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The Transformation Of British Ecclesiastical Policy:  
The Canadian Experience 1759 - 1774

By

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## The Transformation of British Ecclesiastical Policy: The Canadian Experience 1759 - 1774.

"And for the more perfect Security and Ease of the Minds of the Inhabitants of the said Province, it is hereby declared, That 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, and thereafter should belong to the Imperial Crown of this Realm; and that 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." (Quebec Act 1774). It was 1829 before similar freedom was provided for Great Britain in The Catholic Emancipation Act.

The extent of religious freedom provided by the Quebec Act differed greatly from the ecclesiastical policy of the late seventeenth and eighteenth centuries for the British Isles. This essay attempts a description of that policy, sketchy and incomplete it is acknowledged, but it does provide background against which the dramatic changes in the Quebec Act can be seen. In Canada, between 1759 - 1774, the emergence of a policy of toleration toward Roman Catholics becomes one of conciliation and by 1774 religious freedom for them is constitutionalized. "Why" this transformation took place and "how" it was accomplished will be explained, at least in part in this essay.

### Background

The Clarendon Code (1661 - 1665) severely restricted the activities of Nonconformists after the Restoration of 1660. The Test Act of 1673 required sacramental participation in the C of E and the renunciation of transubstantiation by any person in any office, civil or military, receiving pay from the crown. The Act of Religious Toleration (1689) provided relief from specific provisions of the Clarendon Code for orthodox Protestant Nonconformists but specifically denied them to Papists, Recusants, and non-Trinitarians. An Act (Penal Law) passed by the English parliament in 1691 disqualified Roman Catholics from sitting in either house of the Irish parliament. Some 14,000 Irish were deported. Those who remained were expected to take the oaths of allegiance and supremacy to William III and Mary II. Another penal act in 1695 imposed fines and punishment for those who did not comply; in 1698 all papish clerics or others exercising ecclesiastical jurisdiction were ordered to leave Ireland or face trial and imprisonment for high treason. The Act Against Popery

(1700) passed by the British parliament authorized rewards of L100 for anyone who reported a bishop, priest, or Jesuit upon their apprehension and conviction. A 1704 Act, designed to prevent the growth of Popery, provided definite advantages for the acquisition, retention, and benefit of property for Protestants. Concurrently, royal governors in the colonies were instructed to "permit a liberty of conscience to all persons except Papists." The oaths of allegiance and supremacy and the Test Act were also to be administered. In 1755, when the demand of governor Charles Lawrence of Nova Scotia (Arcadia) for unconditional oaths of loyalty from some 6 - 7000 Arcadians was rejected, they were deported.

### "Why"

The foregoing is a representation of the formal ecclesiastical policy of Great Britain when French forces surrendered to General Amherst in 1760. In the terms of Capitulation "the free exercise of their Catholic, Apostolic, and Roman religion" was granted to the estimated 60 - 70,000 French Roman Catholics in Canada. This concession was incorporated in the Treaty of Paris (1763), Article IV, but with the addition of "as far as the laws of Great Britain permit." Toleration was thus granted but the parameters were not specified. From the British perspective protracted fighting to achieve total subjection was untenable and the French before signing were insistent upon the free exercise of their religion. The ministry knew that Canada's R C population was the largest such body to come under British control. Although the Treaty of Paris provided for the peaceful exodus of all who wished to leave, the depopulation of the province would diminish the value of the conquest. William Pitt, the architect of the Great War for Empire, had directed Amherst to treat the Canadians respectfully. The military leaders saw clearly the strategic importance of Canada vis a vis the lower thirteen colonies. A hope was that with the closing off of land west of the Appalachian Mountains by the Proclamation of 1763, migration would flow northward into Canada. It did not happen with the exception of a few hundred arrivals from New England.

