

of the same month April, he this deponent called upon Charles Richardson, Esquire, Barrister at Law, and required of him as attorney for the plaintiff what was the demand, that the said Richardson gave to the said deponent, the memorandum or minute of the amount of debt and costs hereunto annexed. Deponent saith also, that the amount claimed by the said plaintiff was secured to him by a promissory note, and that the sum did not exceed six pounds and five shillings.—That the said Charles Richardson the attorney for the said plaintiff told the said deponent, that if he the said Thomas McMahon paid the costs, as he the attorney could not lie out of it, he the said Richardson would take a confession for the debt. Deponent saith, that he then left the office of the plaintiff's attorney. Deponent farther maketh oath and saith, that not finding it convenient to discharge the amount claimed for debt and costs, nor costs alone, at the time Mr. Richardson gave him the deponent the annexed statement, he the deponent and defendant in the above suit, on the thirtieth day of April last past, in the presence of Mr. Edward Clark Campbell, offered to Mr. Richardson, then present, to execute a confession for debt and costs, if the said Richardson would draw it—which the said Charles Richardson the plaintiff's attorney refused positively to do. Deponent then executed the annexed confession in the presence of Mr. E. C. Campbell on the thirtieth day of April last, and left the same with him for the acceptance of the said Richardson, and employed Robert Dickson, Esquire, Barrister at Law to defend the suit for him the deponent, or oppose the further progress of the suit, if it was coming on.

THOMAS McMAHON.

Sworn before me at Niagara, in the Niagara District, this eleventh day of June, 1828.

J. MUIRHEAD.

Commissioner for taking affidavits in the Court of King's Bench in said District.

STATEMENT GIVEN BY MR. RICHARDSON TO T. McMAHON,  
Referred to above.

John Callaghan, } vs. Thomas McMahon. }	£ 6 3 0
	Debt and Costs, ..... 2 7 0 Cur'y. Besides Sheriff's charges.

RECEIPT.

Received of Thomas McMahon, the sum of twelve pounds and ten shillings currency, and also an accepted draft on James Black, Esq. as Secretary to the Welland Canal Company, which when paid will be in full of my demand against the said Thomas McMahon up to this date. The amount of the two executions placed by me in the sheriff's hands are satisfied by the above arrangement, less the sheriff's charges of three pounds and four pence, which the said Thomas McMahon must satisfy himself.

CHARLES RICHARDSON.

Niagara, Feby. 4th, 1829.

The above receipt endorsed as follows :

John Callaghan, vs. Thomas McMahon.	£ 26 9 8
Coulter & Mundy, at McMahon.	£ 11 16 4

Petition of Joseph Cawthra and one thousand six hundred and twenty-eight others.

To the Honorable, the Commons of Upper Canada, in Parliament Assembled.

We His Majesty's dutiful and loyal subjects inhabitants of the Home District, are constrained by the most painful necessity to appeal to your Honorable House against the misrule of the provincial administration, and humbly to point out to your Honorable House the alarming increase of our grievances, and the necessity of their redress, as they become more and more inveterate from the patience with which we have hitherto endured them.

Although we entertain the fullest confidence in His Majesty's desire to promote the happiness and protect the rights of British subjects throughout his ample and glorious dominions, yet our hopes of speedy redress are not a little discouraged by a knowledge that while we on our part, have opened to His Majesty the abuses and oppressions growing upon us, the very persons we accuse are pressing through other channels, affording a more favorable access to his royal belief, those interested misrepresentations which are designed both to promote misrule and protect the authors of it; for it cannot be forgotten that misrepresentations from such sources have already recently endangered our civil and religious liberties and cruelly vilified and traduced the fair characters of the dissenting denominations of christians in this province.

Notwithstanding defects in the law defining our constitution, we are, nevertheless, warmly attached to it; and view with just fear every attempt to amend it, without the intervention of our provincial legislature, which is the constituted guardian of our rights and liberties; and which, considering the great distance of the imperial legislature can best understand our necessities, and apply the proper remedies. It has long been the source of many grievances and of their continuance, that the legislative council is formed not of an independent gentry, taken from the country at large, but of executive councillors and place men, the great majority of whom are under the immediate, active and undue influence of the person administering His Majesty's provincial government, holding their offices at his mere will and pleasure; hence arises, in a great measure, the practical irresponsibility of executive councillors and other official advisers of His Majesty's representative, who have hitherto with impunity both disregarded the laws of the land and despised the opinions of the public. From the impunity with which the greatest abuses have hitherto existed and the difficulty in such a state of things, of applying an efficient remedy, most of our grievances have taken their origin and growth.

First—The rejection, by the legislative council, of the most salutary measures passed by large majorities in the House of Assembly, and much desired by the people.

Secondly—The frequent want of a casting voice in the court of King's Bench in this province, owing to the illegal absence of the judges, especially of the Chief Justices, as well on distant journeys, out of the province, as on attendance in the legislative and executive councils.

Thirdly—The undue influence which the mingled duties of legislative and executive advice have on the judicial function.

Fourthly—The assumption of a power, by the executive, to appropriate a large portion of the revenue, and other monies, raised from the sale of land and large otherwise in the province, independent of the will or sanction of your Honorable House.

Fifthly—The extravagant augmentation of salaries, offices and public expenses, quite disproportioned to the state and circumstances of the colony.

