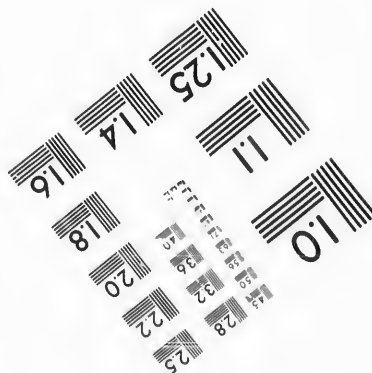
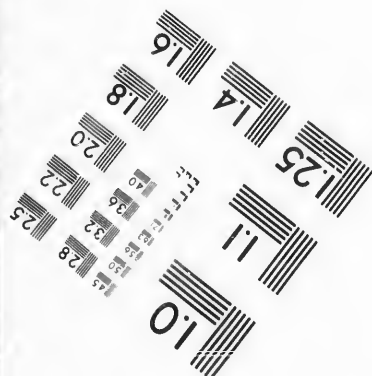
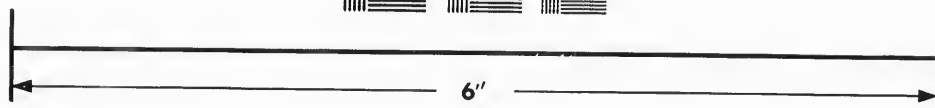


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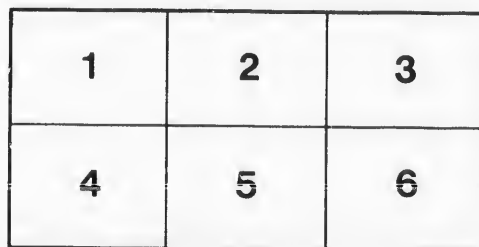
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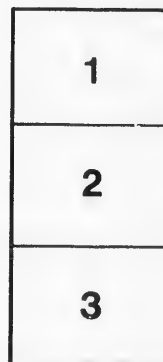
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CHURCH AND STATE IN QUEBEC:

A REVIEW OF SIR ALEXANDER GALT'S PAMPHLET.

BY QUEBECENSIS.

(*From the Canadian Monthly.*)

WHEN, in the year 1851, the Legislature of Canada embodied in a Statute* the principle of the legal equality of all religious denominations, and declared that to be a fundamental principle of our civil polity, it was supposed that all questions concerning the relations of Church and State were permanently settled; and the country, relieved from the discussion of so difficult a subject, turned with satisfaction its undivided attention to those measures of practical utility which preceded and accompanied a long career of material progress and peace. The pamphlet recently published by Sir Alex. Galt† warns us that these pleasing anticipations have not been realized; but that there is now existing in the Province of Quebec an organized determination to assert, on behalf of the hierarchy of the Church of Rome, a pre-eminence and an authority unsanctioned by the law of the land, and contrary to the genius of the people of both races who dwell therein.

That such questions should again come up for discussion will no doubt be distasteful to the mere politician. They embarrass all his party alliances and disturb all his deep-laid plans. But the fault is not with such men as Sir Alex. Galt. If, as he attempts to show, it be true that gradual and insidious encroachments are being made by the hierarchy upon the civil power in Quebec, then, upon the principle of the motto, *Qui tacet consentire videtur*, which he has chosen from Pope Boniface's Maxims of Canon Law, he is bound, as a citizen who has acted no humble part in the politics of his country, to utter the words of warning which are contained in the pamphlet before us. There are certain principles of

civil liberty which long ages of struggle have engrained so deeply in the very nature of Anglo-Saxon peoples, and certain principles of the independence of the civil power, which centuries of contest have instilled into the minds of Frenchmen, that they cannot be tampered with to any great extent without causing great convulsions of society. It is better to recognise such encroachments in their beginnings, in the hope that timely remonstrance may prevent those disturbances which would inevitably result from a tacit acquiescence at the first.

The task which Sir Alex. Galt has taken up for this Province is in some respects similar to that of Mr. Gladstone for Great Britain: it is to show that new claims have of late been put forward on behalf of the Roman Catholic hierarchy. Mr. Gladstone treats these chiefly as bearing upon civil allegiance; Sir Alex. Galt as bearing specially upon the peculiar circumstances of his own Province, and as weakening certain rights of the Protestant minority which were guaranteed at Confederation. The writers do not cover the same ground. If, however, Mr. Gladstone apprehends danger to civil liberty from these recently put forward claims of the Roman Church, how much more anxiously should we scan them, living in a Roman Catholic Province like Quebec?

Mr. Gladstone traces in clear outlines the progress of Roman Catholic emancipation in Great Britain. He shows that it was in a great measure obtained by means of the testimony given by all the prelates and representatives of the Roman Church in England and Ireland. Protestant prejudice gradually gave way before the earnest and sincere assurances of good and learned Roman theologians that Protestant notions of Papal claims were utterly false, that Papal infallibility was a Protestant fiction,

* 14-15 Vic., cap. 175.

† Church and State. Montreal, 1876.

and that the claims of the Pope to coercive power, or to any authority over the State, were obsolete.

