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Law has been defined, as the "Art of Social Control"; the system of rules regulating the conduct of mankind. Laws are not the result of spontaneous action, but they are accumulated through the course of time to meet the demands of the people to whom they apply; they are affected by the industry of a country, and by the political, social and religious belief of the law-makers. It is evident, then, that one may learn the history of a nation, by studying its laws.

Chesterton once said, "To write history and hate Rome, both pagan and papal, is practically to hate nearly everything that has happened." It was a nation supreme in war, in government, in religion, and in jurisprudence. We are concerned in particular, with the latter.

Law and state grew up side by side; and in the early stages of society the character of one is no more definitely fixed than that of the other. Roman society began with the family, or the gens; several families formed the tribe, or curia; next in order came the city; and then the state. The performance of certain common rites called sacra, formed a bond of union in these several groups, and their laws and customs were the germs of the greatest system of jurisprudence in the history of the world.

The term "Roman law" is indefinite and ambiguous, being used in more than one sense. First, in a wide sense it comprehends the totality of the laws of the Roman state, which were observed by its subjects during about thirteen centuries, from Romulus to Justinian. In a second and stricter meaning it indicates the laws as consolidated by Justinian, or in other words, the law contained in the Corpus Juris Civilis, which is the name that has been given to Justinian's legislative works as a whole, and dstinguishes them from the Corpus Juris Canonici. In this acceptation it is equivalent to and is often called, "civil law" as contrasted with canon law. In a third and loose sense Roman law embraces, in addition to the Corpus Juris, the interpretations

of it after Justinian by medieval and modern courts, jurists and commentators adopting it to the customs and laws of their own countries, and times. This writing is an attempt to briefly outline the Civil law, particularly as it was embodied in Justinian's Code which is regarded as the "perfect system"; and also to show its influence on the jurisprudence of America.

Under the Empire, the belief that law was founded upon ethics, that the specific rights and duties of men were derived from principles of natural justice, gave new impulse to legal development. For this philosophy, Rome is indebted to the Greeks. "To live in harmony with nature," was the highest precept of Stoic philosophy. Ulpian, a Roman lawyer, defined natural law as, "The constant desire to grant each one his right"; and "the science of what is just". Celsus believed that, "Things prohibited by nature can be justified by no law." Cicero, the greatest of all Romans, said, "Man is born for justice, and law and equity are not mere establishment of opinion, but an institution of nature. Right reason is conformable to nature, whose commands urge us to duty, and whose prohibitions restrain us from evil. Whether it enjoins or forbids, the good respect its injunctions and the wicked treat them with indifference. It is not one thing today, and another tomorrow; but in all times and nations this universal law must forever reign, eternal and imperishable." It was this philosophy in the laws of Rome, which caused them to be everlasting, at least in theory.

THE LAW OF PERSONS

Under the Roman law, a person in a broad sense, may be defined "as a being, capable of becoming the subject of legal rights and duties." This definition recognizes not only a natural person, but an artificial one, brought into existence with the consent of state authority.

The extent of one's legal capacity depended upon his civil status. He could be a freeman or a slave; a citizen or a foreigner; independent of paternal authority or dependent upon it.

For a man to have legal capacity he must be free. The Romans contended that all men were born free, but that slavery

was an institution common to all nations as a necessity for society However, they tried to eliminate its harsh features. It was a common occurence to free slaves; they were then called libertini, or freedmen. They had very limited rights until the time of Justinian, but this great lawyer gave them all the liberties of a free-born person except that they must show allegence to their former master. The slaves, or servi, with no rights whatever, acquired their status by reason of their mothers being slaves at the time of their birth. According to the jus gentium, a person was reduced to slavery if he was captured in war. The jus civile provided that a freedman would be given his original status if he was guilty of ingratitude toward his patron; and a free-born person could be reduced to slavery if he evaded military service. With the extinction of the Western Empire, Roman slavery merged into a system of serfdom which prevailed throughout Europe during the Middle Ages.

According to the early Roman law the father had power of life and death over his child. Justinian abolished this unjust and absolute control of the father and limited his supervision to mere acts of simple and reasonable correction. The abolition of the ancient custom of selling free-born children and the provision giving the child ownership of property acquired by him, were likewise precedents set by Justinian.

A man could become the legal father of his illegitimate child by "legitimation". This was effected either by subsequent marriage to the mother of the child, or by an imperial rescript.

