

HOW THE KING'S BENCH CAME TO TORONTO.

BY THE HONOURABLE WILLIAM RENWICK RIDDELL,
LL.D., F.R.S., C.M., &c.,

Justice of the Supreme Court of ~~Canada~~ *Ontario*

In 1794 the first Legislature of the Province of Upper Canada in its third Session, abolished the four Courts of Common Pleas, which had been established by Lord Dorchester in 1788 with full civil jurisdiction — one for each of the four Districts, Lunenburg, Mecklenburg, Nassau and Hesse, into which he divided the territory afterwards to become Upper Canada, but in 1788 still part of the enormous Province of Quebec, created by the Quebec Act of 1774, 14 George III, c. 83.

While the Canada (or Constitutional) Act of 1791, 31 George III, c. 31, provided for the government of the two Provinces, Upper Canada and Lower Canada, into which the Province of Quebec was provided, "it did not interfere with the existing Courts which continued in full vigour."¹

The French Canadian law in civil cases, which had been in force from and after the Quebec Act of 1774, was replaced in the Province of Upper Canada in 1792 by the first Act of the First Parliament, 32 George III, c. 1 (U.C.).² All questions of fact, damages, etc., were directed to be tried by a jury by the second Act, (1792), 32 George III, c. 2 (U.C.), and in 1794 the judicial system of the Province was brought into line with the system in England.

The Judicature Act (or King's Bench Act) of 1794, 34 George III, c. 2 (U.C.), established a Court of King's Bench for the Province "with all such powers and authorities as by the law of England are incident to a Superior Court of civil and criminal jurisdiction." This was the original Superior Court of Common Law

¹ The proceedings in these Courts so far as extant were published by the Ontario Archives last year.

² The criminal law of England which had been introduced into conquered Canada by the Royal Proclamation of October 7, 1763, was not interfered with by either the Quebec Act or the Canada Act.