as such only, possessed the estates in question, not in their own right, as distinct from that of the Seminary of St. Sulpice of Paris, but in right of the entire Society, as deputed agents for the whole, which is confirmed by the deeds of concession, leases, &c. made by the Seminary of Montreal, prior to the conquest, in which the authority under which they convey is generally set forth, and they are stated to be—"fondez de la procuration et procureurs de Messrs. les Ecclesiastiques du Seminaire de Saint Sulpice à Paris." Very many instances of this might be cited, but I shall produce but two. The first is of the 3d November, 1693, in these words—"Nous François Dollier de Capon, des *Prêtres du Seminaire de St. Sulpice, de Paris, Superieur de Messieurs les Ecclesiastiques du Seminaire de cette ville, de ville Marie en l'Isle de Montreal*, and *Procureur de Messire Louis Trouçon, Pretre et Superieur de Messieurs les Ecclesiastiques du dit Seminaire de St. Sulpice de Paris, Seigneurs et Propriétaires de la dite Isle de Montreal et lieux en dependats*, assis é de Messire Maurice

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Queré aussi un des Prêtres du dit Seminaire de St. Sulpice, Econome et Secrétaire de mesuit Sieurs les Seigneurs, &c. &c. The second is of the 19th of October, 1740, as follows—"Pardevant les Notaires Royaux de la Jurisdiction Royale de Montreal y residants soussignés, fut present Messire Louis Norman, l'un de Prêtres du Seminaire de Sainte Sulpice de Paris, Superieur des Messieurs les Ecclesiastiques du dit Seminaire établi en cette ville, *procureur de Messire Jean Baptiste le Conturieu, Prêtre, Docteur de Sarbonne Supérieur de Messieurs les Ecclesiastiques du dit Seminaire de St. Sulpice de Paris de Seigneurs de l'Isle de Montreal, &c. &c.*" If there can be any ambiguity in any of the above extracts, it is elucidated by the general principles before laid down, and put beyond dispute by the expressions used in many Royal Acts of Legislation concerning the Seminary of Montreal, in which that Seminary is in no instance named as a distinct establishment; on the contrary, the edict of March, 1663, for erecting a Court of Royal Jurisdiction at Montreal, considers the members of the Seminary of St. Sulpice at Paris, and those of Montreal, as forming one Society, and speaks of the latter, in clear terms, as a dependent creation belonging to the former—"Les dits Ecclesiastiques du Seminaire de St. Sulpice de notre bonne ville de Paris," says his Majesty, "s'étant réunis entièrement à nous et nous avant fait suppliés de vouloir les indemniser des emoluments qu'ils en tirent de l'exercice de la justice qui font une partie considerable de leur Seminaire en la dite Isle de Montreal, &c.;" and afterwards in the same edict—"Et afin que les Ecclesiastiques du Seminaire de Saint Sulpice, établis dans la dite Isle ne reçoivent aucun prejudice, &c." So also, in the edict of July, 1714, respecting the right of holding certain Courts of Justice in the Island of Montreal, &c. which the Crown had resumed, no mention whatever is made of the Seminary of Montreal, and the Ecclesiastics of the Society of St. Sulpice are considered as solely instructed, as appears from the following expressions:—"Les Ecclesiastiques du Seminaire de Saint Sulpice nous ont représentée que, &c., et pour indemniser les dits Ecclesiastiques et leur procureur des avantages qui puissent contribuer à leur établissement, &c., à ces causes et autres à ce nous mouvants, nous avons par ces présentes signé de notre main dit et déclaré, disons et déclarons n'avoir entendu comprendre dans notre Edit du mois de Mars, 1693, la basse Justice de l'Isle de Montreal, que nous voulons demeurer réservée dans toute l'étendue de la dite Isle aux dits Ecclesiastiques du Seminaire de St. Sulpice, qui pourront la faire exercer par tels Officiers que bon leur semblera, &c. Nous avons aussi accordé et accordons aux dits Ecclesiastiques du Seminaire de St. Sulpice les Droits Seigneuriaux dus par tous les habitants pour les échanges des terres et héritages, de leur dite Seigneurie de la dite Isle de Montreal et Cote de St. Sulpice, &c."

And in the last Act of the French Government, extant upon the subject, being an Arrêt of the Conseil d'Etat du Roi of the 5th May, 1716, the property of the Island of Montreal is still more explicitly declared to be vested in the Seminary of Saint Sulpice of Paris. "Vu par le Roi," (says this Arrêt,) "étant en son Conseil, la requête présentée par les Ecclesiastiques du Seminaire de St. Sulpice de Paris, Seigneurs de l'Isle de Montreal, Terre ou Cote St. Sulpice en Canada, leur appartenances et dépendances, &c., Sa Majesté a ordonné et ordonne que sur les demandes des Ecclesiastiques du Seminaire de St. Sulpice afin de reunion à leur Seigneurie, &c."

