

THE JUSTINIAN PANDECTS—THEIR ORIGIN, PROGRESS AND COMPLETION.

PAPER READ BEFORE THE SOCIETY,

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THE subject which it is my intention to bring under your consideration this evening is, as announced in the public notice given by the Society, "THE JUSTINIAN PANDECTS."

As thus foreshadowed, however, the subject assumes so broad and comprehensive a shape, that I hasten to explain that the paper which I am about to read, aims not at any recondite investigation into or learned exposition of the laws themselves, contained in those renowned volumes of legal wisdom, known as the *Corpus Juris Civilis*; my present purpose aspires to nothing beyond giving a brief and succinct historical outline of the origin, progress and completion, of that great legal work as achieved by the Emperor JUSTINIAN in the early part of the 6th Century of the Christian Era.

Myself, but a very humble, though somewhat ardent, votary on the threshold of that vast Temple of Jurisprudence reared by JUSTINIAN, I have little more than contemplated with admiration some of its legal and philosophical splendours; but I was early taught to reverence the laws of the Roman Empire, and to make a knowledge of those laws the foundation of my professional studies.

The humble disciple of an eminent Jurist and Orator, one who would have ranked with the SCÆVOLAS in the Eternal City during the palmiest days of its forensic glory, I had at least the inestimable advantage of finding in him a guide and patron, who was at once an accomplished Scholar and profound Legist; one to whom and to whose teachings I am indebted for the deep interest I so early felt in the study of the Civil Law. I need but mention his name to a Canadian audience, and especially in Quebec, to obtain universal assent to this passing estimate of his transcending forensic powers, to which he added great benevolence of heart. I allude to the late lamented ANDREW STUART, Solicitor General, whose memory is still so fondly cherished in Canada.

Apologizing for this digression, I will, with your leave, proceed with my subject.

THE CODE, the PANDECTS and the INSTITUTES, of which I shall more fully speak in the sequel, appeared in Constantinople, and were promulgated as the Laws of the Roman Empire, between the years 527 and 534 of the present Era, or nearly thirteen Centuries after the foundation of Rome. By the Code and the Pandects all other antecedent laws were solemnly abrogated, and so rigorous, indeed, was the injunction to abstain from any application of the repealed laws, that the breach of that injunction was declared to be a crime amounting to *Fraud* or *Forgery*—*falsi reus est qui abrogatis legibus utitur*.

It will be, however, neither uninteresting nor uninteresting, to take a brief retrospect of Roman Jurisprudence, antecedently to the days of JUSTINIAN, and to examine what were the laws thus bodily consigned to oblivion, after escaping that wide and desolating ruin which the ruthless hand of the barbarian spread over fair Italy, and which shook the

Western Empire to its very foundations and succeeded at last in its total overthrow towards the close of the 5th Century. Nor had the new Code which had been gleaned from the wisdom of the ancient legal lore of Rome, perils of a less imminent character to encounter from the degenerate and barbarized Greeks, the Persians, the Tartars and other Asiatic nations who consummated the extinction of the Empire of the East in 1453, when Mahomet the Second stormed and plundered Constantinople, banished the insignia of the Cross, and in the place of that emblem of Christianity exalted the Crescent which now adorns the Mosques and Minarets of the far famed BYZANTIUM.

That these abrogated laws were voluminous, we are justified in believing upon the authority of JUSTINIAN himself, who informs us in his solemn confirmation of the PANDECTS, that nearly 2000 Books, containing upwards of 3,000,000 of lines (*tricentis dena millia versuum*) were necessarily explored by the compilers of the Digest and condensed within the compass of 50 books and about 150,000 lines.

In the first book of the Digest, we find a succinct account of the origin and progress of the Civil Law, and of the succession of magistrates and eminent Jurists who flourished from the days of PAPIRIUS down to the time of JUSTINIAN. Borrowed from the writings of the celebrated Pomponius and followed by Gaius, this title offers at once a clear and compendious sketch of the inception, advancement and completion of that herculean legal achievement transmitted to the present generation as the *Corpus Juris Civilis*. I could not therefore, follow a more judicious course than by adopting as my text, this passage of the PANDECTS, in tracing an outline of the History of Civil Jurisprudence.

Although the primitive Government of Rome was an absolute monarchy, the wisdom and magnanimity of ROMULUS, admitted the people, at an early period, to a voice

in Legislation. The Sovereign, indeed, reserved to himself the exclusive right of proposing laws; but these laws were submitted to the assent of the people assembled in the thirty *Curia* or Wards into which the City was divided. It was not until the reign of TARQUIN THE PROUD, whose tyranny and vices provoked the expulsion of the Kings, that any attempt seems to have been made, of which at least we have any knowledge, to collect and arrange into something like Order, the Royal ordinances or enactments, and such other laws as had obtained the sanction of Magisterial decisions or had grown out of universal usage.

The compilation of PUBLIUS or SEXTUS PAPIRIUS, in the reign of TARQUIN THE PROUD, is the earliest essay of the kind we have on record; but we have at this day a few fragments only of the labours of this eminent lawyer, whose Digest was denominated the *Jus Civilis Papirianum*, * which has transmitted his name with honor to posterity.

The expulsion of Royalty seems to have been succeeded by a species of legal anarchy, the *Lex Tribunitia*, or tribunitial law, having formally annulled at one fell stroke all the Royal laws, and therefore subverted the authority of the Papirian Code or Digest, leaving the Romans, during a period of nearly 20 years, without any positive Rule for their governance, and compelling them to resort to the sole moral force of such customs, as naturally resulted from the complex relations arising out of a state of society.

* GIBBON, (from whom I have freely borrowed) in a learned chapter on Roman Jurisprudence, 8th Vol. of his "Decline and Fall of the Roman Empire." in a note on page 5, seems to doubt the existence of this code, and thinks that the *Jus Papirianum* of Granius Flaccus, quoted in the Digest, (l. L., Tit. XVI, leg. 144,) was not a commentary, but an original work compiled in the time of CÆSAR. But we may fairly believe that the profound PAUL, from whom this law is borrowed, would be exact in this respect, and would not use the positive language "*Granius Flaccus in libro de Jure Papiriano*," were he not quoting the commentary.

This order of things could not be long protracted in an age when the fame of SOLON and LYCURGUS had already given to ATHENS and LACEDÆMON so much celebrity as the favored seats of Legislative wisdom and moral philosophy. Under the solemn sanction of public authority, a mission to the Athenian Republic was therefore devised and carried out, for the purpose of acquiring a knowledge of their municipal laws, and of afterwards engrafting them upon the legal institutions of ROME. The laws thus copied, in so far as they were deemed applicable to the genius of the Roman people and the state of Roman society, were inscribed by the Decemvirs on Ten Tables of Brass, or Ivory or Wood, (*roboreas primum deinde Æreas.*) which were set up in the Forum for public instruction and commentary. To these were added, the following year, two other Tables, which supplied the omissions or deficiencies of the first Ten, and hence arose the denomination of the 12 TABLES OF THE ROMAN LAWS, so famous in the annals of History, and into which had been transferred so many of the wise precepts of the prince of Grecian Sages. † Nor

† I have followed in this passage, Pothier's prolegomena to the Justinian Pandects.

GIBBON, in his famous work already quoted, (*Decline and Fall of the Roman Empire. loc. cit.*) rejects the truth of the Roman mission of the Decemvirs to Athens, and he founds his rejection upon the fact that the Grecian Historians of that period appeared ignorant not only of that famous Embassy, but even of the name and existence of Rome! He cites Herodotus, Thucydides, (A. U. C. 330, 350,) Theopompus, (A. U. C. 400,) and others; and adds that Pliny (III. 9) gives to Theophrastus, who wrote A. U. C. 440, the credit of being the first Greek who diligently wrote anything of or concerning the Romans. Gibbon also thinks it improbable that the Patricians of Rome would have taken much trouble to copy the austere laws of a pure democracy. In a note by *Professor Warnkönig*, which is cited by MILMAN, in his learned *Ed.* of GIBBON, in reference to this passage, vol. 4, p. 303, it would appear that Gibbon's opinion upon this point is "almost universally adopted," and he particularly mentions *Niebuhr* and *Hugo* as supporting it. Nevertheless, the account of this mission is so circumstantially given, that it is difficult to treat it as fabulous: "Sed tandem ex T. Romilii sententia senatus consulto facto, quod plebiscito confirmatum est, missi Legati Athenas SP. POSTHUMIUS, A. MANLIUS, ET P. SULPITIUS; jussisque inclytas SOLONIS leges describere, et aliarum Græciæ civitatum instituta, mores,

should I omit here the mention of the wise Ephesian who about this time was thrown as an exile upon the Italian shores, to whom is ascribed the honor not of the profound exposition only, of the lore of the 12 TABLES, but the merit also of having contributed to the amelioration and amendment of the laws they prescribed. The name of HERMODORUS is honorably recorded in the Pandects, and is mentioned with veneration by ancient and modern Historians.

The legal discussions of the Forum, the interpretation of the laws by learned Jurists, the judgments of Roman Magistrates pronounced in particular cases, subsequently gave rise to the *Lex Non Scripta* or common law, or what was specially designated and understood as the *Jus Civile*; just as in England or the United States of America the legal arguments of eminent Counsel, the dicta of Judges, and the decisions of Courts, combine to produce the law of precedents, and to engraft on the *Lex Scripta* or positive law, as possessing a quasi binding authority, the vast accumulations of legal opinions and speculations collected in the voluminous reports of adjudged cases; reports which threaten, from their magnitude and rapid increase, to involve future generations in that confusion of law as a science, which preceded, in the Roman Empire, the compilations of Tribonian and his associates, and which eventually led to the necessity of that comprehensive and lucid system of codification, of which so brilliant an example is contained in the PANDECTS and the CODE.

“juraque noscere; unde leges Romanorum institutis convenientes conficerentur.
“*Reversis jam Legatis cum legibus Atticis, &c.*—(Præf. ff. cap. 1, 2 de leg. XII Tab.
“art. 1 et seq.)”

