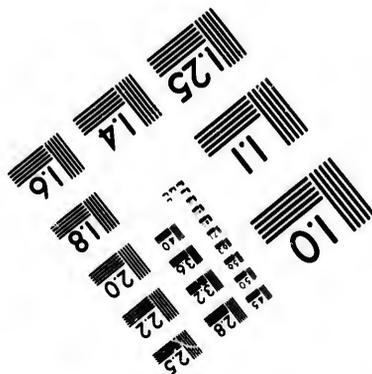
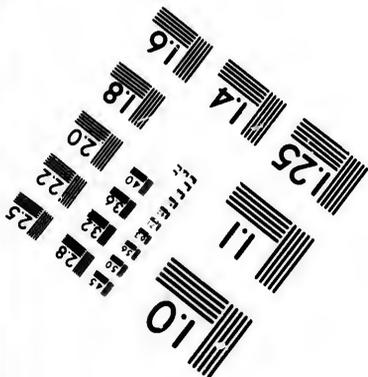
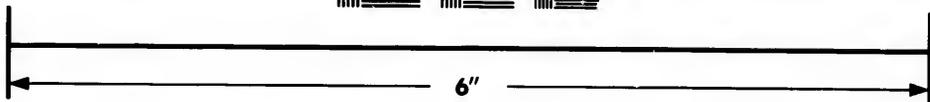
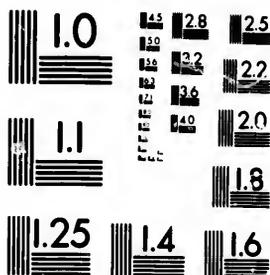


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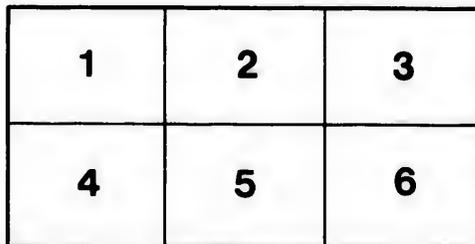
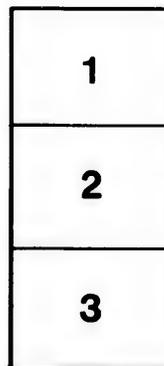
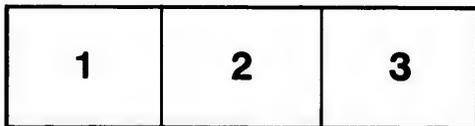
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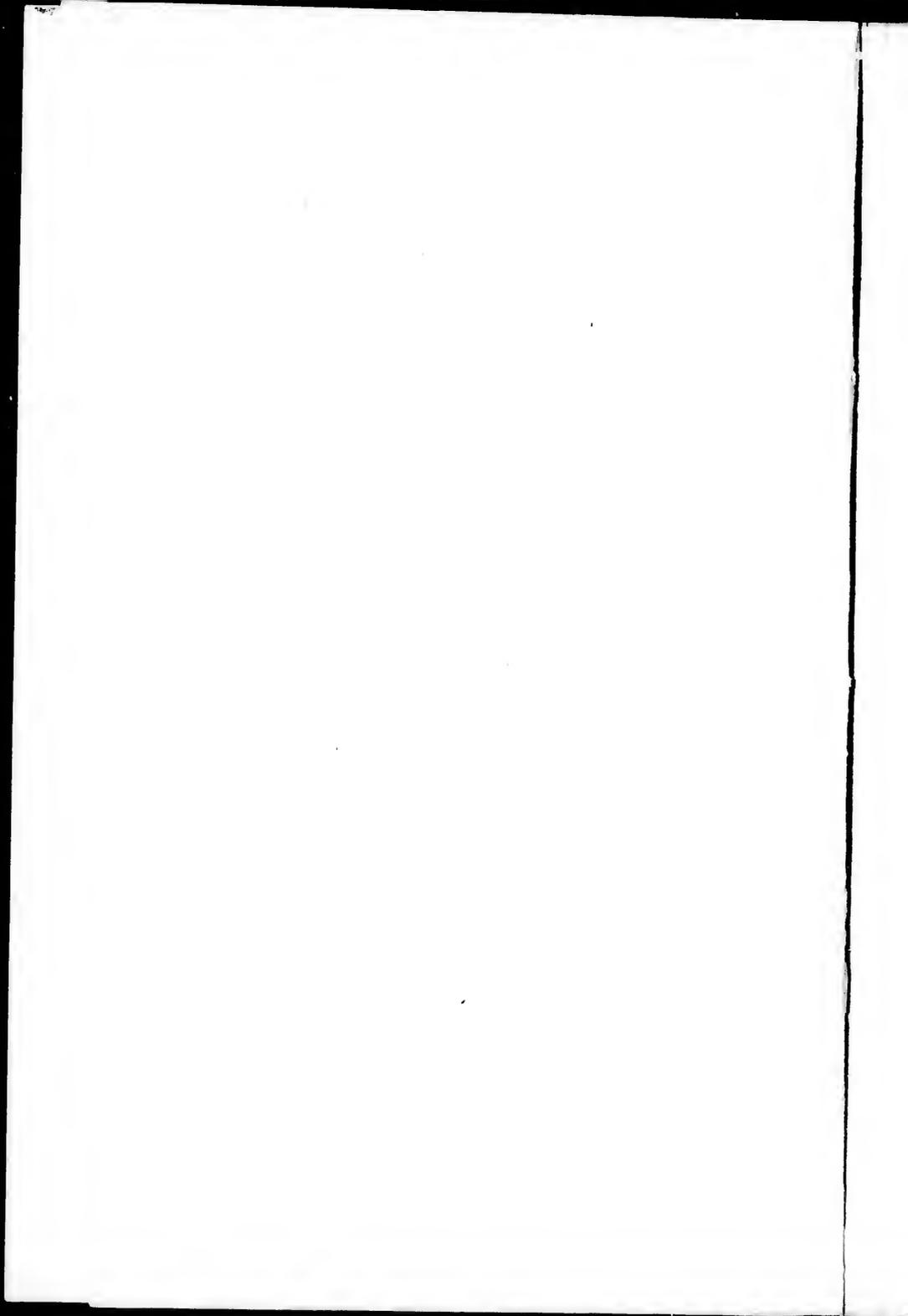
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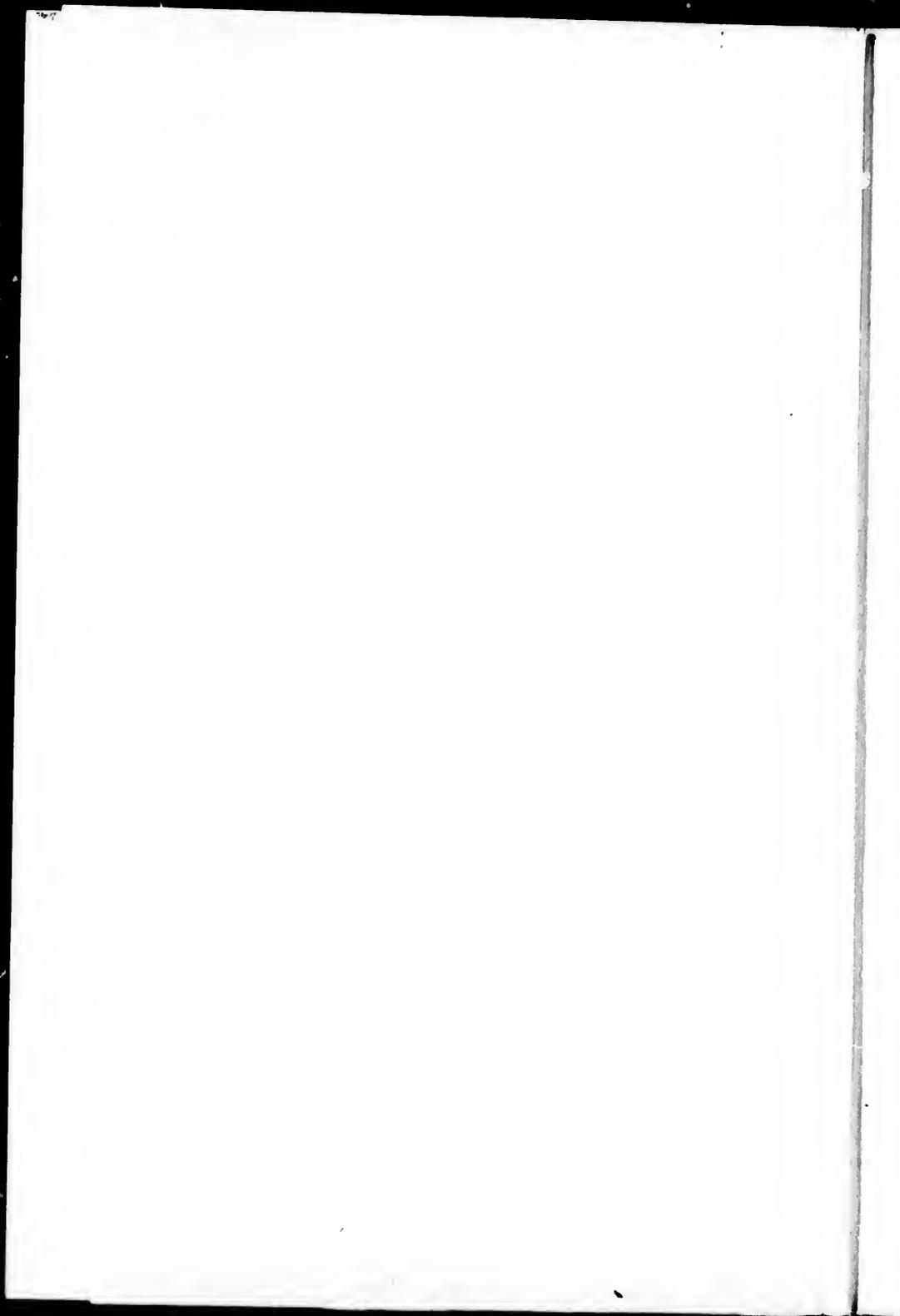
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A N S W E R
TO AN
INTRODUCTION
TO
JUDGES OBSERVATIONS, &c.
WITH
REMARKS
• ON THE
LAWS AND GOVERNMENT
OF THE
PROVINCE OF QUEBEC.



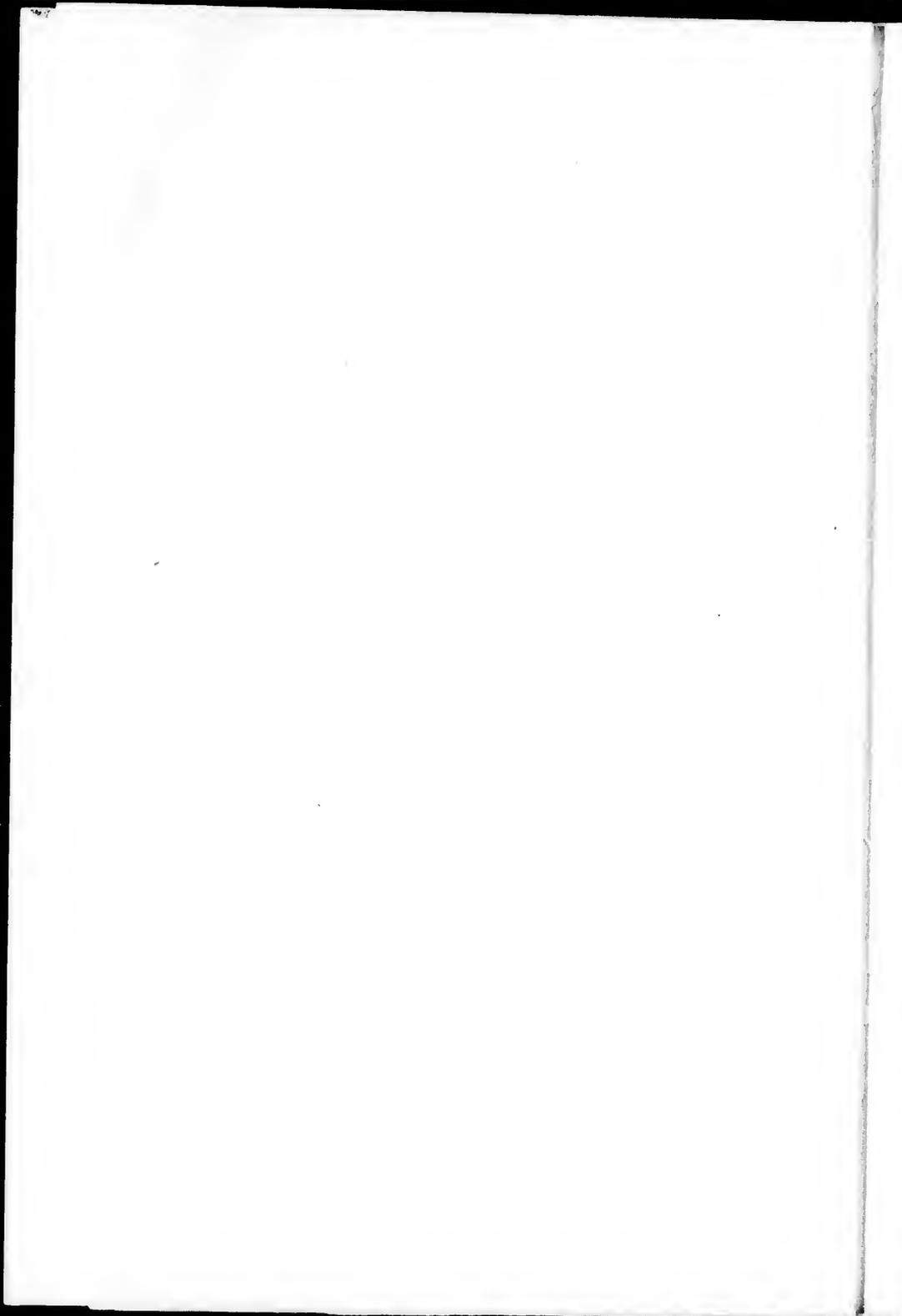
ANSWER

TO AN
INTRODUCTION
TO THE
OBSERVATIONS
MADE BY THE
JUDGES OF THE COURT OF COMMON PLEAS,
FOR THE
DISTRICT OF QUEBEC,
UPON THE
ORAL AND WRITTEN TESTIMONY ADDUCED UPON THE
INVESTIGATION,
INTO THE PAST ADMINISTRATION OF JUSTICE,
ORDERED IN CONSEQUENCE OF AN
ADDRESS OF THE LEGISLATIVE COUNCIL.

WITH
REMARKS ON THE LAWS AND GOVERNMENT
OF THE
PROVINCE OF QUEBEC.

LONDON:

1790.



AN
ANSWER
TO
JUDGES OBSERVATIONS, &c.
WITH
REMARKS
ON THE
LAWS AND GOVERNMENT
OF
QUEBEC.

THE Editor of a Pamphlet, to which the present is offered in Answer, has solicited the public to suspend its judgment, upon the merits of an investigation into the past administration of justice, in the Colony of Quebec, until the Crown Law Officers may report their opinion. And this is said to

A

be

be done, with a view to remove impressions, which misrepresentations in a Pamphlet, entitled, "*A State of the present Form of Government in the Province of Quebec,*" may have upon uninformed minds.

