

C A N A D A.

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COPY of an Act passed by the Legislature of *Upper Canada*, to provide for the Sale of the CLERGY RESERVES, and for the Distribution of the Proceeds thereof; together with COPY of a DESPATCH from the Governor-General of *Canada*, dated the 22d January 1840.

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*Ordered, by The House of Commons, to be Printed, 23 March 1840.*

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— No. 1. —

(No. 36.)

The Right Honourable *C. Poulett Thomson* to Lord *John Russell*.

My Lord,

Toronto, 22 January 1840.

THERE is no subject of such vital importance to the peace and tranquillity of this Province as the question of the Clergy Reserves; there is none, with reference to the future union of the two Provinces, which it is more necessary to determine without delay. The records of the Colonial Office will afford ample evidence of the fatal effect upon public affairs in Upper Canada of the state in which this matter has now for some years rested. But no one who has not had the opportunity of examining upon the spot the working of this question, can correctly estimate its importance. It has been, for many years, the source of all the troubles in the Province; the never-failing watchword at the hustings; the perpetual spring of discord, strife, and hatred. So universally is the truth of this proposition admitted, that I have scarcely met with one man of any party, or of any opinion with regard to the mode of settlement, who has not declared to me, that it would be far better that these Reserves should be altogether taken away from the Province, than that they should remain an object for contending parties to dispute about.

To leave this question undetermined, then, is to put an end to all hope of re-establishing tranquillity within this Province, even should it remain under a separate government; but to establish the union without a settlement of it, and to transfer the decision to the United Legislature, would be to add to the sources of discord which already unhappily prevail in the Lower Province, an entirely new element of strife; for amongst the various evils by which Lower Canada has been visited, one, and one only—perhaps the greatest of all—has been wanting—religious dissension.

Deeply impressed, therefore, with the immense importance of obtaining from the Legislature a solution of this long-agitated question, and in compliance with your Lordship's instructions, as well as with my own feelings, I have used every effort in my power to bring together the contending parties; and after much negotiation, I determined on transmitting a message to the Legislature upon the subject, and on recommending a Bill which I thought offered some chance of being accepted by both branches of the Legislature.

I inclose copies of my message, and of the Bill which was introduced into the House of Assembly by the Solicitor-general, and I am happy to say, that, with some alterations, to which I entertain no objection, the measure has received the sanction of both Houses, and I have now the satisfaction of transmitting to your Lordship the Bill as passed, with the addresses from the Council and House of Assembly as required by law, and of my answer.

The Bill was passed by the House of Assembly, by a majority of 28 to 20, and in the Legislative Council, as I have been informed, by 13 to 5. The

address was agreed to in the House of Assembly, when the Bill was sent back from the Council, by a very much larger majority.

Under ordinary circumstances, a measure thus agreed to by large majorities of both branches of the Legislature, would, I am satisfied, need no additional argument to procure its ready acceptance; but the peculiar position in which every act of the Provincial Legislature upon this subject is placed under the provisions of the Act of 1791, subjecting it to rejection by an address to the Crown from either House of Parliament, leads me to think that I should not discharge my duty if I did not offer some observations upon it.

This Bill proceeds on the principle of devoting the revenue derivable from the lands when sold exclusively to religious instruction or religious purposes. It secures to the Churches of England and Scotland one-half of the future proceeds of the land, subject to no variation and to no contingency. It distributes the remainder for the support of religious instruction amongst the different persuasions of Christians recognised by the laws of the Province, in proportion to the population of each sect, to be ascertained at fixed periods; and it relieves the executive from any discretion with regard to the distribution amongst these different bodies. Whatever is now paid by the Crown to the Church of England, to the Church of Scotland, or to any other religious denomination, and to which its faith is pledged, remains as a first charge upon the fund, and must be first satisfied.

I will not conceal, however, from your Lordship, that even to this Bill, thus proceeding on the principle of so general distribution amongst different religious persuasions, nearly insuperable objections have been, and are entertained in this province. For many years past, the representatives of the people have uniformly refused to assent to an appropriation of this fund for religious purposes at all, and have steadily maintained its distribution to educational or general state purposes; and it is only the strong desire which is entertained of coming now to a settlement, which has led many, who formerly advocated these opinions with success, now to withdraw their opposition, and to assent to this measure. But I can safely say, that so far as this Province is concerned, their assent can never again be looked for. I entertain no doubt that the course taken by many members of the Assembly, in their conscientious and most laudable desire to put this question at rest, will occasion great opposition to their return at the next election; and I am satisfied that, in a future Assembly, if the matter were unfortunately again brought before it, it would not be possible to obtain any such terms for the Established Church, or for religious instruction.

In reality, the fund respecting which this violent contention exists, offers little to divide. It must, under any circumstances, be many years, supposing the lands to be sold, before the interest accruing from the sales will do more than discharge the claims which must necessarily be first provided for, and which are now borne by the casual and territorial revenues; and therefore an appropriation for purposes of education, would be of no immediate assistance to that important object. But, at the same time, the topic is too exciting not to be invariably used as a means of political and party agitation. One-seventh of the whole lands of the Province are declared to be unjustly withheld from the control of the people; and all those feelings of extreme jealousy of any establishment, or of any connection between the State and religion which prevail in this Province with a warmth of which, in England, we have no idea, are constantly roused and brought to bear in order to disturb tranquillity.

It has been, therefore, with no little pain, that I have found those who oppose this measure upon these grounds, assisted by some few members of the Church of England, who, of course, entertain views directly opposed to this; for, indeed, I can most conscientiously affirm, that in the advantages which it holds out, more particularly to the Church of England, it far exceeds what I could have anticipated. That this is felt to be true, your Lordship may easily learn, from the avowed support which the Bill has met with from the great majority of members of the Church of England in the Assembly, as well as from the fact of its being carried by a still greater number in the Legislative Council.

