

inhabitants of Lower Canada all the privileges which their fathers, as French subjects, then enjoyed under the head of the liberties of the Gallican Church; and further that the Court of Queen's Bench, created in 1794, possessed, and that the existing Superior Court now possesses as the Superior Council heretofore possessed, the power of enforcing these privileges by proceedings in the nature of "*appel comme d'abus*." Considering the altered circumstances of the Roman Catholic Church in Canada, the non-existence of any recognized ecclesiastical Courts in that province, such as those in France which it was the office of an "*appel comme d'abus*" to control and keep within their jurisdiction; and the absence of any mention in the recent Code of Procedure for Lower Canada of such a proceeding, their Lordships would feel considerable difficulty in affirming the latter of the above propositions.

And again:—

"The Court has a right to enquire, and is bound to enquire, whether that act was in accordance with the law and rules of discipline of the Roman Catholic Church which obtain in Lower Canada, and whether the sentence, if any, by which it is sought to be justified, was regularly pronounced by an authority competent to pronounce it.

It is worthy of observation, as bearing both upon the question of the *status* of the Roman Catholic Church in Lower Canada, and the manner of ascertaining the law by which it is governed, that in the Courts below, it was ruled, apparently at the instance of the respondents, that the law, including the ritual of the Church, could not be proved by witnesses, but that the Courts were bound to take judicial notice of its provisions.

The application of this ruling would be difficult, unless it be conceded that the ecclesiastical law which now governs Roman Catholics in Lower Canada is identical with that which governed the French province of Quebec. If modifications of that law have been introduced since the cession, they have not been introduced by any legislative authority. They must have been the subject of something tantamount to a consensual contract binding the members of that religious community, and, as such, sought, if invoked in a Civil Court, to be regularly proven.

It seems, however, to be admitted on both sides that the law upon the point in dispute is to be found in the Quebec ritual, which