Sixthly—The confinement of public prosecutions of offences to the sole conduct of the law officers of the crown, in the colony, embarrassing private prosecutors in this small community, where the influence of politics and family connexions is so injuriously felt.

Seventhly—The retaining in public offices, and the introduction into the same of persons who notoriously ought to be excluded.

Eighthly—The want of carrying into effect that rational and constitutional control over public functionaries, especially the advisers of His Majesty's representative, which our fellow subjects in England, enjoy in that happy country.

Ninthly—Our present imperfect jury system.

Tenthly—That Sheriffs, Coroners and other public officers, hold their offices during pleasure, and not during good behaviour, or otherwise, as in England.

Eleventhly—That the supreme judges of the land hold their offices during pleasure, and are subjected to the ignominy of an arbitrary removal.

Wherefore we humbly entreat for the interference of your Honorable House, to procure redress for the grievances under which we labour.

We humbly suggest that the legislative council should be increased in number, of whom a small proportion only, strictly limited by law, to be permitted to hold or enjoy any place of emolument or profit, under the government, or to be members of the executive council.

Secondly—That the Judges of the Court of King's Bench, be not legislative councillors, nor executive councillors, nor privy councillors, in any respect, in the colony.

Thirdly—That the Judges shall not be permitted to absent themselves from the province, but on the most reasonable cause, and with leave obtained as proscribed in British acts relative to colonial officers.

Fourthly—That the judges be made independent as in England, holding their offices, not as at present, in this province, but during good behaviour, to be inquirable into, by impeachment alone, in the provincial parliament, before the legislative council, when that body is so modified as to become an independent branch of the legislature.

Fifthly—That for some time, at least 'till the province afford an adequate source of legal and constitutional education, the judges be appointed from the bar in England.

Sixthly—That a Legislative act be made in the Provincial Parliament, to facilitate the mode in which the present constitutional responsibility of the advisers of the local government may be carried practically into effect, not only by the removal of these advisers from office, when they lose the confidence of the people, but also by impeachment for the heavier offences chargeable against them.

Seventhly—That our present jury system be amended by a new law, whereby the jurors to be impaneled may be more equally selected from the country and less at the mere nomination of the sheriff or his officers; such new law to extend both to grand and petit jurors.

Having thus, under the pressure of the present crisis, hastily concentrated our most pressing grievances, and humbly prayed for the aid of Your Honorable House in providing appropriate remedies— we cannot omit to bring under the serious notice of Your Honorable House, as indicative of the necessity of a change of men and measures, the recent violent and unconstitutional removal from office, of the Honorable John Walpole Willis, a public wrong calling more and more loudly for our most earnest remonstrance, and strongly elucidating the injurious character of the policy pursued by the present provincial administration.

Such was the apprehension of the practical bad consequences of the King's Bench being without a casting voice, that previous to Easter Term last, a memorial was addressed to His Excellency, pointing out, in some respects, the failure of Justice in such a state of things, and requesting His Excellency to suspend his leave of absence to the Chief Justice, whose departure from the province was, at that time, publicly spoken of, even until after the approaching term. His Excellency however, did not think proper so to do, and the evil consequences anticipated have been realised. During the terms of Michaelmas and Hilary last past, with a full bench, there were not fewer than ten cases wherein differences in opinion arose amongst the Judges, on important points, and in Easter term, during which the Chief Justice was absent, the two puisne judges were divided in opinion, in six several cases.

In such a state of things, substantial justice cannot be said to be administered. The provincial law wisely enacts that His Majesty's Chief Justice of this Province, together with two Puisne Justices shall preside in the Court of King's Bench; and as a diversity of opinion has, in many important points, unhappily prevailed among the Judges of that Court, which is the only one of superior jurisdiction, and from which in the vast majority of cases, there can be no appeal, the importance of maintaining that court as organized by law becomes the more urgent, and the violation of that law productive of the greatest evils.

Under these circumstances, we feel that the Honorable Mr. Justice Willis deserves the approbation and confidence of all good men, for withdrawing from the Court House, under a conscientious conviction, in his own breast, that he could not administer justice, according to law, while the court was not constituted as that law required.

Sensible as we are, that the appointment of Judges, esteemed by the people for their learning and beloved by them for their virtues, is in every country so blessed, the most conclusive evidence of the health of the great body politic, so do we feel that this deliberate, violent and unconstitutional removal of Mr. Justice Willis, depriving us of the benefit of his honorable and conscientious services, is a grievance of such magnitude as requires the immediate and effectual interference of Your Honorable House; and this evil we feel to be the more serious because it furnishes the present provincial administration with an opportunity of placing upon the judgment seat, men, labouring under those very prejudices of family connexions and party feeling from which Mr. Justice Willis was necessarily and happily free; persons withal, very inferior to that gentleman in education, in talent and in legal knowledge. While strongly feeling this injury, Your Honorable House will we trust readily listen to our complaint of the conduct of the Honorable Mr. Justice Sherwood, who, in the absence of the Chief Justice, and of Mr. Justice Willis, proceeded alone to execute all the powers of His Majesty's Court of King's Bench, and yet abstained from offering any justification for such assumption, for the satisfaction of the public, although requested to give to the bar his legal reasons for such a course, and that at a time when he had vacated his office by absenting himself from the province without the leave prescribed by law.