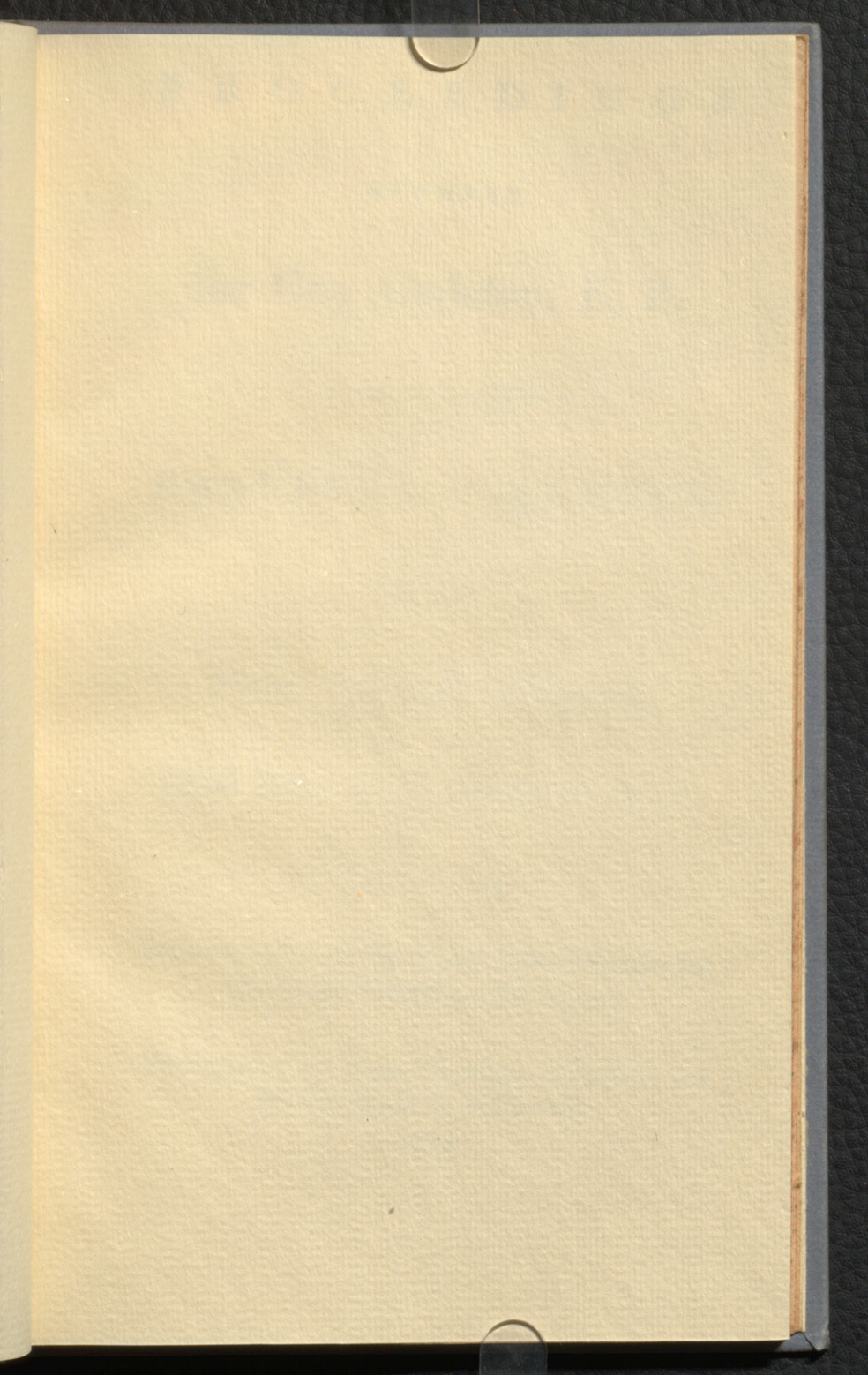


189. Dorchester

Not Casey  
" " McGill  
" " Gaynon  
" " Truesdell

189.





P R O C E E D I N G S

B E T W E E N

Sir Guy Carleton, K. B.

Late GOVERNOR of the

PROVINCE OF QUEBEC,

A N D

Peter Livius, Esquire,

Chief Justice of the said PROVINCE:

W I T H T H E

Representation of the Lords Commissioners for  
Trade and Plantations thereupon;

The Report of the Lords Committee of Council, and  
his Majesty's Order in Council.

1779.

PROCEEDINGS

BETWEEN

Sir Guy Carleton, K. B.

The Governor of the

PROVINCE of QUEBEC

AND

Peter Rivius, Esquire,

Chief Justice of the said Province

with the

Representation of the Lords Commissioners for  
Trade and Plantations in Council

The Report of the Lords Commissioners of Council, and  
his Majesty's Council in Council

1779.



TO THE

King's most excellent Majesty.

THE

M E M O R I A L

OF

P E T E R L I V I U S,

Your Majesty's Chief-Justice of your Province of  
Quebec, in North-America,

*Most humbly sheweth,*

**T**HAT by your Majesty's most gracious acceptance of your Memorialist's dutiful, though poor services, he was appointed by your Majesty your Chief-Justice in your said Province.

That your Memorialist, to the best of his power, has discharged the duties of the said office, faithfully, diligently, and, as he humbly trusts, unblameably.

That Sir Guy Carleton, then Governor of the said Province, did take upon himself, though not invested with any such authority, to amove your Memorialist from his said office, without assigning

any cause whatever, though submissively intreated so to do by your Memorialist.

That notwithstanding Sir Guy Carleton had no authority to move your Memorialist, yet in the present circumstance of public affairs in that country, your Memorialist, to avoid the public scandal that would attend a contest, and the detriment it would occasion to your Majesty's service, thought it is his duty to acquiesce under the oppression, humbly referring the matter to your Majesty's wisdom, and firmly confiding in your Majesty's justice; that justice he now presumes to implore. He cannot suffer himself to believe, that Sir Guy Carleton would have proceeded with such violence, had he not been deceived to think there was some very great cause for it. Your Memorialist therefore humbly prays, that Sir Guy Carleton may now assign the supposed cause, which hitherto he has refused your Memorialist to do; and your Memorialist further humbly prays, that your Majesty would be graciously pleased to afford him, confident of his own fidelity and uprightness, such opportunity as to your royal justice and wisdom shall seem fit, of dispelling every imagination that the unwarranted and unprovoked conduct of Sir Guy Carleton may have suggested to the prejudice of your Memorialist's character.

And your Memorialist, as in duty bound, will ever pray, &c.

London,  
Sept. 23, 1778.

His

His Majesty was pleased to refer the consideration of this Memorial to the Lords Commissioners for trade and plantations; they directed the Governor to assign the causes of his suspending or removing the Chief Justice.

The Governor by letter referred their Lordships to what he had written from Canada to the Secretary of State, and to the journals of the Legislative Council, for the causes of his proceeding.

On the 8th of December the Chief-Justice had communication of the Governor's letters from Canada, and of the journals of the Council there, and was directed to avoid any answer to the invective in the letters, and to confine himself merely to the matter of fact alledged against him, and was allowed to the 15th to prepare and deliver in his answer.

