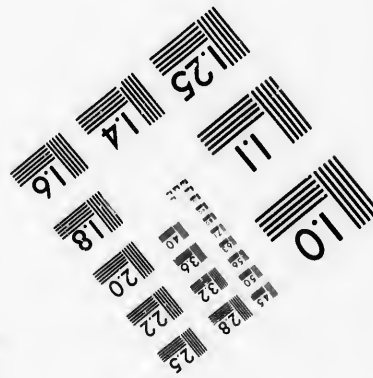
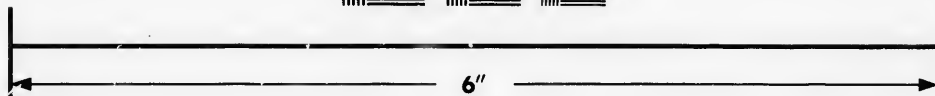
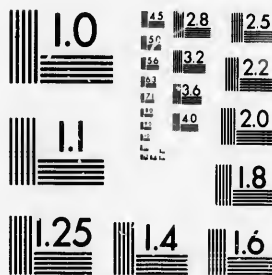


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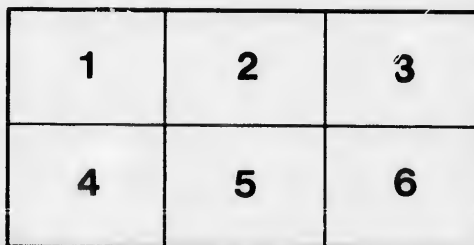
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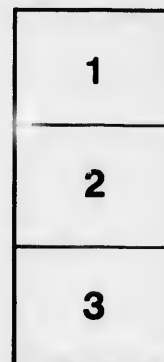
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DECLARATION, REQUISITION AND PROTEST,

AT THE REQUEST OF THE

Reverend ALEXANDER WALLACE, and others,

Ministers of the Presbyterian Church of Canada, in connection with the Church of Scotland,

TO OP AND VS

THE CLERGY RESERVE COMMISSIONERS.

ON THIS Day, the tenth of July, in the year of our Lord one thousand eight hundred and fifty-six, we the undersigned public Notaries duly commissioned and sworn, in and for that part of the Province of Canada, heretofore constituting the Province of Lower Canada, residing in the city of Montreal in the said Province, at the request and instance of the Reverends Alexander Wallace of Huntingdon, James T. Paul of St. Louis, Hamilton Gibson of Galt, Thomas McPherson of Lancaster, James Anderson of Queenstown, William Mair of Chatham, David Evans of Kitley, Thomas Haig of Beauharnois, William Simpson of Lachine, Joseph Anderson of South Gower, David Shanks of Valcartier, James Thom, of Woolwich, Thomas Fraser of Lanark, Solomon Milne, of Smiths-Falls, Donald Munro of Finch, John Davidson of New Richmond, George Thompson of McNabb, Alexander Mann of Packenham, Thomas Scott of Williamsburgh, William McLwan of North Dorchester, William Bell of North East Hope, Alexander McKidd of Goderich, Alexander Ross, — William Barr of Hornby, Peter Ferguson of Esquering, James Stewart — Mrs. Mair, widow of the late Dr., Hugh Mair, Mrs., Roach widow of the late Walter Roach, of Beauharnois, Mrs. McLean, widow of the late Aeneas McLean of Dalhousie Mills, Mrs. McLaurin, widow of the late John McLaurin of Martintown, Mrs. McKenzie widow of the late John McKenzie — Mrs. Moodie, widow of the late Duncan Moodie of Dundee;—repaired to the office