But stronger evidence still, that this decemviral mission is no mere myth is found in the “proofs” (*probationes*) of *Tabula 10 Fragm. leg. XII Tab.* which treats of *Jure sacro*. The language of CICERO lib. 2 de leg. is very clear: “*Antequam sumptuosa fieri funera et lamentabilia carpsissent SOLONIS lege sublata sunt. QUAM LEGEM, HISDEM PROPE VERBIS, NOSTRI VIRI IN DECIMAM TABULAM CONJECERUNT.*”

The organisation of Tribunals of Justice about the same time suggested the expediency of method in the procedure. The importance of *forms* became manifest, and hence arose the *Actiones Legis* or *Legitimæ Actiones*, which required so strict an adherence to a prescribed form of words and certain specific symbolical acts, that any departure from the one or the other subjected the Promovent, Libellant or Prosecutor to a non-suit.

A. U. C. 446.—The *Actiones Legis* now became a momentous branch of Jurisprudence. But the Code which contained the Rules and rigid *formulae* prescribed for the prosecution of actions, or the exercise, indeed, of ordinary civil rights—was, it seems, sedulously withheld from the knowledge of the vulgar. Patricians and lawyers were alone in possession of or had access to this key to judicial procedure, the code which enjoined those forms being, it is said, mysteriously confided to the custody of some Patrician Pontiff. However, in the year of Rome 449, GNEUS FLAVIUS, the son of a manumitted slave, and the secretary of APPIUS CLAUDIUS, (who was variously adorned with the cognomina of Centumanus, Crassus and Cæcus,) filched from his employer this important Code, and published it. This won for FLAVIUS great favor with the people, who marked their gratitude by exalting him to the several dignities of Tribune, Senator and Edile, whilst he moreover enjoyed the usurped honor of having the law recognized under the name of the *Jus Civile Flavianum*; which, whilst it immortalized an act of infidelity on his part towards his chief, has equally proclaimed his love paramount for the people, who had an undoubted right to a knowledge of the laws of procedure, with which they were stringently bound to comply. The morality of the case is a fit subject for the consideration and judgment of Casuists, and to them I leave it.

A. U. C. 553.—Subsequently, *Sextus Ælius* compiled

another work on the *Actiones Legis*, known as the *Jus Ælianum*.

Hitherto, Patrician influence had so preponderated in the *Centuriæ* or hundreds into which the Roman people were divided, the votes being based upon property, that the mass of the people became jealous of an order of things which *de facto* nullified their voice, and they insisted upon and carried that, in regard to the passing of laws, the votes should be taken by *tribes*. Nor did this important modification of Patrician Legislation, yield complete independence to the voter, until the occult suffrage of the ballot was introduced to relieve the embarrassed debtor from the fear or control of a rigid creditor, the client from that restraint contingent upon his respect for his advocate or patron, and the generality of voters from that influence which leads the populace to imitate, and follow in the wake of citizens, exalted to the honors of the State and enjoying authority among the people.

The laws thus enacted were denominated *Plebiscita* ; but so great became the confusion arising out of the new form of legislation, and often so incongruous were the enactments, that under the dictatorship of Hortensius, they were for the most part revoked or amended, and the *Lege Hortensia* and the reformed *Plebiscita*, were then looked upon as, alone, containing the legal Rule of action,

This paved the way to the supreme legislative authority of the Senate, and hence upon the CONSCRIPT FATHERS devolved the important and responsible task of enacting laws. The decrees of the Senate were called *Senatusconsulta* and became of great weight and authority among the people.

These laws were expounded and administered by the Roman Magistrates generally ; but the Prætorian Edicts alone, went the length of supplying the defects of a law

as well as of explaining its ambiguities. These Edicts constituted what was termed, the *Jus Honorarium* as proceeding from the highest Juridical Functionary of the State, who was invested with special public honors and large judicial prerogatives.

It was to one of these Edicts, vastly more comprehensive in its scope than any others and more solemnly promulgated, that ROME was beholden for its first well digested CODE of Laws. The reign of the Emperor HADRIAN was rendered famous as the epoch of the *Perpetual Edict*, * and the name

* In MILMAN'S "New Edition" of Gibbon, (Decl. and Fall R. E.) we find the following notes in Vol. IV pp. 312-313, in reference to the PERPETUAL EDICT. The 1st note is the learned Editor's; the 2nd is one borrowed from Professor Warnkönig, to be found in a French translation of Chap. XLIV of Gibbon's work, cited :

1st. "Gibbon," observes Milman, "has fallen into an error, with Heineccius, and almost the whole literary world, concerning the real meaning of what is called the *perpetual edict* of Hadrian. Since the Cornelian law, the edicts were perpetual, but only in this sense, that the prætor could not change them during the year of his magistracy. And although it appears that under Hadrian, the civilian Julianus made, or assisted in making, a complete collection of the edicts, (which certainly had been done likewise before Hadrian, for example, by Ofilius, qui diligenter edictum composuit,) we have no sufficient proof to admit the common opinion, that the Prætorian edict was declared perpetually unalterable by Hadrian. The writers on law subsequent to Hadrian (and among the rest Pomponius, in his Summary of the Roman Jurisprudence) speak of the edict as it existed in the time of Cicero. They would not certainly have passed over in silence so remarkable a change in the most important source of the civil law.—M.

2nd. Hugo has conclusively shown that the various passages in authors like Eutropius, are not sufficient to establish the opinion introduced by Heineccius. Compare Hugo, vol. ii. p. 78. A new proof of this is found in the Institutes of Gaius, who, in the first books of his work, expresses himself in the same manner, without mentioning any change made by Hadrian. Nevertheless, if it had taken place, he must have noticed it, as he does l. i. §, the *responsa prudentum*, on the occasion of a rescript of Hadrian. There is no lacuna in the text. Why then should Gaius maintain silence concerning an innovation so much more important than that of which he speaks? After all, the question becomes of slight interest, since, in fact we find no change in the perpetual edict inserted in the Digest, from the time of Hadrian to the end of that epoch, except that made by Julian, (compare Hugo, l. c.) The later lawyers appear to follow, in their commentaries, the same text as their predecessors. It is natural to suppose, that, after the labors of so many men distinguished in jurisprudence, the framing of the edict must have attained such perfection, that it would have been

SALVIUS JULIANUS, the Roman Prætor, will be handed down with glory to civilized nations as the author of that celebrated ordinance.

From this period, the power of making laws for the Empire seems to have passed wholly into the hands of the Emperors. From the reign of **AUGUSTUS** to that of **TRAJAN**, the Cæsars appear to have contented themselves with the promulgation of their Edicts, through the intervention of Roman Magistrates or as Magistrates themselves, and in the decrees of the Senate we frequently find inserted with marks of peculiar respect, the Epistles and Orations of the Prince. **HADRIAN**, was the first of the Emperors who, at the beginning of the second century, yielding to the dictates of ambition, boldly assumed the plenitude of Legislative power.

Hence arose that multitude of Constitutions, Rescripts, Edicts and pragmatic sanctions which composed that large body of Roman Law, which was afterwards methodized and condensed into the three famous compilations known under the respective names of the **GREGORIAN**, the **HERMOGENIAN** and the **THEODOSIAN CODES**. The Gregorian covers the period from **HADRIAN** in 117 to **VALERIAN** in 254: The Hermogenian commences with the reign of **CLAUDIUS** in 268 and comes down to the time of **DIOCLESIAN** in 284; and the last, the **THEODOSIAN** includes the period from **CONSTANTINE**, in 306, to **THEODOSIUS**, in 421.

Of these three Codes, the last, only, seems to have been partially preserved to the present time, and among its

difficult to have made any innovation. We nowhere find that the jurists of the Pandects disputed concerning the words, or the drawing up of the edict.

What difference would, in fact, result from this with regard to our codes, and our modern legislation? Compare the learned Dissertation of **M. Biener**, *De Salvii uliani meritis in Edictum Prætorium recte æstimandis*. Lipsæ, 1809, 4to.—W,

compilers we find the names of CAIUS, PAPINIAN, PAUL, ULPIAN and MODESTINUS, who were so pre-eminent in their day that by a special Edict of THEODOSIUS the Younger, they were solemnly pronounced to be the Oracles of Jurisprudence throughout the Empire.

Now, in glancing back at what has been said in the preceding pages we gather that, the laws which governed the Eternal City, from the early period of its history down to the age of JUSTINIAN were :

- 1o. The *Jus Civile Papirianum*, under the Kings.
- 2o. The *Lex Tribunitia*, which abrogated the *Jus Papirianum*.
- 3o. The Laws of the 12 Tables.
- 4o. The *Jus Civile*, or common law.
- 5o. The *Legis Actiones*, called also *Jus Civile Flavianum* and *Jus Ælianum*.
- 6o. The *Plebiscita*, or popular laws, which were afterwards merged in the *Lex Hortensia*.
- 7o. The *Senatus Consulta*, or decrees of the Senate.
- 8o. The *Jus Honorarium*, or Prætorian Edicts, or rather the PERPETUAL EDICT, which was or is presumed to have been a Digest of them all.
- 9o. And lastly, the Constitutions, Rescripts, Edicts and Pragmatic Sanctions of the Emperors, which were comprised in the GREGORIAN, HERMOGINIAN and THEODOSIAN compilations.

A. D. 527—Thus stood the great body of the ROMAN LAW in the beginning of the 6th Century, when the genius of JUSTINIAN conceived and devised the Herculean design of collecting and condensing that vast undigested mass of legal learning and moral philosophy (the mere manuscripts of which are represented to have been burthen enough for many Camels *Multorum Camelorum Onus*), into the comparatively narrow compass of the CODE, the PANDECTS and the INSTITUTES.

The immortal TRIBONIAN, the most laborious at least, if not also the most profound Jurist of his age, was the master spirit to whom this great and momentous work was intrusted; and he and his learned associates, 9 in number, in the preparation of the Code, and 6 in the compilation of the Digest, achieved their arduous task, much within the period assigned for its performance; such were the zeal, the ability and the genius that were brought into action in the fulfilment of the Imperial mandate.

The *Justinian Code* first appeared A. D. 529, not quite a twelve months after the work was commenced, * and the *Magnum Opus*, the DIGEST or PANDECTS, for the compilation of which ten years had been computed as necessary, were presented to the world in their present shape within the astonishing short period of three years.—(A. D. 533.)