As judges of *One Court* in that Colony, Messrs. Mabane, Dunn, and Panet, might consider themselves involved, in a *general* complaint of error and want of rule; of uncertainty and mal-administration of law, that was charged *against the distribution of justice*, in the Province of Quebec. In *particular*, the road was plain, to meet, and answer, charges upon their conduct, and endeavour to sustain, with honor, the places of trust they held, *by shewing* a conduct and capacity that merited the favor of the Crown, and the confidence of its subjects. In place of this, a very different conduct has been taken by those Honorable Gentlemen. They appear to the *public*, and *executive powers* of Government, *three* out of *thirty* Judges, that compose the Courts of the Colony,

Colony, to vilify the complainants, and by an *unfair* representation of the causes, annihilate the grounds of complaint.

The general scope of observations by the Honourable Judges, are to represent the state of confusion in the Colony, from the publishing His Majesty's Proclamation in 1763; and to hold up the *characters*, and *causes*, of that confusion, unto the present day. A very cursory and inaccurate sketch is made of the Government, until passing of the Quebec Bill in 1774. And the Judges *assert*, that the clamour and calumny against the Courts of Justice, did *not* commence until *after* the year 1775. This complaint or clamour against the administration of justice, they consider to have arisen *in consequence of the Quebec Bill*; and *not* the misconduct of the Judges: and proceed to describe the complaints, as the calumny of men disaffected to the King's Government; and affect to believe, that the warmth of those charges, after the year 1783, had been gene-

See p. 5
and 6 of In-
roduction
to Observa-
tions.

rated in the dishonest desire of merchants, to evade the payment of just debts to the Crown.

That petitions expressive of those complaints were agitated by the Honorable John Cochrane, agent to the contractors or remitters of public money, from resentment, on account of *legal* prosecutions made by General Haldimand, under a letter from the Secretary of the Treasury, containing *positive* orders, to exact payment of the outstanding debts, due for bills of exchange, which the remitter's agent had been authorized, by General Haldimand, to sell upon credit.

That those debts *were* prosecuted, *agreeable to the laws and usages of Canada*, that afforded Government the means of bringing *back* to the channel of the National Treasury, very *large* sums that had been *diverted*, by the remitter's agent, to mercantile speculations. And *hence* those merchants, *debtors of the Crown*, deeply affected by unexpected prosecutions, seizure and attachment of effects, *united* in clamour against the laws and courts of Justice.

Saisie Arret.

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His Majesty's Secretary of State is called forth, by the Honorable Judges, to have strongly disapproved the petitions and complaints of his Majesty's old subjects. And in those observations, the Chief Justice is held up, as having used exertions of a *tendency* to make his Majesty's subjects dissatisfied with the dispensation of justice in the Colony.—And the Honorable Gentlemen draw a *conclusion*, that *their* conduct as *Judges* is justified, and would *infer*, that the complaints and investigation were disapproved, and held as nought; *evidenced* by the removal of Mr. Monk, the Attorney General, *for the part he had taken* in supporting the merchants before the legislative council, and the investigation into charges, that had been made, against the past administration of Justice in the Colony; *although* the Honorable Judges state and admit, (which was the fact) that Mr. Monk appeared at those boards a *private advocate* for the merchants, using those exertions, as
 such,

such, by express permission of the Governor General,

In an Appendix to the Judges Observations, documents are published, with intent to strengthen the picture of hardship, they have suffered, under *public* accusation.—To shew that *they* had accused the Attorney General of having reflected on the decisions of his Majesty's Council, and were not permitted to go forward in *their* accusation.—To represent the Chief Justice's conduct, as tending to set afloat the justice of the country, and oppress them.—To justify *their* conduct, in publicly *denying* the principles of decisions, in the Court of Appeals; and *holding out* the law to be administered in *their* court, to be different from *that* which prevailed in the superior one ! And, finally, to shew that the *new* subjects had opposed, what the *old* had contended for, by petitions to Parliament ; and that those *new* subjects disavowed the doctrines set up in the Court of Appeals.

It

It would seem, from the picture drawn by the Judges of the Common Pleas at Quebec, that the Province was agitated by parties and factions. That merchants had sought to defraud the Crown of its dues; and from disloyalty, were now attempting to overturn the laws and constitution. That those *three* Honorable Judges, *the faithful* servants of the Crown, had been oppressed for their loyalty, in standing forth to *secure* the revenue, and *support* the *true motives* of Canadian Government.—That the latent principles of those disaffected subjects, were fully discovered in the year 1775; and would insinuate, *that* the Government *ought* to, if it did not, *accord* with the opinion of those Honorable Judges, to pronounce *all* the complaints, as arising from the exertions of *dishonest* and *disloyal* subjects, nurtured in the bosom of a distracted Colony!

See p. 6
and 7, of
Judges Ob-
servations.

The importance of such *charges* upon, or insinuations *against*, the *loyalty of subjects*, who have complained, and sought relief,

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well

well merited the deliberate consideration of the King's Judges, before they were committed to the public.—To attribute the *motives* of a petition in 1774, against the Quebec Bill, to partisans of the revolted Colonies; and to *assert* that the greatest part of the committee, appointed to prepare such petition, *had* openly joined the rebels in 1775, were *modes* of defence the Judges of the Common Pleas have *selected*, to shew the “*falsity of charges*” against *their capacity*, to administer justice to his Majesty's subjects in the Province of Quebec*.

If

* It is stated, “that upon the arrival and publication of the Quebec Act, in that colony, the Protestant settlers in it had meetings, and consulted about petitions for the *repeal* or *amendment* of the act. That Committees were appointed to draw up Petitions to the King, and to each House of Parliament, praying for a *repeal* or *amendment* of the Quebec Act.”

Those Petitioners may, indeed, have offended the Honorable Judges of the Common Pleas, by complaints used in the petitions: “That the loss of the Habeas Corpus Act, and the privilege of Trial by Juries, were their *only* security against the *venality of a corrupt Judge*.” But those complaints will be seen to have been raised, *rather* by the petitioners' fears, than stated as *charges* that should have drawn down the resentment of the Honorable

If the old subjects, resident in Canada, who had petitioned in the year 1773, and continued those intreaties with the Crown to the year 1789, to attain the establishment of a constitution, laws, and government, *similar* to those granted to the neighbouring

Honorable Judges. How far such *views* may have been realized, during fifteen years experience of the laws established, or justice administered under that act, future enquiry may explain.

It is understood that Mr. Maseres, agent of the Petitioners, declared, "that those petitions were approved by *Lord Camden* and *Sir George Saxeille*, who received the same, and undertook to present them to the respective Houses of Parliament." See account of proceedings of British Inhabitants of Quebec, pub. 1775, p. 233.

Whatever grounds the Honorable Judges may have for their charge upon the committees of 1774, or however they may have deviated from candor in their assertions, yet it is hoped the Honourable Judges would not mean to insinuate, nor conclude, that all the other signers to those petitions were to be considered as disloyal subjects, the partisans of revolt in the Colonies. Neither would the Honorable Judges fairly argue, nor conclude, that all the several committees of merchants, from the year 1783 to 1789, or such magistrates and officers of the Crown, who may have complained against the administration of justice in that Colony, at any time during *twenty-six* years, have been actuated by factious or rebellious motives; nor that the merchants of London trading to Quebec, nor those members of Parliament, or servants of the Crown, who may *erroneously* have disapproved *either* of the system of laws and government, or the *modes* in which they have been and are administered in that Colony, are either *factious, ill-principled, or disaffected subjects*.

Upwards
of 200.

colonies in America, might *fairly* be accused as *factious*, or insinuated to be *disaffected*, from the circumstance of having made petitions to acquire such objects; the Honorable Judges should *rather* have excused the errors of their conduct, in a misconstruction placed upon the King's Proclamation of 1763, and the several consequent acts of Government that followed, to the year 1774, and the King's *instructions* to the Governor, with the Quebec Bill in 1775; *than* endeavored to hold up those natural-born subjects, as men that acted from minds disposed to become the instruments of rebellion.

All the Honorable Judges will not admit, that an opposition to the administration of Government is an *unfailing* mark of disloyalty*. Nor should every man in an English

* The Honorable Judge Mabane was a member of the Council in 1766, and surgeon of the garrison of Quebec. Governor Murray had been recalled, and Lieutenant-Governor Carleton succeeded to the command. Such *then* was Mr. Mabane's conduct, in opposition to the Lieutenant-Governor, and such the faction that he embarked in, or raised and supported

lish government be concluded as disaffected, for defending a Crown Prosecution, or complaining, when, *from distress*, he should presume it a reason to seek for relief.

The Honorable Judges of the Common Pleas, have attempted to give an account of the laws and government administered in the Colony, and have *asserted*, " That the
 " complaints against the Courts of Justice
 " did *not* commence, till after the year
 " 1775:" And, even *then*, attribute those complaints to be *rather* against the system of government, and laws *established by the Quebec Act*, than against the misconduct and errors of the Judges.

P. 5. Observations.

If the history of Canada, from the conquest to the passing of the Quebec Act,

ported in the Colony, that the Lieutenant-Governor found the King's honor and interest to require Mr. Mabane being put out of office, and from among the *faithful* of his Majesty's Council. He was suspended, and the Commander in Chief published to the Colony, in military orders, that unless he ceased his *frictions or* turbulent discourses, he should be removed out of the garrison!

were intended as *essential* to a defence by the Honorable Judges, they have *very imperfectly* satisfied those who wish to possess a knowledge of that Colony. But it was at all times *presumed*, that the Honorable Judges knew the many complaints against the administration of Canadian justice, and *that they could*, at least, have referred to public documents, that held forth those complaints, long *prior* to the period they fix, of *the Quebec Act*; and to which *alone* they would *now* have those complaints attributed.

Those public instruments will shew the complaints of sufferings, in the Colony of Quebec, by the administration of justice; and hold up the remedies pointed out by the King's servants, "*in the nomination and commission of men, of professional knowledge, to the office and trust of administering justice* *."

No *small* degree of *merit* has been claimed by those Honorable Judges of the Common

* See Appendix, No. I.

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Pleas, “ *for the benefit which that Court
 afforded, (under the laws of Canada,) to
 General Haldimand, on behalf of Government,
 to recover monies upon orders of his Ma-
 jesty’s Treasury, expressed by letters from
 their Secretary.*” A brief history of those
 prosecutions has been entered upon, to
 shew, that the Petitioners of 1783 were
 debtors to the Crown, who clamored
 against the laws and Judges that had *secured*
 the King’s *rights*; and that General Hal-
 dimand prosecuted those suits, and obtained
 those benefits, *contrary to, or not with the*
 opinion or assistance *of the Attorney General.*

See p. 8
 to 11, Ob-
 servations.

These *observations* and claims to favor
 were *made* in October, 1787. But, in
 December of that year, the Honorable
 Judges saw those law suits *reprobated* as
illegal by the highest authority; and were
 mortified to perceive the Governor-General,
 Lord Dorchester, in the year 1788, called
 to the liberal and just duty of granting
releases to the debtors of Mr. Cochrane,
 or Messrs. Harley and Drummond, on a
 trifling

trifling composition, for the discharge of those debts that, after General Haldimand's *advised prosecutions*, were thrown to the account of the Crown! And the Governor General, in the discharge of that duty, at *all times*, and with *all* those debtors that had been seized, attached, or prosecuted, *stipulating*, at the composition, for a *release and quit claim* to free and save General Sir Frederick Haldimand, and all who acted under him, not even excepting the Honorable Judges, *from suits in damages*, that might *otherwise* have been laid, by reason of the illegality of these "*very beneficial*" attachments, upon which the Honorable Judges gave judgment to a most enormous amount!

Neither would it be difficult to shew, that those releases operate a quit claim to upwards of *one hundred thousand pounds!* that *would* have been *received* by the public, or stood a clear demand upon, and to be accounted for, by the contractors "for
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" supplying money to pay the troops, and
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 General Haldimand *had followed* the advice
 and opinions of Mr. Monk, the Attorney
 General; if he *did* advise the Commander in
 Chief *not* to interfere with the contractors'
 debtors, and not to attach and seize, as
 monies of the public, debts that *legally*
 were the property of the contractors or their
 agent, and *not* of the Crown; and which
 the Honorable Judges may *now* discover, the
 laws of Canada did *not* authorise; nor any
 of those favorable decrees, on the suits of
 General Haldimand, that were prosecuted
by the Solicitor General, and Mr. Cugnet*,
 for the benefit, but which turned to the
infinite injury, of the Crown: Prosecutions
 that, the Honorable Judges may have fre-
 quently heard, were *not* made upon the
 express *resolutions* and *positive orders* of the
 Lords of his Majesty's Treasury.

* " A French lawyer, secretary and translator to the
 " Governor and Council."

If

If the King's Ministers stood informed, and believed, that the petitions of 1783, to his Majesty and both Houses of Parliament, and the "*clamorous*" articles of complaint against the Judges, proceeded from defrauding debtors to the public, and disaffected subjects, to the Crown, who, from such motives, had "calumniated" the King's Courts, it is not to be wondered that "*the Secretary of State signified to the Governor of the Province (General Haldimand) a very strong disapprobation of those petitions*".*

See p. 11
of Observations.

The Honorable Judges suppose, that, *for the very reason* of the disapprobation signified by the King's Minister in 1783, another petition was set about in the year following. Whatever were the particular reasons to induce a petition in 1784, nearly similar to that of 1783, we cannot assign; but it would seem by the petition itself, that the evils

* See Appendix, No. II.

complained

complained of had *not* been remedied; but had increased *.

Certain Petitions, made by many of the Canadian new subjects, termed Counter Petitions, are referred to: but surely the Honorable Judges do not mean to draw an argument, that *their judicial proceedings*, or the *practice* of the King's Courts in Canada, are *approved* by those Petitions.

No document, that we know of, has appeared, sanctioned by a body of people, or even individuals, that reside in that Colony, or Great Britain, who know any thing of the laws, and justice administered by the King's Courts in the Province of Quebec, to afford the testimony of approbation.

That such Counter Petitions should *take up the political opinions* of the Honorable Judges for supporting the French Laws, and in the entire latitude granted by the Quebec Bill, *may* without much difficulty be accounted for; when they are seen pro-

* See Appendix, No. III.

ceeding from the hands and exertions of Canadian lawyers, and practitioners in the Courts of Common Pleas, advocates who will not lay claim to much knowledge of the laws of England, proposed to be introduced by the Chief Justice's bill, as grounded upon his Majesty's Instructions *.—A brief account *of the causes*, that led to the investigation has been given, by way of introduction to the Honorable Judges Remarks, on the oral and written testimony; but that account we hold as partial, fallacious, and unsatisfactory. The rise of discord between the Courts of Law, is attributed to an opinion delivered by the Chief Justice, in a case of Gray and Grant, and followed by a Bill brought into, and moved in, the legislative Council by the Chief Justice; and in which the Honorable Judges complain, that certain preambles to enacting clauses of the Bill reflected on the Court of Common

* See Appendix, No. IV.

Pleas, " That the legislative Council rejected P. 17 of
Omniv.

" the proposed Law, from a conviction that

" the same, in place of healing divisions and

" differences, as proposed, would perpetuate

" dissensions, *by establishing different laws for*

" the inhabitants of the same Province."

