The Catholic Register.

"Truth is Catholic; proclaim it ever, and God will effect the rest."—BALMEZ.

VOL. IX.—NO. 14. TORONTO, THURSDAY, APRIL 4, 1901. PRICE FIVE CENTS.

CALENDAR FOR THE WEEK.

SUNDAY, April 7.—White—Easter Sunday—The RESURRECTION OF OUR LORD. Double of the First Class, with Octave. At Aspersion—Ant., Vidi aquam. All. At M.ss—Int., Resurexi. Grad., Haec dies Sequence—Victimae paschali. Off., Terra tremuit. Com., Pascha nostrum. Vespers—Solemn of the Feast. No Chapter or Hymn. After the Psalms, the Ant., Haec dies, followed by the Magnificat.

Monday, April 8.—White—Of the Octave.

Tuesday, April 9.—White—Of the Octave.

Wednesday, April 10.—White—Of the Octave.

Thursday, April 11.—White—Of the Octave.

Friday, April 12.—White—Of the Octave.

Saturday, April 13—White—"Sabbato in Albis." Of the Octave.

Current Topics.

Aguinaldo Captured.

Gen. Funston, with the assistance of a number of Maccabebe scouts, has captured Aguinaldo in the country, near Cassiguaran, nine miles from Baler, on the north-west coast of the Island of Luzon. The rebel leader and his entire staff are now in Manilla. Gen. Funston employed a very clever ruse to reach Aguinaldo. His plan worked successfully, with the result that the head and front of the insurrection is now where he will do no more harm to American interests. Recent despatches from Manilla told of the departure of Gen. Funston on what many believed to be a hopeless expedition. Some months ago letters were captured by Americans showing beyond peradventure that the rebel leader was hiding in the north-eastern part of the island. Gen. Funston immediately conceived his bold plan to capture him, which received Gen. MacArthur's approval. Two weeks ago he started from Manilla with Surgeon-Major Harris, Capt. Newton, of the Thirty-fourth Infantry; Lieut. Admire, of the Twenty-second Infantry; Lieut. Mitchell, of the Fortieth Infantry; six veteran Americans and a number of native scouts, all of whom were selected for their bravery and extensive knowledge of the country. Gen. Funston's plan was that after he and his party landed as near as possible to the place where Aguinaldo was thought to be in hiding, the native scouts were to pass themselves off as insurgents, who, having captured Gen. Funston and the other Americans, were conveying them to Aguinaldo. When the supposed prisoners were brought by their alleged captors before Aguinaldo they were to suddenly appear in their true character, seize the wily Filipino, and make their way back to the coast, where the gunboat Vicksburg, which had conveyed the party, was to await their return. It will readily be seen that the adventure was a desperate one, as treachery was always possible, and Gen. Funston had no absolute means of knowing how many men Aguinaldo had with him. It was possible that he would have enough to overwhelm the Americans and their native allies, but this did not deter them for an instant. They accepted the risk, with the result that Aguinaldo is now safe in the hands of the American military authorities in Manilla.

China's Finances.

The special committee of ministers appointed to consider China's ability to meet indemnity claims is already well forward with the work of investigating the resources of the Empire. Sir Robert Hart, Director-General of the Imperial Maritime customs, has been examined, as also have the managers of representative Chinese banks, many pawnbrokers, and other Chinese financiers. The consular reports for a number of years back have been carefully read. It now appears from all sources the annual revenue aggregates about $65,000,000 gold derived from the land tax, the grain tax, the likin, the customs, the opium tax, and miscellaneous imports. The largest two items are the land tax, which brings $14,000,000, and the foreign customs, which yields $12,000,000. In the opinion of all the foreigners who have participated in the examination, the land tax could be doubled and even tripled without much hardship, and the salt tax could be raised from $6,000,000 to $20,000,000. It is believed that the total increase could be made to amount to $150,000,000. If then, the Imperial expenses could be reduced to $45,000,000 there would be left available for the liquidation of the interest on loans and the indemnity fund the sum of $105,000,000. Making all allowances, it would be possibible to pay the indemnity within twenty years.

Yukon Affairs.

