

Reserves would wear a different aspect, at the present day, from that which it now presents.

In 1831, the question of the settlement of the Clergy Reserves was referred to the Provincial Parliament of Upper Canada. The despatch of Lord Goderich, bears date the 21st of November of that year. The Imperial Government from that date regarded the property as being subject to Provincial Parliamentary control alone, and altogether removed from the interference of Imperial or Provincial administrations without the sanction first had and obtained of the Provincial Parliament. There are numerous evidences of that fact in the despatches. For example, we find that Lord Goderich, on 1st June, 1832, refused to comply with the terms of an address from the House of Assembly, because it appeared from the date of the address, that it was agreed to by the House, before the receipt of His Lordship's despatch, of 21st November previous, to which we have just now referred; and again, on 31st July, 1835, Lord Glenelg, in a despatch to Sir John Colborne, intimated that "His Majesty's Government concurring in the views adopted in regard to it, [the subject of the Reserves,] by the Earl of Ripon, [Lord Goderich] they are anxious not in any way to interfere with the deliberations of the Provincial Legislature."

The Executive Council of Upper Canada were less scrupulous. In January, 1836, passing over the sentiments of Lords Goderich and Glenelg, just quoted, Sir John Colborne issued patents for the establishment of Rectories, in Upper Canada, and their endowment out of these Reserves. By the minute of Council, on the authority of which those patents were issued, it appears that the pretended grounds upon which they proceed, were found in a private despatch of Lord Goderich, dated 5th April, 1832, having reference to the application of £4000 of money, and not to the establishment of Rectories; and the pretended extract from that despatch, in the minute of Council, was "not accurately described," to use the words of Lord Glenelg, at the time, in regard to it.

On referring the question to the law officers of the Crown, in England, they gave it as their opinion, on 8th June, 1837:—

1st. That, adverting to the terms of the Constitutional Act and the Royal Commission, the Lieutenant Governor, with the advice of the Executive Council, could not lawfully constitute, and erect, or endow, any Parsonage or Rectory, within the Province, without the further signification of His Majesty's pleasure.

2nd. That Lord Ripon's despatch, of 5th April, 1832, cannot be regarded as signifying His Majesty's

pleasure, for the erection of parsonages, or the endowment of them, or for either of those purposes.

3rd. That the erection and the endowment, of the fifty-seven Rectories, by Sir J. Colborne, are not valid and lawful acts.

Such was the opinion, freely given, by the law officers of the Crown in England, in 1837, on view of the naked facts of the case, submitted, without bias, to their consideration.

The Legislature and people of Upper Canada were not then privileged to peruse these important despatches and high legal opinions; but, in place of them, they had to bear a good deal of partizan abuse, for having, without a perusal of these documents, dared to conceive and express opinions, on the subject, that coincided with those of the crown lawyers in England, and the statesmen, who at that time, ruled the Empire. There were then others in Upper Canada more favored; and to them was granted, exclusively, the privilege of perusing these documents, and replying to them, with the view of obtaining a different opinion. For this purpose, the private despatch of Lord Goderich, of 5th April, 1832, upon which, according to the minute of Council, the Rectories were established, was entirely passed over; and two old despatches of Earl Bathurst, dated in 1818 and 1825, produced, for the purpose of supplying what was deficient in the other. These despatches we have already published in our columns.

Among the documents, thus laid before the law officers of the Crown, for a re-consideration of their opinion, we do not find those despatches from the Secretaries of State, to which we have already referred, as placing the Clergy Reserves beyond Executive control, without the sanction first had and obtained, of the Provincial Legislature. The Law Officers, therefore, on the partial case thus presented to them, by parties interested in obtaining a reversal of the opinion given in 1837, gave it as their opinion on the 24th Jan. 1838,—

That adverting to the various documents, and especially to the instructions contained in Lord Bathurst's despatch to Sir P. Maitland, of 22nd July, 1825, and also to the terms of the Royal Commission,

1st. That the Lieutenant Governor with the advice of the Executive Council, could lawfully constitute and erect or endow any Parsonage or Rectory, within the Province, without the further signification of His Majesty's pleasure.

2nd. That Lord Ripon's despatch, of the 5th April, 1832, cannot be regarded, as signifying His Majesty's pleasure for the erection of Parsonages, or for the endowment of them, or for either of those purposes.

3rd. That the erection and endowment of the fifty-seven Rectories, by Sir John Colborne, are valid and lawful acts.