

SESSIONAL PAPER No. 18

In this we presume they are mistaken; since both the express declarations of the law-books, and those of your Majesty's attorney and solicitor general in their report concerning this province, made in the year 1766,¹ and the dictates of natural reason inculcate a quite contrary doctrine, to wit, that the laws of the conquered people subsist in their full vigour till the will of the conquerour shall expressly change them. However this opinion, though not well grounded, is pretty general among the English inhabitants of this province.

And in the second place, they say, that, supposing that the laws of England were not of course introduced into this province by the very conquest itself and the subjection of the country to the crown of Great Britain, yet that they have been expressly introduced by your Majesty's proclamation of the 7th of October 1763, in the words that have been mentioned in the former part of this report; in which your Majesty assures them, that they may confide in your Majesty's royal protection for the enjoyment of the benefit of the laws of England.

Advantages
and disad-
vantages of
the third
method.

The third method of settling the laws of this province, by making the laws of England the general basis of them, and permitting the Canadian customs to continue with respect only to some particular excepted subjects, and this by a general reference to the French law-books in which those customs are contained, without attempting to enumerate and express them anew, would also be a very short and easy one to your Majesty's ministers and servants both in England and in this province; and will be very agreeable and satisfactory to your Majesty's British subjects in this province. Yet it will be attended with the following inconveniencies.

By preserving a considerable part of the French law in the lump, or by a general reference to the French law-books that contain it, it will in some degree keep up in the minds of the Canadians that reverence for the laws and lawyers of Paris, and that consequential opinion of the happiness of being subject to the French government (as being that under which those laws may be most ably administered) which all persons that are zealously attached to your Majesty's government would naturally wish to see extinguished. But this objection will take place in a much less degree against this method, than against the last-mentioned, or second method, by which almost the whole body of the French laws would be revived.

Further, if this third method of settling the laws is pursued, some of the Canadians will probably make the two following

¹The Report of Yorke and de Grey; see p. 251.