" That a different Law from that of

" the Chief Justices Bill was proposed,

" (and supported by two Judges of the

" Court of Common Pleas) and many

" of the old subjects, having petitioned to

" be heard before the Legislative Council,

" against the enacting such Bill into a Law,

" James Monk, his Majesty's Attorney Ge-

" neral, *with permission of his excellency the*

" *Governor General*, appeared as the Counsel,

" and in behalf of the petitioners, on the

" 14th of April, 1787, to offer Reasons

" against the Bill." And this short account See p. 1
and 13 of
Omniv.

of the discord between the judgments of

the inferior and superior Court, and rise of

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seen in the pamphlet entitled "*A State of the present Form of Government in the Province of Quebec.*"

When the Judges of an English Colony stand impeached for incapacity to administer its laws, or a wilful perversion of justice, it is a serious appeal to the *executive* branch of the British Constitution. That appeal has been *long since* made, and although *those* Judges have been *suffered* to remain on the seats of justice, and in the dispensation of law, yet it will be highly necessary that a true state of so important a consideration should soon appear. Public documents that have been referred to in Appendix, No. I. and those stated in two pamphlets * published with reference to this subject, must evince, *not* what the Honourable Judges have asserted, "*that the*

* 1st, Review of the Government and Grievances of the Province of Quebec, 1788. *Stockdale.*

2d, State of the Present Form and Government of the Province of Quebec, 1789. *Debent.*

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*“ origin of the complaints had arisen out of,
“ and rested on, the constitution of Government
“ established by the Quebec Bill;” but that
those complaints were of an earlier date.*

In the year 1773, the Advocate General, in his report to his Majesty, states, “ the
“ Court of Common Pleas to be filled with
“ *military men* for Judges, and *priests*
“ *assessors* *; and now, having almost *all the*
“ *affairs* of the Colony brought before them,
“ *evidently tend*, at all times to lessen the
“ *utility and consequence* of the Supreme
“ Court.”

The priests were discontinued; yet it has been repeatedly questioned, as impolitic or unjust, that the penury of Government should be offered *as a sufficient reason* for retaining those *military men* as Judges; *now* considered to have effected the anarchy and distress that appear to distract the Colony of Quebec.

* Persons versed in the Laws, who report the same, as applicable to particular cases, for information of the Judges.

Those

Those Honorable Judges, in delineating the grounds of the investigation, could have shewn *that*, subsequent to the Quebec Act, the merchants in London trading to Canada loudly complained to his Majesty's Secretary of State, in the year 1778, against the laws, and mode of administering justice. That those complaints were repeated by petitions to the Crown and Parliament, in the years 1783 and 1784, and were followed in Canada by express charges, against the dispensation of justice and in terms the most severe, by committee of merchants, authorized by the Governor and Council to report on the state of the commerce in that Colony*.

The Honorable Judges could have stated his Majesty's gracious *infrusion*, that Lord Dorchester laid before the legislative Council, *immediately* after his arrival; and upon which the Chief Justice's Bill was framed, "to heal divisions and differences in the

* See Appendix, No. V.

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“ Colony,” by establishing *that* difference of laws, for the inhabitants of the *same* Province, which the Honorable Judges contend; that the legislative Council, (*the Kings servants*) were convinced would *perpetuate* dissensions; and which the gentlemen of the robe, who framed or supported the counter petitions, *insisted* could not be understood, *as authorized* by the Quebec Act, *to admit the Council* to pass any law, *general or particular*, that had different principles from that of the French Law, or in the view of favouring *any class of People* in the Province*.

The Honorable Judges could have stated, the Protest of the Chief Justice, and eight Counsellors, upon rejection of the Law proposed, as framed on his Majesty's instructions, to the said Council; and, by doing this, the Honorable Judges would *fairly* have offered the declared reasons and

* See Appendix, No. VI.

motives

“ Colony,”

motives of the bill: “ *To heal the divisions
 “ and animosities which have so long subsisted
 “ in the Colony, to its disgrace and detri-
 “ ment* *!

The Honorable Judges *could have shewn,* that the bill proposed by Mr. St. Ours, and supported by the Common Pleas Judges in the Council, was brought in, and *intended,* to deprive the subject of *optional* Juries, in the trial of *mercantile* causes; and *that,* Mr. Monk *as a private advocate,* did no more than represent his clients interests, *as by them instructed:* and it would have been candid so to have done, before the Honorable Judges held up, as matter of fact, his dismission and disgrace from the office of Attorney General, *for* pleading the interests of those clients, *though* permitted so to do, *as a private advocate,* by his Excellency the Governor General †.

* See Appendix, No. IX. the fifth Article of Protocol.

† See Appendix, No. VII.

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In continuing the rise of the investigation, the Honorable Judges, *in fairness*, should have stated the complaints of the King's subjects, *as general*, to the *courts* of law; and *not* confined such complaints to those *three* gentlemen, who have undertaken to speak *for all*. They might have spared the remark, or insinuation, *that* Mr. Monk as Counsel for the merchants, or *his clients* had accused the Lords of his Majesty's Council, of inconsistency, in some of the judgments pronounced by that Honorable Board. The Judges publication of the *address*, by the legislative Council, to his Excellency the Governor, *for the investigation*, is a plain negative to such an assertion. The King's Council could not have so *totally* lost sight of it's duty, as not to have charged Mr. Monk, or Mr. Attorney General, for any *such* conduct used, or *any* deportment *reprehensible*, in his public or private character*.

p. 25 of
Observe

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* See Appendix, No. VIII.

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The Honorable Judges complain, that the Attorney General should *not* have waited for a private pleading and argument, to support the Merchants, and to impeach their conduct, if he knew it to deserve such reprobation; and allege, that the argument used on the 14th of April, 1787, had the effect to destroy public confidence in the tribunals of justice.

Whoever will take the trouble to peruse the public documents refered to in the Appendix, No. I. III. and V; whoever will recur to the petitions and proceedings of the committee of merchants in *Quebec* and *London*, and the many complaints and charges in and out of the legislative council, even *prior* to the protest of the Chief Justice and eight other Counsellors, or the argument for the old subjects, on the 14th of April, 1787, will perceive *what confidence* the public had, in the capacity of the Judges, and courts of *Quebec*, for the dispensation of Justice: and *how far* the argument of council, *after* those proceedings, can be considered

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considered as the fatal instrument “ *that de-
 stroyed public confidence in, and respect for
 the tribunals of Justice.*”

On the *other* hand, it may be inquired,
why those Judges should have sat *silent* for
three months in the legislative council, *after*
 the pointed charges of the committee of
 merchants, and *referred* to, and *recorded* by
 his Majesty’s Council, on it’s Journals, “ *as
 containing representations to the Crown of
 the most serious consideration and reflection ?*”
 Why they should have been silent, upon a
 protest, by the Chief Justice and eight other
 Counsellors, *that recognized those charges,*
 and their existence for years, *in murmurs
 against the course of administering justice**.
 Why those Honorable Judges, *after* the ar-
 guments before the legislative council (that
 are said to have contained such heavy char-
 ges) should have given *four days* silent at-
 tendance in council, and waited for the Chief

* See Appendix, No. X.

Justice, to have *impelled* an inquiry into the conduct of the King's Judges? and why *then*, after they should have attempted to avoid or shrink from a *general public* accusation, referring to a variety of causes, and *endeavour* to do away those *general* charges by a *private* and *partial* inquiry, as SATISFACTORY to the honor of the Crown, and peace of his Majesty's subjects, touching the Complaint against the dispensation of Justice * ?

And it may be further asked, *why* those Honorable Judges, *even* after a *public* and *general* inquiry had been ordered, should wish, or insist on a right to direct the investigation ordered by the Governor, "*into charges and accusations against the past of administration of justice in the Courts of Common Pleas for the two districts and Court of Appeals,*" to a subject of *recrimination* by the Honorable Judges against the Attorney General, *not referred to*, nor in the cognizance of the Chief Justice?

See Appendix, No. XI.

Whatever

Whatever conclusions may be drawn from *such* deportment, impartial men will at all times perceive, that the plain impeachment was, and the inquiry *will be, the sufficiency, capacity, and integrity of the King's Judges and courts in the Province of Quebec, to administer the laws of that Colony.*

It is matter of serious moment, that those complaints so inquired into *should* be considered, and, if founded, a remedy applied.

The executive government, the judicial authority, the interests of the King's subjects, may have long seen and experienced, the *deplorable* state of that Colony. We shall not undertake to say, *what may*, or *what may not* be expected from the King's Ministers, and the parent state, that behold in a British Colony, the *legislative* and *political* powers of the government, (*wholly composed* by the King's servants) divided into parties, and *there*, the inferior judges contending *against* the superior*.

Those

* The Honorable Judges would hold out an idea, that the Chief Justice differs from the Court of Common Pleas, of *what* law

Those laws of remedy to the evils and complaints introduced to the legislative council by the Chief Justice, as embracing the policy and justice of *his Majesty's instructions*, submitted by the Governor, *opposed* by the Judges of the Common Pleas, and in the division of the King's Council, *rejected*

law prevails in the Colony; and by holding up the laws of England, for the *natural-born subjects*, has set adrift all civil rights, and created anarchy and confusion. But such an assertion if made, is untrue, and the insinuation is malicious. The judgments of the Court of Appeals, *all* recognize one general rule of decision under and upon the Quebec Bill. "*The ancient laws and customs of Canada,*" that has been the criterion by which the judgments of the Common Pleas have been tried; and it is in the *inefficient* knowledge of those laws, the *defect* of the judges, and the errors of their judgment can be considered to have appeared. The proceedings in, and report of the law committee by the Chief Justice and Judges of the Common Pleas. The reasons assigned in the judgments of the Court of Appeals: The repeated attempts to bring under consideration, and effectuate the King's 14th article of Instruction, show the absurdity of the Judges of the Common Pleas assertion, in their Observations (page 14) of the opinion held and laid down as law, by the Chief Justice. And if ever such an opinion had been entertained as law, it appears truly *singular*, that in *no one* instance has a judgment of a court of Common Pleas been examined and decided by such rule; nor any one judgment in appeal been rendered on the presumed existence of the law of England prevailing; except where such law and rule of decision has been introduced by special ordinance of the legislature of Quebec.

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" as the means of *perpetuating* dissensions in
" *place of healing* divisions and differences."—

See p. 1
of Oubiv.

Protests and projected laws delivered to the
public, as approved by nearly one half of
the legislative council, to justify the grounds
of proceedings, and endeavor to remedy
the evils " *of anarchy and animosity, that had*
" *long subsisted in the Colony to it's disgrace and*
" *detriment.*"—Petitions, and counter peti-
tions, to the King's Representative, from
the sharpened minds of his Majesty's sub-
jects, *contending*—the *one*, to attain what
has been considered, the gracious intention
of the Sovereign, *as proposed by the Chief*
Justice. The *other* insisting on the right to
preserve, *immutable* and entire, the laws and
fundamental principles of the *French* jurit-
prudence, as supported by the Honorable
Judges of the Common Pleas.—The Court of
Appeals reversing the decrees and judgments
of *both*, the courts of Common Pleas—Forty
out of forty-six, that came before it during
two years and a half*! And in the body

* See Appendix, No. XIX.

" as

of

of these judgments delivering the reasons, and *necessarily* holding up the errors of the inferior Courts*. The Courts of Common Pleas publicly *disavowing* the law and principles of justice, held by the superior Court †: and the Judges of the Common Pleas sitting *even* in the Court of Appeals, and there, *contending* against the legal and judicial opinions of the Chief Justice §: each Court steady in

* The Law, (Ordinance, 27 Geo. III. chap. 4. § 4.) requires that the reasons for the judgments of the Courts of Common Pleas, and also of appeals shall be stated upon the record.

† This has been manifested in a very strong and important degree, on the legal operation of the Code Merchant, or Bankrupt Laws of France (or any other general ordinance of the French King on civil rights, prior to the conquest in 1759) making part of the Laws of Quebec, without a formal introduction by the Sovereign Legislator. The *Common Pleas* holding the *affirmative*, and the Court of Appeals the *negative*. This law bearing upon most mercantile causes, in a greater or less degree, has made the difference of judicial conduct, in the King's Courts of the more *serious* consequence to the mercantile interest.

§ The Judges of the Court of Common Pleas (being members of the Council) may sit in the Court of Appeal, and hear causes that may not be appealed from the judgment of such Judges. The Common Pleas Judges at Quebec may sit in causes appealed from the Common Pleas at *Montreal*, and vice versa.

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its independence, and opinion to the disquiet if
not dishonor, of an English Government; and
to the infinite distress, and sometimes ruin
of the King's subjects; who, it would seem,
are to be held up as *factionous, unprincipled men*,
for presuming, in the pressure of such dis-
tresses, to complain!

However the Honorable Judges may con-
sider, *that* his Majesty's high displeasure has
been extended to his Attorney General, *by*
dismissal and disgrace, for having—though
with permission—stated the general and
particular complaints of the old subjects,
against the laws and administration of
justice *to prevent—the zealous and faithful*
exertions of the Judges of the Common Pleas,
in defeating what those old subjects con-
sidered the King's most gracious *intentions*
towards his natural-born subjects; yet,
when those complaints are held up, *as insult-*
ing, groundless, cruel aspersions: foul accusations,
calculated to inflame the minds of the King's sub-
jects, of strangers, and officers of the army
and

and Navy, and to destroy all confidence in and respect for the Tribunals of Justice: it may be proper to meet such assertions, and to point out some of those charges and complaints, with reference to the testimony in support of them, that the Public, to which the Honorable Judges have appealed, may possess a view of what has been brought in proof, after the Honorable Judges had so characterized the complaints of uncertainty of the laws, and mal-administration of justice in the Province of Quebec.

The Province of Quebec has remained near fifteen years, under a general introduction of the *antient* laws of that Country, to the *exclusion* of every idea of *English* Law, as established by the Proclamation of 1763, and acts of Government, prior to the year 1775. Yet, it is stated, that the Judges have *at times* admitted, and *at times* rejected, the *same* laws equally applicable to the subject of suit before them, and which *at one day* were considered as introduced,

roduced, and to *prevail*; and at another, as *not part* of the laws of the Country.

During *eight years* after the Quebec Act, *Letters of Administration* were granted, under the Statutes of 22 and 23 of Charles II. to collect and settle the *Estates of natural-born Subjects*, dying intestate; and during the *same period*, Letters of Curatorship under Election by Friends, &c. were granted to the *new subjects*, conformable to the laws and usages of Canada prior to the conquest*.

In cases of guardianship, a rigid rule is stated to have been adopted, that, it would seem, distressed the *old subjects*, in points more important, than the Division of property, that of their religion †.

The bankrupt laws of France, as settled by the ordinances of 1673 and 1702, adapted to the situation of that kingdom, have, since the Quebec Act, been at times *admitted*, and at times *rejected*, by each court in the

* See Appendix, No. XII. † Appendix, No. XIII.

Province; to govern it's decitions. It has been repeatedly charged, that all the courts have *at times* differed, each from itself; and from each other; *without* any change of law, by the legislature; and this charge has been extended to *different* laws, that have, in like manner, received a similar will and pleasure of the Judge to influence his conduct*.