The report of Superintendent Wood, commanding the Mounted Police in the Yukon Territory, has been presented to Parliament. He gives some very interesting information on Yukon affairs. The mail service during the year has been, on the whole, very satisfactory. On the Dawson St. Michael route there were 32 steamers, including tug boats. They made 63 trips down and 59 up, carrying 1,503 passengers down and 1,406 up. Freight brought in, 18,191 tons. The boats on this run are of much larger class than those on the upper run. The superintendent says the rate of pay in this country is altogether too small. Good artisans cannot be kept in the force when they can get from $10 to $12 per day outside, nor good men when an ordinary labourer gets from $5 to $8. Living, at least in Dawson, is just as expensive as it has been for the past two years, and a month's pay will cover but very few luxuries. He strongly recommends that the rate of pay be doubled for all ranks. A census of the Yukon Territories was taken by the police in April, and a school census in August. The total population of the district, including Indians, at the time of census-taking, was 16,402; whites 16,107, Indians 356. The school census taken in the Dawson district only totalled 175 children.

Turkish Troubles.

Advices received in London from Constantinople are to the effect that affairs are rapidly reaching a dangerous pass there. Turkish finances are in inextricable confusion. All Government salaries are from six to eight months in arrears. Upwards of a million pounds is due for war material, while the military expenditure is daily increasing in order to cope with the rebellion in the Province of Yemen, in Southern Arabia, and the possible rising in Macedonia. There is no doubt that the Ottoman troops received a severe check at the hands of the Arab insurgents, who, in a manifesto denouncing the Sultan, proclaimed his brother Sultan with the title of Mohamed V. The Young Turks party have adhered to the Arabian Proclamation, and the open enmity to Abdul Hamid, the Sultan, has spread to the palace, and the Sultan's advisers. Izzet Bey is said to be preparing for fight. The patrols of Constantinople have been doubled. Mohammedans and Christians are arrested hourly, and large numbers are daily shipped to Asia Minor. The tension between the Bulgarians and Mussulmans in Macedonia is extreme. It is reported that another band of marauders has crossed Bulgaria into Macedonia.

Pension Examiners.

The Militia Department makes the following announcement:—"The Secretary of State for War having approved of Medical Boards composed of medical officers of the Canadian Militia, being assembled to report upon cases of militiamen who are applicants for pensions or compassionate allowances, in consequence of their services in South Africa, and with regard to whom proceedings of medical boards have not already been submitted for consideration by the Commissioners of the Chelsea Hospital, medical boards as hereunder are authorized to investigate and report upon such cases:—

Military District No. 1.—President, Major C. W. Pelton, P.M.O.; members, Surgeon-Major J. N. Piper, 7th Regiment; Surgeon-Capt. A. N. Hayes, 27th Regiment.

Military District No. 2.—President, Major W. Nattress, A.M.S.; members, Surgeon-Major J. E. Elliott, 2nd Brigade Field Artillery; Surgeon-Major J. J. Fotheringham, Q.O.R.

Military Districts Nos. 3 and 4.—President, Major H. R. Duff; members, Surgeon-Major R. W. Garrett, 14th Regiment; Surgeon-Major H. R. Abbott.

China Refuses.

A despatch to The Times from Pekin, dated March 28, confirms the statement that China has rejected the Manchurian treaty. The correspondent says that the attitude of the Yang-tse viceroys, who informed the court that they refused to recognise the convention, even if it were signed, has carried the day. Li-Hung-Chang, who telegraphed Tuesday, urging the Emperor to reconsider his determination, has received an answer that the decision of the throne, which is partly based on the unanimous advice of the chief provincial officials, is irrevocable, and that the convention cannot be signed. This decision has probably not yet been communicated to Russia. Despite the Russian Minister's threat that Russia would tear up the convention unless it was signed before Tuesday, Russia appears now to hesitate to slam the door. The negotiations certainly were still proceeding on March 27 between Li-Hung-Chang and M. De Giers, the Russian Minister. The latter has agreed to several further amendments of the text, but these are chiefly formal and inadequate.