On the 15th, he accordingly delivered in his answer in these words :

*May it please your Lordships,*

When the Chief-Justice of an American Province is suspended or removed from his office, it will naturally be expected, especially in these times of public disquiet and jealousy, that the cause was some great and notorious crime, as treason, bribery, or at least an insufficiency in his office, or a negligent discharge of its duties; and that the delinquent had

a fair opportunity of making his defence before he was publicly disgraced and dishonoured. In the present instance, the Governor, knowing himself to be then actually under recall, yet took upon himself to remove the Chief-Justice suddenly, without inquiry, and without allowing a defence, because in his place in Council he had presumed to speak his opinion, and to propose measures not consonant to the Governor's ideas. It is unnecessary that the Chief-Justice should make protestation of his loyalty; his past conduct places it above suspicion; and he trusts he shall convince your Lordships that on this occasion also he has done only his duty in Council, by concurring in opinion with some of the principal servants of the Crown in that country, and by using his endeavours that the King's instructions, and the act of Parliament for the government of the Province, might be obeyed: yet whenever he had made such representations as he conceived his office and a due attention to law and justice required of him, he submitted to whatever was determined, and has always endeavoured to give the best appearance to those measures he had privately disapproved, when once they were adopted publicly as measures of Government; as often as his advice has been asked, this has been his conduct, and the Governor will not, he cannot, give an instance to the contrary.

In

In order to examine with method the Governor's proceeding, and his desultory accusation against the Chief-Justice, he begs leave to consider them under the following heads :

I. The Governor's authority to remove him.

II. The impropriety of the time and the manner of proceeding.

III. The cause assigned as good and sufficient.

I. He is to consider the Governor's authority to remove him,

He was appointed Chief-Justice of the Province of Quebec by his Majesty in his Privy Council ; in consequence letters mandatory issued under the King's Signet and Sign Manual, directing and requiring the keeper of the public seal of the Province (the Governor) forthwith to cause Letters Patent to be passed granting the office during the King's will and pleasure, and the patentee's residence in the Province ; Letters Patent were accordingly passed, he was in by patent, and a person so appointed cannot surely be removed by the mere word of the Governor : the practice and precedents have ever been against it ; when Governors in America have conceived themselves obliged to stop the proceedings of *any* of their Council, they never pretended to remove them, but  
only

only suspended them till his Majesty's will and pleasure should be known, yet an ordinary Counsellor has only a Mandamus for his office; whereas the Chief-Justice of the Province of Quebec is appointed by the King himself in his Privy Council; is in by Letters Patent, and is not only of the Council, but a President, and a necessary constituent member of it.

It may be perhaps said that Sir Guy Carleton's commission was different from that of any other Governor, yet his commission gave no authority to remove any person, and though in his instructions he was directed not to displace any Judges or other officers, but for good and sufficient cause, it cannot be thence inferred that he may remove them when he pleases; and this instruction has never been considered as affecting the Chief-Justice, or a Counsellor, or any officer appointed by the King himself, but to respect only such judges and officers as the Governor may have appointed, who by this instruction are not to be considered as creatures of the Governor's mere will and pleasure: when once in office, the King directs they are to continue while they behave well; the instruction is intended as a barrier against the Governor's arbitrary treatment of them, and this has been the construction and practice of every other American Governor.

If it be conceived that Sir Guy Carleton's proceeding was founded on some principle of French government in Canada, it is a mistake; the case is quite otherwise; for during the time the French were in possession of that country, the Governor and the person at the head of the administration of justice, though equally dependent on the King, were perfectly independent of each other.

II. The impropriety of the time and the manner of the Governor's proceeding is to be considered.

When the greatest part of America was in rebellion, and the almost single Province then at peace was under some disquiet and jealousy, was it prudent to remove the Chief-Justice, unless there had been the most absolute necessity for it?

For the proceeding itself, and the manner of it. He was never accused, was never heard, and until he came hither, was uninformed of the nature of his offence. What never was or ever can be justly denied to the most notorious and infamous criminal, was denied the Chief-Justice of the country; he was condemned, disgraced, and dishonoured without either being heard in his defence, or any notice given him; and when he most humbly prayed (as your Lordships will see) to have a knowledge of what he had done amiss, and to be heard, he was contemptuously denied both.—The  
manner

manner of it was thus.—In March last the Governor thought proper to assemble the Legislative Council; the general discontent throughout the Province was too public, and threatened too much danger to his Majesty's government, not to draw the most serious attention from those of the Council who preferred his Majesty's service and their own duty to every partial consideration; some motions were made, which, although they tended to preserve the public peace, yet proved disagreeable to the Governor, upon which the Council was very suddenly prorogued, and six days after the Chief-Justice was surprized with the following letter from the Secretary,

*Secretary's Office, Quebec, May 1st, 1778.*

“ Sir,

“ By his Excellency's the Governor's command I am ordered to inform you, you are no longer Chief-Justice of his Majesty's Province of Quebec; of which you will take notice and govern yourself accordingly.

“ I am, Sir,

“ Your most obedient,

“ Humble Servant,

“ GEORGE POWNALL,

“ Secretary, P. Q.”

*To Peter Livius, Esq.*



On the receipt of this new kind of superfedees, the Chief-Justice was at no loss to determine within himself that the Governor had no right of removal; but when he considered what scandal to government, and detriment to the King's service would probably be the consequence of a contest, he determined to sacrifice his own feelings, and to acquiesce for the present; with a view therefore of bringing on an interview and explanation before the affair became public, he immediately wrote the following letter to the Governor.

*To Sir Guy Carleton, Governor, &c.*

“ Sir,

“ I received this moment from the Secretary,  
 “ a signification that it was your pleasure I should  
 “ consider myself no longer as Chief-Justice of this  
 “ Province, and that I should take notice and go-  
 “ vern myself accordingly: I will do so, yet suf-  
 “ fer me Sir, to say, I am surprized at this; I feel  
 “ strongly, that although my conduct in another  
 “ capacity may have been rendered through mis-  
 “ representation, and very much against my wish  
 “ and intention, distasteful to your Excellency,  
 “ yet my endeavours in my capacity of Counsel-  
 “ lor, to the best of my understanding (for I do  
 “ not pretend to be a politician) have been loyal,  
 “ honest, and respectful towards you: and in my  
 “ office of Chief-Justice I must presume to say,

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“ what

“ what I trust is your own opinion, that my con-  
 “ duct has been unblameable. What then could  
 “ induce your Excellency to give me such an in-  
 “ stance of your anger, I will not even presume  
 “ to think, but shall be ready in every honourable  
 “ way to deprecate it; and I do intreat that I may  
 “ have that common justice done to me, of being  
 “ informed of what I am accused; and before you  
 “ finally condemn me, of being heard in my justi-  
 “ fication by *you*; for of your honour I think, and  
 “ ever did think myself assured, and am certain  
 “ of my own innocency and uprightnes, and of  
 “ my respectful thoughts of you and towards you.

“ I have the honour to be,

“ With the truest respect,

“ Your Excellency’s most humble

“ And most obedient servant,

“ PETER LIVIUS.

*Quebec, May 1, 1778.*

“ *His Excellency Sir Guy Carleton, K. B. &c.*”

To this letter, moderate and respectful as it  
 must appear, a verbal reply only was returned by  
 the bearer of it, “ that there was no answer.” It  
 is owing to this denial of the knowledge of the  
 charge against him, that he may not perhaps be  
 able to give your Lordships the same information,  
 as if he had known it while he was yet in that  
 country, and proofs were in his power; yet your  
 Lordships

Lordships-will not have a doubt, that his removal was the effect of private resentment, and not of any good and sufficient cause, when you shall have considered,

IIIIdly and lastly, The pretended cause of the violence offered to him.

