

6-7 EDWARD VII., A. 1907

subjects in this province, by an expeditious and efficacious distribution of Justice, founded on the principles of the British constitution: I therefore conclude that the ordinances of this province for establishing courts of civil Judicature have been laid before the great Law-Officers, and in consequence of their Report and Advice, the Instruction now before us has been framed. For that reason, it would be high presumption in me to suppose that the alterations which his Majesty enjoins to be made, would not be productive of the good intended; It is therefore my Advice that an ordinance be passed, deviating as little as possible from the great Outlines laid down in the Instruction, but to have its operation suspended untill his Majesty's further pleasure is known.

The intention of the suspension is to give time to the members of this Board (who apprehend that the alterations required will hurt, rather than prove beneficial to the subject) to state to the Minister, thro' His Excellency the Governor the evils that may, in their opinions, probably result, from a change in the present mode of administering Justice. I would wish humbly to represent that I think the person appealing from the sentence of a court, to a higher court, where a member of the court appealed from, sits as President, may count on the President's voice and influence. I would likewise represent that there ought to be four Terms annually at Montreal, instead of Two.

I am of opinion that this Board may guard against every inconveniency, in framing the Law. We may certainly make deviations of this nature without incurring censure, as having acted contrary to his Majesty's gracious Intentions.

(Signed)

HUGH FINLAY.

Quebec 14th February
1780.

OPINION OF GEO. POWNALL.¹

With respect to the Regulations proposed in His Majesty's Instruction being carried into immediate Execution, being to the Advantage and benefit of the province, I think in the present unsettled and disturbed situation of the province, it would not.

With regard to its being the means of administering more speedy and effectual Justice;

In this point I confess myself both diffident and hardly able to form my Judgment, But I have so great respect, and so high an opinion of the wise

ing Mr. Finlay's opinion comes that of Mr. Cuthbert, who simply states that "Having considered the same I am of opinion that the Ordinance so required by His Majesty's Instructions should pass into a Law, under such Regulations as may be thought necessary for the Good of the Province; and desire this my Vote may be entered in the Minutes of Council." Ibid. p. 63.

Hugh Finlay occupied the position of Deputy Postmaster General in Canada, an Imperial appointment.

¹ Canadian Archives, Minutes of Leg. Council, v. D., p. 63. Geo. Pownall came with Chief Justice Hey in 1775, having been appointed by Dartmouth as Clerk and Registrar of the Legislative Council of Quebec.