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I *The Historical Background of the Reserves*

"The land may not belong to the dead but to the living." So ran the anti-clerical slogan of the French Revolutionaries as they sought the confiscation of church lands. In the same period James Madison asked of his fellow Americans, "If religion be not within the cognizance of civil government, how can its legal establishment be necessary to civil government?" But in 1791, the British Parliament, far from seizing old church lands or recognizing a North American tendency favouring the separation of church and state, called for the setting aside of fresh lands in Canada, "to the Maintenance and Support of a Protestant Clergy . . . and to no other Use or Purpose whatever" and of special Rectory lands "... according to the Establishment of the Church of England." These provisions in Clauses XXXV to XLII of the Constitutional Act of 1791 would have a discordant history. But although they would be the cause of great conflict in Canada for over sixty years, religious endowments were not an implausible means of achieving a public end — nor should that end be dismissed too readily without proper consideration of the spirit of the times.

In eighteenth century England religious interests and state interests were often hardly separable. The Whigs had used the royal powers over the Church of England to ensure the Hanoverian dynasty; the Tories had succeeded the Whigs in transforming the power of royal patronage in the Church into an effective tool of party patronage. Moreover, as the century progressed, the value of ecclesiastical livings — large and small — had dramatically increased. In an era of agricultural improvement, glebe farms in the hands of an enterprising clergyman could be combined with the practice of pluralism to produce a modestly comfortable rectory in the older parishes. Thus, it could be maintained that to some degree the Church still contributed to the stability of party and society — despite the swiftly growing evils of industrial urbanism and the fears of Jacobinism.

These precedents for the endowment of religion influenced the British decision of 1791, and even among Americans there was no universal agreement with Madison's idea that religion was not "within the cognizance of civil government." Many Americans believed that no single denomination should be given public assistance, but the establishment and maintenance of religion had long been an object of support and remained so even after the Revolution. Further, land grants were a traditional means to that end. The principle of endowing with labour and land every city, borough and congregation in Virginia had been progressively implemented in the first half century of Vir-

ginia's settlement, and continued in other endowments as late as the 1760's. William Penn and many New England proprietors set aside church lands regularly. The great Vandalia Company, proposed in the 1770's, sought to establish up to 300 acres in each parish for the support of the Church of England. As late as 1787, Congress required that in every township of the Ohio and Scioto companies, three sections should be set aside "for the United States" and one "for the purposes of religion." Moreover, in establishing the most fitting pattern for the endowed public lands and in estimating the appropriate fraction of these lands, late colonial and post-Revolutionary Americans introduced a chequered survey plan and a proportion of one-seventh for major public endowments, such as military bounties.

But these American precedents for Canada's crown and clergy reserves had been matched to the north. In New France the Catholic church had been granted immense land holdings in recognition of its willingness to assume important educational and social services. In Nova Scotia land grants in support of the Anglican clergy had been introduced as early as 1749. In the old British colony of Quebec under Frederick Haldimand the Royal instructions directed the governor to set aside seigneurial glebes; with the coming of the Loyalists, Sir Guy Carleton was instructed to encourage "a Protestant Clergy" by tithing and by endowing the Church of England through fixing land for "Churches & Parsonage Houses and for Glebes for the Ministers and Schoolmasters." In 1789, Carleton, now Lord Dorchester, added to the essentially urban glebe allotments a further endowment of two rural farm lots for each incumbent. These provisions, however, had not moved much beyond the modest glebe arrangements found in the early American colonies, and certainly did not approach in scale the provisions from public lands currently being made for religious usages in Revolutionary America with its widely-touted principle of the separation of church and state. What led to the introduction of the principle of large-scale landed religious endowments in Canada as enshrined even in the constitution of the old province of Quebec and of the projected new province of Upper Canada in 1791?

From 1785 to 1789 the most direct pressure on British officials came from a combination of the Church of England's servants and friends: the powerful Society for the Propagation of the Gospel; Charles Inglis, soon to be first bishop of Nova Scotia; Sir Guy Carleton, soon to return to Canada as governor and as Lord Dorchester; the Archbishop of Canterbury; and particularly William Knox, formerly Undersecretary of State for the Colonial Department under Lord North and an occasional adviser to Pitt's government on colonial matters. Further, Knox's influence was chiefly felt through Charles Jenkinson, the future Earl of Liverpool, who was Pitt's Principal adviser on colonial affairs.

Knox first proposed that the support of religion could amply promote "the internal Peace of Society."

The National Religion of any State may be presumed to be best adapted to the Civil Constitution of that State: [and]... should be considered not only as a Matter of Piety and Prudence, but of the utmost Necessity in a Political View...

This argument based on the stability of the constitution was not developed further by government, however, until Governor Simcoe revitalized it in 1790. Meantime, Knox's second argument was taken up warmly by the Pitt Government, which concurred that an official encouragement of the Protestant church was "peculiarly necessary" in Canada after the Quebec Act's strong guarantees to the Catholic church. A proper atmosphere of education and of episcopal direction would also counteract what Knox called the "shoals of Clergymen" being sent to British North America by Presbyterian and Wesleyan communities in the United States. Knox further proposed the complementary landed endowment of a college for each province — one with a broad Church of England atmosphere to set education and literature in a proper context of civil and religious virtue. The expense, he argued, would be "not *Half* the Annual Expense of a 20 gun Frigate... moderate in the great National Scale; and in a Political View it is a Trifle." Such provisions were a debt owed the Loyalists as a guarantee of the future stability of their society and of its continued security in the attachment to Great Britain.

On March 4, 1791 Pitt introduced the so-called Quebec bill, containing Knox's proposal for Crown Reserves. Later, a provision for landed religious endowments was introduced. Thus, the Crown and Clergy Reserves had at length become a matter of government policy, and the way was open for a public discussion of their purposes.