Canadian Horses

Col. Dent, who has been appointed by the British Government to buy horses for the army arrived at Montreal. In the course of an interview he said:—I shall purchase one thousand horses as soon as possible, and ship them to England by way of Boston or Portland, the port to be decided upon later. I shall advise the establishment by the home authorities of remount depots in various districts throughout Canada. My plans cannot be definitely stated until I confer with his excellency the Governor General, but I shall certainly pay a visit to the northwest before my return." He was accompanied by Major the Hon. Ormsby Gore of the 11th Hussars. Dr. James Fraser, the veterinary surgeon of the party, left them in New York and went to Boston and Portland, where he will make a minute inspection of the shipping facilities at those ports in order to see which will present the best equipment for the shipment of the horses. One of these ports will be used in shipping the first batch of 1,000 horses. After navigation opens animals purchased in the future will go from Montreal.

The Upper Chambers

One of the most dramatic scenes of the present session of the Legislature of Nova Scotia was enacted in the stately chamber of the Legislative Council on Friday afternoon. The occasion was the introduction of a bill, the object of which was to secure the abolition of the upper Chamber of Nova Scotia's Parliament. The bill was introduced by Hon. W. T. Pipes, leader of the Government in that House. His motion was that the bill be read a first time. But there will be no second reading; there was no first reading. The bill had short shrift, and to the surprise of the spectators behind the bar, was thrown out on the spot. Mr. Pipes had scarcely taken his seat when the President of the Council, Hon. Mr. Boak, arose and stated before such a motion was put to the House he desired to state his opinion with respect to the introduction of such a measure. He asked the Clerk to read his ruling, which was an exhaustive review of previous abolition procedure, the gist of which was as follows:—They had previously secured the opinion of three high constitutional authorities, Messrs B. Russell, R. L. Borden and Dr. R. L. Weldon, ex-M.P. on the matter, and that opinion was to the effect that giving or taking pledges such as some members had given was wholly unconstitutional, a distinct breach of Parliamentary privilege, and therefore not binding. If they were released from the pledges they had given so as to be absolutely free in the matter they might vote fairly and impartially. Mr. Pipes asked if the ruling meant that the bill could be put to the House? and Hon. Mr. Goudge stated that, as he understood the ruling, it meant that this motion, in view of the repeated rulings of the House, could not be put. This coup took the wind out of the sails of the abolition advocates. The ruling of the President was challenged, and on a vote was sustained by a vote of 15 to 2 only the mover and seconder of the bill, Messrs. Pipes and Armstrong, voting against the chair. When Hon. W. S. Fielding was Premier of Nova Scotia he inaugurated the policy of securing from new appointees to the upper Chamber a pledge that they would vote for abolition. To-day, as a result, nearly every member of the Council is pledged to abolition, but on every occasion, and there have been several attempts to pass abolition legislation, the pledged members have seen fit to disregard their pledges and vote against the abolition. Friday the bill was killed in the early stage of the game, and probably will not be heard of until another Parliament is elected.

Roman Relics

Description of the Holy Stairs.

Close to the basilica of St. John Lateran, "Mother and Head of all the Churches of the City and of the World," Cathedral Church of the Holy See, stands an unpretending building which is, nevertheless, reckoned among the most sacred spots of Rome and the whole world.

Entering the central door of the plain portico, the pilgrim finds himself before a flight of what look like wooden stairs. They are not, however, of wood, but of marble, being cased in wood to preserve them from being worn down by the knees of the thousands upon thousands of pilgrims who every year ascend them. This casing of wood was first added in the days of Pope Clement XII., who died in the year 1730, and it has been found necessary to renew it several times since.

At any hour of the day may be seen devout persons ascending these stairs on their knees—a real bodily penance—praying earnestly the while.

A long standing tradition says that these steps are none other than those upon which Our Lord stood when Pilate showed Him—crowned with thorns—to the people, and uttered those immortal words, "Ecce Homo!" (Behold the Man). It is true that historical controversy has raged about this relic, many authorities holding that there is no evidence of any veneration of the "Scala Santa," or "Scale di Pilato" (Pilate's stairs) earlier than the fifteenth century. On the other hand, we have authorities such as Mgr. Barbier de Montault, who considers it as extremely probable that the tradition which tells us that the holy stairs were brought from Jerusalem to Rome by St. Helen in the fourteenth century, is a true one. In confirmation of this it is asserted by many that the marble of which the steps are built is of a kind found only in Syria. There is no denying the fact that great authorities, and those wholly free from any suspicion of a too liberal spirit in matters of religion, have expressed great doubts as to the actual identity of those stairs with those of Pilate's house in Jerusalem. Some have maintained that the name of, as well as the devotion to, the holy stairs took its rise from an ancient custom of making the Way of the Cross in the public streets, stopping at various stations at which were represented the scenes of that sorrowful journey. These stations took the names of the original spots to which they had reference. Thus there is still in Rome an old house commonly known as the House of Pilate, a name which undoubtedly originated in this way.