To the extracts from the public Legislative Acts of the Crown of France, two of which (*videlicet* the Letters Patent of July, 1714, and the Arrêt du Conseil d'Etat of March, 1693,) constitute the only existing title for the Cote de St. Sulpice, as appears from the fealty and homage rendered by the Seminary of Montreal to His Excellency Sir Frederick Haldimand in the year 1781, which I shall have occasion to notice more particularly, and to what I have cited from the Deed of Gift of the 9th of March, 1763, by which the Seminary of St. Sulpice acquired the Island of Montreal, I will add, in further proof of the fact which I am now endeavouring to establish, (namely, that the Seminary of Montreal was no more than an integral part of the House of St. Sulpice of Paris) some extracts from the Deeds and Conveyances under which the remaining estates of the Lake of the Two Mountains and Bourchomin are now claimed.

The original grant of the Seigneurie of the Lake of the Two Mountains by the Marquis of Vaudreuil, Governor, and the Chevalier de Begon, Intendant of New France, of the 17th October, 1717, grants that Fief "aux Ecclesiastiques établis à Montréal," and by the Royal ratification of this grant by Letters Patent of the 27th April, 1718, this is declared to be a grant to the House or Seminary of St. Sulpice at Paris. The words of these Letters Patent are as follows:—"Le Roy étant à Paris, et desirant traiter favorablement *les Ecclesiastiques du Seminaire de St. Sulpice établis à Paris, desquels dependent ceux du Seminaire de St. Sulpice établis à Montréal*, à qui les Sieurs de Vaudrenil et Begon, Gouverneur et Lieutenant General et Intendant en la Nouvelle France, ont accordé par concession du 17 Octobre, 1717, un terrain de trois lieux et demi, &c., à donné et concédé par le present Brevet, *aux Ecclesiastiques du Seminaire de St. Sulpice, établis à Paris le dit terrain, &c.*"

In September 1733, a second grant of a tract of land, adjoining to the Fief of the Lake of the Two Mountains, was made by the Marquis de Beauharnois, Governor, and Hocquart, Intendant of Canada, *aux Ecclesiastiques du Seminaire de St. Sulpice de Paris*, as an augmentation to that Fief, and in the Royal Letters of Ratification of March, 1735, His Most Christian Majesty, after confirming this grant generally, takes occasion again to declare that the first grant of the Seigneurie of the Lake of the 'Two Mountains, as well as the last augmentation, belonged to the Seminary of St. Sulpice of Paris, to whom he thereby grants a further augmentation of three leagues in depth, and confirms and limits the whole to them by these words—"Sa Majesté ajoute trois lieu d'étendue sur la profondeur, si la dite étendue se trouve libre, dont il fair *parcillement* don et concession *aux dits Ecclesiastique, de St. Sulpice de Paris qui les possederont en toute propriété et Seigneurie ainsi que l'ancien terrain, et la dite première concession.*"

As to the Seigneurie of Bourchemin, it was expressly given and conveyed by Pierre Normand Dosquet, Bishop of Samos and Coadjutor to the Bishop of Quebec—"à Messieurs les Ecclesiastiques *aggregés au Corps du Seminaire de St. Sulpice à Paris*, ce acceptant pour eux Me, Louis Normand, *Superieur du Seminaire en la Ville de Montréal.*"—This extract is made from the Act of Donation, passed before Barbel, Notary, at Quebec, the 19th of October, 1735, by which it was conveyed to them.

The next extract which I shall offer is from a Deed of Cession, executed by and between the Seminaire of St. Sulpice, of Paris, and the Seminary of Montreal, on the 29th of April, 1764, John Cousturier with

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This Deed recites the several titles of the Ecclesiastiques of St. Sulpice, of Paris, to the several estates in Canada now in question, of which it states that *they* were the undoubted proprietors. It then proceeds to declare the embarrassment which the conquest of Canada had occasioned, that it was impossible for them to keep the property, because His Britannic Majesty had been pleased to declare that all foreigners and colonists, proprietors of estates lying in Canada, who would not remain in the Colony as his subjects, should alienate what they possessed, under the pain of confiscation, that to sell them to individuals was to defeat the purposes of their institution, and, if sold they would fetch but a very small price; that, therefore, in this dilemma, the best course was to relinquish to the Seminary of Montreal all the right, title, and interest which they held in the property, and accordingly they did thereby *cede and abandon and transfer* to the Seminary of Montreal, the Seigneuries of the Island of Montreal and Cote de St. Sulpice, the Lake of the Two Mountains, and one moiety of the Seigneurie of Bourchemin, to be held by the Seminary of Montreal as their property, in the same manner as the Seminary of St. Sulpice had, until the Conquest, held, or of right ought to have held them, the whole being transferred in the state in which they then were, *without any guarantee* on the part of the former proprietors the Seminary of St. Sulpice at Paris.

