

kept up. That was the restriction in these customs; but it did not exist in the custom of Paris.

No lawyer will deny that by the law of France all the obligations on holders of land were in the interest of the lord and not in that of his inferior. It was not then the fashion to think of the inferior at all; but only to take care that the chief was not cheated by his vassal, nor the Seigneur by his *censitaire*. This doctrine thus held in France was equally recognized in England by *Magna Charta*, which was to a great extent identical with the custom of Normandy. One of its articles provided that no free man should grant away so much of his land, as that enough should not be left to enable him to fulfil all his duties to his lord. Here it was plain that it was the lord who made the demand—that it was he who claimed from his vassal the retention of so much land as was necessary for the service of the lord. In those days there were no objections made to wide spread properties in the hands of individuals. Individuals held most extensive possessions and cultivated them by dependents of all grades, for their own benefit; not at all for that of their subordinates. The higher classes alone were regarded, and it would have been strange, if the crown had created a class of nobility and granted them large tracts of land, and yet had intended that they should be mere agents for classes below them—for classes for which the rulers cared not.

I now pass to the consideration of the terms of the grants made in Canada, and of the jurisprudence which prevailed from the settlement of the country to its cession. The period being a long one, I may divide it into three parts—the first ending with 1663, when the Company of New France or the hundred Associates was dissolved; the second from that period to the passing of the *arrets* of Marly registered in 1712; and the third, from thence to the cession of the country to the crown of Great Britain. If throughout these periods there can be found any thing adverse to these antecedent dispositions of the French law, I am greatly mistaken.

In 1627 or 1628, the French Crown after several previous attempts, resulting in nothing, to settle Canada, created the Company of one hundred Associates with extraordinary prerogatives. The terms of this grant are to be found in one of the volumes printed for this House; by it the King granted in full property all the country of New France or Canada. The document sets forth:—

“And for the purpose of repaying to the said company the heavy expenses and advances necessary to be made by the said company, for the purposes of the settlement of the said colony and the support and preservation of the same, His Majesty will grant to the said associates, their heirs and assigns forever, in full property, with right of seignior, the fort and settlement of Quebec, with all the country of New-France called Canada, &c., together with the lands within, and along the rivers which pass therein and discharge themselves into the river called Saint Lawrence, otherwise the Great River of Canada, and in all other rivers which flow therein towards the sea, together also with the lands, mines and minerals, the said mines to hold always in compliance with the terms of the ordinance, ports and harbors, rivers, ponds, islands and islets, and gen-

erally all the extent of the said country, in length and in breadth, and beyond as far as it will be possible to extend and to make known the name of His Majesty,—His Majesty merely reserving the right of Fealty and Homage, which shall be rendered to him and to his royal successors &c.”

“It will be lawful for the said associates to improve and deal with the said lands as they may see meet and to distribute the same to those who shall inhabit the said country and to others, in such quantities and in such manner as they may think proper; to give and grant them such titles and honors, rights and powers as they may deem proper, essential and necessary according to the quality, condition and merits of the individuals, and generally upon such charges, reserves and conditions as they may think proper. But nevertheless, in case of the erection of any duchy, marquisate, county or barony, His Majesty's letters of confirmation shall be obtained upon the application of his said Eminence the grand-master, chief and general superintendent of the trade and navigation of France.”

There then was a grant made in 1628 to a commercial Company, with most extraordinary privileges. They were to make war or peace; to have fortresses, in fact to be clothed with all the attributes of sovereignty; and it is provided that all limitations which might appear to be made by the Custom of Paris, or otherwise, were to be dispensed with. They were to grant to anybody and everybody on just such terms as they pleased. There were grants made before this period; but none of them seem to be in force; so that I begin with this grant to the Company as affording the key idea, which interprets and governs all that follow. The Company granted, under this ample charter, a considerable number of Seigniories between the years 1628 and 1663. By examining the printed titles and adding several others obtained elsewhere, I have found out in all sixty one, of which sixteen are either duplicates or have never been taken possession of, or have been forfeited. Forty five are thus still in force, and of these thirty five are in the documents laid before this hon. House. The total grants in Lower Canada are about two hundred and eighty. The Company's grants, therefore, form about one sixth of the whole of those now existing. These grants cover an extent of nearly 3,000,000 of arpents, according to the estimate of a gentlemen of great accuracy in these matters, and as all the lands in Seignior amount to some 10,000,000 of arpents, the quantity granted by the Company is not far from one third of the whole. Of these grants three contain also grants *à titre de cens*, and one of these is a grant to Robert Giffard, of the Seignior of Beauport; it is dated January 15th 1634, and sets out that the Company “being desirous to distribute the lands” of Canada, “give and grant” by these presents the extent and appurtenances “of the following lauds: to wit: one league of land along the bank of the River St. Lawrence, “by one league and a half of depth on the lands “situated at the place where the River Notre “Dame de Beauport falls into the aforesaid river, “including the river (Notre Dame) to enjoy “the said lands, the said Sieur Giffard, his “successors or *ayans cause*, in all justice, property “and seignior forever, with precisely the same “rights as those under which it has pleased His

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