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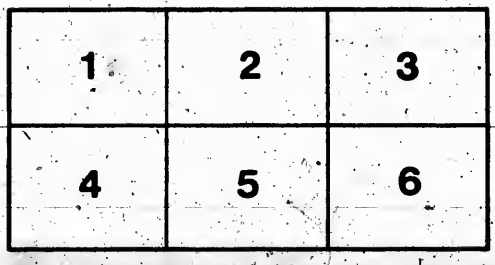

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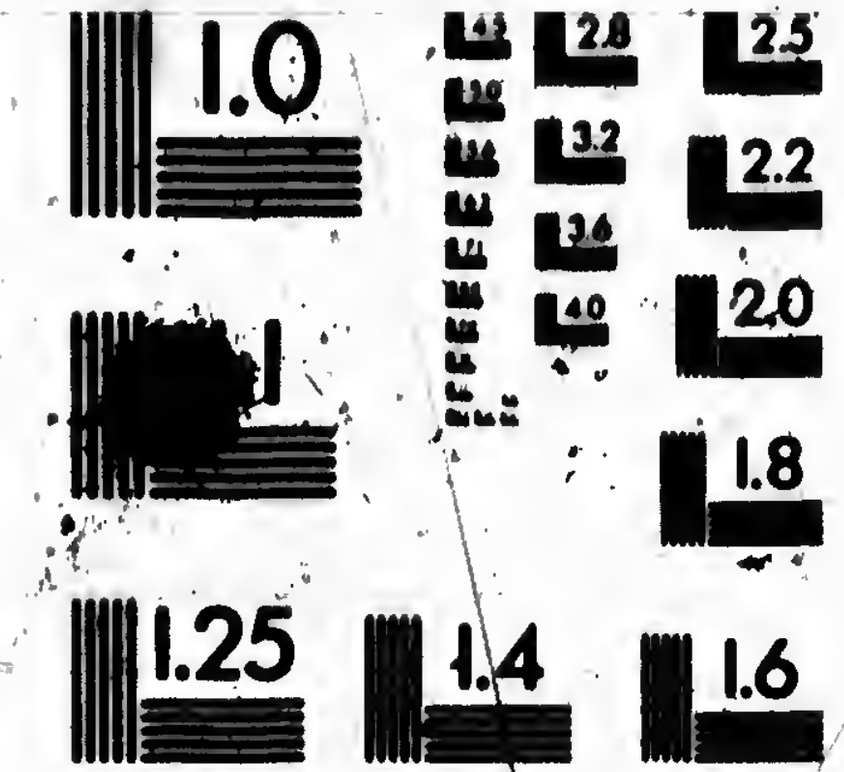

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DIOCESE OF HURON.

THE

Commutation Fund

Wright vs. The Synod of Huron

THE CASE CONSIDERED.

LETTERS, COMMUNICATIONS, &c.

VERITAS VINCIT.

—1886—

PRINTED AT THE JOURNAL OFFICE, WELLINGTON STREET, ST. MARYS.

SUPPLEMENT.

Since the printing of the pamphlet, the Circular convening the Synod has been received. Attention is drawn to the circumstance that although the Plaintiff had requested his motion to appear in full, a very important part has been omitted. He therefore respectfully refers the reader to the motion at Page 18 of the Pamphlet.

The Plaintiff notices that in reference to the execution placed in the hands of the Sheriff of Perth, the Solicitor states—"Subsequently, at the urgent request of Mr. Wright to his Lordship the Bishop, the execution was, by his Lordship's desiré, withdrawn from the hands of the Sheriff." The facts are as follows: At the December meeting of the Executive Committee a resolution was submitted that the Solicitor proceed to collect the costs, but which the Committee would not sanction, and it was withdrawn. A statement was afterwards recorded in the minutes, and was drawn up by the Sec. Treas., Mr. E. B. Reed. There was therefore no authority given for the collection of costs, and the execution was issued without the *knowledge* of the Bishop, who, as the Executive head of the diocese, only had the power to authorize the same. It was *ten* days after its issue that his Lordship heard of it, and he immediately instructed the Solicitor that no action should be taken until authorized by himself. Subsequently, upon seeing the Bishop, he assured me that he knew nothing about such a proceeding, and told me what he had done. I said his Lordship had pledged his word to the diocese that the whole matter should stand over until the Synod in June, to which he replied, "Yes, and it shall." I then stated that such being the case, I wanted him to instruct the Solicitor to send for it, and and have it withdrawn. The Bishop at once consented, and without any delay gave the necessary order. This will be found the correct version, and it only remains for the Synod to approve or disapprove of the action of the Solicitor, taking such a step without the knowledge or sanction of the Executive head of the Church in the diocese.

The Plaintiff also takes occasion to draw the attention of the members of the Synod to proposed legislation signed by Richard Bayly, Chairman. More dangerous legislation can scarcely be conceived; for, if enacted, the Executive power, which properly belongs to the Episcopate, would be vested in a Committee. The Bishop would be *powerless*, and a Committee of the Synod would exercise the *power and functions* of the Synod by which alone it can subsist, and over which the Bishop presides by virtue of the inherent power of the high order in the Ministry of the Church, to which he has been called. Does the Church desire to maintain the lawful authority of a Bishop or not? Is the occupant of the See, one responsible to God and the Church, to rule in the diocese, or such a *section* of the Standing Committee as will be able to control that body?

J. T. WRIGHT.

TO THE MEMBERS OF THE CHURCH.

The suit of Wright vs. the Synod of Huron has long disturbed the Church, and although very important issues are connected with it, involving as it does the great moral principles of justice and equity, yet until recently the Church did not know its real import, and even now it is very imperfectly understood, except by a few. What could be more anomalous than a diocese engaging in civil strife through the Standing Committee of the Synod, and yet be in a beclouded state as to the facts of the contention? Now that the matter has engaged public attention, and assumed more than an ordinary phase of interest, it is strange to hear members of the Church declare that they did not understand its nature, beyond the mere circumstance, that a law suit was in progress. How is this, when the well-being of the Church is involved? It has arisen partly from misrepresentation, and partly from the circumstance that neither the Standing Committee nor the Synod had it properly laid before them. Had it been, the present disquietude might have been averted, for by a resolution publicly declared to have been passed by the Standing Committee, and apparently confirmed by the Synod, there were "properly constituted tribunals for the settlement of all matters in difference between members of our Church," and yet, owing to civil procedure having been taken, "public scandal and disgrace had been brought upon the Church," *because* "the matters in question had not been first brought before the properly constituted tribunals of the Church." Why was *not* this done, and the Church protected against "public scandal and disgrace?" That the Plaintiff had communicated with the proper authorities by his Solicitor before submitting his case to the arbitrament of the civil courts, is fully attested by his having written *three* letters to the accredited official of the Synod, the Sec.-Treas., Mr. E. B. Reed. That any *one* of these letters was pro forma, there is no evidence in the official records, and therefore "the public scandal and disgrace brought upon the Church," with the attendant *evils* of expensive litigation, cannot be fairly charged to the plaintiff, who had used the proper method to avert such a calamity, and which both the Committee and Synod recognized as sufficient "for the settlement of all matters in difference between members of the Church." That however which it is asserted *should have been done*, will be done at the approaching Synod, under the official authority of the Executive Committee as set forth in a resolution passed at its meeting held March 25th, 1886, it having been moved by the Sec.-Treas., Mr. E. B. Reed: "That the Chancellor be requested to *prepare a brief report showing the exact position*" of this suit, together with that of Stinson vs. Huron, "and the expenditure of costs incurred therein by the Synod to date, and to furnish the Honorary Secretaries of the Synod with the same, and a copy of all judgments in the said suits, in order that the same may be printed in the convening circular for the *information* of the members of Synod." That the Synod may be fully informed of the matter, so essential to its being understood in all its bearings, the plaintiff respectfully submits the *information* contained herewith, so that nothing may be wanting to enable the Synod to arrive at a just conclusion concerning the merits of the case, in its cause and effects. With that respect which is due to the Legislative body of the Church of Christ, the Plaintiff asks for a careful, unbiassed, and impartial consideration of the same.

AN OPEN LETTER TO THE BISHOP OF HURON.

