

yet that assurance, while it is grounded upon the continual dependency of our Judges, can afford no sufficient and practical remedy against the abuse of Your Majesty's Royal Prerogative by the Provincial Administration. This abuse of Your Majesty's Royal Prerogative has been flagrantly manifested by the late violent, precipitate and unjustifiable removal of the Honourable Mr. Justice Willis from the Court of King's Bench in this Province.

The pretence for this almost irreparable wound to the Constitution appears to have been the declaration of an opinion by that learned and upright Judge, upon the constitution of the Provincial Court of King's Bench, which opinion was evidently expressed to explain and justify his submission to a conscientious conviction of the impropriety of knowingly proceeding in the administration of the law in a Court not organized as the law requires.

By the Provincial Act erecting that Court, it is wisely provided "that a Chief Justice, together with two Puisne Judges, shall preside therein." No explanation can add to the clearness of that provision, so obviously conducive to the safety and liberty of the subject; and it has become our urgent duty humbly to declare to Your Majesty, that our duty forbids us to yield to the attempts of the local Administration to entail upon us the dangerous encroachments made in years of past misrule, by establishing such a construction of that law as would place the rights and liberties, the property and lives of the people of this Province, at the disposal of one, while a liberal salary is provided for three Judges.

The opinion of the learned Judge became officially known to the local Government some weeks before the commencement of the Term in which it was expressed.

Finding that no step was taken to organize the Court according to law, and avert the consequences inevitably following pertinacity in the error, Mr. Justice Willis honourably withdrew from a scene, by a continuance in which he must have compromised his judicial character. Under these circumstances, it appears that the Executive availed itself of the dependency of the Judiciary, and Mr. Justice Willis was unnecessarily and violently removed from his office, because, educated in no school of subservient principles, he would not yield to doubtful expediency and unlawful usage.

We are not insensible of the advantages of the provision against granting Offices in Your Majesty's Colonies in America to persons resident or intending to reside in Great Britain; a provision manifestly intended to apply particularly (perhaps exclusively) to offices which could be exercised by Deputy, and therefore farmed out to the best bidder; but it is with concern and dismay that the people of this Province have witnessed the perversion of law and power, for the dangerous purpose of removing a Judge, whose only offence we believe to be a scrupulous and conscientious discharge of his judicial duty.

The same power which authorized the removal of Mr. Justice Willis, supposing it to be lawful, and the appointment of Mr. Justice Hagerman in his place, might with greater facility have created a Chief Justice to organize the Court according to law. But we feel that the magnitude of the outrage itself against the justice of the Country is so great, as to forbid our descending to those particulars of which we can be only partially informed, from the policy of the local Administration in withholding from us that information which might more fully expose the enormity of the transaction. We humbly desire however to declare to Your Majesty, that had the Law not placed it in the power of the local Government to avert the evils, the apprehension of which they affect to have influenced their conduct, we would esteem those evils very subordinate to this intimidation of our Judges, by the cruel aspersion of the character and unjust ruin of the prospects of one of their number, by the bold and daring exercise of arbitrary power.

Although the defective constitution of the Court, and the consequent illegality of its proceedings, have been known to the Provincial Government since Trinity Term last, yet the administration of Justice has not been relieved from this serious embarrassment, by the due organization of that Court; nor has His Excellency been advised to bring this all-important state of the Country under the notice, or to recommend it to the consideration of the Provincial Legislature. We therefore cannot too earnestly express to Your Majesty our deep sense of the injustice, inexpediency and illegality of persisting in the maintenance of the present defective state of the Court; and to represent to Your Majesty the sacred duty which we feel to be imposed upon us, firmly to protect the interest of those suitors who have been prejudiced, either because they abstained from a Court which was violating Law, or because they were driven by their necessities to yield to this assumption of judicial power.