This Deed, of which I annex to this Report an entire copy, appears upon the point now under consideration, to be so conclusive that I shall not trouble your Excellency with any further extracts. It is an admission by the parties themselves of all that I assert. And it is remarkable, that so late as the year 1781, in the Act of Fealty and Homage tendered to His Excellency Sir Frederick Haldimand by the Seminary of Montreal, they do not pretend to have any right or title to the estates in question, except what they derive from this conveyance from the Seminary of Paris. This act of Fealty and Homage first enumerates the several titles by which the Seminary of St. Sulpice acquired and held the estates in question, the cession of the 29th April, 1764, from them to the Seminary of Montreal, and concludes in these words—"Les dits Fiefs et Seigneuries etant la propriété incommutable de Messrs les Ecclesiastiques du Seminaire de Montréal à cause de la cession qui leur a été faite par Messieurs les Ecclesiastiques du Seminaire de St. Sulpice de Paris le vingt-neuf Avril mil sept cent soixante quatre, rapporté cidessus."

From the evidence which I had the honour to lay before your Excellency, it seems certain that the Seminary of Montreal was not, at the conquest, a body or community distinct from that of the Seminary of St. Sulpice, of Paris, and that the Priests who composed it did not constitute in themselves a mortmain—that the Priests of St. Sulpice, who were resident at Montreal, were merely deputed agents for the Seminary of St. Sulpice, at Paris, (to whom all the property in question was granted, and in whom all title thereto was vested,) and as such, administered the estates in Canada, and this being the fact, I fully concur in the sentiments of Sir James Marriot, contained in his Report of the year 1773, which is above referred to, and to the opinion of His Majesty's Attorney and Solicitor Generals of this Province, expressed in the observations and remarks referred to me; and am clearly of opinion, that the whole of the

estates lying in this Province, claimed by the Seminary of Montreal, are lapsed to His Majesty by right of conquest and acquired sovereignty, as the property of a foreign society, domiciled at Paris, and not in Canada, at the time of the conquest. I am further clearly of opinion, that the deed of cession, of the 29th of April, 1764, from the Seminary of Saint Sulpice, of Paris, to the Seminary of Montreal, is *ipso facto* null and void, for the estates had in fact, long before become vested in His Majesty, the conveyance being subsequent not only to the capitulations of Quebec and Montreal, but to the treaty of peace of 1763, by which Canada was ceded in full sovereignty to the Crown of Great Britain, and it is therefore perhaps unnecessary to add, that the Seminary of Paris at that time, had not only no property in the estates which they undertook to convey, but had not in law any right or authority whatever to transfer them, especially to the Seminary of Montreal, who, not being a district community, but a section only of the Seminary or community of the ecclesiastics of the Church of St. Sulpice, of Paris, had not, therefore, in themselves alone, any legal capacity whatever, to take and hold estates in mortmain.

But even supposing the Priests of Saint Sulpice, composing the Seminary of Montreal at the conquest, really were entitled at that time to and enjoy their own right, the estates belonging to the Seminary of St. Sulpice, in Canada, I cannot conceive that this right could possibly be extended beyond the term of their natural lives, and as all who were living at the conquest are now dead, the Order of St. Sulpice, quoad Canada, must, I think, have expired with them. For the Seminary of Montreal possessed no power to create Priests of St. Sulpice; and those, therefore, who are now in possession, whether subjects or aliens by birth, if they be ecclesiastics of the Church of St. Sulpice at all, (of which we can have no proof,) must have become such under some foreign authority, and the right of any foreign authority to qualify members to hold real property in any British dominion, cannot, in my opinion, be admitted or recognized for a moment, especially in ecclesiastical matters.

I am therefore further of opinion, that if the Priests of St. Sulpice, resident at the conquest in Canada, were, in fact, at that time, under the name of the Seminary of Montreal a body corporate, capable of holding real estate in mortmain, that such body corporate, has been long since dissolved by the natural deaths of its members, and consequently, that the estates in question have thereby reverted to His Majesty their right and lawful heir.

I cannot leave this part of the subject without recalling to the recollection of your Excellency, that Mr. Roux and the other French emigrant Priests of St. Sulpice, now in possession of the estates in Montreal, obtained from His Majesty in the year 1793, a mandamus directing Letters Patent to issue under the Great Seal of Lower Canada, declaring them denizens within the limits of the Province.—It may become a question whether they have any legal rights whatever under this partial and local denization, but certain I am that it does not enable them, either as individuals or as members of a corporation, to hold real estate in this Colony. By our law, aliens have *communione juris gentium*, but not *juris civilis*, and, therefore, nothing short of complete naturalization can enable them to hold immoveable or real property.

As to the means by which His Majesty, if he shall see fit, can enter into the possession of the estates which are the subject of this report, there is on this point very little difficulty.

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If the Seminary of Montreal can be supposed to have been a distinct body corporate, it may, perhaps, be best to proceed, in the first instance, by an information in the nature of a *quo warranto* against the persons who now claim to be considered as that body corporate, and upon obtaining a judgment against them, declaring the corporation to be dissolved, to enable the Sheriff in the district of Montreal, in which all the estates are situate, to enter upon them for and on behalf of His Majesty, by Commission under the Great Seal of the province, a measure which was lately adopted upon the dissolution of the order of Jesuits, by the natural death of the last surviving member of that community.

