

6-7 EDWARD VII., A. 1907

Gen. Am-
herst, in
1760.
Article 42d.

country to your Majesty's arms in the year 1760.¹ In the 42d article of this capitulation it is desired by the French commander, on the behalf of the French and Canadian inhabitants of this province, that they shall continue to be governed according to the custom of Paris and the laws and usages established in this country; to which it is answered by your Majesty's general, that they become subjects to the King: by which it should seem, that these your Majesty's new subjects in this province were put upon the same footing as your Majesty's other subjects in other parts of your Majesty's British dominions with respect to the laws by which they were to be governed, and the power of legislation that was to be exercised over them for the time to come; and that the continuance or abolition of their former laws and customs was to depend entirely upon the future counsels which your Majesty, in your royal wisdom, should find it expedient to pursue.

Article 27th

The 27th article of this capitulation demands, that the free exercise of the Roman Catholic religion shall subsist intire, in such manner that all the people shall continue to assemble in the churches and to frequent the sacraments as heretofore, without being molested in any manner, directly or indirectly; and then it goes on and demands, in the second place, that the people shall be obliged by the English government to pay the priests the tithes and all the taxes they were used to pay under the government of the French king. The general's answer to this article is as follows: "*Granted, as to the free exercise of their religion. The obligation of paying tithes to the priests will depend on the King's pleasure.*" By this answer it is evident that a bare toleration, or permission to exercise freely the Roman Catholic religion, without being molested for so doing by the execution of the penal laws of England upon that subject, is granted to the Canadians, together with a reasonable use of their churches for that purpose, though not, as we conceive, to the intire exclusion of your Majesty's Protestant subjects from making use of the same churches likewise: but a legal establishment of that religion, with a right to exact their tithes from the people as legal dues and not as voluntary contributions, is refused them, until your Majesty's pleasure shall otherwise direct, which your Majesty has not yet judged expedient to do. By this refusal all those parts of the Canadian laws and usages relating to the payment of tithes and other church dues are either abolished or suspended.

Article 31st

The 31st article of the same capitulation is as follows: "The bishop shall, in case of need, establish new parishes, and provide

¹See Capitulation of Montreal, p. 7.