William Pitt was not ready for a public debate on the clergy provisions; nor did Charles James Fox conduct a serious inquisition into this special aspect of such an omnibus bill on civil government in Canada. In support of the religious clauses, Pitt referred only to William Knox's argument for countervailing the Catholics; he cannily refused to be drawn by Fox into any elaboration of what might be intended by the term "a Protestant Clergy." The governors of the old and new Canadian provinces were to be authorized to reserve permanently an "Appropriation of Lands for the Support and Maintenance of a Protestant Clergy... of the like Quality as [other Crown] Lands..., equal in Value to the Seventh Part" of the other lands granted in each township. By a further clause the governors-in-council might at their discretion "constitute and erect, within every Township... One or more Parsonage or Rectory... according to the Establishment of the Church of England; and... to endow every such Parsonage or Rectory with such Part of the Lands so allotted and appropriated... as [appears] expedient under the then existing Circumstances of such Township or Parish." The final clauses declared

that all of the foregoing provisions could be varied or repealed by an act of the provincial legislature, provided the act was previously submitted and laid before the full Imperial Parliament for a period of thirty days and received its approval.

Thus the automatic reservation of the "Protestant" Clergy Seventh's was supplemented by a provisional and arbitrary power of the governors to bring into existence the Anglican Rectories; similarly, if the denominational balance suggested by these arrangements should subsequently prove unreal or inconvenient, the provision for variation and repeal through the initiative of the provincial legislatures might seem to alleviate the rigidity of the original arrangement — provided any change could win the approval of the powerful bench of bishops in the House of Lords. It seemed, indeed, as Pitt remarked, a move "to encourage the established church." But how far was it a formal establishment? When Fox observed that under the circumstances it might have been more appropriate to establish the Roman Catholic Church or the Church of Scotland, Pitt would not rise to the bait. He would not affirm an Anglican Establishment through the Clergy Reserves, nor would he deny the possibility of a Presbyterian establishment, or of other Protestant denominations enjoying benefits. The Church of England might look for special favours from a friendly British government, but its real position was still a matter of politics for the provincial governors; the Church was not denied a claim to the whole endowment, but the Pitt government would not acknowledge that she held a right to it. It was a clumsy tactic in ambiguity. By leaving so much of its interpretation to the local governors-in-council it linked these uncertainties over the Reserves with the ambiguity in the position and function of the executive council and with the governors' varying talents and sensitivity.

II *The Reserves to 1815*

There was no question in the mind of Upper Canada's first governor, Lieutenant-Colonel John Graves Simcoe, how far the establishment of the Church of England should be stretched. Simcoe knew that he must devise the particular administrative programme of the Clergy Reserves, but he was also prepared to dispense with Pitt's politic ambiguities.


A regular Episcopal establishment, subordinate to the primacy of Great Britain, is absolutely necessary in any extensive colony which this country means to preserve... But in regard to a colony in Upper Canada, ... every establishment of Church and State that upholds the distinction of ranks, and lessens the undue weight of the democratic influence, must be indispensably introduced, ... the best mode of population, and the best line of connexion with the United States, is combined in giving *due* support to that church establishment, which I consider so necessary to promote the national religion, ... and to maintain the true and venerable constitution of my country.


Judged by numbers, the Church of England might seem to be in a perilous minority — and would remain so for many years — but the challenge was greater even than the cause of organized religion. Simcoe would enlist the soil of the province to afford a permanent endowment through a strengthened Church of England for the constitutional stability of the new Loyalist community of Upper Canada.

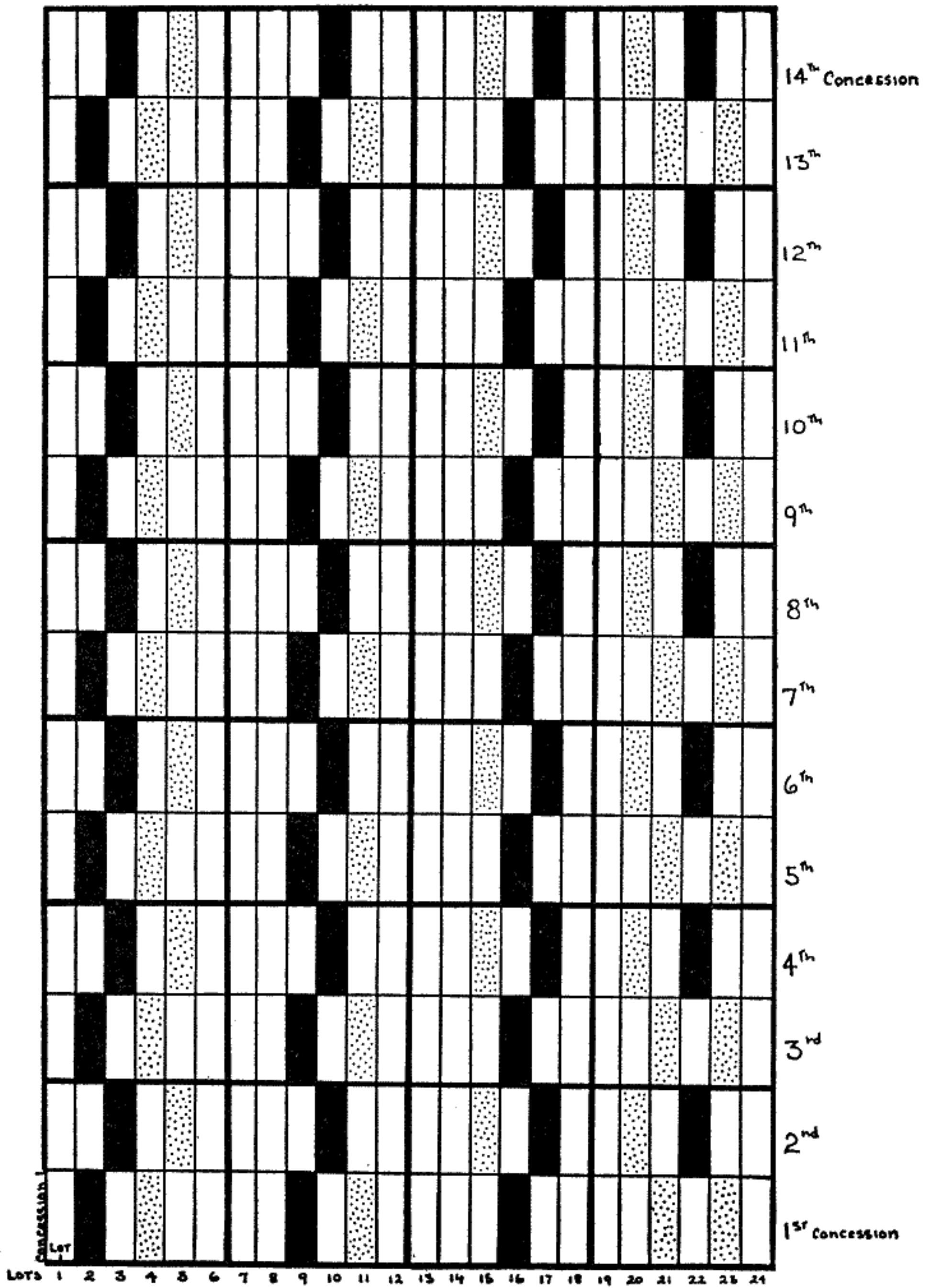
But it was a huge task. Over Fox's objections — and with a hint that Henry Dundas's Church of Scotland might benefit from a particularly generous clergy reservation — the "seventh part" of the granted lands was to be set apart; in practice this would be translated as one-seventh or more. Further, a similar reservation had been designated for the purposes of the Crown, these immense allotments to be administered along similar lines.