I will not believe that any successful opposition to the confirmation of this Bill by Her Majesty will be allowed to prevail; but as I am informed that representations may be made at home with that view, I shall beg to send, in this despatch,

despatch, a short account of the manner in which this question has for years past been treated in this country, as illustrative of the advantage which the settlement now arrived at by the Legislature holds out, as contradistinguished from all previous decisions.

I need not advert to the early history of disputes on this subject, until the years 1823-24, when a motion was made in the House of Assembly on the subject, by Mr. Morris, and an address to the Throne, praying for the recognition of the right of the Church of Scotland to share with the Church of England in the Reserves. In 1825, an Act having been passed (6 Geo. 4, c. 75,) by the Imperial Legislature, enabling the Crown to sell a portion of the Reserves in this province to the Canada Company, and to set apart other lands in lieu of them for the Church, an address was adopted in the House of Assembly, on the 27th of January 1826, by a majority of 14 to 8, deprecating any further appropriation of Clergy Reserves, and concluding in the following terms:—

“ We further most humbly represent, most gracious Sovereign, that the lands set apart in this province, for the maintenance and support of a Protestant clergy, ought not to be enjoyed by any one denomination of Protestants to the exclusion of their Christian brethren of other denominations, equally conscientious in their respective modes of worshipping God, and equally entitled, as dutiful and loyal subjects, to the protection of your Majesty’s benign and liberal Government. We therefore humbly hope it will, in your Majesty’s wisdom, be deemed expedient and just, that not only the present Reserves, but that any funds arising from the sales thereof, should be devoted to the advancement of the Christian religion generally, and the happiness of your Majesty’s subjects, of whatever denomination; or if such application or distribution should be deemed expedient, that the profits arising from such appropriation should be applied to the purposes of education, and the general improvement of this Province.”

The Earl of Bathurst having, in reply to this address, stated that the House of Assembly had misunderstood the intention of the Act in question, “ which had not for its object any increase of the amount of the Reserves specially allotted by the Imperial Parliament for the Established Church,” the House of Assembly proceeded to pass, by a majority of 29 to 4, a series of Resolutions, among which the following are the most important:—

“ Resolved, That the construction given to the Imperial Act, which appropriates the Clergy Reserves to individuals connected with the Church of England, and the determination of the clergy of that church to withhold from all other denominations of Protestants residing within the Province the enjoyment of any part of the benefit arising, or which may arise, from the sales so set apart, call for the immediate attention of the provincial Legislature to a subject of such vital interest to the public in general.

“ Resolved, That a comparatively small proportion of the inhabitants of Upper Canada are members of the Church of England, and therefore ought not in justice to desire the sole enjoyment, by their clergy, of all the advantages which these lands present, to the exclusion of their fellow-subjects, although equally loyal and firm in their attachment to His Majesty’s Government and the Constitution.

“ Resolved, That in a thinly-inhabited country, such as Upper Canada, where the means of moral instruction to the poor are not easily obtained, it is the bounden duty of the Parliament to afford every assistance within its power towards the support of education.

“ Resolved, That the present provision for the support of district and common schools is quite inadequate to the wants of the people, and ought, by every reasonable exertion, to be increased so as to place within the reach of the poorest inhabitant the advantages of a decent education.

“ Resolved, That it is the opinion of the great proportion of the people of this Province, that the clergy lands, in place of being enjoyed by the clergy of an inconsiderable part of the population, ought to be disposed of, and the proceeds of their sale applied to increase the provincial allowance for the support of district and common schools, and the endowment of a respectable provincial seminary for learning, and in aid of erecting places of worship for all denominations of Christians.”

A Bill was afterwards brought into the House, and carried by a majority of 19 to 7, for giving effect to these Resolutions, but was lost in the Legislative Council.

In March 1828, in an address to the Crown, on the subject of the Upper Canada University, which was carried by a majority of 21 to 9, the House expressed themselves as follows :—

“ We would also beg leave to state, that it is the general desire of your Majesty’s subjects in this Province, that the monies arising from the sale of any of the lands set apart in this Province for the support and maintenance of a Protestant clergy should be entirely appropriated to purposes of education and of internal improvement ; we would most humbly represent, that to apply them to the benefit of one or two Christian denominations, to the exclusion of others, would be unjust as well as impolitic ; and that it might perhaps be found impracticable to divide them among all. We have no reason to fear that the cause of religion would suffer materially from not giving a public support to its ministers, and from leaving them to be supported by the liberality of their people.”

In 1829 and 1830, Bills for the sale of a part of the Clergy Reserves, “ for the support and promotion of education, and for the general improvement of the Province,” were passed *nem. con.* by the Assembly, but rejected in the Legislative Council.

On the 12th March 1831, a resolution was adopted in the Assembly, by a majority of 30 to 7, stating, “ That it is unjust as well as impolitic to appropriate the said lands (*i. e.* the Reserves,) to the support of any one Church exclusively, and it is extremely difficult, if not altogether impracticable, to apportion or divide the same among the clergy of all denominations of Protestants. That a large majority of the inhabitants of this Province are sincerely attached to His Majesty’s person and Government, but are averse to the establishment of any exclusive or dominant Church. That this House feels confident, that to promote the prosperity of this portion of His Majesty’s dominions, and to satisfy the earnest desire of the people of this Province, His Majesty will be graciously pleased to give the most favourable consideration to the wishes of His faithful subjects. That to terminate the jealousy and dissension which have hitherto existed on the subject of the said Reserves, to remove a barrier to the settlement of the country, and to provide a fund available for the promotion of education, it is extremely desirable that the said lands so reserved be sold, and the proceeds arising from the sale of the same placed at the disposal of the provincial Legislature, to be applied exclusively for those purposes. That an humble address be presented to His Majesty, setting forth the subject of this resolution, and praying His Majesty will be graciously pleased to recommend to His Majesty’s Parliament of Great Britain and Ireland, to pass an Act to authorize the sale of the Clergy Reserves remaining unsold, and to enable the Legislature of this Province to appropriate the proceeds thereof in such manner as may be considered most expedient for the advancement of education, and in aid of erecting places of public worship for various denominations of Christians.”