A second means is to institute in the name of His Majesty, a civil action against the several priests who now hold the estates by name as individuals, to try their title, and to recover from them the possession of the whole. This is called in the law of Canada a Petitory Action, and is equivalent to the English action of ejectment.

A third means is, for His Majesty to prohibit the admission of any new members into the Seminary of Montreal, from whence suppression and dissolution will follow of course, and of His Majesty's right to do so, if he should see fit, there can be no doubt, for the same law of France which acknowledges in the Sovereign a power to prohibit the establishment of a community or other religious house without his permission, by consequence acknowledges his power to forbid any other members being admitted into the communities or religious houses already established, and which were originally founded under the Royal authority.

A fourth means is, an amicable arrangement with the priests of the Seminary of Montreal, inducing them to withdraw (especially the aliens, natives of France.) upon an assurance of a proper provision for life, from the revenues of the estates.

A fifth means is, an Act of the Imperial Parliament, declaring that the estates were vested in His Majesty by the conquest, and are now his property, securing to the several priests now in possession, such pensions as may be thought proper for them respectively for life, and appropriating the estates to the encouragement of learning, the support of an university, or such other public purposes as the wisdom of Parliament shall find expedient.

And I am of opinion that either of the means will be effectual.

All which, nevertheless, is most respectfully submitted to your Excellency's great wisdom, by Sir, your Excellency's most obedient and most humble servant,

J. SEWELL,
Attorney-General, Lower Canada.

Quebec, July 2nd, 1804.

REMARKS ON THE PROPOSED ORDINANCE TO ERECT AND
ENDOW AN ECCLESIASTICAL CORPORATION IN
THE PROVINCE OF LOWER CANADA.

The Ecclesiastics of the Seminary of St. Sulpice of Montreal are in possession of certain Estates, their title to which is disputed, and the intent of the proposed Ordinance is to confirm their title to those estates, and to constitute and declare them to be a Body Corporate and Ecclesiastical.

The points first to be considered, are the respective claims of the Seminary and of other parties, to understand how far it may be equitable and expedient to use the power and authority of Parliament to set aside the ordinary course of law, and to extinguish the rights of those who deny and contest the Seminary's title.

It is known to several persons in the Province, that the question as to the Seminary's title was submitted to the Crown Lawyers, and in consequence of their opinion being adverse to the Seminary, instructions were sent by the Administration of that day to Lord Alymer, to require the surrender of the property to the Government, and, in the event of a refusal, to institute legal proceedings for its recovery. The public are yet in ignorance why Lord Aylmer neglected to act upon those instructions.

The subject again underwent examination before the Royal Commissioners, and after a long and patient investigation, the Earl of Gosford, Sir Charles Grey, and Sir George Gipps, were unanimously of opinion (although differing on most other subjects) that the Seminary had no legal claim to the Estates held by it, and their Report to the Government was framed accordingly.

These circumstances afford as strong proof as can well be obtained, short of a decision in the Courts of Law, against the Seminary's title; and it is not the fault of the *Censitaires* that a legal decision was not obtained long ago. The question was brought before the Courts of Law in this Province, with the intention of carrying it by a final appeal to England; but, upon its being argued before the Courts of Appeal at Quebec, the Judges in Appeal professed themselves to be divided in opinion, and no judgment could be obtained; the effect of which was to stay the proceedings. It is not meant to attribute any improper bias to the Members of that Court, but it is, nevertheless, certain, that the most ingenious advocate of the Seminary's cause could have devised no more effectual plan for defeating the ends of justice. It was well understood, that the Provincial Court of Appeals was only resorted to in this case as an intermediate tribunal, before which it was necessary to appear, in order to give the parties a right to carry the case before the King in Council, the Court of last resort. The decision of the Court at Quebec was, therefore, comparatively unimportant, whether for or against the *Censitaires*, but by refusing to render a judgment, the *Censitaires* were prevented appealing to England, which can only be done after a judgment has been rendered in the Provincial Court of Appeals. The Court of Appeals, at Quebec, is composed in part of the Judges, but the majority sit there in their capacity of Executive Councillors, and it is by no means disrespectful to the Honourable Gentlemen who constitute that majority, to affirm, that their opinion on any intricate point of law is not held in

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great respect, when opposed to the learning and research of those whose talents and acquirements have raised them to the highest judicial station in the Province. The legal merits of the case, as heard in the Court of Appeals, must be estimated, not by the comparative numbers on one side or the other, but by contrasting the professional knowledge and experience of the Members of the Court who were present and voted. The Presiding Judge, the late Chief Justice Sewell, maintained the right of the *Censitaires* in the case, which is, in itself, a strong presumptive proof that the Seminary's title is defective.

The Imperial Government being in possession of these facts, cannot defend the improvident grant to the St. Sulpicians, which is contemplated, by admitting rights as belonging to that community, which, after a full and impartial investigation, have been formally challenged and denied by the Law Officers of the Crown and by the Commissioners of Inquiry.

