

Executive Council Chamber at Toronto  
Thursday 5<sup>th</sup> August 1835

Present

The Honorable and Venerable John Strachan D.D.  
Archdeacon of York, Presiding Councillor  
The Honorable Gen<sup>l</sup> H. Markland  
" Joseph Wells

To His Excellency Sir John Colborne K.C.B.  
Lieutenant Governor of the Province of Upper Canada,  
and Major General Commanding His Majesty's  
Forces therein

May it please Your Excellency,

The Council

having taken into Consideration Your Excellency's  
Order of reference bearing date the 29<sup>th</sup> June last,  
and having examined the forms of Instruments  
which the Attorney General recommends to be used  
in constituting and endowing Rectories and  
presenting Rectors; and whether the Course recom-  
mended by the Attorney General appears in any  
respect objectionable, or whether under all Circum-  
stances it may not be for the interest of the Province  
to direct Parsonages to be constituted and endowed  
without further delay and designated in the

mode suggested by the Attorney General in  
all Townships in which Missionaries have been  
appointed by the Bishop of Quebec to take charge  
of Congregations.

Most respectfully report.

That the 31<sup>st</sup> Geo. 3<sup>rd</sup> Chap  
31. seems to require a more particular designation  
than the one suggested by His Majesty's Attorney  
General, otherwise the Presentee to the Parsonage  
or Rectory would not be under the efficient control  
of his Diocesan, nor, if refractory, obliged to dis-  
charge any Clerical duties beyond the limits of  
his Parsonage, thus strictly defined to consist of  
his Church, House and Glebe only. Such strictness  
of designation would likewise be found inconsistent  
with the Constitution of the Established Church,  
which uses the words Parsonages and Rectories in  
a sense synonymous with Parishes, and no  
Clergyman can be styled Parson, but an Incumbent  
of a Parish Church, for according to the Law of  
England, a Parish is defined to be that Circuit of  
grounds which is committed to the charge of one  
Parson or Vicar, or other Minister having Cure of  
Souls, and is declared to be, not a Civil, but an  
Ecclesiastical Division.

Were the Parsonage or Rectory confined  
as advised by the Attorney General, it is further  
submitted, that Institution could not take place,  
a step which must precede induction, for it

implies

implies a cure of souls, and no Bishop of  
Quebec could, agreeable to the Rules of the Church  
of England, and the situation of the Diocese,  
grant Institutions without defining the limits  
understood by the Parsonage or Rectory, and  
which limits must include a population, or  
space for a population sufficient to form a congregation.  
Upon this principle, the Bishops of Quebec have  
always acted in giving Clergymen Licence to  
follow their Ministry, assigning them a defined  
space or territory in which to labour, and on no  
other principle, it is humbly submitted, can  
they legally act.

This will appear more evident by referring  
to the 31<sup>st</sup> Ch. 3<sup>rd</sup> Cap. 31, all the provisions of which,  
respecting the maintenance and support of a  
Protestant Clergy, are agreeable to, and in conformity  
with the known practice of the Church of England,  
and even the words and expressions used in the  
different Enactments, are those which are peculiar  
to that Church. In Section 38, the words and  
phrases are carefully selected to meet the wants of  
the Diocese, for they not only apply to that portion  
which had been previously divided into Parishes,  
but likewise to that which remained to be so  
divided hereafter.

The Section authorises the Governor, or Lieute-  
nant Governor, with the advice of his Executive  
Council, to constitute and vest Parsonages or

Rectories within the limits of Roman Catholic Parishes, for the benefit of the Members of the Church of England living within the boundaries, as well as within new Townships or Parishes hereafter to be organized, hence the provision clearly implies that in all cases the Township or Parish must be laid out or defined, before Parsonages or Rectories can be constituted and erected, or endowed within the same, consequently, if one Parsonage or Rectory be constituted and erected without defined limits, it necessarily embraces the whole Township or Parish, and through the whole of such Township or Parish, it becomes the duty of the Incumbent of such Parsonage or Rectory to extend his services. - And it may be contended that this would be the legal effect, by the 31<sup>st</sup> Geo. 3<sup>rd</sup> Chap. 31, by whatever proceeding the Parsonage or Rectory is constituted and erected, but it would assuredly be far more satisfactory that the limits of the Parsonage or Rectory should be clearly set forth in the Instrument by which it is constituted and erected.

Such a Course would preclude the possibility of doubt or scruple being entertained as to the extent of the Parish, or the duties or privileges of the Incumbent. Now if the designation of the limits of Parsonages and Rectories be so necessary and convenient when one only is constituted and erected in a Township or Parish, tho' by the Constitutional Act it may

be assumed that it includes the whole of such Township or Parish, how much more necessary and convenient to define such limits, when, from the increase of population or other causes, a Township is found too extensive for one Parson or Rector, and it becomes requisite to constitute and erect more than one Parsonage or Rectory, a case for which the 31<sup>st</sup> Geo. 3<sup>d</sup> Chap. 31. likewise provides.