The close of the session, on the 16th March, stopped any further proceedings at that time ; but on the 14th December following, shortly after the opening of the next session, this resolution was embodied in an address to the Crown, which was carried by a majority of 28 to 6, the only alteration being, that the proceeds arising from the sales were to be applied to education only. Within a few days of the end of the session, a Bill was brought in by the Attorney-general, in conformity with the instructions of the Earl of Ripon, to re-invest the lands in the Crown, but was not proceeded with.

In the session of 1832–33, a Bill for the re-investment of the Reserves in the Crown was again brought in by the Attorney-general, but not proceeded with. In 1834, a Bill for the sale of the Clergy Reserves for purposes of education, was brought in and passed by a majority of 22 to 12. This Bill was lost in the Legislative Council.

In 1835 a Bill, intituled, “ An Act for the disposal of the Clergy Reserves in this province, for the purposes of general education,” was passed in the Assembly by a majority of 39 to 7 ; two previous motions for getting rid of it having been lost by majorities of 43 and 41 to 4.

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This Bill having been sent up to the Legislative Council, that House, instead of proceeding with it, adopted a series of resolutions, stating the various claims which had been made upon the Clergy Reserves, and praying the Imperial Legislature to assume the decision of this question. These resolutions having been communicated to the House of Assembly, were referred by them to a Select Committee, who reported a resolution, which was adopted by the House, by a majority of 24 to 10. The opening sentences alone of that resolution need be quoted here; they are as follows:—

“Resolved, That this House has repeatedly expressed their opinion that the lands appropriated for the support and maintenance of a Protestant clergy within this Province, commonly called the ‘Clergy Reserves,’ ought, for various reasons, to be sold. That it would be unjust to apply the monies arising from the sale of the same to the benefit of one or more favoured religious denominations, and that it would be impracticable, and, from many considerations, inexpedient, to distribute the monies arising therefrom, among all denominations; and that this House has been unremitting in its endeavours to procure the sale of these lands, and the application of the funds produced by such sale, to objects of great importance and interest to the people of this province. That, with this view, the House has heretofore repeatedly passed Bills, providing for the sale of the Clergy Reserves, and the appropriation of the monies 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 has repeatedly made known, by humble and dutiful addresses to His Majesty, its wishes and opinions, and the wishes and opinions of His Majesty’s faithful subjects in this province, on this highly important subject; and this House takes this opportunity of declaring that these wishes and opinions, both on the part of this House and of its constituents, remain entirely unchanged.”

In 1836, a Bill for the sale of the Clergy Reserves, for purposes of general education, was again passed, by a majority of 35 to 5, in the House of Assembly, and sent up to the Legislative Council. The Council amended the Bill, by re-investing the Reserves in the Crown, for the purposes of religion. The Bill was then re-amended in the House of Assembly, and brought back to its original state, and carried by a majority of 27 to 1; it was of course lost in the Legislative Council.

In the session of 1836–7 a resolution was adopted in the Assembly, by a majority of 35 to 21, in the following terms:—

“Resolved, That it is desirable that the lands commonly called Clergy Reserves, and the proceeds arising from the sales thereof, be appropriated for the promotion of the religious and moral instruction of the people throughout this Province.”

This resolution was communicated, for concurrence, to the Legislative Council, who, in reply, stated, that if by “moral instruction,” was meant nothing distinct from, or independent of, religion, they would be ready to concur in it, and that they would be ready to go any reasonable length in meeting the wishes of the other branches of the Legislature, keeping in view the necessity of making provision for the religious instruction of the people, and the maintenance of public worship. The matter does not appear to have been further proceeded with during that session.

In 1837–8 a resolution was adopted in the Assembly, by a majority of 21 to 17, for re-investing the Reserves in the Crown, “for the support and maintenance of the Christian religion within the Province;” and a Bill for that purpose was brought in. It was not, however, proceeded with, probably on account of the then disturbed state of the Province.

In 1839 the question engaged a very large portion of the attention of the Legislature. Early in the session a Select Committee was appointed, on whose report the House adopted a series of resolutions, among which the following was carried, by a division of 24 to 20:—

“Resolved, That all the Clergy Reserves now unsold, and which shall not be reserved for the foregoing purposes (*i. e.* for glebes for the Churches of England and Scotland, and the Wesleyan Methodists), be sold under the rules and regulations from time to time in force relative to the sale of Crown lands. That the proceeds of all past and future sales, subject to the necessary expenditure for the purchase of lots, from time to time, as limited in the foregoing resolutions,

resolutions, be invested in provincial debentures, and the interest to be disposed of as follows :

“ 1st. To pay to each clergyman of the Churches of England and Scotland, resident according to the first resolution, an annual stipend not to exceed 100*l*.

“ 2d. To pay to the Wesleyan Methodist Church in Canada, in connexion with the English Conference, or their proper officer, a sum not to exceed 100*l*. per annum, for as many ministers of that Church as there shall be lots granted and conveyed in each circuit, according to the second resolution.

“ 3d. The surplus of interest, not otherwise disposed of, to be expended in aid of the erection of places of public worship throughout the Province generally.”