The Governor has not thought proper to specify (as is usual on occasions of this nature) his charge against the Chief-Justice, but has left your Lordships to collect it from the minutes of the Council to which he refers you. What is to be understood by this? but that the Governor has assumed the power of removing the Chief-Justice, because the measures he promoted, and the advice he gave in Council, were not agreeable to the Governor; that is to say, the King has instructed the Governor to allow freedom of debate, and vote in Council; and he now tells your Lordships, that instead of allowing any such matter, he has taken upon him to remove the Chief-Justice from his judicial office, for having dared to use that freedom in Council. The measures he proposed and promoted are, in their nature, such as leave no room to imagine they were seditiously intended; supposing him therefore mistaken in his conduct in Council, that would not be a sufficient cause even for his being suspended from being of the Council; but how absurd is it, that because it is supposed he did not

behave properly in Council, he is therefore removed, not from being of the Council, but from his judicial office; in which it is not pretended, or even insinuated, that he merits the least blame; and this too six days after the Council had been prorogued, when no longer any embarrassments could be apprehended to the Governor's views, from the Chief-Justice's difference in opinion in regard to public measures. If ever the miscarriages and misconduct in Canada become objects of public enquiry, to clear himself of blame so far as respects him in the civil line, what must be his justification? the measures followed were contrary to his opinion; why did he not then declare his opinion? he did, first privately to the Governor; and, when that proved ineffectual, in Council; what then in fact and in truth is, and must be the Chief-Justice's justification, he finds imputed to him as a crime. He therefore begs leave further to say, that the measures he promoted, in which he had the honour of the concurrence of some of the best informed Members of the Council, were not only intentionally right, but they were in reality the most effectual and the best for the King's service. In order to render the reasons of his conduct plainly intelligible and satisfactory, he must beg leave to observe,

That for some time after the reduction of Canada, it continued under a mere military administration.

stration. In 1763 his Majesty was pleased to give it civil government, as nearly as might be on the footing of English law. This was at first received with some disgust; the Canadians knew nothing of English law, and were attached to those laws they had been long governed by; but the British subjects, of whom many had by this time settled in Canada, assured them, they would soon feel the difference, and alter their opinion; so it proved, in a very few years Canada, instead of importing its own bread, as it had done during the French government, counted its export of wheat by the hundred thousand bushels; and the Canadian peasants, instead of an inconsiderable sum of depreciated paper currency, or perhaps none, came to be possessors of no inconsiderable hoard of silver money; these effects they attributed justly to the operation of the freedom and protection of the English law over their industry, and their attachments and love to the government were daily growing stronger; the Seigneurs indeed, ~~who~~, although under the English law, <sup>they</sup> retained all their seigneurial rights, were not so well satisfied: they had not altogether the same importance, or respect, as in French times; though generally worthy and deserving men, they have much of their origin, and are better courtiers than Englishmen commonly are; it is therefore no great wonder, if they infused their own notions into the per-

son

son who was supreme among them; and as he conversed little with any other Canadians, except such as are of the predicament last mentioned; he naturally enough conceived, that the opinions he heard were the sentiments of the Canadian nation, and that an entire revival of the French law would firmly attach every Canadian. This idea was encouraged by some about him, who felt that power in him would in effect be power to them. Full of this idea he came to England; and induced government to accede to part only of his plan, and to forward the act of parliament, which has been commonly called the Quebec Act; by which, though the law of Canada was permitted to be the rule of decision in all civil questions, yet the law of England was to prevail in all criminal cases; and the reconciling the discordant parts of these two laws was left to be the performance of a Council, composed of persons generally very well disposed, who by their situation on the spot; might be justly presumed to be possessed of all the information necessary to fit them for the minute parts of the business in settling the province. But as it had been suggested, that by this act the trial by Jury was utterly abolished in all civil causes, and that no provision was made for the security of personal liberty; to take away these pretences for discontent, soon after the act was passed, his Majesty was graciously pleased; by his royal instructions

tions to the Governor, to recommend and direct, that very ample satisfaction should be given in both respects, and that the instructions for that purpose should be forthwith communicated by the Governor to the Council. They have never, to this hour, been communicated, yet it will be evident to every person concerned in Canada, on the perusal of these instructions; that had they been obeyed and communicated by the Governor to the Council, and by them duly attended to, as they certainly would have been, they must effectually have removed all distrust, and have given the amplest security for property and person, to the content of the uneasieft men in the province; but this communication having never been made, an opportunity was given to the seditious and factious, which they diligently employed to raise the strongest prepossessions against the act, to misrepresent the intentions of government, and to fill the province with jealousy and dissatisfaction.

In May, 1775, an attempt was made on the province by the rebels; and though they immediately retired, yet they possessed themselves of the navigation of the Lake Champlain, and of means to return when it might suit them,

In August, 1775, the Council were assembled for the purpose of legislation and settling the province; the Gentleman who was then Chief-Justice,

tice, and who probably was acquainted with these instructions, struggled hard for regulations conformable to them; but such of the Canadian Seigneurs as were in Council, knowing nothing of the King's pleasure but the act, would hear of nothing but the strictest Canadian law, "Je me renferme dans le Bill," was the word with them; the instructions would have levelled an opposition that arose principally from respect to the King's supposed intentions; but in direct disobedience of his instructions they were carefully secreted, and for want of them, all was contest and confusion; when in the midst of it, Mr. Schuyler, and then Mr. Montgomery, with his band, increased by report to a great army, appeared and invested St. John's; all legislative regulations went into smoke, and the province became a scene of uproar and anarchy. It is unnecessary to particularize what your Lordships well know, the whole province possessed by the rebels except the capital, and that invested by them, but defended and preserved by the loyalty and perseverance of its citizens, and at length relieved. Here was an opportunity, when every thing that had been conducted amiss might have been amended, by the lesson of the late experience; but it was neglected; the Canadians, who cheerfully contributed in forwarding the expedition of the King's army in the repulsion of the rebels, were still forced to furnish their  
carriages,



carriages, their teams, and their labour without any pay, under an ill-grounded supposition that it was agreeable to Canadian law, and with a pretence of punishing them for having been lukewarm in the King's service on the Rebel invasion. The consequences were, that those who had misbehaved, or who had no principles of loyalty, disobeyed the summons, and hid themselves in the woods; those who had always been friends to Government, readily attended, were exceedingly harrassed, and then were laughed at by their ill-disposed neighbours, for their "penible loyauté;" they soon became disgusted with a government whose injustice they severely felt, the affections of the few faithful remaining among the Canadians were alienated, and their numbers rapidly diminishing, when another act of Government, about this time, completed the disgust with every man of reflection. By the Quebec Act, the Council for the affairs of the Province was to consist of not less than seventeen members; but by the King's instructions, any five were to be a sufficient number to act as a council of state. Though this be a general instruction, no American Governor had ever supposed it was the King's intentions to allow the packing of a Council; yet under pretence of these words, "any five," Sir Guy Carleton thought proper, by an order of the 8th August, 1776, to appoint, not *any five*, but a

*particular five*, whom he mentioned by name, who, together with such as the Lieutenant Governor should think proper to send for, were to compose his Council, under the new and assuming title of the Privy Council; the rest of the Council, though honoured with the King's appointment, were to get it approved by the Lieutenant Governor, who was the Governor's private secretary, before they were to presume to enter the new Council. This was attended with very bad consequences, some confidence reasonably might be, and was placed in a Council that was to consist of not less than seventeen, and might be composed of twenty-three of the principal persons in the Province; but all confidence was lost when it was seen, that by the Governor's act, five, or even three, out of three and twenty, and those a packed three, might decide, contrary to the more wholesome opinion of the twenty; that these five members were substituted in the room of the Council for the affairs of the Province, constituted by the Act, and appointed by the King; and that this cull'd Council were often called to decide finally in matters of the greatest importance, and sometimes in affairs of a legislative nature, with the sole cognizance of the expenditures of all public monies; and all those about the Governor were not equally exempt from the suspicion which naturally follows mystery and concealment in affairs of a public pecuniary nature. In

In February 1777, the Council were again assembled for the purpose of legislation, and the King's instructions being still kept close, a set of very extraordinary ordinances were obtained, contrary to the King's purposes and intentions, as declared in the instructions. These ordinances quenched all hope, for it could not enter into any man to conceive, that a Governor would pass such ordinances, in opposition to the earnest desires, prayers, and formal representations of the most substantial people in the Province, and contrary to the King's instructions then in his possession, but concealed by him.

