astics receive the investiture of office from the hands of the Pope; it is his act which makes, not the royal approval, which follows as a matter of course. Then, having regard to the Quebec Act and the Statute of First Elizabeth, can a bishop, deriving jurisdiction from such a source, dispense with any part of the statute law of England introduced into Canada by our own constitutional act (C. S. U. C. c. 9)?

Bishops in England have the right to dispense with some parts of the statute law (*e.g.* the proclamation of marriage banns), because their dispensing power is conferred upon and confirmed to them by statute likewise: see 25 Hen. VIII. c. 21, by which all bishops are allowed to dispense as they were wont to do. But what, according to the opinion of constitutional lawyers who have examined this matter, is the legal status of the Roman Catholic Bishop in Canada? Jonathan Sewell, Attorney General, and afterwards Chief Justice, of Lower Canada, about the year 1810, in a state paper uses the following language: "Since the titular Roman Catholic Bishop of Quebec, according to the original creation of the See of Quebec, holds of and is dependent upon the See of Rome, and at this moment, as heretofore, derives his entire authority from the Pope, without any commission or power whatever from His Majesty, it is most clear that the Statute of Eliz., which is formally but unnecessarily recognized by the Stat. 14 Geo. III. c. 83, to be in force in Canada, has annihilated not only his power but his office, the 16th section having especially prohibited all exercise of the Pope's authority, and of every authority derived from him, not only in England, but in all the dominions which the Crown then possessed or might thereafter acquire." And he strengthens his opinion by a paragraph from the report of the Advocate General (Sir James Marriot) in 1773, upon the affairs of Canada, in which that eminent jurist observes that there is in Canada "no Bishop by law." The law officers of the Crown, consisting of Charles Robinson, Vicary Gibbs and Thomas Plumer, and being respectively His Majesty's Advocate, Attorney and Solicitor General, in reporting in 1811 upon the question as to the right of presentation to Roman Catholic livings in Lower Canada, make use of the following remarkable language: "If, however, this right be supposed to have originated from the Pope, we think the same consequence [*i. e.* that such right had devolved to His Majesty] would result from the extinction of the Papal authority in a British Province. For we are of opinion, that rights of this nature, from whichever source derived [*i. e.* whether from the Pope or the French King], must in law and of necessity be held to devolve in His Britannic Majesty as the legal successor to all rights of supremacy as well as of Sovereignty, when the Papal authority, together with the Episcopal office, became extinct at the conquest by the capitulation and treaty, and the statute, 1 Eliz. c. 1, sec. 16, as specially recognized in the Act for the government of Canada (14 Geo. III. c. 83)."

It remains further to be observed that the expression "*Ecclesiastical rights or dues*," perpetuated in our constitutional act, C. S. U. C. c. 9, s. 6, from the 5th sec. of the Quebec Act, applies simply to parochial dues and tithes, and cannot be construed to embrace any right or privilege of dispensation. In fact a quasi-legislative interpretation to this effect has been given to the words by the note appended to the 35th section of I. S. 31 Geo. III. c. 31, as it appears in the Con. Stat. Can. p. xvii. This is also abundantly evident from the tenor of the debates upon the passing of the Quebec Act, as reported in Hansard and by Cavendish. And the same view is expressly maintained by Lafontaine, C. J., in *Wilcox* v. *Wilcox*, 2 L. C. Jur. pp. 11, 21, &c, and by Mondelet, J., in *Stuart* v. *Bowman*, 2 L. C. R. 405.

By the Capitulation, the Treaty, the Quebec Act, and our own Constitutional Act, there was and is the clear right to Roman Catholics in Ontario to contract marriage, as one of their sacraments, according to one usages of their church, but subject to the Queen's supremacy. In other words, their clergy had and have the power to celebrate marriage after due proclamation of banns, in the same manner as we have seen that ministers of the then dissenting churches had that privilege by virtue of special legislation interposed on their behalf, during the time that the Church of England was the State Church. But the onus is on the Roman Catholic Bishops to shew that they have any larger authority or more extensive rights, or that they occupy any more privileged position, than the officers of the other churches in this Province. If the marriage law of Eng-