

Practice of Court of Common Pleas of the District of Hesse.

BY THE HONOURABLE MR. JUSTICE RIDDELL, L.H.D., LL.D., &c.

PRESENTED BY C. C. JAMES, C.M.G., LL.D.

Read May 28, 1913.

A sketch of the first Puisne and fifth Chief Justice of the King's Bench in Upper Canada has been written by the late D. B. Read, Q.C.; it appears in the Magazine of Western History, Vol. 5, p. 375 (1887), and is included in his "Lives of the Judges."

Mr. Read mentions the fact that Powell sat in the Court of Common Pleas at L'Assomption on August 11th, 1791: and says that this appears from the "Archives at Osgoode Hall." The particular volume from which the account is quoted is no longer to be found at Osgoode Hall;* but recently in going over the vault of the King's Bench for an entirely different purpose, I found a volume containing a record of earlier judicial acts of the future Chief Justice. This volume naturally escaped Mr. Read's notice, as it purports to be Volume 10 of the King's Bench Term Books. It is of foolscap size, a parchment bound volume: while the middle part is taken up with the proceedings in Term of the King's Bench from November 3rd, 1828, to July 1st, 1830, a number of pages, both at the front and at the back, contain a record of the proceedings of the Court of Common Pleas holden at L'Assomption (the word is spelled with an "o" not "u" in the original). The record begins July 16th, 1789, and continues till September 24th, 1789: then (reversing the volume) the record is from May 19th, 1791, to August 4th, 1791, at which day the Court was "adjourned to 11th inst." The volume cited by Mr. Read is a continuation of this. Some 36 pages are cut out from before the record of May 19th, 1791—which may have contained the proceedings from September, 1789 to May 1791.

The history of the Court is not without interest.

In the Royal Proclamation of 7th Oct., 1763, it was stated that until Assemblies should be called, "all persons inhabiting in or resorting to our said Colonies, may confide in our royal protection for the enjoyment of the benefit of the laws of our Realm of England"—and the Governor was instructed to "constitute and appoint Courts of Judicature

*This volume is now in the Ontario Archives, and contains the record from August 11th, 1791, to October 29th, 1791—there is also another volume in the Archives containing the record from October 27th, 1791, till January 26th, 1792.