

granting they held them at that date—which would not be accurate—when we have before us the decree of the Parliament of Paris, suppressing the Jesuit Order in the year 1762, taking from them their land; when we have that, it would not, I say, be strictly accurate to affirm, that at the time of the Definitive Treaty in 1763, these Jesuit Fathers held their estates as they certainly did aforetime. But even if they did, while admitting freely that this country, New France, having then a settled law, and passing under the British Crown as a conquered country, while I admit freely, that the British law did not, by virtue of the conquest, become the law of New France, I do say, it is beyond all doubt, that it was in the power of the conquering State to enact such laws as to the conquering State seemed proper, to change the civil law which then prevailed, and to introduce the common law of England. It is beyond all controversy that, the treaty having been agreed to on the 10th February, 1763, in the October following, the King did issue a proclamation that introduced at once into this country, the laws of Great Britain, and that those laws continued to be the laws of this country until, in 1774, the Quebec Act was passed, which restored to the French Canadian inhabitants, the civil law which they liked best, to which they were accustomed, and for which they had petitioned to the King and to the British Parliament. The constitutionality of the proclamation, the power of the King to introduce English law, is not now open to controversy, because the very self-same treaty underwent consideration in the celebrated case with which all lawyers who have made any attempt to master this subject are perfectly familiar; and it was upheld as constitutional, as a proper exercise of the prerogative power, and as being binding and efficacious to the full extent and limit of the command contained therein. Now, Sir, what was the effect of that? It will not be denied that at that time the Jesuits were an organisation which could not be tolerated, and were not tolerated, by the laws of England. I am not going now into any argument, any citation, to establish that point; it is beyond controversy. It was laid down by the law officers of the day—I have their citations here to establish it—it was laid down by Blackstone in his Commentaries, the first edition of which was published shortly before that period, that the Jesuit organisation was an illegal one, and then the moment British laws were introduced into this country, *ipso facto* the Jesuits' estates became forfeited to the Crown, and the title of the Crown to these estates has always been recognised from that period up, has always been considered as indefeasible. If sanction was wanted for it, we could find it by the action of the Parliaments of this country, upon petition of the French Canadian people of the country, who desired that the lands should be kept for educational purposes when it was proposed to give out of these lands, and perhaps the lands themselves, to General Amherst, who had been the general in command at the time of the cession. So not only have we, as I will prove, by the law that was enunciated by the law officers of the Crown, by the highest authorities of the day, but we have the action of our own Parliaments, the Parliament of the Province of Quebec before the Union, the Parliament of United Canada after the Union; and yet, Sir, here, 100 years afterwards, we find the Premier of the Province suing humbly to the Pope of Rome for liberty to sell the Jesuits' estates. Can humiliation go much further, if we are indeed a free people.

Some hon. MEMBERS. Oh! Oh!

Mr. McCARTHY. Some of my hon. friends laugh; I do not see any laughing matter in it, I cannot see why they should laugh about it. If the property is in the condition that I have proved it to be, I think the conclusion that I have stated follows from it; and if we are a free people, if the

Mr. McCARTHY.

Act of Supremacy means anything, if we are not subject to his Holiness of Rome in temporal matters—I am not speaking of spiritual matters, I am speaking of the public domain of this country, I am talking about the temporal power, it was of that power that consent was asked to dispose of the estates—and so I say it is a humiliation to us as a free people to find that one of the Premiers of this Dominion has thought it necessary to obtain the sanction of any foreign authority to dispose of this property. It is argued that the Pope is no longer a foreign potentate; I think he is. His temporal power was never feared, it was the spiritual power which was struck at by the Act of Supremacy, not the temporal power of the Pope. It was the power that he claimed to excommunicate Sovereigns, to absolve their subjects from their allegiance—these were what was struck at by the Act of Supremacy, not his guns or his men, for guns and men he never had in numbers to alarm or affect any of the great powers of Europe. Now, Sir, am I right or am I wrong, in what I have stated?—because I desire to make no misstatement of this question. Let us see just what the law officers of the Crown stated at that time. We know how it was done. The law officers, I believe, at that time, were Mr. Thurlow, the Attorney General, and Mr. Wedderburn, Solicitor General, both distinguished lawyers, but neither of them perhaps, competent to give an opinion in matters of civil law. Sir James Marriott was skilled in civil law and in ecclesiastical law, and he was called upon for a report—merely for a report, because the responsibility still rested with the law officers of the Crown. Extracts of his report have been published, and we are more or less familiar with them, and his report established, and the law officers adopted his conclusion, that the Jesuit estates were at once forfeited to the Crown. That under the treaty there was no claim for either the Jesuits or for other religious communities; but, anxious as the Sovereign was—and, I say, if you will look back at the history of that period, no man with British blood will have cause to regret the conduct of the British authorities in those days or the manner of their disposition—the Sovereign said: The Jesuits are beyond the pale. We cannot listen, for one moment, to their holding their estates, but the other religious communities are to be permitted to remain in possession of their estates, and they are to remain there for the purpose of enabling us to judge whether it is necessary under the treaty (afterwards, under the Statute of 1774, they were continued in their possession), in order that effect might be given to that portion of the treaty, and that portion of the Act of Parliament, which guaranteed to the inhabitants of the conquered country their rights. I shall have to trouble the House with reference to the facts which govern the whole subsequent proceedings, and let me commence with the earliest date. On 13th August, 1763, in the instructions which were given by the Earl of Egremont to Governor Murray, we find these words:

"Though the King has, in the 4th article of the Definitive Treaty, agreed to grant the 'Liberty of the Catholic religion to the inhabitants of Canada;' and though His Majesty is far from entertaining the most distant thoughts of restraining his new Roman Catholic subjects from professing the worship of their religion according to the rites of the Romish Church, yet the condition expressed in the same article must always be remembered, viz:—'As far as the laws of Great Britain permit;' which laws prohibit absolutely all popish hierarchy in any of the dominions belonging to the Crown of Great Britain, and can only admit of a toleration of the exercise of that religion. This matter was clearly understood in the negotiation of the Definitive Treaty. The French Ministers proposed to insert the words *comme ci-devant* in order that the Romish religion should continue to be exercised in the same manner as under their Government; and they did not give up the point till they were plainly told that it would be deceiving them to admit those words, for the King had not the power to tolerate that religion in any other manner than 'as far as the laws of Great Britain permit.' These laws must be your guide in any disputes that may arise on this subject; but at the same time that I point out to you the necessity of adhering to them, and of attending with the utmost vigilance to the behaviour of the Priests, the King relies on your acting with all proper caution and prudence in regard to a matter of so delicate a nature as this of religion; and that you will, as far as you can consistently with