THE CHURCH OF ROME AND THE MARRIAGE LAWS.

A very important case is pending in the Court of Chancery for Ontario, involving the question of the right of a Roman Catholic Bishop, in that Province, to marry parties without the license or banns required by all Protestant ministers. A marriage had been so celebrated by Bishop Lynch; the wife had been deserted by the husband; she sued him for alimony; when he set up the plea that the marriage was null and void (under "Lord Hardwicke's Act," 26 Geo. II. cap. 33). The law of the case is argued in a series of articles in the *Upper Canada Law Journal* (September, October, November and December, 1867), from which we condense the following statement.

In favour of the validity of the marriage, it was urged that the free exercise of their religion being guaranteed to Roman Catholics at the capitulation of Quebec,—and marriage being a sacrament,—that matter was subject only to ecclesiastical regulation. On the other hand, the fact that the very first statute of Upper Canada (32 Geo. III. cap. 1), adopted English law as to all "civil rights," was adduced to show that Lord Hardwicke's act then came into force.

The privilege of celebrating marriages, first confined, as under English law, to clergymen of the Episcopal church, has been extended under successive Upper Canadian enactments to ministers of all religious denominations (in 1798, 1830, 1847). But none of these acts expressly mention the priests of the church of Rome. For their powers in the matter, we have to refer to the terms of capitulation, the treaty under which Canada was ceded to Great Britain, and subsequent legislation, imperial and colonial.

The terms and treaty referred to, guaranteed the free exercise of the Roman Catholic religion, only "so far as the laws of Great Britain permit" (Treaty of Paris); and "subject to the king's supremacy, declared and established by an act made in the first year of Queen Elizabeth." The "accustomed dues and rights" of the clergy were to be enjoyed, "with respect to such persons only as shall profess the said religion" (Quebec Act, 14 Geo. III. cap. 83). In the debates in Parliament, upon the passing of this act, it was explicitly announced that the position of the Romish church was one of "*toleration,*" the English church being "*established.*" The office of the R. C. Bishop is nowhere recognized in the fundamental statutes. The English law officers of the Crown, in 1811, reported that all powers derived from the Pope in virtue of his supremacy lapsed to the English crown at the conquest. Lower Canadian legal decisions restrict the claims of the clergy to parochial dues and tithes. So that, it is argued by the *Law Journal,* "the onus is on the R. C. Bishops to show that they have any larger authority than the officers of the other churches in the Province."

THOUGHTS ON FORMING AND DISSOLVING THE PASTORAL RELATION.

On Congregational principles, every church has power to choose and ordain its own pastor. It has the same power to dismiss, that it has to ordain and install, *without* the aid of a council. This, we believe, is the common practice of Congregational or Independent churches in England and Scotland.

But American Congregational churches form and dissolve the pastoral relation with the advice of councils. The church, having become acquainted with the character and habits of the candidate, and approving of the same, give him a call to become their pastor. Adherents, or members of the