There are individuals who wear the appearance of a desire to do right, and pass upon society under the appellation of "*an Honest Man.*" The errors of such characters, however the world may be desirous to pardon, yet it should not appear harsh to hear the public voice raised, to remove those *amiable* men from *doing evil*, by the want of capacity to do good. Far different sentiments are entertained of those Judges, who shall seen be in the seat of Justice, *avowing* one day, what they contradict the next.

* See Appendix, No. XIV.

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When the oaths of witnesses are held of less weight (*with Judges that try the fact and the law*) than the word of a friend; or private letters from an acquaintance: when passion and resentment; when friendship and regard, can be believed to turn the *balance* in the hands of an *English* Judge, is it surprising that *complaint* or resentment should follow*.

The petitions to parliament have complained, that the morals of the people are *injured*, by the modes of administering justice in the Province of Quebec †.—Under the absolute government of France, it was not uncommon, *privately* to solicit the *favour* of the Judge.—In Canada, where the laws appeared at the pleasure of the Judge, such an attempt might be expected; but under an *English* government, when it should have appeared in evidence to have *succeeded*, the man so successfully practiced upon, one

* See Appendix, No. XV. † Appendix, No. III.

When

might

might reasonably suppose, could *no longer sustain* character, nor office, in the dispensation of justice*.

In a country where the subject is permitted to estimate the laws, *less powerful than* the will of the Judge, the government is considered as absolute in the extreme. Many instances have been offered, in the public examination into the past administration of justice, to charge and induce a belief of maladministration of the laws, in the Province of Quebec, by several Judges of the Courts of Common Pleas. It is deposed, that *fines* and *imprisonments* have attended those who incurred Mr. Judge *Rouville's* displeasure: nor have the witnesses rested here, they have delineated the *grounds of belief*, that he was *partial*, and that the main subject of the suit was judged *contrary to evidence and law*, to favour or prejudice a suitor †.

* Appendix, No. XVI.

† See examination of J. P. Archambault, of Antoine La Roque, of Louis Loiseau, and of John Baptiste Imbault, in September 1787. Investigation papers.

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The dignity and importance of the Crown,
 or the loyalty and happiness of the subject,
 are no where *more* conspicuously seen, or
 truly considered, *than* in the courts and dis-
 pensation of justice. It is in the wisdom and
 due execution of the laws, that the subject
 values his situation, and is wakeful to expe-
 rience and praise, the security and comforts
 of social life! much may be expected from
 men educated in a science, and to a possession,
where the search after truth, the certainty of an
 inflexible rule; and the dignity resulting from
 decorum, are considered *essential*, and found at
 all times attendant on the character and
 duties of a Judge.—In Canada, *that defect*
 may, in *some* degree, serve as an apology for
scenes of confusion, indecency, and squabbling,
 through the progress of a cause, by *the*
Judges, Advocates, Attornies, clerks of the
*Court:—Party's, witnesses, and by-standers**.
 But when added to these modes of dispensing

ould, of Antoine La
 Baptiste Imbault, in

* See Appendix, No. XVII.

The

justice,

justice, the subject is called to witness *upwards of one hundred causes*, moved, heard, and judged in a few hours of a day: his fears and distresses are increased*.

The rapidity of these judgments may indeed, in some degree be accounted for; but perceiving the reason of the fact, will not lessen the distress. In causes of default, it appears that *no* evidence is required of the debt, and as the summons or mesue process is legally served, by being left at the dwelling house, or last place of the defendant's abode. It has often happened, that execution is taken out, and levied on a defendant's estate, *without* an actual notice of demand, or of a suit, or the *evidence of a debt!*

See Examination of J. Reid, Clerk of the Court of Common Pleas, 21st September 1787, — with particular state that exhibits 491 causes heard and adjudged in eight days!

* In the winter circuit of the year 1786, February 22, at Terrebonne, Mr. Judge *Rouville* heard and pronounced judgments, rules, and orders on one hundred and four causes. Mr. Judge, *Frazer* at the same place, on the 17th of July *the like*, in seventy-two causes. Mr. Judge *Southouse* at Chambly, on the 26th of July *the like*, in seventy causes. And these judgments, if for sums under ten pounds, are without appeal!

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and from many of these judgments there is
no Appeal*!

Neither would it seem, that under those
distressful modes of declaring the law, handed
into coercive execution, are *such* suitors and
subjects legally *before* the Court, *alone* liable
to judgment; for, if the Court should con-
sider that "*substantial justice*" would be ad-
ministered by a *third* person suffering, that
which the defendant was prosecuted to an-
swer and pay; the *mere* circumstances of
his not being equally brought into suit, and
before the Court, would *not* prevent a de-
mandant from obtaining the effectual object
of his plaint, by a decree and execution

* See examination of Arthur Davidson, Esq. in Appendix,
No. XVI. a Pamphlet on the "*State of the Government of*
Quebec." Also examination of J. Walker, Esq. his answer to
25. Interrogatory, where he states the fact, of having lately
obtained judgment, by default, for upwards of 9000 l. on a
bond of *indemnity*, without *even* alleging, *much less proving*, that
plaintiff *had* sustained any actual damage. See also examina-
tion of J. Reid, Clerk of the Court, and list by him exhibited
of forty-two judgments by default, in the year 1786, amount-
ing to £.23,405 8s. 2d. and on actions that *principally* arose
and were adjudged on *supposed balances* due on account.

against *Peter* that on the ground of justice, was solicited against *Paul* * !

When to this *scene* of judicial demeanor we add, that the justice of the Colony is at *times* dispensed, from the faltering tongue of a Judge, whose mind, inebriated by a debased enjoyment of the bottle, is incapacitated to support either decency, reason, or justice, in a Court of Common Pleas, formed by his *sole* presence and power, we shall lament the situation of that extensive and complaining Colony † !

Hitherto those remarks have gone to the evidence offered, that concern the administration of justice, before the *inferior* tribu-

* See Appendix, No. XVIII.

† See deposition of James Walker, Esq. barrister at law at interrogatory 48. Also of Messrs. Burke and Le Pailleur, clerks of the Court of Common Pleas. Also J. Young and other officers of the Court. And a *variety* of evidence among the investigation papers of Mr. De Rouvilles being repeatedly *Drunk* on the bench at hearing causes, in the Court of Common Pleas, and making judgments that were (and frequently *without* a right of appeal) executed. And of his behaving "in an arbitrary, senseless, and disgraceful manner !

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nals. The superior *Court* is composed of a
 numerous and fluctuating body; the *legisla-*
tive Council. It seldom happens that this
 Court is made up of the *same members, or*
numbers. Ideas of French law and right,
 are adhered to by the *Canadian,* or French
 Counsellors. The English Gentlemen of this
 Court—"to administer substantial justice,"—
sometimes Judge by the *English,* and *sometimes*
 by what they *believe* to be, the French law.
 Suitors whose last Appeal is to a Court com-
 posed of Gentlemen "*that do not pretend to a*
knowledge of the Laws," and whose judg-
 ments have been so variant, depending upon
 the *French,* or *English* law, as the fitting mem-
 bers *happened* to prevail, of the one, or the
 other, birth and language, painfully feel their
 rights and possessions, as precarious and in-
 valuable.

On the part of the *Merchants,* and com-
 plaining subjects, such have they seen, or
 experienced the administration of justice to
 be, in the Colony of Quebec; under the *igno-*

See exami-
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 the Honora-
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 Judges of
 the Court of
 Appeals,
 Appendix,
 No. XIV.
 "State of
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 Quebec."

rance and will; or the wisdom and justice of unprofessional men.—And, the Honorable Judges of the Common Pleas may be appealed to, whether it is under such a state of facts that they, or their advocates within, or without the Colony, will come forward to the complainants, in the face of a British Parliament; and support the dispensation of justice, since the declared establishment of French laws, by the Quebec Act?

Is it expected by the Honorable Judges that those complaints, will *there* be considered, “*as the foul accusations of defrauding, disaffected subjects;*” the cruel instruments of faction, *calculated* in the turpitude of disloyalty and vengeance, “*to inflame the minds of the King’s subjects, and destroy all confidence in, and respect for, the tribunals of justice?*”

A day may come, when the Honorable Judges, and all the King’s subjects in Canada, may perceive and acknowledge; the best and most gracious intentions of a Parental Sovereign, to grant to his subjects,
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every benefit expressed in the royal procla-
 mation of 1763; and of which those subjects
 (in the safety and comfort, resulting from
 good order, and effective government) were
 in a *state* to receive.

The Honorable Judges, and the *King's*
Servants, in that Province, may *hereafter*
 perceive and acknowledge, consequences *not*
foreseen when *they* considered, *that* the 12th
 article of his Majesty's instructions, and
 those *gracious intentions*, towards his ancient
 subjects, *were not politic*, to be carried into
 effect.—They may at the same time call to
 mind, a subsequent instruction, to *better*
 order and establish the courts of the Colony,
 “ *for the speedy and effectual distribution of*
 “ *law and justice, according to the principles of*
 “ *the British constitution; as far as the same*
 “ *can be adapted, to their peculiar circum-*
 “ *stances and situation.*” And acknowledge,
 that *their OPINIONS* were impolitic;
 “ *That an ordinance, such as is directed by*
 “ *the King's said instruction would not be for*
 “ *the*

See Ap-
 pendix, No.
 VI.

16 July,
 1779.

See refer-
 ences in
 the journal
 of the Le-
 gislative
 Council, 14
 Feb. 1780.

“ *the advantage of the Province, or a more speedy and effectual distribution of justice.*” They may consider that the above opinion, and the exertions then made, and since continued in the Colony, were *neither* the most wise, *nor* the most just course, to have been taken by the Servants of the Crown, to preserve the peace or affections of the subjects in that Colony.

In an hour of calm and impartial enquiry, the Honorable Judges and the King’s servants, may think differently *than* heretofore, of those constant warm exertions, in the closet, or the legislative council, *to defeat every attempt*, to bring forward and effectuate, the objects recommended in those instructions*. And however *those exertions* were attended with success; and in whatever degree soever the resentment of leading characters, *within* or *without* the Colony,

* See Judges Observations, pages 7 and 8, referring to the proceedings in the legislative council for their exertions, and conduct of the King’s servants.

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 faithful and zealous endeavours*, by that happy
 medium, to preserve the Colony in peace:
 or whatever cruel *concealed* aspersions, may be
 conjectured to have produced a removal from
 office and disgrace, of *two* Lieutenant Gover-
 nors, and *two* members of the legislative
 Council, *at different periods*; during the go-
 vernment of General Haldimand, for their
 persevering endeavors, to effectuate (in their
 best judgment) the King's gracious inten-
 tions: yet it will *not* be becoming the Ho-
 norable Judges to assert, that those removals
 and disgrace of the King's servants, pro-
 ceeded from their conduct to support the
principles and *measures* held out by the Royal
instructions, that *marked out alterations in the
 laws and courts of justice*, established by, and
 under the Quebec Bill.

The motives that lead to the measures of
 Government, operating by the prerogative
 of the Crown, are not at all times disclosed:

have

feldom

seldom in the dismissal of its *unworthy* or *unuseful* servants; though it is acknowledged, that the whispers and rumours, flowing from the exultation of *confidential favorites*, have no small *weight* on the minds of men, interested to discover the just causes of disgrace, to a member of society, whose apparent conduct secured the approbation of the King's Representative, and the King's best subjects. And however those *Colonial Subjects* may have been *called*, to attribute *all* the removals of his Majesty's Servants in Canada, since the Quebec Bill, to the open conduct, that led to support the gracious intentions of a benevolent Sovereign. Yet the Honorable Judges, or their friends, might have spared the assertion, or even insinuation, that the *official* character of the Attorney General *was disgraced*, and his removal from office *effected in consequence*, of his pleading the interests of his Majesty's subjects, *though permitted* by the King's Representative to
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 it is acknow-
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 of *confidential*
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 the just causes
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 friends, might
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 e Attorney Ge-
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 leading the in-
 bjects, *though*
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that undertaking, with the duties and re-
 sponsibility *alone*, of a *private advocate* !

If inability, or abuse of confidence and
 trust, had even been charged *by the Attorney*
General, against the King's Courts or Judges,
and afterwards made out in proof: *would* such
 complaints or charge, for support of the
 honor and justice of the Crown, be held up
 to the King's subjects *in Canada*, as a *poli-*
tical reason, for dismissing and disgracing
 such a servant of the Crown? But if charges
 and impeachments were made, *by the King's*
Subjects, who for years had complained, with-
 out attaining a remedy; if they had been
driven to such impeachments, as the *only*
 and *necessary* medium to redress: and if those
 complaints *had received the aid*, of a servant
 of the *Crown*, (by permission of it's *Represent-*
ative,) and who had, or had not *supported as*
a private advocate, those impeachments and
 complaints; would the Honorable Judges
 consider it a means of *preserving* peace in
 the Colony of *Quebec*, to hold up the re-

sentment of his Majesty's Ministers, by the disgrace of an old and faithful servant, for having *attempted*, in his *private* professional character, to lay open the real or imaginary distresses of the King's subjects, and to support the honor and interests of the Crown in it's Colony of Quebec?

See p. 22
of Observa-
tions.

The Honorable Judges are pleased to assert a right to their offices, during good behavior, *quamdiu bene se gesserint*. "That they hold seats on the tribunals of justice, from which they can only be degraded by a legal and constitutional trial." The letters patent, however, that constitute *them* judges, communicate *no greater* right, to an open charge, trial, and judgment, as *constitutionally* essential to a removal or disgrace, than those patents and offices held by every servant of the Crown, that has been removed in Canada, since the Quebec Act; and who have been displaced and disgraced *without* such right, to attain *any knowledge of the causes* of their removals.

Complaining

Complaining subjects in Canada, nor in England, would ever dispute the reasonableness, or the wisdom, or the justice, of causes being avowed, for which judges, or servants of the Crown *in it's Colonies* were disgraced.

But will the Honorable Judges argue, and *conclude*, that, by the removal of the Attorney General, *their* judicial capacity and conduct *are* established? And that all the complaints and charges against the *uncertainty of the laws*, or mal-administration of justice, in Canada, are *false* and *malicious*? In whatever degree, the Honorable Judges may be induced to hope, a favorable report, by the Crown Law Officers; upon the charges and investigation: however it could be in *their* power, to impeach the evidence offered, or to explain away the gross abuses of trust, that the investigation hold up to view: or *obtain* what they may consider a *more* legal, and constitutional mode of impeachment and trial: the Honorable Judges

See Preface to Observations.

must confess, that the course of justice by it's tribunals in Canada, is in a state the most *alarming* and *distressful* to the minds, fortunes, and estates of the King's subjects*.

The Honorable Judges are sensible that the interests, the honor and justice of the Crown, have been *long*, and *often* appealed to; to alleviate, or remove, a state of anarchy and distress, in the dispensation of Canadian justice, unparalleled in any other part of the British Empire!

See examination of the Hon. W. Grant, Appendix, No. XIV. to a pamphlet entitled, "State of the Government of Quebec."

From the operation of the Quebec Act, in 1776, to the arrival of Lord Dorchester, in the fall 1786, the Court of Appeals, has *not* had one *professional* character, to guide it's proceedings, in revising the judgments of *unprofessional* men, in the Courts of Common Pleas, *save* for a short time Peter Livius, Esq. L.L.D. who was *removed* from his office in 1778 †.