In Quebec the case was different. By the liberality of the British Government, the Roman Catholic religion was, from the very first, established in the fullest freedom. By virtue alone of the Imperial Act, 14 Geo. III. cap. 83, the Catholics of Canada obtained privileges not enjoyed by their English co-religionists. We are aware that upon this point a wide-spread misapprehension exists now in Quebec, even in the highest quarters, and we regret to read the following in a pastoral of the Roman Catholic Bishop of Montreal:

"Le Canada était donc vaincu, mais le patriotisme Canadien ne l'était pas. Car nos pères, avant de mettre bas les armes, se souvinrent qu'ils n'étaient venus peupler le pays, que pour en faire un pays religieux. Ils capitulèrent donc avec les vainqueurs; et, forts de leur patriotisme, ils demandèrent hardiment, pour tous les habitants de la colonie 'le droit d'être conservés dans la possession de leurs biens;' pour tous les Catholiques 'le libre exercice de la religion'; pour leur clergé et leurs communautés, des sauve-gardes, les dîmes, et tous les droits accoutumés; et pour les Evêques, le libre exercice de leurs fonctions épiscopales. Voilà comme nos religieux ancêtres pensèrent et agirent, dans les circonstances si critiques pour eux, puisqu'ils étaient sur le point de passer sous une domination étrangère, et de toucher au pouvoir d'un gouvernement qui, à cette époque, faisait mourir ses propres sujets pour cause de religion."*

* Fioretti Vescovili, p. 105, Pastoral, dated May 31, 1858, and reprinted in this collection in 1872:—"Canada was then conquered, but Canadian patriotism was not. For our fathers, before laying down their arms, bethought themselves that they had come to settle in this country only that they might make it a religious country. They made terms then with the conquerors; and, strong in their patriotism, they boldly demanded for all the inhabitants of the colony the right of being established in the possession of their property; for all Catholics, the free exercise of religion; for their clergy and their religious communities, safeguards, tithes, and all accustomed dues; and for the bishops the free exercise of their episcopal functions. This is how our religious ancestors thought and acted in circumstances so critical for them, since they were then on the point of passing under a foreign domination, and were touching the power of a Government which at that time was putting its own subjects to death for the sake of religion."

A reference to the Articles of Capitulation, Nos. 28 to 35, will show that the right to tithes and accustomed dues to the clergy was distinctly refused; and that the right of the Bishops to exercise episcopal functions, in Article 31, was also refused by implication, for it was classed by General Amherst with Article 30, which was expressly refused. Lest, however, there should be any doubt as to this misapprehension of the exact facts, we quote from another pastoral dated the same day: "En passant sous la domination Anglaise, nos pères demandèrent et obtinrent à la capitulation du pays pour leur clergé le droit de percevoir les dîmes et autres oblations accoutumées."†

It will be evident to any one reading the documents, that the free exercise of their religion was alone granted, and that is defined by the treaty of cession, which expressly states that the inhabitants of Canada shall have the free exercise of their religion *so far as the laws of Great Britain permit*. We purposely abstain from any comment upon the statement that at that time (1760) the British Government was putting its own subjects to death for the sake of their religion. It remains to be observed that, at that time in Canada, the Church of Rome was Gallican. This Sir Alex. Galt shows was decided by the Privy Council in the Guibord case; consequently, even if there had been no further enactment, the King of England became possessed of all the rights of sovereignty held by the French monarch.

Returning, however, to the subject of Roman Catholic Emancipation in Great Britain, it is important to remember that during the whole agitation Rome kept silent. Still the rule *qui tac consentire videtur* did not bind her. We find, from the replies of Cardinal Manning, Monseigneur Capel and others, that all the Roman Catholics at that time were mistaken, and did not really know the principles of their own Church. Even Dr. Newman thinks that Bishop Doyle's evidence needs a little "pious interpretation," and adds that these representations of the Roman Catholic hierarchy in Great Britain had no real value, because Rome was not a

† Fioretti Vescovili: Pastoral on Tithes, p. 106, May 31, 1858:—"In passing under the English domination, our fathers demanded and obtained at the capitulation of the country for their clergy the right of collection of tithes and other customary oblations."

formally consenting party. Protestants are often, with justice, reproached for misrepresenting Roman doctrine; but in this case, at least, they would seem to have been nearer the truth than those learned men who had made a life study of Roman theology. If Barré and Maseres, who resisted the Quebec Act of 1774, or those statesmen who so long resisted Catholic Emancipation in Ireland, were now alive and could read Cardinal Manning's assurances that Rome had never withdrawn one jot or one tittle of her extreme claims, how would they exult over the easy credulity of their opponents!

Among the many replies to Mr. Gladstone, Cardinal Manning's is distinguished by its uncompromising tone, reminding us, in its boldness, of those men who in Lower Canada are pithily said to be "more Catholic than the Pope." He declares that the civil power is in no way affected by the Vatican decrees more than it ever was, and yet admits that the whole mass of Papal decrees, from the earliest times, must now be held as of binding force. It now for the first time clearly appears that this really was the state of the matter all the while, only it was not generally known; certainly the good Bishop of Kildare did not know it, or he would not have described as "odious" such dogmatic utterances as the *Unam Sanctam*. Pity it is that we could not have had a few centuries more of happy ignorance. To revive upon us the whole mass of the Canon Law, and yet maintain that civil liberty is not touched, seems a contradiction. The claims of the Roman Pontiff to exercise coercive power over kings and kingdoms are too much slurred over, however, even by the Cardinal. In explaining away this claim, he quotes the bull "*Novit*" of Innocent III., and purports to give the text in full in his Appendix. But Mr. Gladstone, in his second pamphlet, supplies an omitted portion of that Bull, which asserts that the Pontiff is able and bound to coerce, and is appointed over the nations and the kings that he may tear up and pull down, and scatter every mortal sin. Still the Cardinal indicates, by the words "*et infra*," the omitted passage, the fact being that passages supposed to be of no special importance are relegated to the end, in smaller type, their place being indicated by the words "*et infra*." Now, however, that these documents are of increased importance we presume such liberties will no longer be

