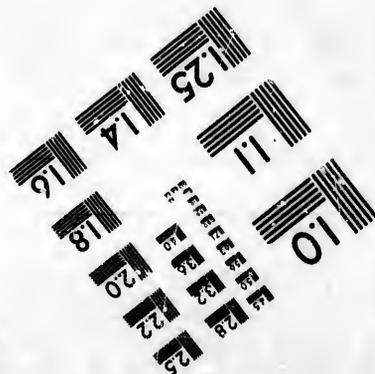
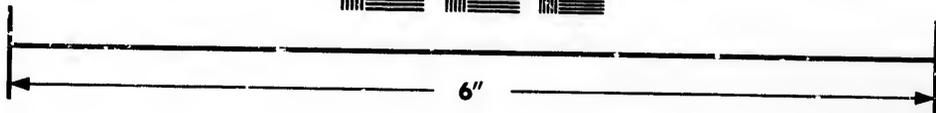


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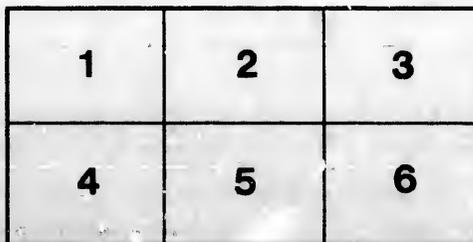
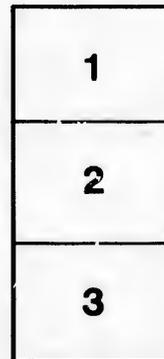
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JESUITS' ESTATES ACT.

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*This is by J. W. Wicksteed, J. C.  
who was for many years Law Clerk of our  
Legislature and who drafted all our Statutes  
from 1840 up to 1886 - when he retired. He is  
now nearly 89 years old. Born in Dec. 1799.*

*J. W. H.*

## JESUITS' ESTATES ACT.

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With reference to the articles in the LAW JOURNAL of the 15th February, 1889, the purport of which seems to be that the Jesuits' Estates Act, passed by the Legislature of the Province of Quebec, ought to have been disallowed, permit me modestly to express my opinion that the Dominion Ministry could not properly have advised its disallowance;—not because it was within the constitutional powers of the Quebec Legislature, for, if that alone were a sufficient reason, the *Veto* power would be useless, as an Act *ultra vires* would be *ipso facto*, null and void, although not disallowed;—but because, being perfectly within the powers of the Legislature, it was passed without opposition or remonstrance by any party, and is a fair and amicable settlement of a long standing difficulty and the expression of the will of the people of the Province. It does not violate the principle of the separation of Church and State more than the Clergy Reserves Act: both authorize the sale of property given for church purposes and education, and divide a certain proportion of the proceeds of the sale among the parties who appear justly entitled thereto, once for all, and so avoid any further interference of the Government, which can neither add to nor diminish the share assigned to each and such share, in the case before us, will be moderate enough, for it seems likely that the principal sum, \$400,000, will be divided among several educational institutions, and the interest of each share, at four per cent., will be a very modest contribution towards the support of an institution for superior education. The main objection made to the grant is that it is made to the Jesuits; but the Act does not give them the whole or any definite part of it, but allows the Pope to divide it

among institutions, who must use it within the Province, for the purposes mentioned within the preamble; and from the latest reports it seems probable that the Jesuits' share will not be exorbitant. The articles in question treat the work done by the Order rather slightly, but in Canada at least, their work compares favorably with that done by any other missionary body, and the martyr spirit in which it has been done is denied by none. They have shown themselves good teachers, and have several educational institutions against which I have heard of no complaint. St. Mary's College at Montreal, was incorporated by Act of the Parliament of United Canada (Upper and Lower) in 1852, the incorporators being the Roman Catholic Bishop of Montreal and six members of the Order;—it has I believe been very successful. Has any complaint been made against it during the 37 years it has existed? In 1887 the Jesuits were incorporated by the Quebec Act 50 Vic., c. 28, which was not disallowed, nor was its allowance made a matter of reproach to the Dominion Ministry.—It has been made a subject of reproach to the Jesuits and to the Pope, that he suppressed them in 1763 and restored them in 1814; but may not the Pope have been right in both cases, may not the Jesuits have shown him that they had seen the error of the practices by which they had offended, and reformed them? A hundred years have made great changes in men's ideas of morality and right. The Roman Catholic clergy do not now complain of the Jesuits, though they did in 1763. They have the virtues of obedience, self-denial, industry and temperance. They opposed the sale of intoxicating liquor to the Indians when the French Governor for profits' sake allowed it. They are accused of holding doctrines contrary to morality; but they deny the charge, and challenge proof. Their constitution and rules were printed in Latin and French at Paris in 1845, and there is a copy in our Parliamentary Library—why is it not cited to justify the accusation? They preach regularly in the church attached to St. Mary's College at Montreal;—is their preaching complained of? I am a Protestant and wish earnestly that all Jesuits and Roman Catholics were of my persuasion; but I do not think Protestants alone are Christians. The vast majority of our fellow subjects in Quebec are Roman Catholics, and acknowledge the Pope as the Head of their Church,

and I do not think a more faithful, devoted, or well beloved and respected body of men can be found anywhere than the Roman Catholic clergy of Lower Canada. Tennyson has written,—

“Love your enemies, bless your haters,” said the Greatest of the Great ;  
“Christian love among the Churches seems the twin of heathen hate.”

Ought not the members of every Christian church, while obeying the commandment cited in the Laureate's first line, to do their best to prove the bitter taunt in the second to be undeserved ?

And as respects the article questioning the constitutionality of the said Act,—it does not seem to me that the English Acts cited in it can apply to Canada, which when they were passed was no part of the realm of England, and the inhabitants of which are by subsequent Acts of the Imperial Parliament, guaranteed the free exercise of the Roman Catholic religion, of which the Pope is the head, and his supremacy as such part of its very essence. The later law derogates from and virtually repeals any former provision contrary to it: The English laws disqualifying Roman Catholics from holding certain offices were never in force in Canada. The money appropriated belonged to the Province, and is granted by its Legislature for the purposes for which the property from which it arises was given by the French King, and the Act of appropriation is sanctioned by the assent of the Queen, who may, without impropriety, avail herself, in dealing with it, of the advice and assistance of the Head of the Church and of an ecclesiastical and educational corporation, which, if not legally the same, is morally the representative and successor of that to which the original grant was made, and which, with the Pope, will be bound to use the money in accordance with and solely by virtue of the powers given them by the Act. I cannot see that any law is violated, or anything but right done by this provision.

W.

NOTE.—The above article was written for the LAW JOURNAL, but the March number was ready earlier than I expected and I was too late, and did not like to wait for the next number.

W.

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