My Lord,

A life-long connection with the Church of England, and an abiding interest in her welfare, are a sufficient reason why I should address your Lordship upon a matter which at the present time deeply concerns all her members, especially those who worship at Her sacred altars within the Diocese over which you have been chosen to be chief shepherd. I am fully conscious of the difficulties, and in some measure the responsibilities, which rest upon Her loyal children, and that they are increased ten fold to those who are placed in official authority, and guide Her destinies. Although your own tenure of office has been of short duration, yet it has been of sufficient length to have obtained a thorough insight into all the affairs of the Diocese, and to have become informed of its sad disquietudes, and unhappy condition. That the Diocese is in a rent and divided state, is due to circumstances over which you, my Lord, had not the remotest control, and are altogether the result of a prior administration. The revelations which have of late been made in the Papers, must be accepted as a truthful representation of what has actually taken place, for having been laid bare before the eyes of men, and tried by the crucible of public opinion, they have passed through the ordeal without any pretence of the impeachment of their veracity. The result has necessarily been to alienate the sympathy of the many, and shake the confidence of all. Deep rooted attachment to the Liturgy and services of our beloved Church will not easily be shaken, but the condemnation of Diocesan interest, which alone serves for the proper development of usefulness, has ceased to exist. The rapid and increasing growth of religious denominations around her, attests but too painfully how stagnant—yea, how retrograde is our own organization. The seeds of evil and strife have been sown broadcast, and "Whatsoever a man soweth that also shall he reap." Unless the Catholic and Apostolic Church in Huron is to be struck with barrenness the existing evils must be promptly expurgated, and then peace, the harbinger of prosperity, will be quickly restored. It is not necessary for me to enumerate here the many evils that are rife among us, but they all spring from one root, viz., iniquitous oppression—and till this miserable root with its offshoots is eradicated and supplanted by the higher law of Moral rectitude and Christian integrity, the Church will continue in a decrepit state, and not fulfill her sacred mission. The energies of the Church are now employed in maintaining civil strife, and it is only by returning to the good old paths, which have been too long abandoned, that we can look for the promises vouchsafed to her to have their fulfillment. It is now generally conceded that the action of Synod, in disturbing a trust committed to it, and diverting it from its proper channel, has mainly brought about the present disastrous state of affairs. The all-engrossing subject with churchmen now is, the fair and just settlement of the claim of "Wright vs the Synod of Huron"—and till this is accomplished there will be no cessation of hostilities. If we are compelled to have further recourse to the civil power, the end is not yet. The case having passed through the various courts of Canada, still remains unsettled, owing to a divided judgment. But I desire to ask your Lordship, whether there is not another law, which can bring minds, now divided, to united action in the Church, so that this festering sore of unholy strife may be healed? My Lord there *is* another law, which guided by the law of Him who is the Head of His Church, is sufficient to heal the wounds that have been inflicted from within. It is the power that enables the Church to administer her own affairs. Yet it cannot operate without its head, for without the will of the head, all efforts will be fragmentary, and impracticable for good. You, my Lord, have been made the Custodian of that will, which, when exercised, resigns the responsibility to those who commit suit to your care, for their good. The Synod is that power, and it alone can speak its own mind in this contention. The plaintiff has spoken, and

it rests with you to say whether the message shall be delivered and the reply obtained. The Rev. J. F. Wright was driven to Cæsar's Court in maintenance of lawful rights, and the very power which drove him there, in a season of misrule which beclouded its own welfare, now proclaims the justice of his cause, and only awaits your Lordship's call to re-echo his own words "The Law of Christ." My Lord, will you not allow the two contending parties to meet, and abide by that Law which you yourself are most solemnly pledged to uphold? The evidence of a united purpose to centre in the Law of him who is the Church's Head, and who has promised to guide Her into all truth, is felt and recognized by those who love the Church, and earnestly breathe the prayer—"Peace be within Thy Walls." Further, the Diocese which is one party in the present strife has given no instructions as to the future procedure, and it necessarily devolves upon you, My Lord, either to give the Diocese, a right to exercise its lawful authority, or to leave an uninstructed solicitor to proceed in accordance with the interests of his professional calling. My Lord, should the Diocese in Synod assembled, refuse to abide by the law of Christian integrity, when it has the power to speak, the responsibility of future consequences will rest upon its own shoulders, but until it has that power the responsibility remains with yourself.

I am, my Lord, with all respect,

Your obedient servant,

Galt Oct. 9th, 1885. J. G. DYKES.

TO THE MEMBERS OF THE SYNOD OF THE DIOCESE OF HURON.

London, November 25th, 1885.

Rev. Brethren and Brethren of the Laity.

Having received a petition signed by 41 clerical and 77 lay members of Synod, requesting that a special Synod be convened for the purpose of determining our best course as to the suits of two clergymen now appealing from judgments already delivered by the courts, I deem it best, as the matter is one of public interest, to address myself not only to the petitioners, but to the members of the Synod at large. After, I trust, a careful consideration of the subject, I have come to the conclusion that the interests of the Diocese will be best maintained by leaving untouched the ordinary process of Synodical law.

As regards the Clergymen in question, I have no doubt that the great Head of the Church will, by His Holy Spirit, lead us to do only that which is best, not only towards them, but for the promotion of His glory and the individual welfare of all our members. Looking, through God's grace, to a speedy solution of our various difficulties, I remain yours in Christ,

(*Signed*) ✠ MAURICE S. HURON.

The above is clear and decisive respecting the views of his Lordship, the Bishop of the Diocese.

1—His Lordship declares the matter to be one of *public* interest, therefore the interests of the Church and religion are involved.

2—The Bishop concluded that the interests of the Diocese will be best maintained at the usual Synod, *i.e.*, the June Synod.

3—A speedy solution of present difficulties, through Divine grace, was looked for, which it would be a vain thing to expect through the agency of continued strife. Any victory through strife is a party triumph, which serves to perpetuate rather than to allay an embittered state of irritation and variance, whilst the cardinal principles of justice and equity being maintained, the Divine character is honored, and a signal triumph accorded to the great Head of the Church, by whose law alone can "the unity of the Spirit, the bond of peace and righteousness of life," actively prevail.

4—God's glory and man's good are *sought and assured* through the invocation of the Holy Spirit.

5—What could be more effectual in harmonizing contending elements, and restoring "peace and good will" throughout the Diocese, which is the Divine message, published by the heralds of Him to whom belong "the kingdom, the power, and the glory?"

FROM THE CHURCH PRESS.

The Church in the Diocese of Huron is now and for some time past, has been in trouble through the crude legislation of its Synod in past years. Litigation is in progress and still promises to continue unless wise counsels prevail. The effect of such prolonged legal action is wasteful in the extreme of the funds of the Church and its members, but more wasteful still of its influence and prestige.

The case of Wright vs. Huron should never have been allowed to enter the law courts. Had the Synod been properly advised of its nature, and costs and effects, in all probability the dispute would never have assumed this lamentable form. Now, however, after the case has been before three several courts, it is as far as ever from being settled. An appeal to the Privy Council seems the last resort. In the meantime the Church is rapidly losing prestige in the Diocese. Its best members are becoming disheartened, as funds that should go to the struggling missionary are being squandered in secular Courts in an effort to decide a question which lay within the province of the Synod to settle. That body should at least try to terminate scandals that are eating the life out of the Church. Every day that passes without settlement, renders that settlement more costly and difficult. Soon it will be too late forever. After the case has gone before the Privy Council the greater portion of the Commutation Fund, placed in trust with the Synod for the maintenance of the clergy will have been spent in litigation. The case, when stripped of legal mystifications, is a plain one. Any two honest, clear-headed, practical-minded men could effect an amicable and equitable arrangement.

This is not the only case that requires prompt attention by the Synod. These matters must be seen to or the Church in Huron will be hopelessly injured. Nothing so dries up the fountains of liberality as the knowledge that Church funds are being spent in legal proceedings.

With all respect to the Courts and legal profession, we deny their competency to deal in the right spirit with disputes involving the interests of the Church. It is not a severe reading of the bare law, and a decision based upon a merely legal interpretation of the hard letter of the law, which is desirable in questions of a Church character. We are distinctly warned by the Spirit of God against submitting Christian disputes to secular tribunals. The case in question is one eminently calling for the adjudication of wise, broad-minded, practical, experienced arbitrators, whose sympathies will be with the Church as a whole, and with the *equitable* rights of the Clergy. The dispute now being maintained before the law courts is acting like a cancer on the Church life of the Huron diocese, it is also most injurious to the honour and interests of the Church all over Canada. Readers of the correspondence which has appeared in our columns, must recognize the extreme gravity of the issue at stake, they must also admit that it demands the prompt, decisive action of the Synod, for a full, temperate, Christian spirited discussion of the case, for its being relegated to a board of arbitrators, so as to ensure a cessation of waste in litigation, and such a final settlement as will ensure peace and equity in the Huron diocese.

HURON LITIGATION.

