

SESSIONAL PAPER No. 18

of the said Ordinance, shall be accounted for unto Us in this Kingdom, and to Our Commissioners of Our Treasury for the time being ; and audited by Our Auditor General of Our Plantations, or his Deputy.

That all such Ordinances be transmitted by you within six Months after their passing, or sooner, if opportunity offers, to Us by One of our Principal Secretaries of State, and Duplicates thereof to Our Commissioners for Trade and Plantations, for their Information ; that they be abstracted in the Margents, and accompanied with very full and particular Observations upon each of them, that is to say, whether the same is introductive to a new Law, or does repeal a Law then before in being ; and you are also to transmit in the fullest manner the Reasons and Occasions for enacting such Ordinances, together with fair Copies of the Journals of the proceedings of the Council, which you are to require from the Clerk of the said Council.

11. In the Consideration of what may be necessary to be provided for by Law within Our said Province, as created and established by the afore-said Act, intituled, "an Act for making more effectual Provision for the "Government of the Province of Quebec in North America," a Great Variety of important Objects hold themselves forth to the Attention of the Legislative Council.

12. The Establishment of Courts, and a proper Mode of administering Civil and Criminal Justice throughout the whole Extent of Our Province, according to the Principles declared in the said Act "for making more "effectual Provision for the Government thereof," demand the greatest Care and Circumspection ; for, as on the one hand it is Our Gracious purpose, conformable to the Spirit and Intention of the said Act of Parliament, that Our Canadian Subjects should have the benefit and use of their own Laws, Usages, and Customs in all Controversies respecting Titles of Land, and the Tenure, descent, Alienation, Incumbrances, and Settlement of Real Estates, and the distribution of the personal property of Persons dying intestate; so on the other hand, it will be the duty of the Legislative Council to consider well in framing such Ordinances, as may be necessary for the Establishment of Courts of Justice, and for the better Administration of Justice, whether the Laws of England may not be, if not altogether, at least in part the Rule for the decision in all Cases of personal Actions grounded upon Debts, Promises, Contracts, and Agreements, whether of a Mercantile or other Nature ; and also of Wrongs proper to be compensated in damages ; and more especially where Our natural-born Subjects of Great Britain, Ireland, or Our other Plantations residing at Quebec, or who may resort thither, or have Credits, or Property within the same, may happen to be either Plaintiff or defendant in any civil Suit of such a nature.¹

¹ This and the following article with reference to the writ of Habeas Corpus, form the first step in that piecemeal process of impairing the complete restoration of the French Canadian civil law granted by the Quebec Act, particularly the 8th clause of it. As may be seen from several subsequent documents, this was the basis of continued conflict in the Council and in the Courts until 1791, when the controversy took another turn. In a document in the Dartmouth Papers, endorsed "Extract from the Instructions to the Governor of Quebec, so far as relates to the Establishment of Courts of Law," this clause appears in the following form:—"The Legislative Council are to frame the Ordinances for the Establishment of Courts of Justice,