taken, and no such device will be permitted. As for the question of coercive power, the present Pope, in the Encyclical *Quantà Curâ*, condemns all those who declare that the Church has no right of restraining by temporal punishments those who violate her laws. Upon these and other changes of Roman Catholic teaching in England Mr. Gladstone dwells, in both his pamphlets, at great length; and Sir Alexander Galt shows that a similar change has taken place in Quebec. To establish this he quotes largely from pastorals and other official utterances of the Bishops. But what is especially of importance to us is the danger, under these new doctrines, of collision between the Church and the Civil power. We have recently seen over one thousand men under arms to enforce a decision of the Privy Council. How slight an error on the part of the magistrates, or of the officers commanding troops in such an emergency, might cause the streets of a city to run with blood, and destroy for a generation the peace and harmony of this Province!

With regard to the precise *locus* of infallibility, it is not a subject with which Protestants have any business to deal. It is no concern of theirs whether infallibility resides in a Council or in the Pope. If Catholics choose to hold the latter doctrine, they have a right to do so. Protestants do not believe in infallibility residing in any person or persons. The question for Protestants is, that absolute and entire obedience is now demanded where it was not before. It is, that indirectly, by the Vatican decrees, the whole body of the past jurisprudence of the Roman Church rises into startling importance, and becomes matter of faith binding on the conscience. Hence, living in a Province where the majority are Roman Catholic, they must ask what is this Canon Law—what is this which Popes have decreed, and which now binds, and did not bind before (that is, which was not generally thought to bind before), and they find there everything which their forefathers resisted, asserted; and that liberty of conscience which is the breath of their life, denied. True, Dr. Newman and Bishop Fessler minimise these decrees to an almost harmless degree; but when may they not be maximised, as they were in the olden times of strife, and be again brought to bear upon civil liberty, by a majority acting through constitutional forms?

It is here that the extracts which Sir Alexander Galt has given from Bishop Fessler are specially to be borne in mind; for they show the dangerous bearing of the principle of minimising. During the Emancipation agitation Rome kept quiet. At the present time Bishop Fessler and Dr. Newnan are minimising, but those in Quebec who are "more Catholic than the Pope" are probably right after all, and may at any time be justified in their interpretations. It is hard for Protestants to sit silent when the whole foundation of their civil rights is being sapped by dogmatic decrees which at one time are explained one way and at another time are explained another way by scientific Roman theologians. These ultra Romans are the *avant courriers* of public opinion. Let such doctrines go unchallenged—let the public mind get familiar with this once foreign language—let the youthful mind be imbued with it in the schools, and it will soon reach the Bar, the Bench, and the Senate, and we shall wake up one day to find that we need all our safeguards, and that we too have been overcredulous in listening while *scientific* theology placed a meaning upon words which their ordinary sense would not justify.

This restlessness on the part of the Roman hierarchy is the more inexcusable, because the Bishops admit, in the decree quoted by Sir Alexander Galt, that their Church is freer here than in any other part of the world. Yet they are not satisfied; they hope to attain still further (*deinceps*) to an ideally full and perfect freedom, by means of the favour of our civil rulers. Now this full freedom of the Roman Church is the complete subordination of every other Church, or sect as they would say. Not only is the Roman Church now free, but it has this advantage over the State Churches even of the Empire, that the sword of the civil power collects its tithes. O, Reverend Prelates of the Council, why seek to bind upon this country burdens which neither we nor our fathers were ever able to bear?

During the superficial discussion lately elicited in the House of Commons and in the press, it seemed to appear that all Roman Catholics are Ultramontaners. We venture to think that a fallacy underlies the use of this word. They are doubtless Ultramontane in the sense that they accept the recent definition of the infallibility of the Pope.

The word is used evidently in opposition to the word Gallican, which has now become almost a term of opprobrium. But it does not follow that in giving up the most salient of the Gallican doctrines, that they give them all up. They may cease to be Gallicans, and yet may not—and we believe most of the laymen do not—hold to the power of the Pope in temporals, or even in mixed matters. It is true that the position is logically difficult. Cardinal Manning shows that an infallible authority must define its own limits. In any conflict between Church and State, the fallible State must yield to the infallible Church, from the very nature of the terms employed. The latent premiss once admitted, the logic is irresistible: and for all who value civil liberty the outlook is gloomy. When we see, as Sir Alexander Galt has shown us, that infallible authority has made its first appearance on our Statute Book, we can only hope that our civil rulers will carefully remember in the future that the rights of conscience are superior to the rigid deductions of scholastic logic; for it is in the wielding of the temporal sword, under the dictation of the spiritual sword, that the conflict is likely to arise. If Sir Alexander Galt's pamphlet does no other service, it will compel the politicians to turn their attention to this question, and to form definite ideas as to the true relations between Church and State in Quebec.

The liberties of the Gallican Church, concerning which so much has of late been said, are summed up by Fleury under two maxims: 1st. That the power given by Jesus Christ to His Church is purely spiritual, and extends neither directly nor indirectly over temporal matters; 2nd. That the fulness of the power which the Pope has, as Chief of the Church, should be exercised conformably to the canons received by the whole Church; and that the Pope himself is subject to the judgment of a General Council in the case pointed out by the Council of Constance. These propositions, with the addition that the laws, manners, and customs of the Gallican Church should be preserved inviolate, were proclaimed as "maxims received from their forefathers," and embodied in four Articles drawn up by the hand of the celebrated Bossuet. These Articles were unanimously adopted by the Bishops in 1682, homologated by the Parliament, and sanctioned by

the King. They were included in a Royal edict, commanding that they should be everywhere taught, and declaring them to be general law in all the dominions of France. They were in force in Canada, as is clearly shown in the Guibord judgment. Under the French law before the Revolution, "appels comme d'abus" to the King's Courts extended to all the relations between the civil and the spiritual powers.