Adoption of children was provided for in the Civil Code, whereby the child came under the supervision of his legal parent and was entitled to privileges as a natural offspring. A father's protection and supervision ceased however, when a son emancipated himself. One method of emancipation was the son's obtaining a position in certain civil or religious offices.

The law of marriage was completely changed from the ancient Roman custom. Much of the demonstration in connection with the "conveyance", as marriage was under the early law, was supplanted by a purely civil ceremony. Under the new Code, a husband could beget himself a wife by prescription, which was merely the uninterrupted possession of her for one year. Contrary to the old law she could maintain her connection with her

father's family and on the death of her father, she was entitled to her share of the estate.

The marriage laws promulgated by Justinian were well defined restrictions. Persons were forbidden to marry who had not attained the requisite age, which was fourteen years for males and twelve years for females. Certain persons related by consanquinity or affinity were forbidden to marry. Marriage between cousins was lawful, but a man was forbidden to marry his brother's widow, or his deceased wife's sister. The restriction that provincial officers were forbidden to marry during their term of office, anyone living in their province, had the public policy of the Empire as a basis. A guardian could not marry his ward until she had passed the age of pupilage. In 388 A. D., a law was passed by which Christians were forbidden to marry Jews.

All the laws passed during the time of Justinian's influence are indicative of the belief that woman had a distinct legal status, as contrasted with early Roman law, which regarded her as little more than a chattel. The later laws provided that the wife should have the same name, rank, and domicile as her husband. The husband had no power over his wife and the wife had no claim to support from the husband. The children, however, were under the supervision of the father. Marriage did not effect the wife's property; she had a right to all possessions held before marriage as well as property acquired by her after entering the marital relation.

On occasion of a marriage, the father, if he had sufficient means, was bound by law to furnish a dowry, called "dos". The husband became owner of the "dos", but he could not dispose of it, or incumberance it by a mortgage. On dissolution of the marriage, the "dos" reverted to the donor.

There was a time during the existence of the Empire, when a divorce could be obtained by the assent of the parties, or at the mere desire of one of them. The latter case necessitated a trial and judgment by a state court. The laxiy of these regulations caused an exceedingly large number of divorces, and it was not until the reign of Christian emperors, that more stringent laws were passed. The custody of the children in event of divorce depended upon the fault of the parties, the innocent party being

deemed the competent parent. Canon law modified marriage and its subsequent obligations to a great extent and it was this modified form which was adopted by Continental Europe.

Rome recognized the necessity of guardians in certain instances and laws governing them regulated their many duties. Tutors were appointed by law for an independent person, who by reason of his age required a guardian. The age of puberty was the time fixed by law before which every independent person needed a tutor. According to an ancient custom, tutors were appointed for women until they were married, but with the equalizing of the sexes, these laws were abolished. Twenty-five years came to be the minimum age for tutorship, because the office was considered to be a public trust. Legally speaking, tutors were of three kinds: Legal tutors were named by law; testamentary tutors were appointed by the testament of the father's codicil; tutors-dative were those appointed by a duly authorized magistrate, on default of testamentary tutors and tutors-at-law.

The first period of pupilage, from birth to the seventh year, was called the age of infancy and the tutor had complete charge of everything; but after seven years of age, the child was considered to have understanding but not judgment and the tutor's supervision became limited. Most modern laws are in keeping with the Roman theory, that a minor can make transactions beneficial to him but can do no act to his prejudice.

On passing the age of pupilage, a person acquired full legal capacity except the right to hold office, for which the requisite age is twenty-five years. A curator was appointed for a person between the ages of fourteen and twenty-five, but a minor was not bound to have this guardian against his will, except in case of a lawsuit, or when a debtor wished to compel a settlement of accounts.

Curators were also appointed to supervise the affairs of insane persons, spendthrifts, and all, who because of their natural incapacity were incompetent.

The second class of persons under the Civil Law are artificial. Such a person is defined as any being which is regarded as a proper subject of rights and duties, and which owes its existence to law alone. The public treasury was considered as a dis-

tinct person, having its own rights and duties independent of persons who performed the fiscal acts in the office. An estate or inheritance of a deceased person, before it was taken by the heir, itself constituted an independent legal person. An endowment founded according to law for the purpose of carrying out some specific object, constituted a legal person. A corporation, whether it was political, industrial, mercantile, or social, was a creature of the state and had the status of a legal person.