SIR,—The following letter to the Bishop will speak for itself. Whilst the contention is not between his Lordship and myself, yet owing to his being the Executive head of the diocese, it was deemed prudent and respectful to make known, first of all, through the Church's spiritual head, my position, so that the diocese, and indeed the Church at large, might be under no misapprehension respecting it. In requesting the Bishop to have the communication read to the Executive Committee, I was aware the Synod had not given any instruction to the Committee concerning the matter, but the request receiving a cheerful compliance it evinced a ready acquiescence that the diocese should be put in possession thereof. The Committee, some twenty members being present, took *no* action. As to what action the Bishop intended taking I have not been advised, and as the document was official, I have laid it before the diocese. As the Christian public also have taken a lively interest in the course I have pursued, I think my gratitude for their approval, so freely expressed through the columns of the press, calls for the assurance from me that in continuing to appeal to the Civil Court to obtain lawful rights belonging to myself and others, I only do so, because the moral law is not brought into action to determine the issue, and that I have fulfilled the Christian obligation which it demands. I hope therefore to inspire renewed confidence by showing that I do not perpetuate unhallowed strife, but through necessity use the civil power to uphold and maintain, what is generally conceded, just and righteous claims.

St. Marys, Sept. 26th, 1885. J. T. WRIGHT.

The Parsonage, St. Marys,
Sept. 21st, 1885.

MY DEAR BISHOP,

As plaintiff in one of the cases of litigation at present dividing the Church in the diocese, I have been asked to communicate with your lordship, for the purpose of removing any wrong impression which may possibly rest upon the mind of the diocese in reference thereto. The part I am taking makes it both difficult and delicate for me to say much. This, however, I desire to say, that I am not continuing the suit merely for the purpose of contending, but in the maintenance of a just and righteous principle. I am sure that wrong has been done, and that I and others have been unjustly made to suffer, whilst the cause of truth has been injured. If the wrong can be rectified, and so far harmony and good will made again to prevail in the Church, I have as great a desire as any one not to be found wanting, in any consistent effort to accomplish such a result. Whilst such statement is made without prejudice to my position as the plaintiff, I wish to clear myself of being misrepresented respecting my course of procedure, or suspected of being influenced by an unworthy desire for continued strife. For this purpose alone have I complied with the request to address you upon the matter, and at the same time to give sincere assurance, that in the maintenance of a just and righteous principle, of my readiness to terminate the strife, in a way compatible with Christian integrity.

With much sincere respect and Christian affection,

I am, My dear Bishop,

Yours in the faith of Christ,

J. T. WRIGHT.

The Rt. Rev.
The Bishop of Huron.

THE CLERGY TRUST

The following letters upon the "Clergy Trust" were suggested by one which had been written by my friend the Rev. Dr. Beaumont. Between us there is no spirit of contention whatever, and when replying to *any* argument used by him, I have fairly presented it. On the ground that no rivalry existed between us, but on the contrary that of good will, it was not considered necessary to print his letter.

SIR,—In replying to Dr. Beaumont's letter, I shall have to invade your space, but I hope it will be profitably used. His letter may be fairly divided thus, the *legal* and *moral* aspect of the administration of the Commutation fund. The view he takes of the *legal* proceedings in relation to it is radically wrong; he must have been misinformed respecting it. He states, "I do not see how the court could come to any other decision than that which has been given." What is the decision? It is this, that after passing through all the Canadian courts, they are divided respecting the legal construction of the Trust, so far as the administration of the surplus is concerned; that which turned the decision in favor of the Synod, was the throwing into the scale equally poised, the feather of a "doubt." To say that no other conclusion could be legally reached, would be the same as saying that the doubting Thomas made it "so clear" that the Saviour had not risen, he could not see how the disciples could decide otherwise. Can Dr. Beaumont reasonably expect that his judgment in a matter of civil law will be endorsed when the judiciary of the land declare, we are divided as to the proper construction to be placed upon this Trust? I hope, however, that what "the law could not do, in that it was weak through the flesh," the law of God, as exegetically declared according to the wisdom and judgment of the Saviour in His sermon on the Mount, will determine without any "doubt."

My reverend brother says I looked forward to victory. I do! it is the victory of the law of Christ, which says, "Whatsoever ye would men should do unto you, do ye even so to them," and which is paraphrased by the doctor thus, in reference to the action of the Synod regarding the surplus, "I am free to confess that it has operated very disastrously on many of our senior brethren, who, after long years of toilsome service in the diocese, are *poorer* to-day than they were 20 years ago. The *surplus* of the Commutation fund was a sort of annuity, that guaranteed them at least some measure of comfort."

The rector asserts that I put myself in the position of a *commuted* clergyman. I did nothing of the kind. The bill I filed reads thus, "Who sues as well as on his own behalf, as on behalf of all other of the clergymen of the diocese of Huron, who are *not* on the Commutation fund of the said diocese, nor on the superannuation fund thereof." His explanation respecting the creating of the Commutation fund conveys an incorrect idea, as it was not created for them and to secure a provision for life, but it was created *by* them for the "maintenance and support" of their successors in office, and they reserved in the Trust, what the doctor calls an inalienable right, an annuity for *themselves*. He says this life provision of *theirs*, arising from out of the Commutation fund, was guaranteed by the civil powers, which reveals a misapprehension of the nature of the Trust. When the Government purchased *their* annuity from them, (which it had given them as a recognized claim they had on the clergy reserves) and paid them a block sum for it, it gave no guarantee for a life provision. The *commuted* clergy reserved *this* for *themselves*, when they gave the money to create the fund, and which is set forth in the Trust. He also says, the administration of the Trust was left to the Church Society of each diocese. If this means that the civil power left it, etc., it is wrong; The Clergy who created the Trust set forth the manner of its administration, the civil power had nothing to do with it.

We are told the fund was "only created for the benefit of those whose interest

and welfare had been invaded by the Secularisation Act." Why, it was these very persons themselves who created it. It was not created by a power outside or foreign to them.

I now come to what Dr. Beaumont must acknowledge to be a forlorn hope. He writes: "the rights of the old commuted clergy were absolutely inalienable, or invulnerable." How is it then, that as a Trustee of this fund, he is a defendant in the suit against the Rev. E. R. Stimson, one of the *old commuted* clergy, to keep from him his annuity? In his letter he says, "his right is absolutely inalienable," and yet in the civil court he says he has no right to it. Does not the doctor know he is a trustee of this Clergy Trust, by virtue of being a member of the Synod, and that at the present time, in the case of Stimson vs. the Synod of Huron, he is contending that Mr. Stimson has no claim to his annuity? What are we to understand by this? Where did the doctor get such a representation of the Commutation fund Trust? I have heard of such a representation coming from the Synod office of the diocese of Huron.

October 28th, 1885. J. T. WRIGHT.

SIR,—I now take up a few ideas in reference to the administration of the Trust. Dr. Beaumont will recognize that I am replying to his letter, and that our personal relationship in the ministry and friendship, do not enter into the discussion; sentiment and earthly relationship of any kind have to retire, when duty calls to a holy conflict in behalf of just and equitable rights. The assertion is made that the "Synod has legal powers to administer, and to do what it liked with the surplus, after the payment of the claims of the commuted clergy." If so, it would be the property of the Synod, whereas the Synod only holds it in Trust. It no more belongs to the Synod to "do with it as it pleases," than it does to the Governor-General to do what he pleases with it. The Synod holds it in trust to execute the will of the donors, which was that the surplus should be "for the maintenance and support of the clergy within the diocese." Those who desire to understand this Trust should read it. It is set forth in the judgment of Mr. Justice Henry. The assertion is also made that the non-commuted clergy who received the surplus "had no legal right to it." Then, what business have they with it? I am satisfied that putting it into the Mission fund, and thereby giving it to the laity to help them to fulfil their obligations to the clergy, was anything but moral. I wonder that laymen with honorable ideas, and possessing a spirit of Christian chivalry should permit it, when exercising the power committed to them in administering the trust. The laity have no right to it, for it belongs to the Clergy, and their province as trustees, is to see that the trust or any part of it, is administered for the Clergy, and not for themselves. It would be as lawful to take any other private trust given for a specific purpose, and apply it to the mission fund, as to take this for such a purpose. The Church Society is spoken of as acting "in its generosity" when "dividing the surplus according to seniority, and irrespective of income." The latter condition is incorrect, the by-law of 1869, excluding them if having an endowment of $300 per annum, whilst the amended by-law of 1874 excluded them if they had an income of $1,200. The statement would be true, if applied to the incomes of the Bishop and Archdeacon, of which I shall subsequently treat. But wherein does the generosity consist? Whatever had been appropriated to the clergy; they are entitled to receive, and there was no generosity about it. The laity consented to appropriate that "which cost them nothing," how could they be called generous? They were faithful in the first administration of the fund, but they were not generous. In the administration of the Trust at the Synod of 1876 they were not faithful, because they applied a part to the mission fund, which is a fund provided for their own voluntary offerings. What reasonable, just, honorable, or even sane man can say, that the Clergy should contribute to their own stipends? "Who goeth a war-

fare any time at his own charges?" If the manager of a bank should have a salary of two thousand dollars per year, what would be thought of the directors if they were to say, we expect you to pay two hundred dollars per year of the salary we agree to give you? Would it not be called a fraudulent transaction? Generosity, indeed! Where was the generosity, or even honesty, of appropriating to clergymen, and promising in good faith, two hundred dollars per year in addition to their income after long and faithful service, for their "maintenance and support," and then to take it away without giving an equivalent? I cannot help what the Synod says, I assert it was "wrong:" it took from their wives and children that which was necessary and lawful for their "maintenance and support," and who are, in many cases paid as if they were but "hewers of wood and drawers of water." Will not honourable Christian laymen view the proceeding of 1876 with shame, and endeavour to rectify that which is manifestly wrong? In other dioceses having a similar Clergy Trust, the trustees appropriate in addition to a clergyman's income, an annuity of $400, and what is but just, they keep faith with him by paying it. Having referred to the so called generosity, the writer stated:—"It now resolved in its *justice* to throw the surplus into the Mission fund." I will review this act of justice, in the mirror of the Episcopal and Archdeacon's fund. Justice! "*Justitia suum cuique distribuit.*"

