

to Quebec for registration and promulgation by the Sovereign Council could be held to apply in the colony, is by no means so easy to answer; and upon this point there has been considerable difference of opinion. As a matter of fact, the »grandes ordonnances« were not sent to the Sovereign Council to be registered by it, and they are not incorporated in the Council's records of registration. Several very plausible arguments have been advanced to prove that registration of a royal ordinance in the colony was not essential to its valid application there¹⁾; and it is a fact that the »grandes ordonnances« of Louis XIV, although never registered at Quebec, were used by the colonial courts as though they were nevertheless in full force and effect²⁾. But it is now well settled that the only royal decrees which had any force in Canada during the French régime were those which were sent out and registered by the Sovereign Council at Quebec. All others, though their provisions often formed rules of guidance for the colonial authorities, were not binding upon them. The Canadian courts have, on more than one important occasion upheld this view³⁾.

In addition to the Custom of Paris, and such royal ordinances as had been from time to time registered by the Council at Quebec, there was a third element in the law of New France, namely, the ordinances and reglements of the colonial authorities, and the judgments of the colonial courts. The Sovereign Council at Quebec framed and promulgated a formidable number of reglements, some of them of very special nature, others like the police regulations of 1676 of the broadest character and most comprehensive scope⁴⁾. Likewise the intendants, as the writer has elsewhere pointed out, issued their ordinances in profusion, these decrees dealing with the widest variety of matters from the most important to the most trivial⁵⁾. The heirarchy of courts,

¹⁾ For a summary of these arguments see G. Doutre et E. Lareau, *Histoire générale du droit canadien* (Montreal 1872), p. 115 ff.

²⁾ On one occasion the intendant Dupuy urged that »wherever the king has his domain established, all rights attaching to the domain exist in their integrity« as his justification for enforcing in Canada certain royal rights which had been established in France by royal ordinances. These ordinances, however, had not been registered in the colony. See Dupuy to Minister (October 20, 1727) in *Canadian Archives*, Series F, Vol. 49.

³⁾ On this point see F. P. Walton, *The Scope and Interpretation of the Civil Code of Lower Canada* (Montreal 1907), p. 2—5, especially the cases cited on p. 4, note 3.

⁴⁾ »Reglemens généraux du conseil supérieur de Québec, pour la police« (May 11, 1676), printed in *Arrêts et reglements du conseil supérieur de Québec* (Quebec 1854), p. 65—73.

⁵⁾ »The Office of Intendant in New France« in *American Historical Review*, October 1906, p. 15—38.