A corporation did not have the power of a natural person because it is restricted to those functions for which it was created. Briefly, a corporation had the right: To acquire, hold, and dispose of property in its own name, so far as this is not limited by special provisions of the law; to enter into contractual obligations with other persons; and to sue in a court of justice. It is not answerable for the commission of crimes, but the individual members are amenable for such offences. In general it must respect the laws of the state, and the particular law from which it derives its existence.

Three members, at least, were required for the creation of a corporation in the Empire, although its existence may be continued by only one. It might cease to exist: By expiration of the time fixed by law; by voluntary forfeiture of the charter to the state; by the state's declaring a dissolution, in case the corporation has transcended its purpose; or by death or withdrawal of all its members. It is obvious that modern jurisprudence has embodied the general corporation law of Rome.

THE LAW OF PROPERTY

The term "thing" or "res", in Civil Law is used to denote anything capable of becoming the object of a legal right. The term may be applied to the physical object itself, or to the right which one has in the object.

Property, in its broad sense, with no distinction between real and personal, may be classified as follows: Corporeal and incorporeal; movable and immovable; fungible and non-fungible; and appurtenances to property, which may be either movable or immovable, or fructas naturales.

According to Roman Law the right of ownership or "dominium", is the most extensive real right which a person exercises

over a thing. It is limited by rights of the state, and in respect of others property and their incidental rights. It includes: The jus utendi, or the right of making use of the thing; the jus fruendi, on the right of appropriating its fruits; and the jus abuendi, which involves the right of destruction, consumption, and free disposition.

The Civil Code recognized the rights of one person in the property of another. These rights, called jura in re, are "carved out" of the dominium, without destroying the residuary right of ownership. Examples of this involve the dominent and servient estates: The use of a right of way; the right to free use of light by domanent owner; and the right to the use of party walls. These general principles are preserved in many of our present-day laws.

The broadest jura in re of Roman Law were the Emphyteusis and the Superficies. Emphyteusis is the perpetual right of using and enjoying fruits of land belonging to another on condition of proper cultivation and payment of an annual rent. This mode of leasing land can be traced to the earliest Romans, with whom it was the custom to give lands taken in conquest, to the citizens for purposes of production, the ownership remaining in the state. Superficies is a right similar to Emphyteusis, but is applicable to buildings instead of land. It was provided, that a person could erect a building upon the land of another with the result that the owner of the land was theoretically the owner of the building but the use was in the grantee for payment of the rent.

The remaining jura in re are the Pignus and the Hypotheca. These are the rights which a creditor might acquire in property of another as security for a debt. The former is like an English pawn, or the transference of mere possession of property to the creditor. The latter is similar to an English mortgage, whereby the possession remains in the hands of the debtor, subject to forfeiture in event of default. The provision for the sale of property in case a debt was unsatisfied was enacted in the Code of Justinian.

Occupation, according to the Roman Law, consists in taking possession of a thing over which no one has a proprietary right. Wild beasts, birds and fishes became the property of the captor

if taken in their natural state. The same is true of precious stones, found in their natural state. Things abandoned by the owner were capable of occupation, and property captured in war belonged to the captor.

Accession is another form of gaining ownership. It has as its basis, the theory that the owner of things is entitled to the produce of his possessions, both natural fruits and fruits of industry.

The owner of property is entitled to natural deposits made by a stream, but this principle does not apply when there is an unusually great change, such as a complete alteration of an estate because of the deviation of a river's course.

When two persons have a joint interest in a thing, they are each entitled to their interest if the property can be separated. Otherwise the accessory yields to the principal, or the less important yields to the more important. A common instance of this, is the building acceding to the land, or that which is sown, to the soil. In the case of things of equal importance, belonging to different parties, and there is a confusion of the property, the mixture becomes the common property of both.

The third method of acquiring ownership in single things is by tradition, or the actual delivery of the thing. It was not possible to transfer property by a mere agreement; there must have been a physical transfer of the thing itself, or that which represents ownership thereof.

Things may be acquired by prescription, which involves ownership on the grounds of having possession for a long time. This rule of law did not apply to public property of the state, private property of a ruler, or immovable property of a municipal or ecclesiastical corporation. The property must be held in good faith, continuously for the required time, which was three years for movables and ten years for immovables if the contesting parties live in the same province, and twenty years if they live in different provinces.

