

Mr. Justice Keogh—"Are you counsel for the prisoner at the bar?"

Mr. Adair—"I have been instructed by the Consul for the United States to watch the proceedings so far as certain cases are concerned, and when counsel withdrew from this he thought it right that I should interest myself on behalf of the prisoner. I want to know how far it is my privilege, as counsel, to act in this matter, and what course I should be justified in taking. I have no wish to interfere improperly in the case, but simply to do my duty."

The Lord Chief Baron—"If you are not acting as counsel for the prisoner we cannot allow you to interfere."

Mr. Justice Keogh—"If, on consideration, the prisoner thinks proper to dispense with the assistance of the other counsel, and to accept you, he is at liberty to do so."

Mr. Adair—"I have not been instructed by the prisoner."

Mr. Justice Keogh—"Then your interference is irregular and unprofessional."

Mr. Adair said he did not wish to interfere; he had simply addressed the court in the discharge of his duty. During the whole of his professional experience he had never volunteered in a case, and he thought the observation from the bench uncalled for and unnecessary.

While we heartily concur in the rule which excludes voluntary services on the part of counsel as a most necessary protection to the court as well as the profession, we cannot but think that *Mr. Adair* was placed in a position of some difficulty, such as fully warranted him in asking the direction of the court; and although *Mr. Justice Keogh* was probably right in holding that he could not interfere, the United States' consul not being a party to the proceedings, the manner in which he did so appears to us most uncalled for and reprehensible. *Mr. Adair* was instructed by the Government of the United States to watch the interests of its citizens; the prisoner pointedly threw the responsibility of his defense on that Government, and it does not seem to us that their consul could well have helped interfering to the extent he did—viz., to put

the court in possession of the facts, and ask for their guidance."

PRIVY COUNCIL.

JAMES MACDONALD, APPELLANT; and
JAMES LAMBE, RESPONDENT; and MARY
NICKLE ET AL., RESPONDENTS.

Action to recover land, part of a Seigneurie.

—*Adverse Possession—Prescription.*

Action by *Seigneur* to recover possession of a piece of ungranted land forming part of his *Seigneurie*, against a party claiming under an informal deed from one who had no title deed, but who, with the defendant, had been in undisturbed possession for thirty years.

Held (affirming the judgment of the Court of Queen's Bench for Lower Canada) that a plea of prescription of thirty years' possession was a bar to the action, as: first, that it made no difference that during the time of such adverse possession the *Seigneur* had, under the Statute, 6 Geo. 4, c. 59, for the extinction of feudal and seigniorial rights in the Province of Lower Canada, surrendered the *Seigneurie* to the Crown for the purpose of commuting the tenure into free and common socage, the issuing of the Letters Patent re-granting the same being *uno flatu* with the surrender to the Crown; and that, both by the ancient French law in force in Lower Canada, as by the English law, prescription ran in favour of a party in actual possession for thirty years; and, secondly, that such adverse possession enured in favour of a party deriving title to the land through his predecessor in possession.

Held, further, that such junction of possession did not require a title, in itself *translatif de propriété*, from one possessor to the other; but that any kind of informal writing, *sous seing privé*, supported by verbal evidence, was sufficient to establish the transfer.

The appeals in these cases were from the decisions of the Court of Queen's Bench in Lower Canada, in two petitory actions brought by the Appellant against the Respondent to recover possession of certain lots of land in the district of Montreal. The facts and pleadings were the same in both cases.

The declaration alleged that, on the 20th October, 1832, the Hon. E. Ellice was, and for more than 20 years had been, in possession of the ungranted lands of the *Seig-*