

N^o 14.
Opinion of the Law
Officers relative to
Clergy Reserves.

We are of opinion, that though the provisions made by the 31st Geo. 3, c. 31, s. 36 and 42, for the support and maintenance of a Protestant clergy, are not confined solely to the clergy of the Church of England, but may be extended also to clergy of the Church of Scotland, if there are any such settled in Canada, (as appears to have been admitted in the debate upon the passing of the Act,) yet that they do not extend to Dissenting ministers, since we think the terms Protestant clergy can apply only to Protestant clergy recognized and established by law.

The 37th section, which directs "that the rents and profits of the lands, &c. shall be applicable solely to the maintenance and support of a Protestant clergy," does not specify by what authority the rents and profits are to be so applied. Supposing the Governor to be duly authorized by the Act to make such application, we think that he will be justified in applying such rents and profits to the maintenance and support of clergy of the Church of Scotland, as well as those of the Church of England, but not to the support and maintenance of ministers of Dissenting Protestant congregations.

With respect to the second question, the 38th clause, "which empowers His Majesty to authorize the Governor to constitute and erect parsonages or rectories according to the establishment of the Church of England;" provides also, "that he may endow every such parsonage or rectory with so much of the lands allotted and appropriated in respect to any land within such township or parish which shall have been granted, as the Governor, with the advice of the Executive Council, shall judge to be expedient."

Under these terms he might endow any particular parsonage or rectory with the whole lands allotted and appropriated in that township or parish.

It would be inconsistent with this discretionary power that any proportion of such lands should be absolutely retained for any other clergy than those mentioned in that clause, and we think that it is not incumbent on His Majesty so to retain any proportion of such lands.

We have the honour to be, my Lord,

Your Lordship's most obedient humble servants,

(signed) Christ. Robinson.
R. Gifford.
J. S. Copley.

Earl Bathurst,
&c. &c. &c.

Appendix, N^o 15.

N^o 15.
Opinion of the Law
Officers as to the
Revenue raised
under the Act of
1776.

COPY of the Opinion of the Law Officers of the Crown, as to the Right of the Crown to appropriate the Revenue raised under the Act of 1774, independent of the Legislative Assembly.

My Lord,

Serjeant's Inn, 13th Nov. 1824.

WE have had the honour to receive your Lordship's letter, transmitting to us the copy of a letter from Lieutenant-General the Earl of Dalhousie, dated the 28th April 1823, inclosing a report made by a Committee of the Assembly of Lower Canada upon the provincial accounts, in which a question is raised as to the right of Government to apply the proceeds of the revenue arising from the 14 Geo. 3, c. 88, as they invariably have been since the passing of that Act, towards defraying the expenses of the administration of justice, and the support of the civil government, by the authority of His Majesty, without the intervention of the Colonial Legislature; and your Lordship was pleased to desire that we would take the same into our consideration, and report to your Lordship, for the information of His Majesty, whether the power granted by the Act of the 14 Geo. 3, is repealed by the Declaratory Act of the 18 Geo. 3, or by the Act of the 31 Geo. 3, granting a constitution to the provinces of Lower and Upper Canada, so as to take from the Crown the appropriation of the money levied under the 14 Geo. 3, and to vest it in the Provincial Legislature.

In compliance with your Lordship's request, we have taken the same into our consideration, and beg leave to report, for the information of His Majesty, that by the 14 Geo. 3, c. 88, the duties thereby imposed are substituted for the duties which existed at the time of the surrender of the province to His Majesty's arms, and are specially appropriated by Parliament to defraying the expenses of the administration of justice, and of the support of the civil government in the province. This Act is not repealed by the 18 Geo. 3, c. 12, the preamble of which declares that Parliament *will* not impose any duty, &c. for the purpose of raising a revenue; and the enacting part of which states, that *from and after the passing of this Act* the King and Parliament of Great Britain *will* not impose, &c. except only, &c.; the whole of which is prospective, and does not, as we think, affect the provisions of the Act of 14 Geo. 3, c. 88. It may be further observed, that if the 18 Geo. 3 had repealed the 14 Geo. 3, the duties imposed by the latter Act must immediately have ceased; and the Act 18 Geo. 3 cannot affect the appropriation of the duties imposed by the 14 Geo. 3, since the 18 Geo. 3 is confined to duties *thereafter* to be imposed, and imposed also for purposes different from those which were contemplated by the Legislature in passing the 14 Geo. 3; viz. the regulation of commerce alone.

We are further of opinion, that the Act 14 Geo. 3, c. 88, is not repealed or affected by the