The Roman Law as finally perfected under the guidance of Justinian, made a distinction between succession and inheritance. The former was the acquisition on part of one person of the entire estate belonging to another. The latter is the succession to the entire legal position of a deceased person. It was the theory

of Roman Law, that when a person dies, his legal personality does not perish, but survives to a successor. This is traced to a primitive Aryan custom from which the principles of Roman Law had their origin.

The heir had complete charge of the estate which he inherits and acquires rights in rem and rights in personam. As to the latter, the obligations against third persons exist if a prosecution of the right will increase the pecuniary value of the estate. He has a duty to pay all debts of the estate and to carry out the legally expressed desire of the deceased. His position was similar to the executor of an estate in the presnt English law.

The testament, in the Roman Law, was essentially an instrument by which a person appoints his own heirs, but there might be other provisions incorporated into it. The form of the will, after several stages of development, finally provided for the presence of seven witnesses, the subscription of a testator, and the signing of the witnesses made binding by their seals. All of this procedure was required to take place in a single transaction. The oral or nuncupative will might be made in the presence of seven witnesses, or before a magistrate who must enter a statement of the procedure in the public records. A soldier might merely make an intention, susceptable of proof, for a certain disposition of his property, but this was valid only for one year after his discharge from service. In times of pestilence, the presence of seven witnesses was not required, and the same exemption was effective in sparsely settled districts; in such cases five witnesses were sufficient.

The law made definite qualifications for testators and witnesses. To be a testator, a person must have domestic independence and a sound mind. Those disqualified as witnesses were, slaves, impubes, women, those instituted as heirs, those under power of the testator, deaf, dumb, blind, or insane persons. This disability of women was not the spirit of the law of Rome, which generally gave them an equal power with men.

If a person ordinarily entitled to inherit by law, was to be excluded from the benefits of inheritance or succession, it must be expressly stated in the will. According to the later provisions of the Civil Code, a posthumous child was entitled to take under a will and a restriction against him must be incorporated into the

will in order to prevent his sharing in the benefits. There was a gradual tendency in the law, to lessen the legal capacity of an adopted child.

A person was considered intestate when he died without making a will, or in the event he made a non-enforceable will. When the rules of intestate succession were applied, there was no line of distinction between real and personal property, nor was there any distinction between male and females. Descendants of the first degree, the lawful children, succeeded per capita, that is, equally in the estate. Descendants of a more remote degree succeeded per stripes, or by representation. The wife of a deceased husband, if left without a sufficient dowry, was entitled to share with the children. Justinian provided, that if there were three or less children, she should be entitled to one-fourth of the whole estate; when there were more than three children, she should share equally. If there were no collaterals whatever, the public treasury was the beneficiary.

The Civil Law of descent and distribution provided that the number of generations is counted in both lines of descent from the common ancestors. The Canon Law, which England adopted, regards simple the number of generations passed over in a single line of descendants, passing from the common ancestor to the more remote descendant.

The use of codicils, or written directions to the heir, without formalities accompanying the main testament, which express the wishes of the deceased regarding disposition of the estate, were recognized by the Roman Law. It was not regarded as a supplementary will, although it may be used to modify the provisions of an existing will. A codicil never appoints an heir, but its provisions are binding upon the heirs-at-law.

LAW OF OBLIGATIONS

The distinctive feature of legal obligation is the fact that it rests upon a particular person and is enforceable by a legal action. It is defined as, "a legal bond whereby, according to the laws of the state, one person is bound to render something to another." It involves a right of one person called "creditor" to exact something, and a duty on part of another person called "debtor" to render something. Summed up, it involves: First, a legal re-

lation between a creditor and a debtor; secondly, a personal and not a real right of the creditor against the debtor only; thirdly, a duty to the debtor to transfer something, or to render some service, or grant damages or an injury done, to the creditor. Generally speaking an obligation either arises by a contract—es contractu, or by delict—ex delicto.

"The portion of Roman jurisprudence which has survived with least alteration in modern Europe," says Poste, "is the law of obligations arising out of contract". A contract in the strict sense of the word, is defined as an agreement between two or more persons which gives rise to a legal obligation. The parties must be competent. The law disqualified, infants, impubes, madmen, and lunatics excepted when they contracted during lucid intervals. There must have been a voluntary agreement between parties; this involved an offer and acceptance, free from fraud or unlawful force. The last requisite was, that a contract must have been made in a manner prescribed by law.

