

beaucoup que ce qui se passe depuis quelque temps, n'est pas de nature à faire disparaître toutes les difficultés ; nous parlons, bien s'entend, des dispositions législatives qui doivent régler la matière dont il s'agit.

Il nous paraît donc à propos de dire quelques mots des lois aux quelles nous avons fait une allusion passagère.

Et d'abord, quant au "Statute of Frauds" (29 car II. c. 3) voici ce que dit *Starkie, on the law of Evidence* t. 2. p. 588. "The provisions of this celebrated Statute, seem to operate principally as rules of evidence, calculated for the exclusion of perjury, by requiring in particular cases, some more satisfactory and convincing evidence, than mere oral testimony affords ; they dispense with no evidence of consideration which was requisite previous to the statute, they give no efficacy to written contracts, which they did not possess before."

La plupart des dispositions de ce statut n'ont aucune force de loi au Bas-Canada ; les seules qui aient rapport aux transactions de ce pays, sont celles qui touchent aux affaires de commerce, puisque dans "la preuve de tous faits de commerce, on a recours dans toutes les cours de juridiction civile, en cette province, aux formes admises, quant aux témoignages par les loix anglaises."

Ce sont donc les sec. 4. et 17. du "Statute of Frauds," dont il faut parler ; voici la première :

Sec. 4. "No action shall be brought whereby to charge any executor or administrator upon any spécial promise to answer damages out of his own estates, or to charge the defendant upon any special promise to answer for the debt, default, or miscarriage of another person, or to charge any person upon any agreement made upon consideration of marriage, or upon any contract or sale of lands, tenements or hereditaments, or any interest in or concerning them, or upon any agreement that is not to be performed within the space of one year from the making thereof, unless the agreement upon which such action shall be brought, or some memorandum or note thereof shall be in writing and signed by the party to be charged therewith, or some other person, therewith by him duly authorized."

Suit la 17^{me} sec. "No contracts for the sale of any goods, wares and merchandises for the price of £10 or upwards, shall be good, except the buyer shall accept part of the goods sold, and actually receive the same, or give something in earnest to bind the bargain, or in part payment, or that some note or memorandum in writing of the said bargain, be made and signed by the parties, to be charged by such contract or their agents thereunto lawfully authorized."

Ces sections n'étaient pas toujours prises à la lettre, et les preuves