The Act of Parliament for the government of the Province having been, by these means, <sup>pre</sup>rupted very differently from its true sense and intent, and being loaded with the undeserved odium of being supposed to legalize many acts of unnecessary oppression, has been rendered an object of public dislike; whereas, had the wise and lenient measures recommended by his Majesty been attended to, there can be little doubt, that this Act would have given the Province a firm, good, legal establishment; and ere this, would have been generally considered as a blessing. In this train matters continued with but little difference, except that a small pittance has been paid the Canadians for their labour, if they choose to ask for

it, but it was so inadequate, that a great number have rather chosen to serve the King for nothing than for such pay; and it has raised more indignation in the people than if they had been offered no pay, for it has just allowed their right to be paid, yet refused due payment. These, with several unnecessary, illegal, cruel imprisonments, and many other lesser circumstances of oppression, have filled the country with discontent; and when an invasion was threatened last winter, it was plain how the Canadians were disposed, in some places they actually took up arms against the King's troops.

Such was the situation of affairs in Canada, when the Council met a third time for the purpose of legislation and settling the Province. This was the first and only meeting of the legislative Council, at which the Chief-Justice was present, it can therefore only concern him to give an account of his conduct during that session; but it was necessary to enter into this detail that the reasons of his conduct might be made evident.

There were four propositions made in Council by others, and two by him. The Governor proposed a regulation of fees; though the Chief-Justice thought a fee bill very improper in the present wavering uncertain course of practice in the Courts, and though the fees then taken were not exorbitant in proportion to the business improperly rendered  
necessary;

necessary ; yet as a fee bill was insisted on, he sincerely endeavoured to render it as unexceptionable as possible, and as Chairman of the Committee for law fees, he went through the business with all possible expedition, and duly made his report. By the terms in which the Governor has mentioned this matter, your Lordships will be led to imagine that the Chief-Justice had taken exorbitant fees, and therefore endeavoured to delay, and if possible to prevent a bill for the regulation of fees. The truth is, he has never received *a single fee*, or any perquisite of any kind whatever, except the salaries his Majesty has been pleased to allow him.

Mr. Finlay, joint Postmaster General in America, and Mr. Grant, acting Receiver General, each of them proposed a bill which they represented as of great public utility, and very necessary to the preservation and collection of that part of his Majesty's revenue entrusted to their respective care ; the Chief-Justice voted for the commitment of both bills, because they were offered by those to whom his Majesty had committed the care of these matters ; and it was a great indecency to refuse their bills the common attention of being considered by a committee.

Col. Caldwell (who commanded the British militia during the siege of 1775-6) made a motion for some alterations in the militia ordinance, and  
for

for the appointment of a committee to take the same into consideration, and to make inquiry into the causes of the present discontents among the Canadians, with a power to send for persons, papers, &c. The prevalence of these discontents was notorious, and Col. Caldwell repeated some very remarkable instances of them, and of some oppressions he himself had been a witness to. If the Chief-Justice had been disposed to foment disturbances and divisions, he would doubtless have supported this motion; whereas on the contrary he opposed it in the strongest manner he was able, particularly the appointment of such a committee, as he thought it could only serve to give sedition an opportunity of rendering the public discontents more general and more dangerous.

Yet could the Governor have been moved to communicate, as he was ordered, the royal instructions, and to listen to the advice of his whole Council, it would no doubt have produced the most salutary effects to the King's service, by convincing the people that their oppressions could not be ascribed to the King or his Ministers, and thereby restoring to his Majesty the hearts and affections of his subjects in that Province.

The Chief-Justice had endeavoured six months before, very respectfully to offer some private advice to this purpose, but it answered no other end than

than to increase a distance and coolness towards him. Without hope therefore of success from more private application, at the meeting of the legislative Council, and after Col. Caldwell's motion, the Chief-Justice felt himself coerced by every motive of honesty and fidelity to make two motions directed to the purpose before-mentioned, in the following words :

*“ Province of Quebec, in Council,*

*“ 8th April, 1778.*

“ The Chief Justice moved, That this Board  
 “ not having hitherto had communication of his  
 “ Majesty's instructions, for the making and passing  
 “ laws in this province; his Excellency the Go-  
 “ vernor be humbly requested to communicate  
 “ to this Board such royal instructions as he may  
 “ have received relative to the legislation of this  
 “ province, and he may think are proper to be  
 “ disclosed to us, in order that the legislative  
 “ Council may dutifully endeavour to conform  
 “ themselves to his Majesty's intentions, and that  
 “ they may, so far as they are able, carry into  
 “ effect his Majesty's most gracious purposes, for  
 “ the good government of his subjects in this pro-  
 “ vince.”

*“ Province*

“ Province of Quebec, in Council,

“ 23d April, 1778.

“ The Chief-Justice moved, That whereas by  
 “ an act of parliament for the making more ef-  
 “ fectual provision for the government of this  
 “ province, passed in the 14th year of his present  
 “ Majesty, it is enacted, that it should be lawful  
 “ for his Majesty, his heirs and successors, in  
 “ manner therein expressed, to constitute and ap-  
 “ point a Council for the affairs of the province  
 “ of Quebec, to consist of persons resident there,  
 “ not exceeding twenty-three, or less than seven-  
 “ teen. That his Excellency the Governor was  
 “ pleased, by an order of the 8th of August,  
 “ 1776, to appoint a council, (calling the same  
 “ a Privy-Council) to consist of only five parti-  
 “ cular persons in the said order named, and of  
 “ such others as the Lieutenant Governor should  
 “ think proper to send for.

“ That by virtue of the said order, the five per-  
 “ sons in the said order named, repeatedly, in  
 “ different affairs of different natures, have taken  
 “ upon themselves to act as a Council for the af-  
 “ fairs of the province of Quebec, in opposition  
 “ to the said act of parliament, and in exclusion  
 “ of his Majesty’s Council for the affairs of the  
 “ province of Quebec, legally constituted and ap-  
 “ pointed according to the said act.

“ That



“ That the accounts of the expenditures of all  
 “ the public monies for the use of this province,  
 “ have been examined only by these five persons,  
 “ or such others as the Lieutenant Governor chose  
 “ to send for, and afterwards have been reported  
 “ by them to the Governor, and by him appro-  
 “ ed in the presence indeed of the legal Council,  
 “ but without their interference, approbation,  
 “ or consent. That the said approbation of the  
 “ Governor, in the presence of the legal Coun-  
 “ cil, by some accident, has been entered in the  
 “ Journals, in words that may naturally be un-  
 “ derstood to mean, that the said accounts have  
 “ received the approbation and sanction of his  
 “ Majesty’s legal Council for the affairs of this  
 “ province.

“ That these proceedings are irregular and il-  
 “ legal, tend to introduce confusion, uncertainty,  
 “ and discontent, and if not timely remedied,  
 “ will give opportunity and means of collusion  
 “ and impunity to future peculation and pervers-  
 “ sion of public monies under any future Go-  
 “ vernor.

“ The Chief-Justice therefore moved, than an  
 “ humble address be prepared and presented to  
 “ his Excellency the Governor, stating the pre-  
 “ mises, and humbly praying, that he will be  
 “ pleased to order convenient remedy.”