A Bill, founded on these resolutions, was afterwards introduced, and passed, after much opposition, on a division of 24 to 20 ; but having been amended in the Legislative Council, it was finally rejected in the Assembly, by a resolution carried on a division of 20 to 18, “ That it is expedient for the peace, welfare, and good government of this Province, that the reservation of lands for the support of a Protestant clergy cease, and that the lands already set apart for that purpose be sold in the same manner as Crown lands are now sold, and the proceeds of such sales be paid into the hands of the receiver-general of this Province, for the general uses thereof; and that an humble address be presented to Her Majesty, praying that Her Majesty may be pleased to recommend to the Imperial Parliament to pass an Act, placing the funds arising from the sales of Clergy Reserves, heretofore made and invested in England, in the hands of the receiver-general of this Province, to be placed under the control of the local Legislature.”

A Bill, framed by the Committee appointed in consequence of this resolution, was brought in, and passed through a Committee of the whole House, after numerous and very close divisions, being recommitted, was finally carried through the House by the casting vote of the Speaker. It was amended in the Legislative Council, by referring the appropriation of the proceeds to the Imperial Legislature, and restricting them to “ religious purposes,” instead of to “ religion and education.” These amendments were finally concurred in on the last day but one of the session, when some members, opposed to it, had left town, by a majority of 21 to 20, and the Bill was sent home. In the meantime an address to the Crown, praying for the appropriation of the Reserves to general purposes, had been brought forward in the Assembly, and negatived only by the casting vote of the Speaker.

This recapitulation, from which your Lordship will perceive, that since the year 1826 the House of Assembly have, on 14 different occasions, recorded their opinion that the Clergy Reserves ought to be sold, and the proceeds applied to educational or general purposes, will sufficiently prove the strong feeling that has heretofore prevailed in that House on the subject; and you will be able from it to estimate what ought to be the value of the present Bill in the eyes of those who are desirous of devoting these proceeds to the support of religion.

I am, however, satisfied, that the value of arriving at a settlement cannot be over estimated; and that, strong as those feelings may have been, the immense advantage of having this question finally withdrawn from the sources of popular discussion and dispute, will reconcile all parties to it.

Most fervently, then, do I pray, that the settlement now agreed to may be final, and that no obstacle may be opposed to its confirmation by Her Majesty. Should it be otherwise, and the question should again be thrown back for decision here, I cannot foresee the consequences; but, at least, I know, that peace and tranquillity must, in that event, long remain strangers to this Province.

I have, &c.  
(signed) *C. Poulett Thomson.*

— No. 2. —

MESSAGE from the Governor-General, on the subject of the CLERGY RESERVES, and Bill for the Disposal of said Reserves, and Disposition of the Proceeds thereof.

C. POULETT THOMSON.

Toronto, 6 January 1840.

PURSUANT to his notice, the Governor-General now begs to call the attention of the House of Assembly to the state of the Clergy Reserves.

As will appear from his Message to the House of Assembly, of the 23d ultimo, Her Majesty was compelled to withhold her royal assent from a Bill passed last Session, for re-investing the Clergy Reserves conditionally in the Imperial Legislature, and Her Majesty's Government were desirous that the Provincial Legislature should itself afford a solution of this much-debated and very complicated question.

The Governor-General does not conceal from himself the difficulties by which this subject is surrounded. The frequent agitation of it in both Houses—the various opinions which have been announced upon it—and the different schemes which have unsuccessfully been brought forward, render the settlement of it, even in this Province, a work of great embarrassment; but it becomes yet more difficult to arrive at a final solution, from the peculiar position in which the question stands as contradistinguished from other subjects which may engage the attention of the Legislature,—since, not merely is the assent of the Crown required to whatever may be ultimately determined upon here, but the decision of the provincial Parliament is open to rejection, by Address from either House of Parliament in England.

Still, in the opinion of the Governor-General, the circumstances of the present time imperiously demand a settlement of this long-agitated question. The probable approach of the union of the two Provinces would at once suggest the expediency of bringing to a termination, before that event shall occur, a matter so peculiarly affecting Upper Canada; nor is it less necessary, with a view to remove a source of unceasing excitement and discord within the Province, the protracted existence of which opposes a bar to that tranquillity so necessary for its prosperity.

Deeply impressed with these feelings, the Governor-General has given to the subject all the attention in his power; and he has directed a measure to be prepared, to which he earnestly invites the consideration of the House of Assembly, in the anxious hope that it may lead to a final and satisfactory adjustment.

He proposes that the remainder of the land should be sold, and the annual proceeds of the whole fund, when realized, be distributed, according to terms which will be clearly defined between the Church of England, the Church of Scotland, and such other religious persuasions as are recognized by the law of Upper Canada, for the support of religious instruction within the province, and for the promotion there of the great and sacred objects for which these different bodies are established or associated.

He trusts that there will be found, in such a plan, a just regard to the objects for which this property was destined, tempered by a due consideration of the state of society, and of the feelings which have grown up in this province and in the Legislature upon the question; and he confidently recommends it for adoption, as the measure which, in his opinion, will afford the surest prospect, if assented to by the Legislature here, of proving final, and, if final, of conducing to the peace and happiness of the inhabitants of this Province generally.

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DRAFT OF BILL.

WHEREAS it is expedient to provide for the final disposition of the lands called Clergy Reserves, in this Province, and for the appropriation of the yearly income arising, or to arise, therefrom, for the maintenance of religion, and the advancement of religious knowledge;

Be it therefore enacted, that from and after the passing of this Act, it shall and may be lawful for the Governor, by and with the advice of the Executive Council, and under such rules and regulations as may be from time to time in



Council established in that behalf, to sell, alienate, and convey, in fee simple, all or any of the said Clergy Reserves: Provided always, that in the letters patent granting such lands, they shall be designated as Clergy Reserves, and that no reservation of lands in respect of such grants shall be necessary; anything in the Act of the Imperial Parliament passed in the thirty-first year of the reign of His late Majesty King George the Third, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America,' and to make further provision for the Government of the said Province," to the contrary, notwithstanding.