That these liberties are not now upheld generally by the clergy of France is one of the results of the Revolution of 1789. That stupendous political convulsion broke up every institution of the country, civil and religious. The churches were closed, and the clergy either put to death or driven into exile. Finding it difficult, however, to get along without religion, Napoleon, at that time First Consul of the Republic, made, in 1801, a Concordat with Pope Pius VII. The Pope then issued the Bull *Qui Christi*, in which he annulled the suppression, and extending in perpetuity, the status of the ancient churches as episcopal and episcopally governed, and their rights, privileges, prerogatives of whatever sort they may be, and notwithstanding the statutes, customs (even though immemorial), privileges and indulgences of these same Churches." By the same Bull, all the legitimate Bishops and Chapters were deposed, and even the boundaries of the old dioceses changed. The First Consul named, and the Pope instituted, the new Prelates. There was, consequently, an absolute historic break in the continuity of the Church of France, and the foundation of the present Church dates only from the year 1801. To do the Pope justice, he was driven to this act of *outré* Ultramontanism (we quote the words of the Archbishop of Paris, in 1845) by Napoleon, who threatened to make France Protestant unless it were done. The Pope signed the Concordat and issued the Bull, but in order to save the rights of the State, and such of the Gallican customs as did not conflict with his government, the First Consul took care that neither Bull nor Concordat was promulgated until what were styled "the Organic Articles" were attached. These were not signed by the Pope, but rest on the authority of the State alone, and were purposely made to go over much of the subject-matter of the Bull in another form. He then published all these together

as one legislative act. It would be difficult to say whether the Pope or the Consul more exceeded their powers—and indeed that question has been disputed ever since in France; but, together, they succeeded in dealing such a blow at the ancient privileges of the Church of France, that these have maintained but a sickly existence ever since. Radicalism is potent to destroy but powerless to create, and the Revolution, in destroying the continuity of the institutions of France, entailed upon her Caesarism in the State, and Absolutism in the Church.

We come now to the consideration of the Bull of Boniface VIII., *Unam Sanctam*, issued in 1302, which Sir Alexander Galt shows us is re-affirmed in a decree of the fifth Provincial Council of Quebec, held in 1873, confirmed by the Pope the following year, and consequently in force in this ecclesiastical Province as far as such decrees can have any force. Cardinal Manning holds this to be an infallible *ex cathedra* Bull. Newman has considerable doubt upon that point, and Bishop Fessler maintains that the last sentence alone is an infallible utterance. That sentence is hard reading—it runs: "And this we declare, we say, we define, and we pronounce, that it is necessary to the salvation of every human creature that he should be subject to the Roman Pontiff." If the Pope had added "in spiritual matters," Protestants would have no right to complain, because, as far as their salvation is concerned, they are content to go wherever their fathers have gone; but when the doctrine of the two swords is re-affirmed, that at once clearly trenches upon the declaration of the Canadian Act of 1851, which, as we have seen, affirms that the equality of all religions is a fundamental part of our constitution. The text of a portion of the Quebec decree is given at page 21 of Sir Alexander Galt's pamphlet. In substance it is: that the Church is a perfect society, independent of and superior to the civil power; and that the political power of the Christian ruler is, not only negatively but even positively, subordinate to the religious authority of the superior society which resides in the Sovereign Pontiff. Not only, then, must the civil power abstain from hindering the superior society in attaining its supernatural end, but, when called upon, it must aid it; for the temporal sword is under the spiritual sword (*gladium*

sub gladio), and is to be wielded by the civil ruler for the Church, not against the Church—that is, of course, the Roman Church. The decree then goes on to urge that this doctrine should be taught in all colleges and schools, and impressed upon judges, advocates, members of Parliament, and newspaper writers, at every opportunity.

Now, in this doctrine of the indirect temporal power lies the kernel of the controversy. It has been fought over age after age, and whenever asserted by Popes promptly repudiated by Governments. For a long time it had lain dormant, and now it comes up again, necessarily to fail once more. A similar doctrine had been put out by Innocent III., who, in a rescript still forming part of the Canon Law, says that God made two lights in the firmament, the greater to rule the day and the lesser the night; and as the light of the day—the Pontifical power—is greater than the light of the night—the temporal power,—so is the power of the Pontiffs superior to that of kings. From Innocent III. to Boniface VIII. the power of the Papacy remained at its flood. The issuing of this Bull (*Unan: Sanctam*) marks the commencement of its ebb. Philip the Fair was then King of France, and was engaged in a violent quarrel with the Pope, which was exasperated by the arrogant bearing of one of the French bishops, acting for the Pope, to Philip in person. Him the king sent to prison. Boniface shortly after wrote in the following strain:—"Boniface, Bishop, servant of the servants of God, to Philip, King of France: Fear God and keep His commandments. We would have you to know that you are subject to us in spiritual and in temporal matters," &c., &c. The King publicly burned the Bull and replied: "Philip, by the grace of God, King of France, to Boniface, calling himself Sovereign Pontiff: little or no greeting. Let your great extravagance be informed that we are subject to no one whomsoever in temporal matters," &c., &c. In November of the same year the dogmatic Bull *Unan Sanctam* was issued, followed by the excommunication of the King. The point worthy of special note is that the Pope utterly failed; for, in 1303, he was seized by an agent of the King, and died of chagrin shortly after his release. The following Pope revoked the excommunication, and