An important subdivision or Roman contract obligations, is partnership law. Partnership was the result of two or more persons agreeing to combine their property or labor, or both, on the condition that they would share the common profits and losses. The general rights and duties of partners spring from the nature of the transaction itself. Each one was bound to furnish his share agreed upon, pay his share of expenses and losses, grant to others their share of the gains. As to their acts with each other, all partners are bound by their copartner's acts, if the acts were within the scope of the firm business. But in relation to third persons, a partner was not bound by the acts of the other partners; in other words, no implied agency exised. In this latter respect, the Roman Law differed from our modern law of England and America.

There are a class of obligations arising out of delicts, or private wrongs, as a result of the infringement upon either a right in rem or a right in personam.

A delict may be defined, as an injurious act which is regarded as sufficient to impose upon the offender an obligation to give satisfaction to the offended party for the evil done. A private delict must also be distinguished from those public wrongs, or

crimes, which, though they may cause personal injury, are punished by the state as offenses against the community. On part of the offender, the act must be culpable, that is it must be voluntary whether prompted by criminal inent or due to criminal negligence, and it must be unsanctioned by law. On part of the offended, the act must be one which produces injury capable of being estimated in pecuniary damages.

The Roman Law classed as delicts, many things which are now crimes in the modern law. It also preserved the idea of penal satisfaction which had its root in the primitive custom of private revenge. There were four general kinds of delicts: Theft, robbery, damage to property, and injury to person.

Manifest theft was where a thief is taken in the act, or near the place of theft, with stolen property in his possession. In such case the thief was liable for four times the value of stolen property. In other cases where theft was "not manifest", the thief was liable for twice the value of the property. These harsh penalties were evidence of the ancient doctrine of "An eye for an eye, and a tooth for a tooth", which had its influence even to the time of Justinian.

The personal obligation arising from theft, was enforced by an action for penal damages. But by pursuing this personal right against the thief, the owner did not forfeit his real right to the thing itself. Under modern civil law, the action for penal damages is obsolete, and there is a constant tendency to eliminate the personal revenge theory.

In case an action for prosecution of robbery was brought within a year, four times the value of the property was recovered; but if a year elapsed before bringing action the actual value only, of the property, could be recovered.

An action for damage to property could be brought in event of any wrongful injury, or for destruction or impairment of the property. There must have been an actual diminution of value, and there must have been evil intent or culpuable negligence. The liability was lessened by contributory negligence of the offended. According to the Laws of Aquilia (B. C. 286), the damages were very stringent, but with the new theory of jurisprudence, they were somewhat modified.

Injury to the person included every malicious act which affects harmfully the body or reputation of another. The law made a distinction between the different manners of inflicting injury; the nature of the place, as where one was assulted in public assembly, instead of some less noticeable place; the quality of persons injured; and the part of the body injured. According to these distinctions the Justinian Code based the compensation upon fixed rates. The preator trying the case, allowed the injured party to estimate in injury which was subject to change by the preator. In case of grave injury, the amount of damages were fixed by the magistrate.

The general conception of a delict as a wrongful act creating a personal liability on part of the offender, survives in our modern civil law of delicts, both in England and in America, as the law of "torts".

LAW OF CIVIL REMEDIES

Jurisprudence, in the language of the Roman Law, involves the power to grant an action, to declare a law, to vest title to disputed property in one of the litigants, and the power to enforce a decree.

The exercise of jurisdiction belonged by way of eminence to the preator. His functions became limited with the assumption of power by the Emperor, and by the Prefect of the City, who had judicial power in Rome. Local jurisdiction outside of rome and Italy, was exercised by provincial magistrates and their assistants. The pronouncing of judgment was not left to the magistrate but the duty was invested in private individuals called "judices", who resembled the modern English jurors.

Actions, the means by which the plaintiff and defendant submitted their issues for adjudication, were real or personal. A real action, which is also called "vindicato", is brought to enforce a right available against the whole world. A personal action, called "condictio", is brought to enforce a right prevailing against some determinate person.

After the plaintiff had brought his action, the defendant had defenses called exceptions, or counteractions. The exceptions were premptory when they presented a permanent obstacle to the action and defeated the plaintiff's claim; they were dilatory

when they presented an obstacle for a certain period of time, to produce delay. The plaintiff might meet this by a replication, which was an exception to an exception. To this the defendant could return with a duplication.