The Parsonage,
St Marys, November 9th, 1885

T. WRIGHT.

SIR,—Dr. Beaumont in his letter overlooked one part of the contention in the civil courts anent the Clergy Trust, which was that the legislation of the Synod of 1876 was illegal: concurring this, as well as the vested right, the courts were not agreed. It was contended that even if the Synod had the power to reappropriate the surplus for the future, it had not observed its own laws. If the Synod is not bound by its own laws in the administration of a Trust, then there is no safety with respect to any of its funds, and it would be worse than folly to commit anything to it in Trust. The donors could have no assurance that their wishes would be observed; what had been given for the benefit of the clergy, could be used for the benefit of others, as has been done in crediting the Mission fund with the income arising from the Clergy Trust. The Synod is said to have done this "in its justice." I understand that "the foundation of justice is that no one should suffer wrong:" the doctor, however, speaks of the canon as "detrimental to me and others," and says "I sincerely sympathise with the clergy represented by Mr. Wright, and regret having voted for the canon that deprived so many brethren of the acceptable addition of $200 per annum as the reward of lengthened service." If the canon was detrimental, and deprived brethren of that which was the reward of lengthened service, such justice is not a divine attribute, but a mythical conception. To deprive a person without a sufficient cause, is to make him suffer wrong and thereby dishonor God's holy law. But justice is relative as well as positive, and herein an unjust proceeding becomes intensified and truly hateful. The wealthy David in sparing his own flock, and taking the poor man's lamb, was guilty of an aggravated form of injustice, and received merited condemnation. How are we to view the action of Bishop Hellmuth retaining his own twelve to sixteen hundred dollars per year from the surplus of the Clergy Trust, and yet from an ardent expression of love for the extension of missions, aided in depriving comparatively poorly paid clergymen of their annuity of two hundred dollars? He knew it, and yet continued to receive his larger amount, whilst withholding the smaller amount from others. Was not this a parody upon justice, or rather an aggravated degradation of a holy law? The Synod has to bear the responsibility, and the poorer clergy are made to suffer wrong. Power and responsibility have been united by unerring authority, and to separate what God has joined together, is sure to issue in confusion and every evil work, of which we have abundant evidence. Had no injustice been

perpetrated, there would have been no appeal to Cæsar's court, strife would not have been engendered, neither would distrust and alienation amongst clerical brethren have resulted, but as aforetime, they would have "endeavoured to keep the unity of the spirit in the bond of peace." That portion of the Episcopal and Archdeacon's income arising from the surplus of the Clergy Trust, must stand or fall together with the smaller annuity appropriated to the other clergy. The Synod of 1876 did not distinguish between one by-law and another in administering the Trust, but declared that "*all* grants made in pursuance of any such by-laws or canons shall absolutely cease and determine." (See canon 27, pages 45, 46, of Constitution, etc.) The Synod gave no authority for the continuation of payments to the Bishop and Archdeacon from out of this fund: there was no discrimination made by the legislation of 1876 in their favor, any more than there was by the donors of the Trust. I did not contend that the Bishop and Archdeacon should be deprived of their annuities under the by-law which appropriated to them, as erroneously represented by Mr. E. B. Reed to the Synod, but that the by-law under which appropriations were made gave the recipients a vested right, and certainly if in one case, it must have done the same in the other. The only way any part of the surplus of the Clergy Trust can be appropriated is by by-law or by by-laws, as I will show that this was the method pursued in reference to the Bishop and Archdeacon, as well as to the rest of the clergy.

J. T. WRIGHT.

Nov. 17th, 1885.

SIR,—The Episcopal fund first formed in Huron diocese, arose from the voluntary contributions of the members of the Church in the diocese, and was supposed to yield, I believe, $2,400 per year. This was subsequently supplemented by an appropriation of interest arising from the Commutation fund, and came from the division of funds between the first diocese of Toronto and the diocese of Huron, under what is known as the Toronto award. This division of funds was determined by arbitration, the Bishops of Toronto and Huron, together with the Hon. Sir J. B. Macaulay, having been appointed the arbitrators.

Upon the death of Bishop Strachan, and the elevation of the late Archbishop of York to the See, the securities received from the diocese of Toronto, relating to the Commutation fund, as applied to the Episcopal and Archdeacon's fund were, by a by-law, united to the first Episcopal fund, and together make what is now known as the Episcopal and Archdeacon's fund; this fund, therefore, is made up from two sources. This additional income came from the surplus interest of the Clergy Trust, because the recipients do not receive it as the original commuted clergy, but as their successors. In the award, it is stated, that before the securities were paid to Huron, the diocese should covenant to appropriate the same to the support of the Bishop and Archdeacon, and this was confirmed by by-law, which is numbered 25 in book of Huron canons, &c., pages 44, 45. For the terms of the award, see page 74 of the same book. This was carried out by the passing of the by-law No. 25. The by-law reads:—"That the following be the 4by-law to confirm the award made between the Church Societies of the diocese of Toronto and Huron"; also, "And, whereas, it is advisable and necessary that the Church Society of the diocese of Huron should confirm the said award, and authorize the provisions thereof to be effectually carried out." The by-law 26 was afterwards passed to unite the two separate funds as already set forth, wherein it states, "That the Episcopal fund, and the securities lately received from the diocese of Toronto, shall form one fund." The arbitrators were appointed to *divide* the funds, *not to appropriate* any of them contrary to the conditions of the Trust. There is nothing entering into the Clergy Trust making any provision for the Bishop and Archdeacon, as separate

from the rest of the Clergy, but that after the commuted clergy had been paid their annuities, "the said commutation money and all interest and proceeds thereon, shall be held on such trusts for the support and maintenance of the clergy of the said Church within the said diocese or such other dioceses as the said diocese (Toronto) shall hereafter be divided into." As the judgment of the Supreme Court of Canada now stands, arising from the "if" of the fifth judge, no vested right was created by any by-law, but upon the passage of any subsequent one, the recipients were deprived of their claims. The by-law, or canon as now called, of the Synod of 1876, distinctly states that "all grants made in pursuance of any such by-law or canons shall absolutely cease and determine." (canon 27). Nothing can be clearer than that, if the action of the Synod lawfully deprived the clergy of their annuity of $200, it also deprived the Bishop and Archdeacon of theirs, because there was no reservation made for them, yet they continued to receive their annuities, and do at the present time. My contention has been that all the recipients had an equal right to their respective annuities, but the Bishop and Archdeacon no more than others. Hence the injustice and grievous wrong which has been done to the poorly paid and struggling Clergy of the diocese. Can the Divine blessing rest upon such unequal methods of procedure? God's time will yet come to avenge the cause of the injured.

Nov. 24th, 1885. —J. T. WRIGHT.