the next, Clement V., issued the Bull *Meruit*, which Cardinal Manning says *explained*, but which Bishop Bossuet and Bishop Doyle said *recalled* the offensive Bull. This latter effect it was at the time supposed to have had, and it is not easy to read it in any other sense. This is in few words the history of the famous Bull, around which so much of the Gladstone discussion revolves. Many attempts are now made to explain it away; but Boniface and Philip must be supposed to have had an advantage in ascertaining its real meaning, even over the scientific theologians of 573 years later.

In France, as we have seen, the doctrine of the indirect temporal power met with no success. In England, coming up under various forms, it caused incessant collisions with the civil authority. Kings and Parliaments kept a jealous watch upon it. No more devout Catholic ever sat on the throne than William the Conqueror; but he, when even Hildebrand was Pontiff, compelled all the Pope's letters coming into England to be brought first to him, in order that he might see before publication that they contained nothing derogatory to the rights of the Crown. The perfidious John alone bowed the neck, when his tyranny had alienated the nation; and, in recompense, Pope Innocent anathematized and annulled Magna Charta utterly to no purpose. The struggle was renewed under Edward I., and resulted in the first Statute of Provisors, 25 Edward III., caps. 5 and 6. Then followed the first Statute of Præmunire, 27 Edward III., cap. 1; then 38 Edward III.; 12 Rich. II., cap. 15; 13 Rich. II., caps. 2 and 3; and the Statute, still in force, of Provisors and Præmunire, 16 Rich. II., cap. 5. Many others followed, but this last declared "that the Crown of England hath been so free at all times, that it hath been in no earthly subjection, but immediately subject to God in all things touching the regality of the same crown." So the quarrel went on until the time of Henry VIII. Now, if all these Catholic princes and kings violently repudiated the doctrine of the indirect power of the Roman Pontiff in ages supposed to be dark and enslaved, how can it be possible to revive it with success in times such as these we live in?

But why go over such ground as this, which is patent to every reader of history?

Because, if these old Bulls and Constitutions of the Roman Church are to be revived—if, as Cardinal Manning says, such Bulls as *Novit* and *Unam Sanctam* are infallible—if, as Cardinal Cullen testified on the O'Keefe trial, every Bull is of binding force when published at Rome—if, as Bishop Moran testified on the same trial, the whole Canon Law is in force in Ireland—if one of our own younger Judges can sit in a Royal Court and receive the "Corpus Juris Canonici" as of superior authority to the statutes of the realm—if Suarez, and Scavini, and Schmalzgroeber, and the Syllabus can be quoted in a judgment of one of the Queen's Judges, instead of Blackstone and Stephen and Coke—and, especially, if in a Statute passed at the last Session of the Quebec Parliament, the Canon law is recognised as regulating Roman Catholic cemeteries in Canada—it is time to go back and look into this new body of law and see what is in it. Over these dead bones of history the Vatican decrees have breathed the breath of an ephemeral life. Once more, all these haughty forms of proud and imperious churchmen threaten us with menacing gesture. Shall we not then be allowed to invoke to our aid those kings, warriors, and statesmen who resisted them *à l'outrance*, and conquered them along the whole line of combat? But why, after all, speak of kings, when we can read the burning words of the eloquent Bishop of Kildare, in his letters to Lord Liverpool? "If," says he, "we declare in all the forms which language can assume, that the Church has not defined anything upon the subject about which I treat—if, in opposition to the doctrine imputed to her, we adduce the concurrent testimony of the Lord Himself, of His Apostles, and of the Holy Fathers—if we even show that the conduct and doctrine of the most eminent of the Popes themselves are opposed to it, with what colour of justice can it still be imputed to us? If we do not stop here—if we point out the source from which this hateful doctrine has originally flowed—if we show its origin, its progress, its decline and fall, is it not, my Lord, uncandid, ungenerous, and unjust to overlook our statements, to reject our proofs, to condemn us for that conduct in others which we ourselves abhor? If the Bull *Unam Sanctam*, in which Boniface declares that every creature is subject to the Roman Pope, without at all specifying whether it be in spiritual or

temporal matters—if this Bull be objected to us, is it not reasonable to attend to us whilst we say that no Bull of any Pope can decide our judgment, if it be not received and assented to by the pastors of the Church—an assent which this Bull *Unam Sanctam* never has received? Should we not be allowed to add, that so far from being received by the Church, it was violently opposed, and by an opposition so successful that it was recalled by Clement V., between whom and the author of that Bull only one Pope, Benedict XI., intervened? If the one, which was rejected by the world, be of such mighty moment, is not the other, which was admitted by all, entitled to some respect?"