The first of these motions was rejected, the second was precluded from consideration by the sudden prorogation, and six days afterwards he was removed from his office in the manner before-mentioned. Such has been the Chief-Justice's conduct in Council; whether any part of it is adverse to the interests of government, or in any degree merits the strange and cruel treatment he has received, he humbly submits to your Lordships.

If it be thought, there are occasions in which it is the duty of a faithful servant of the crown, not only to submit his actions, but even to be silent as to his opinion, when it differs from that of the person who is chief in command. In the present instance, the answer is, that whether the situation of affairs, or the conduct of the person in command be considered, the times required the most explicit frankness, consistent with decency, on the part of those whom his Majesty had been pleased to call into his Council there, and to entrust with a voice in the government of the province. As to the situation of affairs, the detail already gone through, will satisfy your Lordships how improper it would have been for any servant of the crown to have withheld his sentiments; to the conduct of the person in command, the Chief-Justice means to say as little as possible, he wishes not to recriminate; he has throughout his answer, endeavoured to avoid making observations on the conduct of  
others

others, except where it was necessary to explain and justify his own; but called upon as he is, in his own defence, he may be permitted to say, that however the Governor's proceedings may be explained, their appearance at least rendered him an unfit object of implicit political faith to any servant of the crown solicitous to discharge his own duty.

Upon the whole, the Chief-Justice begs leave to conclude, that especially at a time, when the nation is expending millions of treasure, and sacrificing thousands of lives to maintain the supreme authority of the King and Parliament in America, it is his duty to endeavour to obtain an observance of the royal instructions, and of the act of parliament, for the government of the province he is stationed in; when therefore he saw, in lieu of such observance, measures, <sup>and</sup> a mode of government adopted, repugnant to the King's instructions and the act of parliament; that the King's grace to his people was intercepted, his royal intentions misconceived, and the province thereby so filled with discontent, that the most alarming consequences were very justly dreaded; unpleasent and dangerous as it was, he did his duty, and endeavoured to remove an unjust imputation of oppression from his Prince, to place it on those who deserved it. This is the full extent of his crime, for this he has been treated with unexampled indignity and cruelty. His character

as Chief-Justice is unimpeached even by those who have oppressed him, and his conduct in Council was suggested merely by the same zeal for the King's service, that has always actuated every other part of his life. It is therefore with the greatest confidence, that he appeals to the justice of your Lordships.

P. LIVIUS.

*Copies of the 2d, 7th, 8th, 9th, 10th, 11th, 12th, 13th, and 17th Articles of his Majesty's general Instructions to Guy Carleton, Esquire, Governor of the Province of Quebec.*

2dly, It is our further will and pleasure, that any five of the said Council shall constitute a Board of Council for transacting all business, in which their advice and consent may be requisite, acts of legislature only excepted (in which case you are not to act without a majority of the whole.) And it is our further will and pleasure, that the Members of our said Council shall have and enjoy all the powers, privileges, and emoluments, enjoyed by the Members of our Councils in our other plantations; and also such others, as are contained and directed in our said commission under our Great Seal of Great Britain, and in these our instructions to you, and that they shall meet together at such time and times, place and places, as you in your discretion shall think necessary, except

cept when they meet for the purpose of legislation, in which case they are to be assembled at the town of Quebec only.

7th, You are forthwith to communicate such and so many of these our instructions to our said Council, wherein their advice and consent are mentioned requisite; as likewise all such others, from time to time, as you shall find convenient for our service to be imparted to them.

8th, You are to permit the Members of our said Council, to have and enjoy freedom of debate, and vote in all affairs of public concern, that may be debated in Council.

9th, And whereas by the aforesaid act, passed in the fourteenth year of our reign, entituled, " An act for making more effectual provision for the government of the province of Quebec in North America;" it is further enacted and provided, that the Council for the affairs of the said province, to be constituted and appointed in manner therein directed, or the major part thereof, shall have power and authority to make ordinances for the peace, welfare, and good government of the said province, with the consent of our Governor, or, in his absence, of the Lieutenant Governor, or Commander in Chief for the time being, provided that no ordinance shall be passed,  
unless

unless upon some urgent occasion, at any meeting of the Council, except between the first day of January and the first day of May. And whereas the state and condition of our said province do require, that immediate provision should be made by law for a great variety of arrangements and regulations essentially necessary to the government; it is therefore our will and pleasure, that you do, within a convenient time, issue summons for the assembling of our said Council in their legislative capacity, either on the first day of April next, or as soon after as may be convenient, in order to deliberate upon, and frame such ordinances, as the condition of affairs within our said province shall require, and as shall, in your and their judgment, be fit and necessary for the welfare of our said province, and the territories thereunto belonging.

10th, You are nevertheless to take especial care, that no ordinance be passed at any meeting of the Council, where less than a majority of the Council is present; or at any time, except between the first day of January and the first day of May, as aforesaid, unless upon some urgent occasion; in which case every Member thereof, resident at Quebec, or within fifty miles thereof, shall be personally summoned to attend the same.

That no ordinance be passed for laying any taxes or duties, such rates and taxes only excepted, as  
the

the inhabitants of any town or district may be authorized to assess, levy, and apply within the said town or district for making roads, erecting and repairing public buildings, or for any other purpose, respecting the local convenience and œconomy of such town or district.

That no ordinance touching religion, or by which any punishment may be inflicted greater than fine or imprisonment for three months, be made to take effect, until the same shall have received our approbation.

That no ordinance be passed relative to the trade, commerce, or fisheries of the said Province, by which the inhabitants thereof shall be put upon a more advantageous footing than any of his Majesty's subjects either of this Kingdom or the Plantations.

That no ordinance respecting private property be passed without a clause suspending its execution, until our royal will and pleasure is known, nor without a saving of the right of us, our heirs and successors, and of all bodies politic and corporate; and of all other persons, except such as are mentioned in the said ordinance, and those claiming by, from, and under them; and before such ordinance is passed, proof must be made before you in Council, and entered in the Council books,

books, that public notification was made of the party's intention to apply for such ordinance in the several parish churches, where the lands in question lie, for three Sundays at least successively before any such ordinance shall be proposed; and you are to transmit and annex to the said ordinance a certificate under your hand, that the same passed through all the forms above-mentioned.

That no ordinance shall be enacted for a less time than two years, except in cases of imminent necessity, or immediate temporary expediency; and you shall not re-enact any ordinance, to which our assent shall have been once refused, without express leave for that purpose first obtained from us, upon a full representation by you, to be made to us by one of our principal Secretaries of State, and to our Commissioners for Trade and Plantations, for their information of the reasons and necessity for passing such ordinances; nor give your assent to any ordinance for repealing any other ordinance, which hath passed in your government, and shall have received our royal approbation, unless you take care, that there be a clause inserted therein, suspending and deferring the execution thereof, until our pleasure be known concerning the same.

11th, In the consideration of what may be necessary to be provided for by law, within our said Province, as created and established by the

the



the aforesaid act, intituled “ An Act for making  
 “ more effectual provision for the government of  
 “ the Province of Quebec in North America,”  
 a great variety of objects hold themselves forth to  
 the attention of the legislative Council.

12th, 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 law, 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 of justice; whether the laws of England may not be, if not altogether, at least in part, the rule of decision in all cases of personal actions, grounded upon debts, promises, contracts, and agreements; whether of a mercantile or other na-

ture; and also of wrongs, proper to be compensated in damages; and more especially where our natural-born subjects of Great-Britain, Ireland, or our 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 defendant, in any civil suit of such a nature.

13th, Security to personal liberty, is a fundamental principle of justice in all free governments; and the making due provision for that purpose, is an object the legislature of Quebec ought never to lose sight of; nor can they follow a better example than that which the common law of this kingdom hath set, in the provision made for a writ of habeas corpus, which is the right of every British subject in this kingdom.