The CODE embodies the *Constitutions* and *Rescripts* of the Roman Emperors from the reign of TRAJAN and is derived chiefly from the three Codes of which we have already spoken i. e., the Gregorian, the Hermoginian and the Theodosian. It is divided into 12 *Books*, each Book into *Titles*, and these again are sub-divided into *laws*, *principia* and *paragraphs*.

The DIGEST, the most precious of the great Works bequeathed to posterity by JUSTINIAN, contains the solemn record of the *dicta* and opinions of Magistrates and Lawyers of eminence who flourished under the Republic and the Empire, whose names are affixed to their respective laws for the laudable reasons stated in the confirmation of the Pandects, §10 & 20, "*Quia*," says that law, "*Æquum erat tam sapientium hominum nomina taciturnitate, non obliterari*,

* A second promulgation however took place in 534 containing eleven new constitutions, 6 of which partially revoked or amended former laws.

tam ut manifestum esset ex quibus legislatoribus, quibusque, eorum libris hoc Justitiæ Romanæ Templum ædificatum esset."

The DIGEST is arranged under 7 principal heads or divisions called Parts, which comprise in all 50 Books. These are divided into Titles, Laws and Principia, in an order at once simple and lucid. It contains copious and well digested Tables of Contents, which render a reference to its authority a task of little or no difficulty.

The INSTITUTES to which the name of Justinian has emphatically attached, probably from the supposition which at one time prevailed, that the Emperor was himself the writer of the work—were meant to contain, as they really do, the *elements* of Civil Jurisprudence. Inferior in magnitude and importance to the Code and the Digest, yet have they no less than these elicited in all Countries the admiration of the Lawyer and the Philosopher.

They are stated by classic judges to be written with somewhat unequal elegance, the passages ascribed to Justinian being distinguishable by the comparative barbarism of their style from those copied from a similar work by GAIUS, * dating as far back as the reign of Marcus Aurelius, or Antoninus Pius, the latinity of which is esteemed in the highest degree classic. The *Institutes*, as we now have them, are the result of the combined labours of TRIBONIAN, THEOPHILUS and DOROTHEUS. They are composed of four Books, and divided into Titles and Paragraphs.

To the CODE, the PANDECTS and the INSTITUTES were subsequently added a series of *Constitutions* and *Edicts* of the Emperor Justinian himself. These *Constitutions* were called *Novellæ* or Novels, and are 168 in number. These

* The Institutes of *Gaius* were discovered complete some 50 years ago, and were printed in Berlin 1824, (Gaii Institutiones ed. Goeschen.)

Novels, it seems, made their appearance in rapid succession, and were sometimes written in Greek, the language in which they are still extant in the *Corpus Juris Civilis*.

We have thus traced, though in a very cursory and I fear a very imperfect manner, the origin, progress and completion of the Code, the Pandects and the Institutes; and if we pause for a moment to contemplate the vast treasury of human wisdom and experience from which they have been derived, it will be no theme of surprise that these immortal compilations should have received the sanction of all civilized nations, and have been bodily adopted as texts of law by most European Countries, and received partially by all. The reference to them as written reason, in the Courts of all enlightened communities, even in those in which they possess no authority as law, is the highest order of approbation and praise which could be conferred upon them, and the universal assent of mankind to those branches of Roman Jurisprudence which are generally applicable to the transactions of civilized societies—such as the large subject of contracts, bailments, servitudes, prescription, and many others, fixes indelibly the stamp of wisdom on laws that could thus happily have generalized and settled the Rules of action by which men should be and are in truth governed.

That these invaluable repositories of legal learning should have been preserved to us amidst the vicissitudes that marked the History of Europe and Asia-Minor, during the barbarous and the middle ages, seems almost providential, especially when we consider that down to the middle of the fifteenth century, when the art of printing was invented, they existed, but in M. S. S., exposed not only to the destruction of the elements and the deprivations of barbarian warfare, but were even threatened by the cupidity or ignorance of idle scribes, poets or novellists, who not unfrequently obliterated inestimable M. S. S. of the description of the Institutes or the Pandects, for the purpose

of applying the parchments or papyrus on which they were originally written, to their own useless and oftentimes frivolous effusions

Numerous instances of these profane and vandalic obliterations of useful chronicles and scientific essays have been discovered within the last four or five centuries, although the practise itself, of erasing manuscripts to use the parchments for other literary compositions, seems to have obtained at a much earlier period, and is stated to be coeval with the days of CATALLUS, or about the end of the 7th century of the foundation of Rome

The restoration of Palimpsests—which is the name under which these defaced papyri are known—has now long been the favorite study of some of the most learned men in Germany, Italy and other parts of Europe, whose researches may yet bring to light new and important historical discoveries, and eventually realize the hope expressed by Gibbon, that some of the lost passages of the Perpetual Edict—of which we now possess but a few scattered fragments—may still be restored.

JUSTINIAN, the Atlas on whom rests the ponderous tomes of Roman Jurisprudence, the legal Hercules of his age, if the expression may be allowed as applicable to the magnitude of the works accomplished under him ; Justinian after a reign of 38 years died A. D. 565. The epoch becomes the more memorable, from the events which followed, for scarcely had his clay mouldered in the dust than the glory of the splendid Monument of Roman Law which he had reared became eclipsed, and the Code and the Pandects gave way to barbarian power and barbarian laws, that usurped their place and well nigh threatened them with complete annihilation.

They in fact disappeared and remained in a partial state of oblivion until towards the middle of the 12th

Century, when suddenly, and as by a divine miracle, such is the language of Pothier in his preface to the Digest, a complete Copy of the Pandects resuscitated, *emersit tandem e sepulcri tenebris*, and appeared in 1136 at AMALPHI, an Italian City, near Salerno. From AMALPHI this celebrated Copy was transferred to Pisa; and finally in 1416 was solemnly deposited in the Library at Florence. From this famous M. S. it is, that the most approved editions of the Pandects have been since copied and collated.

Thanks to the ingenius and all important discovery of Guttenberg and Faust, which, from the wonderful facilities which it has afforded for the dissemination of thought, forms perhaps the most remarkable and eventful epoch in the modern annals of mankind, the great works, of which we are now speaking, as well as those which have since that epoch, sprung from the pens of the literary and the learned of all nations, are now placed beyond the chance or probability of loss or destruction. The press has multiplied copies of the Justinian compilations to such an extent as to justify the belief that posterity can never be bereft of those invaluable treasures, and that they will go down to future ages unended, polished and perfected by the experience, erudition and wisdom of the eminent lawyers and Philosophers, whose peculiar study they have been, and whose splendid commentaries are no less precious in the eyes of the lettered and the learned world, than the text Books themselves which their commentaries have enlarged and expounded. ‡

Among the various editions of the C. J. C. which are now extant, the most accurate and approved is the famous Amsterdam Edition of 1663 in 2 Vols. folio with Notes by D. Gothofred. This is the edition in the Library of the

‡ Among the most eminent of these Commentators are *Cajacius*, *GRAVINA*, *VINCIUS*, *Ezerardus*, *NOODT*, *SCHULTINGIUS*, and *HEINNECIUS*.

Association of the Montreal Bar. Of the *C. J. C. cum glossis*, there are many editions, but the most esteemed are those of 1589 and 1627 in 6 Vols. folio. The *Corpus Juris Academicum* is of later date and is usually labelled alphabetically at the beginning of each Book.

The Commentators of the Civil Law whose Works embrace the whole or most of the subjects of the Code, the Pandects, and the Institutes, are CUJACIUS, DUARENUS, FABRUS, HEINECCIUS, NOODT, VOET and VINNIUS. They have written in latin; their Works are voluminous, and he indeed would be an ardent and indomitable Student who would seek to become acquainted with their profound exposition of the text they are admitted to have most learnedly commented.

Thus far we have considered the *Corpus Juris Civilis* as it came from the hands of TRIBONIAN and his coadjutors; and it may be remembered that in speaking of the Digest in particular, some allusion was made to discrepancies and imperfections which had crept into it, through the over haste probably with which it was completed. These consisted in some measure in the confounding of existing with obsolete laws, in the adoption in different places of the opposite opinions of the Proculeans and the Sabinians,* and in the obscurity of many passages that imparted perplexity to the laws; but the principal defect was to be found in the wrong collocation of divers laws under heads to which they had no immediate affinity. These faults did not escape the acumen of that great and virtuous French Jurist, the profound and venerated Pothier, who at an early stage of his legal studies conceived the plan of removing from the Pandects

* Also called the *Pegastans* and *Cassians*, two legal schools in the time of Augustus, at the head of the first of which was ANTISTIVS LABEO, who looked to the spirit and equity of the Law in its interpretation—whilst ATTRIVS CAPITO, the head of the second school, clung inflexibly to its letter.

those blemishes he had detected in them, without nevertheless altering the general order and method of the Work.

To the achievement of this object, his life seems to have been in a great measure devoted ; and although he sometimes despaired of the accomplishment of his task, he was encouraged by his distinguished contemporary, the immortal D'Aguesseau, to persevere to the end, and finally his elaborate work appeared in 3 Vols. folio with this title : *Pandectæ Justinianæ in novem ordinem digestæ, cum legibus codicis, quæ jus pandectarum confirmant, explicant aut abrogant.*

In this great work the order of the Books and Titles, as adopted by TRIBONIAN, has been scrupulously preserved ; but in the details of each Title, the economy of the subject matter has undergone considerable improvements, and the defects of the original to which I have already alluded have been materially, if not wholly, corrected.

