

it is still apparently a debateable question whether they were ever in force in the province.¹⁵

Whether the ordinances of 1673 and 1681 were technically in force in Quebec or not, their character was such that they might, for the most part, be followed as laying down rules of private law of universal applicability and it is said that they were in fact much relied upon by Lord Mansfield and the other judges who erected the structure of modern English maritime and commercial law.¹⁶

In addition to the changes made by the ordinances published in France and in force in Quebec, the law of the province was subject to alteration by the *arrêts* and *règlements* of the Council of Quebec itself and by the ordinances of the governors and intendants of French Canada.¹⁷

Whether, after the cession of Canada to Great Britain, English civil law was introduced into the province by the royal proclamation of 1763¹⁸ is another much disputed question,¹⁹ but by the Quebec Act, 1774, the general body of Quebec civil law including the commercial law was re-established as the rule for decision in all matters of controversy relative to property

(15) The contention that these ordinances were not in force in Quebec has received, to some extent, the sanction of judicial decision, and is supported by F. P. Walton, *The Scope and Interpretation of the Civil Code of Lower Canada*, pp. 2 ff. See also the two opposing views summed up and the authorities referred to by Lemieux (*op. cit.*, pp. 278 ff.), who is of the opinion that the ordinances in question belonged to that class of general laws applicable to the whole kingdom of France which did not require registration in the local *parlements*. *Ibid.*, p. 292.

(16) Walton, *op. cit.*, pp. 139-140. The declaratory and universal character of the ordinances may reconcile the view that they were not in force in Quebec with the fact that it is not uncommon to find ordinances which had not been registered cited in early cases in Quebec without any statement that they were not in force. Cf. Walton, pp. 4-5.

(17) The whole body of law by which the Custom of Paris was modified is collected in the volumes of *Edits et Ordonnances* and in the five volumes of *Jugements et Délibérations du Conseil Souverain de la Nouvelle France* also published by the Government of Quebec, 1885-9. Walton, p. 5.

(18) See Shortt and Doughty, *Documents relating to the Constitutional History of Canada, 1759-1791*, pp. 119 ff.

(19) The two recent writers already cited disagree on this question. See Lemieux, pp. 363 ff.; Walton, pp. 6 ff.