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Clergy Reserves.—(Canada.)

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PAPERS relative to the Clergy Reserves in Canada.

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*Presented to both Houses of Parliament by Com-  
mand of Her Majesty. 1851.*

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LONDON:

PRINTED BY HARRISON AND SON.

**P A P E R S**

RELATIVE TO

**THE CLERGY RESERVES**

IN

**CANADA.**

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*Presented to both Houses of Parliament, by Command of Her Majesty.  
February 1851.*

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LONDON:  
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### SCHEDULE.

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## Papers relative to the Clergy Reserves in Canada.

(No. 198.)

No. 1.

COPY of a DESPATCH from the Right Hon. the Earl of ELGIN and  
KINCARDINE to the Right Hon. the Earl GREY.

Government House, Toronto, July 19, 1850.

Received August 5, 1850.)

(Answered January 27, 1851. No. 551, page 6.)

MY LORD,

I HAVE the honour to transmit herewith, in compliance with the request of the Legislative Assembly, to be laid at the foot of the Throne, an Address from that House to Her Majesty, on the subject of the Clergy Reserves. After recapitulating the proceedings of the House of Assembly of Upper Canada before the union of the provinces in connexion with this question, it concludes with the prayer, that Her Majesty will be graciously pleased to recommend to Parliament a measure for the repeal of the Imperial Act 3 & 4 Vict., chap. 78, and for enabling the Canadian Parliament to dispose of the Clergy Reserves, subject to the condition of securing the stipends or allowances assigned from this fund to the clergy of the Church of England or Scotland, or to any other religious bodies or denominations of Christians, to the parties now receiving them during their natural lives or incumbencies. It was finally carried by a majority of 46 votes to 23; some of the minority voting against it in consequence of this reservation.

2. It may be proper, however, to observe, that a much closer division took place on the passage of the 29th, in the series of resolutions on which the Address was founded, and which was thus worded: "*Resolved*—That this House is of opinion, that when all the circumstances connected with this question are taken into consideration, no religious denomination can be held to have such vested interest in the revenue derived from the proceeds of the said Clergy Reserves as should prevent further legislation with reference to the disposal of them; but this House is nevertheless of opinion, that the claim of existing incumbents should be treated in the most liberal manner." This resolution was opposed by three classes of persons: First, by those who desire the existing settlement to be maintained. Second, by those who, though they object to the Imperial Act of 1840, and seek its repeal, admit nevertheless certain claims on the part of the Protestant clergy under the Constitutional Act of 1791. And lastly, by those who are unwilling to recognize even the claims of existing incumbents. It was carried on a division by a majority of 2 only; the numbers being 36 for, and 34 against it.

3. I deeply regret the revival of agitation on this subject, of which Lord Sydenham truly observed, that it had been in Upper Canada the one all-absorbing and engrossing topic of interest, and for years the principal cause of the discontent and disturbance which had arisen, and under which the province had laboured. The intervention of the Imperial Parliament in 1840 was doubtless prompted by a desire to settle on terms which should be equitable and generally satisfactory, a question which had for so many years disturbed the peace of the colony. While the principle, however, of an establishment was abandoned by the Imperial Act 3 & 4 Vict., chap. 78, which admitted all denominations to share in the proceeds of the Clergy Reserves, advantages

were given by it to the established Churches of England and Scotland in the distribution of the funds which render them still objects of envy. This feeling has been increased, as regards the Church of Scotland, by the large secession from its ranks, which the Free Church movement has occasioned. I much fear that the result will justify the disinclination which Lord John Russell appears, from the first, to have entertained to any legislation by the Imperial Parliament upon this question. It is an evil of no small magnitude on a subject of this nature, that while the more violent and unscrupulous of the opponents of the existing settlement are enabled to create a prejudice against it, by representing it to be the result of Imperial interference in a matter of provincial concern, its friends are tempted rather to endeavour to influence opinion in England than to resort to measures which may strengthen their position in the colony.

I have, &c.

