

Seignior might claim the capital of this constituted rent, and by the redemption and gradual extinction of these rents, the right of *quint* would be less, and the Crown, as well as the Censitaire, is interested in preventing the Seignior from selling his forest lands. Besides the edict is positive, and declares that these sales shall not be made, on pain of nullity, and even of the reimbursement of the price of sale, if the same shall have been paid.

As to the rate of *cens et rentes*, the edicts of the 6th of July, 1711, and of the 15th of March, 1732, declare that the lands shall be conceded at the ordinary rate now, no example can be found before 1763, of any rate exceeding four *sols* per arpent; a rate exceeding this one is not therefore an ordinary rate.

The Censitaires have made constant efforts to maintain their rights before the Courts, and among the numerous precedents to be found (and which are hereafter cited) there are a great many in which decisions have been given in favor of the Censitaires, under the French Government, and there are none in which the Courts, since the Cession of the Country, have decided these old ordinances not to be in force; it is true that the tribunals have often avoided deciding the questions upon their real merits; the present Courts have therefore nothing left but the duty of carrying these ordinances into execution in the interest of the Censitaires and of the Seigniors.

The Report of the Commissioners on the Seigniorial Tenure, of 1843, declares these edicts to be in force, and that the powers of the Intendant are transferred to our present Courts. (1)

BOWEN, Chief Justice :

This important case has been pleaded with great care on both sides, and yet the questions which it presents are not new. The action was brought for the recovery of a sum of £16 currency, arrears of *cens et rentes* due to the Plaintiff by the Defendant, under a deed of concession.

To this action the Defendant pleaded the provisions of the *arrêt* of the 6th July, 1711, contained in the 1st vol. of the *Edits et Ord.* p. 321 (2) and the provisions of the *arrêt* of the 25th March, 1732 also contained in the 1st vol. of the *Edits et Ord.* p. 486. (3)

(1) Act. 17, George III: Act 34 George III:—Report of the Commissioners on the Seigniorial Tenure, 1843:—*Cugnet, Traité des Fiefs*, p. 60:—1 *Henrion de Pansey, Dissertations Féodales*, pp. 275 and 276:—*Ancien Denisart*, vbo. *cens*:—*Arrêt* of the 29th May, 1713: 2 *Edits et Ordonnances*, p. 39:—*Arrêts* of the 15th February 1716, of the 28th June, 1721, of the 20th September, 1721, of the 16th October, 1721, of the 21st February, 1731, of the 20th July, 1733, of the 23rd January, 1738, and of the 23rd February, 1748. On the question whether a portion of a deed can be declared null without declaring the whole deed to be null:—*Perrin, Traité des nullités*,....:—*Guyot, Répertoire de jurisprudence*, vbo. *nullités*: *Ferrière, Dictionnaire de droit* vbo. *nullités*.

Arrêt of the 6th July, 1711.

(2) The King being informed that, among the tracts of land which His Majesty has been pleased to grant and concede in Seignior to his subjects in New France, there are some which have not been entirely settled, and others on which there are as yet no settlers to bring them into a state of cultivation, and on which also those to whom they have been conceded in Seignior have not yet commenced to make clearings for the purpose of establishing their domain thereon.

And His Majesty being also informed that there are some Seigniors who refuse, under various pretexts,