

6-7 EDWARD VII., A. 1907

with the state of the Colony, we shall not hesitate, with the assistance of these lights and informations, to suggest to your Lordships such regulations, as we are humbly of opinion may serve, as the Ground Work of Instructions to His Majesty's Governor, and remove all colour for any further delay, in matters of so great moment, and upon which the welfare, nay the very existence of the Colony depends.

With regard to the form and constitution of the Courts of Justice proper for this Colony, and the regulations necessary in Ecclesiastical matters, your Lordships have already before you not only the fullest Reports of this Board, but also the opinion of His Majesty's Law Servants given upon those Reports after the most mature deliberation;¹ And as we do not see any reason from any information received since the date of those Reports, to entertain the least doubt of what has been proposed in respect to Courts of Judicature, except only as to the establishment of Circuit Courts, and to the nature of Juries to be impanelled in Special criminal Cases, we submit, whether any thing further is necessary as to this institution, than to send over to the Governor the Report of this Board on the second of September 1765, and the Report thereupon of His Majesty's Attorney and Solicitor General on the twenty fourth of April 1767,² together with the draught of additional Instructions,³ which was prepared in consequence thereof; with directions to recommend to the Legislature there a proper Law or Laws for establishing Courts of Judicature, and for regulating their proceedings upon the plan and principles laid down in the said Reports, and draught of additional Instructions;⁴ excepting only, that, instead of the Circuit Courts of Assize, Nisi Prius, Oyer and Terminer, and Goal delivery therein recommended, they should follow the model of the circuit Courts of grand Session held for the Principality of Wales, as being a shorter and more comprehensive mode of proceeding; And instead of the exception in the sixth Article of that draught of Instructions, which follows immediately after the direction for the impanelling Canadian Subjects on Juries indiscriminately with the natural-born Subjects,⁵ such their admission should be allowed with a proviso, that all criminal Offences should be tried by Juries *de Medietate*, composed equally of natural born Subjects and Canadians, excepting only in Cases where a natural born subject or a Canadian stands charged with the Wilful Murder of one of the same description, in which cases the Jury to be of the same description with the person to be tried for such Offence.

The regulations and reform necessary in respect to Ecclesiastical Affairs is a consideration, that requires to be more particularly discussed: for, although the Report of the Board of Trade upon this Subject in 1765⁶,

¹ Referring to the Report of the Board of Trade of 2nd Sept., 1765, and the Report of Yorke and de Grey upon it. See pp. 247 and 251.

² This is an error, as the report is dated 14th April, 1766. See p. 257.

³ See p. 286 and note 1, same page.

⁴ See ordinance of July 1st, 1766, p. 249.

⁵ As enacted in the ordinance of July 1st, 1766. See p. 249.

⁶ Referring to the "Heads of a Plan, &c., as indicated in note 3, p. 377