General James Murray, military governor of Quebec City and subsequently governor general of the Province of Quebec, endeavored to make government work. He found it necessary to use French Canadians to do so. He realized that religion was at the core of their culture and in response to his concessions to their needs he won cooperation. This transformed toleration into conciliation with the Canadians but at the same time angered the New England settlers. His efforts at conciliation was reciprocated by Mgs. Jean Olivier Briand, vicar general of Quebec, who accepted British rule and admonished the Catholic clergy to do likewise. This relationship further angered the recent settlers. But from the French Canadian point of view, a bishop, for which they had petitioned London, was essential to their religion or it would cease to exist in time. Subsequently, Murray informed the home

government that if a bishop were allowed, it should be Briand. In 1766, this was done.

In the meantime, Grenville's ministry which had treated Canada and its governor in the traditional way became aware of the challenge Canada posed. The question was: should they or should they not design an ecclesiastical policy to suit Canada's particular situation? In this, they turned to the archbishops of Canterbury and York and directed them to prepare a report. "Thoughts" in 1764 by the Archbishop of York agreed that the King's grant of the "free exercise" provision of the Treaty of Paris should be honored and if a bishop were allowed, it could be by connivance, under the name of a Superior, or allowed publicly, but not to appear with pomp. In 1766, the Rockingham ministry used all three suggestions in allowing Briand's consecration and return to Canada. What further complicated the situation was that this development took place at the same time the British government was challenged by the lower thirteen colonies over the Revenue Act (1764), Stamp Act (1765), Declaratory Act (1766), Townshend Duties (1767), etc. The government in Whitehall could not afford to have Canada become unsettled at that time.

Another element that is part of the formula to explain "why" the Quebec Act is derived from the writings of Pierre Bayle's Philosophical Commentary (1686) and John Locke's Letter Concerning Toleration (1689). The long range influence of these works on freedom of conscience and religious liberty was monumental. Bayle argued for liberty of conscience as a natural right and for unlimited toleration. Locke contended for civil toleration, enlightened self-interest, and that toleration might be extended to Roman Catholics under appropriate safeguard for the security of the state. These writings had a powerful appeal against the background of Louis XIV's revocation of the Edict of Nantes (1685) and the Constitutional crisis in England in 1688 - 89. Moreover, the House of Hanover in Great Britain proved amenable to religious toleration. Bp William Warburton of the C of E in The Alliance Between Church and State (1741) while arguing that the state church was beneficial to the state, affirmed the importance of freedom of conscience and thought as essential for toleration which could include Roman Catholics. The idea of religious pluralism within a state was promoted by a bishop whose patron was William Pitt. Then in 1768, Judge Mansfield in the Webb Case, which involved the apprehension and imprisonment of an alleged priest under the Act Against Popery (1700), virtually gave a directed verdict that had him acquitted.

The acceptance and implementation of freedom of conscience was generally accepted in Great Britain by c. 1750. Other events that contributed were: the defeat of James III, the Pretender, at Culloden in 1746; the reduced danger of Jacobitism; and the death of the Pretender in 1766. All of these reduced Jacobite machinations backed by France and the Papacy against Great Britain.



The victory at Culloden paved the way for William Pitt to enlist many Scots, particularly from the Highlands, in the military service. During the Seven Years War (French and Indian) in America (1755 - 1763), several Scots, e.g. James Murray, served with distinction. The Irish, in general, declined to back the Rising of '45 and in 1759 offered to the Lord Lieutenant to defend their country against an impending French invasion. Although the Irish parliament passed a stringent penal law and the British parliament concurred, George II refused to sign it and thus prevented it from becoming law. Pitt, as with Scotland, found ways to enlist Irishmen in the British army. The need for manpower in the wars with France and an ever expanding empire, prompted re-evaluation of policy, including the ecclesiastical, in relation to strategic interests. In short, these developments assured Whitehall that opportunity for hostile foreign intrigue had greatly diminished and it was in Great Britain's interest to capitalize on this turn of events.

