

unconstitutional. If the incorporation is unconstitutional, the endowment is unconstitutional, and the Jesuits' Estates Act is an unconstitutional Act, if the Incorporation Act is so.

It has been made by British law, upon more occasions than one, an unconstitutional Act to procure judgments or determinations, etc., from the See of Rome, or any foreign potentate. This legislation was first initiated under Edward III., it was continued under Richard II., again under Henry VIII. By 24 Henry VIII., chapter 21, penalties are imposed for procuring inhibitions, judgments and other processes from the See of Rome within the King's dominions—not alone in England, Ireland and Scotland, but in any part of the King's dominions. The 24 Henry VIII., chapter 21, prohibits the King, his heirs and successors, kings of the realm, and all subjects of the realm or of the dominions of the Crown, for suing for licenses, dispensations, compositions, faculties, grants, rescripts, delegations, or any other instruments in writing from the Bishop of Rome, called the Pope, or from any person or persons having or pretending to have any authority by the same. "The King, his heirs and successors" being expressly named in the Act, the reigning sovereign is bound by the prohibition; and it is not within the constitutional power of a Colonial Legislature or Governor to absolve the Crown from its provisions, or to enact or assent to any Bill violating this or any other Imperial statute in force in the colony. The Crown can only be relieved from the prohibitions of the Act by the power that imposed them, namely, the Imperial Parliament. And in 13 Elizabeth, chapter 2, and 1 Elizabeth, chapter 1, it is provided in more express terms that:

"The usurped power and jurisdiction of the Bishop of Rome, heretofore unlawfully claimed and usurped within this realm, and other the dominions to the Queen's Majesty belonging,"

Shall not be exercised. Neither the Treaty of Surrender, nor the Act of 1774 did more than to grant the free exercise of the Catholic religion in Canada, so far as the laws of Great Britain permit. But we are told by the Minister of Justice that a Provincial Parliament can repeal Imperial statutes as concerns itself, if I understand him aright. I do not accept this definition of the law. I do not hold that the thing formed can say to that which formed it: what doest thou? and can set aside the mandate of the power which formed it. I find in the British North America Act a provision which is antagonistic to the statement of my hon. friend the Minister of Justice. The 129th section of that Act contains the following:

"Except as otherwise provided by this Act, all laws in force in Canada, Nova Scotia or New Brunswick at the Union, and all courts of civil and criminal jurisdiction, and all legal commissions, powers and authorities, and all officers judicial, administrative, and ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia and New Brunswick respectively, as if the Union had not been made; subject, nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland), to be repealed, abolished or altered by the Parliament of Canada; or by the Legislature of the respective Provinces, according to the authority of the Parliament or of that Legislature under this Act."

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