

so called, which had never constituted part of those *civil rights*, or the laws or customs relating thereto.

The remark may perhaps be made, that the *appel comme d'abus*, or ecclesiastical jurisdiction in France, and in *La Nouvelle France* supposing it existed there, appertained as a matter of right to the civil tribunals and formed a part of their ordinary civil jurisdiction. We have already had occasion to remark that the French parliaments exercised jurisdiction in ecclesiastical causes for the sole and simple reason that the King of France was a catholic prince, the eldest son of the church, and the protector of the church canons, in fact, *evêque extérieur*, as d'Agnesseau says*; that this jurisdiction was by no means suitable to the young colony of *La Nouvelle France*, situated beyond seas, and so to speak in a very different political and social atmosphere.

But why go back so far to show that within the meaning of the Quebec Act, the expression *civil rights* does not comprise *ecclesiastical or spiritual rights*? The distinction is clearly laid down in section 17: "Nothing in this Act contained shall extend or be construed to extend to prevent or hinder His Majesty, by his Letters Patent under the Great Seal of Great Britain, from erecting, constituting such courts of criminal, civil and *ecclesiastical* jurisdiction within and for the said Province of Quebec, as His Majesty shall think necessary and proper for the circumstances of the said Province." The words *civil rights*, therefore, did not include *ecclesiastical* matters within the meaning of the above sections of the Quebec Act.

Let us now see whether this civil, criminal and ecclesiastical jurisdiction has been given to the courts of justice established in the Province of Quebec.

The Court of Common Pleas, which was the first court established (1777) under the authority of the Quebec Act, had "full power, jurisdiction and authority to hear and determine all matters of controversy relating to property and *civil rights* according to the rules prescribed by the said statute, and such ordinances as might hereafter be passed by the Governor and legislative council."

In the case of *Ferland and Deguise*, 1789, the Court of Appeals decided in the most formal terms that the Court of Common Pleas had no ecclesiastical jurisdiction, not even for assessments and *répartitions* upon the parishioners for the construction and

* Œuvres, vol. 1, p. 235, 5th Réquisitoire.