Sir,—Under the Award of the Arbitrators dividing the funds and lands between the dioceses of Toronto and Huron, it states that the diocese of Huron should execute a covenant to the Church Society of the diocese of Toronto, that the securities received from the latter, in reference to the Bishop and Archdeacon's fund should be applied thereto, but it was necessary to pass a by-law confirming the same, because no appropriation could be made of any surplus arising from the Commutation fund otherwise than by by-law. Nevertheless, if one by-law could be repealed, any other could, and the Canon of the Synod of 1876 declared that *all* by-laws and canons respecting the Commutation fund and the Surplus interest thereof, should be rescinded, and all grants made in pursuance of any such should absolutely cease and determine. How the Huron diocese stands in relation to the Toronto diocese respecting the covenant made concerning the Bishop's and Archdeacon's fund, is another matter for consideration, but it is clear that no arrangement should render null and void the conditions of the Clergy Trust. If wrong was done by rescinding the by-law relating to the Bishop and Archdeacon, wrong was also done to the rest of the Clergy, and why the former should continue to receive their annuities, and not the latter, only serves to prove the injustice which has been done. According to the construction put upon the Clergy Trust, it is declared that the Trustees were not bound to divide equally any income arising therefrom, among the claimants, but there is not one word which conveys the idea that it was ever intended for the Bishop and Archdeacon to have the lion's share. I have not raised any objection to their having more than Benjamin's portion, but on what ground of equity can it be maintained that they should retain such a goodly portion, and their poorly paid, struggling brethren, be deprived of their little pittance, so necessary and proper for their "maintenance and support ?" The only answer I know of that might be given would be that "unto him that hath shall be given, but unto him that hath not even that which he seemeth to have shall be taken away." I have not been able to find any Commentator of authority or otherwise, who has ventured to assert that such a declaration has the remotest reference to financial matters. I cannot conceive it possible that any but an Oriental imagination with crude ideas of honesty would so interpret the inspired word of truth. According to the standard of Occidental Christian-

ity such an interpretation would be inadmissable. The Rector calls the appropriation a *gratuity*, and also declares it to be an *annuity*. The terms are not synonomous, the one denoting continuance or permanency, whilst the other is complete by a single act. The Rector appears greatly exercised over the popular "young man," and not without reason; his grievance, however, is the result of the injustice which he so deplores in these words, "the former administration of the surplus of the Commutation fund so thoroughly met this evil, that it never seemed to exist." Could my reverend brother bear stronger testimony to the injustice of the legislation of 1870, and yet he asserted that the Synod "resolved in its justice, to throw the surplus into the Mission fund?" His idea about wealthy laymen creating a fund for the benefit of clergymen who have laboured long and well, will scarcely commend itself so as to assume any practical form, when viewed in the light of the administration of a fund which was created by clergymen for the very purpose, and which owing to a want of Christian integrity, has so signally failed in the result. When Dr. Beaumont speaks of "the strongest assurances given by our late excellent Bishop," and the Clergy looked in vain for the fulfilment of them, I agree with the correctness of his conclusion that "here was the loose stone in the arch," or rather as the result demonstrates, the "key," stone was wanting. I will now consider the idea which he propounds as a solution of our financial difficulties, and show that it is purely chimerical.

St. Marys, Dec. 2nd. 1885. J. T. WRIGHT.

SIR,—It may not be generally known that the Church Society of the diocese of Huron, when administering the Commutation fund prior to its being incorporated with the Synod, did acknowledge the claims of those who were placed upon the fund for an annuity, and that they were entitled to receive the same subject to the conditions of the by-law under which they were made recipients. This was instanced in the case of the late Rev. S. B. Kellogg, rector of St. Thomas. Mr. Kellogg had been placed upon the fund, the same as myself and others, under the by-law of 1869. When the by-law of 1874 was passed changing the conditions laid down in 1869 that any recipient having a parochial endowment of $300 should be disqualified, and substituting therefore an income from any source of $1,200, Mr. Kellogg's check was withheld. He thereupon obtained a written opinion from the Hon. J. H. Cameron, who had framed the Clergy Trust, and which opinion declared that no change of conditions in administering the Trust could operate retrospectively. Mr. Kellogg then submitted his claim to the Church Society, and it was acknowledgd. The minutes of the Church Society of the diocese of Huron for March 10th, 1875, contain the following:—"The question of Rev. Mr. Kellogg's right to rank on the Commutation fund surplus list, having been submitted to the standing committee for re-consideration, the committee recommended that he be re-instated. Moved by Rev. Canon Caulfield, seconded by Ven. Archdeacon Marsh, that after re-consideration of Rev. Mr. Kellogg's right to rank on the Commutation fund surplus list, and in accordance with the recommendation of the standing committee, be it resolved that Rev. Mr. Kellogg be re-instated in his former position on the list, and that all arrears be paid him. *Carried.*" It is evident that the Church Society whilst administering the fund, recognised the claim for which I have been contending in behalf of others as well as for myself, and which view is in accord with the unqualified judgment of Mr. Justice Proudfoot, and whose judgment was fully confirmed by two of the Justices of the Supreme Court, the fifth judge under the influence of "doubt" determining the decision otherwise. Whatever the law may finally determine, there is a prevalent recognition by the Church and the public at large, that in equity it was wrong to take from the clergy their annuity, and this was

the principle maintained by the Church Society. Mr. Kellogg was as much entitled to his small annuity as the Bishop and Archdeacon to their larger amounts, and the Church Society acknowledged his claim. When in 1876 the incorporated Synod claimed power to take away the small annuity which it had appropriated, it was unjust and dishonest not to apply the same rule to the Bishop and Archdeacon. If not, the moral law is a dead letter in its application to Bishops and Archdeacons, and they are outside its pale, which whilst being of financial benefit, must be otherwise a grave misfortune. The Church Society however recognised its power over all alike, and the voice of inspiration declares that God is no respecter of persons. All I can say is, that he is a poor ambassador of the Son of God, who would enforce the sanctions of the law which Jesus Christ vindicated, magnified and made honorable, against poorly paid, faithful and struggling clergymen, and free from its claims those who live in comparative luxury. If I thought that such was the Gospel of Jesus Christ of Nazareth, I would have none of it. Whatever may be the voice of Scribes and Pharisees, it is not the voice of Him who declared with all the majesty of a Redeemer's love, "What soever ye would that men should do unto you, do ye even so unto them." Of this teacher and exemplar of morality, it is said, "He taught as one that had authority, and not as the Scribes."

St. Marys, Dec. 7th, 1885. J. T WRIGHT.

SIR,—Dr. Beaumont, states "if the question had to come over again, I should be one of the last to vote for such a canon, under any pretext." As it is with the *moral* aspect of the question I am dealing, and not with the legal result at its present stage which may or may not be finally maintained by the judiciary, it is fair to conclude that the doctor endorses the principle for which I am contending, that the Synod of 1876 acted unjustly towards the Clergy. If so, we are agreed upon the morality of the proceeding, and which has the endorsation of those who, with unbiassed minds, have considered the question. This is what I have been labouring to establish. As to the solution of the financial difficulties of the diocese, the doctor is mistaken. He proposes to "throw the whole of the sources of the revenue of the diocese, into one common Diocesan Endowment Fund.' This is impracticable, because there are specific trusts which could not be alienated, except by Act of Parliament, from the purpose for which they were given. Again, the voluntary contributions of the people could not be dealt with on the basis of an endowment, because of their precarious nature, the element of certainty being wanting. To solve such a problem would necessitate every bequest to the Church being determined, not by the donor, but by the Synod, and the incentive induced by sympathy for any special work could not operate. It would substitute a general interest for local effort. But it is a local benefit which inspires a spirit of energy, activity and liberality in church work; this may indeed be an imperfect christianity, but from the action of the Synod of the Huron diocese in the past, there is not the slighest appearance of a return to that primitive state, when "the multitude of them that believed were of one heart and of one soul; neither said any of them that ought of the things he possessed was his own; they had all things common." What an ideal conception of virtue it would be for the Government rectors and their congregations to come forward and say, take our endowments for we long to "bear one another's burdens" and so "fulfill the law of Christ." This may be the doctrine and practice of the millenium, and if such a sign is requisite to herald that period, there is no reason to suppose that the diocese is looking for it. But what is the practical solution of our present financial difficulties? I imagine it will be found in that equity of procedure, so emphatically declared by Him who is the wisdom of God, that for righteous government it is necessary to obey the law which says, "Whatsoever ye would that men should do unto you, do ye even so unto them." This

I understand to be a practical adaptation of the existing condition, so that the justice of lawful claims is maintained. Herein is the science of all government which brings into exercise the various endowments and gifts bestowed upon men, so that the general good is served by a recognition and maintenance of individual right. The evil of government is a party spirit, because it seeks its own benefit at the expense of others. The financial difficulties at the present existing were almost unknown when the temporalities were managed by a society separate from the Synod, the elements of which served to check and frustrate partyism in permitting and encouraging all who were so disposed, to contribute their individual gifts and attainments for the good of the Church. The Synod is largely made up of delegates who are not chosen for their business qualifications, but for the earnestness of their piety. But the well being of the Church requires such a condensation of diocesan effort as will serve to unite her members in that mutual confidence, which is the bond of sympathy. It was the union of the temporalities with the Church's spiritual work, which served to bring about the perversion of a great diocesan endowment, and tended to undermine the stability and permanence of a settled diocesan ministry, because the alienation of The Commutation Fund from the clergy checked the voluntary gifts of the people, and led them to neglect an imperative duty in making provision for the Mission Fund, inasmuch as "they took up that they laid not down, and reaped that they did not sow." The Clerical endowment was utilised to meet the obligations of the laity.

St. Marys, Dec. 13th, 1885. J. T. WRIGHT.