In Lower Canada Governor Sir Alured Clarke determined to follow American precedents, setting large blocks of reserves apart from current or even contiguous settlement. But Governor Simcoe was impatient to see a return that could benefit his beloved Church and ensure a proper public morality in Upper Canada. Thus, he directed his Surveyor General, Lieutenant D. W. Smith, that the Reserves should "be not severed Tracts each of One Seventh Part of the Township, but such Lots or Farms therein . . . between the other Farms." So challenged, Smith devoted part of the next five years to devising an appropriate scheme for laying out the Reserves in a manner consistent with the encouragement of concentrated settlement and the swiftly accruing value of the intermixed reserves. But his efforts were frustrated by the excessively large endowments for crown and clergy, and by the half-informed criticisms of the Colonial Office. Smith properly preferred at least two other plans to his compromise "chequered plan," which left twenty per cent of the ordinary crown lots as isolated islands in the midst of Reserves and had the effect of creating four solid parallelograms running from front to back in each Township. But Smith was overruled; the chequered plan was adopted. Further, wherever earlier settlement defied the application of the chequered plan, as, for example, in the five St. Lawrence counties, in eighteen old townships in the Home District, and in eleven old townships in the Western District, the Crown and Clergy Reserves were crowded into solid blocks in the rear or center of the total area of those townships and were frequently unassimilable. This failure to adopt a sound ground plan for the Reserves could not be ascribed to any single person, certainly least of all to D. W. Smith. But from the beginning it would prejudice the working success of the Reserves administration, forcing a constant attention to details and to appeals arising from possibly harmful effects of the system.

It was not until 1795 that the surveying problems were considered sufficiently in hand, however, for attention to be given to the best means of releasing the Reserves to become productive. Further, Simcoe

CROWN RESERVES - 

CLERGY RESERVES - 



A CHEQUERED PLAN

and the Imperial authorities had become more than ever convinced of the need for support for the Church. Tithes had been rejected as being "not palatable to the People." But for some time Simcoe's failing health and his distance from the new Bishop of Quebec, Jacob Mountain, hindered the introduction of any sales or leasing scheme, and from Simcoe's departure in 1796 until Gore's arrival in 1806, despite the continued ministrations of D. W. Smith until 1804, little was done to sort out the anomalies in the provincial land practices.

Smith had urged a major reversal of the practice of lavish free gifts of land for every purpose, including Loyalist grants, but only Peter Hunter, as Administrator, acted on this advice. The problem of taxation arose again, as in the days of the older American colonies; but the price of public lands was so depressed by the continued practice of free grants that neither Crown nor Clergy Reserves seemed destined to fulfil the destiny set for them by William Knox — to supply the needs of government and of religion and so ensure a stable society. To make the Reserves productive and to honour their long-range purpose, they could not be sold outright at such prices. Consequently, under Russell and Hunter the Executive Council struggled, despite frequent interference from London, to establish a leasing system. Twenty-one year leases, renewable at the end of each seven-year period on new rates, were reasonably competitive with current market conditions, but the government had itself largely to blame for those depressed conditions; and it had created a leasing system that demanded great attention to detail in book-keeping, persistence in exacting payments of rents, and a measure of order and equity that might reasonably be expected of their deviser, D. W. Smith, but of few others. By 1803, however, the common Crown and Clergy Reserves leasing systems were finally brought into operation.

