

es which their fathers,
head of the liberties of
ourt of Queen's Bench,
existing Superior Court
re possessed, the power
n the nature of "appel
circumstances of the
non-existence of any
vince, such as those in
pel comme d'abus" to
and the absence of any
Lower Canada of such
considerable difficulty in

is bound to enquire,
the law and rules of
which obtain in Lower
which it is sought to
authority competent to

th upon the question
th in Lower Canada,
which it is governed,
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ritual of the Church,
e Courts were bound

difficulty, unless it be
ow governs Roman
that which governed
ications of that law
have not been intro-
must have been the
ual contract binding
d, as such, ought, if
sides that the law
Quebec ritual, which

was certainly accepted as law in Canada before the cession of the province."

And again, referring to the excommunication of Guibord as a member of the Institut Canadien, my Lords say:—

"Their Lordships are satisfied that such a discretionary enlargement of the categories in the Ritual would not have been deemed to be within the authority by the law of the Gallican Church as it existed in Canada before the cession; and, in their opinion, it is not established that there has been such an alteration in the *status* or law of that Church founded on the consent of its members, as would warrant such an interpretation of the Ritual, and that the true and just conclusion of law on this point is, that the fact of being a member of this Institute does not bring a man within the category of a public sinner, to whom Christian burial can be legally refused.

It would further appear that, according to the ecclesiastical law of France, a personal sentence was in most cases required in order to constitute a man a public sinner."

And lastly:—

"*Gibert*, in his Institutes, says that the *ipso facto* excommunication inflicted by the Council of Trent as the punishment of reading or possessing prohibited books would have no effect in France *dans le for extérieur*. *Dupin*, a jurist already mentioned, denies the authority in France of the decrees of the Congregation. He says:—

"En effet, en consultant les précédents, on trouve un célèbre arrêt du Parlement de Paris qui l'a jugé ainsi en 1647, après un éloquent plaidoyer de l'Avocat-General Omer Talon :

"*Nous ne reconnaissons point en France*, dit ce Magistrat, *l'autorité, la puissance, ni la juridiction des congrégations qui se tiennent à Rome; le Pape peut les établir comme bon lui semble dans ses Etats; mais les décrets de ces congrégations n'ont point d'autorité ni d'exécution dans le royaume.*

Il est vrai que dans ces congrégations se censurent les livres défendus; et dans icelles se fait l'*index expurgatorius*, lequel s'augmente tous les ans; et c'est là où autrefois ont été censurés les arrêts de cette cour rendus contre Chastel, les œuvres de M. le Président de Thou, les libertés de l'Eglise Gallicane, et les autres livres qui concernent la conservation de la personne de nos rois et l'exercice de la justice royale." &c.—(Dupin, Droit Public Ecclésiastique, avertissement sur la 4ème édition).