

and over Canada, is declared "to continue and be vested in the Queen," (s. 9). The agreement with the Jesuit Fathers is, therefore, an agreement with the Crown. And this Quebec Act, if not *ultra vires*, is "an Act which is assented to on the part of the Crown, and to which the Crown therefore is a party;" per Lord Chancellor Cairns in *Theberge v. Landry*, 2 App. Cas. 108.

The preamble recites without disapproval the claim made by the Pope, that "the Holy Father reserved to himself *the right of settling the question of the Jesuits' estates in Canada.*" This claim by the Pope is the assertion by a foreign potentate, of a right to a temporal sovereignty or jurisdiction over the territorial possessions of the Crown in Canada (for all admit that the Jesuits' estates are Crown property), and seems to have been conceded, for thereupon the Pope gave the following consent, which by being recited in the Act, has obtained executive and legislative sanction in that Province: "The Pope *allows the Government to retain the proceeds of the sale of the Jesuit estates as a special deposit to be disposed of hereafter with the sanction of the Holy See.*" Substantially similar claims by former Popes of temporal jurisdiction in England in early days, led to vigorous parliamentary protests and the enactment of the stringent prohibitory Acts to which we have referred.

The preamble then recites a proposition to the Jesuit Fathers for a perpetual concession to the Crown of all property, title and rights in the Jesuit estates, "in the name of the Pope, of the Sacred College of the Propaganda, and the Roman Catholic Church in general," which was accepted with the following conditions as to its being a binding agreement after ratification by the Pope:

"(7.) Any agreement made between the Government of this Province and the Jesuit Fathers will be *binding only in so far as it shall have been ratified by the Pope*, and the legislature of this Province.

"(8.) The amount of the compensation fixed shall remain in the possession of the Government of the Province as a special deposit *until the Pope has ratified the said settlement*, and made known *his wishes respecting the distribution of such amount in this country.*

"Our Corporation will receive the interest upon such deposit at four per cent. from the date of the signification to the Provincial Secretary of the *acte* of the Pope confirming the said arrangement, up to the payment of the capital which is to be made to the persons entitled thereto within six months after the signification to the said Provincial Secretary of *the decision of the Pope respecting such distribution.*"

These provisions, importing the foreign jurisdiction of the Pope into matters affecting civil government in Quebec, are affirmed by the first and second clauses of the Act.

The power thus given to the Pope to ratify the agreement with the Crown implies also the power to negative or veto it.

Considering then these conditions in the light thrown upon them by the extracts we have given from both statute and common law, they obviously suggest the questions: (1) Is it within the constitutional or regal power of the Crown to submit any agreement, respecting its territorial possessions, or respecting any