of the Board of Commissioners of the Clergy Reserve Fund, in the said City of Montreal, where being and speaking to Hugh Allan, Esquire, Secretary of said Board, we the said Notaries, for and on behalf of, and in the name of the above named Ministers of the Presbyterian Church of Canada in Connection with the Church of Scotland, to whom annual salaries or allowances have been assigned and given out of the proceeds of all the Clergy Reserves, &c., forming an annual fund for the support and maintenance of Public Worship, and the Propagation of Religious knowledge, (and to which the faith of the Crown is pledged) and in the name of their brethren similarly circumstanced, and in the name of the widows or representatives of Ministers deceased did and do by these presents enter our Solemn Protest to the Clergy Reserve Commissioners appropriating or applying to any other purpose or purposes such part of the said fund, or any portion thereof now in their hands which have been paid over to them by Her Majesty's Receiver General for the Province of Canada, or any part of the interest accruing thereon to be annually expended for the support and maintenance of a Protestant Clergy, and the Propagation of Religious Knowledge, "under such Regulations, as shall be from time to time established by the Governor of "Canada with the advice of his Executive Council," unless first of all having obtained an express concurrence thereto under their hand and seal, and for the following reasons:—

REMARKS BY

The Clergy Reserve Commissioners.

- 1.—Because, That the said Board of Commissioners submitted for the consideration and approval of the Governor and Council, certain Rules to be followed by them in the distribution of the funds intrusted to them, one of which rules was, to divide equally and as nearly as possible the Revenue of each year amongst the Ministers of that year.
- 2.—Because, The annual proceeds of the Clergy Reserves Fund being fluctuating, the Clergy Reserve Commissioners retained a sum each year, in order to secure regularity of payments, and meet contingencies, for which course they obtained the sanction of the Law Officers of the Crown at the sametime being informed, that with the exception of the said reservation for the above mentioned purposes, the revenue for each year must be distributed among the Incumbents for the then year, it being illegal to invest the proceeds of an investment.
- 3.—Because, It has been repeatedly acknowledged by the Clergy Reserve Commissioners themselves that the sum retained in their hands belongs legally and by right to the Incumbents during the year in which a balance was retained, and to be paid to them whenever the operations of the board permitted a distribution.

- 1.—No such Rule was ever submitted.

2.—The opinions then obtained from the Law Officers, were three in number, and differed materially—they were unanimous, however, in saying that the Commissioners had full power over the distribution of the funds, and that they could retain balances to meet various contingencies. Mr. Draper's opinion distinctly states, that it was *not* necessary to expend the revenue of the year during the year in which it was received, but that temporary investments for the benefit of the fund were within the power of the Commission.

- 3.—No such acknowledgement has ever been made. So far from it, £12,000 was set apart, by a unanimous vote for the erection of Mansees and the purchase of Glebes.

4.—Because, all the proceedings of the Board of Clergy Reserve Commissioners have been based on a recognition of this right.

5.—Because, In accordance with this acknowledged right distribution was made in the year of a large accumulated sum in the hands of the Clergy Reserve Commissioners to the Incumbents on the Roll of Synod for each year respectively, embracing in the division several preceding years, in the name of Bonus.

6.—Because, Also that in accordance with said acknowledged legal right permission was asked and obtained to pay out of each Incumbent's annual allowance, a certain sum, (to-wit, five pounds), to repay Mr. John Mowatt for advances made by him towards defraying the expenses of the Honorable William Morris to England, when prosecuting the claims of the Church of Scotland for a share of the Clergy Reserves, and other matters connected with the interests of the Church.

7.—Because, That the faith of the Clergy Reserve Commissioners has been pledged in repeated promises to pay the balance after defraying the necessary expenses of management, of the sum retained by them, to the Incumbents of each year respectively, in proportion to the amount reserved, and for each year.

8. Because, That it was on the clear understanding that such a division of the sum retained should be made, many of the Ministers who commuted were induced to consent to that arrangement, and agreed to take a less sum annually than they might have claimed during their lives and incumbencies.

9.—Because, That it was trusting to the faith of the Commissioners thus pledged that they consented to the retention in the hands of the Clergy Reserve Commissioners a portion of the allowances justly and by right belonging to them at times when their public and private allowances combined were so small that many of them have been forced to incur debts which they have been unable to liquidate, and their brethren deceased have entailed pecuniary burdens on their families which it would be cruel and unjust in the Commissioners not to afford them the means of relieving, at least to the extent of the proportion falling to each of the sum in their hands.

