

our jurisprudence is unacquainted with a great number of fundamental principles, which lie at the foundation of all law, and with much historical knowledge, which is of the utmost practical importance to our Anglo-Saxon common law, as the only pure Germanic law in existence.

"The fact that Mr. Field has not profited by these works is apparent, without an inspection of the Code, from the fact that he has not considered it necessary to make in it any material alterations, in the last twenty years, during which time most important advances have been made in the knowledge of law; and a slight inspection of the work shows mistakes which no recent graduate of a German university could make.—But this was inevitable, because the Commissioners undertook a task, which no one can at present expect to perform properly.

"We have no standard work, since the days of Kent, which attempts to give a systematic view of our whole law; we have no history of the English Law since that of Reeves, published in the early part of this century, and whose latest edition by Finlason gives the idea that our Common Law is derived from that of Rome; we have single treatises on different legal institutions, but they are uncertain in their terminology, inharmonious in their systems, contradictory in their definitions and theories.

"In the science of jurisprudence, we are as far behind the Germans as we were in philology and history before we knew of the works of the brothers Grimm, and of Niebuhr and Momsen; but we have begun to profit by their labors, and the works of Sir Henry Maine and Sheldon Amos, in England, and of O. W. Holmes, Jr., Mr. Bigelow, and of the authors of Essays on Anglo-Saxon Law, and others in this country, give promise of a great race of scientific jurists.

"No country will derive so much benefit from these studies as one enjoying the common law, because, as above stated, these are the only countries at present which have a natural law; when once this law is properly studied and understood, the statement of the great body of its principles, in comprehensive statutes, will become a matter of course and can easily be done.—But if we undertake to do it now, if we have not sufficient patience to make the necessary preparation, we only follow the example of the ancient Egyptians, who, while their painting was in its infancy, fixed by law the rules of

color and perspective, and thereby checked all further growth of the art.—It would be even more inexcusable in us, because we have just beyond our borders a race of more learned jurists, whose works need only to be inspected to be appreciated.—This superiority of German jurisprudence in matters of theory casts no slur upon our own jurists, because the immense growth of our material interests has demanded the attention of all our lawyers to purely practical matters, in extending the application of old principles to the continually increasing number of new forms of business.

"If we compare the development of our law with that of Rome, we find that the two systems have grown in a similar manner. During the republic, and under the first emperors, and while the nation was still expanding, all the energies of the Roman lawyers were directed to practical questions, and the law was built up by decisions of particular cases, in the same way as the Common Law has grown hitherto. When their civilisation had reached its full development, then arose the great race of theoretical jurists, who reduced to order and explained the great mass of case law; and it was only after these had done their work that the legislator stepped in and enacted the principles, which the jurists had discovered and stated.

"If Augustus, or one of the early emperors, had codified their law, Roman Law would not have deserved, and would not have received, the attention of posterity; the great merit of the Roman Law being, that it is a natural product of one people, with which no legislator interfered before its perfection.

"The analogy of the Roman Law is therefore directly against a codification of our law at present; the absence of theoretical jurists, together with many analogies in the development of various branches of the two legal systems, such as the recent union of strict law and equity, point to the fact that we are now at about the same stage as were the Romans towards the end of the Republic. The scientific treatment of our law may, however, be expected to be more rapid than that of Rome, because we can use their law as an example, and because the German jurists have already done so much of the work for us.

"In jurisprudence, as in art or any human science, every age is not capable of producing