Be this as it may, the historical question in this case is quite independent of the devotional aspect of the holy stairs. Even if the destructive criticism were more completely proved to be correct than is, in fact, the case, we have still the best of reasons for the sincere devotion of which the holy stairs are the scene and the incentive, for numerous indulgences with which the devotion is enriched are not invalidated by any historical doubts. They were granted primarily as a reward of the acts of piety and faith in the Atonement involved in the pious practice of ascending these stairs. This is proved by the fact that two other staircases have been erected one on each side of the original, to which the same indulgences are attached. This was done owing to the vast crowds which flock on certain days to perform the devotion. It is also noteworth that there is a holy stair, formerly open during Jubilee years, in the Vatican. The present writer also found one on the Mountain of the Mentorella, to which also large indulgences are attached. Again, no one who has witnessed the remarkable and quite unique sight to be seen here on Good Friday, when the stairs are crowded from early morning to night by fervent worshippers, many of whom cannot restrain their tears, will fail to see what good effects must spring from this devotion. It is difficult to understand the spirit of some who refuse to join in this beautiful act of homage, love and penance, because it is not absolutely certain that the holy stairs came from Jerusalem. People like this would probably leave off reciting that most useful devotion, the Rosary, because some writers hold that the Dominic who was its greatest propagator was not the famous saint of that name, but a Carthusian monk who lived much earlier. That this or the other particular relic is genuine, though in the case of most important relics beyond a doubt, yet is not always entirely certain, nor is it a matter which teaches faith. A very high probability, such as we have in the present instance, is sufficient ground for the continuance and encouragement of a devotion which touches the hearts of thousands and is the fruitful source of many acts of love and contrition. As a recent writer puts it ("The Holy Year of Jubilee," by the Rev. Father Thurston, S. J., p. 190), "the approval of the Holy See, which may be accorded from time to time to such popular devotions as that of the Scala Santa, does not involve any infallible pronouncement upon a question of pure history. It implies that reasonable care has been taken to exclude fraud or the probability of error; but that such care is necessarily proportioned to the canons of historical criticism prevalent at the period at which the approbation was first granted."

But though the approabtion of the Holy See in such cases does not involve any infallible pronouncement upon the historical question, it does constitute a very authoritative declaration of the usefulness of the devotion which is thus apparent, and the declaration cannot be impugned without, at least, some lack of due respect to authority.

At the head of the holy stairs stands the famous Holy of Holest (Sancta Sanctorum), so termed on account of the number and sanctity of the relics there preserved. This ancient and venerable chapel will perhaps be treated of on another occasion.—Freeman's Journal.

The Delpit Case

Judge Archibald Declares the Marriage Valid

A judgment was rendered by Judge Archibald in the Superior Court on Saturday in the famous Delpit marriage case.

For a proper understanding of the judgment the circumstances that led up to the case may be briefly summarized as follows;—In May, 1893, the Rev. W. S. Barnes, a minister of the Unitarian Church in Montreal, solemnized the marriage of Mr. E. Delpit then secretary to Lieutenant-Governor Chapleau, with Miss Cote, and after the parties had lived together as husband and wife for several years, three children having been born, Mr. Delpit asked the Ecclesiastical Tribunal of Justice to declare his marriage null and void, on the ground that he and his consort were both Roman Catholics, the Protestant minister who married them was not a competent officer to perform the ceremony, and his act was of no effect. The Ecclesiastical Court granted Mr Delpit's demand, and he then asked the civil court to confirm that judgment.