SIR,—There is a strong conviction with many, that inasmuch as the claim of the Rev. S. B. Kellogg was acknowledged, and he was reinstated upon application, his annuity being paid him, the same might have resulted if the letters written by my solicitor to the Sec-Treasurer, had been produced, and laid before the committee. If so, a very serious law suit would have been prevented, and the Church would not have sustained the loss it has. To say the least, there is presumptive evidence that the matter would have received consideration, from the circumstance that a vote of censure was passed by the committee and Synod, under the erroneous impression that I had proceeded without having given the Synod due notice. This is a matter which awaits investigation. That a conviction generally exists of wrong having been done is evident, from the fact that the defendants in this case petitioned the Bishop for a special Synod to consider the matter, with a view to an adjustment of the difficulty on the basis of equity, and his Lordship in his reply declared the usual meeting of the Synod best suited for the purpose.

In support of this, the Church without has made a declaration to that effect, it having the signatures of many prominent and influential members.

This has arisen from the circumstance that hitherto the nature of the Clergy Trust was not properly understood, the diocese for the most part thinking the contention was merely for a pecuniary consideration. It reaches much further than that, and involves a principle which exercises an important influence over every department of Church work in the diocese. The greatest evil arising from out of it, was the violating of a promise which had been made in good faith. When the by-law was passed, and appropriations made to the beneficiaries under the Trust there was not a shadow of suspicion that deprivation would follow, except for a good cause, such as the nonfulfillment of some of the conditions laid down. It was not a mere temporary inconvenience to the recipients by having their small incomes reduced, but it destroyed all assurance of a *prospective* reward for faithful labor, and militated against that confidence which inspires willing sacrifices in the performance of duty. There was nothing to look forward to as years passed by, and the activity of comparative youth was exalted over a mature judgment and ripe experience, in the work of the ministry. It is too well known to make it

necessary to show that a mature judgment and ripe experience, are qualifications which fail to secure an adequate compensation for service faithfully performed in the Church. As a rule congregations do not estimate them at their value, when compared with the physical energy of a more youthful ministry. They regard the present only, that which appears to suit them for the time being, and give a specific value for the service they receive. The result of which was, that many useful and efficient clergymen seeing no certain provision for the time to come, sought for parishes in other dioceses, where the Trust is administered on the basis of a recognized service. Their places had to be filled, and the result was the admission of clergymen who had given the prime of life elsewhere, and who, in a short time, found a refuge among the superannuated. So much was this felt, that it brought about legislation to deprive those who came into the diocese above a certain age of diocesan benefits. It was also a result of the unwise and unjust legislation, that men who had laboured long, efficiently, and with the approval of their people and the Church, were cut off from parochial preferment owing to the very service they had rendered, and younger men, or strangers without a tithe of their merit or claim, supplanted them in the more lucrative parishes; whilst for them, their years of faithful work received no recognition or preferment, but which in some measure had been provided, and in other dioceses is still provided, by a just and equitable administration of this most important diocesan endowment. If the clergy suffer wrongfully, the laity in some form have to share it, and this is seen in the restlessness and uncertainty of parochial attachment and pastoral life.

St. Marys, January 5th, 1886.

J. T. WRIGHT.

SIR,—Unless the Church dishonors her Lord, she will readily acknowledge that the moral law is the standard by which her every action is to be tried. There is nothing virtuous apart from moral goodness. God has no higher attribute than justice, hence the Head of the Church is the Holy One and the Just. I make this remark to show that the Church now echoes the voice of her Lord by acknowledging the legislation of the Huron Synod in the matter of the Clergy Trust to have been unjust. She has recognised this by petitioning the Bishop to convene her for the purpose of endeavouring to settle this unhappy strife on the basis of the moral law. The Executive Board of the diocese replied to her request by declaring the ordinary process of Synod law as best suited to attain her end, and expressed his conviction "that the great Head of the Church, will, by His Holy Spirit, lead her members to do that which is best for the promotion of His Glory and their individual welfare." The general voice of those who belong to her has declared that her interests will be best served by the Civil procedure being stayed until that time. This accords with the spirit of the communication I addressed to the Bishop, and which has been communicated to the diocese. Those only and they are the exceptions, who uphold the action of the Synod of 1875, can consistently and honestly oppose the principle for which I have contended, as it would be degrading indeed for professedly Christian men to acknowledge the justice of my contention in *their* behalf, and yet deny it to me. They cannot morally maintain their right without respecting mine. Hence by a consensus of opinion, there is a reasonable hope that the moral law of which the Church should be the practical exponent, will be the final arbiter of the strife, and the unity of the Church will be thus effected for her future good. Should, however, the moral law be rejected, and the plaintiff ultimately succeed in the final appeal, the Clergy will eventually get what they believe to be their rightful heritage, but at a heavy cost; whilst if the defendants triumph, they will lose it. The Episcopal and Archdeacon's fund so far as it arises from out of the Clergy Trust will be in the same position. As the judgment of the Supreme Court at present stands, the principle of justice is accorded as much to the plaintiff as to the defendants, it

being equally divided, the turning point having been reached by one of a "doubtful" mind. At the last meeting of the Executive committee, it was stated by an able and upright layman, that in review of such a judgment the case could not be treated as an ordinary one. My next letter will conclude the series on the Clergy Trust, when I shall not fail to express my gratitude to the Dominion Churchman and its many readers, for the generous sympathy which has been accorded me, and a manly recognition of British fair play that a single individual should not be crushed by a corporation in the use of unauthorized power, and a personal irresponsibility for severe and arbitrary proceedings.

Feb. 20th, 1886. J. T. WRIGHT.

SIR,—In concluding this series of letters on the Clergy Trust, I thank the Dominion Churchman for the use of its columns, and am grateful. I am not insensible to the assistance received from the moral support accorded me. To maintain my position against a corporate power, which assumes no individual responsibility, and to receive a generous approval, affords satisfactory evidence of the integrity of the contention in which I am engaged. Wilful and malignant was the misrepresentation of my course of procedure. Although I exhausted every means to obtain redress for a manifest wrong, before appealing to a civil court, it did not avail. I submit the following circumstance to the Church as evidence of the injustice I received, and calmly await the verdict of Christian men. Although my solicitor has written *three* letters to the Secretary Treasurer of the Synod, extending from October to the following February, *two* of which were registered, for the purpose of avoiding the suit, yet he participated in passing a resolution which censured me for "filing a bill in chancery against the Synod without having first brought the matter in question before the properly constituted tribunals of the Church." It was owing to misrepresentation that the Synod passed this resolution of censure, and which was afterwards, by resolution, removed at the Synod of 1884. Respecting the second registered letter, I have not the slightest hesitation in stating my conviction that the signature in the book kept for the receipt of registered letters in the London Post Office, underwent a change of appearance in the case of the said letter. At one time Mr. Reed denied having received this particular letter, but afterwards wrote my solicitor respecting it, and said, "I have not the smallest doubt but that the above registered letter, with other office letters, was duly given me by my wife on my return, and its actual reception by me." The following resolution which is vindictive and untrue, appeared in the London public press at the time. The italics are for the purpose of directing attention, but the words are unchanged: "That whereas the Church of England in this ecclesiastical Province, is empowered by Acts of Parliment to deal with all matters relating to its discipline, organization and administration: and whereas there are properly constituted tribunals for the settlement of all matters in difference between members of our Church, this committee desire to place on record their unqualified disapproval and condemnation of the conduct of the Rev. Joel T Wright, who, while claiming to be a missionary clergyman of the diocese, and being a recipient of money from our Diocesan Mission fund, *has brought public scandal and disgrace on our Church* by filing a bill in Chancery against the Synod, wherein he charges the Synod and the members thereof with maladministration of the fund, and by such a proceeding and appeal to the civil courts *without first bringing* the matters in question before the properly constituted tribunals of our Church, *has shown an entire absence of those principles which should actuate a Christian Clergyman*, and has acted in a manner which is contrary to the true genius of the Episcopal Church of England in Canada."

When the official minutes appeared, the resolution was recorded thus:—"A vote of censure was unanimously passed on the conduct of the Rev. Joel T. Wright in filing a bill in Chancery against the Synod without first having brought

the matter in question before the properly constituted tribunals of the Church.
Which motion was added to the report of the Standing Committee." It will be
seen that the *former* resolution aggravated the misrepresentation, and I may
fairly call upon the *Secretary* Treasurer, whether the one given to the public
through the secular Press was passed at the Standing Committee or not? If so,
by whose authority it was changed in the official minutes? I also leave the
following questions, asked upon a former occasion, for Mr. E. B. Reed, the Secre-
tary Treasurer of the Huron Synod, to give such answers as will clear him of com-
plicity and of sufficient truthfulness to satisfy reasonable Christian men. 1. Did
Bishop Hellmuth know that he had received the *three* letters referred to, or any
one of them? 2. Did any official of the Synod know thereof? 3. Did Bishop
Hellmuth or any official of the Synod, advise or connive at the withholding of
them from the Standing Committee and the Synod?

