

DIS-FRENCHISING CANADIANS

II---Historical View of the Ancient Pledge

By WILLIAM H. MOORE

HOW did it come about that men and women claimed the right to have their children taught the French language in the Provinces of Ontario and Manitoba, and were as surprised and as angry when the claim was denied as you and I would be if our children were refused an education in English?

We are wont to accept our rights without paying much attention to their origin: manhood suffrage, representative government, freedom of speech, and the safety of property and person are regarded as among our most precious rights, and yet few of us laymen know upon what we base our claims for their possession. These and kindred important claims may or may not depend upon a legal foundation, the sort of security that may be enforced in a court of law.

Several hundred thousand Canadian citizens claimed that they were deprived of rights, theirs by legal and moral considerations. The Privy Council, the court of last resort within the Empire, has determined some, not all, of the legal rights of the case, but obviously it did not, and could not, pass judgment upon what for lack of a better phrase, we may call the moral rights of the descendants of the ancient inhabitants to the use of their language. It is only by a reading of the history of the country that we can understand and determine the merits of claims which rest solely or mainly upon a sense of fair-play.

When the Seven Years' War was over, and the title deeds of this country were registered by the Treaty of Paris in the name of Great Britain, Canada was deliberately continued on as a French colony. A significant starting point! Canada could have been thrown in with the New England colony. That colony was British, near at hand, and its influence might have been counted upon to dis-Frenchise and anglicise the "new subjects."

But no attempt was made to dis-Frenchise Canada. It was continued on as a separate colony. There was a change of sovereigns, but the "new subjects" were given a pledge of the enjoyment of their "property and possessions, together with all customs and usages relative thereto, and all other, their civil rights." That language was included in these words, has been the contention of eminent lawyers. Apparently, the Privy Council has said "No." And we must accept the decision. But the claim of the French-Canadian to the language of his forefathers does not rest upon the construction of words in treaties and statutes. It lies imbedded in the history of the country, and it remained for someone to uncover the mass of detail with which it is surrounded; and thus, these articles.

Since I have proclaimed myself a propagandist, and frankly admit that I see in the co-existence of the French language and the English no evil, but a great good, which will strengthen, not weaken, the Canadian people, it may be thought I will not fairly state the circumstances under which Canada was continued French by the British Government. A. Wyatt Tilby is an English historian, and cannot be accused of bilingual partisanship. Let him state the attitude of Great Britain at that period. It will be regarded as important by all save those who look upon pledges and precedents as made of putty or clay, to be moulded or broken according to the expediency of the hour.

To quote Mr. Tilby:

"In these unpromising circumstances various courses were open to British statesmen in their dealings with Canada. They might treat their French subjects frankly as a conquered people, allowing them no more privileges than were stipulated by the cession of 1763, and ruling them with the iron hand of unsympathetic despotism. They might attempt to anglicise them by forbidding the use of the French language, by introducing English schools and English laws, and by giving official posts only to those few Canadians who forsook their own people and made common cause with the British. They might endeavour, by planting sufficient settlers of English origin, to put the French in a minority; and having thus counteracted any possibility of foreign dominance in a British possession, they might confer upon the people of Quebec as a whole those parliamentary institutions which prevailed in every British colony in America; or, in the alternative, they might restrict the privilege to men of British stock. Or finally, they might in time pursue a policy at once more rare and generous; and by a liberal treatment of their new subjects, they might in time convince the French-Canadians that they had not lost, but gained, by the change of rule. The world's history was not lacking in examples of each method of dealing with a conquered people.

"Happily for the Empire, the British Government decided to act generously. They made no attempt to overwhelm the French by planting British settlers in Quebec; on the contrary, the absurd arrogance displayed by the few hundred English immigrants who entered the colony of their own accord was frequently restrained by the Imperial authorities. The French-Canadians were among the most devoted and loyal sons of the Catholic Church, whose precepts they obeyed and whose doctrines they believed with unquestioning faith. An important clause in the treaty, which ceded Canada to Britain in 1763, had stipulated that they should be free to exercise their religion; and that stipulation was always scrupulously observed, in spite of the complaints and agitation of the more bigoted Protestants in England and America.

"Nor were the old French customs and laws of the province changed or interfered with more than was absolutely necessary; and the advice of those enthusiasts who believed that every British institution was of inestimable benefit and of universal application was sensibly rejected."

But even Mr. Tilby may be wrong in his conclusions, and it is only fair in a matter of such importance to look upon the words of the architects, the master-builders and workmen who planned and laid the foundation stones in the structure now called the Dominion of Canada.

The Quebec Act was the first charter in the constitution made for the Government of Canada. The people had been governed from 1760 to 1763 by military rule; and on the conclusion of peace, civil government was established by a commission issued to General James Murray. The terms of the Treaty of Paris, relating to the Government of Canada, and the terms of the commission issued to General Murray, were the only stones previously laid in the constitutional structure of the country. These were necessarily desultory, the work of ministers irrespective of Parliament. The Quebec Act was thus the first well-thought-out tier in the structure, and its debates undoubtedly express the real intention of the representatives in Parliament of the people of Great Britain as to the rights which should be conferred upon His Majesty's Canadian subjects.