Mrs. Delpit contested the action, and her counsel filed the following inscription in law;—

The defendant inscribes in law against the demand in this case, and asks that it be rejected with costs for the following reasons;—

Because, even if the parties were Catholics at the date of the said marriage, according to law the marriage of two Catholics can be validly solemnized by a Protestant minister a Protestant minister.

Because, according to law, the sentence of the ecclesastical tribunal alleged in the declaration is null, and of null effect, inasmuch as it pretends to nullify the lieu of said marriage.

Because, according to law, no ecclesiastical tribunal is competent or has a jurisdiction to pronounce the annullation of marriage as to the lieu.

Because the conclusions of the declarations do not flow from the allegations of such declaration.

NO FOUNDATION IN LAW.

It was upon this inscription-in-law that Judge Archibald rendered judgment. Briefly, Judge Archibald held that the civil code imposed no particular religion upon the people, and that the same broad rule applied to marriage. Hence the assertion that a Protestant minister was incompetent to perform a marriage between two Catholics was without foundation in law. He also held that there existed no Ecclesastical Courts under the British flag possessing coercive jurisdiction; that the religious bodies were purely voluntary bodies, and that in order to sustain the assumptions of the Code Napoleon, both British and French law, and the civil code, and return to the old law which prevailed before the conquest of Canada, and which was abrogated by that conquest.

Madame Delpit was accordingly sustained on both grounds of her plea, and the plaintiff's action was dismissed with costs.

An appeal will, no doubt, be taken from Judge Archibald's decision to the Court of Review, and the case will then probably follow the usual course through the Court of Appeals, the Supreme Court, and thence to the Privy Council in England.

SYNOPSIS OF JUDGMENT.

The following is the official synopsis of Judge Archibald's judgment;—

The law of marriage existing in this country, under the French regime, before the cession of the country to England, provided that no person could be married otherwise than by his own proper cure, in his own church, and that persons not professing the Catholic religion could not be married at all without submitting to that religion.

The English law of marriage, as introduced in this country, considered, probably, that a contract between a man and a woman, capable of being married, to take each other for husband and wife, respectively, followed by all purposes, without the intervention of any priest or minister of religion. This was the interpretation of that law universally adopted in the United States, and in this country, in the case of Connelly v. Woolrich and in Ontario in the case of Breakey v. Breakey (2 Upper Canada, Queen's Bench, 25) and in O'Connor v. Kennery (15 Ontario Reports, Queen's Bench 25) In any event, it is certain that the English common law regarded such a marriage as creating an indissoluble bond, which authorized either party to compel its subsequent formal solemnization.

The case of the Queen v. Mills, which referred to the English common law, as administered in England, decided that it was necessary that the contract should be made in the presence of a person in holy orders, and that only such as had episcopal ordination were considered to be in holy orders, which would include priests of the Catholic Church, and ministers of the established Church of England, but no distinction could be made as to the religion of the parties married, as persons belonging to the Church of England could be legally married before a Catholic priest, or vice versa. These provisions of the common law of England were absolutely incompatible with the law previously prevailing in the province, and would, upon the cession, take the place of the previous law, and be available for all the subjects, old as well as new.

HOLY ORDERS EQUALLY VALID.

Since the 15 Victoria, Canadian statutes, which declares it to be a fundamental principle of colonial legislation than all religions are to be absolutely free and equal, the law of this country considers the holy orders of the different churches as equally valid, and thus in this country the ordained ministers of all the churches would have equal authority to solemnize marriage. Thus, then, before the code, any ordained minister could validly receive the consent of any man and woman to marriage without distinction of religion.

Marriage is a contract of natural law, and belongs to the whole population, whether Christian or non-Christian, and the law in making regulations concerning the same intended to provide for the contract of marriage in such a way that all could avail themselves of it, and intended to secure only as a matter of public interest that marriages should be publicly solemnized, and that authentic proof thereof should be preserved; but did not intend to limit the freedom of the members of the different churches to profess or not to profess any particular religion.

Laws relating to marriage are always to be interpreted in favor of the validity of marriage, especially where there has been continued cohabitation as man and wife.

The articles of the code concerning the competency of the public officer who solemnizes the marriage make no distinction as to the religious tenets of the persons married. No distinction founded upon such a question is necessary to secure the object of the law above stated.