The case is as yet, however, but partially disclosed, and in order to comprehend the full measure of injustice which the proposed Government arrangement would impose on the *Censitaires*, it is necessary to examine the stipulations entered into by a Royal Proclamation, favourable to the English inhabitants, and the power of the Crown to carry those stipulations into effect.

When Montreal surrendered to the British arms, there were three Ecclesiastical Communities established in the city, viz.: the Jesuits, Recollets, and the St. Sulpicians, all of whom were, by the articles of capitulation, admitted to equal terms. The St. Sulpicians are not mentioned, except in conjunction with the other communities, nor is there any stipulation favourable to one of those bodies, which does not equally apply to all of them. The French demanded that these Ecclesiastical Communities should be preserved in their constitution and privileges, which was refused.

In the treaty of cession, the Religious Communities are not named, and the only guarantees are, the liberty of the Roman Catholic religion, as far as the laws of Great Britain permit, and leave to the French inhabitants to sell their estates, and retire from the Colony.

"The liberty of the Catholic religion, as far as the laws of Great Britain permit," may be enjoyed to its fullest extent, without the establishment or endowment of these Ecclesiastical Corporations, and the refusal to continue them in their constitution and privileges, by the articles of capitulation, was a positive and distinct refusal to allow those Corporations to remain in the Colony, and was so considered, and so acted upon, in regard to the Jesuits and Recollets. In neither of those cases were the Communities violently dispossessed of their estates, but by refusing them permission to add to their numbers, the Communities gradually became extinct, and on the death of the last survivor, the property was taken by the Crown. It is difficult to imagine why the same course was not taken with the St. Sulpicians, who had, in no respect, superior rights to the other Communities, and the extinction of whose feudal privileges was more desirable, inasmuch as they extended over a more valuable territory, and interfered materially with the growth and advancement of the chief commercial town of the Province. Such, however, was not the case, and while the terms of the capitulation were adhered to, in respect to the Jesuits and Recollets, the Ministers of the Crown, from time to time, connived at the introduction of new members into the order of St. Sulpice,

and permitted them to enjoy undisturbed a large and rapidly accumulating revenue.

This proceeding on the part of the Government, is directly opposed, not only to the terms of the capitulation, but to the spirit, if not the very words, of a Royal Proclamation, and an Act of the Imperial Parliament.

The Royal Proclamation, bearing date at St. James's, the 7th October, 1763, among other assurances of favour and protection, and with a view to the speedy settling of the Colony, declares it to be the Royal intention, "to settle and agree with the inhabitants of our said new colonies, or any other person who shall resort thereto, for such lands, *tenements*, and *hereditaments*, as are now, or *hereafter shall be*, in our power to dispose of, and them to grant to any such person or persons, upon such terms, and under such moderate quit-rents, services, and acknowledgments, as have been appointed and settled in other Colonies."

It does not belong to a brief outline of the case, such as this is intended to be, to enter upon a discussion as to the legal meaning of the terms used in the Royal Proclamation; it may not be out of place, nevertheless, to observe, that it would be difficult to designate any "lands, tenements, and hereditaments," which "shall hereafter be in our power to dispose of," of sufficient value to occupy His Majesty's intention, as affecting the general interests of the Colony, unless the "lands, tenements, and hereditaments," then possessed by the Religious Communities, were intended to be referred to. The estates held by those Communities were indeed of great magnitude, comprehending the lordship or superiority over the City of Montreal, a part of the City of Quebec, and several Seigniories, forming a large part of the most valuable lands within the Colony; and it was, undoubtedly, a matter of deep import to a considerable number of the ancient inhabitants of the Province, and also to those of His Majesty's subjects who were invited by the Proclamation, "to avail themselves with all convenient speed of the great benefits and advantages which must accrue therefrom to their commerce, manufactures, and navigation," to understand what were His Majesty's intentions in respect to those extensive estates which, by the conquest and cession of the Colony, had fallen to the Crown. The feudal rights enforced within those estates, and especially in the Cities, were highly injurious to "commerce, manufactures," and consequently to "navigation," and it is submitted, that no other reasonable interpretation can be given to the Royal Proclamation, than, that it was His Majesty's gracious intention to encourage the "speedy settling" of the country, and to promote its "commerce, manufactures, and navigation," by renouncing the oppressive usages and incidents of the feudal law in the extensive estates which "shall hereafter be in our power to dispose of," and to settle and agree with the *Censitaires*, on "such moderate quit-rents, services, and acknowledgments, as have been appointed and settled in other Colonies."

This interpretation of the Proclamation is further supported by the large and favourable construction, which, by custom, is always affixed to every Royal promise of grace and favour; and the rents and profits arising from the estates were not, at the period of which we are speaking, of such value as to render the boon which it was proposed to bestow on the *Censitaires*, an object of much importance to the Government in a pecuniary point of view. The large sums of money which have been collected by the St. Sulpicians, and the immense revenues which it is in contemplation

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to confer on them, have been chiefly created by, and are proposed to be drawn from, the industry, enterprize, and capital of the inhabitants of the Colony of British and Irish descent, who were invited to settle in the Colony by the Royal Proclamation, and to whom the promises in that document, it is reasonable to suppose, were intended more especially to apply; as without those assurances it could hardly have been expected, that any considerable number of His Majesty's native born subjects would settle in a Colony where the laws and feudal exactions of a despotic Government would continue to be enforced.

