

THE MARRIAGE LAWS.

"If by the Treaty of Peace, Canada should remain in the power of His Britannic Majesty, His most Christian Majesty shall continue to name the bishop of the colony, who shall always be of the Roman Communion, and under whose authority the people shall exercise the Roman religion.—*Refuscd.*" Art. XXX.

"The Bishop shall, in case of need, establish new parishes, and provide for the rebuilding of his cathedral and Episcopal palace, &c., and exercise all the jurisdiction which his predecessor exercised under the French Dominion, save that an oath of fidelity or a promise to do nothing contrary to His Britannic Majesty's service, may be required of him.—*This article is comprised under the foregoing (vus le précédent).*" Art. XXXI.

"The French and Canadians shall continue to be governed according to the custom of Paris, and the laws and usages established for this country, &c. &c.—*They become subjects of the King.*" Art. XLII.

By the Treaty of Paris (Feb. 10th, 1763) Canada was secured to the British Crown, and by article Four of that Treaty the following limited undertaking was entered into on the part of Geo. III.:—"His Britannic Majesty agrees to grant the liberty of the Catholic religion to the inhabitants of Canada: He will consequently give the most precise and most effectual orders that his new Roman Catholic subjects may profess the worship of their religion, according to the rites of the Roman Catholic Church, *as far as the laws of Great Britain permit.*"

The Royal Proclamation of the 7th October, of the same year, contains nothing that particularly affects the question under discussion, and it was moreover revoked and annulled by the first legislative enactment relating to Canada, known as "The Quebec Act." This statute (14 Geo. III. cap. 83, 1774) entitled "An act for making more effectual provision for the government of the Province of Quebec, in North America," in its chief parts is to be found among the Imperial Enactments, collected at the beginning of the Consolidated Statutes of Canada, p. x. At present we refer specially to the 5th section which is of abiding significance, and may be regarded as the very charter which secures and defines the liberties of the Roman Catholic population of this country. It carries out precisely the

above-cited provision of the Treaty of Paris, and extends in its scope beyond the concessions of the several articles of capitulation in recognizing and ascertaining the religious rights and privileges of priests and people. "And for the more perfect security and ease of the minds of the inhabitants of the said Province, it is hereby declared, that 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 religion of the Church of Rome, subject to the King's supremacy, declared and established by an act, made in the first year of the reign of Queen Elizabeth, over all the dominions and countries which then did, or thereafter should belong, to the Imperial Crown of this realm; and that the clergy of the said Church may hold, receive and enjoy their accustomed dues and rights, with respect to such persons only as shall profess the said religion," 14 Geo. III. cap. 83, sec. 5. By sec. 8, all the Canadian subjects, as to their property and possessions and civil rights were explicitly placed, or replaced, as some will have it, under the old French system of laws which obtained before the conquest, therein called the laws of Canada—which system was subject however to displacement when in conflict with their paramount duty of allegiance and subjection to the Crown and Parliament of Great Britain, and subject also to modification by the colonial authorities.

The next Imperial Act (31 Geo. III. cap. 31: 1791; Con. Stats. Can. p. xv.) provides for the separation of the Province of Quebec and the establishment thereof of the Provinces of Upper and Lower Canada, gives the two local legislatures thereby formed, the right to vary or repeal any existing laws, statutes and ordinances; and in sec. 35, specially preserves intact the privileges of the clergy of the Church of Rome, as provided for in the Quebec Act. In the words of Mr Pitt, the intention of the framers of this act was "to continue the laws then in force in Quebec—unless the assembly of each Province chose to alter them." In Lower Canada this was not done, but in Upper Canada, where the population was composed of English-speaking emigrants, settlers and natives, this right was exercised on the very earliest opportunity. By P. S. U. C. 32 Geo. III. cap. 1: 1792; the Upper