The Roman Law provided for the granting of an equitable relief in cases where the law would work injustice, or would at least be inadequate. This remedy was called "restitution", and it grew out of the extraordinary jurisdiction of the preator when he would pass judgment without the aid of a judex. To obtain this remedy the claimant must be really injured without his own fault, and the injury must not be remedial by any other law process.

These many protections of personal rights and property, was instrumental in abolishing the primitive custom of "self-help". This right of self protection, however, was sometimes necessary, and it could be justified in instances when the state was powerless to interfere.

Roman procedure had its foundations on very primitive customs. The most ancient mode of civil procedure was the "actio sacramenti", which, as Maine says, was "the undoubted parent of all the Roman actions, and consequently of most of the civil remedies now used in the world." The action represented a mock combat, whereby the contesting parties went through formulary actions and expressed their grounds of ownership over the object in question. This primitive action, very rigid, technical, and symbolical, was succeeded by the "formulary system", in which claims of the plaintiff were submitted in writing for judgment.

There were five essential elements of civil process: The institution of an action whereby the defendant is brought into court; the joining of issue, whereby the exact points in conflict are ascertained; the trial of the case, where conflicting claims are investigated according to the principles of law and rules of evidence; the sentence of the court; and the execution of the judgment.

The serving of summons has an interesting history. Service was first made by the plaintiff personally, on the defendant. Gradual developments, sponsored by the increased power of the

state, brought it to a form during the reign of Constantine, whereby it was submitted to the judge who in turn gave it to a public officer to serve. However, it was not until the time of Justinian, that it had taken the written form.

Justinian's Code provided for an examination of the merits of the case as set forth in the pleadings, of which the most improtant feature was the introduction and sifting of evidence. The principles of evidence relate chiefly to the burden of proof, presumptions, forms of evidence, and the admissibility and sufficiency of evidence.

The burden of proof was with the party asserting an affirmative fact, unless such fact was supported by a legal presumption. As soon as the legal presumption was in favor of one party, the burden of proof shifted to the other.

Presumption, are certain things which the court recognizes as the true unless the contrary is proved—As an example, the possessor of goods was presumed to be the owner.

Forms of evidence may be oral or written. Written evidence were public records, private documents attested in legal manner, and private papers when they were proved to be derived from examination of competent witnesses.

The most important feature of evidence as incorporated in the civil law, was the rules regulating its admissibility. Preference was always given to written, rather than oral testimony, and o original documents, rather than to copies. It was also provided that two witnesses were necessary to prove a fact, or establish the character or a witness. It is interesting to notice how closely the modern procedure reformers, are following these various rules of Civil Law.

When judgment was pronounced by a Roman court, it was one of two kinds: Interlocutory, or final. An interlocutory judgment was made with reference to a single point, and was merely in aid of the final judgment, which decided the whole matter in dispute. The judgment of a lower court might be appealed from by following specified forms.

After judgment was rendered by the court, it had power of execution. A defendant could be put under arrest, subject to release on satisfaction of judgment, or by giving some security. Another means was a supplementary proceeding whereby the

defendants estate was attached and sold on execution as a bankrupt sale. This execution of judgment was the origin of the general assignment in case of bankruptcy, which is much used under the modern laws.

CIVIL LAW IN AMERICA

Those people who in some way, are interested in modern systems of jurisprudence, have recently come to realize, that the Roman Civil Law is the foundation of social control in a great part of the western hemisphere. In order to trace the origin, one must look to the laws in France and Spain, for these countries are adherents of Roman Law, and were responsible for inaugerating it before they lost their possessions in our western world.

When France was Gaul, and a province of Rome, it was taught the wisdom of its ruler's jurisprudence, some fifty years before the compilations of Justinian. Even when the country was brought under barbarian control, the warlike conquerors reverenced and retained the Roman law. So France, finally a power in itself made its own laws, but she based them on principles derived from the Romans.

The Code Napoleon, formulated and adopted by the Corsican conqueror of Europe, was an adaptation of the Roman Civil Law to modern conditions. The principles of this Code are the basis of law in South America, Mexico, and of the State of Louisiana. It is an undisputed fact that the Code Napoleon was the greatest propagator of Roman jurisprudence in our modern countries.

The City of Paris was the center of study of Roman Law and the system of rules built up in that jurisdiction, closely following Justinian's Code, was known as the Custom of Paris. In the seventeenth century, when France began colonization in America, and wanted to provide for some kind of law for her possessions, it was only natural that it prescribed the general law of the country, and the Custom of Paris in particular.

