

ber had no reason to complain or think that the Committee had not gone thoroughly into the examination of the statements of law made by the codifiers, as by the law regulating their own proceedings they were obliged to do. They were appointed to codify the laws of Lower Canada as correctly as possible, while being authorized to suggest any amendments to the existing law; and were told to distinguish any suggestion of their own from the actual laws they were appointed to codify. He had introduced the bill for this purpose in 1857, and he knew how responsible was the work thrown upon the codifiers. They were obliged to report the progress of their work from time to time to His Excellency the Governor General and send to him partial reports of what they had done in codification. Then, the Governor General had to send these reports to the Judges, in order that they should have the opportunity of giving their opinion upon the work of the commission. The object was to investigate the state of the law, ascertain what it was, and find out if any errors had been committed in regard to the work of codification. It was his duty to read the various reports of the work as forwarded to His Excellency, and had never found such an error in their statements of the law as to require a notification to him that the law was not being correctly set forth. [Hear, hear.] When the hon. member for Hochelaga and Hon. Judge Sicotte were in the Government they had the opportunity of examining some of the reports of the codifiers, and must have ascertained any errors made in reporting to His Excellency what was the common law of the land. He [Mr. Cartier] however, had never found that either of them had ever reported the occurrence of mistakes in the work of the codifiers during the period in question. Well, since he had resigned office he had had to consider the whole code of Lower Canada, and must state, to the honor of the codifiers, that it was extraordinary that three men should have displayed in such a laborious and responsible work, such an amount of steady labor, diligence and accuracy in reporting the law of the country. No one could suppose that the 24 judges of Lower Canada, to whom the partial reports of the codifiers were submitted, could have ignored their contents. This code, moreover, had been as commonly quoted during the last two or three years as any other portion of the law of the land. This code had been used and applied as fast as it came out of the hands of the codifiers. In regard to the charge of precipitancy and incorrect statement of the law, the Act of 1857, which authorized the codification, did not throw on the committee the task of sifting every portion of the reports of the commissioners. That would have been impossible. Would members not be more ready to accept the statements of the codifiers as to what was the actual law of this country—of men who had been studying the matter four or five years—than the statements of three or four Committees of the House, during three or four successive sessions. Hasty legislation was peculiar to all legislatures like ours. In England, however, they appointed trust-

worthy men commissioners for such work, whose report was acceptable. Now, by our statute, it was designed that the responsibility for the accuracy of the law should not depend on this House, or on a committee, but upon the codifiers. They were not commissioned to make law for the whole country; and the committee had to consider every suggested amendment from those gentlemen. Those amendments were very few. In answer to an objection of the hon. member for Hochelaga, he would say that we had two distinct modes of transferring property, one by a memorandum in writing. But what did the codifiers do in regard to the transference of property? They adopted the rule which now prevailed in France after an experience of 50 years of the Code Napoleon, and had merely extended the principle of the act which existed in Lower Canada, as to any sale when one had a memorandum in writing. With regard to commercial transactions, they had extended the law so as to apply to sales of a civil and commercial character.

Mr. DUNKIN thought it would be admitted the commissioners had gone a little beyond that.

Hon. Mr. CARTIER thought it would be admitted that in the committee some gentlemen pretended that the article of the Code in regard to sales speaking in regard to *entre les parties contractant* did not effect the *partis tiers*. He [Mr. C.] wished to prove that in adopting this principle, the codifiers, took what prevailed in Great Britain, France, and some parts of Canada, as to commercial transactions when there was a memorandum in writing. We ought to be grateful to them for having discovered and considered the conflicting rules which prevailed on this subject in Lower Canada, as well as in other countries with which we had most commercial intercourse. [The hon. gentleman went on to prove that the law of France, with regard to the sale of real estate, was just what the commissioners had recommended.]

Mr. DUNKIN said that what he contended was that the codifiers had gone a little too far in order to make the law consistent and clear.

Hon. Mr. CARTIER proceeded to quote from Imperial Statutes 19th and 20th Vic., and the law of Scotland in respect to the tradition of property sold, and argued that these laws were passed to render sales perfect by mere consent. By another Imperial statute the law in different parts of Great Britain was made uniform as to that rule. Therefore, the codifiers, in having adopted that rule, had done well, and it ought not to be disturbed. [Hear, hear.] He would proceed to notice the objection of the member for Hochelaga respecting the tradition in regard to real estate. He was under the impression that, by the amendment suggested by the commissioners there would be a conflicting rule in regard to the tradition of real estate and the tradition of mining rights or lands. There was no such thing in the amendment. The commissioners adopted a proper rule as to the sale of real estate, that the purchaser who obtained registration of the title was the one to be preferred. The member for Hochelaga had quoted the