

Elémentaire du Droit Romain, Vol I., p. 20.), "an unknown epoch, but which may be placed from the 9th to the 11th Century."

Now, our law of distribution, as shown by the Statute, is just about the state and degree of the law as laid down by Theodosius—neither better nor worse. In proof of this assertion, we will select one great and salient point of our own law—the right of paternal succession. In this point we are at the stage which Theodosius reached in advance of Pagan law, which Justinian outstripped, and which the French Code has finally put upon a just and satisfactory footing.

Under the second system of Roman law, before mentioned by us, the Roman father had the right to the peculium of his son, to the exclusion of that son's children, if he had any. Ulpian says, "*Si filius familias miles decesserit, siquidem intestatus, bona ejus non quasi hæreditas sed quasi peculium patri deferuntur.*" This harsh principle, though softened by the first Christian emperor, remained substantially the same until Justinian, by his 118th Novell, made the father no more than a joint heir with the intestate's mother, brothers and sisters. In these two contrasted laws we have modes of succession, not merely discrepant, but diametrically opposed in their principles. In the one, the father is all; in the other, he is one amongst many. In the one, we have traces of a hard and artificial social system; in the other, we have nature and equity. But, strangely enough, it is in the early and cramped system that we find the prototype of our own existing rule of paternal succession. And this, while it is a proof amongst others of the source of our law of distribution, is the greatest and most condemnable instance of its insufficiency and want of adaptation to modern times. While other nations have voluntarily brought themselves within the principles of the Novells, we have, with rigid obstinacy, kept outside, hugging ourselves the while upon a peculiarity of law which the rest of Europe has been ashamed of for nearly eight hundred years—the old Roman *patria potestas*. Under that power, the Roman father had a right to his son's purse, because he had a right to his son's person; but the British father, who claims no right to the one, enjoys the other with a total disregard to logic in an unmodified plenitude. Though this is the real and historical