What is now called the Dominion of Canada was at one time under French control and was known as New France. That vast domain had as its governing rules, the laws, edicts, and ordinances of France and the Custom of Paris. It is a curious fact that the Custom of Paris existed in Wisconsin and Michigan as

a part of that territory until the year 1810, when the legislature of Michigan, declared the law a nullity, "because they didn't know what it meant".

Canada had been under French dominion for about one hundred and fifty years, when it was taken in conquest by England, and by the Treaty of 1763 the entire territory was transferred to England. The English government acted wisely by leaving the civil law undisturbed, although the English law of crimes was inaugerated.

In the year 1866 a civil code of Lower Canada was promulgated which is an excellent specimen of juristic work. It follows the general theory and logic of the French code, and contains, therefore, many elementary principles of Roman and Civil Law. The code of procedure of Quebec, is another part of Canada's legal system, which follows the tenor of French law.

The great colony established by France in the last years of the seventeenth century, to which LaSalle gave the name of Louisiana, extended in theory at least, from the Gulf of Mexico to the regions which now constitute British America, and westwardly to the Rocky Mountains, and possibly to the Pacific. As in New France, he Custom of Paris was introduced into the civilized portions of this vast domain. This system of law continued to develop until the year 1763, when France, by a secret treaty, ceded to Spain all that portion of Louisiana which lies west of the Mississippi. The part of Louisiana that was left was later ceded to Great Britian, and France had parted with its last inch of soil held on the continent of North America.

Under Spanish rule in Louisiana, there came some element of Spanish law and jurisprudence. It is believed that the laws of Spain became the influence in the judicial tribunals of the territory; but since the French and Spanish laws have a common origin, the Roman Law, little inconvenience was noticed because of the change.

Late in the eighteenth century, a treaty was concluded between France and Spain, by which the latter agreed to restore to France the province of Louisiana. France, however, did not take possession until 1803, at which time a formal delivery was made to the French commissioner.

France remained in actual possession only twenty days. The

United States took possession of the territory in 1803, and by 1812 Louisiana had been divided into separate states. And so the present state of Louisiana on the one hand, and the other states which were carved out of the original purchase, parted company in a juridical way: Louisiana continuing its adherence to the Civil Law in many important matters, and the other states receiving what is called the common law.

The civil law was quite generally adopted by Louisiana, but as for criminal law, it was felt that the Spanish methods should not be continued. Accordingly, in 1805, two territorial statutes were drawn, which provided for the adoption of the basis of jurisprudence and practice in criminal cases.

In 1808 a civil code of law was adopted by the territorial legislature in New Orleans, based to a considerable extent on a draft of the Code Napoleon, and prepared by Messrs. Brown and Moreau-Lislet. The code was revised in 1825 and at the same time a code of practice was promulgated.

As a general summary, it can be said that cases involving commercial matters will be governed by the law merchant of England and of the other states of the Union. So far as the elementary laws of person and property are concerned, and the equally important law of obligations is to be applied, Louisiana is a civil law state. Also, in the matter of pleading and procedure, the practice which prevailed in the time of Justinian, and which lies at the basis of admiralty and equity practice, and at the basis of what is called the reformed code procedure in the United States, is followed by Louisiana.

As for Mexico, Central America, South America, Porto Rico, Cuba, and the Phillippines, it may be stated, in a general way, that these countries have all derived their systems of law and jurisprudence from Spain during the colonial period, so that Spanish law of the sixteenth, seventeenth, and eighteenth centuries, as applied to colonial conditions, is fundamental in those countries. Since Spanish law had its origin in Rome, we find these countries adherents to at least some of the principles of the Roman Civil Law.

The supremacy of the Roman Civil Law, especially in certain divisions, over the Common Law of England can hardly be

doubted. The pinnacles of Roman law are those portions that relate to Personal Property, the Domestic Relations, to Contracts, to Negotiable Instruments, to Public and Private Corporations, to Commercial Law, and o Partnership. The laws on these various subjects are highly respected when one thinks of the fact of the modern reforming legalist adhering to the Roman principles. If one would eliminate from the English law the peculiarities of real estate laws, which were of feudal or social origin; if one would further eliminate the technicalities of common law pleading; if some rules of evidence were left out—the result would be a set of principles, not differing appreciably from the civil law as far as the fundamentals are concerned, which are essential to the administration of justice between man and man.