

SESSIONAL PAPER No. 18

in this province may hereafter be the occasion of some confusion, though happily no bad consequences have hitherto followed from it.

Another diversity in their practice with respect to the manner of conveying and mortgaging landed property.

There has likewise been a diversity in the practice of your Majesty's old and new subjects with respect to the manner of conveying and mortgaging landed property. Your Majesty's British subjects have bought and sold lands and houses by instruments drawn up by English lawyers according to the English modes of conveyancing; and your Majesty's Canadian subjects have employed Canadian notaries, or scriveners, for the same purposes, who have followed the French forms of conveyancing made use of before the conquest. And it has often happened that the same lands and houses have been sold and bought and mortgaged by both French and English conveyances, as they have passed into the hands of Canadian or British proprietors. This also, we conceive, may hereafter be productive of some confusion.

In some instances the Canadians have followed the laws of England.

Leases have likewise been made of lands near Quebec for twenty-one years by the society of jesuits in this province, though by the French law they can only be made for nine years. This has been done upon a supposition that the restraints upon the power of leasing lands imposed upon the owners of them by the custom of Paris of which this is one, have no longer any legal existence. Upon the same principle many owners of seigniories, Canadians as well as Englishmen, have made grants of uncleared land upon their seigniories for higher quit-rents than they were allowed to take in the time of the French government, without regard to a rule or custom that was in force at the time of the conquest, that restrains them in this particular. And as the seigniors transgress the French laws in this respect, upon a supposition that they are abolished or superseded by the laws of England, so the freeholders, or peasants, of the province transgress them in other instances upon the same supposition. For example, there was a law made by the French king concerning the lands of this province,¹ ordaining, that no man should build a new dwelling-house in the country (that is, out of the towns and villages) without having sixty French arpents, or about fifty English acres, of land adjoining to it, and that, if, upon the death of a freeholder and the partition of his lands amongst his sons, the share of each son came to less than the said sixty arpents of land, the whole was to be sold, and the money produced by the sale divided amongst the

¹ This refers to the ordinance of Louis XV. of 28th April, 1745:—"Ordonnance du Roi, portant entr'autres choses defenses aux habitans de bâtir sur les terres, à moins qu'elles ne soient d'un arpent et demi de front sur trente à quarante de profondeur." See *Edits, Ordonnances Royaux, Declarations et Arrêts du Conseil d'Etat du Roi Concernant Le Canada*. Quebec, 1854, p. 585.