2. And be it enacted, that the proceeds of all past sales of such Reserves which have been, or may be invested under the authority of a certain other Act of the Imperial Parliament passed in the seventh and eighth years of the reign of His late Majesty King George the Fourth, intituled, "An Act to authorize the sale of part of the Clergy Reserves in the Provinces of Upper and Lower Canada," shall be and the same are hereby declared to be subject to such orders and directions as the Governor in Council shall from time to time make and establish for continuing the investment thereof in the same funds and upon the same securities as at present, or for investing them in, and upon, any other funds or securities in Great Britain or in this Province.

3. And be it enacted, that the proceeds hereafter to be received from the sales of all or any of the said Reserves, or any part thereof, may in like manner be invested, and the investment thereof be changed by the Governor in Council: Provided always, that the necessary expenses of such sales shall be borne and defrayed out of the first monies received therefrom.

4. And be it enacted, that the interest and dividends accruing upon such investments of the proceeds of all Clergy Reserves sold or to be sold, and also the interest to accrue upon sales on credit of Clergy Reserves, and all rents arising from Clergy Reserves that have been or may be demised for any term of years, shall be paid to the Receiver-General, and that together form an annual fund for the purposes hereinafter mentioned, and shall be paid by him, from time to time, in discharge of any warrant or warrants which may be issued by the Governor, in pursuance of the provisions of this Act; that is to say, in the first place, to satisfy all such annual stipends and allowances as have been heretofore assigned and given to the clergy of the Churches of England and Scotland, or to any other religious bodies or denominations of Christians in this Province, and to which the faith of the Crown is pledged, for and during the natural lives of the parties at present receiving and enjoying the same: Provided always, that until the annual fund so to be created and deposited with the Receiver-general shall suffice to meet the above-mentioned stipends and allowances, the same, or so much thereof as the said fund may be insufficient to meet, shall be defrayed as at present out of the casual and territorial revenue of the Crown.

5. And be it enacted, that as soon as the said fund shall exceed the amount of the several stipends and allowances aforesaid, and subject always to the prior satisfaction and payment of the same, one-half of the said annual fund shall be allotted and appropriated to the Churches of England and Scotland in this Province; the said Church of Scotland to be held to include the Presbyterians of the United Synod in Upper Canada, and shall be divided between them in proportion to the number of their respective members, to be ascertained as hereinafter provided; and the share of each of the said Churches of England and Scotland (the latter including as aforesaid), shall be paid by the Receiver-general in discharge of any warrant or warrants which may be issued by the Governor in favour of the treasurer or other officer who shall be appointed by such churches respectively, according to the form and mode of their ecclesiastical constitution; and the amount so received shall be expended for the support and maintenance of public worship and the propagation of religious knowledge, under the authority of the convocation, synod, or other body, having authority for that purpose, according to the canons, laws, rules, or regulations of the said churches respectively: provided always, that the amount of the before-mentioned stipends and allowances which shall be paid to, and received by, any ecclesiastic or minister of any of the



the said Churches of England or Scotland in this Province, or of any minister of the said United Synod, shall be taken, as far as the same will go, as a part and portion of the share accruing to each church respectively, by virtue of this Act; that is to say, the stipends and allowances to any ecclesiastic or minister of the Church of England, as part and portion of the share accruing to the Church of England, and the stipends and allowances to any ecclesiastic or minister of the Church of Scotland, or of the said United Synod in this Province, as part and portion of the share accruing to the said Church of Scotland, so that neither of the said churches shall receive any further or other sum beyond such respective stipends and allowances, until the proportion of the said annual fund allotted to them respectively, in manner aforesaid, shall exceed the annual amount of such stipends and allowances.

6. And be it enacted, that it shall be lawful for the Governor of this Province as soon as may be after the passing of this Act, to appoint not less than five Commissioners, whose duty shall be with all possible diligence to inquire, ascertain, and report to the Governor, the number of members of each of the said Churches of England and Scotland in this Province, including with the members of the latter church the Presbyterians of the said United Synod; and that any one or more of such Commissioners may be directed to visit each or any district, township, city, or town, in this Province, and shall have power to require to be laid before him or them, for their perusal and examination, all records, rolls, assessments, population, or other district, township, city, or town, returns or lists, in whose custody soever the same may be; and who shall also have power to administer all necessary oaths and affirmations to any parties giving evidence before them, or any one or more of them, and generally to do all such other lawful acts as may be necessary for the proper discharge of the duty hereby imposed on them; and that the report of such Commissioners, or the majority of them, shall be final, and shall be the basis for estimating the proportion of the said annual fund to which the said Churches of England and Scotland shall be respectively entitled.

7. And be it enacted, that any person falsely swearing or affirming before the said Commissioners, or any or either of them, shall, if duly convicted thereof, be deemed guilty of perjury, and shall be liable to all the pains and penalties imposed by law on persons guilty of that offence; and that, if any person, having reasonable notice before such Commissioner or Commissioners, shall refuse to attend and give evidence before such Commissioner or Commissioners, or to produce to him or them any record, roll, assessment, population, or other return as aforesaid, whereof he shall have the possession or custody, such person shall be liable to a penalty not exceeding pounds, to be recovered by information and complaint before any two justices of the peace, who are hereby authorized to hear and determine every such information and complaint, and to levy the penalty by distress and sale of the offender's goods and chattels, and to pay the same, when collected, to the Receiver-general, to be by him added to the fund for payment of the expenses of the said Commissioners: provided always, that no person shall be obliged to attend before the said Commissioners out of the county wherein he is a stated resident.

