

Quebec, and also brought definitely into force the whole body of the laws of old France. These were: first, the whole of the Coutume de Paris; second, the Roman Law to the extent that that law was being subsidiarily applied within the jurisdiction of the Parlement of Paris; and third, all of those Great Royal Ordinances which had been promulgated in France.

Following 1663, it seems agreed that only the laws and ordinances of the Kings of France which were formally registered with the Conseil Souverain de Quebec became law in New France.

As time went on, the laws of New France also included all decisions and rules of general application handed down by the Sovereign Council itself, and all orders proclaimed by the Governors and other administrators. This remained the law until the sovereignty of New France passed to the British Crown a century later in 1763.

Upon this happening, the public law of England, by international custom became the law of Canada. By this same international custom, the Civil Law proper as distinguished from public law, should normally have remained as it was before the British conquest. But, as to this, doubt was raised by the proclamation issued by King George the Third of England after the conquest. This proclamation authorized the Governor of the new British colony to constitute therein a Court of Judicature, to hear and determine all causes ... according to law and equity, and as much as would be feasible, according to the laws of England, and every litigant was entitled to appeal to the Privy Council in London.

Thus, for eleven years, French-Canadians had the experience of being governed by alien and unfamiliar laws. Naturally, they vigorously protested; and hearkening to their protests, the Government of England gave its new colony of Canada, effective May 1st, 1774, its first constitutional charter, known as the Quebec Act. This formally restored in Canada the whole body of the French Civil Law as it had been in force before the allegiance of its citizens passed to the King of England.

The French Civil Law thus restored, affected both French-Canadians and Anglo-Canadians in Canada. These Anglo-Canadians later included a considerable group of Loyalists who, following the American Revolution, migrated into Canada. These Anglo-Canadians now had their turn for seventeen years, not only to know how they themselves felt when being governed by the unfamiliar Civil Law, but to understand and sympathize with how their French-Canadian compatriots must have felt during the eleven years that they were governed by the unfamiliar Common Law. They had occasion to discover that the French-Canadians had had a good case when they wanted to be governed by their own laws. The French-Canadians in turn knew how the Anglo-Canadians felt. They both were of one mind. Each group wanted to be governed by its own laws. Each group could see the fairness of conceding to the other what it wanted for itself. So when the Loyalists petitioned to have their own laws, no one objected; and in response the British Parliament enacted the second Great Canadian Constitutional Charter known as the Constitutional Act of 1791. This divided the colony into two parts, one called Upper Canada, now Ontario, and the other Lower Canada, now Quebec. Each of these Provinces was given its own Legislature. The