17th, You shall not displace any of the judges, justices of the peace, or other officers or ministers, without good and sufficient cause; which you shall signify to us by one of our principal Secretaries of State, or to our Commissioners for Trade and Plantations, for their information.

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After the Chief-Justice's answer was delivered and read, he would have proceeded to adduce his proofs in support of all he had alledged; but their Lordships thought proper to defer the business to Tuesday the 22d of December, in order that Sir  
 Guy

Guy Carleton might have notice. On which day, Sir Guy Carleton having signified by letter, that he chose to decline being present, and the Chief-Justice appearing, he was heard, and some of his proofs were adduced, till their Lordships thought proper to tell him, he need give himself no further trouble.

The Lords of Trade and Plantations made their representation to his Majesty on the 2d March, 1779, in the following words :

“ In obedience to your Majesty’s commands,  
 “ we have taken into our consideration the humble  
 “ Memorial of Peter Livius, Esq; appointed by  
 “ your Majesty to be Chief-Justice of the Pro-  
 “ vince of Quebec, complaining of his having  
 “ been amoved from his said office by order of  
 “ Sir Guy Carleton, Knight of the Bath, late your  
 “ Majesty’s Governor of that Province, without  
 “ assigning any cause, and without authority for  
 “ so doing; and praying that Sir Guy Carleton  
 “ may be now required to assign the reasons for  
 “ his amoval, and that the same may be enquired  
 “ into; we have thereupon, in pursuance of our  
 “ duty, required of Sir Guy Carleton, a commu-  
 “ nication of the reasons which induced him to  
 “ displace Mr. Livius; and having received for  
 “ answer, that he stated those reasons in one of his  
 “ last letters to Lord George Germain, one of your  
 “ Majesty’s

“ Majesty’s principal Secretaries of State, and had  
 “ referred his Lordship for proof of the necessity of  
 “ the measure to the minutes of the legislative Coun-  
 “ cil in their last session; we have examined those  
 “ Minutes, together with the letter referred to by  
 “ Sir Guy Carleton (copy of which has been com-  
 “ municated to us by Lord George Germain) and  
 “ having made known to Mr. Livius the matters  
 “ in charge against him, we did appoint a day for  
 “ hearing him in his defence, and gave notice  
 “ thereof to Sir Guy Carleton, that he might at-  
 “ tend and make good the reasons assigned for his  
 “ amoval; but he submitting, whether his atten-  
 “ dance might be necessary, as his charge was  
 “ confined to the papers before us, we proceeded,  
 “ on the day appointed, to hear and consider what  
 “ Mr. Livius had to offer in his justification and  
 “ defence, and now beg leave, humbly to repre-  
 “ sent unto your Majesty;

“ That before we proceed to examine the pa-  
 “ pers to which we are referred for proofs of Mr.  
 “ Livius’s misconduct, we think it necessary to  
 “ premise, that no part of the charges contained in  
 “ those papers, apply to impeach the Chief-Justice  
 “ in his judicial character and capacity in any  
 “ particular; and it is our duty here to observe,  
 “ that your Majesty, by the seventeenth article  
 “ of your instructions to the Governor of Quebec,  
 “ was graciously pleased to direct, that he should

“ not displace any of the judges, justices of the  
 “ peace, or other officers or ministers, without  
 “ good and sufficient cause; which he was to sig-  
 “ nify in the fullest and most distinct manner to  
 “ your Majesty, by one of your Majesty’s princi-  
 “ pal Secretaries of State, and to your Majesty’s  
 “ Commissioners for Trade and Plantations, for  
 “ their information. We shall now proceed to  
 “ examine his conduct as one of the legislative  
 “ Council, and beg leave thereupon to observe  
 “ to your Majesty;

“ That it does appear to us, that your Ma-  
 “ jesty’s Council of Quebec, were called together  
 “ by the late Governor, for the purposes of legis-  
 “ lation, on the 23d of March last, and were  
 “ prorogued by his order, on the 25th of April  
 “ following; that this was the first and only  
 “ sessions of the legislative Council at which the  
 “ Chief-Justice was present; and that during the  
 “ period of this session he constantly attended;  
 “ that upon the first day of the meeting, the late  
 “ Governor being present, recommended to the  
 “ consideration of the Council, the regulation of  
 “ fees to be taken in the several offices; and that  
 “ upon the day following, they resolved them-  
 “ selves into two committees for the purpose of  
 “ making the necessary examinations and reports,  
 “ preparatory to the framing an ordinance, the  
 “ Chief-Justice being chairman of the commit-

“ tee

“ fee for law fees ; that upon this occasion it ap-  
 “ pears on the minutes, that the Chief-Justice  
 “ moved in the following words, viz.

“ That in order to regulate the fees, in compli-  
 “ ance with his Excellency’s the Governor’s re-  
 “ commendation, the Judges of the Courts of  
 “ Common Pleas, for the districts of Quebec and  
 “ Montreal, might be directed to furnish a state of  
 “ the course of their proceeding in their respective  
 “ Courts, and of such rules, orders, and notices of  
 “ practice as they have made to regulate the course of  
 “ their respective Courts, in order that this Board  
 “ may receive the information necessary to appor-  
 “ tion justly the fees to be allowed to the labour  
 “ necessary to be done.”

“ This motion being rejected upon a division,  
 “ the Committee proceeded on their business, but  
 “ before they were prepared to make their report,  
 “ it appears that Mr. Finlay, joint Postmaster of  
 “ America, and Mr. Grant, acting Receiver-Ge-  
 “ neral, each moved certain regulations for the  
 “ better managing and collecting your Majesty’s  
 “ revenue within their respective departments ;  
 “ the Chief-Justice voted for referring these to a  
 “ Committee in both instances ; which were over-  
 “ ruled, and the reasons he assigns for so doing,  
 “ are, because these propositions were offered by  
 “ those to whom your Majesty had committed the

“ care of the matters to which they referred ; and  
 “ because it was, as he conceives, a breach of de-  
 “ cency in the proceedings to refuse them the  
 “ common attention of being considered by a  
 “ committee.”—“ When we state these proceed-  
 “ ings to your Majesty, we would not wish to con-  
 “ vey any idea that it is upon them the late Go-  
 “ vernor founds his reasons ~~reasons~~ for displacing  
 “ the Chief-Justice, especially as your Majesty had  
 “ in the eighth article of your royal instructions  
 “ to your Governor, signified your express will  
 “ and pleasure, that he should permit to all mem-  
 “ bers of the Council, to have and enjoy freedom  
 “ of debate and vote, in all affairs of public con-  
 “ cern that might be debated in Council : but we  
 “ lay these facts before your Majesty, simply as  
 “ they stand on the minutes to which we are re-  
 “ ferred, that no particular of the proceedings,  
 “ wherein the Chief-Justice dissented from the  
 “ prevailing sense of the Council, may be with-  
 “ held from view on this examination ; at the  
 “ same time also that we state these instances, in  
 “ which the Chief-Justice divided against the ma-  
 “ jority of the Council, we must in justice observe,  
 “ that in case of certain propositions as the foun-  
 “ dation of an ordinance, moved for by Mr. Cald-  
 “ well, one of the said Council, and rejected by  
 “ a majority, it is stated by Mr. Livius, that he  
 “ took part in the rejection of those motions and  
 “ the ordinance thereupon dependant.

“ W<sup>e</sup>

“ We proceed now to consider what we must  
 “ believe to have been the especial cause of Mr.  
 “ Livius’s removal ; the two following motions  
 “ made and proposed by him in Council ; the first  
 “ of which, we find in the minutes of the 8th of  
 “ April, in the following words : viz.

