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Clergy Reserves (Canada) Act.

OPINIONS of the JUDGES on the QUESTIONS propounded to them on
the 13th of April last.

(Delivered by the Lord Chief Justice of the Court of Common Pleas.)

MY LORDS,

ON the Part of Her Majesty's Judges I have the Honour to represent to your Lordships that all the Judges of England, with the Exception of Lord Denman and Lord Abinger, have met together in Serjeants Inn, for the Purpose of taking into Consideration the several Questions which your Lordships have been pleased to propose to us; and that after Discussion upon the Subject, and Deliberation, we have agreed, unanimously, upon the Answers to be returned to those several Questions, as follows:

In answer to the First Question, we are all of Opinion that the Words "a Protestant Clergy" in the Statute 31 Geo. III. c. 31. are large enough to include, and that they do include, other Clergy than those of the Church of England, and Protestant Bishops, Priests, and Deacons, who have received Episcopal Ordination.

For those Words, which are first to be met with in the Statute 14 Geo. III. c. 83. (recited in the Act now under Consideration), appear to us, both in their natural Force and Meaning, and still more from the Context of the Clauses in which they are found, to be there used to designate and intend a Clergy opposed in Doctrine and Discipline to the Clergy of the Church of Rome, and rather to aim at the Encouragement of the Protestant Religion in opposition to the Romish Church, than to point exclusively to Clergy of the Church of England. And although the Legislature, in passing the Statute 31st Geo. III., appears to have had in its View the Establishment of the Church of England, primarily, and in a more especial and immediate Manner, as is evident from this, that the only detailed Provisions for carrying the Object of the Act into effect are confined to the Erection and Endowment of Parsonages and Rectories according to the Establishment of the Church of England, the presenting thereto Incumbents or Ministers of the Church of England duly ordained according to the Rites of the said Church, and the subjecting of them to all Spiritual and Ecclesiastical Jurisdiction and Authority, according to the Laws and Canons of the Church of England which are lawfully made and received in England (Sections 38, 39, 40, of the said Act); yet does it appear to us, that the Legislature, by employing the more general and comprehensive Term "Protestant Clergy" in the same Statute in which they also use the Expression "Incumbents or Ministers of the Church of England," must be intended to have included within the former and larger Expression other Clergy beside those who are comprised within the Limit of the latter.

And when your Lordships desire the Judges to state, if any other Clergy are included, what other? we answer, that it appears to us that the Clergy of the Established Church of Scotland do constitute One Instance of such other Protestant Clergy.

For by the Act of Union of the Two Kingdoms of England and Scotland it is made a fundamental Article of such Union, "that the true Protestant Religion as then professed within the Kingdom of Scotland, with the Worship, Discipline, and Government of the Church, should be effectually and unalterably secured within the Kingdom of Scotland." And when a subsequent Act of the *British* Legislature, relating to the Government, Laws, and Religion of a *British* Colony, acquired by Conquest since the Union, and forming Part of the Dominions of the *British* Crown, employs, with reference