The Council, feeling the great importance of Commencing the Constituting and erecting of Parsonages or Rectories in the Spirit and according to the Provisions of the Constitutional Act, are pleased to find the view which they have taken of the Subject borne out by the Solicitor General, who is of Opinion - "that it is necessary that the limits of all Parsonages or Rectories should be defined - First, because, when declared and established, they are intended to constitute the Ecclesiastical Division of the Province in the same manner that Parishes constitute these Divisions in England. Second, because the Minister, being appointed to the cure of souls within the Parsonage or Rectory, and as no duties can be regularly required of him beyond its limits, it is obvious that it must contain such a number of Inhabitants as will constitute a Congregation."

The Council have had also before them an elaborate opinion of the present Chief Justice of

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Lower Canada given many years ago, when Attorney  
General of that Province, and to which it is believed  
he still adheres - From this high Authority it appears  
"That there cannot be a Rectory or Parsonage nor a  
"Parson or Rector of a Church that is not Parochial,  
"and there cannot be a Parochial Church without  
"a Parish, and further that a Parson or Rector,  
"according to the Establishment of the Church  
"of England, is one that hath full possession of  
"all the rights of a Parish Church" - With respect  
to the nature and extent of such rights, it is enacted  
by Section 29 of 31<sup>st</sup> Geo. 3. Chap. 31. that Incumbents  
of Rectories and Parsonages "shall hold and enjoy  
"the same, and all rights, profits and emoluments  
"thereunto belonging or granted, as fully and amply,  
"and in the same manner and on the same terms  
"and conditions, and liable to the performance of the  
"same duties, as the Incumbent of a Parsonage or  
"Rectory in England." - Now it is submitted, that  
whatever these privileges are, they cannot be dimi-  
nished by an Act of the Provincial Government,  
or by any Instrument constituting and erecting  
a Parsonage or Rectory under the Great Seal of  
the Province. But on this point, there appears  
to be no reasonable difficulty whatever, for the  
Solicitor General clearly shews that no peculiar  
privileges or immunities can, from the situation  
of the Colony, belong to any Parson or Rector other  
than that he becomes a Corporation sole and  
invested with the Real Estate with which the

Parsonage

Parsonage or Rectory is endowed, while on the  
other hand, every duty that is imposed on an  
Incumbent of a living in England, attaches to him  
ipse, and he is responsible to the Civil and Ecclesi-  
astical power for their due performance. The appre-  
hension therefore that has been entertained (by  
myself as well as others) that by extending the  
limits of a Parsonage or Rectory, a power would  
be given to the Minister that might be improperly  
used, and therefore lead to inconvenient consequences  
is upon examination found to be without grounds.  
On the contrary, in proportion as the limits of the  
Parsonage or Rectory are extended, the duties  
and responsibilities of the Incumbent are increased,  
and the control of the congregation over him strength-  
ened, while he gains no additional advantage  
whatever to himself.

The Law do not prescribe the number of  
Inhabitants a Parsonage or Rectory should  
contain before the Bishop is authorized to induct  
a Minister to the cure of souls within its limits,  
and therefore, this must to a certain degree, be left  
to his discretion, but the creating a Parsonage or  
Rectory, without assigning boundaries, would in  
my opinion, be void and therefore, without this  
being done, neither presentation nor induction  
could legally take place."

In fine, by the 28<sup>th</sup> Section of the 31<sup>st</sup> Geo. 3<sup>rd</sup>  
Chap. 31. His Majesty is possessed of the power of

Converting

Converting any Township of the Province into a  
Parsonage or Rectory, and, by the 39<sup>th</sup> Section, of  
appointing a Parson or Rector to hold it. And  
His Majesty, by His Royal Commission, (as  
is more fully set forth in the Royal Instructions,)  
has been pleased, of his sole authority, to authorize  
and empower the Governor, Lieutenant Governor  
or Person administering the Government of this  
Province, with the advice of the Executive Council, to  
form, constitute and erect either Townships or  
Parishes within the Province, and within every such  
Township or Parish, to constitute and erect one or more  
Parsonage or Rectory, or Parsonages or Rectories, according  
to the Establishment of the Church of England.

The Council therefore submit, that the only  
legal course to be taken for the Ecclesiastical division  
of this portion of the See of Quebec into Townships or  
Parishes, and for the erection of Parsonages and  
Rectories therein, according to the Establishment of  
the Church of England, is by Letters Patent under  
the Great Seal of the Province, but as the form  
prepared by the Attorney General does not in  
their opinion meet all the requirements of the  
31<sup>st</sup> Geo. 3<sup>rd</sup> Chap. 31, nor adhere to the forms used  
in England, the Council most respectfully recom-  
mend an Instrument modelled on the Letters  
Patent erecting the Protestant Episcopal Church  
of Montreal in Notre Dame Street, into a Parish  
or Rectory, and appointing a Rector, as it has

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The advantage of having been taken from a form  
sanctioned by an Act of the Imperial Parliament,  
and therefore possessing an authority from which  
it would be unwise, in any essential Article, to  
depart.

All which is respectfully Submitted

SOCIÉTÉ HISTORIQUE  
DE MONTRÉAL

Report of the Executive Council  
On a reference from His Excellency  
The Lieutenant-Governor, res-  
-pecting the forms of Instruments  
to be used in Constituting and  
Endowing Lectures & Presenting  
Lectures  
Dated 6<sup>th</sup> August 1835

This Report not adopted by  
the Executive Council