

taining titles but by the visible seisin : and indeed there was no other mode between subjects, of passing title, but a livery of the land itself by the symbolical delivery of turf and twig. The moment that a tenant was thus seised he had a perfect investiture, and if ousted, could maintain his action in the realty, although he had not been long enough in possession even to touch the esples or profits. The very object of the rule, therefore, was notoriety, to prevent frauds upon the lord and upon the other tenants. But in a mere uncultivated country, in wild and impenetrable woods, in the sullen and solitary haunts of beasts of prey, what notoriety could the gathering of a twig or an acorn convey to civilized man at the distance of hundreds of miles ? The reason of the rule could not apply to such a state of things, and *cessante ratione, cessat ipsa lex*. We are entirely satisfied that a conveyance of wild and vacant lands gives a constructive seisin thereof in deed to the grantee. It attaches to him all the legal remedies incident to the estate. A fortiori this principle applies to a patent, since, at common law, it imports a livery in law ; upon any other construction infinite mischiefs would result. " Titles by descent and devise, and purchase, where the parties from whom the title was derived were never in actual seisin, would upon principles of the common law, be utterly lost." But, now setting aside all that has been said with respect to the validity of the law "quoties," and the application of that law to the waste and vacant lands of this Province ; upon the record of this case we shall still find sufficient evidence to show, that there was, upon the part of the appellant, a valid and effectual entry upon the lots of land in question by *intendment of law*, and that this was, *ab initio*, equivalent to an actual entry and *pedis positio*.

To establish this, it is necessary in the first instance, to show that a *Tradition feinte* is equivalent to an actual Entry as to future purchasers, which will appear upon reference to M. Pothier, traité de la vente. Guypape conclut qu'un premier acheteur, à qui on n'a fait qu'une tradition feinte de la chose qui lui a été