We have no desire to underrate the many benefits which civil society owes to the Canon Law, and to the influence of Rome in the ages when society was slowly reorganizing after the barbaric invasions. In relation to this, Monseigneur Capel, in his reply to Mr. Gladstone, gives an extract from Arnold's "Lectures on Modern History," which must meet with the concurrence of every reasonable man. But upon taking up the passage at the very word where Mgr. Capel left off, we find the very qualification which renders so large a part of the Canon Law repugnant to the present age. Dr. Arnold continues: "But conceive, on the other hand, the Papacy to become the representative of superstition and of spiritual tyranny, while the Imperial power was the expression and voice of law; that the Emperor stood in the place of the Church, and the Pope was the mere priest, the Church's worst enemy;—and this was actually the form which the contest between the sacerdotal and regal powers assumed at a later period;—then our sympathies are changed, and we become no less zealously Ghibelin than we before were Guelf." It would have been fairer for Mgr. Capel to have given the whole passage. Be that, however, as it may, it is extremely dangerous to a free people to allow such a mass of jurisprudence to acquire by degrees any authority whatsoever; and lest our readers may not be familiar with it, we shall quote from the evidence of Dr. Slevin, Professor of Canon Law in 1826 at Maynooth, the following account of it: "The Canon Law, or common law of our Church, is contained in a work known by the title of 'Corpus Juris Canonici.' It was published by Pope Gregory XIII., and is composed of several parts or

collections of Canon Law made at different times. The body of Canon Law is composed of texts of Scripture, decrees of Councils, decretals of Popes, extracts from the holy fathers, and even some from the Civil Law. The different collections making up the body of the Canon Law are : the Decretum Gratiani ; secondly, the Decretalia Gregorii IX. ; thirdly, the Sextus Decretalium ; fourthly, the Clementinæ Constitutiones ; fifthly, the Extravagantes Johannis ; and sixthly, the Extravagantes Communes ; and the sources from which the different laws contained in these collections are taken are those that I mentioned. To have a complete body of Canon Law, we must add the decrees of the Council of Trent, and the different Bulls that have been issued by Popes since the time of Pope Sixtus IV., as none of a more recent date are included in the collection of Gregory XII., which was published towards the end of the 16th century. The Bulls that were issued after Sixtus IV. down to Clement XII. have been included in the ' Bullarium Romanum.' When we say that this law, so far only as the Extravagantes Communes, extends over a huge folio volume of 1,000 pages of small type in double columns (we refer to the edition of Pithoeus, 1779), and when we reflect that the " Bullarium Romanum," down to 1757, includes 19 vols. folio and, moreover, that the continuation, publishing at Rome, comprised a few years ago 15 folio volumes more, down only to 1821 ; when we remember also the immense literary activity of the present Pope, the mind sinks in despair before the mass of reading matter which has of late received so great an additional authority. Surely, for a while, the world might have a respite from Encyclicals and Syllabuses, until it could have time to digest one thousand years of back reading.

It seems to us that the parting line of opinion cannot be drawn by creeds and races. It ill becomes Protestants, bearing in mind the supreme law of conscience and personal responsibility upon which they fundamentally rely, to attempt to interfere with any doctrines of the spiritual order which Catholics may choose to hold ; but, upon the principle of the indirect power of the Roman Pontiff in temporals, a line may be drawn which, we believe, would include, at present, not only Protestants, but the large majority of lay Roman Catholics over 30

years of age—men who could say, with Bishop Doyle in 1826 : " We consider the constituted authority in every State, whatever form it may assume, as derived from God, and totally independent of the Pope or any other authority whatsoever, except only such authority as the constitution itself of any State may recognize as the immediate basis or source of its own power. We are warranted in this opinion by the Word of God Himself ;" and who could say with Dr. Crolly, of Maynooth, before the Royal Commission in 1854—" I teach that it is our duty, as Catholics, to be as loyal subjects of the Queen in temporal as of the Pope in spiritual matters. I firmly believe that nothing could be more pernicious to the Church herself than any attempt to revive the obsolete, the false, and, as I had fondly imagined, the universally abandoned pretensions that the Pope, as head of the Church, possessed any direct or indirect temporal power."

Upon such principles no quarrel can arise ; but it is the doctrines of the Neo-Catholics which we dread. Such, for instance, as those which Cardinal Cullen put on oath as a witness on the O'Keefe trial in 1873 : " The laws of the Catholic Church, when they are published at Rome, bind all over the earth, just as the laws published in London bind in every part of Ireland, England, and Scotland, as I am informed ;" and again : " The Canon Law was made for the whole world, and of its own force it extends all over the world ;" or such as are embodied in a series of propositions, put forth originally in Belgium, copied in the *Osservatore Romano*, and published in the Dublin *Freeman's Journal* in 1874, under the heading of " Our Catholic Creed : " " We firmly believe and profess that it in no degree belongs to the State to define what are the rights of the Church or the limits within which it may exercise them." " It belongs to the spiritual power to establish the temporal power, and to judge it if it be not good ;" and again : " We firmly believe and profess that liberty of conscience and of worship, understood in the sense of theological equality, and indifference in matters of religion, is in itself a principle contrary to the good of souls and to the rights of the Church. And if the Church supports it in certain countries, it is through necessity and through fear of greater evils."

Such principles as these Sir Alex. Galt

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shows are spreading in Quebec, and he reminds us that Protestants are in a minority, and that the safeguards devised at Confederation are not so strong as they were supposed to be. To this it is no answer to say that Sir Alex. Galt did, or did not, devise those safeguards—that he did, or did not, think them sufficient a year ago. Such statements may, or may not, be important to Sir Alex. Galt; but to the Protestants of Quebec they are unimportant. Nor is it an answer to say that the Roman Catholics are in a minority in Ontario; because no one in Ontario is proposing to revive the obsolete intolerant statutes of England there. Nor is it conclusive to ask, with that triumphant air of utilitarian politics which is not to be confounded with political wisdom, "What are you going to do about it? You cannot help yourselves." To this we reply: 1st, That the calm and thorough discussion alone of these new and radical doctrines is their sure defeat; and 2nd, That it is not the custom of free people to sit quietly down and await any fate, no matter how inevitable it may seem to be.

