

world, the conquering power took possession of all the rights, privileges and property of the conquered monarch in the country, but he took no more. He took the sovereignty of the country, he took the King's fortifications in the country, he took the King's stores of arms and ammunition in the country, he took the King's lands in the country, he took the King's treasures in the country, but he had no right by the law of nations to lay his hand on the property, movable or immovable, of the humblest subject in the country. If he had despoiled private property it would have been an outrage which would have disgraced the British arms, and he would have committed an act, let me tell the House, which, irrespective of the law of nations, the conquering General stated in the Terms of Capitulation, begun at Quebec, repeated at Montreal, he would not do. It has been said in this debate that, by the Terms of Capitulation, the Jesuits of the Province of Quebec, and all their property, were placed at the mercy of the conqueror. I do not so read the Terms of Capitulation. Let me see article 34 of the Terms of Capitulation of Montreal:

"All the communities——"

And at that time the Jesuits were in community in the Province of Quebec——

"——and all the priests shall preserve their movables, the property and revenues of the seignories and other estates which they possess in the colony, of what nature soever they be, and the same estates shall be preserved in their privileges, rights, honors and exemptions."

That was the request made, and the answer given to that request was unequivocal—"Granted." And yet we are told that these estates, which came within the exact words of that provision as to the seignories and property, movable and immovable, of the priests and religious orders in the Province of Quebec, were reserved to the King's mercy. It is true that the preceding section 33 was refused until the King's pleasure should be known, and in that there was a distinct reference to the Jesuits, but that article referred, not to the property only of the Jesuits, but asked in addition to the provisions as to their property in section 34, that they should have all their constitutions and privileges, that their monasteries should not be entered by troops, and that safeguards should be given to them from military intrusion, and that they should preserve their rights to nominate to certain curacies and missions as theretofore. Those privileges, vague and undefined by the terms of the article, were met by the words: "Reserved until the King's pleasure be known," although the response to the article, dealing with the properties of these people, was the unequivocal one—"Granted." The conquering arms of England were used against the soldiers of France, but not against individuals, either religious or secular, either in France or in Canada. Now, we go a step further, and we read the Treaty of Peace. The war had gone on, and the treaty was not made until 1763, and let me read to the House a passage from the treaty, because the Terms of Capitulation are liable to be qualified by the final and definitive treaty at the close of the war. This provision was made by the treaty:

"His Most Christian Majesty cedes and guarantees to His Britannic Majesty in full right, Canada with all its dependencies, as well as the Island of Cape Breton, and all the other islands and coasts in the Gulf and River St. Lawrence, and, in general, everything that depends on the said countries, lands, islands, and coasts, with the sovereignty, property, possession, and all rights, acquired by treaty or otherwise, which the Most Christian King and the Crown of France have had till now over the said countries, islands, lands, places, coasts, and their inhabitants, so that the Most Christian King cedes and makes over the whole to the said King and to the Crown of Great Britain, and that in the most ample manner and form, without restriction, and without any liberty to depart from the said cession and guaranty under any pretence, or to disturb Great Britain in the possessions above mentioned."

Now, in return for that cession of Canada and Cape Breton and all the islands of the St. Lawrence, this solemn compact was made by His Britannic Majesty:

"His Britannic Majesty on his side agrees to grant the liberty of the Catholic religion to the inhabitants of Canada. He will consequently give the most precise and most effectual orders that his new Roman Catholic subjects may profess the worship of their religion, according to the rites of the Romish Church, as far as the laws of Great Britain permit. His Britannic Majesty further agrees that the French inhabitants, or others who had been subjects of the Most Christian King in Canada, may retire with all safety and freedom wherever they shall think proper, and may sell their estates, provided it be to subjects of His Britannic Majesty."

This House has been told that the essence of the whole clause is in the qualification, "as far as the laws of Great Britain permit," and we are told that that of itself introduced all the laws of England relating to public worship, the Supremacy Act, and everything of that kind which could be invoked.

Mr. McCARTHY. Not by me.

Sir JOHN THOMPSON. The hon. member for Simcoe did not assert that it introduced the Supremacy Act, but the argument was made before he spoke in the debate, that that introduced all the restrictions on the exercise of religion; and we were told that it even introduced the Supremacy Act, under which, let me tell the House plainly, if it had been introduced in the Province of Quebec, no man could have exercised the Catholic religion at all. The very essence of the Supremacy Act is that no person—I am stripping the Act of all its verbiage, I am giving its essence, and at the same time quoting its exact words when I say, that the gist of the whole Act is this: That no person outside the realm of England shall have or exercise within the Queen's dominions—even spiritual superiority. If no spiritual superiority in Rome then no bishop in Canada; if no bishop in Canada, no priest in Canada; if no priest in Canada then no sacrament for the living or the dying in Canada. Every altar in Canada would have been thrown down by the very terms of a treaty in which His Britannic Majesty, in return for the cession of half the continent, solemnly promised not only that the people should have the right to exercise their religion, as they had been accustomed to do, but that he would give the most precise orders that freedom of worship should be carried out in every particular. Now, Sir, obviously the treaty meant no such thing; obviously His Britannic Majesty did not take with one hand the cession of this country, and hold out a false promise with the other. Obviously he meant that there should be perfect freedom of worship in Canada, the newly ceded country, subject only to the legislation which might be made upon this subject from time to time by the Parliament of Great Britain, certainly not that it was subject then to the laws as regards freedom of worship in Great Britain; for, let me remind the House, that instead of there being any freedom of worship in Great Britain at that time, the exercise of the Roman Catholic religion then, amounted to the crime of high treason; and no dissenter, under the risk of long imprisonment, could enter a conventicle or a meeting-house; so that obviously it did not mean to introduce into the country ceded, the laws of Great Britain with regard to public worship or even with regard to supremacy at that time. But let me suggest to the House what the obvious meaning was, as quoted from the words of the Attorney General and the Solicitor General of England, and of the Prime Minister of England, in discussing this treaty stipulation, and what, upon its face, every sensible and unprejudiced man will say its meaning was; and that was this: "In so far as the laws of Great Britain permit freedom of worship in her colonies"—and the laws of Great Britain at that time did permit freedom of worship in her colonies—and likewise "in so far as the laws of Great Britain passed in future years might permit." Well, Sir, we pass on to the Quebec Act of a few years later, in 1774, and I come now certainly to a branch of the argument against us which my hon. friend from Simcoe did press upon us this afternoon, namely,