(Signed) ELGIN AND KINCARDINE.

The Right Hon. The Earl Grey,

&c. &c. &c.

#### Enclosure in No. 1.

#### ADDRESS TO HER MAJESTY.

Hon. Mr. Price reported from the Select Committee appointed to draw up an Address to Her Majesty on the subject of Clergy Reserves, that they had drawn up an Address accordingly, which was read twice, as followeth:—

#### TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Most Gracious Sovereign:

We, your Majesty's most dutiful and loyal subjects, the Commons of Canada, in Provincial Parliament assembled, humbly approach your Majesty, for the purpose of representing:—

That the reservation of a large portion of the public domain of the province, for the support of a Protestant clergy, by an Act passed in the 31st year of the reign of your Majesty's royal predecessor, King George the Third, has been for many years a source of intense dissatisfaction to the great majority of your Majesty's subjects in Upper Canada.

That it appears by the last census taken in Upper Canada, that the population of that section of the province was in the year 1848, 723,332, of which 239,651 are returned as in connexion with the Churches of England and Scotland, the only churches receiving any benefit from the Clergy Reserve endowment.

That it appears by the last census taken in Lower Canada, that the population of that section of the province was in the year 1844, 678,490, of which only 70,229 are returned as in connexion with the Churches of England and Scotland.

That the power given by the 41st clause of the above-mentioned Act to the Provincial Legislature, "to vary or repeal" the provisions respecting the allotment and appropriation of lands for the support of a Protestant clergy, affords sufficient evidence, that in the opinion of the Imperial Parliament the question was one that ought to be settled with reference to the state of public opinion in the colony rather than to that in the mother-country.

That in the early settlement of the province the reserve lands were of little value, and as no sales had then been authorized by the Imperial Parliament, the question attracted but a slight share of public attention.

That so soon as the intention of the Government to dispose of the land reserved in Upper Canada became known, the representatives of the people of that province took the whole subject into their most serious consideration, and with an unanimity that prevailed on no other question, endeavoured to remove a grievance universally complained of by the people, save and except by those interested in the maintenance of Church Establishments.

That in the year 1827 a Bill to authorize the sale of Clergy Reserves and the application of the proceeds thereof to the purposes of General Education, was passed through the House of Assembly of Upper Canada, the division on the second reading having been 22 to 6; that this Bill was rejected by the Legislative Council.

That a dissolution having taken place soon afterwards, the tenth Parliament of Upper Canada met in the year 1829, when a Bill for the sale of the Clergy Reserves and the application of the proceeds to educational purposes, passed through its various stages in the House of Assembly without a division, but was again rejected by the Legislative Council.

That in the year 1830, during the second session of the tenth Parliament, another Bill containing similar provisions to the former ones was passed by the House of Assembly without a division, and was rejected by the Legislative Council.

That a dissolution having taken place, a new Parliament met in the year 1831, when resolutions expressing the same views were adopted by a large majority in the House of

Assembly, an amendment proposed by the Solicitor-General having been rejected on a division of 29 to 7.

That in the year 1832, during the second session of the eleventh Parliament, an Address to the Crown praying for the application of the Clergy Reserves to educational purposes was carried by a large majority in the House of Assembly.

That after the passage of the Address last referred to, a message was sent down to the House by Lieutenant-Governor Sir John Colborne, in which his Excellency stated that he had His Majesty's commands to make a communication to the House of Assembly in reference to the lands set apart for the support and maintenance of a Protestant clergy; that his Excellency informed the House that the representations made to His Majesty and to his royal predecessors, of the prejudice sustained by his faithful subjects in the province, from the appropriation of the Clergy Reserves, had engaged His Majesty's most attentive consideration, that His Majesty had considered with no less anxiety, how far such an appropriation of territory was conducive either to the temporal welfare of the ministers of religion in the province or to their spiritual influence, and that His Majesty invited the House of Assembly of Upper Canada to consider how the power given to the Provincial Legislature by the Constitutional Act, to vary or repeal this part of its provisions, could be called into exercise most advantageously for the spiritual and temporal interests of His Majesty's faithful subjects in the province.