Before the War of 1812 there was no widespread public reaction — favourable or not — to the administration of the Crown and Clergy Reserves. Comment was local and confined to the mechanics of their management, but in any case there were few lessees. Knox's and Simcoe's dreams showed no evidence of being realized. When a further set of leasing regulations and a new schedule of rentals was established in 1811, only about four hundred Clergy Reserves were under lease, most of them dating from before 1805. The War of 1812 gave no opportunity to would-be lessees, and by 1818 only 158 Clergy Reserves had been leased under the regulations of 1811. Many were never occupied; many had been swiftly abandoned after the timber had been mined; sheriffs had usually been lax or loathe to collect rents; and the Executive Council had done little to improve the system. But the Council patiently and justly, if unimaginatively, handled countless individual applications for a Clergy Reserve, innumerable disputed Clergy Reserves, endless complaints of timber mining on the Reserves, and every petition for the lifting or removal of a Reserve to facilitate some other private or public interest. The Executive

Council was generous to a fault in handling administrative details, but this ought not to have been its function. As in so many other matters touching on land issues, the Council had failed to provide its officers with a sound and acknowledged policy. Having failed to provide a comprehensive plan, it functioned as a minor court of equity and as a petty clerk.

III *The Beginnings of Dissent*

Land was still the central element in the province's economy in 1815, and it should have been the Council's role to provide the best climate for its development — or to offer alternative programmes of industrial and commercial growth. Consequently, in 1815, when the Council condoned the initiative taken by the Colonial Secretary, Lord Bathurst, in sharply restricting the prospect of public and private land sales to Americans — Upper Canada's best customers — it invited a wholesale attack on its own shortcomings as the body responsible for the province's general land policies, and for the Clergy Reserves in particular. The attack was not long delayed, and it came from an interesting quarter.

Three of the most prominent land dealers in the province were William Dickson and Thomas Clark, both appointed Legislative councillors from the Niagara District, and Colonel Robert Nichol, a prominent Assemblyman, friendly with the Governor and well known in York and Niagara society. With their own vast land holdings in the area most open to American penetration, they were readily prompted to an early, public criticism of the lands policies of the province. Their protests, carried to the Assembly in 1817 in an abortive set of eleven resolutions attacking land and immigration policies, set the stage for the long debate over land issues in general and the Clergy Reserves in particular. Moreover, a visiting relative of both Dickson and Clark, Robert Gourlay, carried these attacks by public meetings, pamphlets, and newspaper addresses well beyond the immediate business interests of these large land dealers to a public just awakening to the sources of the post-war depression and to the challenges of its own growing maturity as a community. Gourlay's famous demagogic career in Canada and his later publication, the *Statistical Account of Upper Canada*, have frequently been misrepresented as marking the beginning of the wholesale attacks on the Clergy Reserves. With all of these reformers, there was no special attack mounted upon the Clergy Reserves, whether as land or as vehicles of religious privilege. But to the degree that these critics stirred up public awareness of the general nature of the province's land ills, they also encouraged specific complaints against the Reserves. In the following years the Council would be faced with a familiar list of charges that the Clergy Reserves constituted obstructions to concentrated settlement and public improvements.

Two years later, however, in 1819 there took place on different grounds of criticism a more decisive event, when by a petition for assistance from a Niagara Presbyterian congregation the calculated ambiguity of Pitt's phrase "a Protestant Clergy" was brought into question in law. The petitioners' intentions did not reflect a province-wide Presbyterian assault on the Clergy Reserves, but Lieutenant Governor Sir Peregrine Maitland chose to react as if they did: the matter was referred to the imperial law officers who affirmed that the Church of Scotland had a legitimate claim to the Reserves as the other properly established church of the United Kingdom. Lord Bathurst refused the Niagara request, however, on grounds that there were no funds immediately available, and in Upper Canada Governor Maitland clumsily withheld from all but his Executive Council knowledge of the law officers' opinion. Substituting deception for ambiguity, however, could only compound the danger of his position as a champion of the favoured church. It would not be long before the Kirk's cause would become province-wide and would be raised in the Assembly. Meantime, the Church of England's supporters, alarmed at their dwindling numbers in the Province and at the prospect of sharing a still unproductive patrimony, sought new means of bringing the Reserves to fruition.

Since 1816 the rector of York, John Strachan, had sought to strengthen the Church's position in his political province because the seat of the ecclesiastical province was hundreds of miles distant at Quebec. By 1820 he had secured positions for himself on both of the appointed Councils of the Province, but he took most immediate encouragement from another source. Late in 1818 Bishop Mountain had received Lord Bathurst's permission to implement the rectories clause of the Constitutional Act. But even John Strachan could see the risk in such a precipitate move in Upper Canada; besides he was ready with an alternative proposal. Following a precedent established by Bishop Mountain in Lower Canada and in co-operation with the young Upper Canadian Attorney General, John Beverley Robinson, Strachan enlisted the aid of his bishop, the Archbishop of Canterbury, the new Governor, Sir Peregrine Maitland, and the Society for the Propagation of the Gospel; together, they succeeded in 1819 in winning the charter for a "Clergy Corporation of Upper Canada." The new Corporation's purpose was to assume from the government the whole management and control of one-eighth of the province's chief public resource, land. But through the elaborate by-laws adopted by the Corporation, this superintendency became effectively the responsibility of the rector of York aided by two lay appointees who were, conveniently, the Inspector General and Surveyor General of the province. Thus, John Strachan had played a substantial part in welding together the interests of church and state. Thereafter, it became increasingly difficult for opponents of the government, or the adversaries of the Church of England, to distinguish their target. By appearing to

advance the Anglican claim to a formal establishment, the creation of the Clergy Corporation greatly aggravated the sectarian aspect of the emerging struggle over the Clergy Reserves. Indeed, in presuming to refute the Kirk's claim to a share in the Reserves, Bishop Mountain argued that permission to create the Clergy Corporations implied his Church's exclusive claim to the Reserves, for it "could not be supposed that these Corporations were to manage the lands for the benefit of the Church of Scotland."

