

SESSIONAL PAPER No. 18

appeals, which should therefore be reserved to this season of the year.

The nature
of these
appeals.

These appeals should be only, as they now are, of the nature of writs of error in England, to correct the errors in law committed in the courts of these shires or districts, and not to re-consider the facts in the cause, unless they had been settled by the judge alone without the assistance of a jury. Where this was the case, the parties might, if they thought fit, cause the evidence itself to be taken down in writing by the clerk of the court, and signed by the witnesses and judge, that it might make a part of the record, as it does upon the trial by a general court martial in England : and, upon the removal of this record before the governor and council, they might reconsider the whole matter, the facts as well as the law, and give such judgment upon it as they thought just ; but they should not admit any new evidence relating to it. Where the cause has been tried by a jury, the losing party might, if he thought proper, have it tried over again by a second jury, consisting of twice as many jurymen as the first jury ; and the verdict of this second jury should be final with respect to the matters of fact determined by it.

A second
trial by a
double jury.

When Gaspey shall be settled, a fourth judge might be sent thither, whose jurisdiction should extend over a district lying round about it, to be taken out of the district of Quebec, which is now immoderately large. Such an establishment would be of great convenience to the inhabitants of that part of the province.

These are the outlines of the plan which we humbly beg leave to recommend to your Majesty for the administration of justice, and which, we are confident, would be of great advantage, and give very great satisfaction to your Majesty's Canadian subjects, and effectually remove many of the inconveniencies of which they now complain.

It remains that we consider the first and greatest inconvenience above-mentioned, which arises from the uncertainty of the law in the present condition of the province, and that we set before your Majesty the different methods by which, as we conceive, this inconvenience may be removed, and the laws of the province may be settled for the future upon a solid and permanent foundation.

Four different
methods that
may be taken
to settle the
laws of this
province.

Four methods of doing this have occurred to us. The first is, to compose a code of laws for this province, that shall contain all the laws by which it is to be governed for the time to come, to the entire exclusion or abolition of every part both of the laws of England and the French laws that shall not be set down in the code itself.