

tion of popular approval—and popular superstition—that the prohibition of mixed marriages and of attendance at Protestant schools rests.

To many acts of the clergy, however, the state has undertaken to give legal sanction. Thus, parish priests are not supported by voluntary offerings, but by payment of the tithe which the civil courts will enforce; and churches are not built by popular subscription, but by levying a regular tax upon the freeholders of the parish and collecting it by legal process if necessary.\* Thus, too, the whole educational system has been placed under clerical control; so that ecclesiastics are permitted to teach without having received any diploma, and primary schools are used mainly for instructing children in the catechism and preparing them for their first communion. With regard to the important subject of marriage the Civil Code has been interpreted so as to give almost complete authority to the church. From judicial decisions it would appear that the marriage of two Catholics can be celebrated validly only before the parish priest of one of the parties, and that an alleged marriage celebrated in defiance of any of the numerous canonical impediments or before a Protestant minister is void.† The courts have frequently limited themselves to determining the civil effects, after the church has rendered decision as to the validity or nullity of the marriage tie.‡

Not contented with what the state has given, the church has demanded more. In principle, at least, she has clung persistently to "benefit of clergy." It is contended that civil magistrates have no jurisdiction over the acts of ecclesiastics performed in the discharge of their priestly functions;§ and a judge of the Superior Court accepted this doctrine in a case where voters had been intimidated by threats of spiritual penalties.§ Although the Supreme Court declared, in the same case, that the assertion of clerical immunity was preposterous, the church has not changed her ground. The bishops have simply pro-

\*See below, Chapter III.

†See below, Chapter VI., Section 2.

§See below, Chapter VII.