8. And be it enacted, that the reasonable expenses of such Commissioners, or of any clerk or clerks they may find it necessary to employ, shall, subject to the approval of the Governor, be allowed and defrayed out of any monies now or hereafter to be reserved as rents of Clergy Reserves.

9. And be it enacted, that subject to the foregoing provisions, the residue of the said annual fund shall be divided among the other religious bodies or denominations of Christians now recognized by the laws of this Province, and not before mentioned in this Act, who shall prefer their claims for the same on the conditions and in manner following; that is to say, that each and every such religious body or denomination of Christians shall, on or before the day of in each and every year, send in to the Inspector-general of Public Accounts a statement in duplicate, setting forth in detail the amount received by each of them respectively during the year preceding the day of rendering such account, from the private contributions of the members of such religious bodies or denominations of Christians respectively, and by them ex-

pended in the same year for the maintenance of public worship and the propagation of religious knowledge; which account shall be verified in such manner as shall be from time to time required by the Governor in Council; and that on the approval of such accounts respectively, an amount of the residue of the said annual fund, proportioned to the amount of private contributions so appearing to have been received and expended in the previous year, shall be paid by the Receiver-general in discharge of any warrant or warrants which may be issued by the Governor in favour of the treasurer or other officer who may be appointed by such religious bodies or denominations of Christians respectively to receive the same; and such amount shall be expended and appropriated for the maintenance of public worship, and the propagation of religious knowledge, under the direction and authority of the conference or other governing body existing in or over every such religious bodies or denominations of Christians respectively, according to their respective discipline or form of church government: Provided always, that any such religious body or denomination of Christians, neglecting to send in their accounts on or before the said 30th day of June in any year, or neglecting or refusing to verify the same within 40 days, when thereto required as aforesaid, shall thereby waive and forfeit all claim to a proportion of the said annual fund for the year (but not longer) in respect whereof such neglect or refusal shall take place.

10. Provided also, and be it enacted, that no religious body or denomination of Christians shall be entitled to any such share or proportion of the said annual fund which shall not raise and expend as aforesaid, during the year, in respect of which the claim is preferred, the sum of at least £.

11. Provided also, and be it enacted, that the amount of such of the annual stipends and allowances hereinbefore mentioned, which shall be paid to any of the said religious bodies or denominations of Christians, or to any ecclesiastic or minister thereof, or in aid of any mission established by any of the said religious bodies or denominations of Christians, or for the propagation of religious knowledge, shall be taken and accounted, as far as the same will go, as a part and portion of the sum to which such religious body or denomination of Christians would be entitled under the provisions of this Act, and shall be deducted and allowed for accordingly.

12. And be it enacted, that accounts of the expenditure of all and every sum or sums of money so to be received out of the said annual fund, by the said Churches of England and Scotland, or any other religious body or denomination of Christians respectively, under the authority of this Act, shall be, on or before the            day of            in each year, rendered to the Governor in Council, and that until such accounts shall have been rendered, and the due and proper expenditure of the sum granted during any preceding year shall have been established to the satisfaction of the Governor in Council, no other or further sum, or proportion of the said annual fund, shall be paid or allowed to any or either of the churches, religious bodies, or denominations of Christians, failing, neglecting, or refusing to render such account, or to verify the same as aforesaid; and every such failure, neglect, or refusal, shall amount to a waiver or forfeiture of any share or proportion of the said annual fund for one year, but not longer.

13. And be it enacted, that whenever there shall appear to the Governor in Council sufficient reason to apprehend that there has been any misappropriation or non-appropriation of any sum or sums of money paid to any or either of the said churches, religious bodies, or denomination of Christians, out of the said annual fund upon direction for that purpose given by the Governor, it shall and may be lawful for the Attorney-general to apply summarily, either by petition or information to or in the Court of Chancery in this Province, setting forth the nature of the abuse apprehended, and praying discovery and relief in the premises as the nature of the case may require; and that if any five or more persons having any interest in the sum or sums paid to any of the said churches, religious bodies, or denominations of Christians, shall complain of any neglect or abuse in the expenditure or management of such sum or sums, it shall and may be lawful for them to apply to the said Court of Chancery

Chancery by petition in a summary manner for discovery or relief as the nature of the case may require, and that in all and every such case the decree or order of the Vice-chancellor shall be final, unless appealed from within days.

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— No. 3. —

BILL AS PASSED.

AN ACT to provide for the Sale of the " Clergy Reserves," and for the Distribution of the Proceeds thereof.

WHEREAS it is expedient to provide for the final deposition of the lands called Clergy Reserves, in this Province, and for the appropriation of the yearly income arising, or to arise therefrom, for the maintenance of religion, and the advancement of Christian knowledge; be it therefore enacted, by the Queen's Most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, " An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, ' An Act for making more effectual provision for the government of the Province of Quebec in North America,' and to make further provision for the government of the said Province," and by the authority of the same, that from and after the passing of this Act it shall and may be lawful for the Governor, by and with the advice of the Executive Council, and under such rules and regulations as may be from time to time in Council established in that behalf, to sell, alienate, and convey, in fee simple, all or any of the said Clergy Reserves; provided always, that in the letters patent granting such lands, they shall be designated as Clergy Reserves, and that no reservation of lands in respect of such grants shall be necessary, anything in the Act of the Imperial Parliament passed in the thirty-first year of the reign of his late Majesty King George the Third, intituled, " An Act to repeal certain parts of an Act passed in the fourteenth year of his Majesty's reign, intituled, ' An Act for making more effectual provision for the government of the Province of Quebec, in North America,' and to make further provision for the government of the said Province," to the contrary notwithstanding.