While the attacks of the Neo-Catholic school in Quebec are incessant, and their productions, in pamphlets, editorials, letters, &c., are innumerable, the old tolerant school of clergy with whom Protestants have lived so quietly are fast passing away. And what is worse, those who survive do not reply to their more active and vigorous assailants, for the epithets "Liberal" or "Gallican" are not now lightly to be incurred. As specimens of this new Quebec style, we give extracts from a pamphlet published in 1872, violently attacking the Grand Vicar Raymond for liberalism. "Proof, if you please? Proof? It is that there is in Canada liberty of consciences, liberty of worship, liberty of speech, and liberty of the press—all liberties inscribed in our laws as rights, and applied every day in our society as facts; all liberties forming the balance of our social state, the protocol of our political existence; all liberties condemned and reproved by infallible Popes." And again: "We answer still that the Catholic Church has alone the right to liberty, because she alone possesses the truth." The writer indignantly asks, "Does prudence then demand that we should wait until the good dispositions of our politicians are changed with regard to the Church, before

demanding the reform of those of our laws which are not in harmony with the Syllabus? It seems to us quite the contrary." And again: "Ought we, we Christians, to exercise more circumspection in regard to the impious and to the Protestants of the 19th century than our brothers of the Primitive Church did to the impious and the pagans of their day?" This is rampant Neo-Catholicism, and there is abundance of it in the recent issues of the Roman Catholic press of the Province. In Laval University, which has been so much attacked for its liberal opinions, the lectures of the Professor of Theology, the Abbé Paquet, have been published under the sanction of the Archbishop. Upon the subject of toleration we read: "A Government cannot proclaim the civil liberty of worship without usurping a right which it has not got. It is not judge in the matter of religion, and in declaring the civil liberty of worship it arrogates to itself a right which belongs only to the spiritual power—it substitutes itself for the infallible tribunal of the Church." Again: "Absolute liberty of worship, set up as a principle, is then a chimera, an error, and an impiety. Always and everywhere the principle of religious or dogmatic intolerance will remain master of the position, because it is the truth, and truth is indestructible, because it is eternal." The Abbé explains the principle of toleration thus: "The rulers of nations, although they may grant civil liberty to false religions for the purpose of avoiding great evils, yet with regard to God and society are always under the obligation of promoting the true religion within the limits of their powers." He quotes Monseigneur Audisio ("Droit Public de l'Eglise") as stating that the civil liberty of worship may be tolerated, and as even citing Rome itself under the Popes as a crucial instance of that toleration on a pretty large scale. Now, such toleration as that would never suit the Protestants of Quebec, although they may kindly thank the good-hearted Abbé for straining his authorities to make it out. Here is the danger of the doctrine of the two swords when it comes firmly to be believed in by the majority.

Sir Alex. Galt has been reproached with endeavouring to stir up religious strife. On the contrary, we believe that open discussion at this period, will tend to prevent it. His style is quiet, though forcible. There

is nothing, for instance, in his pamphlet like the following extract from a pamphlet—"Letters to a Member of Parliament, by Monseigneur the Bishop of Bithra"—published at Montreal in 1874. The Bishop writes to a member at Ottawa in this strain: "This is a battle *à l'outrance*, and without quarter. This battle cannot be fought with white gloves and with snowballs; there must be iron and fire; for it is the salvation of society as well as the salvation of souls which is at hazard, according as the victory shall rest with truth or with error—two irreconcilable enemies. Moreover, upon whomsoever teaches error, says the Church, let there be anathema. She makes no distinction of persons; she strikes without distinction, according to the rules of Justice; like God Himself, she never pardons without repentance. If the guilty man remains obstinate and dies in his revolt against the Church, anathema follows him even to the grave, where they throw his corpse deprived of the honours of Christian burial." Truly here is a Bishop militant of the good old stuff. Pity that he does not reside in his diocese, *in partibus infidelium* though it be, so that the Bithrites might be speedily brought to a knowledge of the truth. Bismarck used to say that "blood and iron" were the essential requisites; but "fire and iron" are more canonical. Oh, that Bithra were in Germany, that the Bishop and Bismarck might compare their views! But in Quebec we are not going to fight even with snowballs. The Queen's writs will answer for bullets, and, failing the Federal Parliament, the Crown and Parliament of Great Britain, with the appeal to the Queen in Council, are our all-sufficient safeguards.

The Protestants of Quebec are not a helpless minority, if they will only master this question of civil rights, and cling to it, without confusing it with the religious doctrines of the Roman Catholics. They are only dividing themselves if they attack doctrines of the spiritual order which Catholics have a right to hold, and which, under true Protestant principles, should remain unassailed. They are undermining the basis on which they themselves stand. The Abbé Paquet, who has read Rousseau (we have not—is he on the Index?), cites him with disapproval as saying that "it is impossible to live in peace with people whom one believes to be eternally lost." We concur in his disapproval. It is

possible for people to live in peace so long as all religions are equal before the law, no matter what gloomy anticipations we may cherish as to each other's future welfare. When we shall all escape into a happier region, far from the interminable folios of the Canon Law, we believe that many agreeable surprises will be in store for those, Protestant and Catholic, who in the necessary relations of this sublunary life have learned to know and respect each other.

