

*la théorie philosophique. Quel est l'homme, si familier qu'il soit avec l'application des lois, qui ne se sente hésitant et perplexe devant les nombreuses questions que la prescription fait surgir à chaque instant dans les tribunaux? Quel est surtout l'esprit sérieux qui ne s'est pas demandé avec sollicitude si la légitimité de droit accompagne le moyen de dénaturer les obligations les plus solennelles, d'échapper à leur empire et d'acquérir le bien d'autrui? La prescription n'est-elle pas la destruction de tous les liens qui unissent les hommes, et une violation de la sainteté du droit? Ou bien doit-on applaudir à la sagesse du législateur qui a vu en elle un remède efficace contre la négligence des citoyens et même une sanction donnée à l'amour de la propriété, en forçant le sentiment à se réaliser par l'activité et la vigilance et en le retrempant aux sources nouvelles du travail et de la possession, quant il se perd dans les mains oubliées."* A little, we repeat, of the legislative wisdom here expressed—a little of M. Troplong's sobriety and earnestness—might have been most advantageously displayed in abolishing the ancient jurisprudence of the country, in reference to a subject of such moment, and in re-enacting Lord Tenterden's amendment. But we must proceed to the matter more immediately under consideration. We shall, notwithstanding the doubts already expressed, assume, for the purposes of discussion, as we mentioned in a previous number, that certain portions of the old English Statute of Limitations are law in Lower Canada since the passing of our Amending Act, 8 Vic. Cap. 31, and endeavour to point out some of the defects, and legislative barbarisms of a more practical character, likely to embarrass the operation of our Provincial Act.

When we examine this important Statute, with a view to settling some safe and uniform rules to guide us in its application, should such be deemed by any means possible, we should bear distinctly in mind what the old Statute, 21 Jac. I., Cap. 16, enacts—what change it has undergone in going through the hands of our lawgivers, if change at all—and what are the clear and express provisions of our amending enactment. We must remember that the Imperial Act is a general law, providing *inter alia* "that all actions of account, and upon the case, *other than such accounts as concern the trade of merchandize between merchant and merchant, their factors or servants*, all actions of debt, grounded upon any lending or contract, *without specialty*, and all actions of debts for arrearages of rent, should be commenced within three years after the then present session of Parliament, *or within six years next after the cause of such actions or suits, and not after.*" Such is the law, and so it is recited in our Act. Now, what alteration has this clause undergone by the express or implied provisions of our amending statute? or has it undergone any change whatever? It might be argued, with much plausibility, that this is the enactment which our statute, if declaratory, has affirmed—if introductory, has introduced—