* See Appendix, No. XX.

† Mr. Livius was put in commission in June, 1777, and removed May 1, 1778.

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Upon the appointment of a Governor General, a remedy was applied to this defect. A Chief Justice of the first class of professional knowledge and abilities in America, succeeded to the chair, occupied by the Lieutenant Governor, Brigadier General Hope, as president of the Court of Errors, or Appeal in Quebec.

Whatever clamor or complaint has been made against "*the Judges,*" or Court of Appeals; the duties of the Chief Justice, in revising the proceedings of the inferior courts, brought before him, during two years and a half, have sufficiently *established* the urgent necessity of reform in the administration of justice in that Colony.

Charges have been brought forward, in support of reiterated complaints; and inquiry and investigation, on those complaints and charges, have laid, for consideration and judgment, since November, 1787.

A different criterion to capacity, and the ground and justice of such complaints, has

of

of late most forcibly appeared to the King's Subjects. The merchants of Canada, or of London; or the old, or the new Subjects; the Colonists of Quebec, and the public, may ask the Honorable Judges of the Courts of Common Pleas, where has been, or is the situation, that laws, and the distribution of justice, work such distress or misery as is complained of, or experienced, in the Province of Quebec?

Where else, in the King's dominions, *can* the subject dread, *that* the want of knowledge, *or other causes*, in the Judges, and courts of original jurisdiction, *are such*; that his fortune, or safety, lies in the *desperate* and *deplorable* situation of *Forty to Five* against *it's recovery or possession!*

Where else, under such circumstances, would those subjects be told, or believe, “ that no
“ change, no reform *is essential*; or *would be*
“ made in the Courts, or administration of
“ Justice?”

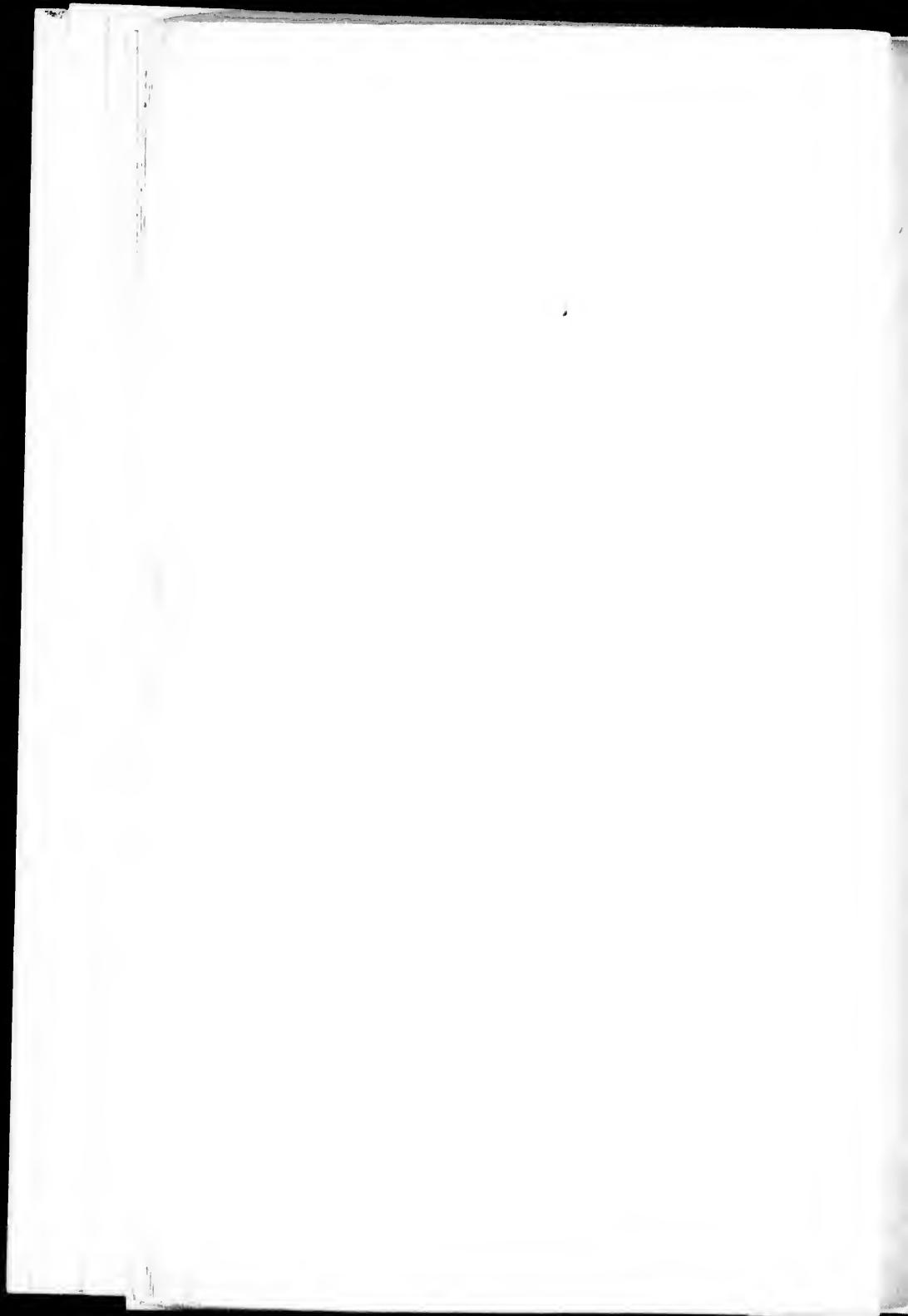
Where

Where else, could those subjects be taunted and gibed, *with the evidence of success*, to tremble for themselves, their advocate, or their friends, who have ventured to complain *in the extreme of distress?*

With his Majesty's ministers it will be, to say, *when* the executive Hand of Government shall be raised, to check or remedy the "*Anarchy*" that so long has been growing under the eye of authority. With the wisdom of those ministers it will rest to declare, *when*, and *what* the system of Laws or Government shall be, in the Colony of Quebec; or *what* the Courts and judicial powers, to administer those Laws, and that justice, that will give *security* to the properties, and preserve the attachment of subjects, who have long united in remonstrance, and complaint against the state of a Colony, that from its position, commerce, population, and utility, claim the consideration of it's Royal Parent, *Long to preserve it, Dependant on the Crown of Great Britain!*

Where

APPENDIX.



APPENDIX.

No. I.

SEE report by the Lords of Trade, to the Lords Committee of his Majesty's Privy Council for Plantation Affairs, 2d September, 1765.

Also opinion of Attorney and Solicitor General, York and De Grey, 14th April, 1766. Also report of the Attorney General, and Chief Justice of the Province of Quebec, and Governor in Chief, upon two Questions commanded by his Majesty, to be answered by those officers. Questions that arose from complaints by the subjects *old* and *new*, against the laws and dispensation of Justice, viz. "Whether any, and what defects, are now subsisting, in the present state of judicature, in the Province of Quebec?"

23d August,
1767.

H

" and

“ and if so, to report the alterations and re-
 “ medies,” &c. The Honorable Judges
 will, in these reports, see, the decided opinion
 of the King’s servants, upon their capacity, or
 rather *incapacity*. Nor will they less dis-
 cover, the strong sense of confusion and dis-
 tress in the Colony, *prior* to the Quebec Bill,
 expressed to his Majesty, in the report and
 opinion of the Chief Justice, “ that though
 “ directed in their (the Court of Common
 “ Pleas) decision, to have regard to the Laws
 “ of England, nevertheless to admit the
 “ Laws and Customs of Canada, between
 “ Canadians, and to determine according to
 “ Equity.” “ But how vague and uncertain
 “ *their* proceedings, as a Court of Equity
 “ must be, *without* one established maxim of
 “ Equity in the Court! How ill calculated
 “ to preserve (what it certainly was not in-
 “ tended to preserve) an ancient system of
 “ Laws, which were to be admitted or re-
 “ jected upon *notions* of equity, adopted by
 “ *gentlemen*, who merit, however, *no other*
 “ imputation, *than* the want of education *in*,
 “ or acquaintance *with* Courts of *Law*, or
 “ *Equity*: and the *confusion* in which such
 “ *decisions* must necessarily be involved, are

“ matters, in which we think we need not
 “ enlarge.” 1769.

The report of Mr. Solicitor General Wed-
 derburn upon the same subject, and Doctor
 Marriot, the Advocate General, will satisfy
 the “ Crown Officers,” who are to report
 on the capacity of the Judges of the Common
 Pleas, that complaints *have* existed *before*
 the year 1775: and whatever may have
 arisen *since*, from judicial constructions placed
 on the Quebec Bill, yet that the Honorable
 Judges, *prior* to that period, have not been
 held in the estimation of possessing those
great abilities, they consider their long services
 entitle them to claim.

P. 80 to
 87, his re-
 port.

See p. 12 and 5. of Judges Observa-
 tions; also Investigation Papers; the
 Answer and Reply to Judges Obser-
 vations, filed 3d of November, 1787.

No. II.

Article IV. *Of Petition*, 1783.

“ THAT the ancient laws and cus-
 “ toms of the country respecting landed
 “ estates, marriage settlements, inheritances,
 “ and dower, be continued until changed

“ matters.

“ or altered by the legislature of Quebec,
 “ five that owners may alienate by will, as
 “ provided by the Xth Sect. of the Quebec
 “ Act.”

ARTICLE V. “ That the commercial
 “ Laws of England may be declared to be
 “ the Laws of this Province, in matters of
 “ trade and commerce; and that all per-
 “ sonal actions may be tried by the modes
 “ and decided upon the principles of the
 “ common Law of England, until the same
 “ may be altered, by the legislature of
 “ Quebec.”

ARTICLE VII. “ That *optional* Juries
 “ may be granted upon all trials in Courts of
 “ original jurisdiction; and that nine members
 “ out of twelve may, in *civil* causes, return
 “ verdicts, and be regularly ballotted for,
 “ and a pannel formed (as in England)
 “ either in the case of an ordinary, or a
 “ special jury, at the option of the party
 “ applying for the same.”

ARTICLE XII. “ Your petitioners sen-
 “ sibly feel, that, were the *most wise* and
 “ fit laws established among the people,
 “ yet their welfare, their security, and their
 “ comfort must entirely *depend, on a just* and
 “ *impartial*

“ *impartial* execution, of such Laws. What-
 “ ever constitution the subjects of the Crown
 “ in this Province may obtain, *the equal* and
 “ true administration of Justice, must be
 “ the basis of their happiness; nor is it but
 “ *with the utmost fervency*, that your peti-
 “ tioners *implore*, that the seats of justice
 “ may be filled by men of jurisprudent
 “ learning, and whose *abilities* at the same
 “ time they are *adequate* to their employ-
 “ ments, may be so rewarded as to be *con-*
 “ *signed* to their *functions* of administering
 “ justice.”

No. III.

Conclusion to Petition of 1784.

“ SUCH are the Intreaties and prayers
 “ of the loyal subjects of this Province,
 “ and in full confidence they trust that
 “ your Majesty will relieve them from the
 “ *anarchy* and *confusion*, which at present
 “ *prevail* in the Laws and Courts of Justice
 “ in this Province, *by which* their real pro-
 “ perty is rendered insecure, trade is clogged,
 “ and that *good faith* which ought and would
 “ subsist among the people, and which is
 “ the

“ the life and support of commerce is *totally*
 “ *destroyed.*”

No. IV.

Extract from the Counter Petition alluded to
 by the Honorable Judges in their Ob-
 servations, &c.

“ NOUS ne pouvons même imaginer
 “ que l'acte du Parlement, qui nous accorde
 “ nos propriétés et ces loix, ait entendu au-
 “ toriser des altérations réitérées, qui détrui-
 “ roient leurs principes fondamentaux, ou
 “ mêler avec ces loix, d'autres loix, soit
 “ générales, soit particulières qui ont des prin-
 “ cipes différens, et qui sont peu convena-
 “ bles à ce pays, dans la vue de favoriser
 “ une certaine classe d'individus seulement ;
 “ parceque, du mélange de diverses loix, en un
 “ même pays, il ne peut résulter qu'une
 “ confusion, la désunion entre les sujets, et des
 “ incertitudes ruineuses aux familles.”

See p. 44
 of Judges
 Observ.

“ We cannot even imagine that, the Act of
 “ Parliament which has granted to us, our
 “ properties, and our laws, can be understood to
 “ *authorize,*

erice is *totally*

ion alluded to
n their Ob-

ême imaginer
nous accorde
et entendu au-
s, qui détrui-
mentaux, ou
es loix, soit
ont des prin-
peu convena-
e de favoriser
s seulement ;
sès loix, en un
sulter qu'une
s sujets, et des
illes."

at, the Act of
ed to us, our
be understood to
" *authorise,*

" *authorise,* reiterated alterations, that shall
" destroy the fundamental principles of those
" laws, or *blend* with them, other laws,
" whether *general*, or *particular*, that have
" *different principles* ; and that are but little
" adapted to this country, with a *view* to
" favour a *certain class* of individuals only ;
" *because, from the mixture of different laws,*
" *in the same country, there could only result*
" *confusion, division among his Majesty's sub-*
" *jects, and ruinous uncertainty to families."*

The Canadian or New subjects have not merely stated a right to retain their ancient Laws *immutable*, but have complained in petitions, of changes made *in those Laws, by the King's Council*, to favor *particular* interests. And in other petitions, have prayed an intercession with Parliament, for the re-establishment of *their* Laws, and to *prevent* all alterations in *future*.

See page 77 to 81, of a pamphlet entitled, "*State of the Government of the Province of Quebec.*"

No. V.

Article X. *Of Report of Merchants.*

“THE Merchants in England and those in this Province have *severely felt the effects and disposition of Laws, to which they were utter strangers, the principles whereof are anti-commercial.*”

“The custom of Canada is a system so imperfect and defective, that the *decisions of the Courts have become arbitrary, and destitute of uniformity. The Court at Montreal differ in practice, as well as decrees, in some points of Law, from that of Quebec; both Courts agree in not confining themselves to rules of Law, but occasionally decide on the equity of the Case, contrary to the letter of the Law.*”

“Thus *the custom of Canada, the general Laws of France, the Roman Code, and in some commercial points, the Laws of England, have been resorted to;—but the most dangerous of all systems is, that of the decisions in equity, of Courts, strictly constituted as Courts of Law, without the ordinary rules, principles, and maxims of Courts of equity, to govern them.*”

No. VI.

Article XII. *Of the King's Instructions to the Governor and Council after passing the Quebec Bill.*

“THE establishment of Courts, and a proper mode of administering civil and criminal Justice, throughout the whole extent of our Province, according to the principles declared in the said Act, for making more effectual provision for the Government thereof, demand the greatest care and circumspection; for *as, on the one hand,* it is our gracious *purpose*, conformable to the spirit and intention of the said Act of Parliament, that our Canadian subjects should have the benefit, and use, of their own *Laws, Usages, and Customs*, in all controversies, *respecting* titles of land, and the Tenure, Descent, Alienation, Incumbrances and Settlement of Real Estates; and the distribution of personal property of persons dying intestate; *so, on the other hand,* it will be the duty of the legislative council to consider *well*, in framing such ordinances as may be necessary for the establishment of Courts of Justice, and for the better administration

No.

