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ARTICLES OF OUR POLITICAL FAITH.

ONE CODE OF COMMON LAW AND PROCEDURE.

"I know that it is the prevailing opinion here that the best we can do with respect to Canada is to make it a French colony, to keep the English as far away from it as possible, and to hinder them from mixing with the Canadians. This country, they tell us, has a religion which is agreeable to it, laws which suit it; let it be governed as it was before it belonged to us. Is this system workable in these days of ours? I do not presume to decide; but in my humble opinion, if it is practicable, it is not good policy. If the Canadians derive no advantages (and I believe for my part that they do) by passing out of the *regime* of the French laws under that of the English laws, with their French inclinations, their French laws, with their French religion, in a word, having nothing about them but what is French, with the exception of the British subject placed over them;—will not the Canadians, I ask, end by one day rejecting the only portion of their government which is not French."—*Mr. Townshend, in British House of Commons, on Government of Quebec Act, 1774.*

"I must here note the mischievous results prominently exhibited in the provision which the Government of Lower Canada makes for the first want of a people, the efficient administration of justice. The law of the province and the administration of justice are, in fact, a patchwork of the results of the interference at different times of different legislative powers, each proceeding on utterly different and generally incomplete views, and each utterly regardless of the other. The law itself is a mass of incoherent and conflicting laws, part French and part English, and with the line between each very confusedly drawn." And is this French Canadian nationality one which, for the good merely of the people, we ought to strive to perpetuate, even if it were possible? I know of no national distinctions marking and continuing a more hopeless inferiority. The language, the laws, the character of the North American continent are English; and every race but the English (I apply this to all who speak the English language) appears there in a condition of inferiority. It is to elevate them from that inferiority that I desire to give to the Canadians our English character."—*Report from Earl of Durham, H. M. Commissioner, 1839.*

"I do not think there was anything in the old French institutions, or in the habits of the French (Canadian) people, which at all deserved to be retained, or that the government should take means to preserve. I think that the policy should rather have been to give the greatest power to the emigrants from this country, to have amalgamated the institutions of the two provinces, and to have brought them as near as possible to those of England."—*Lord John Russell in British House of Commons in 1839, referring to the Canadian Constitutional Act of 1791.*

In our article in the November number of the ANGLO-SAXON, "One Language," we pointed out the inconveniences, even hardships, suffered by the British majority in permitting the use of the French language as an official medium of

communication. We showed how its extinction was but a matter of time, provided our statesmen act as such, and not as temporizers who shrink from bold action for fear of losing a few sheep from out of the party fold. Pitt and Grenville acted unwisely in framing and passing the Quebec Government Act, as we shall see further on,—but they did so under pressure of circumstances which will not occur again. In the present article we shall present a few facts and arguments in favour of one code of common law. An assimilation of the laws of the Dominion being most desirable; not of such vital importance as the use of but one language and that the English, throughout Canada, but still an object to be always kept in view, and the accomplishment of which must eventually be effected if we would become a strong community.

We have all observed, and many of us have felt, some of the embarrassments which arise from the existing conflict of laws between the various provinces of the Dominion, and between Canada and the United States; and we are all satisfied that much trouble might be saved to individuals, to courts and to governments, by the adoption of a code of what is called private international law—preparatory to the assimilation of the laws of all English speaking peoples and the tributary nations and dependencies of the British empire.

Big-hearted and wide-loving politicians, and these by no means dreamers or would be dwellers in Utopia, or vulgar communists or bloody anarchists, have in all ages been men and felt for all mankind, and have desired all men to feel for them in turn, and have prayed that the world should become one big industrious, peaceful hive:—

"The bees have common cities of their own,
And common sort; beneath one law they live,
And with one common stock their traffic drive."

—*Virgil, by Dryden.*

It has been written by the Rev. Mr. Cooper:—

"Law, in its present state, like orthodoxy in religion, is a mystery where reason ends and faith begins. None of the initiated can enter even the vestibule of the temple. Law ought not to be a branch merely, but the chief branch of social ethics. Society knows nothing about it but by means of the lawyer. A digested code of plain, undeniable legal principles, founded on the morality of common sense, applied to every day's transactions, might render the whole community wiser, better, more prudent, more cautious, and less litigious. Men would be better able to judge when they ought, and when they ought not, to go to law. They would be better jurors, better arbitrators, wiser and better citizens."

It is all very right and proper for a parson to attempt to sweep away the Devil's own i.e. lawyers; but if every community did as Mr. Cooper suggests would the lawyers be fewer in number, less rapacious, or less fee-rocious. We think not, he might kill them off in the various nations or communities so long as the latter remained isolated and had no intercourse with their neighbours, but so soon as they came together lawyers would be required to decide private disputes between the citizens of the two or more nations associating together. For even if all the states in the world rigidly followed out Mr. Cooper's programme the results would differ, the laws would differ. Judge Story says:—

"Laws should be so proper to the people for whom they were made that it is a great chance where the laws of one country are suitable to another. They must also be relative to the physical circumstances of the country, its climate, the quality of the soil, its situation, its extent, and the mode of life and subsistence of the people. They must have reference to the degree of liberty which the constitution of the country can allow, the religion of the inhabitants, their inclinations, their wealth, their numbers, their manners, customs and morals."—*Conflict of Laws.*

"There has been a difference of opinion among writers, concerning the foundation of the law of nations. It has been considered by some as a mere system of positive institutions, founded upon consent and usage; while others have insisted that it was essentially the same as the law of nature, applied to the conduct of nations, in the character of moral persons, susceptible of obligations and laws. We are not to adopt either of these theories as exclusively true. The most useful and practical part of the law of nations is, no doubt, instituted or positive law, founded on usage, consent, and agreement. But it would be improper to separate this law entirely from natural jurisprudence, and not to consider it as deriving much of its force and dignity from the same principles of right reason, the same views of the nature and constitution of man, and the same sanction of Divine revelation, as those from which the science of morality is deduced. There is a natural and a posi-