With its purpose of assuming executive direction and administrative control of the Reserves, the Clergy Corporation might have been expected to work such improvements in their management that it might lay a considerable claim by performance alone. On the contrary, the Corporation's superintendence was at least as weak as that by the Council. If the Council had not been able to put effective pressure upon the already busy sheriffs in the matter of collecting rents, the Corporation had even less weight — and enlisting the aid of the local Anglican clergy offered no more hope. Clergy acted in an unbecoming role if they pursued a vigorous course as rent collectors. Similarly, while the Surveyor General's agents were usually called upon to report the relevant details of some local dispute, in those cases when clergy were relied upon for such reports, the Church's credibility as an agent of the next world was badly strained. But in practice — even in most administrative matters of great consequence concerning the Reserves — the Corporation never fulfilled its original promise, for such references and appeals were in fact still handled by the Executive Council. Indeed, in administrative matters reflecting important policy or involving any quasi-judicial function, the Corporation served only as a body of information to the Council; in matters of broad policy-making, the Corporation never assumed an executive role, being content only to make proposals, most of which were not considered or adopted by the overworked Executive Council.

None the less, the Council with the Corporation generally did justice to appellants in cases involving Clergy Reserves. Exchanges of reserved lots were regularly permitted to serve legitimate private interests, such as the expansion of mill or quarry sites, or to serve public interests, such as relocating the Reserve away from the line of important roads and thereby ensuring that lots along the line would be improved. In protecting the Reserves from timber stealers, however, the Corporation and Council made no progress whatever by the mid-twenties.

Moreover, many of these problems were reflected in the administration of the glebes, which operated concurrently with the more numerous Reserves. By 1791, before the Clergy Reserves had been proposed, many glebes had been laid out. They took the form of one or more lots specifically reserved for the use of the future incumbent of many older parishes. After the general pattern of the Reserves was

initiated, these older more specific glebes persisted, while from 1781 to 1833, 22,345 acres were set aside as new glebes for the clergy of the Church of England, 1160 acres for the Kirk, and 400 acres for the Roman Catholic Church. The glebes were partly separate but largely taken out of the Clergy Reserves. The non-Anglican communions usually used their glebes as sites for parsonages; the Anglicans sought special grants for that purpose, using the glebe for a wood lot or leasing it for revenue. At first the power of disposal of the glebes and the regulations governing their use were drawn up by the Governor, but later the Executive Council played a greater part. As with the Reserves, all the usual problems and failures of administration attended the glebes. At the end of the War of 1812, Governor Maitland was dissuaded from implementing his powers of endowing rectories to assist the Church of England by the argument that public opinion would not tolerate it and that the glebes could be made more productive. Improved leasing regulations were adopted, but the new policy of merging the rental systems of Reserves and glebes saw only the sins of the one visited upon the other. The move encouraged the popular clamour against large-scale ecclesiastical endowments in land, even though in the case of disputed claims involving the glebes, the Clergy Corporation and Executive Council took special pains to work out equitable solutions that could lead to no public controversy.

IV *Sectarian Opposition*

Whatever the administration's success in checking bad feeling over minor matters, they could neither hide from themselves nor from the public the fact that the experiment was not fulfilling its expressed purpose. The Clergy Reserves had never become more than a poorly paying proposition economically, and they threatened to become a further *cause célèbre* on denominational grounds. The situation was grave; public criticism was spurred and the Kirk's friends turned to the Legislative Assembly for support.

In 1823 the first stirrings were felt among the Assembly's Presbyterians and their friends, under the leadership of the member for Lanark, William Morris. By the following year Morris had won from the Assembly a cautious affirmation of the Kirk's claim to *some* aid, whether from the Reserves by right or from any other source. Within two years, however, the Assembly had thrown its early caution to the wind and had adopted by an overwhelming vote its irrevocable stand that the Reserves should be sold and the proceeds devoted to general education. What had precipitated this swift adoption of such a firm political position?

There is little evidence to suggest that the Reserves had become more troublesome as obstacles to settlement, impediments to the development of industry, or bars to the maintenance of old roads or the opening up of new ones. On the contrary, the evidence suggests

that the land officers, the Council, and the Clergy Corporation were even more attentive to these dangers and at least as persistent as ever in recognizing local appeals for relief. While charges were levelled against the Reserves for their physical and economic shortcomings, the real cause of the deepening popular and political clamour arose from worsening denominational relations.

In 1823 John Strachan was authorized by Lord Bathurst to begin a general revision of the Province's educational system by promoting church schools and encouraging the prospect of a university — both to be largely, even exclusively, staffed by Anglican clergy and both to be liberally endowed from crown revenues and the school reserves. Moreover, the existing school reserves were not thought sufficiently good in quality to guarantee a swift sale; a quarter million acres of superior crown lands were thus exchanged for the existing school reserves. Significantly, while no similar steps affecting the Clergy Reserves had ever been taken — their quality remaining consistent with the stricture in the 1791 Constitutional Act that they should be "of the like Quality as the [other] Lands" — the clamour against the Clergy Reserves as physical obstacles now grew even sharper, and it was from this date that there arose the unwarranted but frequently repeated charge that *their* quality was superior to that of ordinary crown lands.

But the schools and university questions were soon supplemented by another divisive controversy sharply affecting the reputation of the Clergy Reserves. The government had become convinced that some of the unused lands of the Province might be put to more immediate occupancy: there was hope from a large scale effort in this regard made by men experienced in East India Company and Australian land ventures, with the cash proceeds serving a variety of public purposes. Accordingly, the Canada Company was formed under Imperial patronage and with Executive Council complicity in 1825-26. The Assembly had not been consulted, and its suspicions and opposition were quickly aroused from a number of features of the Company's inception. First, there had been hope that all or a large share of both Crown and Clergy Reserves would be absorbed in the sale to the Company, thus disposing of these two considerable fractions of largely speculative lands. But only the Crown Reserves were finally taken up by the Company, while the proportion of Clergy Reserves to be so disposed was steadily reduced under the criticisms mounted by Strachan, John Beverley Robinson, the Clergy Corporation, the Society for the Propagation of the Gospel, Governor Maitland and the English bishops. In the end the Clergy Reserves were removed from the scheme altogether, and a huge, choice, consolidated mass of over a million acres of land in the Province's south west, the Huron Tract, was substituted for the Clergy's lands in the sale to the Company. The transaction gave rise to bitterness on several grounds, all implicating the Clergy Reserves to some degree. The Huron Tract's

