

This is not the first time that the restless spirit of innovation, so conspicuously displayed in this enactment, has practised its legislative experiments and caprices upon the ancient jurisprudence of this colony. Our Provincial legislation furnishes many proofs of recklessness, incapacity and prejudice ; the work of men “ who had not freed themselves from the shackles of authority, or soared above the mists of prejudice.” A distinguished writer, and one who had thought much and profoundly upon these subjects, remarks that “ in addition to comprehensiveness of mind and rectitude of intention, an enlightened lawgiver should be well informed as to facts—of the local situation, climate, bodily constitution, manners, legal customs, religion, wants and wishes of those with whom he has to deal.” These are the strata he requires ; and these are the circumstances which he must respect. Above all, the legislator should be exempt from blinding prejudice and presumption, and should possess, in a high degree, the genius of legislative adaptation. In reading over our Statute Book, any man, familiar with the laws and circumstances of this country, will often have to lament the absence of this reach of mind, and of this spirit of honesty and respect for existing laws. He will, frequently, perceive that the higher qualifications, above alluded to, are not displayed in our Statutes, nor by our legislators, either in enacting new laws, or in adapting foreign Statutes to what has been so frequently denominated the wants, progress and development of the Colony; terms in themselves of vast, but vague signification, and whose meaning, when they are assigned as motives, or the basis of legislation, requires a close and scrutinizing analysis. We shall not be accused of opposing the introduction, from a foreign source, of good laws, wisely adapted to the Province, and cautiously selected as an improvement upon what we possess. Such an opposition would be indicative of a deplorable want both of patriotism and common sense. But what we do protest against, is the rude and abrupt abolition of our old laws and customs, which are very good, after all; and the transferring by arbitrary enactment, the laws of a distant country to this Province, without that salutary care and precaution, which should attend such measures. As a general rule, these innovations should be preceded by prudent and preparatory changes: and should such changes be too slow, or, in some cases, impracticable, yet, when foreign Statutes are introduced, they should be so modified, and their extent and provisions should be rendered so clear, as to guard against all ambiguity, so far as possible, in the intention of the legislature, or any uncertainty in the practical operation of the Act. In wishing to profit by the legislative wisdom of other countries, the Legislature cannot be too precise in its language, or too circumspect in adopting the enacting clauses of foreign laws. They should be made to harmonize, as much as possible, with the existing jurisprudence ; thereby avoiding those ensnaring *lacunes*, with which our laws are beginning to abound.