

6-7 EDWARD VII., A. 1907

OPINION OF MAJORITY OF LEGISLATIVE COUNCIL ON THE  
INSTRUCTION OF JULY, 1779.<sup>1</sup>

To His Excellency Frederick  
Haldimand Captain General  
and Governor in Chief, in  
and over the province of  
Quebec &<sup>ca</sup> &<sup>ca</sup> &<sup>ca</sup>

The Address of the Legislative Council in Council assembled.

The Legislative Council having taken into Consideration His Majesty's royal Instruction of the 16<sup>th</sup> of July 1779,<sup>2</sup> and being of opinion that the passing an ordinance in conformity thereto, would neither tend to the good of the people of this province, nor to a speedier or more impartial administration of Justice, beg Leave to communicate to your Excellency the reasons upon which that opinion is founded.

The present ordinances establishing courts for the administration of Justice<sup>3</sup> were framed and prepared from, and are agreeable to his Majesty's 14<sup>th</sup> and 15<sup>th</sup> instructions<sup>4</sup> to the Governor of this province so far as the local circumstances thereof would permit, and have been found to answer the good purposes for which they were intended ; Whereas the Change proposed of the same person presiding in the Court of Appeals and giving a Voice there in causes which he had already decided in the inferior court, would undoubtedly lessen that confidence which the people ought to have in the impartial administration of Justice, and which is so necessary to the peace and tranquility of Society.

It is likewise to be observed that in the Quebec Bill all Causes relative to civil rights and property, instituted in the Courts of Justice in this province, are to be determined agreeable to the Laws and Customs of Canada, of which Laws and Customs the Judges who at present preside in the Courts of Common Pleas for the Districts of Quebec and Montreal have had fifteen Years Experience and Study.

Upon the Establishment of civil Government in the Year 1764, the Governor and Council adopted the Mode of Terms,<sup>5</sup> and for several Years that mode was followed, when in the Year 1770 it was laid aside as having been found not adapted for this province.<sup>6</sup> The people had been accustomed to weekly courts, and in a small country, such as this is, Terms were too conspicuously made use of for the purpose of procrastination and delay in the decision of causes, not to have given dissatisfaction.

<sup>1</sup> Canadian Archives, Minutes of Leg. Council, Quebec, v. D., p. 90. This expresses the opinion of the majority of the Council. The original form of this address cast a slur upon the Chief Justice, and, by implication, upon the Board of Trade, hence Haldimand referred it back for amendment. See *Ibid.*, p. 76-7, also p. 81.

<sup>2</sup> See p. 706.

<sup>3</sup> See pp. 679-690.

<sup>4</sup> See p. 600.

<sup>5</sup> See Ordinance of 1764, p. 205.

<sup>6</sup> See Ordinance of 1770, p. 401.