quality recalled the charge that the Clergy Reserves were superior in quality to other lands; in this case their elimination from the deal had contributed to throwing special favour to a group of non-resident capitalists. The absorption of the Crown Reserves removed them from further direct criticism, but accordingly shifted the public fire with more concentration than ever on the Clergy lands as the surviving reservations from the 1791 Act. Failure by the Canada Company to activate the sales of Huron Tract lands raised the spectre of a new, gross private speculation forced on the Province by the Clergy Corporation and its friends. Finally, the channelling of the new Company's annual payments to government stirred opposition on two grounds: first, by direct payment to the Government, the Company prejudiced the Assembly in its fight for control of the purse; second, the disposition of these payments, for they went to such controversial beneficiaries as Colonel Thomas Talbot's annual pension, the Kirk, the Catholic Church, and John Strachan's highly explosive Anglican educational twins, King's College and Upper Canada College. These provisions hardly satisfied the Assembly's annually expressed wish, as regularly blocked by the appointive Legislative Council, that the Clergy Reserves and their ancillary land schemes should be liquidated and the proceeds applied to "purposes of education and the general improvement of this Province."

Further, Governor Maitland's readiness to play a partisan role in asserting the Church's exclusive claim to the Clergy Reserves complicated the current secular and constitutional features of the Assembly's struggle with the Governor's appointive Councils. And always there was John Strachan's persistence in bolstering Maitland's boldness and contributing to his rashness by examples of his own heedlessness for social and political realities in the pursuit of that stable English and Anglican social fabric designed and cherished by Simcoe. Wilful, myopic, quixotic, indefatigable and pathetically sincere as he was, Strachan would soon carry his tactics so far as to create a split between moderates and Ultras in his own communion. The intransigence and irresponsibility of his denominational estimates in his two published Ecclesiastical Charts of the Province in 1826 and again in 1827, only served to expose more concretely the folly of his exclusivist claims for his Church. These acts gave further momentum to the champions of the Church of Scotland, while their most telling effect was to arouse to fury the Province's largest denomination, the Methodists, under their young champion, Egerton Ryerson. Ryerson's eloquence gave new voice to the vast majority of the Province that gave no loyalty to either of the established churches of Britain which were so sparsely represented in Upper Canada. Indeed, by the late twenties two of the factors fanning the struggle over the Reserves afresh were the arrival for several years of larger numbers of Anglicans than the Province had seen and the possibility that the Churches of England and Scotland might combine strengths to face the common threat to the

Reserves raised by Nonconformists and secularizationists. New religious voices were finding representation in the Assembly, and by 1828, with a newly constituted reform Assembly, the Clergy Reserves as a part of the armour of the Church of England's chief warriors had become a vital centre of attack.

Meantime, in 1827 the Imperial authorities attempted to ward off these attacks by implementing a newly concluded imperial Sales and Improvement Act, permitting progressive release by *sale* of fractions of the Clergy Reserves, and by appointing as its agent under *Imperial* commission a new officer, the Commissioner of Crown Lands, who would also be Agent for the Sale of the Clergy Reserves. To this office they appointed, however, Peter Robinson, whose limited talents to conduct its business were only slightly more promising than the liabilities set upon him in respect to the Clergy Reserves by his personal, family and oligarchic ties with the Strachanite defenders of the Church endowment. Robinson's administrative methods in handling the Reserves were slow, cumbersome, and expensive; they relieved the Executive Council of little of its long-standing care of the Reserves and the Assembly of none of its frustrations. Moreover, though authorized to effect limited improvements on the Reserves to encourage their sale, Robinson did little. If the Reserves sold briskly for several years — and so relieved any major bottlenecks arising from their being previously available only by lease — the public clamour over the Reserves was not greatly reduced, for by now it was largely a product of denominational jealousy, supplemented by strong feeling regarding the ambitions and the proper sphere of interest of colonial assemblies.

V *The Endowment of the Rectories*

During the following pre-Rebellion years popular organization grew against the Reserves outside the Assembly, partly in response to the apparent flexibility and early independence of Sir Peregrine Maitland's successor, Sir John Colborne. Colborne's first instinct was to distrust Strachan's judgement and to over-estimate his own. Despite the willingness of the latest Colonial Secretary, Lord Goderich, to sanction the secularization of the Clergy Reserves with a declared admission that as leased lands they did indeed constitute a check to improvement and settlement, Goderich could not induce Governor Colborne to carry out his orders to encourage Canada to initiate the resumptive legislation. Sir John Colborne, it seems, had soon lost his earlier reservations about wholeheartedly helping the English Church to a stronger establishment; indeed, he was convinced that within four years he could introduce such efficiency in effecting sales of Clergy Reserves, that the fortunes of the Church of England must be permanently assured. As a final guarantee of this prospect, moreover, he had received from Lord Goderich private encouragement to take

extraordinary steps to strengthen the Church of England and so relieve the Imperial Government of its annual subsidy to the S.P.G. for its widespread mission activities in Upper Canada. Goderich's proposal was that Colborne should at last implement the never-used power to endow rectories throughout Upper Canada — an alternative no Governor and Council had ever been able to contemplate seriously since it had been provided for in the Act of 1791. But in the early 1830's, Goderich considered imperative the need to provide such an alternative to the fading S.P.G. subsidy. Moreover, his willingness to concede the case to the Clergy Reserves' critics was tied to his readiness to permit the Canadian Assembly to frame a new Clergy Reserves Act consonant with broader denominational claims. Had the Rectories provisions not been included, Goderich's plan for resumption of the Reserves might have been effected satisfactorily in 1831. But because of Colborne's overconfidence, the Reserves issue was permitted to drag on amid the increasing frictions of the many other issues that persisted into the mid-thirties. With the cheap and considerable assistance of local Anglican clergy and of the Clergy Corporation, a quiet preparation was made by the provincial government for the selection of appropriate rectory lots in most townships.

