

THE LEGAL OPINION OF CHARLES PRATT, ATTORNEY-GENERAL OF THE CROWN, ON THE CONSTITUTIONALITY OF THE SERVICE BILL.

Pratt's opinion as to the constitutionality of the position taken by the Lower House on the various questions now at issue between it and the Proprietary as brought forward by the Supply bill and other Lower House measures, is of considerable interest. This opinion had been rendered to Frederick, Lord Baltimore, in 1759, and was transmitted to the Assembly at the March-April 1760 session (pp. 202-204). As we have not before us, however, the statement of the Proprietary's case upon which Attorney-General Pratt's opinion was based, we cannot say how it was presented to him, but since many of the Proprietary's claims seem to be brushed aside, the opinion seems to be an eminently fair one in the light of existing law. It is given under thirteen headings and covers the following matters in dispute: (1) *Nominations of commissioners by the Lower House*. The commissioners to administer various Supply acts must be appointed by both the houses of the Assembly and not by one house or by the Proprietary. While the latter's power under his charter to appoint constitutional officers is not to be questioned, these administrative commissioners under the Supply bill do not fall within this class. (2) *Insufficiency of the allowances to the commissioners of the Loan Office*. His Lordship need not meddle with this question of fees; it is to be decided by the Assembly. (3) *Additional duties required of the Proprietary's officers, his agent, and receiver*. New duties cannot be imposed upon them unless they receive additional compensation. (4) *The duties required of sheriffs*. Additional duties are to be determined by the Assembly and not by the Proprietary. (5) *Power of the Upper House to examine claims and accounts*. This unquestionably rests in both houses; the colonial assemblies are regulated by their charters, usages, and the common law of England, so that the power of the Lower House in money matters cannot be compared with, or extended to, that of Parliament, where the House of Commons stands upon its own laws and rights—the *Lex Parliamenti*. (6) *Narrowness of the exemption of persons to be assessors under the Supply bill*. The Proprietary has nothing to do with this. (7) *The double tax on non-jurors* [Catholics]. The Proprietary would do right to join with the Upper House in opposing the proposed double tax directed against Catholics as a breach of public faith. Only dangerous practices and disaffections in the papists would justify such discrimination. (8) *The clause enabling debtors and creditors to retain certain money*. The Proprietary should not meddle with this absurd suggestion. (9) *A tax on non-residents and on imports*. The mother country will never endure an impost upon her trade. The original right of the English importer [exporter] cannot be invaded or diminished by the Province. (10) *Tax on tenants for life*. The Proprietary will leave this to be settled by the Assembly. (11) *Tax on uncultivated land*. This should be resisted by the Proprietary because it is unreasonable and directed principally at his estate. (12) *Tax on plate and ready money*. The Proprietary has nothing to do with this. (13) *Tax on the Governor*. This proposal to subject the Governor to taxation under the Supply bill is rather uncivil and unjust, and the Upper House would do well to oppose it. The Attorney-General con-