The intention and policy of the Government in regard to these estates, was again distinctly announced in an Act of the Imperial Parliament, 14th Geo. III. cap. 83, wherein it is provided, "That all His Majesty's Canadian subjects within the Province of Quebec, *the religious orders and communities only excepted*, may hold and enjoy their property and possessions."

Notwithstanding these public and authentic acts, in opposition to the articles of capitulation, in violation of the Royal promise, and against the spirit and intent of an Act of the Imperial Parliament, the St. Sulpicians have been permitted, until the present day, to enjoy the rents, profits, and feudal rights of their property and possessions, and that, too, not in virtue of a Royal or Parliamentary grant, but simply, as has already been shown, by the connivance of the Ministers of the Crown; who have thus, by indirect means, counteracted the effect of a Royal promise and an Act of the Imperial Parliament, maintained the St. Sulpicians in the exercise of their constitution and privileges, which had been denied to them at the capitulation, and virtually erected an ecclesiastical corporation within the Colony, with powers, and for purposes, such as it is believed no authority, except the Imperial Parliament, can rightfully bestow. It should also be borne in mind, that the opinions and Report, officially communicated to the Government, were to the effect that the St. Sulpicians wrongfully possessed the estates, and could be dispossessed by the ordinary forms of law, without having recourse to the Royal authority for their gradual suppression, as had been exercised towards the Jesuits and Recollets.

In this situation of affairs, an Ordinance has been submitted to the Special Council of Lower Canada, by authority of the Government, "*to Incorporate the Ecclesiastics of the Seminary of St. Sulpice of Montreal, to confirm their title to the Fief and Seigniority of the Island of Montreal, the Fief and Seigniority of the Lake of Two Mountains, and the Fief and Seigniority of St. Sulpice, for the gradual extinction of Seigniorial rights and dues, and for other purposes.*"

By this Ordinance, it is, among other matters, ordained and enacted, that the said Ecclesiastics shall hold and enjoy "the said several Fiefs and Seigniories, with all and every the rights, privileges, and appurtenances thereunto respectively belonging, or in any wise appertaining," and, "they are hereby conferred and declared good, valid, and effectual in the Law, *as fully, in the same manner, to the same extent, and for the same objects, intents, and purposes, as the Ecclesiastics of the Seminary of the Faubourg St. Germain Lez Paris, or the Seminary of St. Sulpice of Montreal, according to its constitution before the 18th day of September, in the year 1759, or either or both of the said Seminaries, might or could have done, or had a right to do, or might or could have held, enjoyed, or applied, the same or any part thereof previously to the last mentioned period.*"

The "rights and privileges" which "either or both of the said Seminaries," could have exercised "before the 18th day of September, 1759," while the Colony appertained to His Most Christian Majesty, the King of France, are not generally known, and it admits of some doubt whether the framers of the Ordinance were fully informed on that head; the "objects, intents, and purposes" of the St. Sulpicians, will be spoken of hereafter; but the main point to be considered is, that the landed proprietors of the City and Island of Montreal, and other extensive estates, are to be made and ordained the vassals of these Ecclesiastical Lords; with the privilege, it is true, of purchasing their exemption from the "*droits de cens et ventes, lods et ventes, droit de banalité de moulin, droit de retrait*," and sundry other "rights and privileges," which existed "before the 18th day of September, 1759," for all which they are held and bound to pay a large and unequally distributed compensation, or to remain in a state of vassalage for ever; and the money so raised is to be employed for the "same objects, intents, and purposes" as the said St. Sulpicians might or could have done "previously to the 18th day of September, 1759."

The Ordinance in question is not what it specifically professes to be, a measure of relief to the *Censitaires*. It creates the right, legalizes the exactions, and presents them as a free gift to the St. Sulpicians; and then, in the plenitude of Ministerial generosity, leaves to the landed proprietor the option of purchasing his relief from the burdens it imposes, or of becoming a vassal of the Ecclesiastics of the Seminary of St. Sulpice.

The landed proprietors, whose rights are thus summarily proposed to be dealt with, invoke the Royal Proclamation as a protection from this measure of injustice; but if Royal Proclamations are to be disregarded, still they appeal to an Act of the Imperial Parliament, as a pledge of the national faith and honour that they shall not be made the serfs of an Ecclesiastical community. If the feudal yoke must be borne, let it, at all events, have the impress of Royalty, for, if serfs at all, the landed proprietors are the serfs of the Queen.