I

“ of

“ of Justice; whether the Laws of England
 “ may not be, *if not altogether*, at least in
 “ *part*, the rule for decision, in *all cases* of
 “ personal actions, grounded upon debts,
 “ promises, contracts, and agreements, whe-
 “ ther a mercantile or *other nature*, and also
 “ of wrongs proper to be compensated in
 “ damages; and *more especially*, where our
 “ natural-born subjects of Great Britain,
 “ Ireland, or other Plantations residing at
 “ Quebec, or who may resort thither, or
 “ *have credit or property within the same*, may
 “ happen to be, *either* Plaintiff or Defen-
 “ dant, in any civil suit of such a nature.”

This instruction shews *how far* the King's
 servants have been called upon to introduce
into the Canadian jurisprudence, these Laws,
the want of which and a wise and just admin-
 istration have, by many, been considered to
 have occasioned nearly all the uneasiness that
 the Colony has struggled under since passing the
 Quebec Act.

Extract of a petition from the old Subjects, Citizens of Quebec, on behalf of themselves and his Majesty's ancient Subjects residing in, or trading to the said Province, addressed to the Legislative Council of Quebec not to pass an ordinance (then about to be reported by the Committee) called by the Judges, Mr. St. Our's Bill, April 6, 1787.

“**T**HAT the personal property and safety of your petitioners are materially interested, in the several clauses of the said Bill, or ordinance. That in justice, as well to themselves, and other his Majesty's ancient Subjects, as to the Merchants and others, residing in Great Britain, they beg leave to be heard upon the said ordinance, and *fully to state* to this Honorable Council *their interests*; and the *extensive importance and tendency of the said several articles contained in the said ordinance*, which merit the *most serious deliberation*, of the legislative council. And humbly to shew to your honours that, if the respective

“ clauses

“ clauses contained in the said ordinance,
 “ so to be reported, should pass into a Law,
 “ your petitioners and others in whose behalf
 “ they petition, would be deprived of those
 “ Colonial and Constitutional Rights, which
 “ by the wisdom and justice of his Majesty’s
 “ Government, are held and enjoyed by all
 “ his subjects, in all other the Colonies of
 “ Great Britain; *and which his Majesty has*
 “ *been graciously pleased to recommend might be*
 “ *fully extended to his subjects in this Pro-*
 “ *vince.*” And the petition concludes with
 prayer to be heard by themselves and Coun-
 sel, what reasonably they have to submit
 “ touching the tendency of the proposed
 “ Law.”

*Extract of a Letter from the Committee of
 Merchants in Quebec, to their Agent in
 London, Adam Lymburner, Esq. respecting
 the Removal of the Attorney General.*

“ Quebec, June 12, 1789.”

“ SIR,

“ WE forwarded by the Maxwell, the
 “ duplicate of our letter to the London

aid ordinance,
 into a Law,
 whose behalf
 of those
 Rights, which
 his Majesty's
 enjoyed by all
 Colonies of
his Majesty has
commend might be
in this Pro-
 concludes with
 es and Coun-
 ve to submit
 the proposed

Committee of
 their Agent in
 Esq. respecting
 General.

ne 12, 1789."

Maxwell, the
 the London
 " Merchants

" Merchants of 2d instant, and a copy of
 " our *Memorial to Lord Dorchester*, on the
 " removal of Mr. Monk, from his Office of
 " Attorney General. We presented the lat-
 " ter in a body, and were received by his
 " Lordship with much openness and can-
 " dour, and could perceive that *no complaints*
 " against Mr. Monk's conduct had originat-
 " ed *with*, or been countenanced *by him*.
 " He recommended to us, to consider the
 " propriety of urging him to forward our
 " memorial, as we had nothing but report
 " for the foundation of our fears; in answer
 " thereto, it was observed, that we could
 " not have access to official information,
 " *but* if his Lordship would say, that it was
 " *not*, because he was our advocate, *that he*
 " *was dismissed*, we would beg leave to with-
 " draw our memorial, upon which he free-
 " ly declared, *he did not know the cause of*
 " *the Attorney General's removal*, and would
 " forward it to his Majesty's Ministers; at
 " the same time his Lordship *pointedly re-*
 " *marked*, that Mr. Monk had his and Ge-
 " neral Hope's *permission* to appear for us, be-
 " fore the Council, *as he should be instructed*,
 " and that if he was to blame for being our
 " *advocate*,

“ *advocate, they were much more to blame,*
 “ *for having permitted him. Were this*
 “ *avowal out of the question; we cannot*
 “ *believe that his Lordship ever disapproved*
 “ *of Mr. Monk’s appearance against the*
 “ *bill, intended to annihilate the trial by Ju-*
 “ *ry; for, previous to the agreement, his*
 “ *Lordship upon application gave him a copy*
 “ *of the memorial and complaints of the Lon-*
 “ *don Merchants to the King’s Ministers,*
 “ *against the Laws and Administration of Jus-*
 “ *tice, which we consider could be for no*
 “ *other purpose, than, that the truth or fal-*
 “ *hood of these complaints might be made*
 “ *appear*.*”

Adam Lymburner, Esq.

* This Memorial was applied for by the Counsel of the Merchants at their express desire, and making part of their instructions, to be supported by argument before the Council.

more to blame,
 . Were this
 on; we cannot
 ver disapproved
 ce against the
 the trial by Ju-
 agreement, his
 gave him a copy
 ts of the Lon-
 King's Ministers,
 nistration of Jus-
 ould be for no
 he truth or falsi-
 might be made

y the Counsel of the
 taking part of their in-
 before the Council.

Copy of a Letter from the same Committee of Merchants, to James Monk, Esq. their advocate, upon his leaving the Province of Quebec.

“ Quebec, 9th November, 1789.

“ SIR,

“ CONSIDERING you at the eve of
 “ your departure from this Province, we
 “ cannot suffer you to leave us, without con-
 “ veying to you the high sense, and grati-
 “ tude we feel, for your great and unweari-
 “ ed exertions in general, on behalf of our
 “ constituents, particularly in stating, *as in-*
 “ *structed by us*, to the honorable the legis-
 “ lative Council, in so masterly and so forcible
 “ a manner, *the many defects in our Laws,*
 “ and the *mal-administration of Justice,* in
 “ the Courts of Law in this Province.”

“ And although it is much feared, that
 “ through *misrepresentation*, you have been
 “ removed from your office, of his Majesty's
 “ Attorney General, for the very laudable
 “ and worthy part you acted, in support of
 “ the *honor and dignity of the Crown,* and
 “ for the *happiness* of His Majesty's sub-
 “ jects,

jects, being thereto authorized by his Majesty's Governor, we shall be ever ready to stand forward, to acknowledge your great services; and on all occasions, bear honorable testimony, of your official, and professional conduct, during the time you exercised the employment, from which we most sincerely regret your removal."

*"We have the honor to be with great respect,
Sir,*

*your much obliged and
most obedient Servants,*

(Signed)

JAMES JOHNSON,
G. ALLSOPP,
W. GOODALL,
JOHN YOUNG,
L. DUNIERE,
J. BLACKWOOD,
ROBERT LESTER,
MATTHEW LYMBURNER,
JOHN PAINTER."

"To
JAMES MONK, ESQ."

No. VIII.

The ADDRESS of His MAJESTY'S COUNCIL.

“ May it please your Lordship,

“ **T**HE extracts from the minutes of
 “ our journals, which accompany this ad-
 “ dress will shew to your Excellency, *the*
 “ *reasons and grounds* which have engaged
 “ the legislative council, humbly to request,
 “ that your Lordship will take such steps,
 “ as your Lordship, in your wisdom, shall
 “ judge best calculated to *protect the ends of*
 “ *public justice*, and to *vindicate the honor of*
 “ *Government*, which are both so essentially
 “ interested in an enquiry into the charges
 “ and accusations, so publicly brought be-
 “ fore the legislative council, against the past
 “ administration of justice, in the Courts of
 “ *Common Pleas*, for the two Districts, as
 “ well as against the Judges of the same,
 “ and that of inconsistency in some of the
 “ judgments of *the Court of Appeals*.”

(Signed) “ HENRY HOPE, *President*.”

“ COUNCIL CHAMBER,

“ April 27th, 1787.”

K

Extract

by his Majesty-
 ever ready to
 dge your great
 s, bear honor-
 cial, and *pro-*
 time you ex-
 om which we
 removal.”

th great respect,

obliged and
 dient Servants,

HINSON,
 P,
 LL,
 NG,
 RE,
 WOOD,
 ESTER,
 VLYMBURNER,
 NTER.”

Extract from Minutes of the Council. Quebec, 18th May, 1787.

Read a memorial of the Judges *Mabane*, *Frazer* and *Panet*. Also address of the legislative council; also papers A. and B. which accompanied the Address *, whereupon it is ordered by his Excellency, with the advice of the council, that it be committed to the Chief Justice to cause *the investigation desired to be made*, by hearing the parties publicly in the Council Chamber.

The investigation committed to be made was, upon the complaints offered to the legislative council, comprised in the 10th Art.

* Paper A, was the memorial of the Merchants and ancient Subjects above stated in Appendix, No. VII. for a hearing by Council against the proposed Bill. And paper B, was the heads of the arguments used, as reduced to writing, forming the Charges made by the petitioners, against the administration of Justice, under the French Law of which they complained, and prayed to be relieved from, by *adopting the Chief Justices Bill*, and purport of *His Majesty's 12th Article, of instructions*. Above stated Appendix, No. VI.

For paper B. see Appendix, No. XI. also Appendix, No. XIII. in the Pamphlet of the *State and Form of Government of the Province of Quebec*, 1789, also Appendix, No. II. in Pamphlet, *Review of the Government, &c. of the Province of Quebec*, 1788.

of

of the Merchants reports to the council, and put on record in the month of January, 1787, (as stated in Appendix, No. V.) And in paper B. (Appendix No. XI. that) *repeated* and *enforced* that complaint, and extended it to inconsistency of legal decisions, in the Court of Appeals, taking up *the* judgments of the *Common Pleas, for revision in the Province.* And by no construction could be considered to mean any other investigation than of judicial proceedings in the Colony of Quebec.

No. IX.

Protest by the Chief Justice, and eight other Members of the legislative Council, upon Rejection of a Bill, framed on the 12th Article of His Majesty's Instructions, Article V.

“ BECAUSE the Bill was framed *to Heal*
 “ *the Divisions and Animosities which have*
 “ *so long subsisted in the Colony, to its Disgrace*
 “ *and Detriment*; and we are fearful, that
 “ the rejection of it will not only raise a spi-
 “ rit,

“ rit, which as a party one in the trite game
 “ of *selfish ambition and avarice for petty con-*
 “ *sequence, place, and profit, is always con-*
 “ *temptible; and though sometimes harmless,*
 “ *is nevertheless to the last degree dangerous*
 “ *in a country of mixed nations, habits, and*
 “ *languages, where the name of the party,*
 “ *if the contests, respects the substantial inte-*
 “ *rest of the Crown and Nation, will be*
 “ *changed into the serious Discrimination of*
 “ *loyal and disaffected.*”

26th March, 1787.

No. X.

“ Protest. Art. VI,”

“ BECAUSE *without some regulations*
 “ *to quiet the Murmurs against the course of*
 “ *administering Justice which has obtained*
 “ *here for Years past, expressed in the Reports*
 “ *on our table, from the Magistrates and*
 “ *Merchants of the Province, and the com-*
 “ *plaints to the King’s Ministers, by the*
 “ *Merchants of London, the Commerce and*
 “ *Settlement of the Colony, cannot advance, in*
 “ *the*

“ *the Course Necessary to give it strength, for*
 “ *its own security, and to cover the two*
 “ *other Provinces, fortunately to all of*
 “ *them, committed to the wisdom and vi-*
 “ *gilance of the noble Lord, who is so well*
 “ *disposed, and qualified, to raise them to*
 “ *safety and prosperity, if their cheerful co-*
 “ *operation shall not be wanting.*”

26th *March*, 1787.

No. XI.

Extract of Heads of the Argument or gene-
 ral Charges brought by the Commerce
 before the Legislative Council, on the
 14th of *April*, 1787.

“ THAT the legal and judicial con-
 “ struction given in this Province upon the
 “ Quebec act was, that it fully introduced
 “ the general *Edict* and ordinances of *France*,
 “ and the *Custom of Paris*, as used and exer-
 “ cised during the French Government, as
 “ *the only rule* in His Majesty’s Courts for
 “ deciding civil rights between *all* His Ma-
 “ jesty’s

“ jesty’s Subjects, old and new.” “ That
 “ the Judgments of the said Courts *were*
 “ not *made upon such Rule of prevailing Law,*
 “ either in *uniformity* admitting, or rejecting,
 “ the Edicts, or Ordinances ; or the Articles
 “ of the Custom of Paris ; and did *at times,*
 “ admit *either,* and at times reject *both,* and
 “ *adopt the English,* Statute and Common
 “ Law, as the Law to administer *substan-*
 “ *tial Justice.*”

“ That *this uncertainty* in the judicial pro-
 “ ceedings and *Judgments of Law,* and in
 “ the exercise of a judicial authority, *not*
 “ *founded* in the Law of the Province, that
 “ legally ought to prevail, *and thereby Legis-*
 “ *lating* will stand proved, upon enquiry in-
 “ to the *several Cases* stated at the Bar of
 “ the Council, and *others,* which your Pe-
 “ titioners are ready to adduce.”

Mr. St.
Our’s Bill.

“ That those evils were manifest and rui-
 “ nous to the King’s Subjects ; *that they re-*
 “ *sulted from the Causes,* which the proposed
 “ Bill would not only *continue,* but infinite-
 “ ly *increase.*”

In support of the reasons offered by the
 Commerce *against* the Bill of Mr. S. Ours,
 and for that of the Chief Justice’s, *twenty-*
three

three Cafés were largely stated at the Bar, from judgments made in the *two* Courts of Common Pleas, and the *Court* of Appeals.— On the 21st of *April* the Honorable Judge *Mabane* moved, and was supported by Mr. Judge *Frafer*, to send for the clerks of *two* Courts *instanter*, that the *Council* might inspect the declarations filed in *two* Causes, and *thereby* a complete justification *would be made*, to the Judges, who were stated to have been accused of partiality. Voted in the *negative*, 16, to 3. Enquiry was then moved by the Lieutenant Governor on the broad principles of the complaints, and charges, that had been so long made, against the administration of justice, in the *several* Courts, and Judges of the same; upon which an address to the Governor, and an investigation, were afterwards made.

No. XII.

EACH Court of Common Pleas, is created a Court of Probate. *After* passing the Quebec Bill, the old Subjects continued to apply for letters of administration on intestate estates, in the *same* manner, as *prior*

to

to the Quebec Act, *under the Laws of England*. The Canadians were not then interested to prevent this “*as a ruinous change upon their immutable fundamental Laws,*” or if attempted, the Judge of each Court of Common Pleas, thought proper to grant letters of administration to the *old* Subjects, during *eight* years, *after* the Quebec Act, in the *same* manner as *prior* to it, and took bonds under the Statutes of 22 and 23 Charles II. for a faithful administration, conformable to those Statutes.—*After* the Petition of 1783, the Judges of the Common Pleas at Quebec thought proper to *refuse* Letters of Administration, as *contrary to Law*, and confined the *old* Subjects, to the rule of *French Law*, by Letters *de Curatelle & Tutelle*, and to modes of collecting intestate effects, of which they were totally ignorant, and often felt great inconvenience, and expressed their complaints in the uncertainty of the Laws so declared to prevail.