“ The Chief-Justice moved, that this Board  
 “ not having hitherto had communication of his  
 “ Majesty’s instructions for making and passing  
 “ laws in this province, his Excellency the Go-  
 “ vernor be humbly requested to communicate to  
 “ this Board, such royal instructions as he may  
 “ have received relative to the legislation of this  
 “ province, and he may think are proper to be  
 “ disclosed to us, in order that the legislative  
 “ Council may dutifully endeavour to conform  
 “ themselves to his Majesty’s intentions ; and they  
 “ may so far as they are able, carry into effect  
 “ his Majesty’s most gracious purposes for the  
 “ good government of his subjects in this pro-  
 “ vince.”

“ This motion, conveyed in words to which no  
 “ exception seems to lie, is in effect a call upon  
 “ the Governor to comply with your Majesty’s  
 “ commands, by imparting to the Council such  
 “ and so many of your Majesty’s royal instructions,  
 “ as he may have been directed to communicate,  
 “ or may find convenient so to do ; and it is our  
 “ duty



duty on this occasion to observe, that if none  
 of your Majesty's said instructions had at that  
 time been laid before the Council Board, the  
 motion appears fully warranted by the 7th ar-  
 ticle of your Majesty's said royal instructions;  
 by which article your said Governor is directed  
 forthwith to communicate such; and so many  
 of those your Majesty's instructions to your said  
 Council, wherein their advice and consent are  
 mentioned to be requisite; as likewise all such  
 others, from time to time, as he should find  
 convenient for your Majesty's service, to be  
 imparted to them. By a communication of  
 these instructions, particularly the 10th, 11th,  
 12th, and 13th; your Majesty's gracious ends  
 and designs in the constitution proposed for the  
 province of Quebec, and the effectual security  
 to personal liberty held forth to all men under  
 the common law of this realm, would have  
 been fully manifested; neither do we see, how  
 the said Council, empowered as they are by act  
 of parliament, to all purposes of legislation  
 jointly with the Governor, could, without this  
 communication, be so well instructed either in  
 their own duty, or in your Majesty's gracious  
 will and pleasure, as to what might be fitting to  
 be provided for by law within the province,  
 agreeably to the act of parliament, intituled,  
 An act for making more effectual provision for

“ the government of the province of Quebec in  
 “ North America.”

“ Wherefore left your Majesty’s present Gover-  
 “ nor should not in due time advert to this part  
 “ of his duty, and left a constitution, calculated  
 “ to promote the welfare and happiness of your  
 “ Majesty’s subjects there, and adapted to the pe-  
 “ culiar circumstances of that province, should be  
 “ mistaken or withheld; we are humbly of opi-  
 “ nion, that it should be given in instruction to  
 “ the Governor, forthwith to comply with your  
 “ Majesty’s royal will and pleasure, signified in the  
 “ 7th article of your Majesty’s instructions above  
 “ recited, by communicating to the Council, such  
 “ and so many of your Majesty’s instructions,  
 “ wherein their advice and consent are made re-  
 “ quisite, with such others, from time to time, as  
 “ as he should judge for your Majesty’s service to  
 “ be imparted.

“ We come now to consider the motion made  
 “ by the Chief-Justice on the 23d day of April,  
 “ being the meeting of Council immediately an-  
 “ tecedent to their prorogation; and this motion  
 “ stands on the Journal in the following words,  
 “ viz.

“ That, whereas by an act of parliament for  
 “ the making more effectual provision for the go-

“ vernal of this province, passed in the 14th  
 “ year of his present Majesty, it is enacted, that  
 “ it should be lawful for his Majesty, his heirs  
 “ and successors, in manner therein expressed, to  
 “ constitute and appoint a Council for the affairs  
 “ of the province of Quebec, to consist of per-  
 “ sons resident there, not exceeding twenty-three,  
 “ nor less than seventeen; that his Excellency the  
 “ Governor was pleased, by an order of the 8th  
 “ of August 1776, to appoint a Council (calling  
 “ the same a Privy-Council) to consist only of five  
 “ particular persons in the said order named, and  
 “ of such others as the Lieutenant Governor  
 “ should think proper to send for,

“ That by virtue of the said order, the five per-  
 “ sons in the said order named repeatedly, in dif-  
 “ ferent affairs of different natures, have taken  
 “ upon themselves to act as a Council for the af-  
 “ fairs of the province of Quebec, in opposition  
 “ to the said act of parliament, and in exclusion  
 “ of his Majesty’s Council for the affairs of the  
 “ province of Quebec, legally constituted and  
 “ appointed according to the said act.

“ That the accounts of the expenditures of all the  
 “ public monies for the use of this Province, have  
 “ been examined only by these five persons, or  
 “ such others as the Lieutenant Governor chose to  
 “ send for, and afterwards have been reported by

“ them to the Governor, and by him approved  
 “ in the presence indeed of the legal Council, but  
 “ without their interference, approbation, or con-  
 “ sent.

“ That the said approbation of the Governor in  
 “ the presence of the legal Council, by some ac-  
 “ cident, has been entered in the journals in  
 “ words that may naturally be understood to mean,  
 “ that the said accounts have received the appro-  
 “ bation and sanction of his Majesty’s legal Coun-  
 “ cil for the affairs of this Province.

“ That these proceedings are irregular and il-  
 “ legal, tend to introduce confusion, uncertainty,  
 “ and discontent; and if not timely remedied,  
 “ will give opportunity, and means of collusion  
 “ and impunity to future speculation and perva-  
 “ sion of public money under any future Go-  
 “ vernor.

“ The Chief-Justice therefore moved, that an  
 “ humble address be prepared, and presented to  
 “ his Excellency the Governor, stating the pre-  
 “ mises, and humbly praying, that he will be  
 “ pleased to order convenient remedy.”

“ This motion, though consisting of several  
 “ clauses, strikes us as containing an assertion,  
 “ which it behoves us in the first place to examine  
 “ into and consider.

“ The

“ The fact asserted by this motion is, that your  
 “ Majesty’s then Governor was pleased, by order  
 “ of the 8th day of August, 1776, to appoint a  
 “ Council (calling the same a Privy Council) to  
 “ consist only of five particular persons in the said  
 “ order named, and of such others as the Lieu-  
 “ tenant Governor should think proper to send  
 “ for; and the motion goes on to say, that the  
 “ five persons so named, have proceeded to act,  
 “ to the exclusion of your Majesty’s Council le-  
 “ gally constituted in the Act of Parliament  
 “ above-mentioned,

“ The numbers of your Majesty’s Council as-  
 “ certained by this Act of Parliament, to which  
 “ the motion refers, are to consist of not less than  
 “ seventeen, nor more than twenty-three mem-  
 “ bers; and of this Council, not less than a ma-  
 “ jority are to co-operate with the Governor in all  
 “ acts of legislation. Thus the regulation stood  
 “ under the Act of Parliament, when your Ma-  
 “ jesty judging it probable, that occasions might  
 “ arise, when the advice and consent of the Coun-  
 “ cil might be wanted in other matters, besides  
 “ acts of legislation, when a majority of the  
 “ whole could not conveniently be assembled,  
 “ was pleased to direct (and it stands as the second  
 “ article of your Majesty’s royal instructions to  
 “ your late Governor) that any five of the said  
 “ Council should constitute a board of Council  
 “ for

“ for transacting all business in which their advice  
 “ and consent may be requisite, acts of legislation  
 “ only excepted, in which he is not to act without  
 “ a majority of the whole.

