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### THE EARLY JURIDICAL HISTORY OF FRANCE.

A paper of great interest to lawyers is to be found in the Transactions of the Literary and Historical Society of Quebec. It was read by the late Hon. J. Sewell, Chief Justice of Lower Canada, at a meeting of the Quebec Literary and Historical Society, held at the Castle of St. Lewis, in the City of Quebec, on Monday, the 31st of May, 1824. This valuable essay, which is in the hands of very few of our readers, ought to be better known, and we think it well worthy of reproduction. The learned Chief Justice was also the author of the well known dissertation on law pleading, which has been several times reprinted, and has been generally appreciated by the profession. The Address is as follows:—

*My Lord and Gentlemen,*

Appointed to address a Society, distinguished, in its origin, by the rank and character of its noble Founder, and, in the first stage of its progress, by the respectability and talents of its numerous Members; whose high and meritorious purpose is, to extend more amply the advantages of Science and Literature to a remote, but rising portion of the Great Empire to which we belong, and the beneficial effects of its disinterested labours to future times, I am anxious to devote the period, in which I hope to be honored with your attention, to a subject which, corresponding with the views of your Institution, and involving matter interesting to Science, may, in some degree, be worthy of your notice.

Confining myself, therefore, to the more immediate object of the Society—Historical Research—I shall offer to your consideration an Essay upon the Juridical History of France, antecedent to the erection of the Sovereign Council of Quebec, in the year 1663; the Law, as it was then administered in France, in the Tribunals in the Vicomté of Paris, being, in fact, the Common Law of the division of Canada which we now inhabit.\*

\* Edits et Ordonnances, vol. 1, p. 21.

The study of the Municipal Law of every country requires some previous knowledge of its rise and progress. The obsolete principles of former ages are, most commonly, the foundations of what we possess; and, in many instances, the true object and intent of modern Institutions can only be known by reference to the history of their origin and gradual improvement. And as I feel assured, that, to persons of liberal education, knowledge of the Law which constitutes the rule of their civil conduct, must at all times be desirable, I cannot but hope that what I am about to offer upon the peculiar Municipal Law by which we are governed, (though I am conscious, it will be found imperfect,) will nevertheless be favorably received, as an attempt to elucidate a subject which, in Lower Canada, cannot be thought to be uninteresting.

The conquest of Gaul by the Roman power—the entire subversion of the Roman Government by the Franks—the nearly total annihilation of the power of the Crown at the close of the eleventh century, and the subsequent re-establishment of that power, are the events which more immediately affected the Laws of France, and occasioned their successive mutations. To these events, therefore, and to the greater effects which they have respectively produced in her legal polity, our inquiries will at present be confined.

Of the state of Gaul before the Roman conquest, (which was effected under the immediate command of Cæsar, about fifty years before the birth of our Saviour,) but little can be said with any degree of certainty. The inhabitants were then governed by a few unwritten customs and usages, peculiar to themselves, barbarous in the extreme and not meriting the appellation of Laws. Their manners were simple, and produced but few causes of contention, and such controversies as arose, were decided by their Druids, who, as among the ancient Britons, were both Priests and Judges.†

A consequence of the Roman conquest was, the introduction of the Roman Law, and for five entire centuries, during which Gaul remained a Province of the Empire, her people were wholly governed by that system.‡ The Roman Law,

† Cæsar de Bello Gal. Liber 5 and 6.

‡ Histoire du Droit François, by l'Abbé Fleury, pp. 9 et 10. Vide also, at the beginning of 1st vol. of Henry's, a learned dissertation, by Bretonnier, which establishes this fact.