LORD NORTH, Charles Fox, Edmund Burke, the Earl of Chatham and Lord Thurlow took part in the debate of the Quebec Act. Was Canadian legislation ever devised by men more famous in the Empire's history? There were differences as to the policy of the Quebec Act, but the objections raised to the Act were not to the privileges to be granted to the "new subjects," but to the form of government which it was proposed should be established in the colony.

Charles Fox took a leading part in the Opposition. There is a school of Hindu philosophers who maintain that men really live after so-called death, in their deeds while in the flesh. They call this Karma. Let us put to the Karma of Fox two pertinent questions and look for our answers in the debates on the Quebec Bill.

The Quebec of the Quebec Act extended beyond the Ottawa River, across the wooded land lying between the Great Lakes and the Hudson Bay into the prairies of the West. "Did you, sir," I ask, "intend to reserve this country for future generations of English-speaking Protestant settlers to the exclusion of the French-speaking Catholic Canadians?"

"The Canadians are my first object," is the reply, "and I maintain that their happiness and their liberties are the proper objects, and ought to be the leading principle of this bill."

Mr. Fox was in favour of the granting of a free assembly rather than a Legislative Council, and we may well ask this second question: "Were you aware that an assembly would give to French-Canadians the control of the Government of the country?"

"No one," he sternly replies, "has urged the circumstances of the people of Canada being Roman Catholic as an objection to an assembly, and I trust I shall never hear such an objection stated; for no one who has ever conversed with Roman Catholics can, I think, believe there is anything repugnant in their views to the principles of political freedom."

The great Edmund Burke was a consulting architect in the laying of that tier of stones; and, although opposed to features of the bill, and particularly the Legislative Council which it proposed, raised his voice in behalf of liberty for the Canadians. "I consider," said Burke, "the right of conquest so little,

and the right of human nature so much, that the former has little consideration with me. I look upon the people of Canada as coming by the dispensation of God under the British Government. I would have us govern it in the same manner as the all-wise disposition of Providence would govern it."

But it was the Attorney-General, Edward, afterward Lord Thurlow, who laid down on behalf of the Government the policy by which it was proposed to govern this new country wrested from France by force of arms, and it is in his words we find the keystone which should unite the two great races of Canadians in a nation within the Empire. We would have expected Lord Thurlow to have championed the cause of the "new subjects." He was an outstanding figure in this parliament of notables, and I cannot resist deviating from my argument to relate an anecdote which throws light upon this great parliamentarian.

In the House of Lords, Lord Thurlow was once reproached with his plebeian extraction and recent admission into the peerage. He rose from the woolsack, advanced slowly to the place where the Chancellor generally addressed the House; then, fixing on his opponent, a noble duke, the look of Jove grasping the thunder, he said in a level tone, "No one venerates the peerage more than I do; but I must say, my lords, the peerage solicited me, not I the peerage. Nay, more, I can say, and will say, that as a peer of Parliament, as Speaker of this right honourable House, as Keeper of the Great Seal, as guardian of His Majesty's conscience, as Lord High Chancellor of England—nay, even in that character alone in which the noble duke would think it an affront to be considered—AS A MAN—I am at this moment as respectable—I beg leave to add I am at this time as much respected—as the proudest peer I now look down upon."

Thurlow was at his best in the Canada debate; and there are many questions I would fain ask his Karma; but there is one I must ask since it so frequently arises these days: "The French were beaten, driven from the America that lies north of the St. Lawrence and the Great Lakes. Surely the victor may do with the vanquished as he will, and lay upon this vast country such obligations of language as will ensure British North America to the English-speaking people?"

"My notion is," comes the answer in Thurlow's own words, "that it is change of sovereignty. You acquired a new country; you acquired a new people; but you do not state the right of conquest as giving you a right to goods and chattels. That would be slavery and extreme misery. In order to make the acquisition either available or secure, this seems to be the line that ought to be followed—you ought to change those laws only which relate to the French sovereignty, and in their place substitute laws which should relate to the new sovereign; but WITH RESPECT TO ALL OTHER LAWS, ALL OTHER CUSTOMS AND INSTITUTIONS WHATEVER, WHICH ARE INDIFFERENT TO THE STATE OF SUBJECTS AND SOVEREIGN, HUMANITY, JUSTICE, AND WISDOM, EQUALLY CONSPIRE TO ADVISE YOU TO LEAVE THEM TO THE PEOPLE JUST AS THEY WERE. Their happiness depends upon it; their allegiance to their new sovereign depends upon it."

SUCH was the principle upon which a new constitution was framed for the people of Canada. There was a change in sovereignty, and a change in the laws which affected sovereignty, but "with respect to all other laws, all other customs and institutions whatever," they were to be left to the people just as they were. Could words have more clearly expressed the intention of leaving the people in the possession of their language in the land which Great Britain acquired from France at the conclusion of the Seven Years' War? And, further, it is all important to remember that the Act under discussion proposed no boundary line for French influence at the Ottawa River, but set forth boundaries wide enough to include Ontario and Manitoba—the provinces in which the rights to the use of the French language are to-day the subject of dispute.

I do not pretend to say that the words actually drafted into the Quebec Act and subsequent Acts bearing upon the rights of the French-Canadians were sufficient for this purpose. Apparently, they were not. But I do maintain that these words from British statesmen, who mainly laid the foundations of the constitutional structure called Canada are

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