This he has accomplished at immense labour, by recalling, under their proper heads, the laws scattered over the whole work, and gleaning from the Code and the Novels, additional laws to support his position and enrich his compilation. His Titles are not unfrequently divided into sections, these into articles, and these again into paragraphs and principia. Each Title retains its original heading ; but the sections, articles and paragraphs are preceded by brief explanatory denominations, which add to the facilities of reference, and give to the whole subject of the Title, the coherence and consistency of a Treatise. Nor ought it to be overlooked,—for this indeed is one of the conspicuous merits of his work,—that Mr. Pothier should have engrafted these large and important improvements on the JUSTINIAN compilations, without detracting from the usefulness of these ; for, although the order of the particular laws is often inverted in the same Book, or transferred from one Book or

Title to another ; yet, at the end of each Volume is found a Table in which the *laws* and *paragraphs* which are sought for, are indicated under the Book, Title, law or paragraph in which they stand in both compilations, the 1st number being that of the Tribonian Arrangement ;—the 2nd, that of the New Collocation, as found in Pothier's *Pandectæ in novum ordinem digestæ* ; and thus a reference to the original is rendered both clear and easy.

Pothier's Pandects have gone thro' several editions in the various forms of folio, 4o. and 8o. The Paris folio edition of 1818, which is the fourth, is printed with remarkable neatness and accuracy ; and besides being adorned by the portrait of the author, contains interesting *fac-similes* of his M. S., and of the famous Florentine M. S., of the Digest from which the celebrated Gothofred edition was copied.

The *Corpus Juris Civilis* has been partially translated by various French writers. FERRIÈRE'S translation of the INSTITUTES is familiar to the legal profession. The Code was translated by TISSOT in 1807, and the *Novelles* by BÉRANGER, fils, in 1811. Of the Digest, we have a French translation by HULOT of the first 44 Books, and by BERTHELOT of the remaining 6. There is also a complete translation of POTHIER'S PANDECTS with the text and translation on opposite pages, 24 Vols., Royal 8o., by *L'Abbé DE BREARD-NEUVILLE*, Paris, 1818. (a) The Institutes have also been translated into English by DR. TAYLOR, LL.D., whose version is much esteemed.

The object with which I set out in the present lecture, I have now brought to a close. It has been my endeavour (whatever the success of my design) to convey to you a general but clear historical outline of that great body of

(a.) This edition is to be found in the valuable Law Library of the HON. CHIEF JUSTICE DUVAL.

Justinian Legislation, to which some reference is made in almost every page of the works consulted by the Bar of Lower Canada, in their daily professional studies and pursuits; and, by tracing, however rapidly, to their sources, the laws contained in the Code, the Pandects and the Institutes, and dwelling upon the singular and providential event of their preservation down to our own times, it has been my aim far more to excite, than to gratify, your curiosity in relation to these colossal and enduring monuments of Roman intellect and greatness.

If the ancients are constantly held up to us as the models we are to imitate in the various departments of literature and philosophy, they are no less deserving of our unwearied study in the important department of their laws. It is in the study of the Civil Law alone that the student can hope to lay the foundations of a sound knowledge of Jurisprudence.

Our early impressions, derived from the History of Rome, are those of admiration for the heroism, the independence, the genius, the literature, the laws and the power of its people. These impressions become deeper as we afterwards investigate, more philosophically, their claims to this admiration, and we have the highest authority for saying, that this sentiment of reverence we feel for Roman institutions, is one to which those institutions are, with few exceptions, fully entitled.

One of the legal luminaries of modern times, the Great Chancellor D'AGUESSEAU, thus beautifully expresses himself in one of his famous orations on the Science of the Magistrate, when speaking of Roman Jurisprudence: "Tout
" y respire encore," says this eminent jurist and orator, " cette hauteur de sagesse, cette profondeur de bon sens, et
" pour tout dire, en un mot, cet esprit de législation, qui a
" été le caractère propre et singulier des maîtres du monde.

“ Comme si les grandes destinées de Rome n'étaient pas encore accomplies, elle règne sur toute la terre par sa raison, après avoir cessé d'y régner par son autorité. On dirait en effet que la justice n'a pleinement dévoilé ses mystères qu'aux Jurisconsultes Romains. Législateurs encore plus que Jurisconsultes, de simples particuliers dans l'obscurité de la vie privée, ont mérité, par la supériorité de leurs lumières, de donner des lois à toute la postérité ; lois aussi étendues que durables ; toutes les nations les interrogent encore, et chacune en reçoit des réponses d'une éternelle vérité !” *

With this eloquent testimony before us, of the wisdom which pervades the laws bequeathed by the Romans to mankind, and coming, as that testimony does, from a source so exalted and of so unquestionable an authority, it would be indeed presumptuous in me to add anything of my own to press upon the attention of my hearers, the importance of the study of those laws, by him who would aspire to become either eminent as a Jurist or wise as a Magistrate or Legislator.

I therefore, with this citation, take leave of my subject, more than ever convinced that there is as much truth as elegance in the thought and the language of Pothier, when he tells us that, with reference to her laws, Rome is our common country—*Romam communem LEGUM PATRIAM confessus est.*

* “ Everything in it (Roman Jurisprudence) still breathes that exalted tone of Wisdom, that profound good sense, in short that spirit of legislation which has been the especial and distinguishing characteristic of the masters of the World. As if the great destinies of Rome had not yet been fulfilled, she still reigns through the empire of her reason, after having ceased to reign thro' the conquests of her legions. It would indeed seem as if the mysteries of the Temple of Justice had been revealed in their plenitude but to the favored Jurists of the Eternal City. Legislators far more than Jurisconsults, mere citizens dwelling in the retirement of private life, were, through the superiority of their enlightenment, found worthy of giving laws to all posterity, laws as vast and comprehensive in their scope as they are enduring ; all nations consult them still, and each receives from them responses stamped with eternal truth.”

THE

CURRENCY OF CANADA

AFTER THE CAPITULATION,

BY

JAMES STEVENSON, President,

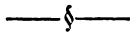
LITERARY AND HISTORICAL SOCIETY OF QUEBEC.

THE
CURRENCY OF CANADA

AFTER THE CAPITULATION,

BY

JAMES STEVENSON, PRESIDENT.



You may probably recollect what I stated on a former occasion, when I had the pleasure of addressing the Society, that the currency of Canada could be divided into three sections; the currency during the French Régime; the currency from the capitulation to the year 1818, when Banks were first established in the colony; and the currency from that time to the present day. I have already discussed the first section, I propose now to deal with the second.

At the conclusion of my last lecture I alluded to a copy, which I presented to the Society, of an important State paper providing for the final settlement of all outstanding card money, ordonnances, and protested Bills of Exchange, as agreed upon "between the King of Great Britain and the most Christian King." At the Treasury in Paris the settlements appear to have been partly made, for in the *Gazette* of the 23rd May, 1766, we find the following information: "Yesterday, at Garraway's Coffee House, London, a large sum of Canada stock, the produce of Canada paper money, was sold by auction, by Mr. James Demettes, and sold on an average at seventy-four per cent—which carries four and a half per cent." That is, the Bonds given on the footing

of fifty per centum for Bills of Exchange, and seventy four per centum for cards and ordonnances were sold at seventy four per cent, or twenty six per cent discount. Reduction in price succeeded reduction till, as we shall see presently, the Bonds became quite worthless.

There was much delay and difficulty at the Treasury in France, in obtaining the settlement of the Canada Bills, in accordance with the terms of the "Convention;" consequently we read—June 3rd, 1766: "It is reported that Canada Bills lately had a considerable fall in Paris; and further on—June 23rd, 1766: "The Earl of Rochford will be furnished with a spirited memorial to the Court of France, with regard to the payment of the Canada Bills, before his departure for his embassy to that Kingdom." Then, in consequence, I presume, of this spirited memorial—July 31st, 1766: "Last night's London *Gazette* contains the following intelligence addressed to the British proprietors of Canada paper:" "By a convention signed on the 29th March last, by the respective Courts of France and Great Britain, which fixes the 1st of October next to be the last day of receiving declarations, and taking proofs on them, at which period the French Commissioner is obliged to close his Register, he therefore thinks it incumbent on him to give this notice to the said proprietors, that they may not delay too long to make their declarations and provide the several proofs before the expiration of the above 1st of October, that they may not plead ignorance and complain when it is too late, of not having had sufficient notice" But later on, viz: June 3rd, 1771, we find it announced: "France has at length effected the great stroke of politics she has long been aiming at: the Government is become bankrupt, and the whole score of State debts is rubbed out." In fact the financial affairs of the nation were in a state of chaos; and the "Monarchy was rapidly drifting towards the thunders of the revolutionary Cataract."

In discussing the questions of currency of any particular period it may not be uninteresting to glance at the state of trade. I have been fortunate in finding an authentic statement showing the value of the Imports and Exports of several of the latter years of French rule in Canada.* I shall not burden your patience by entering into details: suffice to state that, the average annual Imports of 1749, 1750, 1751, 1752, 1753, 1754 and 1755, amounted to the equivalent of £210,000 Sterling; and the average annual Exports of those years to £60,000 Sterling. With the balance of trade so heavily against Canada, we are called upon to enquire how it was settled?

* IMPORTS			
	Livres Tournois.		Livres Tournois.
1749	£227,282	— 5,682,090	1,414,900 EXPORTS.
			4,267,190 difference.
			<u>5,682,090</u> Livres Tournois.
1750.....	£206,194	— 5,151,861	1,337,000 EXPORTS.
			3,817,861 difference.
			<u>5,151,861</u> Livres Tournois.
1751.....	£177,580	— 4,439,490	1,515,932 EXPORTS.
			2,923,558 difference.
			<u>4,439,490</u> Livres Tournois.
1752.....	£341,913	— 6,047,820	1,554,400 EXPORTS.
			4,493,420 difference.
			<u>6,047,820</u> Livres Tournois.
1753.....	£207,829	— 5,195,733	1,706,130 EXPORTS.
			3,489,603 difference.
			<u>5,195,733</u> Livres Tournois.
1754.....	£205,905	— 5,147,621	1,576,616 EXPORTS.
			3,571,005 difference.
			<u>5,147,621</u> Livres Tournois.
1755.....	£208,131	— 5,203,272	1,515,730 EXPORTS.
			3,687,542 difference.
			<u>5,203,272</u> Livres Tournois.