10.—Because, When the annual sum received by the Clergy Reserve Commissioners would have warranted them to pay at least to each Incumbent one hundred pounds per annum, a less sum than the half of that amount was distributed, and for many years it did not

4.—No recognition of any such right was ever made by the Clergy Reserves' Commissioners.

5.—The distribution or Bonus referred to was *not* in accordance with the alleged right, nor founded on it. It was *not* given to the Ministers on the Roll of the Synod each year respectively, for no Minister who had left the Province received it nor any Minister who had seceded from the Church—nor any representative of a deceased Minister.

6.—Mr. Morris was employed by a Lay Convention which met at Cobourg. The Clergy Reserve Commissioners did not think themselves authorized to pay expenses which they had not incurred; but it was the general wish of the Ministers that they should be paid. And the Commissioners, to enable the Ministers to do it without inconvenience increased their allowance, by five pounds each. It is difficult to see how this bears on the point in dispute.

7.—No such pledge was ever given.

8.—There was no such understanding—on the contrary, in a printed circular addressed to each Minister, by the Commutation Committee, dated 18th December, 1854, immediately preceding the meeting of Synod at which the Commutation was agreed to it was distinctly proposed that if each Minister would agree to the scheme to be submitted “a sum may be obtained, *the interest of which, with that of the balance in the hands of the Clergy Reserve Commissioners, will be sufficient to pay the full, or nearly the full amount of the present allowances from the fund, while the capital will remain untouched for the permanent endowment of the Church.*” Besides this there is no allusion to such understanding, in any of the documents put forth, in respect of the commutation.

9.—As no such pledge was ever given, it is impossible, that any one should have involved himself on the faith of it.

10.—The annual payments from the date of the establishment of the Trust were as follows:

1816.....	£63	6	8
1847.....	77	10	0
1848.....	80	0	0

exceed sixty pounds (£60), although they had borne privations and difficulties which those entering now on the field of labour cannot experience.

1849.....	80	0	0
1850.....	90	0	0
1851.....	112	10	0
1852.....	112	10	0
1853.....	150	0	0
1854.....	150	0	0

after which, the commutation was effected, and all will henceforward receive £112 10s.

11.—Because, That such procedure will justify the accusation brought by the Reverend P. McNaughton against the Clergy Reserve Commissioners of unjust and tyrannous conduct in the management of the trust, withholding annually a portion of the allowances which legally and by right belonged to the Incumbents of each year respectively, and which ought to have been paid over to them as it became due.

12.—Because, The Clergy Reserve Commissioners have repeatedly and expressly disclaimed all responsibility to the Synod, alledging that they were responsible only to the Government for their intrusions, and have hitherto invariably refused to receive the dictation of the Synod in respect to the distribution of the funds entrusted to them.

13.—Because, In several instances, it will be defrauding the widow and the orphan of monies justly and legally due to their late husbands and fathers by virtue of their incumbencies.

14.—Because there being a balance of (£10,000) Ten Thousand Pounds in the hands of the Clergy Reserve Commissioners over and above what they themselves have declared to be necessary for carrying out the operations of the Board to a conclusion, we do hereby for and in the name, and on behalf of the said Ministers call on the Clergy Reserve Commissioners, agreeably to their repeated promises, and the Rules for the management of said Trust to divide the same among the Ministers on the Roll of the Synod of each year in proportion to the sum received for the year, or the heirs or representatives of Ministers deceased.

15. Because, agreeably to the Rules for the regulation of management, any sum or sums over and above the Ten Thousand Pounds in the hands of the said Clergy Reserve Commissioners belong to the Incumbents for the years respectively in which it was retained. We, therefore, enter our Protest against said Balance or any portion thereof being appropriated to any other purpose except carrying out the necessary operations of the Board for which it was specially assigned; and if not so required we hereby claim that it be divided according as the Act Third and Fourth Vic. Reg., Chapter 78 prescribes, for the distribution of all funds accruing from Clergy Reserves, viz.: "annually" and among the Incumbents for the year in which each portion of said accumulated reserve was retained.