It has been asserted that the landed proprietors have been gainers by the substitution of an Ecclesiastical, instead of the Royal power, as Seigneur; inasmuch as the St. Sulpicians have been in the habit of compounding with the *Censitaires* for the *Lods et Ventes*, at a lower rate than that authorized by Law. It certainly is the case, that the Seminary, holding the estates by a defective title, and being unable to enforce its claims in a Court of Law, has generally accepted, from the English inhabitants, a lower mutation fine than existed, according to its "rights and privileges," before the 18th day of September, 1759." In some instances, one in particular which could be named, of a wealthy and public spirited individual who had openly avowed his intention of resisting the claim, a compromise was effected on the payment of a sum, trifling indeed, as compared with the amount which a Seigneur may lawfully demand. Individuals, especially among the more wealthy class, have, unquestionably, been gainers by this mode of adjusting accounts; but by weakening the force of opposition, and depriving the landed proprietors of the support and active co-operation of those who, from station and influence, ought to have taken the lead, it has materially assisted the St. Sulpicians in their negotiations with the Government, and enabled them to obtain the Ministerial sanction to a measure, repugnant to the interests and feelings of the English inhabitants

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generally. Had the Crown entered upon the enjoyment of its rights in these Seigniories, the landed proprietors, both French and English, would have united in obtaining some measure of relief. The schools and colleges established by the St. Sulpicians are essentially French; and it has sedulously been inculcated on the French inhabitants, that any endeavours to dispossess the Seminary of its Feudal rights, were directed, not so much against the St. Sulpicians, as against the language, laws, manners, and customs of the "Canadian Nation." Prejudices and feelings were thus excited among the most numerous class of the population, in favour of the Seminary, which would not have operated, if similar exactions had been demanded by the Crown, and the revenues employed for other and general purposes. Considering the vexatious and oppressive character of feudal exactions; that among other "rights and privileges," the Seigneur is entitled to claim from every purchaser of real property a fine equal to one twelfth part of the price, a claim which recurs with each successive sale, it cannot be supposed that the British Government would have desired to perpetuate such a system of taxation on the estates belonging to the Crown, if the inhabitants of all origins had joined in representing its evil effects.

The liberality—or what, perhaps, might be better termed the policy—of the Seminary, has delayed the final settlement of the question until the present period; and this delay, which has been occasioned by the culpable neglect of the Ministers of the Crown, is now urged as a principal reason for granting to the St. Sulpicians the legal right to continue their exactions. The question of right is rudely set aside, and if the Government measure is persisted in, many thousands of native born British subjects will be handed over like so many Russian serfs, to be dealt with according to the "rights and privileges," which existed before the 18th day of September, 1759; and this monstrous and iniquitous proceeding is alleged to be justified, because the wise and equitable Ministers of the Crown have, for the last eighty years, denied to the British inhabitants an act of justice, and because the St. Sulpicians have, during that period, been permitted by the Government, to exact, from the British inhabitants, a large revenue, contrary to law.

It might be supposed, that in sanctioning an act of such gross injustice to the landed proprietors, the Government was influenced by some weighty considerations of state policy; that it was essential to the general interests of the Province, that, in this instance, the rights of individuals should be disregarded and set at nought; and that the end aimed at, would confer a great and lasting benefit on all classes of Her Majesty's subjects within the Province.

A slight inquiry as to "the objects, intents and purposes" of the proposed grant will suffice to show that, on public grounds, it is wholly indefensible, and that, in its general bearing on the interests of society, it is as inexpedient and impolitic as it is unjust.

The "objects, intents and purposes" of the St. Sulpicians of Montreal, so far, at least, as the public are concerned, according to their constitution and privileges before the 18th day of September, 1759, are the education and instruction of certain Indian tribes. This was, doubtless, an object of much importance, when the St. Sulpicians were first established and endowed in the Colony; but the few remaining Indians having a claim on the Seminary, are educated and instructed at so trifling an expense, that

it scarcely merits being taken into account, as compared with the revenues of the Community. The surplus funds accruing to the St. Sulpicians have been expended and appropriated at their discretion. They have claimed and exercised the right to determine, at their own pleasure, "the objects, intents and purposes" to which it should be applied, and it is generally understood that a part of these funds has been remitted and expended in France and the United States.

The proposed Ordinance, which is advocated by some well meaning persons, because, as they suppose, it provides for the education of the people, contains no provision whatever for that purpose. The estates and revenues are made over, without restriction, to the St. Sulpicians, "for the same objects, intents, and purposes as the Ecclesiastics of the Seminary of the Fauxbourg Saint Germain Lez Paris, or the Seminary of St. Sulpice of Montreal, according to its constitution, before the 18th day of September, 1759, or either or both of the said Seminaries might or could have done, or had a right to do, or might or could have held, enjoyed or applied the same or any part thereof, previously to the last mentioned period." What the Seminary of Paris, or the Seminary of Montreal, "might or could have done" with the revenues before the 18th of September, 1759, is not defined; they might, it is true, have established schools in this colony, but there is no official document on record, showing that they were bound to do so, and declaring what part of their revenues shall be appropriated for that "object, intent, and purpose."