A manuscript copy of a contemporary State paper, in the Department of Marine in Paris, contains the following passage in relation to the balance of trade: "En même tems que le prix des articles de l'importation augmente, celui des pelleteries et des autres objets de l'exportation diminue, et par conséquent il n'y a plus de poids dans un des côtés de la balance. Les dépenses extraordinaires que le Roy fait alors, et dont une partie est indispensable, viennent encore au secours de ce défaut de l'exportation ; d'où il suit qu'en paix, comme en guerre, les dépenses que le Roy fait en Canada sont nécessaires au commerce de ce pays, de la façon dont il est aujourd'hui gouverné." And further on : "On sait aujourd'hui le tarif des dépenses que le Roy fait annuellement dans cette Colonie, en tems de paix. Supposons-le de cinq millions, et que le Roy veuille le continuer sur ce pied." We may therefore fairly infer that Treasury Bills constituted, as they really did, a considerable portion of the remittances required for Europe. I have not found a list of the various goods imported ; but, after the inglorious victory which the Civil Government obtained over the church in her struggle to prevent the importation of Rum, we may safely assign one-tenth of the whole value to that article.

By the year 1761, French domination existed no longer in any part of Canada. A warrant dated 7th April, 1762 issued from "Whitehall Treasury Chambers," appointing Custom House Officers for "Canada, lately reduced by His Majesty's arms," viz :

" Thomas Knox, to be Collector at Quebec, at a yearly salary of.....	£300 Sterling.
Thomas Ainslie, to be comptroller, at a yearly salary of.....	£200 "
Edward Manwaring and William Lee, to be Waiters and Searchers at Quebec, at a yearly salary each of	£100 "

Thomas Lamb, to be Surveyor at Montreal,
 at a yearly salary of.....£200 Sterling,
 Richard Oakes, to be Waiter and Searcher
 there, at a yearly salary of..... £100 “ ”

The warrant bears the signature of :

HOLLES NEWCASTLE,
 BARRINGTON,
 JAMES OSWALD.

The preliminaries of peace were signed at Fontainebleau, November 3rd, 1762; and a definite treaty was concluded in Paris, on the 10th February following—by which France ceded to Great Britain, along with other territories, Canada and all the Laurentian Isles, except St. Pierre and Miquelon, reserved on behalf of the French fisheries.

By the kindness of my friend, Mr. John Stewart, of this city, I am enabled to give the value of the exports of Furs alone, as estimated by the Revenue Officers, for the following years, viz.: 1764—£57,613; 1765—£61,921; 1766—£69,560; 1767—£68,586; 1768—£80,357 sterling. And the exports of Furs and other goods for the following years:

1769—Furs alone.....	£107,746	
No Wheat.		
Staves, Potash, Fish.....	29,352	
	<hr/>	£137,098 Sterling.
1770—Furs.....	£92,156	
Wheat.....	9,930	
Other articles.....	19,139	
	<hr/>	121,225 “
1771—Furs.....	£34,801	
Wheat.....	34,761	
Other articles.....	22,207	
	<hr/>	141,859 “
1772—Furs.....	£104,832	
Wheat.....	32,168	
Other articles.....	21,427	
	<hr/>	158,427 “
1773—Furs.....	£79,078	
Wheat.....	72,983	
Other Articles.....	26,255	
	<hr/>	178,316 “

On the other hand, the Imports for the same years were as follows :

1769—Rum.....	£23,895		
Pork	8,640		
Flour.....	27,339		
Groceries, &c.....	16,387		
European Dry Goods.....	80,000		
		<hr/>	£156,261 Sterling.
1770—Rum.....	£21,421		
Red Wines.....	10,200		
Flour	8,394		
Groceries, &c.....	11,772		
European Dry Goods, not given, but estimated at the value of.....	90,000		
		<hr/>	141,787 “
1771—Rum.....	£20,199		
Wines.....	5,740		
No Provisions.			
Groceries, Salt, &c.....	19,352		
European Dry Goods, not given, but estimated at.....	100,000		
		<hr/>	145,291 “
1772—Rum.....	£26,151		
Wines.....	3,500		
No Provisions.			
Molasses, Salt, Groceries.....	13,956		
European Dry Goods given.....	125,000		
		<hr/>	168,607 “
1773—Rum.....	£33,828		
Wine.....	15,110		
Pork.....	5,000		
Groceries, &c.....	13,468		
European Dry Goods, estimated.....	130,000		
		<hr/>	197,406 “

It may appear remarkable that there should have been such a falling off in the imports, as compared with those under the French Régime; but we know that the colony in Canada, consisting of about 70,000 souls, could not have existed without large contributions of the necessaries of life from France; that the French colonial policy was such as to debar all hope of success in rendering the colony self-sustaining. The effects of a change of Government are manifest in the facts of trade which I have just cited.

At first the French Canadians complained that the goods imported from England were dearer than those they formerly had from France; and the inhabitants of towns grumbled at a change of policy which left the country people at liberty to dispose of their produce in the market place, at the highest price it would fetch; whereas, under the old Régime, the price of all farm produce was limited by a decree of the Intendant. But the new subjects, as the French Canadians were then called, became reconciled to many changes of a salutary nature, which were introduced after the conquest. Of simple tastes and thrifty habits, they were fairly prosperous under British rule. They admired the enterprising spirit of our Merchants which, although actuated and stimulated, perhaps, by the desire for gain, plays nevertheless an important part in the general history of civilization and of human progress.

I shall not pause to look on the reverse side of the shield—to consider the consequences which followed the annual exchange of over three thousand puncheons of Rum for the precious products of field and forest. The baleful effects of this traffic are all of record in the published transactions and manuscripts of our Society, which may be consulted by those who feel desirous of making themselves further acquainted with the subject.

Contentment appears to have reigned throughout the whole period of the administration of Guy Carleton. He possessed all the qualities which constitute an able military Governor. In the hour of danger he inspired the people with confidence by his own calm courage: at other times, he was ready to redress grievances, and to listen patiently to all that was said to him—testifying by his whole conduct how desirous he was of cultivating friendly relations with all—irrespective of creed, race, or nationality. We are not left without proof of his popularity: in the Poet's corner of the *Gazette* we frequently find such lines as the following:

AU GÉNÉRAL GUY CARLETON.

“ En toi, nous admirons la vertu, la sagesse,
La sévère équité, la douceur, la noblesse,
Pour tout dire en un mot, nous admirons en toi
Et le bonheur du peuple, et le bon choix du Roi.”

The British inhabitants, in like manner, manifested the most friendly feelings towards their fellow subjects of French descent. The following paragraph appears in an address of the Protestant Clergy of Quebec, dated 17th November, 1768: “The mild and equal tenor of your Excellency’s administration whilst Lieutenant Governor, so consonant to that liberal spirit and those principles of moderation which ever distinguish the Briton and the Protestant, gives us the strongest reason to flatter ourselves that the harmony which has hitherto subsisted between His Majesty’s old and new subjects in this Province, notwithstanding the difference of their religious opinions, will not only continue without interruption, but even be improved into a cordial and lasting affection towards each other, to the advancement of true religion, establishment of the civil happiness of the subjects of this Province, and uniting all in the same sentiments of loyalty to His Majesty and attachment to his worthy representative.” An expression in the merchants’ address of the same date is equally pleasing: “The arrangements which it may be proper to make in tenderness and justice to the more antient inhabitants of Canada, as we cordially unite with them in interest and affection.”

In looking back on the past it is pleasant to come across instances of kindly feeling, and practical good sense prevailing over national antipathies and dissensions which frequently arise from diversity of opinion in matters of faith and ceremony.

Every effort was made by the Imperial authorities, as well as by all good citizens of British descent, to render

the change of allegiance as little painful to the feelings of the first settlers on the soil as possible. Serious difficulties had of course to be overcome, in consequence of the difference of laws, language and religion; but there were minor difficulties too which had to be dealt with, not the least of which was the heterogeneous circulation of the Colony. In the absence of a colonial coinage, the coins of several nations, Spanish, Portuguese, French and German, circulated simultaneously with the Gold and Silver currency of England, of which considerable sums were imported in ships of war. Importations of Mexican dollars were also made, for we read under "Maritime News, November 1st, 1764, Monday last, arrived here the sloop "Lovey," Captain Skevenink, from New York, with 20,000 dollars for the use of the army." With such a variety of coins in circulation, the authorities felt called upon to take immediate steps to regulate their price, and constitute them legal tender at certain fixed rates. It was therefore enacted, under the administration of General Murray, that from and after the 1st of January, 1765, the following Coins shall pass current at the several rates named:

NAMES OF COINS.	WEIGHING.	CANADA CURRENCY.		
		£	s.	d.
GOLD COINS.				
The Johannes of Portugal.....	18 Dwts. 6 Grs.	4	16	0
Moydore.....	6 " 18 "	1	16	0
Caroline of Germany.....	5 " 17 "	1	10	0
Guinea.....	5 " 4 "	1	8	0
Louis d'or.....	5 " 3 "	1	8	0
Spanish and French Pistole.....	4 " 4 "	1	1	0
SILVER COINS.				
Seville Mexican Pillar Dollar.....	17 " 12 "	0	6	0
French Crown or 6 Liv. piece.....	19 " 4 "	0	6	8
French piece passing at present at 4s. 6d. Halifax.....	15 " 16 "	0	5	6
British shilling.....	.....	0	1	4
Pistereen.....	.....	0	1	2
French nine-penny piece.....	.....	0	1	0
COPPER.				
20 British Coppers, (half-pence I presume).....	.....	0	1	0

And all the higher or lower denominations of the said Gold and Silver coins, to pass current likewise in their due proportions; and from and after the first day of January, 1765, the above species of coins, or any of them, according to the above rates, shall be deemed a legal tender in payment of all debts and contracts that have or shall be made within the Province where there is no special agreement to the contrary, and that in all agreements, prior to, or since the conquest, which have been made in livres, according to the method of computation in use, the livre shall be estimated equal to one shilling of the currency hereby established, the dollar to be equal to six livres or six shillings, and in the same proportion for every Coin herein specified ”

It was held, and held rightly, that in a British Colony the French monetary nomenclature should be changed, and that one more familiar to English ears should be substituted—if possible without creating any serious difficulties, disturbance of accounts, or change in the commitments of merchants. This was accomplished, as we have seen above, by assimilating the livre to a shilling currency of Canada, and constituting the latter like the former an integer or mere money of account—but with a specie basis: the French Crown weighing 13 Dwts. 4 grs. Troy, being 6s. 8d., it follows, the livre or the shilling represents 2 Dwts. 21 grs. Silver; and inasmuch as the guinea, weighing 5 Dwts. 4 grs. is equal to 28s., each shilling or livre represents 4.43 grs. Gold, of the fineness of 22 carats.

