

that by the express term of that statute, the provisions of the Statute of Elizabeth with regard to the supremacy of the Queen, was enacted with regard to the Province of Quebec. Now, let me ask the House, for the purpose of considering how far passion has guided and swerved the reason of some of those who have spoken upon this question, to look at that statute, and they will find that the rights of the people of Canada and their freedom of religious worship are as fully guaranteed by the terms of the Quebec Act as they were by the terms of the Treaty of Paris itself. While it is true that one of the provisions of that Act declares that the statute made in the first year of the reign of Queen Elizabeth should apply over all the countries which then did, or thereafter should belong to the Imperial Crown of this realm, and should apply to the Province of Quebec, this is subject to a limited construction, because if it is to be read in its literal sense, it was an absolute prohibition of the practice of the Roman Catholic religion in the Province, an absolute prohibition under the penalties of high treason itself. But the Act left no such ambiguity to be dealt with by mere construction, because it goes on to limit the operation of the Statute relating to Royal Supremacy, by declaring that instead of the oath of abjuration which, by the terms of the statute of Elizabeth, all people professing the Catholic religion were to take, not only to abjure all foreign jurisdiction in relation to temporal matters, but all foreign jurisdiction in relation to spiritual matters as well: there is to be a new form of oath and a new statutory provision for the people of the Province, whereby they shall no longer be bound to abjure foreign jurisdiction in matters spiritual, and shall be entitled to all the privileges of British subjects, and all privileges of worship on taking an oath of allegiance merely, which applies only to the temporal affairs of the reigning sovereign. Therefore, instead of its being in any sense true that by the terms of the Quebec Act the restrictions of the Supremacy Act were imposed upon the Province by the express terms of that statute, the people of Quebec were relieved from the most odious provision of the Supremacy Act—the provision by which they were bound to swear against conscience, and in abnegation of their faith, that they would recognise the power of no foreign priest, even in spiritual matters. So much then for the Quebec Act of 1774, by which, I think, I have shown that there was a toleration extended in regard to the Province of Quebec which did not exist in the mother country, and which was utterly inconsistent with these old statutes, which, forsooth, 115 years afterwards, we are asked to advise His Excellency to apply to the Province of Quebec. Now, Sir, in 1791, 30 years after the conquest of Canada, the King of Great Britain issued a proclamation suppressing the Order of Jesuits in the colony. As history has told us, the estates which are even now in question, were looked upon with a covetous eye by Lord Amherst who had taken an active part in directing the armies of Great Britain. On this subject I need not go into details. This covetous attempt was frustrated, but suffice it to say, at this stage of the controversy, that the King of England, and I submit it to the legal sense of the House, the King of England had no power to revoke the terms of the charter of incorporation which the Jesuits of Canada had received from the King of France. I admit that the Parliament of Great Britain could have brought in the whole body of the common law, and could have applied to the colony all the penal statutes which the bigotry of that age might choose to invoke. But the King of England had probably no such prerogative. If the King grants a charter, the King himself, with all his power, cannot revoke it. It is only Parliament who can do that, and, in this instance, by the attempt, I venture to think, of the King to suppress that order, and to revoke that charter, he exceeded the authority which he possessed. But, Sir, we were told

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that by a royal proclamation all the common law of England was introduced into Canada. I doubt that that could be done. By the law of nations, recognised at every stage and period of English law, the laws of a conquered country prevail until the paramount authority of the conquering country imposes new laws upon it. But the monarch of a conquering country probably cannot of himself change those laws, cannot of himself do it under the constitution of Great Britain. But if there is a doubt upon that subject as to the general rule, I say this, that the King of England could not introduce the common law by his proclamation in violation of the treaty which he had made in 1763, and by the terms of the treaty he had reserved all those rights which touch this question, even in the remotest degree. Therefore, it is idle for us to discuss how far he might have made other branches of the common law applicable to this country. In the year 1800 the last Jesuit died, and I think that by the law of England, applicable, perhaps, at that time to this property in Canada, on the death of the last surviving member of the corporation the property escheated to the Crown, and the Crown could have taken possession of it as escheated lands. Steps were taken to assert this right on the part of the Crown; but the question had been complicated in the meantime by the fact that the Pope had suppressed the Company of Jesus nearly all over the world. By the terms of that suppression and by the terms of the civil law, which, it is contended still prevailed in the Province of Quebec, the properties, instead of reverting to the Crown, passed to the ordinaries of the dioceses in which they were situated. I do not mean to say that that is so: I present that to the House as one of the questions which has been raised, and which tends to make this case anything but a plain one. I will do more. I will admit the hon. member for Simcoe's contention, that the common law had in the meantime been introduced, that the civil law had been superseded, and that by the terms of the common law these estates had become escheated to the Crown. One of the questions, however, which has been constantly agitated ever since in the Province of Quebec is this—that if you are to subject this property to the rigor of the common law, you at least ought to give the benefit of that principle of the common law, which declares that whenever property of any kind has been escheated to the Crown some consideration should be shown to the persons who are morally entitled to it, and regard should be had to the use to which it was intended to be applied. By this rule of practice the escheat does not wholly result as an emolument to the Crown or as an augmentation of the revenue, but a liberal proportion is appropriated to the intention of the donors or to those who morally may be considered entitled to it. If that consideration were to prevail to any extent, the clergy, and it may be the Jesuits, on the reinstatement of the order, would have some kind of moral right to compensation respecting these estates. But let me call the attention of the House to this fact, which I think has been kept out of view, and which certainly the hon. member for Victoria (Mr. Barron) who addressed the House last night, overlooked in his argument, that the very brief by which these properties were taken possession of on the part of the Crown, when they were eventually seized, does not allege the right of escheat, but declares the right by which the Crown intended to claim the properties to be the right of conquest—a right which, as I have said, is repudiated by the law of nations, was repudiated by the Crown officers of Great Britain at the time, and which, after all that has been said in this debate, has not had one word said in favor of it. That was the only title by which Great Britain claimed she had a right to these estates. Now, it is true likewise that subsequent statutes vested the title in the Province of Canada, and ultimately in due course of law, and as the result of statutes, the title to those lands became vested in the Province of Quebec,