

Section 6, par. 2, declares : " The said Superior Court has full power and jurisdiction and is competent to hear and determine all plaints, suits and demands of what nature soever, which might have been heard and determined by the courts of *prévôté, justice royale, intendant*, or Superior Council, under the gouvernement of the province prior to the year 1759, touching subjects, remedies and actions of a civil nature."

Sub-section 3 says : " But nothing in this Act shall extend to grant to the said Superior Court any powers of a legislative nature, possessed by any court prior to the conquest."

Let us now see whether the jurisprudence of the province under British rule, has admitted the *appel comme d'abus* or ecclesiastical jurisdiction of the civil tribunals.

In the case of *Ferland et al.*, and *Deguisse*, already alluded to, the Court of Appeal, composed of Chief Justice Smith, and Messrs. Harrison, Collins, Pownall, Grant and Baby held \* : " That while this country was under the government of France, the Bishop was a member of the Superior Council.....

" That while the Bishop was left to his authority and the exercise of his episcopal functions, the rights of the people were protected, and the sovereignty of the Crown secured by the power of the *Intendant*, who held exclusively of the *civil courts* of the *prévôté* of Quebec and royal court of justice of Montreal, and of all other *inferior* jurisdictions in the province, the right of representing the sovereignty in homologating, ratifying and validating all such transactions of the curate, the church wardens and parishioners (even after the bishop's sanction and approbation of their compacts) as might bring the parish into charge ; as well as of executing his own decisions, for all assessments and repartitions upon the parishioners for the purpose afore mentioned, the *Intendant* exercising legislative authority in the departments of justice, police, finance and the marine.

" That upon the conquest, the act of parliament of the 14th year of His Majesty's reign, commonly called the *Quebec Act*, secured to his Canadian subjects (the religions orders and communities only excepted) their property and possessions, their customs and usages relative thereto, and other their *civil* rights, and allow-

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\* Registers of the Court of Appeal, Montreal, vol. 2, p. 242. At that time the Court of Appeal was composed of the Chief Justices and of the members of the Executive Council in the Province.