

inducts him and on the part of the person who is inducted, in face of the provisions of that law, I hold that it is simply preposterous to say that the incorporation of the Order of Jesuits in British America, is a constitutional Act. If the incorporation of this order is unconstitutional, it follows, as a matter of course, that all the Acts based upon that incorporation, are unconstitutional. If the incorporation is unconstitutional, the endowment is unconstitutional, and the Jesuits' Estates Act is an unconstitutional Act, if the Incorporation Act is so.

It has been made by British law, upon more occasions than one, an unconstitutional Act to procure judgments or determinations, &c., from the See of Rome, or any foreign potentate. This legislation was first initiated under Edward III, it was continued under Richard II, again under Henry VIII. By 24 Henry VIII, chapter 21, penalties are imposed for procuring inhibitions, judgments and other processes from the See of Rome within the King's dominions—not alone in England Ireland and Scotland, but in any part of the King's dominions. The 24 Henry VIII, chapter 21, prohibits the King, his heirs and successors, kings of the realm, and all subjects of the realm or of the dominions of the Crown, for suing for licenses, dispensations, compositions, faculties, grants, rescripts, delegations, or any other instruments in writing from the Bishop of Rome, called the Pope, or from any person or persons having or pretending to have any authority by the same. "The King, his heirs and successors," being expressly named in the Act, the reigning sovereign is bound by the prohibition; and it is not within the constitutional power of a Colonial Legislature or Governor to absolve the Crown from its provisions, or to enact or assent to any Bill violating this or any other Imperial statute in force in the colony. The Crown can only be relieved from the prohibitions of the Act by the power that imposed them, namely, the Imperial Parliament. And in 13 Elizabeth, chapter 2, and 1 Elizabeth, chapter 1, it is provided in more express terms that:

"The usurped power and jurisdiction of the Bishop of Rome, heretofore unlawfully claimed and usurped within this realm, and other the dominions to the Queen's Majesty belonging,"

Shall not be exercised. Neither the Treaty of Surrender, nor the Act of 1774 did more than to grant the free exercise of the Catholic religion in Canada, so far as the laws of Great Britain permit. But we are told by the Minister of Justice that a Provincial Parliament can repeal Imperial statutes as concerns itself, if I understood him aright. I do not accept this definition of the law. I do not hold that the thing formed can say to that which formed it: what doest thou? and can set aside the mandate of the power which formed it. I find in the British North America Act a provision which is antagonistic to the statement of my hon. friend the Minister of Justice. The 129th section of that Act contains the following:—

"Except as otherwise provided by this Act, all laws in force in Canada, Nova Scotia or New Brunswick at the Union, and all courts of civil and criminal jurisdiction, and all legal commissions, powers and authorities, and all officers judicial, administrative and ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia and New Brunswick respectively, as if the Union had not been made; subject, nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland) to be repealed, abolished or altered by the Parliament of Canada; or by the Legislature of the respective Provinces, according to the authority of the Parliament or of that Legislature under this Act."

So that, by this Constitution of British North America, by section 129, special exception is made as to this power in regard to such Acts as existed by the authority of the Parliament of Great Britain or the Parliament of Great Britain and Ireland. I have here a case, if it is necessary to quote it, *ex parte Renaud*, which bears out this view. The judgment is too long to read unless it is desired, but I can send it to the Minister of Justice if he desires. I have

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laid down the premises, and I think they cannot be controverted that the recognition of any foreign potentate, prince or ecclesiastical, in any statute enacted within the dominions of the Crown of Great Britain, which recognises that power or its inhibitions, decrees or processes, is an unconstitutional act. Now, the Estates Bill which we have under consideration does recognise His Holiness the Pope as a potentate. It treats with that potentate as to the terms of the settlement of a domestic matter in a Province of this Dominion. The Bill is passed subject to the approval of that potentate, as is shown by the language in this return of correspondence in connection with this matter. I find in the letter of Mr. Mercier to Father Turgeon, dated the 1st May, 1888, in the seventh paragraph, the following language used:—

"That any agreement made between you and the Government of the Province will be binding only in so far as it shall be ratified by the Pope and the Legislature of this Province"

"By the Pope and Legislature of this Province". Sir, the Legislature not only passes a Bill subject to the Pope's approval, but this Act places public money at the disposal of His Holiness the Pope, as is shown in the same letter, in paragraph 8, which reads as follows:—

"That the amount of the compensation fixed shall remain in possession of the Government of the Province as a special deposit until the Pope has ratified said settlement, and made known his wishes respecting the distribution of such amount in this country."

Now, Sir, the hon. member for Stanstead (Mr. Colby) told us the other night that this provision was a very bitter pill for the Protestants of Quebec. I do not wonder that is the case. A pill that treats with His Holiness as to the terms of a domestic matter, that passes a Bill subject to the approval of His Holiness, that places public money at the disposal of His Holiness, must have been a bitter pill, as the hon. gentleman expressed it, for the Protestants of Quebec to swallow. But not only is the Bill open to these objections, but it distinctly submits the legislation of the Province of Quebec to the ratification of the Pope, as is shown by this return on page 13:

"It is also one way of commemorating, in the political history of the country, that glorious concordat, the effecting whereof would be associated with the name of your Government, as soon as the Holy Father has ratified it; that is, that the establishments of the Jesuit Fathers in this Province are always allowed, in accordance with their deserts, and if they ask for it, to participate in the grants which the Government of this Province allows to other institutions to encourage teaching, education, industries, arts and colonisation."

Now, Mr. Speaker, any law which is open to these objections, any law which calls in a foreign potentate to dictate with reference of the settlement of a domestic matter, which places moneys at his disposal, which submits legislation to his ratification, leaving him to accept or reject it—any Bill, I say, subject to these conditions, liable to these objections, is a Bill which, under the law I have quoted bearing upon the question of the Queen's supremacy in the British realms, is clearly unconstitutional and clearly contrary to the spirit and to the letter of the English law. The Minister of Justice told us last night that the only objections to this Bill were contained in the preamble. He did not deny that there were some objectionable features in the preamble of this Bill, but the preamble, he said, was not really a portion of the Bill, and consequently the Bill was not subject to that objection. But I find, Sir, that the Bill itself refers to this preamble, and if the hon. gentleman will turn to sections 1 and 2 of that Bill, he will find that those sections read as follows:—

"1. The aforesaid arrangements entered into between the Premier and the Reverend Father Turgeon are hereby ratified, and the Lieutenant Governor in Council is authorised to carry them out according to their forms and tenor."

Section 2 says:

"2. The Lieutenant Governor in Council is authorised to pay out of any public moneys at his disposal, the sum of \$100,000 in the manner and under the conditions mentioned in the documents above cited, and