The Clergy Trust was for the "support and maintenance of the clergy," and
the annuity of $200 which I received from it, cannot be said to have been unne-
cessary, for although I have laboured a quarter of a century in the diocese, save
a few months, my stipend has at no time exceeded eight hundred dollars, except
for the three years I had the annuity, when it [illegible] thousand dollars, and, being
unjustly deprived of the annuity for the "[illegible]port and maintenance" of my
family, no equivalent whatever was given. Mine [illegible] not an isolated case, for
others were in the same position, and I have contended as much for them as for
myself.

J. T. WRIGHT

March 23rd, 1880.

N. B.—At the Synod of 1877 a resolution was moved that *on the decease* of the
present Incumbent, the Archdeacon's income should be divided amongst the
other Archdeacons. Bishop Hellmuth acknowledged to the Synod that this
annuity [illegible] the Archdeacon, came from the *surplus* interest of the Commutation
fund. [illegible]refore the present Archdeacon was to retain the annuity *during life*,
and the change to be for the *future*, how could the Clergy who *had been placed*
on the surplus of the Commutation fund be honestly deprived of *their* annuities?
The principle is the same, and if acknowledged in the case of the [illegible]
the other Clergy were equally entitled to retu[illegible] their annuities, and [illegible]
should only have been for the future.

WRIGHT VS. HURON SYNOD

SIR,—The Dominion Churchman merits the approval and thanks of all church
men for [illegible] and impartially making known through its columns affairs
which conce[illegible] of truth. This is the function and province of the
Church pre[illegible] this that the Huron litigation is now compar-
atively well [illegible] its origin and merits, the Rev. Mr. Wright's last
letter on the [illegible] must occasion very great surprise to many, revealing
as it does an [illegible] deception [illegible] shocking to contemplate, practised upon
the Church by [illegible] of facts.

The matter is so serious that nothing but the most searching investigation
should satisfy the members of the Church throughout the diocese. By the unjust
resolution which was passed, condemning Mr. Wright with such severity, it is de-
clared that the Church had proper tribunals to settle the matter, if only oppor-
tunity had been afforded the authorities before it was carried to the Civil Court.

Surely, if this means anything at all—it must mean that it would have done so,
thereby saving great expense, not to say disgrace to the Church herself. Now,
the plaintiff declares in the strongest language that this opportunity was afford-
ed. He declares that no less than *three* letters were written by his solicitor to
the official of the Synod, the proper medium, I should suppose, of communication
with the representative body of the Church.

How [illegible] neglects were not produced? Such injustice makes an honourable [illegible] to deal with indignation. The burden of responsibility for any [illegible] is acknowledged to the resolutions to rest with the persons, who did *not* bring the matter before the proper authorities.'

Mr. Wright did do so, and therefore, all the responsibility for the distress, which has been occasioned the Church of Christ, can only be attributed to the fact of these documents *not* having been produced.

Had they been, I do believe from my heart, that all strife and bitter discord might have been spared the Diocese of Huron.

It is to be hoped that the Synod will look into matters, and do what is right in this painful case as soon as it possibly can. Why should it be allowed to go on? Any other Christian body would have settled it long ago. It has never been thought before the Synod at all, as far as I am aware.

May God direct the Synod to a proper decision is the earnest prayer of

TRUTH

MOTION.

Motion by Standing Committe passed March 31st 1881. Moved by Judge McMahon, seconded by Rev. Rural Dean Davis, "Resolved, that having been informed by the Sec.-Treas. that the Rev. J. T. Wright, a missionary clergyman of this diocese, had filed a Bill in Chancery against the Synod, to set aside the award made over twenty years ago between the Dioceses of Toronto and Huron, whereby certain securities were given to this Diocese in Trust for the Clergy Commutation Fund and the Episcopal and Archdeacon's Fund, and also to set aside the Canons of the Synod passed in relation thereto, especially those passed in the sessions of 1875 and 1876 (and having heard the statement of the Chancellor of the Diocese respecting the said Bill, the Standing Committee hereby approves of the action taken by the Chancellor and the Secretary-Treasurer to *defend* the said suit.'

At the Synod of 1881 the Secretary-Treasurer, Mr. E. B. Reed, moved the adoption of that part of the Report of the Standing Committee which contained the above resolution.

It is highly important for the Synod to thoroughly understand the ground taken by the Standing Committee for the *defence* of the suit, which rested entirely upon the *representation* given by the Secretary-Treasurer, Mr. E. B. Reed, as contained in the resolution above. The so called information was *erroneous* as to the object of the bill filed by the Plaintiff, for the Bill did *not* attack the award or the Episcopal and Archdeacon's Fund, or any of the Canons relating thereto. The *defence* therefore was approved by the Committee under a *misapprehension* and *misrepresentation* of the facts. It is not too much to suppose, that the *defence* would *not* have been approved had the real nature of the Bill been set forth, particularly as on the following 20th day of June, the same Committee was publicly credited with having passed a resolution declaring there were "properly constituted tribunals for the settlement of all matters in difference between members of our Church" and condemned the plaintiff with great severity for proceeding with the suit "without first bringing" the matter before the said Tribunals, although his solicitor had written *three* letters to the Secretary-Treasurer, Mr. E. B. Reed, before commencing the said suit, seeking for a settlement of the plaintiff's claim.

If the matter had been properly submitted, the evils arising from out of years of litigation might have been prevented, *public scandal and disgrace on our Church* averted, and serious *costs* would have been saved. The Synod will have little difficulty in deciding with whom the *responsibility* rests. It should be carefully noted that action had been taken to *defend* the suit *before* it had been made known to the Standing Committee, and that *after* it had been done, the Commit-

tee approved of it upon the erroneous representation given of the nature of the suit. The defence was filed on March 30th, 1881, but one day before the Committee met, and there is nothing to show that the Official of the Synod consulted *any one previously* to entering the defence. It is noteworthy that the meeting of the Committee was not called until Thursday, the 31st day of the month, whereas the Constitution ordered that the meeting should be on the *first* Wednesday in the month, unless the Bishop should *see good cause* for changing the day in the month. What was the good cause for changing the time of the meeting until the *last* day of the month, and putting in the defence the *previous* day? Who ordered the change? One would suppose that the gravity of the matter would have been sufficient to have called the meeting on the earliest day possible, and *before* the defence had been put in, especially as the Committee at its next meeting declared "there were properly constituted Tribunals for the settlement of all matters between members of our Church." The plaintiff was publicly declared to be censured, his clerical character held up to condemnation, whereby the *ruin of himself, his wife and family was sought*, upon a shameful misrepresentation of the facts of the case, by which the Committee was deceived.

NOTICE OF MOTION.

The following notice of motion is given by the Plaintiff in the suit of Wright vs. the Incorporated Synod of the diocese of Huron, without prejudice.

WHEREAS the judgment given by the Supreme Court of Canada in the suit of Wright vs. the Incorporated Synod of the diocese of Huron is equally divided upon the merits of the case, two judges having declared in favor of the plaintiff, and two judges in favor of the defendants, the fifth judge being doubtful as to the law in the matter,—and WHEREAS the plaintiff has addressed the defendants, through his Lordship the Bishop of the diocese declaring his readiness to terminate the strife, and thereby prevent continued scandal to the prejudice of the Church,—and WHEREAS more than a quorum of the Synod, who are the defendants in the case, have petitioned the Bishop in his Executive capacity, to convene them for the purpose of meeting the plaintiff with a view to the settlement of the litigation,—and WHEREAS the Bishop replied deferring the consideration of the matter until the June Synod, as best for the interests of the diocese,—and WHEREAS a large number of leading Churchmen throughout the diocese have declared their opinion that the appeal of the plaintiff should be delayed until after the meeting of the Synod in June in order that an amicable settlement might be reached,—and WHEREAS the plaintiff desires to exhaust every lawful means to effect such settlement,—Be it resolved:—That the said suit of Wright vs. the Incorporated Synod of the diocese of Huron as now in litigation terminate, by referring the matter, inclusive of the costs thereof, to arbitration on its merits, and without reference to the decision as at present reached in the Supreme Court in relation thereto. The Board of arbitration to consist of members chosen as follows: *One* arbitrator to be appointed by his Lordship the Bishop as the Executive head of the Synod as representing the interests of the defendants, or to be appointed otherwise if the defendants so determine; *one* arbitrator to be appointed by the plaintiff, and *one* arbitrator to be appointed by the two said arbitrators as above mentioned. The award of the majority of the said arbitrators to be in writing, and final.