The coins specified in the ordinance were received at the Custom House in payment of duties—but the duties imposed being sterling money, the Gold Coins referred to, were received at the value they bore in England, and for no more; while the Silver Coins were received by weight at the rate of five shillings and sixpence sterling per ounce Troy. This ordinance, made on the 14th September, 1764, was followed by another, under the same administration,

dated 15th May, 1765, which provides : 1st, that all merchants' accounts for goods and merchandise, or other things whatsoever, sold and delivered, Agreements, Bills, Promissory Notes, Bonds, Mortgages, or other securities for money, leases, and all interest and rents thereby respectively reserved and made payable, commencing, made and entered into this Province before the first day of January last, shall respectively be paid, certified and discharged in the species and denominations of money in the said ordinance mentioned as shall be in value and proportion to the species or denomination of money of such respective outstanding debts, dues, and demands aforesaid.

2nd. And further, that all original entries and all accounts whatever for goods and merchandise, or other things sold and delivered, agreements, Bills, Promissory Notes, Bonds, Mortgages and other securities for money, leases, and all interests, and rents thereby reserved, to be kept, made, and entered into after the first day of July next, shall be kept, made, and entered into for and in the different rates and value of the currency of this Province, established by the said ordinance, and in no other currency whatsoever : and all and every original entries, accounts, agreements, Bills, Promissory Notes, Bonds, Mortgages and other securities for money, leases, and all interests and rents thereby reserved, kept, made and entered into after the said first day of July next, in any other currency than the said currency by the said ordinance established, contrary to the true meaning hereof, and of the said ordinance, shall not be admitted as evidence in any court of law or equity, but shall be deemed, adjudged and taken, and are hereby declared to be null and void."

The first clause of this ordinance does not appear to have been objectionable ; but the practical working of the second was beset with difficulties, and was consequently repealed under another ordinance made during the administration of Governor Carleton, dated 5th April, 1768, which

is as follows: "Whereas it has been found by experience that a certain clause, in a certain "ordinance" made by the Governor and Council, on the 15th day of May, 1765, does not answer the purpose for which it was intended, but hath occasioned divers difficulties and inconveniences in the recovery of just debts in the Courts of Justice in this Province, and is thereby likely to become the means of much fraud and injustice if it be suffered to continue in force—it is therefore ordained and declared that the second clause above cited of the aforesaid ordinance shall be, from the date of the publication hereof, totally void and of no effect. Provided, nevertheless, that nothing herein contained shall invalidate or in any degree affect any other part of the aforesaid ordinance, excepting the clause above cited."

During the eighteenth century, and well into the nineteenth, silver was principally used in the settlement of balances in all the Colonies of European States. The mines of South America yielded large returns of this precious metal, and a comparatively small proportion of Gold *

* The following is a registered export of Bullion to Spain from the 1st of January, 1754, to 31st December, 1764 :

	GOLD.	SILVER.
From Vera Cruz	\$ 3,151,354.....	\$85,899,307
Lima.....	10,942,846.....	24,868,745
Buenos Ayres	2,142,626.....	10,326,090
Carthagena	10,045,188.....	1,702,174
Honduras.....	37,254.....	677,444
Caraccas.....	50,034.....	267,002
Havannah	656,064.....	2,639,408
St. Domingo }	526.....	317,521
Porto Rico } .....	.....	.....
	\$27,025,892	
Maraciabo		91,564
To other Countries.....		8,652,720
		\$135,441,975
	Gold	27,025,892
		\$162,467,867
Showing an annual export of.....		\$14,769,806

The Spanish dollar, based on careful assays, was found to be equivalent to 4s. 6d. Sterling, so that the above Total would represent £36,103,948 Sterling.

On the 19th of April, 1775, the first blow was struck in Massachusetts in the cause of American independence. The prospects of civil life in Canada were darkened by the shadow of war. In that same year the Province was invaded, and American troops occupied nearly every important place in the Province. The most distinguished Generals of the Continental army were ordered to complete the conquest of Canada by the capture of Quebec. The thrilling and all absorbing subject of interest was the coming conflict under our walls. But it is not my intention to repeat the story of the siege, and to tell how the brave defenders beat back their assailants, and decided the fate of the colony. I have only to state, what is perhaps sufficiently obvious, that, while the wave of war rolled over the country, trade, agriculture, and all the arts of peace were abandoned, and the whole energy of the loyal population was concentrated on their own defence.

It was not till the spring of 1777, when Canada was comparatively free from all apprehension of invasion, that Commercial matters received renewed attention. Importations from England, and Exportions from Canada, were both on the increase. Engagements were entered into with Merchants in Europe, the West Indies, the Upper and Lower parts of the Province—engagements which were frequently broken—therefore in the interest of trade and in furtherance of the ends of justice, it became necessary to establish a basis for a settlement of claims arising out of the non-fulfilment of contracts or engagements: hence we have an ordinance for ascertaining damages on protested Bills of Exchange. This ordinance bears date the 4th March, 1777, and provides that Bills drawn on Europe or the West Indies, are, in case of protest and return, made subject to ten per cent Damages, and Interest at the rate of six per cent. upon the principal sums furnished in the Province, from the day of the date of the Protest to the

time of repayment, which shall be reimbursed to the holder of the Bill, at the par of Exchange—that is to say, one hundred and eleven pounds, and one ninth of a pound currency for every one hundred pounds sterling.

Bills drawn on any colony in the Continent, returned protested, are to be subject to four per cent. damages, and interest at the rate of six per cent per annum to the time of repayment. Bills, orders or notes protested within the Province to bear interest, at the rate of six per cent. per annum till paid. And if drawn on places beyond the Longue Sault on the Ottawa, or beyond Oswegatchie, or below Cape Cat, or the Seven Islands, four per cent damages and interest as provided.

The ordinance concludes with a stringent prohibition against any excess of the legal rate of interest, viz: six per cent. being taken directly or indirectly; and every person who shall—shall forfeit and lose for every such offence treble the value of the money, wares or merchandise—to be recovered by an action in the Common Pleas—a moiety of which forfeiture shall be to His Majesty, and the other moiety to him, her or them, who will sue for the same. We have likewise an ordinance, dated the 29th day of March, 1777, which provides that the following species of Coins shall pass current, throughout this Province, at and after the rates hereinafter mentioned :

NAMES OF COINS.	TROY.		CANADA CURRENCY.		
	Dwts.	Grs.	£	s.	d.
GOLD.					
The Johannes of Portugal.....	18	6	4	0	0
Moidore	6	20	1	10	0
Dubloon or four Pistole piece.....	17	0	3	12	0
The Guinea.....	5	8	1	3	4
Louis d'or	5	3	1	2	6
Paying 2½d. for every grain of Gold short weight.					
SILVER.					
The Spanish dollar.....			0	5	0
British Crown.....			0	5	6
French Crown or piece of 6 livres Tournois.....			0	5	6
French piece of 4 livres 10 sols.....			0	4	2
British Shilling.....			0	1	1
French piece of 24 sols Tournois.....			0	1	1
Pistereen.....			0	1	0
French piece of 36 sols Tournois.....			0	1	8

And all the higher or lower denominations of silver coins shall pass current in their due proportions. And the said species of coins, or any of them at the same rates, shall be deemed a legal tender in payment of all debts whatever. Then follows the clause fixing the penalty for clipping or diminishing the coins, viz : £100 for every offence. This is the Statute of 1777, which is generally supposed to have been the first relating to currency in Canada.

It has to be borne in mind that silver ceased to be a legal tender in England in 1774—that is in sums over twenty-five pounds, excepting at the rate of 5s. 2d. per ounce; although it was not until 1816 that gold was adopted as the sole standard, and silver coins were made tokens only, by

coining the same weight into 66s., which had ever since the year 1666 been coined into 62s *

We have therefore a new money or integer of account, still however with a specie basis, but the shilling which formerly represented, under the ordinance of 1765, 2 dwts. 21 grs. Silver, or 4.43 grs. Gold of the fineness of 22 carats, represents 3 dwts. 12 grs. of Silver, or 5.48 grs. Gold of the above fineness. The term *livre* now ceases, that of *shilling* is perpetuated; and the *Dollar* is established as a fixed standard to which all commercial values are referred.

Judging from contemporary accounts, business in the colony was prosperous at this period of our history; still the notices of Bankruptcy and declarations of dividends, which we meet with in the pages of old *Gazettes*, testify to occasional misfortune among those who were exposed to the vicissitudes of trade in these primitive times—as an illustration: “Mr. Alsopp, begs the favor of the Creditors of Claude Hugnet, dit la Tour, to meet at his house, at 10 o'clock on Saturday morning, the 5th November, (1777,) to bring with them their accompts, proved before a magistrate, in order to receive their dividend, which he believes will be 16s. in the pound. And he adds, rather quaintly, with reference to another, though a minor debtor: “The Gentleman who borrowed of Mr. Alsopp the second volume of Smollet's History of England, last winter, and has forgotten to return it, must be aware that, without it, the rest of the set is of very little value.”

Although the city of Quebec possessed all the honors and advantages to which it was entitled as the capital of Canada, Montreal became, commercially, the most prosperous of the two Cities. Situated at the head of navigation,

* Old Colonial Currency, by S. E. Dawson.

and at the foot of all the channels of communication with the upper country, the lion's share of the growing trade with the West fell to the merchants of Montreal. As their commerce increased, greater financial facilities, than existing arrangements afforded, were called for: in short, they wanted a Bank to enable them to carry on the operations of trade conveniently and successfully. It is not therefore surprising to find that merchants in Montreal took the initiative in proposing to establish the business of Banking in the Colony. On the 18th of October, 1792, a circular on the subject appeared in the columns of the *Official Gazette*. As it refers to the currency of the country, I take leave to quote from it. No other document that I have come across in the annals of the times, conveys a more correct account of the state of the circulation.