That after the reception of the above message, a Bill to reinvest the Clergy Reserves in the Crown, discharged of all trusts whatsoever, was introduced and read a second time on a division of 29 to 7.

That in the year 1833, during the third session of the eleventh Parliament, a Bill having similar provisions with that formerly adopted by the House, was read a second time on a division of 26 to 2.

That in the year 1834, during the fourth session of the eleventh Parliament, a Bill of a similar character was passed through its several stages in the House of Assembly by considerable majorities, though opposed with the whole weight of the Government, but was rejected by the Legislative Council.

That in the year 1835, during the first session of the twelfth Parliament of Upper Canada, a Bill for the sale of the Clergy Reserves and the application of the proceeds to educational purposes, was passed by a majority of 40 to 4, but was rejected by the Legislative Council.

That during the same session resolutions were sent down to the House of Assembly by the Legislative Council, in which the opinion was expressed, that as the Legislature of the province had been unable to concur in any measure respecting the Clergy Reserves, it was expedient to address His Majesty and both Houses of Parliament, requesting that the Imperial Parliament should legislate on the subject.

That the House of Assembly, by a majority of 24 to 12, thereupon resolved, That the House had theretofore repeatedly passed Bills providing for the sale of the Clergy Reserves, and the appropriation of the moneys arising therefrom to the support of Education, which Bills have been rejected without amendment by the Legislative Council. That with the same view the House had repeatedly made known, by humble and dutiful addresses to His Majesty, their wishes and opinions, and the wishes and opinions of His Majesty's faithful subjects in the province on this highly important subject, and that the House took that opportunity of declaring that these wishes and opinions, both on the part of the House and of their constituents remained entirely unchanged. That during the second session of the then last Parliament, his Excellency the Lieutenant-Governor by Message informed the House that he had received His Majesty's instructions to declare that the representations which had at different times been made to His Majesty and his royal predecessors, of the prejudice sustained by His Majesty's faithful subjects in the province from the appropriation of the Clergy Reserves, had engaged His Majesty's most attentive consideration, and His Majesty had most graciously been pleased to invite the House to consider how the powers given to the Provincial Legislature by the Constitutional Act, to vary or repeal the provisions which it contains for the allotment and appropriation of the Clergy Reserves might be most advantageously exercised for the spiritual and temporal interests of his faithful subjects in the province. That the House, in compliance with His Majesty's wishes thus graciously expressed, and with the strong and well-known desires of His Majesty's faithful subjects in the province, had passed a Bill during the then present session to provide for the sale of the Clergy Reserves, and to apply the money arising from such sales to the support of education. That the said Legislative Council had not passed the said Bill, had not amended it, and had not passed any other Bill on the subject.

That in the year 1836, during the second session of the twelfth Parliament, a Bill embodying similar principles to those repeatedly passed by the House of Assembly was again introduced, and was carried on a division by a majority of 35 to 5. That the said Bill was amended in the Legislative Council by expunging all the enacting clauses, and substituting provisions for investing the Reserves in the Crown, to be applied for the maintenance of public worship and the support of religion. That the House of Assembly adopted by a majority of 27 to 1, certain amendments to the amended Bill sent down by the Legislative Council affirming the principles of their original Bill.

That during the same session, a despatch from Lord Glenelg, His Majesty's Principal Secretary of State for the Colonies to Lieutenant-Governor Sir Francis Head, was com-

municated to the House of Assembly in which his Lordship treated the question as one to be settled by the Provincial Legislature, and declined to interfere with the deliberations of the Legislature by offering any suggestions of his own.

That the twelfth Parliament having been dissolved by Sir Francis Head, a general election was held at a period of great excitement, and the question of the disposal of the Clergy Reserves appears to have been lost sight of during the political struggle which ensued. That during the first three sessions of the thirteenth Parliament, various efforts were made to settle the question, but without any satisfactory result. That at length in the course of the third session, a Bill which had passed the Legislative Council providing for the reinvestment of the said Reserves in the Imperial Parliament, was concurred in by a majority of 22 to 21.