The estates and revenues in question are of immense value. The evidence given before the Commissioners in 1836 on this head, has reference only to the Fief and Seigniorship of the Island of Montreal, no estimate having been made in respect to two other extensive Seigniorships, including a large extent of uncondemned land, and a domain farm within the limits of the city of Montreal. It is confidently believed that the St. Sulpicians will realize, under the proposed Ordinance, a sum not less than £500,000, besides which, they are permitted to invest £30,000 in real estate, which, if judiciously laid out in a young and rising colony, will, in the lapse of years, produce a considerable income,

The granting of this enormous wealth—so disproportioned to the resources of the Province—to an Ecclesiastical Corporation, which is empowered to admit and elect new members in perpetual succession without check or interference by the Imperial or the Provincial Governments, would be unwise and improvident, under any view of the case, but there are other circumstances connected with this grant, and the uses to which it will be applied, which render it peculiarly partial and oppressive.

The tax imposed by the Ordinance is to be levied indiscriminately from *all classes* of the landed proprietors, while the education afforded by the Seminary is adapted to the wants and wishes of a *part only* of the inhabitants. An Act of the Imperial Parliament is to be violated, a Royal promise thrown to the winds, the English inhabitants are to be taxed without being represented, and the rights of conscience invaded; and all this is to be done, because it pleases Her Majesty's Ministers to pander to the prejudices and the vanity of the "*Nation Canadienne*," by richly endowing at the public expense, an Ecclesiastical Community, and conferring "rights and privileges," as applied to a system of general education in Canada, which would not be tolerated in any other part of the British dominions. Let it not be supposed, that the opponents of this measure

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are unwilling that a suitable provision should be made for the general education of the people. An appropriation for that object, in which the Franco-Canadians would participate on equal terms with others, would be regarded as one of the greatest boons the Legislature could bestow. More than this cannot be conceded, and more than this ought not to be asked.

It is by no means the least singular incident in this proceeding, that the Ordinance should be brought forward with the sanction and concurrence of the Ministers of the Crown. The Parliamentary debates on the late Ministerial scheme of education in Great Britain and Ireland, contrast, oddly enough, with the views and intentions of Ministers on the same subject, in regard to this Province; and it is worthy of remark that, so far as can be judged from the opinions of the speakers on that occasion, there is no considerable party in Parliament, whether Whig or Tory, Radical or Conservative, that would not reprobate and condemn the principle embodied in the Ordinance, which, nevertheless, with all its imperfections and absurdities, is graciously tendered to the people of this Colony as a special act of Ministerial favour.

By the 14th Geo. III. cap. 83, it is provided that the Catholic Clergy "may hold, receive, and enjoy their accustomed dues and rights, *with respect to such persons only as shall profess the said religion,*" and under that authority the Catholic Clergy claim and receive tithes, from those of their own persuasion only. The exemption of the Protestant landowners from the payment of those dues and rights, has not been attended with practical inconvenience, or given rise to religious dissensions or animosity. Here, then, was a precedent which might advantageously have been applied to the present case; and if the Government, in its wisdom, see fit to appoint the Ecclesiastics of the Seminary of St. Sulpice, in perpetual succession, as commissioners to superintend the education of a part of the people, the "dues and rights" wherewith they are to be endowed, ought, in common justice, to be drawn from those only who belong to their persuasion, and for whose especial benefit the endowment is to be made.

It may be that the landed proprietors of French origin, will object to this plan of raising a revenue for "the objects, intents, and purposes" of the Seminary, against which indeed it might reasonably be urged that the entire expense of educating the people ought not to fall on the landed interest alone; but if those who *would* benefit by the endowment of the St. Sulpicians can assign this as a valid plea, why they should not be taxed for that purpose, it surely cannot be expected that others who *do not* benefit by the endowment, will submit to so grievous a wrong.

There is another party to the case, whose rights have been overlooked. If it has been determined upon by the Government, to compel the *Censitaires* to purchase the fulfilment of a Royal promise, the revenue so raised is as much the property of the public as the timber fund, the land fund, or any other branch of what is termed the Crown Revenue, and ought, in common justice, to be made available for the public service. A wasteful and prodigal grant of funds, more than sufficient to complete some great Provincial work of general utility, after the Government has announced its intention to effect a Legislative union of the Provinces of Upper and Lower Canada, is a matter deeply interesting to the people of both Provinces; and it is hoped and believed, that such a manifestation of public opinion will be exhibited, as will induce the Government to abandon a project indefensible.

in principle, and altogether unsuited to the social condition of the people of these Colonies.

Reasons of a still more grave and imperative nature exist, why an Ecclesiastical Corporation, with such extensive privileges and resources, should not be engrafted on the institutions of the province; and whatever confidence may deservedly be reposed in the Reverend gentlemen who now constitute the Community of St. Sulpice, it would be dangerous to the common weal, to erect a Corporation, with authority to admit and elect new members in perpetual succession, and invested with powers, rights, and privileges, which, improperly applied, would generate discord among the inhabitants, and exercise a powerful influence in the Legislature of the United Provinces.

The object of the foregoing remarks is to draw public attention to a subject, which, rightly understood, will be found to affect, in no ordinary degree, the future peace, welfare, and good government of the Provinces.

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