

## Second Report.

To His Excellency the Right Honorable SIR CHARLES THEOPHILUS METCALFE, Baronet. G. C. B., &c. &c. &c.

MAY IT PLEASE YOUR EXCELLENCY,

The Commissioners for revising the acts and ordinances of Lower Canada, have the honor to make their second Report, as follows :

By a commission issued by His Excellency Sir Charles Bagot, then Governor General, bearing date the 16th day of March, 1842, the undersigned were appointed, jointly with the honorable C. R. Ogden, then Her Majesty's attorney general for Lower Canada, and the honorable C. D. Day, then Her Majesty's solicitor general for the same, commissioners to revise the acts and ordinances of Lower Canada, and to consolidate such of them as relate to the same subject and could be advantageously consolidated ;—their appointment being consequent upon an address of the Honorable the Legislative Assembly, dated 28th August, 1841.

Mr. F. G. Johnson, of Montreal, advocate, was appointed by His Excellency to be the secretary of the commission. The subsequent elevation of Mr. Day to the bench, and Mr. Ogden's absence in England, have prevented their taking part in the execution of the work, though the undersigned had the benefit of their assistance in deciding upon the plan they have endeavoured to follow out.

The commissioners met at Montreal, at an early period after their appointment, and agreed upon the plan of their future operations.

It appeared clear to them, that the first duty they had to perform was to ascertain, what acts and ordinances and what portions of each of them were in force, what not in force, and what doubtful. Until they were prepared to shew what the statute law on each subject was, it was in vain for them to attempt to consolidate the law on any subject, or to suggest amendments.

The task they undertook was laborious and irksome ; the question whether the whole of any act or ordinance had or had not expired or been repealed, was in many cases one of considerable difficulty, arising partly from the multitude of acts for reviving or continuing others or for making them permanent, but still more from the number of cases in which permanent laws had been repealed by temporary ones which had subsequently expired.

In England it appears to be settled, that in this case the repealed law would not revive, the effect of the repealing clause being held to be permanent, though that of the remainder of the act may be temporary : while in Canada, under the royal instructions, that no permanent clause should form part of a temporary act, the reverse has been generally held. But the mode of looking at this question has not been uniform ; thus for instance, the ordinance 28 G. 3. c. 8. (regulating the practice of physic) though repealed by the expired act 1 W. 4. c. 27, seems generally held to be in force, and the ordinance 20 G. 3. c. 4. (regulating *maîtres de postes*) repealed by the expired act 47 G. 3. c. 5. to be as generally held not to be in