whole Catholic world, except in France, as remarked by Merlin, Vo. *Libertés de l'Eglise Gallicane.*

In 1844, the Right Hon. Duncan McNeil, then Lord Advocate and afterwards Lord Justice General of Scotland, said in his evidence taken before a select Committee of the House of Lords appointed to consider Lord Brougham's Bill to amend the jurisdiction of the Judicial Committee of the Privy Council: (Question 8)—"The Committee understand that previously to the late changes that have taken place in the Scotch Courts, there was, as here, a consistorial or spiritual Court which had cognizance of questions of Divorce?" Answer: "There was a Consistorial Court which had cognizance of questions of Divorce." Q. 9. "To the exclusion of the common temporal court, the Court of Session in the first instance?" A. "Yes." Q. 10. "Was there an appeal from the Consistorial Court to the Court of Session." A. "There was." Q. 13: "*Before the Reformation*, that Consistory Court was the Bishop's Court? A. "Yes; *the law in that department was administered by the tribunals of the Church.*" Q. 14: "Before the Reformation, was there any appeal to the Court of Session in those cases?" A. "*No, I believe not.*" Such were the principles which governed England and Scotland before the establishment of the national churches.

Does the reader wish to know why these principles were adopted in the Colony of Canada instead of those which had been proclaimed by the Statutes of Henry VIII and Elizabeth? The reason is very simple; they were more suitable to the colonies in general, and particularly to Canada, where the free exercise of the Catholic religion was garanteed by the Treaty of Cession of 1763. Lord Mansfield speaking of a colony acquired by occupancy or settlement—and his remarks apply equally to those who pretended that the wholy body of English public law passed into colonies acquired by cession, like Canada—said: "It is absurd that in the colonies they should carry all the laws of England with them. They carry such only as are applicable to their situation. I remember it has been so determined in the Council. There was a question whether the Statute of charitable uses operated on the Island of Nevis. It was determined it did not. No laws but such as were applicable to their condition, unless expressly enacted."* Even in the case of a colony discovered or

* Campbell v. Hall, 20 Howell, State Trials 289; see also Stokes, Law of Colonies, 4; 1 Chal. Opin. 195, 198, 220, and 2 Ibid 202; 1 Chitty on Commerce, 639.