“The undersigned, having experienced great inconvenience in Canada from the deficiency of specie or some other medium to represent the increasing circulation of the Country, as well as from the variety of the money now current, and knowing the frequent loss and general difficulty attending receipts and payments, have formed the resolution of establishing a Bank at Montreal, under the name of the “Canada Banking Company.”

“The business proposed by the Company, and usually done by similar establishments, is :

To receive deposits in cash.

To issue notes in exchange for such deposits.

To discount Bills and notes of hand.

To facilitate business by keeping Cash accounts with those who choose to employ the medium of the Bank in their receipts and payments.”

“ It is proposed to extend the operations of the Bank to every part of the two Provinces where an agent may be

judged necessary; and it is presumed that the Institution will be particularly beneficial to the commerce of and intercourse with the Upper Province."

The circular was signed by: Phyn, Ellice & Inglis; Todd, McGill & Co.; and Forsyth, Richardson & Co. The population of all Canada numbered then about 200,000 souls; and doubtless, not only Merchants engaged in extensive trade, but the people generally were suffering inconvenience from an insufficiency of currency to carry on the daily transactions of common life. If the firms referred to had succeeded in realizing their intentions, much benefit would unquestionably have accrued to the Province from a monetary institution, under the control of men of such a high standard of personal honor; but they succeeded in forming a private Bank only—chiefly of Deposit, not of Issue. The unsettled state of Europe, political apprehensions, combined with the actual obstructions of war, no doubt prevented the establishment of a regular Bank of Issue and Deposit. The scheme in its integrity appears to have been abandoned, and the field for circulation was left open to future enterprise, fortunately perhaps—for at a critical period in our history, later on, Government found themselves in a position to supply a trustworthy substitute for a metallic Currency, by the aid of which, our forces were kept in the field, and our gun-boats on the Lakes, to repel invasion, and save the colony a second time from the fangs of the neighboring Republic.

In the thirty-first year of the reign of King George the Third (1791,) all Canada, (then called the Province of Quebec,) was divided into two Provinces, with the designations of Upper and Lower Canada—thenceforth, with a short interruption, to enjoy the privileges and advantages of constitutional Government. Each Province had a Legislative Council, that of Upper Canada consisting of seven mem^l

bers, that of Lower Canada of fifteen. These members were not elective, but were summoned to the Council, as our Dominion Senators are now, by the Chief Magistrate, to serve for life. The popular Branch, the elective Assembly for the Upper Province, consisted of sixteen members, that of the Lower of fifty. The King's Honourable Executive Council for the Lower Province was composed of nine members—the Executive Council of Upper Canada consisting of seven.

We now leave the smooth waters of Government by a Governor and Council of State, to steer our course as best we may among the broken seas of party politics.

In December, 1791, there are signs of an approaching election in Lower Canada. Committees meet to confer and arrange for the return of rival candidates; addresses appear in the *Gazette* of May, 1792; writs of election issue on the 24th, returnable on the 10th of July; and Parliament is called together for the actual transaction of public affairs, or as it is termed, in official parlance, "for the despatch of business," on the 17th December, 1792.

"But the first Parliament in Canada was held in Upper Canada—at the capital Newark, now Niagara. It assembled on the 17th September, 1792, in a marquee tent—one remove in the scale of ascending civilization from the aboriginal Council lodge. Parliament was opened by General Simcoe, the first Lieutenant-Governor under the constitution. His residence at the capital was a log building, of some pretensions among log dwellings. There he entertained, in 1793, His Royal Highness the Duke of Kent, father of our beloved Queen. It is recorded that if the lodging was indifferent, the fare was good, consisting of game and all the dainties the wilderness, rivers and lakes could produce."

“His Royal Highness had been conveyed to Niagara in the King’s schooner “Mohawk,” commanded by Commodore Bouchette,”—the grandfather of our esteemed Vice-President, Mr. R. S. M. Bouchette. “On landing, as soon as horses with saddles and bridles could be mustered, the Royal party wended their way by the river road, recently opened by the troops. The road to the cataract was an Indian path through the woods; and an Indian ladder, which consists of a succession of pine trees with the branches lopped short as a foot hold, led down for 160 feet, to the foot of the Fall. Down this hazardous descent, in despite of all expostulation, His Royal Highness resolved to venture, and, with the nerve and physical strength of his race, accomplished it successfully—returned with a capital appetite, and in a log hut, on the quivering brink of the abyss, with the flush of exhilarating exercise on his cheek, and the perfume of the pine branches on his hands and garments, partook of the rude cheer of the forest, in full front of the Falls, within sight and sound of the grandest spectacle that ever greeted Royal eye.”*

Parliament assembled in Lower Canada, three months later, in the Bishop’s Chapel, which stood upon the site of the central part of the present Parliament House. No doubt His Royal Highness, who was then in Quebec, attended the opening of the House; for he took a warm interest in the fate of our nascent Constitution. He was present at a rather animated election at Charlebourg. In his speech on the occasion he says: “Is there a man among you who does not look upon the new Constitution as the best possible one, both for the subject and the Government.”

In the absence of Lord Dorchester, General Clark opened the Parliament of the Lower Province on the appointed

* Colonel Coffin—“The war of 1812 and its moral.”

day; and on the 20th December he approved of the choice the Assembly had made of a Speaker.

The proceedings of the first session were unimportant as regards commerce. An Act was passed to allow of the importation of wampum from the neighbouring States—the only Act relating to trade. More important business however was despatched during the second session of Parliament, which commenced on the 11th November, 1793. An Act was then passed to facilitate the negotiation of Promissory Notes, the provisions of which are yet in force. They refer to the transfer by endorsement; to the liability of the maker, without protest, in the event of non-payment at maturity; to due diligence, and the needful notice and service of protest, in case of non-payment, in order to hold an Endorser—a measure which was called for in the interest of trade and commerce.

The prosperity of the Colony during the last years of the century was chequered by several indifferent harvests. In 1795 there was a general failure of the crops throughout the Provinces. Lord Dorchester was then induced to wholly prohibit the exportation of all kinds of grain, flour, &c. a measure which although it received the subsequent sanction of the Legislature, was as little based on principles of justice, as the decree of the Intendant, under the old Régime, limiting the price of produce on the market-place. In the case of the late famine in India, many advocated a similar policy in regard to the exportion of rice; but that policy was successfully opposed as unsound in principle, and an unjustifiable interference with the liberty of trade, and the liberty of the subject.

Meanwhile there had been little change, little improvement, and scarcely any augmentation to the circulating medium of the Colony—the scarcity of which gave rise to a system of barter, styled store-pay, prejudicial alike to the

interests of the labouring classes and the agriculturists. The currency question continued to be discussed, but with little practical advantage to the public. The silver coins of all nations, and some gold, continued to circulate as formerly; but the gold coins, whenever they could be procured, were secured for shipment abroad in the settlement of debts. The efflux of gold did not proceed from any variation in the volume or value, as between the precious metals Gold and Silver; for the relation of the two had not been disturbed by any extraordinary production of either for at least a century past, but had remained stationary since the year 1717.* It was the defaced, diminished condition of the Silver coins in circulation which rendered them useless as a remittance abroad—excepting as bullion at the rate of 5s. 2d. per ounce of Standard fineness: still in the ordinary transactions of daily life, they passed current at a nominal value far an excess of their intrinsic worth. “The general law that, inferior coins will, if allowed to pass concurrently with the superior, entirely usurp their places,” was practically verified in Canada at this period of her history.

During the session of 1795, there were serious debates in both Houses of Parliament on the unsatisfactory state of the Currency, and after protracted discussion, the ordinance of 1777, fixing the value of certain coins, was repealed, and the following statute was passed, viz: “An Act to prevent the diminution of the specie circulating in this Province, that the same may be regulated according to a standard that shall not present an advantage by carrying it to neighbour-

* In 1344 1 lb. weight of Gold was equal to.....	12.475	Silver.
1509	do	.....11.400 do
1600	do	.....11.100 do
1717	do	.....15.209 do
1816	do	.....15.209 do
1863	do	.....15.069 do

ing countries ; and whereas, by the ordinance now in force for regulating the currency of this Province, an advantage does arise by carrying Gold coin out of the same, be it therefore enacted that the Gold and Silver coins hereafter mentioned shall pass current and be deemed a legal tender in payment of all debts and demands whatsoever in this Province at the weights and rates following, that is to say :

The British guinea	5 Dwts. 6 grs.....	£1 3s. 4d.
The Johannes of Portugal.....	18 "	4 0 0
The Moidore of Portugal.....	6 " 18 "	1 10 0
The Four Pistole Piece of Spain, weighing.....	17 "	3 14 0
The French Louis d'or coined before 1793, Weighing 5 " 4 "	5 " 4 "	0 18 0
The American Eagle.	11 " 6 "	2 10 0

and so in proportion for each denomination higher or lower of those moneys. Every grain above and every grain below the weight shall be allowed for at the rate of 2½d. currency. After the 1st of June, 1797, payments above £50 shall be made in Gold coins ; the gold may be weighed in bulk—that is to say, the Gold coins of Great Britain, Portugal and America together, which shall be current at the rate of 89s. currency per ounce Troy : those of Spain and of France shall be weighed together, and shall pass current at the rate of 87s. per ounce Troy ; and there shall be a reduction of two-thirds of a grain on every piece so weighed in bulk, as compensation for the loss which would result from payments in tale."

"With regard to silver, the American dollar shall pass current at five shillings currency, and every other coin current in the Province as already provided for." A similar Act was passed by the Parliament of Upper Canada, on the 3rd June, 1796.