“ By this instruction it appears, that the Go-  
 “ vernor is empowered to proceed upon business  
 “ (acts of legislation only excepted) with a board  
 “ of five Counsellors, if more do not attend his  
 “ summons; but it does not, as we conceive, de-  
 “ legate authority to him to select and appoint  
 “ any such persons by name, as he shall think fit  
 “ to make a *Quorum*; or extend to excuse him  
 “ from calling into Council all such thereunto  
 “ belonging, as are within convenient distance  
 “ from the place of meeting. In this sense of your  
 “ Majesty’s instruction, we humbly recommend it  
 “ to your Majesty, to direct a second additional  
 “ instruction to your Governor, which, by en-  
 “ joining a discontinuance of the mode hitherto  
 “ pursued, of nominating and appointing what  
 “ has been termed a Privy Council, may, by an  
 “ explanation of the second article of your Ma-  
 “ jesty’s general instructions, confirm to the Coun-  
 “ cil at large the trusts, powers, and privileges,  
 “ intended to be reposed and vested in them by  
 “ your Majesty’s said general instructions. This  
 “ being submitted, it is our duty to lay before  
 “ your Majesty, the proceeding to which the  
 “ Chief-Justice’s motion refers; and we find, in  
 “ the

“ the minutes of the Council of the 8th of August,  
 “ 1776, that the Governor, with the Lieutenant  
 “ Governor, Hugh Finlay, Thomas Dunn, John  
 “ Collins, and Adam Mabane, being the only  
 “ members present, appointed the said five mem-  
 “ bers a board of Privy Council; and ordered,  
 “ that they examine and report upon the provin-  
 “ cial accounts down to the first of May last; the  
 “ military contingent accounts for the defence of  
 “ the Province, to the time of discharging the  
 “ militia of the city of Quebec; the Indian con-  
 “ tingent accounts, including the bills drawn at  
 “ Oswegatche, Niagara, Detroit, and Michilima-  
 “ kinac; and all other accounts which may be  
 “ laid before them by his Excellency’s orders;  
 “ that they enquire into the state of the Province  
 “ with regard to provisions, both in wheat and  
 “ live stock, which it is capable of furnishing to  
 “ his Majesty’s troops, over and above the con-  
 “ sumption of the inhabitants; and that they  
 “ forthwith give their opinion to his Excellency,  
 “ upon the propriety of stopping the exportation  
 “ of those articles.

“ That they take into consideration the fees of  
 “ the different offices, and of the attornies of the  
 “ different courts of justice in the Province, and  
 “ cause a list thereof to be made out, and laid be-  
 “ fore his Excellency.

“ That

“ That they also take into consideration the  
 “ regulation of the police of the Province; and  
 “ cause commissions to be prepared for constituting  
 “ an inferior criminal jurisdiction in the respec-  
 “ tive districts of Quebec and Montreal:

“ That the Lieutenant Governor may cause  
 “ any other member or members of the Council  
 “ to be summoned to assist at the Board; when-  
 “ ever he shall think it necessary to consider of  
 “ any matters regarding the tranquillity and good  
 “ order of the Province.”

“ Having thus at large recited the minutes to  
 “ which the motion refers, the whole of Mr.  
 “ Livius's conduct in Council is before your Ma-  
 “ jesty, and submitted to your royal wisdom;  
 “ but your Majesty having been pleased to re-  
 “ quire our opinion in the case, it is our duty to  
 “ say, that although it were much to be wished,  
 “ that the last of the above recited motions had  
 “ been propounded in terms more studiously  
 “ guarded, and to appearance not so offensive to  
 “ the Governor; yet upon a full review of these  
 “ proceedings, without any discussion of the au-  
 “ thority assumed by the Governor in the mode  
 “ of removal, there does not appear to us good  
 “ and sufficient cause for displacing Mr. Livius,  
 “ especially when we consider, what has been be-  
 “ fore observed, that no complaint or imputation  
 “ whatever



“ whatever has been preferred against him in his  
 “ judicial capacity.”

S. JENYNS,  
 B. GASCOYNE,  
 W. JOLLYFFE,  
 C. GREVILLE,  
 T. DE GREY.

His Majesty was pleased to refer this representation to the Lords of the Committee of Council for plantation affairs, who gave notice to Sir Guy Carleton to attend, but he declining it as before \*, their Lordships made their report in this manner.

Your Majesty having been pleased, by your order in Council of the 19th of this instant, to refer unto this Committee, a representation from the Lords Commissioners for Trade and Plantations, dated the 2d of this instant, in the words following, viz.

Here was inserted the foregoing representation of the Lords of Trade and Plantations, and then the Lords of the Committee went on with their report in this manner.

\* There were present in the Committee of Council, the Earl of Gower, Lord President; the Earl of Marchmont, Lord George Germaine, General Conway, Sir Eardley Wilmot, and Sir Thomas Parker.

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“ The

“ The Lords of the Committee, in obedience  
 “ to your Majesty’s said order of reference, this  
 “ day took the said representation into confide-  
 “ ration, and do agree humbly to report to your  
 “ Majesty, that they concur in opinion with the  
 “ Lords Commissioners for Trade and Plantations,  
 “ that there was not good and sufficient cause for  
 “ displacing the said Peter Livius, Esq. from the  
 “ office of Chief-Justice of the province of Que-  
 “ bec, and that he should be restored to his said  
 “ office; and the Lords of the Committee hav-  
 “ ing thought proper to direct the said Lords  
 “ Commissioners, to prepare the draughts of two  
 “ additional instructions for the Governor of  
 “ Quebec, the one enjoining and requiring your  
 “ Majesty’s Governor of the said province, forth-  
 “ with to comply with your Majesty’s royal will  
 “ and pleasure, signified in the 7th article of your  
 “ Majesty’s general instructions, by communi-  
 “ cating to the Council of the said province, such  
 “ and so many of your Majesty’s instructions,  
 “ wherein their advice and consent are made re-  
 “ quisite, with such others, from time to time,  
 “ as he shall judge for your Majesty’s service to  
 “ be imparted; the other, explaining the 2d ar-  
 “ ticle of your Majesty’s said general instructions,  
 “ conformable to what is proposed, by the said  
 “ representation of the Lords Commissioners for  
 “ Trade and Plantations, and confirming to the  
 “ said

" said Council at large, the trusts, powers, and  
 " privileges intended to be reposed and vested in  
 " them by your Majesty's said general instruc-  
 " tions, which draughts the said Lords Commis-  
 " sioners having accordingly prepared, the Lords  
 " of the Committee take leave to lay the said  
 " draughts of additional instructions before your  
 " Majesty, for your royal approbation."

This Report his Majesty was pleased to appoint<sup>rove</sup>  
 and confirm in manner following:

At the Court at St. James's, the 29th March,  
 1779.

Present.

The King's most Excellent Majesty,

Lord President,

Duke of Northumberland,

Earl of Carlisle,

Earl Nugent,

Lord George Germaine,

Viscount Weymouth,

Humphry Morrice, Esq.

Charles Townshend, Esq.

Whereas there was this day read at the Board,  
 a report from the Right Honourable the Lords of  
 the Committee of Council for Plantation affairs,  
 dated this day; viz.

Here

Here was inserted the report of the Committee of Council, including the representation of the Lords Commissioners for Trade and Plantations, and then the order was continued in this manner.

His Majesty taking the said report into consideration, is pleased, with the advice of his Privy Council, to approve thereof; and to order, that the Right Honourable Lord George Germaine, one of his Majesty's principal Secretary's of State, do receive his Majesty's royal pleasure for restoring the said Peter Livius, Esq; to his office of Chief-Justice of the Province of Quebec. And his Majesty is hereby further pleased, to approve of the said draughts of two additional instructions to the Governor of Quebec (which are hereunto annexed;) and to order, that the Right Honourable Lord George Germaine do prepare the said draughts of instructions for his Majesty's royal signature.

(Signed)

STEPHEN COTTRELL,

T H E E N D.

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