

of a Body Corporate, unless he be either the heir or the representative of the person or persons who first bestowed it: But the Appellant is neither the heir nor the representative of those who first ceded the right of *Bannalité* to the Seminary; he could not therefore institute an action for the purpose of causing the existence of that Body Corporate to be declared illegal; and how can he be allowed to do by an exception that which he could not do by an action? It was decided in 1796, that to entitle the Seminary to recover *Lods et Ventes*, nothing more was necessary than to prove their possession of the Seigneurie. (*Exhibit No. 6.*)

3dly. The Seminary having proved the fact of its existence as a Body Corporate, not only by several witnesses, but by a long series of Judgments, rendered year after year, ought to be maintained in the possession of that existence, without any other proof. It is enough for that Body to say to the Appellant, *possideo quia possideo*. (Cochin, vol. I. p. 590, 592; III. 746; IV. 344.) To him the Seminary has a particular right to address these words, because the deed of concession whence he derives his title to the land upon which the Mill in question is built, mentions the *Superior of the Seminary of Montreal*—expressions which sufficiently denote a Body Corporate. It would, therefore, be incumbent on the Appellant to shew that the Seminary is not a Body Corporate, but it is impossible to prove a negative.

4thly. On the other hand, there is nothing so easy as to establish that the Seminary is really a Body Corporate. This is proved:—

1st. By the Letters Patent of 1677, by which it was created. (*Edits et Ordon. Royaux*, p. 780.) 2d. By the Edict of 1693, which speaks of the Seminary as having been established and endowed with Seigneurial Jurisdiction. (*Edits et Ordon.* p. 289.)—3d. By the *Arrêts* of the Council of State and the Letters Patent of 1702, which also mention the Seminary as having been established by *Saint Sulpice*, by virtue of the Letters Patent of the year 1677, and which go so far as to unite several parishes to the Seminary so established. (*Ibidem*, page 304, &c.)—4th. By the Letters Patent in the nature of an *Edit* of the year 1714, which acknowledge its existence and privileges. (*Ibidem*, page 328.) and confirm the Letters Patent of 1677, (page 329.)—5th. By the *Arrêts* of the Council of State, in the years 1716 and 1722, (*Ibid.* pages 338 & 431.)—6th. By the exhibits filed by the Plaintiffs in the Court below, viz: by No. 32, which is the Deed of Concession of the Seigneurie of the Lake of the Two Mountains to the Seminary by the Governor and the *Intendant*: by No. 33, which is a Deed of Cession by the Seminary of Saint Sulpitius in Paris to the Seminary of *Ville-Marie* or Montreal: by the *Lettres de Terrier*, granted in 1724, which set forth that a *Communauté* or Body Corporate had been established at Montreal, by the Seminary of St. Sulpitius, in consequence of the permission of the King: by No. 37, which is a notification served upon the Superior of the Seminary, at the instance of the Attorney General, of the Declaration of 1743, concerning Bodies Corporate; whence it is to be inferred that this Law or Declaration was applicable to the Seminary, and that the Seminary was a Body Corporate. This documentary evidence derives new strength from the principle, "*in Antiquis enunciatia valent*." The existence of the Seminary enunciated or mentioned as a Body Corporate in documents of such a remote date, particularly in the *Lettres de Terrier*, is therefore beyond a doubt.—7th. The existence of a Seminary as a Body Corporate may be proved even without Letters Patent. A Seminary does not stand in need of Letters Patent. According to the Ordonnance of 1659, enregistered by the Parliament of Paris, with a reservation in favour of Seminaries in general. (*Mem. du Clergé*, tom. II. p. 596; *Denisiart Seminaire*, No. 9.)

If it be objected that the Declaration of 1743 renders it necessary that there should be Letters Patent for the erection or creation of new Bodies Corporate or *Communautés*, the answer to this objection is, that the Declaration of 1743 has not expressly mentioned *Seminaries*: and it is evident that to render the Declaration applicable they should have been mentioned expressly; because it is plain that it would have required a special derogation from those ordinances which had established special reservations in favor of *Seminaries*.

Besides, the Declaration of 1743 only relates to new Bodies Corporate, or in other words, to subsequent establishments. It cannot therefore, be considered, as having any thing whatsoever to do with the Seminary of Montreal, which, by the authorities above cited, is proved to have existed long before 1743, and as early as 1677, 1693, &c. &c.

Again, the Declaration of 1743 makes for the Seminary; because the Seminary had existed long before the enactment of that law; and the ninth article makes a special provision for the Bodies Corporate (*Communautés*) already in existence. It allows them to continue to exist until His Most Christian Majesty should think fit to make some future provision concerning them. Thus according to this article must the Seminary of Montreal continue to exist: its existence *de facto* becomes legal, and legal too by the very law which is made the foundation of the objection.

But has not the Conquest of Canada by his late Majesty interrupted the existence of the Seminary as a Body Corporate? Most unquestionably not.

The conquest of a country can have no more effect with respect to the state, condition and property of a Body Corporate, than with respect to the state, condition and property of an individual. It could still less have the effect of suppressing Bodies Corporate, because when once established, it is part of their nature to perpetuate themselves. Such an effect could still less proceed from a con-