In the third division of his pamphlet, Sir Alex. Galt treats of the special guarantees of Protestants in Quebec. He shows—1st, That the education of Roman Catholics has now fallen entirely into the hands of the clergy; this cannot be changed until the Roman Catholic majority so will it. 2nd, That the English and Protestant constituencies are fast being settled by French Roman Catholics, and that the present English minority representation will be very greatly weakened; this also cannot be helped, for it is contrary to true notions of freedom to dream (even if the power existed) of disfranchising any one on account of his religion, who chooses to settle anywhere in Canada. Our author sees and admits this, and therefore turns to the Federal veto as the sole palladium of the civil rights of the minority.

But the Protestant position is stronger than that. Its strength consists in the fact that Quebec forms part of the Protestant empire of Great Britain, and that the supremacy of the Crown is a fundamental part of the constitution of that empire. The very privileges of the Roman Church, by which its tithes and dues are still collected by law, rest upon a clause of an Imperial statute (the 14th Geo. III. cap. 83, Quebec Act) embodying a recognition of the royal supremacy. The clause thus reads:—"His Majesty's subjects professing the religion of the Church of Rome, of and in the said Province of Quebec, may have, hold and enjoy the free exercise of the religion of the Church of Rome, subject to the King's supremacy declared and established by an Act made in the first year of the reign of Queen Elizabeth over all the dominions and countries which then did or thereafter should belong to the Imperial Crown of this realm; and the clergy of the said church may hold, receive and enjoy their accustomed dues and rights with respect to such persons only as shall

profess the said religion." Now, the 16th section of the 1st Eliz. cap. 1, which has never been repealed, reads thus:—"And to the intent that all the usurped and foreign power and authority, spiritual and temporal, may for ever be clearly extinguished, and never be used and obeyed within this realm, or any other of your Majesty's dominions or countries, may it please your Highness that it be further enacted, by the authority aforesaid, that no foreign prince, person, prelate, state, or potentate, spiritual or temporal, shall at any time after the last day of this Session of Parliament, use, enjoy or exercise any manner of power, jurisdiction, superiority, authority, pre-eminence or privilege, spiritual or ecclesiastical, within this realm or within any other of your Majesty's dominions or countries that now be or hereafter shall be; but from thenceforth the same shall be clearly abolished out of this realm and all other your Highness's dominions for ever; any statute, ordinance, custom, constitution, or any other matter or cause whatsoever to the contrary in anywise notwithstanding."

Here, then, is the real stronghold of Protestants. Before these statutes the Quebec Government is powerless; and at any moment the Imperial Government might strike out of its own Act the clause under which the Roman Church collects its dues. If, on the other hand, the Quebec Government should pass any Act which trenches on the civil rights of Protestants, or infringes the royal supremacy—if, in short, the doctrine of Boniface VIII. should in any way attain legislative recognition in Quebec,—and if ever the Federal Government chose to concur in it, the Governor-General, with his instructions before him, could not let it pass without incurring certain disgrace from the Imperial authorities. The strength of the empire then is behind the Protestants in a just cause, but they should remember that this strength will never be exercised upon matters in the spiritual order; and also, that those who seek to do away with the appeal to the Queen in Council seek unwittingly to destroy their most important safeguard.

In going over this wide and important discussion within the limited space of a magazine article, we are painfully conscious that much has necessarily to be passed over which might have been considered with advantage. A great deal bearing upon the

subject has appeared in the English newspapers, but, so far, the discussion has been carried on rather as a party question than on its own merits. From this remark we should, however, except a series of articles on the Routhier judgment which appeared in August, 1874, in the *Toronto Nation*. These showed a very complete and exceptional knowledge of the subject, evidently the fruit of careful study. It remains now briefly to consider whether there is any common ground in this matter upon which Protestants and Catholics can stand together. Again we turn to the Maynooth professors, and again we find principles of peace and charity laid down upon which all can unite. We cannot do better than quote the words of Dr. O'Hanlon before Lord Harrowby's Commission in 1853. He distinguishes between the spiritual and temporal in this wise:—"Those matters are spiritual which have been instituted, commanded or recommended by Christ. All those matters must be deemed spiritual which were regulated by the Apostles and their successors in the ministry, from the death of Christ to the conversion of the Emperor Constantine. During the first three centuries of the Christian era, the Church possessed no temporal power. She did not possess it in virtue of any concession from Christ; for we are agreed that Christ communicated no temporal authority to His Church. She did not derive it from the concession of secular princes; for during this period they were all enemies of the Christian religion and persecutors of the Christian people." In like manner Dr. Crolly, before the same Commission, propounds the following principles:—"1st. The State possesses supreme independent power in all civil affairs—as supreme and independent as when the Gospel was first promulgated. 2nd. The Church, by virtue of her Divine institution, has neither more nor less power now than she had during the first three centuries. 3rd. The sanction by which the Church enforces her commands is purely spiritual, whilst the penalties inflicted by the State are of a purely temporal nature."

Let such principles as these obtain in Quebec, and there never can be quarrels between Protestant and Catholic. The doctrine of Boniface VIII. never led to anything but trouble and disaster to the Roman Church; and its resuscitation, after six cen-

turies of burial, will be as mischievous in the 19th century as it was in the 13th, when both princes and people were Roman Catholic. In the days when the Papacy was at its zenith, in the troublous times of Henry III., the assembled Barons at Merton had the courage to declare to the Bishops,

who were pressing on them a canon of Pope Alexander III., their determination not to alter the laws of England, and they used a phrase, celebrated in after years, with which we may fitly conclude this paper—*Nolumus leges Angliæ mutari.*