That in the year 1839, during the fifth and last session of the last Parliament of Upper Canada, a Message was sent down to the House by the Governor-General, the Right Hon. C. P. Thomson, by which the House was informed, that the Bill passed during the previous session had not received the Royal Assent, there being an insuperable objection to it on a point of form. That his Excellency stated, moreover, that in the opinion of Her Majesty's Government, the Provincial Legislature would bring to the decision of the question an extent of accurate information as to the wants and general opinion of society in this country in which the Imperial Parliament was unavoidably deficient.

That another attempt at settlement was made during the last session of the last Parliament of Upper Canada, when a Bill passed both Houses providing for the sale and disposal of the Clergy Reserves, which Bill having been reserved for the Royal Assent was not assented to by your Majesty.

That on your Majesty's decision to withhold the Royal Assent from the said Bill, your Majesty's Government submitted to the Imperial Parliament a Bill providing for the sale and distribution of the proceeds of the Clergy Reserves, which, so far from settling this long-agitated question, has left it to be the subject of renewed and increased public discontent.

And we humbly beg leave further to represent to your Majesty, that apart from the objections entertained by the great majority of your Majesty's subjects in Canada to religious endowments, by which certain favoured denominations of Christians are kept in connexion with the State, and thereby placed in a position of superiority over others, the present disposition of the revenue derived from the Clergy Reserves investments is manifestly unjust.

That the entire revenue derived from the investments made before the passing of the Imperial Act 3 and 4 Victoria, chapter 78, has been thereby assigned to the Churches of England and Scotland, to the exclusion of the Wesleyan Episcopal and New Connexion Methodists, the Free Presbyterian Church of Canada, the United Presbyterian Church, the Baptists, Congregationalists, and other religious bodies whose pastors have an equal claim to the designation of a Protestant clergy with those of the clergy of the Churches of England and Scotland.

That it appears from the facts above stated, that during a long period of years, and in nine successive sessions of the Provincial Parliament, the Representatives of the people of Upper Canada, with an unanimity seldom exhibited in a deliberative body, declared their opposition to religious endowments of the character above referred to. That the wishes of the people were thwarted by the Legislative Council, a body containing a majority avowedly favourable to the ascendancy of the Church of England. That the Imperial Government from time to time invited the Provincial Parliament to legislate on the subject of these Reserves, disclaiming on the part of the Crown any desire for the superiority of one or more particular Churches. That your Majesty's Government, in declining to advise the Royal Assent being given to a Bill passed by a majority of one, for investing the power of disposing of the Reserves in the Imperial Parliament, admitted that from its accurate information as to the wants and general opinions of society (in which the Imperial Parliament was unavoidably deficient), the question could be more satisfactorily settled by the Provincial Legislature. That subsequently to the withholding of the Royal Assent from the last-mentioned Bill, the Imperial Parliament passed an Act disposing of the proceeds of the Clergy Reserves in a manner entirely contrary to the formerly repeatedly expressed wishes of the Upper Canadian people as declared through their Representatives, and acknowledged as such in a message sent to the Provincial Parliament by command of your Majesty's royal predecessor.

That we are humbly of opinion that the legal or constitutional impediments which stood in the way of provincial legislation on this subject, should have been removed by an Act of the Imperial Parliament, but that the appropriation of revenues derived from the investment of the proceeds of the public lands of Canada, by the Imperial Parliament, will never cease to be a source of discontent to your Majesty's loyal subjects in this province; and that when all the circumstances connected with this question are taken into consideration, no religious denomination can be held to have such vested interest in the revenue derived from the proceeds of the said Clergy Reserves, as should prevent further legislation with reference to the disposal of them, but we are nevertheless of opinion that the claims of existing incumbents should be treated in the most liberal manner; and that the most liberal and equitable mode of settling this long-agitated question, would be for the Imperial Parliament to pass an Act providing that the stipends and allowances heretofore assigned and given to the clergy of the Church of England and Scotland, or to any other