See Depositions of David Lynd, Esq. Clerk of Probate Court, 2d November, 1787, in the Investigation Papers.*

So

* The references generally made to *depositions* and *examinations* are to the testimony of persons examined upon the investigation, ordered

So little indeed had the Court of Probates at Montreal, formed any Idea of the Rule of Right, in what concerned Intestates estates, that the *English* Judge granted Letters of Administration, *under security*, conformable to the English Statutes, and the *French* Judge of the *same* Court, granted Letters of Curatorship by an Election in an assembly of relations or friends, *without* security, to administer upon the *same* estate: and the Administrator, and the Curator were both prosecuting and recovering debts of the Intestate at the *same* time! † After the argument of the Merchants in the Legislative Council *against* the dispensation of justice, &c. The Judges of the Common Pleas held a *closer* adherence to what was called *French Law*, and so strict was the Court of Common Pleas at Montreal, that a

ordered by the Governor, with the advice of his Council, that the Honorable Judges, or their friends, may refer to the evidence, upon which assertions are made, and that the public, so soon as those papers are published, may have the ready means of perceiving, the detailed, and authenticated state of judicial proceedings, in the Colony of Quebec, to which this answer has in some degree referred,

† Estate of Robert Dickson, deceased, Intestate, to which John Grant was appointed Administrator and Francis Berthelet Curator.

The Case
above stated.

Curator prosecuted an Administrator (each holding equal powers from the same Court, to collect effects of the *same* estate) for a debt the Administrator personally owed the Intestate; and the *same* Court that granted both powers, gave judgment for *prevalence* of the *French* Law. The Curator recovered against the Administrator, though the Letters of Administration were not superceded!

See the testimony of Arthur Davidson, Esq.
22d October, 1789.

No. XIII.

IN the year 1778 and 1779, complaints against the Laws and Administration of justice were so forcible, as to effect an *Instruction* from the King to his Governor and Council of Quebec, *to frame and pass an ordinance, to new Model the Courts of Common Pleas and Appeals*, and by which the Chief Justice was to preside, and become a responsible character, at the head of *both* Courts. This instruction was voted against, and considered as defeated in Council *by the Judges* of

Peter Livius
Esq. LL.D.

of the Common Pleas, *to the continuance and support of their power.*

An instruction which declared, “ it expedient and agreeable to our Royal will and pleasure, that our Subjects, inhabitants of our Province of Quebec, *should* have and enjoy the benefit and security resulting to them, from a *more* speedy and effectual distribution of Law and Justice, according to the principles of the British Constitution, as far as the same can be adapted, to their peculiar circumstance and situation.” See *Instruction 16th of July, 1779.*

Upon the Legislative Council voting a Resolve, “ *That an ordinance* such as is directed by the King’s additional instructions, of the 16th of July, 1779, would *not* be for the advantage of the Province, nor a *more* speedy and effectual distribution of Laws and Justice.

Mr. Allsopp entered a protest, holding up his reasons that the council should conform to his Majesty’s instructions, among the articles of which it is stated, “ as a further proof that the establishment of the civil Courts, requires *immediate* amendment, it appears that a deep wound has been

“ given

“ given to the Protestant religion, by the
 “ Judges of the Court of Common Pleas at
 “ *Quebec*, sitting as *Judges of the prerogative*
 “ *Court*; they, having by their judgment con-
 “ signed over, to *Roman Catholic guardians*,
 “ to be educated in *that religion*, *five* Pro-
 “ testant infants, duly baptized and *received*
 “ into the established *Church of England*, the
 “ Children of an *English Protestant*, by one
 “ of his Majesty’s *new Subjects*, whose dis-
 “ tant relations and friends, exceeded far in
 “ number the *grandfather and paternal uncle*,
 “ *the sponsors at the baptism of the children*,
 “ therefore the rights these *latter*, contended
 “ for, to superintend the education of the
 “ said children, as they were bound to do,
 “ *could not, or would not*, be admitted by
 “ *those Judges*. But if *ever* a discretionary
 “ power could be exercised, or the justice
 “ of a cause received, this striking interest-
 “ ing occasion, required it. Therefore by
 “ by a like rule of decision, the children
 “ of the paternal uncle above cited, who has
 “ *five sons* by an *English Protestant*, *would*, in
 “ case of the death of their parents, by the
 “ interposition of the *same persons*, be sub-
 “ ject to be educated *in the religion of the*
 “ *Church*

“ *Church of Rome: and from such decrees, no appeal is established by Law!*”

See Protest 6th of March, 1780, in proceedings of the legislative Council.

The Case alluded to was, Acklam Bondfield, Merchant, who had married M. Bourouac a Canadian, soon after the establishment of Civil Government in Canada; and died *after* the Quebec Bill took effect in 1776.

In a matter of Tythes, one *Jean Pain* in the year 1783, *renounced* the Roman Catholic faith, and was admitted a member of the Church of England. The Roman Catholic Priest of the parish, where *Pain* resided, nevertheless insisted on his payment of Tythes, and upon refusal, a prosecution ensued, before a *Roman Catholic Judge* of the Court of Common Pleas, who gave judgment, that *Pain* though *not of* the Roman Catholic Church was still subject to Tythes. A judgment, held up as contrary to Law, and as contrary to policy, or justice; and of *serious* political consequence in the Colony.

No. XIV.

IN the Court of Common Pleas at Montreal, the bankrupt Law of France was considered as the Law of Quebec, from March 1779 to the year 1781, and persons discharged under the title of *benefice de cession* (delivery of Effects); after that period, such discharge was refused, *without any Law to alter the rule of decision* that had prevailed for years.

See examination of J. Walker, Esq. at Interrogatory 21, and examination of A. Davidson, Esq. Interrogatory 22, also Appendix to "*State of the Government of Quebec*," No. 15 and 17, the latter a judgment in the Court of Appeals (21st of February, 1778) avowing the fact of record, of *admission*, and *rejection*, of the Code Marchand, or Bankrupt Law of France, *by the several Courts* in the Province.

No. V. XV.

TESTIMONY is offered in the Case of Henderfon v. Hart, that the Plaintiffs
council

See Investigation Papers.

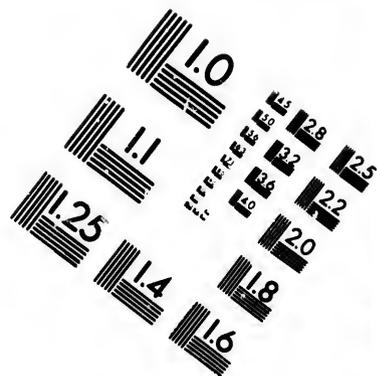
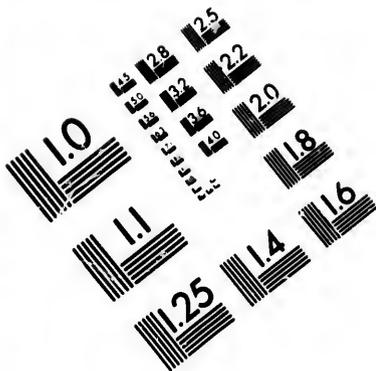
council insisted *on proceeding to trial*, and ad-
 ducing proof. That Mr. Judge *Frazer* then
produced a private letter of information, from
 his friend and acquaintance (who was also
 interested in the cause though not named in
 the suit) that set forth explanations to his
 friend the Judge, and denied the facts stated
 in the declaration and demand. And *that*
 upon this statement the Honorable Judge
 declared from the Bench, *that he would pay*
more credit to the letter in his hand, than any
 evidence the Plaintiffs counsel could pro-
 duce! The Judge was satisfied. The evi-
 dence refused to be heard: and the Cause
 dismissed with Costs!

In the Cases *Perkins, v. Bolton*, and
Dobie, v. Grant the same Court ordered
proof to be made of value given for pro-
 missory notes.

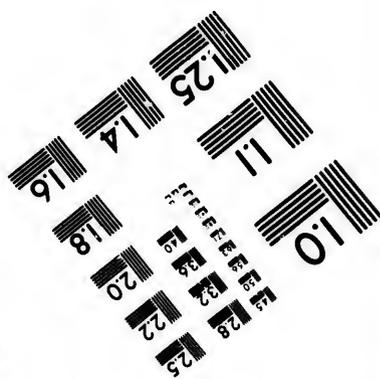
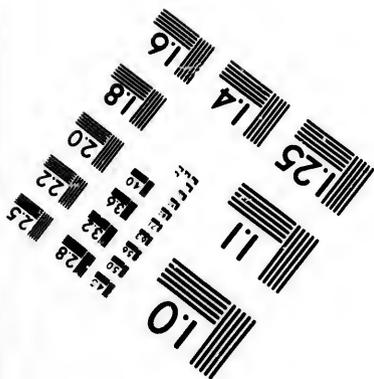
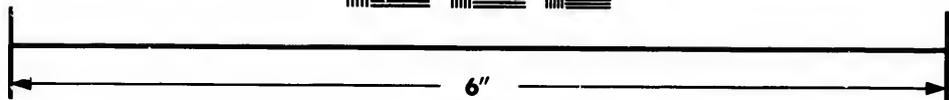
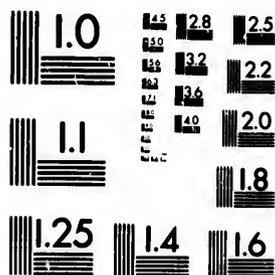
In the Case of Colonel Campbell, *v. James*
M'Gill, Mr. Judge *Frazer*, first Justice of
 the *same* court—refused that those *rules*
 would apply, alledging “*that he had known*
 “ Colonel Campbell for many years, and
 “ *that his honor and character* weighed with
 “ him much, nor could he ever believe that
 “ Colonel

See Exa-
 mination of
 W. Powell,
 Esq. at In-
 terrogatory
 18. A. Da-
 vidson, Esq.
 ditto, 59.
 J. Walker,
 Esq. ditto,
 56.





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“ Colonel Campbell would be guilty of a
“ *dishonorable* action.”

In these cases the vulgar and ordinary conclusions that appeared to be drawn were.

See Examination of J. Walker, at Interrog. 42 and 43 A. David on ditto at 10 and 40. Also Examination of R. Dobic, Esq.

To British Merchants: “ *Prove the value you have given for notes negociable*”. To Colonel Campbell (superintendent of Indians, dealing with the payer of the note for supplies) *The rectitude of character in an old acquaintance, and brother officer, requires no evidence to prove a consideration upon a note not negociable!*

The judgment was for £1000, an appeal would lie through the Provincial Courts to the King in his Privy Council. And upon institution of the appeal, Colonel Campbell released the debt upon payment of £500. or some such composition though the *defendant as trustee to the estate of Porteous* was able to pay the whole debt adjudged.

No. XVI.

THE Cases stated in the Appendix, No. XV. may with some propriety be applied here also, and examinations have been made

made on this head, and are very pointed: That Mr. Judge *Rouville* had frequently declared from the Bench, that he had had communication with the parties *out of Court*, and was sufficiently instructed; that he had *refused* to hear *Evidence*, and proceeded to Judgment, *on his own knowledge of the facts*; That Mr. John Antrobus had prevailed with his advocate, the intimate of Mr. *Mabane*, *privately* to solicit the interest of that Judge—and Mr. Antrobus succeeded in the object he was solicitous to obtain. That Mr. Judge *Southouse* had *privately advised* the prosecution of suits, and the suitors who followed that advise and aid, had nevertheless failed in the cause, to their infinite distress.

Although the following remarkable case may not directly meet a charge of secret influence, yet it has circumstances that strongly mark the uncertainty, and the peculiar course of administering the Justice of that Colony, in the Court of Common Pleas at Montreal.

Mr. Judge Frazer was an acting deputy Paymaster, under Thomas Boone, Esq. and in the year 1786, upon those duties passing into the hands of Mr. Winflow, Mr. Frazer fell

See Examination of Arthur Davidson, Esq; at Interrog. 51. Le Pailleur, Clerk of Common Pleas at Interrogatory 10, the 14th of September 1787.

J. Walker, Esq. at Interrogatory 27.

Deposition of John Antrobus.

Examination of R. Henderfon, also of W. D. Powell, at Interrog. 14.

in arrear upwards of £8000—and in the year 1788, the balance remained upwards of £5000—which Mr. Frazer avoiding to pay, a prosecution was instituted necessarily, in the Court of Common Pleas, *at Montreal*. Mr. Frazer came into Court in July, and confessed judgment for the debt, of £5538. 8s. 3d. and interest and costs, with a release of errors, and stay of execution, stipulated to December following. The Court was composed of the Judges, *Rouville* and *Southouse*—In December, Mr. Judge Frazer *could not pay*, and striving to evade, Mr. Boone's Agent took out execution, signed by the Judge *Rouville*, as grounded upon a legal Judgment and Record. Mr. Frazer raised frivolous pretences, that his securities had paid the defalcation of the public money, in England. And under these pretexts obtained a *surcis* or superfeudas from his *supposed* friend, and afterwards *stated to be a Relation*, Judge *Rouville* to stay the levy of execution. When the legality of the superfeudas came on to be heard, Mr. Judge *Rouville*, who had *sat in Court*, to receive the confession and enter Judgment, and *afterwards* signed, and authorized the issuing, and levying of the Execution:

Execution: and by his sole authority granted a superſedeas to a judgment, that ſingly he could not have entered; and this, upon the ſuppoſed Equity, expreſſed in his Brother Judge *Fraſer's* Petition.—Yet upon hearing of the merits of the petition and ſuperſedeas, *the public* and the Honorable Judge *Fraſer* were aſtoniſhed to perceive, *Mr. Judge Rouville* declaring that he was a *relation*, of Mr. Judge *Fraſer*, and ſtood particularly *prohibited* by Law, from ſitting in judgment, or exerciſing judicial authority, on *any* ſuit, or matter, where his honorable friend Judge *Fraſer* was intereſted! This alliance was not pretended to be a recent one, but if any ſuch exiſted it had ſubſiſted near twenty-five years, by intermarriages in the Deſchambault and Rouville families. The ſuperſedeas was declared by a competent Court (Mr. Rouville having quitted the Bench) to be “*irregular and of no effect.*” Here *the public* became the *more* aſtoniſhed, when it perceived the Honorable Judge *Fraſer* “*pleading* to the jurisdiction of the Court, *that had* received his “*confession*, and *inſiſting*, that the judgment “*ſo* confeſſed, was before a Court *without* “*power* to receive or enter ſuch judgment,

Code Civil,
Tit. 24.
des recuſations
des
Juges.