According to the foregoing statute, the guinea mentioned in the ordinance of 1777, weighing 5 Dwts. 8 grains, and worth £1. 3s. 4d., is now, in consequence of a guinea weighing 5 Dwts. 6 grs. being worth the same sum, raised in price

to the extent of $4\frac{1}{2}$ d. cy. on each, an increase of 1.60 per cent, for the pieces in detail ; but when received in bulk, the statute provides that in every payment exceeding £50 cy. made after the 1st of June, 1797, when one of the contracting parties making or receiving the same shall require it, such gold shall be by weight in bulk, and not in single pieces ; that is to say, the gold coin of Great Britain, Portugal and America shall be weighed together, and that of Spain and France together, from the weight of which a deduction shall be made of $\frac{2}{3}$ rds. of a grain Troy for each piece of Gold coin so weighed, as compensation that may accrue by paying away the same in detail. And in all payments so made, the Gold coin of Great Britain, Portugal and America shall be computed at 89s. per ounce Troy, and that of Spain and France at 87s. cy. per ounce Troy therein contained after such deduction made, and so on in proportion for a greater or lesser quantity : so that in receiving, say 89 guineas, weighed as per standard 2^{lb} Troy, or 11,520 grs. Troy, there would fall to be deducted 89 two-thirds of a grain, or $59\frac{1}{3}$ grs., say 60 grs., leaving 11,460 grains to be paid for, at the rate of 89s. cy. per ounce Troy, which would give net proceeds 177 shillings and 1 penny for two ounces of Gold, reducing it by the tare to 88s. $6\frac{1}{2}$ d. an ounce. Now the price of Standard Gold was then and still is £3. 17s. $10\frac{1}{2}$ d. stg., and that amount at the par of Queen Anne, viz. : by the addition of one-ninth for conversion into currency would give only 86s. 6d., being a difference of 2s. $0\frac{1}{2}$ d. or $2\frac{1}{3}$ d. per cent premium—disturbing the old par of Queen Anne, and establishing a new par, viz. : the ninth and $2\frac{1}{3}$ per cent premium or addition.

The case may also be stated thus :

89 guineas represent 2^{lb} Troy of Gold, or 11,520 grs. Troy, which, at 89s. per ounce, would give £106 16s. currency, making a difference of £2 19s. 4d. cy., equal to $2\frac{1}{3}$ premium, or that addition to the ninth ; but the statutory

deduction of $\frac{3}{4}$ ds. of a grain on each piece when paid or weighed in bulk, would entail a deduction of $59\frac{1}{4}$ grains, or say 60 grs. leaving 11,460 grs., or 11 oz. 18 Dwts. and 12 grs. at 89s. per ounce, which gives £106 4s. 10d. cy., or £2. 8s. 2d. cy., above the old par of Queen Anne, equal to $2\frac{1}{4}$ d. p. c.; consequently the currency, or which is the same in effect, the integer of account of Canada has been debased to that extent; and to arrive at true par we must add, not only the ninth, but $2\frac{1}{4}$ d. per cent. besides. The eagle weighing 11 Dwts. 6 grs. Troy, full weight, which it seldom is, is to be taken in detail at 50.06. shillings currency, and in bulk at 49.92—a scarcely appreciable difference, yet enough to effect, large transactions. It has to be borne in mind that the eagle of 1837, weighs only 10 Dwts. 18 grs., and contains 232 grs. fine Gold, while the eagle we are discussing weighs 11 Dwts. 6 grs. and contains $247\frac{1}{2}$ grs. of fine Gold. The par of the first being $2\frac{2}{3}$ besides the ninth, the old par of Queen Anne, or \$4.57 to the £ stg.; the par of the last $9\frac{3}{8}$ th in addition to the old par of Queen Anne, or \$4.87. to the £ stg.

Then the Gold doubloon or 4 pistole piece of Spain is by this Statute increased nominally to the extent of 2.80 per cent., and the price per ounce fixed at 87s. being the relative rate; but the French Louis d'or, which by the ordinance of 1777, was fixed at £1. 2s. 6d. for 5 Dwts. 3 grs., is now required to contain 5 Dwts. 4 grs., or suffer a deduction or discount of $\frac{1}{3}$ per cent; so that in this single instance a little less silver is required to exchange for a Louis d'or. The French pistole piece 4 Dwts. 4 grs. is correctly rated at 18s. currency.

In 1808, another currency act was passed, slightly differing from the one I have cited. The doubloon is fixed at £3. 14s. 6d. instead of £3. 14s. and the French pistole piece at 18s. 3d. instead of 18s. There is also a change in

the price to be paid or received in case of over or short weight, and also in respect of the amount to be weighed in bulk; and the price of the Spanish and French Gold is increased by the addition of $8\frac{1}{2}$ d. an ounce. French or Spanish Gold was only 21 carats fine—hence the lower value as compared with British and Portugese Gold. The clauses I allude to are as follows :

“(1.) British, Portugal or American Gold coins weighing more than the standard aforesaid, when weighed by single piece, there shall be allowed and added in all payments $2\frac{1}{4}$ d. currency for every grain; and for every grain which any piece of the same shall respectively weigh less than the standard aforesaid, there shall be allowed and deducted in all payments $2\frac{1}{4}$ d. currency—and for every grain which any piece of the aforesaid Spanish or French Gold coins shall respectively weigh more than the standard aforesaid, when weighed by the single piece, there shall be allowed and added in all payments $2\frac{1}{3}$ th of a penny currency; and for every grain which weighs less than the standard there shall be allowed and deducted in all payments $2\frac{1}{3}$ th of a penny currency.”

“(2.) Gold coins above £20 may be weighed in bulk—the Gold coin of Great Britain, Portugal and America together; and that of Spain and France together, and the Gold coin of Great Britain, Portugal and America shall be computed at the rate of 89s. currency per ounce Troy, and that of Spain and France at the rate of 87s. $8\frac{1}{2}$ d. per ounce—a deduction shall be made of one half of a grain Troy for each piece of Gold coin so weighed as a compensation to receiver or receivers for the loss that may accrue in afterwards paying away the same by single pieces, which shall be computed respectively at the rates aforesaid—repealing the Act of 1777 and that of 1796 ”

Tedious details all these may seem to some—details relating to events which should be relegated to the catacombs of history; for no sensible man should care either how they happened, or whether indeed they happened at all or not. Yet they are important cogs in the machinery of human life, and we claim for them a place, however humble, in the page of history. The influence exerted on the prosperity of nations by the character of their currency is perhaps a branch of study which has received less attention than it deserves. The minds of historians have been too much engrossed by the stirring drama of war and diplomacy, of politics and court intrigues, to give themselves to the dry and obscure study of such subjects as those which we are now discussing. “In the whole of the international policy of a State,” writes our late President, Mr. Stuart, “there is none which calls for more vigilant, unremitting attention on the part of the first executive magistrate and the Council of State, &c.”

Closely related to the subject of Currency, is the business of Banking. All hope of success in establishing a Bank in the Colony had not been abandoned. On the 4th of March, 1807, an advertisement appeared in the *Gazette*, requesting the attendance of the inhabitants of Quebec, at the Union Hotel, on Friday, the 6th, at one o'clock, P.M., to consult on the proper measures to be taken for the establishment of a Bank of issue in the Province. Nothing practical however resulted from the meeting.

In February, 1808, a petition of divers inhabitants of the Cities of Quebec and Montreal, praying to be erected into a body corporate, under the title of the “Canada Bank,” was presented to Parliament—received and referred to a special committee; and on March 4th, the Bill was introduced. Objections, however, were urged against the measure by many members—objections which, estimated by

the standard of to-day, appear rather strange. It was held that the people were illiterate and liable to be imposed upon; that if the Bill passed it would encourage a spirit of gambling and speculation founded on false capital; and that, as soon as the Bank should be established, all the specie in the Province would disappear. On the other hand, it was argued that the inconvenience apprehended from the illiteracy of the people would be guarded against by suitable devices on the Bank Notes, by which the relative value of each note might be known; that forgeries would be prevented by due precaution being exercised in stamping the Note paper, and by the skilful engraving of the plates. It was further argued, oddly enough too, that the crime of forgery had become common in the United States, because in that Country it was punishable by imprisonment only; whereas, under the Criminal Code of Canada, it was death to counterfeit any note or coin. Then, as to the creation of false capital, it was maintained that all credit may be considered fictitious capital; but though some may abuse the advantages derived therefrom, it should not for that reason be held as sound that no credit whatever should be given.

The Bill provided that the stock of the Bank should be limited to £250,000 cy.—the shares to be of £25 each. And with regard to the administration of its affairs—twenty-four Directors are to be elected from among the shareholders, who again are to choose from among themselves a President and Vice-President—half of the number of the Directors to attend to the affairs of the Bank, at Quebec, and half for the same duty in Montreal, at which cities the two principal offices are to be established. But the Bill was thrown out; and although, in the figurative language of the day, “the spirit of Banking was hovering over them,” it was not till ten years later that the Merchants of Montreal and Quebec took up the subject again, and formed them

selves into separate associations for carrying on the business of Banking, under the respective styles of “The Montreal Bank” and “The Quebec Bank”—both of which Institutions are still in existence.

Meanwhile, there was scarcely any improvement in the character of the circulation. Importations of specie were made from time to time from England, by the Military authorities, for the use of the army; and some British coins were brought in by immigrants: these were of course regarded, and preferred, as the most desirable currency the country could have.

At the North-East corner of this building, there is deposited in the foundation stone, a casket containing the following pieces of Gold, Silver and Copper Coins of Great Britain :

One Guinea.....	of the year	1793
One half Guinea.....	“	1804
One third Guinea.....	“	1806
One quarter Guinea.....	“	1762
One silver piece of five shillings.....	“	1804
“ one shilling	“	1787
“ one sixpence.....	“	1787
“ one penny.....	“	1800
“ an Irish fivepence.....	“	1805
One copper, British half-penny.....	“	1800
One “ Irish “	“	1805

Where I presume they still remain—to beguile the future Historian or Antiquary, centuries hence, into the belief that such were the coins current in Canada at the time the stone was laid—the 17th of June, 1809.

And now I think I cannot ask you to listen any longer. On some future day, with your leave, I will proceed with my subject. We have now reached the most interesting part of our financial history—that which is related to the war

of 1812, when our Militia and our Monetary resources were taxed to the utmost. I shall leave it to others to deal with the incidents of war. It will be my endeavour to show how the exigencies of the army were provided for, under circumstances peculiarly trying, by the establishment of a temporary Government Bank of Issue—which all our historians have referred to, but which few, if any, have fully described or traced in its operations from its commencement to its close on the return of peace.