

The Church in Canada.

Under this heading will be collected and preserved all obtainable data bearing upon the history and growth of the Church in Canada. Contributions are invited from those having in their possession any material that might properly come for publication in this department.

THE TREATY OF PARIS, 1763.

The 4th section of the Treaty of Paris, 1763, the Treaty under which Canada passed from the French to the English, after the fall of Quebec is as follows:—

IV. His most Christian Majesty renounces all pretensions which he has heretofore formed or might form to Nova Scotia or Acadia in all its parts and guarantees the whole of it, and with all its dependencies to the King of Great Britain. Moreover his most Christian Majesty cedes and guarantees to his said Britannic Majesty in full right, Canada, with all its dependencies as well as the Islands of Cape Breton, and all the other islands and coasts in the Gulf and the River St. Lawrence, and in general everything that depends on the said countries, lands, islands and coasts, with the Sovereignty, property, possession, and all rights accrued by treaty or otherwise which the most Christian King, and the Crown of France have had till now, over the said countries, islands, places, coasts, and their inhabitants, so that the most Christian King cedes and makes over the whole to the said King and to the Crown of Great Britain, and that in the most ample manner, and for and without restriction and without any liberty to depart from the said cession and guaranty under any pretence, or to disturb Great Britain in the possession above mentioned. His Britannic Majesty on his side agrees to grant the liberty of the Catholic religion to the inhabitants of Canada; he will consequently give the most precise and effectual orders that his new Roman Catholic subjects may profess the worship of their religion according to the rights of the Romish Church, so far as the laws of Great Britain permit.

Now, what is the meaning of the words: "the liberty of the Catholic religion," "to profess the worship of their religion," and how are they affected by the words, "so far as the laws of Great Britain permit?" The reader will say, Why, in 1763, the English penal laws were in full force against Catholics. The Emancipation Act did not come for half a century or more after that. The laws of Great Britain did not permit any exercise of the Roman Catholic religion in 1763. Surely, the reader will say, there is some other section besides this contradictory one, else there are no guarantees.

There is no other section in the Treaty respecting Catholics in this part of America. This section is not so contradictory as it looks, and it has substantial, potential guarantees within its four corners. Taking up the last words of the section first, it will be perceived that the freedom of the Catholic religion is secured to Catholics in Canada, unless it happens that by the law of Great Britain, the penal laws against Catholics are in force here. British law does not extend alike to all the British possessions. It is important to remember that. The Penal laws extended to Ireland, but they did not, in 1763, or before or since, extend to the Colonies. Canada fell into the list of American Catholics, in 1763, and the penal laws against Catholics did not reach them. Great was the dismay and confusion of the 600 "English emigrants" in Quebec, when the highest legal luminaries in the land and out of the land, gave it as their opinion that the "new subjects," the French Catholics, were not affected by those Penal laws that were aimed at Catholics in the old country. Then the musty old statutes were dislodged from their shelves, the black letter jurists of the Stuart and Tudor periods were ransacked, and not until they came to the first statute of Elizabeth (Eliza, as Mr. Lowell calls her), was there any comfort found. The statute of 1 Elizabeth, Cap. 1, was the only statute omnipotent enough to reach the Colonies; it provides that the supremacy which formerly vested in the Pope of Rome in spiritual matters should, thereafter, be vested in the Queen of England, and this Act was expressly extended to the Colonies.

In 1763, therefore, the British Colonial Catholics had the full exercise of their religion without any trouble from the penal laws; the only inconvenience being that the

sovereign of England, George I., was, by statute law, the Head of their Church. One head, more or less, ought not to be a matter that a Catholic need worry about, as good Churchmen in England were liberal in this regard. A Queen was the first head; there may have been no head, or an interregnum or hiatus or something of that sort from the time of Henry VIII. to Elizabeth, because Mary repealed her father's spiritual enactments. By plain statute, however, Elizabeth was Head. Then we have Edward VI., a child of six years. There was no Head, unless it be Cromwell, in the pre-restoration period. The oddest thing of all is, that James II., a Catholic, was Head of the Protestant Church. If so, was there not a fitness—a compliment nicely turned—that a Protestant should be the Head of the Catholic Church? Colonists should not be particular when the people at home were so easily satisfied. The Head was ready made and at hand, and there was nothing to be done but fit the body to it. It was an adaptation to the story of Procrustes, the inhospitable, who had a simple remedy of adjusting all travellers to his bed. If too long, he cut a piece off; if too short, he had them stretched out the desired length.

For a time it seemed as if the Catholic Church in Canada were to carry around this Old Man of the Sea on its shoulders and become a hydra among Churches, but the thing was too absurd. Some of the Governors who were sent out shortly after the Conquest, held to the view that the King was really Head of the Catholic Church, and they wanted the appointment of the parish priests, as a matter of patronage, just as one reads of appointments in the office of the Home Secretary in England. They wanted, in fact, to get the Church under the law, as every Church Establishment is—"the creature and slave of the State." As a matter of policy and prudence, all the Catholic Bishops, down to a very recent date, were approved of in England before going to Rome. It is safe to say they called in at Downing street on their way to the Head of their own Church. But, on the other hand, it is only fair to the civil authorities to say that *their* desire was generally, if not always, to get an unobjectionable and workable man for so important an office. The contest, in this respect, was fought out in Bishop Plessis's time, and the Crown gave up any pretensions to the Headship. The statute of Elizabeth was relegated to the region of obsolete law.

After having given this subject a good deal of consideration for some years past, I am led to the belief that the parties who drew up and settled the terms of the Treaty of Paris had no idea that the statute of Elizabeth applied. That they were aware of the Penal laws against Catholics in Great Britain and in Ireland there is no doubt. Canada, some 150 years before this Treaty, had passed out of the French control into English hands, for about three years, and there was a provision then to the same effect as the present,—that the freedom of their worship should be allowed to the Catholics. *The language of the Treaty, so far as religious guarantees are concerned, was not to render existing laws nugatory, but it was intended to prevent future legislation affecting the freedom and exercise of the Roman Catholic religion.*

The fourth section of the Treaty of Paris then reads to day in effect that the full and entire freedom of their worship is guaranteed to the Roman Catholics within the territory ceded by the Treaty to Great Britain. I will say a word as to the extent of this territory later.

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(To be continued.)

[Those] historical studies must have been slight indeed [that] have not shown that even in the darkest times the Church was the corrective, befriending, opposite of the world, exercising a great magistracy of humanity. Yes, even in the darkest times she was the legal protector of the wretched; the patron of the slave; the mother of the orphan; the defender of the widow. In her beneficent action throughout the ages is one note of her celestial origin."—W. S. LILLY.

*Chalmers' Treaties et passim. The remainder of the 4th section refers to permission to Canadians to return to France, and was in force only eighteen months. Reference will be made in a succeeding article to the language of the last sentence in the extract, as found in the French and English versions.