

## SESSIONAL PAPER No. 18

and deliberate Consideration under which these regulations have been formed before recommended to this Council, and I am so sensible of the want of some Regulation in one of the Courts of Law of this province, that I recommend, as the best advice my Judgment is able to form, that the consideration and formation of the Ordinance recommended, be put off till the next Year, or some time of more Tranquility and Regularity.

(Signed)

GEO: POWNALL.

OPINION OF GEO. ALLSOPP.<sup>1</sup>

Mr Allsopp's opinion is that it would be for the advantage and benefit of the province to advise the Governor,

That an ordinance be framed and passed in conformity to his Majesty's royal *additional Instruction* bearing date at St James's the 16<sup>th</sup> day of July 1779, with a saving clause to the following purport ;

That neither the chief Justice nor any other Judge of the courts of Appeals or Common Pleas shall have two voices, or a preponderating voice in any of the s<sup>d</sup> courts, there appearing by this new regulation to be intended eight Judges in the court of appeals, and four in each of the courts of Common Pleas; and therefore, to remedy the inconvenience of an equal division of voices, Let it be enacted, That when the voices shall be equal in the Courts of Common Pleas, the eldest member of the Council, not being one of the Judges of the said Courts, shall be added to the Judges so divided in opinion, and the cause reheard—And when it shall so happen that the Voices in the Court of Appeals shall be also equally divided, That there be added to the Number of Judges in that Court, the eldest member of the council, not being a Judge of either of the Courts of Common Pleas, nor having before sat on the Cause, and the Cause reheard.

(Signed)

GEO: ALLSOPP.

<sup>1</sup> Canadian Archives, Minutes of Leg. Council, v. D, p. 63. Geo. Allsopp was one of the original British settlers in the Province of Quebec, and took a prominent part in maintaining the rights claimed by that element, including the rights of the civil as against the military authority. In 1768 he was appointed by Carleton as Deputy Secretary, Registrar, and Clerk of the Council. When, in 1775, Mr. Geo. Pownall was appointed Secretary and Registrar, Allsopp lost his office, but was shortly afterwards appointed a member of the Legislative Council. In Haldimand's time he was a merchant of Quebec. Following Allsopp's opinion came that of Wm. Grant of St. Roc. which was somewhat lengthy, but the substance of which was as follows: He points out that by the Quebec Act the power of erecting courts and appointing judges is vested solely in His Majesty, and in the Instruction referred to, His Majesty enjoins that an Ordinance be framed by the Council to amend the Ordinance now in force relative to the Courts of Civil and Criminal Jurisdiction. The Court appointed may not be ideally good, but it is better than the one now existing and more in accordance with the British Constitution. A court with judges who know the law is better than one with judges who have only common sense. He then specifies certain features which are objectionable and gives it as his opinion that there should be four terms in the year for Montreal as well as for Quebec. See Minutes of Leg. Council, v. D., p. 64. Mr. De Lery merely stated his opinion that they should follow the Instruction of the King. Ibid.