#### "How"

"How" the change from an oppressive penal approach to ecclesiastical policy for Nonconformists to the C of E (Protestant and Roman Catholic) is evident in several steps. First, the Act of Religious Toleration (1689) exempted orthodox Protestant Nonconformists from specific legal penalties. Prior to the Glorious Revolution of 1688 - 1689, this body had proven its loyalty to the constitution in the crisis of 1685 - 1688. Throughout the eighteenth century toleration for this group was seen as a plus, ecclesiastically and politically, by the several administrations. The Committee of Dissenting Deputies was a fervent supporter of the Revolutionary Settlement. Then under William III, the Presbyterian clergy in Scotland were returned to their churches and Presbyterianism reestablished in that country. This reduced considerably a long-standing conflict between the two realms. The Act of Union (1707) insured the Presbyterian Church of its constitutional position. By 1701, instructions to royal governors were altered so that "except Papists" was dropped from the command "You are to permit a liberty of conscience to all persons, except Papists." The Irish Toleration Act of 1719, relieved Irish orthodox Nonconformist Protestants of the Test Act, and relief was also provided for Quakers. The crown began bestowing annual gifts not only on the C of E but also the C of S, Comm. of Dissenting Deputies, Synod of Northern Ireland, and immigrant Protestant groups.

The leadership of the crown in ecclesiastical affairs was reflected in other agencies. For example, Thomas Bray who led the formation of the SPCK in 1698 and secured a charter for the SPG (1701) was respectful of and helpful to other orthodox Protestant groups. He assisted in the organization of the SSPCK, chartered by Queen Anne in 1708, and remained a life-long member. Both archbishops in the 1760's were members of the SSPCK while Cantuar

was president of the SPG and SPCK. This attitude is evident in the activities of several leading ministers in the period preceding the Quebec Act. Eg.: Duke of Newcastle, Earl of Hardwicke, William Pitt, Edmund Burke, Earl of Dartmouth, etc. It was Dartmouth, a Methodist type of churchman, as secretary for the American Department, who presented the Quebec Bill to parliament. The religious views of all key officials are not known, but they all were communicants of the C of E. Hence the crown, and its agents, while upholding the legally established ecclesiastical policy, through executive action (prerogative) and judicious administration promoted toleration and liberty of conscience so long as no threat to the state was involved.

Several judicial rulings made possible ecclesiastical innovation suggested by archbishop Drummond in his "Thoughts." Re: Status Of Roman Catholic Subjects (1765), the attorney and solicitor generals ruled "We...are humbly of opinion, that his Majesty's Roman Catholic Subjects residing in the countries, ceded,... are not subject, in those Colonies, to the Incapacities, disabilities, and Penalties, to which Roman Catholics in this Kingdom are subject." A letter from Mansfield to Grenville expressed the same view. The Board of Trade in an independent review came to the same conclusion in a report to the Privy Council. Attorney General Charles York ruled in 1766 that the Test Act "is a matter of political judgment whether His Majesty will require it to be taken by all persons ...; but that the statute does not extend to them." The Treaty of Paris stipulated only the free exercise and toleration of the Roman Catholic religion in the countries ceded by France.

The way was prepared for a constitutional act by king in parliament to insure religious freedom for French Canadian Roman Catholics. But it took political will to face parliament, especially the House of Commons, where anti-Catholic sentiment was strong and present the Quebec Bill. This Lord North, Dartmouth, the bishops of C of E, and a few supporters in Commons did. It involved a fierce debate before passage. King George III signed it over opposition petitions and vigorous anti-demonstrations. By 1774, the government was intensely concerned over the disturbances in the lower thirteen colonies; it could not afford another in Canada. But the Act was the distillation of years of struggle to produce an appropriate policy. That it included a transformation of ecclesiastical policy in respect to Canada proved to be an act of statesmanship. It was the efforts of the crown, ministers of state, C of E bishops, royal governors, and legal experts who made a reversal in ecclesiastical policy possible. Fortunately for the innovators there was a tradition for evolving an ecclesiastical policy to meet the time and circumstance rather than a static ecclesiasticism upon which they could build. The Quebec Act was a major step toward what became The Catholic Emancipation Act of 1829 that applied to Great Britain.