By early 1836, despite the fact that Goderich had been out of office for nearly three years and that Governor Colborne had not communicated to any of Goderich's successors his intention of persisting in the former Secretary's policy, on the eve of his own departure from Upper Canada Sir John Colborne suddenly announced to the public the establishment of forty-four of a currently projected fifty-seven rectories throughout Upper Canada. Thus, the glebes, long reserved informally throughout much of the province, were thrust suddenly into prominence by this formal, deliberate, and unqualified recognition of the Church's claim to them. Few had been formally patented to the incumbent local clergy; many had been satisfactorily leased to ordinary settlers for years. Now, an accepted custom had become a ringing challenge. Moreover, the Clergy Reserves, totalling now about 2,200,000 acres, were drawn into this act of folly. Of the rectory lands totalling 21,638 acres, 15,048 acres were taken from Clergy Reserves as well as from lots long designated as glebes, while 6,950 acres were appropriated from ordinary Crown lands. Unable to sustain a dangerously exposed position, the Church's friends had thrown all into jeopardy, trying to effect a strategic retrenchment by formally claiming a few thousand highly controversial acres.

VI *The Reserves in the Rebellion Years*

The rectories symbolized the culmination of Anglican pretensions. In the process they rekindled the fires under the Clergy Reserves. The Reserves had been reviled as the symbols of a Church establishment which had arisen *de facto*; the rectories suggested that they might

yet be consolidated *de jure*. In the violent public reaction to the rectories there were few historical declarations on the threat to consolidated land settlement or against the extent of the acreages sequestrated. The rectories were attacked as instruments of political, social, and religious inequality. Specifically, in two cases championed by W. L. Mackenzie and Peter Perry of perhaps a dozen such examples, long-term *bona fide* settlers on Clergy Reserves or glebes, now designated as rectory lands, were ejected with little or no compensation to clear the way for the new patents. The record of justice and equity long dealt Reserves holders by the Executive Council was suddenly stained.

Amidst the troubled atmosphere of the 1836 election, Clergy Reserves land patents as entrées to the franchise were withheld by at least one overzealous agent of Peter Robinson. After a long period of steady improvement in the administration of the Clergy Reserves, they were suddenly brought once again into prominence with the blundering tactics of the rectories crisis and amid the generally disturbed conditions of 1836-37. There was some immediate heat in Mackenzie's charge to the little band at Montgomery's Tavern: "Stick true to the cause of Liberty, and you shall every man of you have three hundred Acres of Land and a piece out of the Clergy Reserves!"

Regarded simply as land, as Lord Durham concluded, the Reserves had not been unique or worse than many other kinds of public and private speculations in land. In their purpose, however, they drew a constant fire. As Poulett Thomson, later Lord Sydenham, remarked in a piece of typical overstatement, the Clergy Reserves were "the one great overwhelming grievance — the root of all the troubles of the Province — the cause of the Rebellion — the never failing watchword at the hustings — the perpetual source of discord, strife and hatred." That struggle must now be arbitrarily set aside so that the projected union of the two provinces of the Canadas might be accomplished. As a step towards greater social, racial, financial, and economic stability and strength in Canada, the union was considered imperative. But no union could hope to knit together French and English satisfactorily if the English element was itself torn asunder by the deep prejudices stirred up by the Reserves issue.

Accordingly, Poulett Thomson applied his skills to achieving what could not be a permanent, but must be an enduring, compromise on the Reserves issue in order to set the proper climate for the political achievement and early growth of union. In the process extremists could take no satisfaction, but the moderates could take hope. The Kirk was at length to be recognized in its long-suppressed claim as another established church; if the arrangement provided moderate co-establishmentarians among the Anglicans with the prospect of an ally in the struggle against the kind of total secularization of clergy

lands and revenues sought by the many voluntarists and others, perhaps there was little harm in it. The two leading Protestant denominations would share one-half of the proceeds of *future* sales; the other denominations — including Catholics, for there were many moderate votes needed from both Canada East and West to guarantee the continuance of this Reserves arrangement — would then share according to their several strengths. From these provisions perhaps there could be some hope of peace, at least until the profits from new sales should become sufficiently large to prompt someone to dispute the present, prospective division. The strategy was sound from the broad, moderate, and pragmatic viewpoint of the new "Durhamites," soon to be "Sydenham men." Sydenham's Act passed the Imperial Parliament, on August 7, 1840, despite the efforts of a squadron of John Strachan's friends in Britain and the hectoring tactics of the bench of bishops in the Lords. Indeed, the Ultras' obstructionism in England gave a touch of incipient Canada nationalism to Sydenham's struggle to win the victory over the Reserves for the sake of union.

