

HOUSE OF ASSEMBLY,

Jovis, 11a. die Decembris, 1828.

In Committee on the Bill for the Qualification of Justices of the Peace.

PRESENT—Messrs. *Cuvillier, Heney, Borgia, Quesnel* and *Vallieres de St. Réal*.

Mr. Vallières de St. Réal called to the Chair.

Read the Bill and the Order of Reference.

Read the Draft of a Report and adjourned to to-morrow at the Hour of Ten in the Forenoon.

Veneris, 12a. die Decembris, 1828.

PRESENT :—The same Members.

The Draft of the report yesterday submitted to the Committee was unanimously agreed to, as the First Report from this Committee, and it is ordered that the Chairman do lay the same before the House.

The Report is as follows :

YOUR Committee remark in the first instance that before the year one thousand seven hundred and fifty nine, the Office of Justice of the Peace was wholly unknown in *Canada*, and was only introduced therein with the Criminal Law of *England*, and under the British Government.

It is equally certain that the Common Law of *England*, does not recognize the Office of Justice of the Peace, and that the Office was created in *England*, by the Statute *Edward III.* cap. 16, which sets forth “that for the better keeping of the Peace, the King wills that in all the Counties, upright and loyal men, not being either abettors of malice or encouragers of litigation in the County, should be appointed for keeping the Peace.”

The Justices of the Peace created by Statute have no Jurisdiction beyond that which they derive from Statute, and it is admitted that, not having existed from time immemorial, they have not nor can have any Jurisdiction from prescription. The extent of their Jurisdiction in Criminal matters is defined by many Statutes and particularly by the following; 4 *Edward III.* chap. 2; 18 *Edward III.* chap. 2; 34 *Edward III.* chap. 1; 17 *Richard II.* chap. 10; and 2 *Henry V.* Session 1, chap. 4. A great number of subsequent Statutes have given either to one or more Justices of the Peace special powers to be by them exercised in some cases in their Sessions, and in others out of Session, and it is a well established rule in these cases, that all Statutes conferring special powers on the Justices of the Peace shall be strictly construed.

The Office of Justice of the Peace was originally created by a Statute, and not only are the powers of such Justices exactly fixed and defined by different Statutes, but moreover no person (in *England*) can be a Justice of the Peace, unless he possesses the qualifications required under certain Statutes, the leading provisions of which your Committee are now about to lay before your honorable House.

The Justices of the Peace in *England*, are directed to be selected from among the most substantial inhabitants of the County, and to be chosen according to the advice of the Chancellor and Council, (2 *Henry V.* Session 2, chap. 1.)

No Sheriff can be a Justice of the Peace for the County in which he is Sheriff—(Statute 1, *Mary*, Session 2, chap. 8.) which prohibition in the opinion of many extends also to Coroners.

No Attorney or Solicitor can be a Justice of the Peace, (5 *George II.* chap. 18.)

Under the Statute of the 18, *Henry 6* chap. 11, a person was qualified to be a Justice of the Peace by the possession of landed property, to the amount of £20 per annum; But the Statute 18 *George II.* chap. 20, prohibits any person from acting as Justice of the Peace, unless he is in possession of landed property to the yearly value of £100; or unless he has the reversion or remainder of some real Estate leased for one two or three lives, or for a term of years ending after one two or three lives, for a rent to the yearly value of £300.

It was the intention of the Legislature that the Office of Justice of the Peace should be held only by men who had received a certain degree of education, and who were themselves interested in the preservation of the Peace, and in the maintenance of good order. The possession of a certain fortune raises a presumption that such an education has been received—the possession of landed property raises a presumption that such an interest is felt; and it is for these reasons, no doubt, that the Law requires every Justice of the Peace to be possessed of a certain proportion of landed property.

And