

As regards your personal complaint of degradation in being placed next in order of precedence to Mr. Justice Bedard, viewing it apart from the legal question you have raised, the Governor General commands me to say, that I cannot agree with the opinion expressed in your Memorial, or think that any degradation of yourself or intention to degrade you is to be implied from the proceeding. He would indeed regret very much to find that he was prevented from the construction of law or by indelible usage, from availing himself of the services of Judges of the Superior Court of Quebec and Montreal, or that any rule existed which would limit the prerogative of the Crown as to the precedence of Puisne Judges in these Courts, which would require a Judge removed from one Court to another of greater labour in order to make his public services the more available, to descend in the order of precedence below others who had been long accustomed to precede in the exercise of Judicial functions in the Court of Appeals as well as at the sittings of the Court of Queen's Bench held at Three Rivers and at Sherbrooke, when the Judges of the Courts of Queen's Bench of Quebec and Montreal had been brought together.

His Excellency further commands me to say, that he has not sufficient doubt of the legal question which you state to be involved, or apprehension of an indecorous contest on the subject of precedence between two gentlemen exercising the office of Her Majesty's Judges, to induce him to comply with your request for a leave of absence, or suggest the absence of Mr. Justice Bedard. If there be a legal question remaining open, His Excellency cannot see how your rights can be compromised in any way by the order of precedence to be observed in accordance with the Commission of Mr. Justice Bedard, during any time which may intervene between this period and the final solution of the doubts you have submitted on the legal question stated in your Memorial. His Excellency is informed that the administration of justice and the rights of suitors in this extensive and important District, require the presence and active exertions of all the Judges, and His Excellency cannot permit these great interests to suffer by any personal contests on the subject of precedence between public servants.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed,)

R. B. SULLIVAN,

Secretary.

The Honourable Mr. Justice Day,  
&c. &c. &c.

A true Copy,

E. C. PARENT,

Asst. Secy.

## No. 14.

MONTREAL, 20th June, 1848.

TO HIS EXCELLENCY THE EARL OF ELGIN AND KINCARDINE,  
GOVERNOR GENERAL.

MAY IT PLEASE YOUR EXCELLENCY,

I take the liberty of addressing Your Excellency directly in continuation of the subject of my Memorial of the 23d of May last, complaining of the precedence granted to Mr. Justice Bedard, because the present communication, as well as the former, in so far as the legal question is involved, is intended for Your Excellency's consideration as the proper channel of communication with Her Majesty's Government.

To have submitted the matter to Your Excellency's legal advisers here would of course have been unavailing, for these gentlemen having already become responsible for the legality of the Letters Patent issued upon their advice, could grant me no redress without such plain acknowledgment of error as Governments must ever be unwilling to make.

The only portion of my Memorial upon which I expected a decision from the Provincial Government, was that soliciting leave of absence for myself or Mr. Justice Bedard, if he desired it, from the duties of the Superior Courts, until Her Majesty's pleasure could be known. In answer to this respectful solicitation, I am informed by a letter from the Honourable Secretary of the Province, bearing date the 27th day of May last, that Your Excellency commands him to say, that Your Excellency has not sufficient doubt of the legal question which I state to be involved, or apprehension of an indecorous contest on the subject of precedence between two gentlemen exercising the office of Her Majesty's Judges to induce him to comply with my request for a leave of absence, or to suggest the absence of Mr. Justice Bedard; that if there be a legal question remaining open, Your Excellency cannot see how my rights can be compromised in any way by the order of precedence to be observed in accordance with the Commission of Mr. Justice Bedard, during any time which may intervene between this period and the final solution of the doubts I have submitted on the legal question in my Memorial; that Your Excellency is informed that the administration of justice and the rights of suitors in this extensive District, require the presence and active exertions of all the Judges, and that Your Excellency cannot permit these great interests to suffer by any personal contest on the subject of precedence between public servants.

This answer, although it purports, in accordance with official observance, to be written by Your Excellency's command, evidently proceeds from Your Excellency's legal and constitutional advisers: and I must be permitted to deal freely with it as such, without being supposed to forget for a moment the duty which I owe to the Representative of my Sovereign. Mr. Secretary's letter was delivered to me but a short time before my departure for the Court of Appeals at Quebec, and both the matter and the manner of it were such as to induce me to suspend my reply until I could have an opportunity for deliberation, and a calm review of the whole subject. Upon the manner of the answer, which is certainly one of marked though possibly not intentional disrespect, I am not disposed to dwell; but with regard to the matter, I mean the refusal of the leave of absence and the reasons assigned for it, I must take leave to offer a few remarks.

The legal advisers of Your Excellency are pleased to treat my pretensions as so frivolous and unsubstantial as scarcely to make a question, and therefore it is implied that there is no occasion for leave of absence being asked or