

SESSIONAL PAPER No. 18

the right of pre-emption, and the rights of escheat in certain cases; all which constitute the principal part of the property of the seigniors.

Laws relating to the manner of aliening and incumbering landed property.

But the laws relating to the power and manner of aliening, mortgaging, and otherwise incumbering, landed property, are not, as he apprehends, absolutely necessary to the enjoyment of the lands themselves, and therefore ought not to be reckoned quite so sacred and unchangeable as the laws of tenure themselves. Yet he conceives them to be very nearly connected with those laws, and almost dependant upon them, so that they could not be changed in any considerable degree without diminishing the value of the lands themselves, by means of the practical difficulties that would occur in making use of the new modes of conveying land that would be established in their stead; and therefore he thinks that they ought to be continued. And further, he conceives it will be the more necessary to revive or continue the French laws upon this subject, in order to prevent the introduction of the English laws upon the same subject, namely, the doctrine of estates-tail, the statute *de donis*, the method of defeating that statute by common recoveries, the doctrine of fines, the statute of uses, and the doctrine of uses in general, and other nice doctrines relating to real estates, which are full of so much subtlety, intricacy, and variety, that, if they were to be introduced into this province, they would throw all the inhabitants of it, without excepting even the English lawyers, into an inextricable maze of confusion. For these reasons he apprehends that the English laws upon this subject ought never to be introduced here; and that the former laws of the province relating to it ought for the present to be revived.

The practice of the English laws upon this subject would be highly inconvenient to the province.

Laws of inheritance and dower, and the distribution of the effects of intestates.

Lastly, as to the French laws concerning dower and the inheritance of lands and the distribution of the goods of intestates, with respect to such marriages as have been contracted, and such deaths as have happened, since the establishment of the civil government in this province, your Majesty's attorney general of this province is humbly of opinion, that those laws ought not to be considered as necessary appendages to the property of your Majesty's Canadian subjects in this province, and as having therefore been granted to them by implication in the articles of capitulation and the definitive treaty of peace; because they do not affect the property, or the rights, of the Canadians then in being, to whom alone those grants were made, but only guide and determine the course and devolution of that property after their deaths among persons that were then unborn. This, therefore, he conceives to be a matter upon which the authority of a legislator may properly be exercised. And