

ference to an akin measure presented to the Imperial House of Commons in 1875, when he said :—" I think that any attempt " at codification which is either partial or incomplete can only " be productive of confusion and mischief," or, as he put it, in other words, in 1879, in reference to another one of the same import : " It is of the very essence of a perfect code, that it shall " contain and provide for whatever it is intended shall be the law " at the date of its formation, so that both those who have to administer the law, whether in its preliminary or after stages, " and those who have to obey it should have it before them as a " whole, without having to search for it in Acts of Parliament " scattered over the statute book, and which most persons, at " least so far as the laity are concerned, are ignorant of and know " not where to find. The main purpose of the codification of the " law is utterly defeated by leaving the code to be supplemented " by reference to statutes, and what is still worse, to parts of " statutes which are still to remain in force, but are not embodied " in it."

Now, sir, as you are aware, the draft code, upon which the Lord Chief Justice made these observations, was found to be so defective, as well for incompleteness, as for other reasons, that it had to be dropped in 1880 by the Attorney-General, and has never been adopted into law by the Imperial Parliament.

That our code of 1892 is deficient, in respect of completeness, to a still greater degree than that one in reference to which the Lord Chief Justice so expressed his views on the essential requisites of a codification, must, it seems to me, be conceded, when it is taken into consideration that, whilst the latter superseded all the common law, the former leaves all of it in force, with, besides, a number of important enactments, scattered all over the statute book. So that, in future, any one desirous of ascertaining what is, on a given point, the criminal law of the country will have to refer first, to the common law, secondly, to our unrepealed statutory law, thirdly, to the case law, fourthly, to the Imperial special statutory enactments on the subject in force in Canada, not even alluded to in the code, and fifthly, to the code. I shall not attempt to here enter into details on what, to anyone at all conversant with the subject, appears *on the face of the record*. I have, however, called more particularly your attention in the annexed memorandum to a few of these *lacunæ*, which, in my opinion, must prove hereafter to detract so much from the usefulness of this legislation. They are those which more particu-