2. And be it further enacted, by the authority aforesaid, that the proceeds of all past sales, of such Reserves which have been, or may be invested under the authority of a certain other Act of the Imperial Parliament, passed in the seventh and eighth years of the reign of his late Majesty King George the Fourth, intituled, " An Act to authorize the sale of part of the Clergy Reserves in the Provinces of Upper and Lower Canada," shall be, and the same are hereby declared to be subject to such orders and directions as the Governor in Council shall make and establish, for investing in any securities within this Province the amount now funded in England, together with the proceeds hereafter to be received from the sales of all or any of the said Reserves, or any part thereof; provided always, that the necessary expenses of such sales shall be borne and defrayed out of the first monies received therefrom.

3. And be it further enacted, by the authority aforesaid, that the interest and dividends accruing upon such investments of the proceeds of all Clergy Reserves sold, or to be sold, and also the interest to accrue upon sales on credit of Clergy Reserves, and all rents arising from Clergy Reserves that have been, or may be, demised for any term of years, shall be paid to the Receiver-general, and shall together form an annual fund for the purposes hereinafter mentioned, and shall be paid by him from time to time, in discharge of any warrant or warrants which may be issued by the Governor, in pursuance of the provisions of this Act; that is to say, in the first place, to satisfy all such annual stipends and allowances as have been heretofore assigned and given to the clergy of the Churches of England and Scotland, or to any other religious bodies or denominations of Christians in this Province, and to which the faith of the Crown is pledged, for and during the natural lives of the parties at present receiving and enjoying the same; provided always, that until the annual fund so to be created and deposited with the Receiver-general shall suffice to meet the above-

mentioned stipends and allowances, the same, or so much thereof as the said fund may be insufficient to meet, shall be defrayed, as at present, out of the casual and territorial revenue of the Crown.

4. And be it further enacted, by the authority aforesaid, that as soon as the said fund shall exceed the amount of the several stipends and allowances aforesaid, and subject always to the prior satisfaction and payment of the same, one-half of the said annual fund shall be allotted and appropriated to the Churches of England and Scotland in this Province; the said Church of Scotland to be held to include the Presbyterians of the United Synod in Upper Canada, and shall be divided between the said Churches of England and Scotland, in proportion to the number of their respective members, to be ascertained as hereinafter provided; and the share of each of the said churches shall be paid by the Receiver-general, in discharge of any warrant or warrants which may be issued by the Governor in favour of the treasurer or other officer who shall be appointed by such churches respectively, according to the form or mode of their ecclesiastical constitution; and the amount so received shall be expended for the support and maintenance of public worship, and the propagation of religious knowledge, under the authority of the convocation, synod, or other body having authority for that purpose, according to the canons, laws, rules, and regulations of the said churches respectively; provided always, that the amount of the before-mentioned stipends and allowances, which shall be paid to and received by any ecclesiastic or minister of any of the said Churches of England or Scotland in this Province, or of any minister of the said United Synod, shall be taken, as far as the same will go, as a part and portion of the share accruing to each church respectively, by virtue of this Act; that is to say, the stipends and allowances to any ecclesiastic or minister of the Church of England, as part and portion of the share accruing to the Church of England, and the stipends and allowances to any ecclesiastic or minister of the Church of Scotland, or of the said United Synod in this Province, as part and portion of the share accruing to the said Church of Scotland, so that neither of the said churches shall receive any further or other sum, beyond such respective stipends and allowances, until the proportion of the said annual fund allotted to them respectively, in manner aforesaid, shall exceed the annual amount of such stipends and allowances.

5. And be it further enacted, by the authority aforesaid, that it shall be lawful for the Governor of this Province, as soon as may be after the passing of this Act, to appoint not less than five Commissioners, whose duty it shall be with all possible diligence to inquire, ascertain, and report, to the Governor, the number of members of each of the said Churches of England and Scotland in this Province, including with the members of the latter church, the Presbyterians of the said United Synod; and that any one or more of such Commissioners may be directed to visit each or any district, township, city or town, in this Province, and shall have power to require to be laid before him or them, for their perusal and examination, all records, rolls, assessments, population, or other district, township, city, or town, returns or lists, in whose custody soever the same may be, and who shall also have power to administer all necessary oaths and affirmations to any parties giving evidence before them or any one or more of them, and generally to do all such other lawful acts as may be necessary for the proper discharge of the duty hereby imposed on them; and that the report of such Commissioners, or the majority of them, shall be final, and shall be the basis for estimating the proportion of the said annual fund to which the said Churches of England and Scotland shall be respectively entitled; provided also, and it shall be in the power of the said Governor to appoint, from time to time, further and other Commissioners, in case of any vacancy, so as to continue the said number to five, at least, at all times.

6. And be it further enacted, by the authority aforesaid, that the reasonable expenses of such Commissioners, or of any clerk or clerks they may find it necessary to employ, shall, subject to the approval of the Governor, be allowed and defrayed out of any monies now or hereafter to be received as rents of Clergy Reserves.

7. And be it further enacted, by the authority aforesaid, that subject to the foregoing provisions, the residue of the said annual fund shall be divided among

among the other religious bodies or denominations of Christians now recognized by the constitution and the laws of this Province, and not before mentioned in this Act, according to their respective numbers, to be ascertained once in every four years, as is hereinbefore provided by this Act, for ascertaining the numbers belonging to the Churches of England and Scotland, and who shall make written application to the Governor, Lieutenant-governor, or person administering the government, on or before the thirtieth day of June each and every year.

