

# REVUE CRITIQUE

DE

## Législation et de Jurisprudence.

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CONSTITUTIONAL LAW.

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### CHURCH AND STATE.

#### I. IN SPIRITUAL MATTERS.

##### § 2. *Ecclesiastical Law under the British Crown.*

(Continued from page 32.)

Admitting for argument's sake, the alleged spiritual authority of the Sovereign over the colonial churches, that authority could not be exercised otherwise than by means of the courts established in the colony. Now, in Canada, the courts established under the British Crown have not and never have had jurisdiction in ecclesiastical matters.

A few months after the ratification of the Treaty of Paris, the Crown by Royal Proclamation, dated the 7th October, 1763, created a provisional government for Canada, with power "to erect and constitute courts of judicature and public justice within our said colonies, for the hearing and determining all causes as well *criminal as civil*, according to law and equity, and, as near as may be, agreeable to the laws of England, with liberty to all persons who may think themselves aggrieved by the sentence of such courts, *in all civil cases*, to appeal, under the usual limitations and restrictions, to us, in our Privy Council." This royal commission does not contain a syllable concerning ecclesiastical matters, and the jurisdiction of the courts both in original suits and in appeal to the Privy Council was evidently confined to civil and criminal causes. It may perhaps be objected that this proclamation was unconstitutional, that the Crown had no right to