

6-7 EDWARD VII., A. 1907

CARLETON'S DISMISSAL OF CHIEF JUSTICE LIVIUS.¹Whitehall, March 2nd 1779.

To the King's Most Excellent Majesty.
May it please Your Majesty,

In obedience to your Majesty's Commands, we have taken into our consideration the humble Memorial of Peter Livius Esq^r. appointed by your Majesty to be Chief Justice of the Province of Quebec, complaining of his having been amoved from his said office by order of Sir Guy Carleton, Knight of the Bath, late your Majesty's Governor of that Province, without assigning any cause, and without authority for so doing; and praying, that Sir Guy Carleton may be now required to assign the reasons for his Amoval; and that the same may be enquired into;² we have thereupon, in pursuance of our duty, required of Sir Guy Carleton a communication of the reasons, which induced him to displace M^r Livius;³ and having received for answer, that he had stated those reasons in one of his last Letters⁴ to Lord George Germain, one of your Majesty's principal Secretaries of State, and had referred his Lordship for proof of the necessity of the measure to the Minutes of the legislative Council in their last Session, we have examined those Minutes,⁵ together with the Letter referred to by Sir Guy Carleton, (Copy of which has been communicated to us by Lord George Germain;) and having made known to M^r Livius the matter in Charge against him we did appoint a day for hearing him in his defence, and gave notice thereof to Sir Guy Carleton, that he might attend, and make good his reasons assigned for the said Amoval; but he submitting, whether his attendance might be necessary as his charge was confined to the papers then before us,⁶ we proceeded on the day appointed to hear and consider, what M^r Livius had to offer in his Justification and defence, and now beg leave humbly to represent to your Majesty,

That, before we proceed to examine the papers, to which we are referred for proofs of M^r Livius's misconduct, we think it necessary to premise, that no part of the Charges contained in those Papers apply to impeach

¹ Canadian Archives, Q. 18 B, p. 131. Peter Livius had been a member of Council in New Hampshire for some years previous to 1775. See Acts of Privy Council, Colonial Series 1766-83, p. 569. In the spring of that year he was appointed by Dartmouth one of the judges of the District of Montreal, and Judge of the Vice Admiralty Court, much to the annoyance of Carleton. See Q. 12, p. 119. On the 22nd August, 1776, Germain announced to Carleton "Mr. Hey not chusing to return to Quebec, His Majesty has been pleased to promote Mr. Livius to the Office of Chief Justice of the Province, in his room." Q 12, p. 92. On 9th July, 1777, he took the oath of office as councillor and member of the Court of Appeals. Minutes of Privy Council, Quebec, Vol. D., p. 14. On the opening of the Legislative Session, 1778, on March 23rd, he took his seat. At that time Carleton was under recall, and in bitter hostility to Germain. Meantime his enmity to Livius had not been lessened by the promotion of the latter, through Germain, to the position of Chief Justice. Such was the personal factor behind the discussion of Constitutional issues.

² On May 9th, Livius wrote to Germain, giving a full report to the Minister, accompanied by the documents, setting forth his version of the conditions which led up to his dismissal, and praying for an investigation of the case. A copy of this was again sent on July 9th. C.O. 42, vol. 9, p. 69. This letter was the copy received by the Minister and submitted to the Privy Council, and by them to the Committee of Council for Plantation Affairs.

³ Canadian Archives, Q. 18 B., p. 125.

⁴ See Carleton to Germain, 25th June, 1778. B. 37, p. 191.

⁵ Minutes of Leg. Council, Quebec, vol. D.

⁶ See C.O. 42, vol. 9, p. 101.