

SESSIONAL PAPER No. 18

at length, in an ordinance or proclamation to be made for that purpose, the particular customs which your Majesty should think fit to be continued, to the exclusion and abolition of all other customs that should not be contained in the said ordinance or proclamation.

Advantages and disadvantages with which the first method of settling the laws will be attended.

The first of these methods of settling the laws of this province, namely, that of making a code of all the laws by which it shall be governed for the future, to the exclusion of all the laws both of England and France that are not contained in it, would certainly be the most troublesome in the execution to your Majesty's ministers and servants, both in England and in this province. And further, we conceive that it would be objected to by some of the Canadians, who are the most difficult to please, as a rash and dangerous experiment, to which the persons your Majesty should think proper to employ in the compiling this code would be by no means equal. They would frame their objection to such a project in some such manner as this : 'That to reduce the whole law anew into writing, with a rejection of a great part of it as useless in the opinion of the compilers, is a task of such extraordinary difficulty, that not only no person in this province is fit to undertake it, but even the ablest lawyers in the parliament of Paris, if they were to devote their whole time and attention to it, would hardly be able to execute it properly ; that if any thing of this kind is attempted here, many important things will most certainly be omitted, and others be too concisely, imperfectly, or obscurely expressed; that in such a code no part of the ancient laws of this province ought to be omitted, notwithstanding some of them may never have been put in execution here ; for that those laws are not less a part of the law of this country than those which have been often put in practice ; and that the only reason why they have not yet been executed is, because the objects of them, that is, the cases to which they relate, have not yet arisen ; and that when these cases shall arise, here is a wise law already provided beforehand to decide them; and that therefore no part of the custom of Paris, which was truly and properly the law of this province, ought to be left out of any code that shall be made for the government of it : and further, that there is a strong mutual connection between the different parts of this system of law, that makes it very difficult to change or abrogate any part of it, under a notion of its being useless, without weakening or rendering ineffectual other parts of it which the compilers may esteem useful ; and that therefore the only safe way is to let it stand as it is ; and that, in this view of permitting the whole of it to continue, there is no need of a code to express it over again in new words ;