religious bodies or denominations of Christians in Canada, and to which the faith of the Crown is pledged, shall be secured during the natural lives or incumbencies of the parties now receiving the same, on the same principle that was adopted in the 3rd section of an Act passed in the third and fourth years of Her Majesty's reign, chapter 78; subject to which provision the Provincial Parliament should be authorized to appropriate as in its wisdom it may think proper, all revenues derived from the present investments, or from those to be made hereafter, whether from the proceeds of future sales or from instalments on those already made.

We therefore humbly pray that your Majesty will be graciously pleased to recommend to Parliament a measure for the repeal of the Imperial Act 3 & 4 Vic., chap. 78, and for enabling the Canadian Legislature to dispose of the proceeds of the Clergy Reserves, subject to the conditions above mentioned.

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Despatch from the Right Honourable Earl Grey,  
Secretary of State.

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No. 2.

(No. 551.)

COPY of a DESPATCH from the Right Hon. the Earl GREY to the Right  
Hon. the Earl of ELGIN and KINCARDINE.

My Lord,

Downing Street, January 27, 1851.

\* Page 1.

I HAVE hitherto deferred answering your Lordship's despatch No. 198, of the 19th of July last\*, in which you transmitted to me an Address to Her Majesty from the House of Assembly, on the subject of the Clergy Reserves, because when this despatch reached me the session of the Provincial Legislature having already been brought to an end, and that of the Imperial Parliament being about to close, nothing could for some months be done on the subject referred to, and I therefore thought it advisable that it should be reserved for that full and deliberate consideration of Her Majesty's Government, which its difficulty and importance deserved.

2. I have now to instruct your Lordship to inform the House of Assembly when it shall again be called together, that their Address to the Queen, which was transmitted to me in your despatch, has been laid before Her Majesty, and that Her Majesty has been pleased to receive it very graciously. You will further inform the House, that while Her Majesty's servants greatly regret that a subject of so much difficulty as that of the Clergy Reserves should, after an interval of some years, have again been brought under discussion, it has appeared to them on mature deliberation, that the desire expressed by the Assembly in this Address ought to be acceded to, and they will accordingly be prepared to recommend to Parliament that an Act should be passed, giving to the Provincial Legislature full authority to make such alterations as they may think fit in the existing arrangements with regard to the Clergy Reserves, provided that existing interests are respected.

3. In coming to this conclusion Her Majesty's Government have been mainly influenced by the consideration, that, great as would in their judgment be the advantages which would result from leaving undisturbed the existing arrangement by which a certain portion of the public lands of Canada are made available for the purpose of creating a fund for the religious instruction of the inhabitants of the province, still the question whether that arrangement is to be maintained or altered is one so exclusively affecting the people of Canada, that its decision ought not to be withdrawn from the Provincial Legislature, to which it properly belongs to regulate all matters concerning the domestic interests of the province.

4. It has therefore appeared to Her Majesty's Government that it would be impossible for them, consistently with the principles on which they have always held that the Government of Canada ought to be conducted, to advise Her Majesty to refuse to comply with the prayer of the Address of the House of Assembly; and they have had the less difficulty in coming to this conclusion, because they have observed with satisfaction, that the Assembly, in their Address, have recognized the claims of those who are now in the enjoyment of incomes derived from the funds realized by the sale of the lands in question, and have not asked, that in any alteration of the Act of Parliament now in force, authority should be given to the Provincial Legislature to interfere with the continuance of these incomes for the lives of the parties by whom they are received. The course thus taken by the Assembly is alike consistent with sound policy and with justice, and has obviated what would otherwise have been a great difficulty in the way of accomplishing the object they have in view.

5. You will cause copies of this despatch to be laid before both Houses of the Parliament of Canada at their next meeting.

The Earl of Elgin and Kincardine,  
&c. &c. &c.

I have, &c.  
(Signed) GREY.

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