

It was soon to receive, however, a much more severe assault, for the courts promptly found difficulty in administering the two systems of law side by side. Considerable chaos resulted from the fact that the royal decrees, the colonial ordinances, and the decisions of the courts during the French régime were yet unpublished: they were still in manuscript, in a handwriting difficult to follow, unarranged, unindexed, and to some extent scattered. It was only natural, therefore, that the English judges should have, in most cases, given up any serious attempt to ascertain the old law, and should have resorted, for the determination of matters which came before them, either to the rules of English law relating to tenure in copyhold or to the rules of Roman law relating to tenure *en fief*. Recognizing the difficulties which confronted the courts in complying with the letter of their instructions, Governor Carleton appointed a "Select Committee of Canadian Gentlemen well skilled in the Laws of France and of that Province," to make a digest of the whole body of provincial jurisprudence as it had existed in the colony prior to the coming of the English. This codification was accomplished in 1773.¹ It is worth noting, however, that the committee allowed itself considerable leeway in its work; for while its task was specifically to make a digest of the laws which had actually governed private relations in the colony before 1760 it sought guidance for its arrangement of the abstracts, and to some extent guidance in interpretation, in the works of the standard French commentators of the period. These, as is well known, had written under the influence of a more or less thorough training in the Roman law, and they transmitted some of this influence to the Canadian codifiers. Some Roman law therefore worked its way into Quebec through the decisions of the courts in the period 1764-1774 and through the work of those who codified the ancient laws during the latter years of this decade.

In 1774 the provisions of the Quebec Act restored the old French

¹ It was published in four parts at London during the years 1772-1773. The exact titles of the four parts are: 1. An Abstract of those Parts of the Custom of the Viscounty and Provostship of Paris which were received and practiced in the Province of Quebec in the time of the French Government. 2. The Sequel to the Abstract . . . containing the Thirteen latter Titles of the said Abstract. 3. An Abstract of the Criminal Laws that were in force in the Province of Quebec in the time of the French Government. 4. An Abstract of the Several Royal Edicts, and Declarations, and Provincial Regulations and Ordinances that were in force in the Province of Quebec in the time of the French Government, and of the Commissions of the several Governors-General and Intendants of the said Province (London, 1772-1773).