VII *The Reserves in the Era of Responsible Government*

With his legislative victory, Sydenham was now challenged to work new wonders in separating the administrative and executive functions of government, as Durham had recommended, and of achieving a particular triumph in the most cluttered of all sections, the Crown Lands Department. Significantly, although the job was by no means finished by the mid-1850's, great improvements were introduced — in all of which the rationalizing of the handling of Clergy Reserves business was at least as positively advanced as any other part of the Department's business. If the establishment of simpler and more professional administrative procedures was a necessary prerequisite to the definition of local colonial and general imperial matters — and to the preparation of colonials to undertake that administration responsibly and well — the progress of the Clergy Reserves administration in the 1840's was reassuring. Permanent civil servants gave a more professional attention to the details of administration, thus relieving the Executive Council of much of its earlier burden; costs of administration were significantly reduced; collections of arrears of rentals and purchase instalments improved; timber stealing and squatting were confronted more vigorously; sales were generally steady from the mid-forties, and prices were reasonable and high. Attempts by the Canada Company and by a revived Clergy Corporation to wrest control of the administration of the Reserves were not only successfully foiled, but these moves rallied Canadian legislators to assert the primary responsibility of local government for proper supervision of local resources. The themes of Clergy Reserves and responsible government drew close on many occasions.

As a further example, the financial arrangements for the Reserves endowment during the 1840's underline the growing recognition of

the Canadians' desire and competence to assume the responsibility of their own resources. Under the direction of William Morris, Receiver General, and Francis Hincks, Inspector General, a major struggle took place between the colonials and the Treasury. Reserves returns had always been handed over to the London Treasury officials for investment in low-paying but stable British Consols. This procedure resulted in high administrative handling charges and in heavy exchange losses, all of which were a first call on the slender proceeds from sales and leases of Reserves. Throughout the forties the battle raged, with men like Glenelg, Grey, Sydenham, Bagot and Elgin supporting the Canadians' contention that union had brought Canada the fiscal strength and general stability sufficient to warrant the repatriation of the Clergy fund, while their opponents included Lord Stanley, leading Colonial Office mandarins, the Treasury, the S.P.G., and in Canada, John Beverley Robinson and Bishop Strachan. By 1847 the battle was over; transferring the funds to Canada for investment in local public debentures bolstered Canadian morale and released considerable amounts of new capital just at the beginning of the speculative fifties. The returns from investment of Reserves funds were also increased sharply by reduced administrative and exchange charges, together with increased yields at considerably higher interest. This struggle for a more local and responsible administration had borne a direct relation to the current legislative struggle for responsible government.

From the benefits of Union, by increased immigration, and by new public and private works projects the Canadian economic atmosphere in the second half of the 1840's was already heralding the great boom that would come about in the next ten years. Clergy land sales, like Canada Company sales, anticipated the speculative and ebullient economic climate of the 1850's. But the news of increased returns from Clergy Reserves investments and the recognition of the principle of Responsible Government, both in 1848, set the stage for the final, noisy scenes in the life of the Reserves. Despite the lesson of the Rebellion Losses Bill, a recognition of the primacy of internal interest in internal affairs was not easily won in the case of the Clergy Reserves. The Constitutional Act had flatly declared the interest of the British Parliament in the Reserves; the Kirk, like the Anglican Church, had never failed to rally her supporters on both sides of the Atlantic. Moreover, the Baldwin-Lafontaine government was not anxious to make an issue as contentious as the Reserves one of the earliest tests of the responsible government principle. But by 1850, the elements of voluntarism and secularization had been so strengthened by the new Grit movement that Baldwin's earlier moderation took on the appearance of inflexibility. His defeat by moderate Reformers like J. H. Price, an outstanding Congregationalist and Francis Hincks was clearly demonstrated in the Price Resolutions adopted by the

Assembly in 1850, in which the government was challenged to find the successful formula for secularizing the Clergy Reserves.

Despite delays reflecting the last-ditch efforts of intransigent Strachanites and the exigencies of government shuffles in British politics in the early fifties, the road was soon clear for enabling legislation by which the Canadians could settle the problem themselves. As the Reformers were displaced by more radical voices, the old Tory spirit was becoming hopefully moderated by new Conservative voices, among them John Macdonald of Kingston. By 1854, these so-called "advanced Conservatives" under the titular leadership of that wily realist, Sir Allan MacNab, had prepared a formula to try out a new coalition with the forces of Canada East under A. N. Morin: if the secularization of the Clergy Reserves could be log-rolled with a seignorial tenure bill, the new Liberal Conservative coalition might be so strengthened as to transform itself from a useful but uncertain combination into a powerful working alliance — a new party in a united Canada. On November 23, 1854, both achievements were rung up by the Assembly, and a new political era opened up for Canada under the real victor, John A. Macdonald.

But who had won the battle of the Clergy Reserves? Certainly not the voluntarists and secularizationists. The final legislation had guaranteed to all present beneficiaries either their existing stipends for life, or the investment by commutation of their lifetime claim at a guaranteed rate of 6 per cent annually on the probable life of the claimant. Under John Strachan's direction the Church of England set an example, followed by the other denominations, whereby £381,971 was invested in this way — with 64 percent of the commuted stipends falling to the Church of England. As for the rectories, no similar assault was mounted, and a century later the First York Rectory Fund alone had a capitalization of \$3,520,371 with an annual income of \$162,358.

VIII *Conclusions*

The Clergy Reserves had indeed been the cause of some of those "economical mischiefs" that plagued the early settlements with the presence of large amounts of empty lands. From the beginning the endowment had been too extensive to allow an easy passage. However, school reserves, unoccupied Loyalist lands, and vast private holdings for speculative purposes were at least equally accountable. In their management the Reserves were no more badly served by the public officials than other lands in public hands; indeed, there had long been special care to assure that the Reserves as material objects did not cause grievances that would complicate their already controversial "spiritual" purposes. Throughout their history, and especially after 1840, the administration of the Reserves had more than kept pace with the rate of growth and improvement in public administration

in Canada. From 1840, only the sectarian and secular arguments could be directed toward them. The failure to re-examine responsibly the purpose and relevance of the endowment in the light of changing conditions forced the end of an experiment that could have been adjusted to contemporary social purposes. For reasons not primarily connected with their economic value, then, they were finally repudiated, but ironically their value to certain Canadian religious groups was perpetuated. The principle of separation of church and state was only nominally recognized in 1854.

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