Vice Chancellor Proudfoot's judgment, will be found at the *end* of the pamphlet on "Constitutional Government and Synod legislation." It was on this judgment that the Supreme Court was divided.

JUDGMENTS.

The following judgments of Justices Henry, Fournier, and Taschereau, of the Supreme Court, in the case of Wright vs. Huron will be read with much interest. That of Justice Taschereau is *dubitante*, and upon which the legal decision of this case at present rests. The pivot upon which his Lordship's judgment turns will be seen in the words "*if* the law is as stated."

WRIGHT VS. HURON.

HENRY J.—I also feel bound to sustain the decision of the Vice Chancellor in this case, and I entirely endorse all the reasons which he gives for his judgment. The fund in this case, applicable to the clergymen of the Diocese, who were not originally to receive the Commutation, was an accummulating one. It was provided to be received after the death of the different Incumbents on the Commutation fund; the provision was made, that the funds arising from the death of the different incumbents, should be appropriated by the Trustees, for the support and maintenance of the Clergy from time to time, as, by the By-laws of the Church Society, should be provided. This is the agreement referred to:

Indenture.....day of.....A. D., 1855, between the Church Society of the Diocese of Toronto, of the one part and—of the other part. Whereas A. M. is a clerk in Holy orders, and is incumbent of, and as such is now, and has been in receipt of £121.11.4 from the Clergy Reserved fund, and whereas the said A. M. under and by virtue of a statute lately passed by the Provincial Parliament, is entitled with consent of the Bishop of the said diocese to receive from the Government of Canada, a certain sum of money in Commutation of his said salary of £121.13.4, and has consented and agreed to pay the said sum so to be received from the Government as such Commutation, to the said Church Society in consideration of the payment by the said Church Society to the said A. M. of the said sum of £121.13.4 per annum in manner hereafter mentioned; and in further consideration of the several covenants hereafter mentioned respecting the said Commutation money. Now this indenture witnesseth that for the consideration aforesaid and in consideration of the said Commutation money to be paid by A. M. to the said Church Society, the said Church Society covenants and agrees with he said A. M., his executors and administrators, that the said Church Society shall and will well and faithfully pay to the said A. M. the annual sum of £121.13.4. by even and equal payments on the first days of the months of January and July in each and every year, so long as the said A. M. continues to do duty in holy orders as aforesaid in the said diocese, and in the event of his being disabled from doing such duty by sickness or bodily or mental infirmity, so long as such sickness or infirmity shall continue; and when and as soon as such annual payment to the said A. M. shall cease, the said Church Society shall have and hold the said commutation money and all interest and proceeds thereon, upon such trusts for the support and maintenance of the clergy of the said church within the said diocese, or such other dioceses as the said diocese shall hereafter be divided into; and in such manner as shall from time to time be declared by any by-law or by-laws of the said Church Society, to be from time to time passed for that purpose, so long as the said trust shall continue to be administered by the said society; and in the event of the Synod of the said diocese being legally invested with corporated powers so as to be enabled to carry out the trusts aforesaid, shall and will transfer and assign the said commutation money and any securities in which the same may be invested, and all interests and proceeds then unappropriated arising there from, to the said Synod by whatever corporate name called, upon the same trusts and interests and purposes as the same shall and may be held and taken by the said Church Society by virtue of these presents, in witness whereof the said Church Society affixed corporate seal, etc.

We have to construe that agreement before we go any further, and my construction of it is this:—The funds were not provided at the time; they were to be the result of the death of the different incumbents, and the coming in of the funds; and that agreement gave the Trustees power to appropriate them from time to time as new cases should arise; but not to re-appropriate the same money. Having once made an appropriation of certain sums as they came in, they had the right, from time time to time, only to make appropriations of the further funds as they accumulated.

If we look at the nature of the circumstances in which the Clergy stood, the provisions of the different by-laws, and the object of the donors, we shall find as a condition of the grants, that the stipends that the clergymen received from the different parishes should be given up. There were certain other considerations connected with the grant, and although it is not stated on plain terms, I think the proper construction of the agreement is that when these clergymen came within the rules laid down, the society had no right to change the appropriations made in their favor, and mix them up and change them from time to time.

It is true that the words used "from time to time" may bear two different constructions, and which of these are we to adopt? I am free to say that, looking at the nature of the whole surrounding circumstances, I can put but one construction upon them. It is true that if a person gives away what is his own he has a right to impose such conditions as he pleases; but here is a fund that is placed under the control of the society as trustees of the donors. The fund not intended for the *casual* support of the clergy, but for their *continuous support and maintenance*. How could that be carried out, if the society were to take to itself the power of withdrawing that aid in any one year, or for a term of years? If they could change it from year to year, if they could modify it, they could take it away altogether, and how, then, could they be said to be carrying out the undertaking to provide support and maintenance? It is to be noted that the fund was not for the maintenance of the clergy generally, but of each clergyman who was put upon that superannuation list.

What are the terms?

It is provided that no further clergy shall be placed upon the list until other funds arise. A certain number are provided for, and it is provided that no further names are to be added. How then could there be that general supervision and control which is contended for? There was a limitation of the control in these very words which, if carried out, would deprive the Church Society of the power of revison. Now, what does this mean? For how long a period is it intended? When a clergyman is superannuated, is it not the intention that the allowance should be made to him for life? Surely it was not intended to superannuate him for a year, when he is induced to give up his living, on the understanding that he is to be superannuated. The agreement is not carried out by the superannuation for a year, or for any term less than the period of his natural life. We are told in the judgments of some of the courts below that there was no contract. It is not necessary that a contract should exist. The question is, what is the construction of the document by which the trust is created? It is not necessary, in order to carry out the object of the trust, that a contract should be entered into. The question is, what is the construction of the document which creates the trust? If a contract existed at all it would be between the settler and those who were benefitted by the trust; the Church Society were merely instruments, and therefore not in a position to enter into any contract at all.

Now with regard to the by-law, I differ with those who sustain it. The constitution under the law and under the statute, requires that by-laws shall be made for the government of the society. The society made by-laws, which became as binding as if enacted by the legislature; under those by-laws the business to

come before the meeting was provided to be only of two characters: First, that submitted by the Bishop, and second, that submitted by the committee. The plaintiff here gave notice, according to regulation, that he would submit an amendment to the by-law. That was brought forward regularly and properly within the rules of the corporation. Every member submitted, and was bound to submit to the by-laws. They were bound by them. If then there was a rule governing the meeting, everyone was bound by that rule. And if the whole Synod contracted with each individual member that there must be a certain rule of proceeding, that contract must be observed, or else what is done cannot have a legal binding effect. Now, that motion to amend the by-law having been brought before the meeting, another member moved what purported to be an amendment to that motion. It was really nothing of the kind. It was another substantial motion to amend the original by-law. No notice had been given of such a motion as that. It is admitted that a notice was as absolutely necessary as it was in the case of the resolution moved by the plaintiff; and if a notice is duly given of a motion to amend a by-law, that notice does not entitle another person to move a resolution to amend the by-law in a directly opposite direction. I think with the Vice Chancellor who heard this case, that the by-law passed in 1876, was *ultra vires* and had no binding effect.

But we are told that the party plaintiff took his stipend for two years under the by-law, altered as it was from the original one, and that therefore he is estopped from seeking to set aside the by-law that he complains of. I do not think his taking the stipend in that way can have that effect in law. He has brought this suit, not for himself alone, but in order to get a fair construction of the Trust, for himself and all the other clergy interested and if what he did could be considered at all, it was merely a submission for the time being, to a superior force over which he had no control. It is true he received a salary for two years under the changed by-law, but when that was at an end, his salary was taken away altogether. Surely his agreement to take his usual salary under the changed by-law, could not be held to debar him from claiming any salary at all. He may say, "So long as I got the $200 a year I will not complain" of the particular mode of appropriation, but the very moment it is taken away altogether, he has the right to complain, and I do not think he is prevented from doing so by anything he did. I think the appeal ought to be allowed; and the judgment of the Vice Chancellor affirmed.

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FOURNIER J.—I am sorry to differ from the judgment of the majority of this Court, but I interpret the trusts as Mr. Justice Proudfoot has, and for the reasons given in his judgment.

I am in favor of allowing the appeal.

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TASCHEREAU J.—It was not without some difficulty that I have arrived at a conclusion in this appeal.

My first impression was in favor of the appellant's contentions, but for the reasons given by the Chief Justice and my brother Strong, I have come to the conclusion of allowing the appeal. The by-laws were not accompanied with the formalities required by the Constitution, but it is a question of form; and I would not differ from the Court below on such a point. It is a question of hardship no doubt for the appellant in this case, but if the law is as stated, he is supposed to have known the law; knowing it he must have known it was in the power of the trustees power to alter or repeal the by-law.

The appeal should be dismissed.