8. And be it further enacted, by the authority aforesaid, that any person falsely swearing or affirming before the said Commissioners, or any or either of them, shall, if duly convicted thereof, be deemed guilty of perjury, and shall be liable to all the pains and penalties imposed by law on persons guilty of that offence. And that if any person having reasonable notice to attend before such Commissioner or Commissioners, shall refuse to attend and give evidence before such Commissioner or Commissioners, or to produce to him or them any record, roll, assessment, population, or other return as aforesaid, whereof he shall have the possession or custody, such person shall be liable to a penalty not exceeding 10 l., to be recovered by information and complaint before any two justices of the peace, who are hereby authorized to hear and determine every such information and complaint, and to levy the penalty by distress and sale of the offender's goods and chattels, and to pay the same, when collected, to the Receiver-general, to be by him added to the fund for payment of the expenses of the said commissioners; provided always, that no person shall be obliged to attend before the said Commissioners out of the county wherein he is a stated resident.

9. Provided always, and be it further enacted, by the authority aforesaid, that the amount of such of the annual stipends and allowances hereinbefore mentioned, which shall be paid to any of the said religious bodies or denominations of Christians, or to any ecclesiastic or minister thereof, or in aid of any missions established by any of the said religious bodies or denominations of Christians, or for the propagation of religious knowledge, shall be taken and accounted, as far as the same will go, as a part and portion of the sum to which such religious body or denominations of Christians would be entitled under the provisions of this Act, and shall be deducted and allowed for accordingly.

10. And be it further enacted, by the authority aforesaid, that accounts of the expenditure of all and every sum or sums of money so to be received out of the said annual fund by the said Churches of England and Scotland, or any other religious body or denomination of Christians respectively, under the authority of this Act, shall be on or before the twentieth day of July in each year rendered to the Governor in Council; and that until such account shall have been rendered, and the due and proper expenditure of the sum granted during any preceding year shall have been established to the satisfaction of the Governor in Council, no other or further sum or proportion of the said annual fund shall be paid, or allowed to any or either of the churches, religious bodies, or denominations of Christians failing, neglecting, or refusing to render such account, or to verify the same as aforesaid; and every such failure, neglect, or refusal shall amount to a waiver or forfeiture of any share or proportion of the said annual fund for one year, but not longer; and that copies of such accounts shall annually be laid before the Legislature.

11. And be it further enacted, by the authority aforesaid, that whenever there shall appear to the Governor in Council sufficient reason to apprehend that there has been any misappropriation or non-appropriation of any sum or sums of money paid to any or either of the said churches, religious bodies, or denominations of Christians, out of the said annual fund, upon direction for that purpose given by the Governor, it shall and may be lawful for the Attorney-general to apply summarily, either by petition or information, to or in the Court of Chancery in this Province, setting forth the nature of the abuse apprehended, and praying discovery and relief in the premises, as the nature of the case may require; and that if any five or more persons having an interest in the sum or sums paid to any of the said churches, religious bodies, or denominations of Christians, shall complain of any neglect or abuse in the expenditure or management of such sum or sums, it shall and may be lawful for them

to apply to the said Court of Chancery, by petition, in a summary manner, for discovery or relief, as the nature of the case may require; and that in all and every such case the decree or order of the Vice-chancellor shall be final, unless appealed from within forty days.

Passed the Commons House of Assembly, 15 January 1840.

*Allan N. McNab,*  
Speaker.

Passed the Legislative Council Chamber, 20 January 1840.

*Jonas Jones,*  
Speaker.

— No. 4. —

ADDRESS to the Governor.

To His Excellency the Right Honourable *Charles Poulett Thomson*, Governor-General of British North America, and Captain-General and Governor-in-Chief in and over the Provinces of Upper Canada, Lower Canada, Nova Scotia, New Brunswick, and the Island of Prince Edward, and Vice-Admiral of the same, &c. &c. &c.

May it please your Excellency,

WE, Her Majesty's dutiful and loyal subjects, the Legislative Council and Commons House of Assembly in Provincial Parliament assembled, beg leave to inform your Excellency, that we have during the present Session passed a Bill, intituled, "An Act to provide for the sale of the Clergy Reserves, and for the distribution of the Proceeds thereof," which Bill contains clauses altering the provisions of the Imperial Statute passed in the 31st year of the reign of his late Majesty King George the Third, intituled, "An Act to repeal certain parts of an Act passed in the 14th year of His Majesty's reign, intituled, 'An Act for making more effectual provision for the government of the Province of Quebec in North America,' and to make further provision for the government of the said Province," respecting the allotment and appropriation of lands for the support of a Protestant clergy within this Province; and we further pray, that in order to give effect to the same, your Excellency will cause the said Bill to be transmitted to England without delay, for the purpose of being laid before Parliament, previous to the signification of Her Majesty's assent thereto.

Legislative Council Chamber, 21st day of January 1840.

*Jonas Jones*, Speaker.

Commons House of Assembly, 21st day of January 1840.

*Allan N. McNab*, Speaker

— No. 5. —

The Right Hon. *C. Poulett Thomson* to the Members of the Legislative Council and House of Assembly.

Honourable Gentlemen, and Gentlemen,

I WILL transmit the Bill for the sale of the Clergy Reserves, and for the distribution of the funds thereof, together with your respective addresses, as required by law, without any delay, to Her Majesty's Principal Secretary of State.

Accept my warmest acknowledgments for the ready attention you have given to this important subject, to which it was my duty to invite your consideration.

I congratulate

I congratulate you most sincerely upon having thus terminated, so far as depends on your exertions, the agitation of a question which has now for nearly 20 years been the fruitful source of disagreement in the Legislature, and of strife and contention amongst the people of this Province.

May the Great Author of all Peace prosper your work,—and, in the restoration of tranquillity in the country, and the extension of the blessings of religious instruction amongst the people, may you reap the reward of your labours.

I have, &c.  
(signed) *C. Poulett Thomson.*

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C A N A D A.

COPY of an ACT passed by the Legislature of  
*Upper Canada* to provide for the Sale of the  
CLERGY RESERVES.

*(Presented to Parliament by Her Majesty's Command.)*

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*Ordered, by The House of Commons, to be Printed,*  
*23 March 1840.*

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