

minister then a dispensation will not be required. That is the rule to-day, and still will be the rule under this Bill. The hon. member for West Durham was astonished that the marriage in Quebec should be solemnised before the curé of the Catholic parties. There is no doubt of the law, but a different rule prevails with regard to Protestants; they may be married before any Protestant minister, provided there is no Church regulation to the contrary. As to the reservation of the right of requiring previous dispensation in favour of the Catholic Church, it seems to me that the whole question turns upon a question of policy, as to whether it would be politic for this House to make such a reservation. I may say that I inserted that clause with a view to meet the views of the Catholic members, who I thought would have some hesitation in voting for the Bill without that clause. I really cannot see why members of the Protestant faith should object to the clause. We claim it with the same spirit of liberty with which we were actuated when we put in the proviso that no minister of the Church of England shall be forced to celebrate such marriages. The clause, moreover, is a necessary consequence of the general law of the Dominion, which requires that marriage shall be celebrated by a priest or minister, and not by civil officers.

MR. HOUDE: But no priest or minister can be compelled to celebrate any marriage that is not legal. I know of no means of doing so.

MR. GIROUARD: I am of opinion that, outside of the Province of Quebec, where an exception is made by the Civil Code, that, if a priest or minister should refuse to celebrate a marriage, there are means of compelling him. A *mandamus*, and I presume in some Provinces an injunction, will meet such a case. If no reservation be made, a priest or minister could be forced to celebrate this kind of marriage against his conscience. If no regard is to be had to Church regulations, we shall introduce into our marriage laws a character purely civil which we have no power to give them under our Constitution, the celebration of marriage being left entirely to the Provincial Legislature, and from the character of the officiating minister will always depend the character of the marriage. Fi-

nally, the "dispensation" proviso will not be a novelty on our Statute-book. several Statutes in force in this country have recognised the regulations of the various Churches existing within its territory. The Quebec Act of 1774, which may be considered as our *Magna Charta*, declares that:

"For the more perfect security and ease of the minds of the inhabitants of the said Province of Quebec, His Majesty's subjects, professing the religion of the Church of Rome of and in the said Province of Quebec, may have, hold and enjoy the free exercise of the Church of Rome, subject to the King's supremacy," etc. The clause objected to is nothing more than the application of this Imperial law; it is then the recognition in favour of Catholics only of an article of faith of the said Church, to wit: that no marriage between brothers and sisters-in-law can be valid except by dispensation from the constituted authorities. Numerous Statutes will be found in the Statutes of Lower Canada where various privileges and immunities of the Catholic Church were sanctioned by Parliament but, to be brief, we will confine ourselves to Article 127 of the Civil Code, which was voted by the Parliament of the late Province of Canada immediately before Confederation. That article says:

"The other impediments recognised according to the different religious persuasions, or resulting from relationship of affinity or from other causes, remain subject to the rules hitherto followed in the different Churches and religious communities. The right, likewise, of granting dispensations from such impediments appertains is heretofore, to those who have hitherto enjoyed it."

This law was passed by the Parliament of the late Province of Canada, a few months before Confederation, and I do not see why this Parliament should be less liberal than the late Parliament of Canada. I could quote several Statutes of the Province of Quebec where the different rules and regulations of various Churches have been recognised. But, to be brief, I come to the Province of Ontario where I find the same policy pursued. In 1793, a Statute was passed legalising all past marriages of persons "not being under any canonical disqualification to contract matrimony." A more express recognition of Church regulations cannot be found. The same provision is contained in another Statute of Upper Canada, passed in 1830, 11 Geo. IV, cap. 36.