“ and the whole proceedings *coram non judice* ;
 “ his relation Mr. Rouville being one of the
 “ Judges, without whom (or a second Judge
 “ to Mr. Southouse) no Court could have
 “ been formed. Therefore that the execu-
 “ tion proceeded not, upon a legal judgment
 “ and record, and was a nullity !” This
 plea was over-ruled also, and judgment en-
 tered, from which Mr. Judge Frazer appealed,
 and after a delay of several months in *that*
 appeal, *when the Cause came on* to be heard,
 Mr. Judge Frazer *again* confessed Judgment,
 and withdrew his Appeal. The trustees of
 Lord Lovat’s estate, under the security by
 General Frazer have, lately paid the Bond of
 £5000—and Mr. Judge Frazer has found
 means to settle the balance, and restore to
 the public chest, that money, that the
 Honorable Judge would have been *ready* to
 censure, any Merchant in Canada for with-
 drawing, *for a day*, much less *for years*—
 and attended with *circumstances* of defence,
 that at least, may be considered as *not the best*
example to those characters, who have been
 held up *as the defrauding debtors of the*
Crown!

One of the Honorable Judges of this Court has *lately* discovered an incapacity, or non-knowledge of the Canadian Law, and is considered as having *with great honesty*, “ confessed judgment,” upon the complaints and impeachments by the Merchants, and subsequent investigation therein.

A Cause at issue in the Court of Common Pleas, for settlement of an intestate's estate, upon suit by a widow for her dower, where the rights of children and creditors came under consideration, afforded the Honorable Judge *Southouse* a mean of retiring from a seat, he had long and painfully held. On the 2d of July, 1789, he appeared in Court, and caused the following entry to be made on the records of the Court.

“ I Edward Southouse, I. C. P. *not being*
 “ *sufficiently acquainted* with the Laws and
 “ Customs of the country, with respect to
 “ the matters in issue, between Madame
 “ Deschambault and Monsieur De Rouville,
 “ the Curator, and Mr. Judge Frazer, an
 “ intervening party, I must decline taking
 “ any part in the Cause, *or any other*, as I
 “ mean to write to his Excellency, Lord
 “ Dorchester, to accept the *resignation* of
 “ my

“ my Judgeship, *that a more active Judge*
 “ may be appointed.”

The above entry was followed by the declared Letter of resignation, and Mr. Judge Southouse's return to England the last fall, after soliciting and entertaining the comfortable hopes of receiving a pension, for his long services. Mr. Southouse was appointed in 1776, and remained on the bench till July, 1789. The evidence collected in the Investigation Papers, shew the just ground of complaint, and meet the Honorable Judges confession.

“ The testimony of advocates in that
 “ Court declare,—I have found the Judg-
 “ ments of the Court of Common Pleas for
 “ the district of Montreal, founded *sometimes*
 “ on the ordinances of France, *sometimes* on
 “ the Custom of Paris, *sometimes* on the
 “ Laws of England; but in common, I have
 “ *not* been able, exactly to ascertain *on what*
 “ *Law* they have been founded. I have
 “ known Cases judged *by different rules of*
 “ *Law*; the greater number of Judgments
 “ pronounced in Causes in which I have
 “ been concerned, *I consider* to have been
 “ decided *rather* on the Judges *sense* of
 “ Equity,

“ Equity, and moral rectitude, than any known principle of Law.”

“ I have heard Judge Southouse declare upon the bench, that he had no occasion for a knowledge of the French Law, contained in the books, then on the table in Court, as his conscience was the Law, which guided his Judgments.

Examination of W. D. Powell, Esq.

“ I have heard the Coutume de Paris admitted to be Law, and not to be Law, or at least have found it not to be followed, or observed as such, by all, or any of the Judges of the said Court, except Mr. Judge Southouse, whom I have always found consistent in his declarations, that it was no Law to govern him.”

Examination of Arthur Davidson, Esq.

No. XVII.

“ J’AI quelque fois vu moi même (et j’ai entendu dire qu’il arrive souvent) dans la Cour de Plaidoyers Communs à Mon-
 “ treat;

“ treal; principalement lorsque les proce-
 “ dures ne sont point écrites *, les *Avocats*
 “ respectifs des parties, s’interrompre mutuelle-
 “ ment, et se coupe la parole, à fin d’empêcher
 “ sa partie adverse d’ETABLIR ses preuves et
 “ de deduire ses moyens; et au milieu de la Ca-
 “ cophonie qui en resulloit: voir, les *Juges*,
 “ les *Greffiers*, les parties, les *avocats non*
 “ concernés, intervenir confusément; par des
 “ railleries, des sarcasmes, et de reclamations;
 “ chacun à sa mode; et le Jugement sortir
 “ immédiatement, du resultat de ces scenes
 “ grotesques et indecentes, que nulle expres-
 “ sion ne peut représenter!

“ J’ai souvent entendu les *Avocats*, et les
 “ parties se plaindre, que par une telle pra-
 “ tique, leurs affaires étoient Jugées, sans avoir
 “ pu faire Connoître les faits, les circonstances,
 “ ni les merites de leurs Causes!”

See Examination of *Jos. Papineau*, Notaire à
Montreal. Investigation Papers 14th
 September, 1787.

* In all Causes under £.10 sterling, and where no appeal is
 allowed by the ordinances of the Governor and Council.

" I have sometimes myself seen, (and I
 " have heard that it often happened) in the
 " Court of Common Pleas, at Montreal;
 " principally when the proceedings in the
 " Causes were not reduced to writing *, *the*
 " *respective advocates of the parties mutually*
 " *interrupt each other*, in order to prevent
 " *the adverse party from establishing his proofs,*
 " and deducing his reasons; and in the
 " *midst* of the Cacophony that attended these
 " proceedings, I have seen *the Judges, the*
 " *Registers of the Court, the Parties, the Ad-*
 " *vocates not employed in the Causes, con-*
 " *fusedly interpose, with raileries, sarcasms,*
 " *and reclaimings*, each in his way; and *the*
 " *Judgment immediately issue* from the result
 " of *these grotesque and indecent scenes*, that
 " no expression can represent !

" I have often heard the advocates, and the
 " Parties *complain*, that by such a practice,
 " *their interests and rights were adjudged,*
 " *without* their being able to exhibit the
 " *facts, the circumstances, or the merits of*
 " *their Causes !*"

* In all Causes under £.10 sterling, and where no appeal is allowed by the ordinances of the Governor and Council.

See also examination of James Walker, Esq. at Interrogatories 27 and 48, of the Judges *quarreling* on the bench, and *quitting* the seat of Justice, that on such occasions sunk into inaction, or disgrace, by the want of concord, or competency ; in the division, or intemperance of a distracted Court !

See also examination of A. Davidson and J. Walker, Esq. Advocates that testify to the scenes above described by Joseph Papineau, and to the overbearing and arbitrary conduct of the Judges at Montreal.

J. W. at Interrogatories 46 and 48.

A. D. at ditto, 43 and 50.

No. XVIII.

14. Geo. III.
Chap. 88.
exam. of W.
D. Powell,
Esq. at In-
terrog. 25.
also J. Wal-
ker, at 24.

A. Was prosecuted on a penal Statute, for selling liquors without licence, and B called as a witness. The *defendant* was acquitted, and the *witness* instantly condemned, *to pay the costs* of the prosecution ; “ The Judge having considered B, *as a tale bearer*, and to have given rise to the suit, which had failed.”

In another like prosecution, upon a penal Law, the *defendant* was acquitted, and the *witness* immediately condemned to pay the *fine*, for which the defendant was prosecuted.

Exam. of Ch. Le Pailleur Clk. Com. Pleas. 14 Septemb. 1787. also A. Davidson, Esq. at Interrog. 25.

A, prosecuted B for the recovery of the value of a horse (in trover) *defendant* was acquitted, and one Mackenzie *the witness*, immediately condemned, to pay for the horse.

Exam. of J. Walker Esq. and W. D. Powell, at Interrog. 25.

In the Case of Kay. vers. Morelle there not even any process, declaration, default, or plea. An account exhibited, and Judgment granted, for £521 14s. od. and execution issued thereon; and like Judgments in four other Causes made the 14th September, 1784.

Exam. of A. Davidson, Esq. at Interrog. 28.

See examination of the Advocates, Attornies, and Clerks, of the Courts of Common Pleas. That there have not been any rules of practice established by the Judges of either of those Courts, during eleven years, being from their institution, after passing the Quebec Act, unto July, 1787, when the framing, general rules of practice, was enjoined upon the Judges of the Courts of Common Pleas, by an Act of

27. Geo. III. ch. 4.

*the Legislature, under the administration of
Lord Dorchester.*

Interrogatories to

Alex. Gray,	} Esqrs.	5	Arthur Davidson,	} Esqrs.	14
Robert Ruffel,		12	James Walker,		15
Thomas Walker,	} Esqrs.	12	W. D. Powell,	} Esqrs.	14
David Lynd, Clk. Com. P.			16		John Burke, Clk. Com. P.

Investigation Papers.

Judgments

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 No. XIX.

Judgments of the Court of Common Pleas of *Quebec* and *Montreal* revised by the *Court of Appeals*.

Appellants.	Respondents.	Judgments Reversed or Confirmed.	Dates.
William and Robert Grant Dobie and Grant	<i>versus</i> . Alexander Gray Taylor and Forsyth	— reversed Appeal dismissed and proceedings remitted for an issue and judgment of the Court of Common Pleas.	— 29 Dec. 1786 9 Feb. 1787
Samuel Prentice Lindsay Affig. of Patterfon 5 Shoolbred and Barclay Francois Vigé William Taylor Jaques la Breche	<i>versus</i> . Fromanteau <i>versus</i> . Jos. Bazil Papin <i>versus</i> . Pomreau and Perrault <i>versus</i> . Louis Babin <i>versus</i> . Murray and others <i>versus</i> . Louis Ballaire	— confirmed — — reversed — — reversed — — reversed — — reversed — Confirmed, 'not for the	Same Day 4 April, ditto 19 June, ditto 3 Oct. ditto 2 Oct. ditto 10 ditto

'*reaisus assigned by the Court of Common Pleas.*'

Appellants.

Appellants.	Respondents.	Judgments Reversed or Confirmed.	Dates.
Carbonneau and others 10 Moses Haze John Frazer	v. Duchene v. Gabriel Chriflie v. James Cuthbert	— reversed — — reversed — Appeal dismissed—on error of the proceedings to raise an issue below	5 Nov. ditto 19 Nov. ditto 21 Jan. 1788
Richard Dobie David Alexander Grant Joseph Poiré 15 Watson and Rashleigh	v. Maurice Blondeau v. Jacques Raçoit v. Phillip Loyd v. Frazer, senior, attorney to Franklin	— reversed — — reversed — — reversed — — reversed —	28 Jan. ditto Ditto 11 Feb. ditto 21 Ditto
Collins Executor of Gogy Richard Dobie John T. Montmollin James Cuthbert	v. François Duême v. William Kay v. Edward Harrison, junior v. François Dubord and others	— reversed — — reversed — — reversed — Appeal dismissed	7 April, ditto 5 May, ditto 6 Oct. ditto Ditto
20 James Todd	v. Trustees of J. J. Deihl	— reversed —	Ditto Appellants.

Appellants.	Respondents.	Judgments Reversed or Confirmed.	Dates.
Simon Frazer, as partner of late Shaw and Frazer Barclay and Co.	v. The Same	— reversed —	Ditto
Levy Solomons	v. Pierre Gamelin	Appeal dismissed	7 Ditto
Gabriel Cerré	v. David Rofs	— reversed —	8 Ditto
25 John Blackwood	v. Jacob Jordan	— reversed —	9 Ditto
Amable Sicard	v. Sutherland and Grant	— reversed —	10 Ditto
Ferland and others	v. Jollet and others	— reversed —	5 Jan. 1789
John Munro	v. Deguife and others	— reversed —	Ditto
William Lindfay	v. John Brasier	— reversed —	Ditto
	v. Davidson and Lees, Attornies to J. Mather	— reversed —	Ditto
30 James Glenny	v. Charles Hay	— reversed —	Ditto
The Same	v. The Same	— reversed —	Ditto
Sir Thomas Mills, Knt.	v. Charles Stewart	— reversed —	Ditto
The Same	v. The Same	— reversed —	Ditto
William Taylor	v. Campbell Halyburton	Trial by Jury confirmed	Ditto
		Ditto	Ditto

Appellants.	Respondents.	Judgments Reversed and Confirmed.	Dates.
35 Jacques Perrault William Grant Stephen Duchesnois Freer, an administrator	v. Shoolbred and Barclay v. Henry Bolton v. Jos. M. Defaultels v. Perrault and others	— reversed — — reversed — — reversed — Record remitted for judgment by the Court of Common Pleas.	2 Feb. ditto Ditto 3 Ditto 1 June, ditto
McKillip and Jacobs 40 Joseph Howard and Wife	v. Caldwell and Elliot v. The executors of S. Jacobs	— reversed — — reversed —	29 Ditto Ditto
Edward Nichol Mary Gill, executrix, &c. Elizabeth Prentice McKillip and Jacobs	v. William Taylor v. Charles Le Merchant v. W. McNider and others v. Caldwell and Elliot	— reversed — — reversed — — reversed — Dismissed, for not suing out the writ of appeal within twelve months from the date of the	3 Aug. ditto 5 Oct. ditto Ditto 12 Ditto

Appellants.

Appellants.	Respondents.	Judgments Reversed or Confirmed.	Dates.
45 Henry Caldwell William Dummer Powell	v. General Gabriel Christie v. William Taylor	Judgment in the Com. Pleas, being the limitation prescribed by the Provincial Ordinance	19 Oct. Ditto
Five Sufficiency of Common Pleas, confirmed.	{ Two Appeals dismissed on hearing the Merits Two Judgments on Verdict of Jury—confirmed One ditto on trial of Merits, Exam. of Witnesses by the Court—confirm. 1	— reversed — — reversed —	— —
Forty for insufficiency, and on Error of Common Pleas, reversed.	" <i>assigned by the Court of Common Pleas</i> " Four Appeals dismissed for Error in proceeding the Court below, and Records remitted to raise an issue and proceed to Judgment in Com. Pl. Thirty-six Judgments reversed on the Merits decreed by Court of Common Pleas where no Trials by Jury	— — — — — — — — — — — —	5 1 4 36
Appeals adjudged on, from December, 1786, to October, 1789,			46

IT appears that in the month of November last, Complaints and Petitions were reiterated to the Governor General, expressive of the anarchy and confusion in the Colony of Quebec; *from the want of certainty in the Laws and Course of administering Justice.* A Petition presented to the Governor General from the Committee of Merchants and others, with a prayer that the same might be conveyed to his Majesty's Ministers, contains the following declaration:

“ That your Memorialists have received
 “ information from Adam Lymburner, Esq.
 “ their Agent in London, that the consideration of the affairs of this Province, have,
 “ from unforeseen obstacles, been postponed
 “ by the Kings Ministers, 'till the next Sessions of Parliament, *whilst* your Memorialists regret the occasions which have
 “ retarded the discussion of their Petition,
 “ for a reform in the constitution of this
 “ Province, they beg leave to state to your
 “ Lordship, that *the grievances* which originally gave rise to their Petition and com-
 “ plaints,

“ *plaints, do still exist; and that the ineffi-*
“ *cacy and uncertainty of the Laws; and the*
“ *contradictory decisions, in the Courts of*
“ *Justice thereon; and the confusion which*
“ *prevails in the forms of judicial proceed-*
“ *ings, have become more and more manifest*
“ *and destructive to the interests of His Ma-*
“ *jefty’s Subjects.*”

November, 1789.

F I N I S.