To infer such a distinction would be contrary to the principle above stated, of presumption in favor of the validity of marriage, to infer such a distinction would render it impossible for non-Christians to be married legally, and thus would deprive the law of its intended universal application; to infer such a distinction would even nullify marriages of persons one of whom was a Christian and the other a non-Christian, or even of persons who belong to different religious organizations.

LICENSES COVER OBSTACLES.

The licenses for marriage are an exercise of the Royal prerogative, and while they cannot exempt from the execution of any laws, yet they can, and do, cover any obstacles arising from the particular rules of religious organizations, all of which organizations are subject to the supremacy of the Sovereign.

The presumption in favor of marriage is not the same as presumption raised with regard to other facts, but is much stronger. The evidence for the purpose of repelling it must be strong, distinct, satisfactory, and conclusive. A presumption of this sort in favor of marriage can only be negatived by disproving every possibility. (See Piers v. Piers, 2 H.L.C., 331.)

Thus, in the case of persons who had previously professed the Roman Catholic religion going before a Protestant minister for the purpose of being married, any presumption in favor of their continuing to profess their previous religion would yield to the stronger presumption in favor of the validity of the marriage.

By the change of sovereignity the functions of every previously existing court ceased, and could only be re-established by an exercise of the power of the new Sovereign.

No ecclesiastical courts have ever been created since the cession in this country.

All religious organizations in this country are purely voluntary organizations, and have no coercive jurisdiction over their members. Marriage is a civil tie, the obligation of which has been reinforced by considerations relating to religion, but these are only accessory to the contract, and if the civil tie be invalid the religious obligation necessarily fails.

No ecclesiastical authority has the right to exercise any coercive jurisdiction with regard to the validity of a marriage tie, although it may enquire into such a question for the purpose of regulating the relation of its members to itself in accordance with its rules of discipline, and under the express or implied contracts by which such members are bound to it.

DECREE A NULLITY.

The decree, therefore, of the ecclesiastical authority in this case, purporting to annul the marriage tie between plaintiff and defendant, is itself a nullity.

1. Considering, therefore, that there exists in this province no established church, but that all denominations of Christians are perfectly free and equal;

2. Considering that marriage is a contract of natural law, and belongs to the whole body of the population, without distinction of religious belief;

3. Considering that our law relating to marriage was enacted without reference to the religious beliefs of any section of the population, but as a general law to secure the publicity of marriage and the authenticity of its proof;

4. Considering that neither the code nor the authority of England since the cession of this country, nor of this country under the French regime, required any religious ceremony as an essential of the validity of the marriage;

5. Considering that marriage is a civil contract, the obligation of which, however, has with most Christian nations been enforced by considerations relating to religion.

6. Considering that in the interpretation of any law relating to marriage, every presumption must tend towards the validity of marriage;

7. Considering that articles 128 and 129 of the Civil Code require that marriage be solemnized publicly, and before a competent officer, and that the litoral interpretation of these articles would exclude any limitation such as that set up by the plaintiff;

8. Considering that there is no ground to limit the general application of the articles in question, except such as would be based upon the supposition that the law intended to confer upon the particular religious bodies an obligatory jurisdiction over their members, which is absolutely contrary to the complete freedom of religious profession prevailing in this country;

9 Considering therefore that the said Rev. William S. Barnes was not an incompetent officer to receive the consent of the parties to the marriage in question;

10. Considering that at the cession of this country the function of all courts in previous existence absolutely ceased and determined, and could not be revived or re-established without the expression of the will of the new sovereignty;

11. Considering that since the said cession the new Sovereign authority, has never constituted any ecclesiastical court in this country, and that no such court has existed, or does exist therein;

12. Considering that all the different religious organizations in this country are purely voluntary associations, free and independent of the State with regard to all matters of faith and doctrine, but having no coercive jurisdiction over any of their members,

13. Considering that actions for annulment of marriage are civil actions, and are specially confined to the courts of civil jurisdiction,

14. Considering, therefore, the decree of the ecclesiastical authority pleaded by the plaintiff as being null and void, and of no legal effect;

15. Considering plaintiff's action wholly unfounded and defendant's demurrer well founded, doth maintain said demurrer and dismiss plaintiff's action with costs.