

(Copy.)

JUDICIAL AFFAIRS.

No. 62.

Quebec, 17th May, 1829.

Sir,

I have the honor herewith to transmit to you the Copy of a Memorial which was presented to me some time ago by the Committee of Trade of Quebec, (No. 1,) complaining of the present practice of the Court of Vice Admiralty in this Province, and remonstrating particularly against the Fees received by the Judge of the Court, for which they assert there is no sufficient authority. I also enclose a Copy of the answer of the Judge to this Memorial, (No. 2,) and the reply of the Committee of Trade to the statement of the Judge, (No. 3,) with some observations, also, upon the appointment of the Judge of the Court of Vice Admiralty, and his claim to Fees, which were drawn up at my desire by the Chief Justice of the Province, (No. 5.)

The three first Copies will put you in possession of the point at issue between the Parties, and the last contains a brief statement of the case as regards the appointment of the Judge from the first establishment of the Admiralty Court in this Colony, with reference to the claim to Fees.

The Judge of the Court of Vice Admiralty in this Province, holds a Commission under the Great Seal of the High Court of Admiralty in England, and this Commission authorizes him to receive all the Fees, Profits, &c., belonging to the Office, according to the Customs of the High Court of Admiralty in England, being precisely similar to that held by the first Judge appointed under the same authority in the year 1768. It appears that in the year 1780, an Ordinance was passed by the Legislative Council of Quebec, fixing the Fees to be taken in the Court of Vice Admiralty, but a Salary of £200 a year having in the year 1769, been allowed to the Judge, (in common with all the Judges of the Colony, whose Salaries at that time were fixed at the same rate,) the Ordinance in question established no Fees for him, expressing that the Salary was granted him by His Majesty in lieu of Fees. The Ordinance of the Legislative Council was temporary and expired in the year 1790, but from the time that the Salary was first allowed till the year 1809, it does not appear that any Fees were received by the Judge.

Mr. Justice Kerr, the present holder of the office, was appointed in the year 1797, and like his Predecessors received no Fees till the year 1809, when under the authority of his Commission he established a Tarif of Fees for the Court and himself on a scale lower, as he states, than those taken in the Admiralty Court at Halifax, submitting the same to the then Governor in Chief, and since then those Fees have been received. A Copy of this Tarif is annexed to the Paper No. 1, page from 7 to 14. The Fees taken in the Court of Vice Admiralty generally are complained of by the Memorialists, and you will observe that they wished the subject to be brought before the Provincial Legislature, No. 1, page 5, but I felt that the Court being immediately under the High Court of Admiralty in England, the quantum of Fees to be allowed, if a change were made, could only be settled by that authority, but you will also remark, that they maintain that the Judge is not entitled to receive any Fees whatever, his Salary being granted to him, as they conceive, in lieu of all Perquisites of that kind. This also is a question which cannot possibly be settled in this country, and you will see by the Paper No. 5, page 63, that the Chief Justice concurs with the Memorialists, that the Judgment of the Court of King's Bench for the District of Quebec, referred to by Mr. Justice Kerr, was merely intended to declare the incompetency of that Court to determine the question. The subject being one of considerable