16.—Because, After this Protest or Instrument shall be duly served on the Board of Commissioners the said Ministers hereby declaring and protesting shall and will hold the said Commissioners personally and collectively responsible for any act in which they shall individually or collectively concur, misappropriating or non-appropriating of whatever funds may be in their hands; and that it shall be at their personal and individual risk that any monies shall be misappropriated.

11.—The proceedings of the Commissioners, with full detailed statements of their accounts were annually submitted to the Synod and invariably approved of, and the belief of the Commissioners was and is, that the Synod approved the retaining of balances each year, to meet such a contingency as has occurred.

12.—The Commissioners are not aware of any dictation on the part of the Synod, in respect of the balance in question. The Synod was asked to give an opinion—and they "respectfully advised," the transfer of the balance to the Commutation Fund. A copy of the Minute of the Synod on the subject is hereto annexed.

13.—The question is, are these monies legally due? If they are, no one should be refused them, any more than the widow and the orphan. If they are not, then the widow and the orphan are not defrauded at all.

14 and 15.—No such rules or promises on the part of the Clergy Reserves Commissioners, have ever been made.

17.—Because, Should distribution of the sum in the hands of the Clergy Reserve Commissioners over and above what has been necessary for contingencies and regularity of payments up to the time they received their last payments from Government not be made, or should be misappropriated, the said Ministers will feel themselves compelled to bring the whole matter under the consideration of the Governor in Council, and they do hereby pledge themselves to seek redress by memorial, setting forth the evils complained of—craving that the Governor General shall direct that the Attorney General apply summarily either by petition or information, to or in the Court of Chancery in Upper Canada, or to any one of the Superior Courts of Record in Lower Canada, setting forth the nature of the abuse and praying discovery and relief in the premises.

And to the end that the said Clergy Reserve Commissioners may not have cause to plead ignorance in the premises, we have served the said Hugh Allan with a copy of these presents for signification thereof, speaking as aforesaid. These presents executed under number one thousand four hundred and eighty-nine.

In Test Veritatis.

(Signed,) J. S. HUNTER, N. P.

(Signed) W. ROSS, N. P.

A true Copy of the original hereof, remaining of record in my office. Thirteen words obliterated are null. One marginal reference is valid.

(Signed.) J. S. HUNTER, N. P.

MINUTE.

KINGSTON, 30th May, 1856.

“ The Synod being met and constituted.

INTER ALIA.

“ It was Resolved that the thanks of this Synod are eminently due to the Clergy Reserve Commissioners for their faithful, impartial and wise management of the Fund placed at their disposal:—That the Synod has always recognized and approved, and does now again recognize and approve the sound discretion exercised by the Commissioners in the discharge of the important duties entrusted to them,—more particularly in retaining from year to year such balance from the monies received, as secured the Ministers from having the salaries allotted to them, in any instance, reduced, and provided for like salaries to the new Ministers who were from time to time added to the Church.—That this Synod learn with satisfaction that such balances, with the interest accumulated on them, amount now to the sum of £17,000.—and inasmuch as the first object for which such balances were retained is now sufficiently secured otherwise, and there is no reason to fear that the salaries of Ministers on the Clergy Reserves will be diminished, the Synod rejoices that the whole sum can be safely applied to the second object—of paramount importance to the interests of the Church—the support, namely, of such Ministers as have been received into the Church, since the Commutation, or may hereafter be received into it. And the Synod would respectfully advise the Clergy Reserve Commissioners to appropriate the whole Fund at their disposal to this purpose and place it in the hands of the Commutation Commissioners under restrictions to use it for that purpose alone, unless the Revenue otherwise required should at any time fall short.” This Resolution was passed by a majority of 42 to 12.

1856.

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