

Monday 12th December, 1831.

SECOND SESSION 11th PROVINCIAL PARLIAMENT, 2nd. WILLIAM IV.

Sent to Assembly for concurrence.

Ordered, that it be sent to the Commons' House of Assembly, by the Master in Chancery, for the concurrence of that House.

Dissentiet,—

Dissent of the Hon. Mr. Powell, against passing the Quebec Ordinance Repeal Bill

To the Bill as now passed, entitled "An Act to provide that none of the Ordinances made by the Governor and the Legislative Council of the Province of Quebec, shall continue to have the force of Law in this Province"; because, no provision is made for Appeal from Judgments of the Court of King's Bench, founded on Foreign Judgments, which had not the aid of a Jury; and that such provision shall expressly enable the appellant to present an Appeal, the very evidence, affidavit, or original Foreign Judgment, in order that the Court of Appeal may form its legal judgment of that of the Court of King's Bench upon the Foreign Judgment appealed; as for instance, that in a case of judgment in Lower Canada, in the Common Pleas at Montreal, in 1794, while subject on all matters relating to property and civil rights to the Laws of France, and Ordinances of Quebec, an Action was brought on that judgment, in the Court of King's Bench in Upper Canada, (subject to the Laws of England) which on Foreign Judgments confirm them or not, according to the law of the Foreign Country; and therefore, must have before it evidence of the Foreign Law which rule the Foreign Court, or its judgment cannot be sound. In case of Appeal, the same evidence which supported the Foreign Judgment should obviously be before the Court of Appeal, to enable it to procure such judgment as the Court below ought to have given. Such was the law of the French Ordinance, touching Appeals, which was continued to be the same in Upper Canada, and has not been repealed before this Act.

The Original Judgment was in a Court where there was no Jury; and therefore, if the justice of the Original Judgment be impeached, and a new Judgment is called upon, even at the end of thirty-six years, to impeach or confirm an Appeal from, such new Judgment must be supported by the same legal evidence which supported the Original Foreign Judgment.

(Signed)

WM. DUMMER POWELL.

Petition praying for an extension of the Niagara Gaol Limits read.

Pursuant to the order of the day, the Petition of J. Muirhead, and others, Magistrates and inhabitants of the District of Niagara, praying for an extension of Gaol Limits, was read.

Petition praying for the establishment of the Niagara Boundaries Line read.

Pursuant to the order of the day, the Petition of J. Muirhead, and others, inhabitants of the District of Niagara, praying for the establishment of the Northern boundary line of the Township of Niagara, was read.

Petition praying for aid in the improvement of road in township of Pittsburgh read

Pursuant to the order of the day, the Petition of Robert Drummond, and others, praying for further aid in the improvement of the road in the Township of Pittsburgh, was read.

Petition praying for a resurvey of a part of townships of Fredericksburgh & Adolphustown read.

Pursuant to the order of the day, the Petition of James Fersher, and others, inhabitants of the Townships of Fredericksburgh and Adolphustown, praying for a resurvey of a part of the said Townships, was read.

Order of the day read for recommitting Kingston Bank Bill.

The order of the day, for the House to be again put into a Committee of the whole on the Bill, entitled "An Act to incorporate certain persons under the style and title of the President Directors and Company of the Commercial Bank of Upper Canada, being read, it was—

Same Discharged.

Ordered to be discharged, and that the same do stand upon the order of the day for tomorrow.

Appeal Bill recommitting.

Pursuant to the order of the day, the House was again put into a Committee of the whole on the Bill to make more effectual provision for appealing from the judgment of the Court of King's Bench.

The Honorable Mr. Grant took the Chair.

After some time the House resumed.

The Honorable and Right Reverend Bishop MacDonell enters.

A member enters the House.

Report of above Committee, and leave asked to sit again.

Leave granted.

The Chairman reported that the Committee had taken the above Bill into consideration, had made some progress therein, and asked leave to sit again on Thursday next.

Ordered, that the Report be received, and leave granted accordingly, and—

Bill ordered to be printed.

Ordered, that the Bill be printed.

King's Bench place of sitting bill committed.

Pursuant to the order of the day, the House was put into a Committee of the whole on the Bill, to authorise the holding of the Court of King's Bench at any convenient place in the immediate vicinity of the town.