

Correspondence
respecting
Judge Fletcher.

accompanied the address of the Assembly of the 4th March last, praying for your immediate removal from office, he perceived that the principal charge depended on the question whether, in punishing individuals for contempts committed out of court, you had not usurped a criminal jurisdiction not appertaining to the judge of the court established in the inferior district of St. Francis, and exceeded the powers legally vested in you as such judge; and his Excellency, having taken the opinion of the law officers of the Crown on this point, and being advised by them that the judge of the provincial court of St. Francis has power to punish by fine or imprisonment, or by both, contempts of court committed out of court, and that the court, being one of record, possesses, in matters of contempt, powers similar to those exercised by the superior courts of Westminster Hall and of this province, he has arrived at the conclusion, that, under all the circumstances of the case, there is no occasion to disturb you in the discharge of your judicial functions; but as this and the other questions involved in the accusations of the House of Assembly can only be finally disposed of by His Majesty, his Excellency has determined to refer the whole case to England, with as little delay as possible, for the signification of the Royal pleasure.

I have, &c.

The Honourable
Mr. Justice Fletcher, Sherbrooke.

(signed) S. Walcott, Civil Secretary.

— No. 2. —

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Gosford*.

My Lord,

Downing-street, 22 August 1836.

I HAVE received your Lordship's despatch, dated the 9th of July last, enclosing an Address presented to you by the House of General Assembly of Lower Canada, praying for the dismissal from office of Mr. Fletcher, one of the judges of the district court of St. Francis, with various documents relating to that subject.

Your Lordship appears to me to have acted with sound discretion in declining to comply with the request of the Assembly until you had called upon Mr. Fletcher for his defence. His Majesty's Government cannot receive a demand, even from the House of Assembly, for the removal of a public officer, in any other light than that of a charge which they are bound to investigate, unless it be made to appear that the accused party was afforded by the House an opportunity of controverting the matter alleged against him.

I further approve your Lordship's ultimate determination not to suspend Mr. Fletcher from his office pending the investigation of the subject by His Majesty's Government. The highest legal authorities to which it was in your power to apply for information having reported to you that in the proceedings laid to the charge of Mr. Fletcher, that gentleman had acted consistently with law, you could not have pronounced an official censure upon him without claiming for your own judgment, on a question exclusively legal, a weight superior to that of the Attorney and Solicitor-general of the province.

On the part of His Majesty's Executive Government I disclaim all competency to decide the question debated between the House of Assembly on the one hand and the judge and the law officers of Lower Canada on the other. It is my duty to assume that the district court of St. Francis correctly interpreted, and properly enforced, the law, until their decisions are reversed or corrected by a judicial authority superior to theirs.

I have, therefore, humbly advised the King to refer these papers to the judicial committee of the Privy Council, who, I presume, will admit the accusers and the party accused to a hearing at their bar, and to whom you will refer the Assembly of Lower Canada as the only body to which the constitution of the British empire has entrusted the ultimate decision of questions of this nature.

I have, &c.

(signed) *Glenelg*.