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## The Quebec Act (1774) and the Hanoverian Church–State Relationship\*

Eleven years after the Treaty of Paris (1763), following several attempts by various administrations to frame a settlement for the conquered Province of Quebec, Lord North's ministry passed the Quebec Act at the close of the parliamentary session of 1774. The legislation replaced the temporary administration of Quebec established by the Royal Proclamation of 1763, which had instituted English civil and criminal law and contained the promise of an elected assembly.<sup>1</sup> In recognition that the Proclamation had been 'inapplicable to the State and Circumstances' of a largely Catholic population, the Quebec Act secured freedom of worship for Catholics and enabled them to hold public office by replacing the oath of allegiance in the Act of Supremacy (1558) with a different oath that made no reference to the Church of England. The legislation re-established compulsory tithing for the benefit of Catholic priests and endorsed the right of Jesuits to reside in Canada. It retained English criminal law but restored French civil law, giving Catholic landowners security of tenure. Extending the boundaries of Quebec to the Ohio and Mississippi rivers, it enabled the governor to rule through a legislative council without a representative assembly.

These provisions for Catholic integration aroused old Protestant fears, embodied in memories of Mary I and James II, that Catholics were intolerant persecutors who would restore Britain to the tyrannical rule of Rome. A theme in the history of the Reformation, the problem of Catholics' dual loyalties was also a major debate in the Enlightenment as monarchs such as Frederick II of Prussia sanctioned Catholic freedom of worship within their Protestant states. While both sides in the parliamentary, press and pamphlet debate accepted

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\* I am grateful to Sylvana Tomaselli, Mary Heimann, Gareth Atkins and the editors and peer reviewers of the journal for reading and commenting on earlier drafts of this article.

<sup>1</sup> For the Proclamation and Quebec Act, see *Documents Relating to the Constitutional History of Canada, 1759–1791*, ed. A. Shortt and A.G. Doughty (2nd edn, 2 vols, Ottawa, ON, 1918) [hereafter *Constitutional Documents*], i, pp. 163–8, 570–76.

the case for varying degrees of Catholic toleration in Quebec, opponents of the legislation advanced Enlightenment critiques of priestcraft and superstition that had their origins in the anti-papery of the Protestant Reformation in arguing that Catholicism threatened the liberty of the laity and the safety of the state. Forcing British Protestants to consider anew whether Catholics could reconcile their secular and spiritual loyalties, the debate also focused on the problem of public religion in a multi-faith society and the differences between establishing and tolerating churches. Opponents of the legislation claimed that a bishop and compulsory tithing made for a church establishment, but its drafters and supporters generally argued that these were essentials in performing the external offices of the Canadians' worship. As the Enlightenment proceeded within and alongside Gallican church government in France and as Catholic reform movements like English Cisalpinism produced arguments against papal power, defenders of a more concessive approach could plausibly claim that the influence of priestcraft and superstition was declining among Catholics.

Since historians have tended to argue that Protestant zealotry drove opposition to the Quebec Act, this article first examines how politicians and pamphleteers who spoke and wrote against the North ministry deployed standard Enlightenment concepts of priestcraft and superstition in defence of a minimal version of Catholic toleration. It then turns to the ways in which proponents of the legislation innovated the same concepts to justify more thoroughgoing proposals. In seeking to encourage the fealty of the Canadians, supporters of the Quebec Act revised Whig shibboleths about the British Protestant confessional state and its relationship with the empire. As well as setting a precedent, their arguments provided the intellectual basis for future reform. During the late 1770s, proponents of Catholic relief in Britain and Ireland counted Quebec as a successful example of Catholic integration. With the Canada Constitutional Act (1791), the ministry of William Pitt the Younger sought to accommodate those Loyalists who had fled the United States of America during the

American Revolutionary War by dividing Quebec into Upper Canada and the predominantly French Lower Canada and granting, in effect, full Catholic emancipation. The problem of settling a large Catholic territory obliged the British to reconsider the Hanoverian church–state relationship in an imperial context, undermining the Reformation ideal of the sovereign Crown-in-Parliament as the secular guarantor of Protestant liberty. By providing for Catholic freedom of worship, the Quebec Act later proved to be one element in the long and complicated process of Catholic emancipation in Britain, Ireland and the empire. Another significant element was papal endorsement of the Hanoverian succession during the 1760s. Further, between the 1770s and 1790s, the threats of militant Protestantism in the American Revolution and godless republicanism in the French Revolution altered the context in which the British state interacted with Catholics, who might now appear to be potential allies of the state rather than a threat to the constitution.

## I

The passage of the Quebec Act destabilised politics throughout the imperial centre and its peripheries. Some American ‘patriots’ counted it as one of the ‘Intolerable Acts’.<sup>2</sup> A flourishing transatlantic print culture linked North America with London, informing the perspective of British Whig Protestants, especially radicals who connected their cause with that of aggrieved American colonists.<sup>3</sup> The passage of the Quebec Act coincided with the campaign against ‘old corruption’ and the re-election of John Wilkes to the House of Commons. Especially during the general election in October and November 1774, the urban

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<sup>2</sup> V.P. Creviston, “‘No King Unless it be a Constitutional King’: Rethinking the Place of the Quebec Act in the Coming of the American Revolution’, *Historian*, lxxiii (2011), pp. 463–79.

<sup>3</sup> I.K. Steele, *The English Atlantic, 1675–1740: An Exploration of Communication and Continuity* (New York, 1986), p. 273; B.A. Jones, “‘In Favour of Popery’: Patriotism, Protestantism, and the Gordon Riots in the Revolutionary British Atlantic’, *Journal of British Studies*, lii (2013), pp. 79–102.

and radical press generated a sense that the legislation threatened Protestant liberty both in the empire and at home.<sup>4</sup> In 1778, the North ministry proposed a series of Catholic relief bills in England and Wales, Scotland and Ireland. The plans caused anti-Catholic riots in Scotland in 1779 and, in London, the Gordon riots of 1780. To self-proclaimed Whig ‘patriots’, the relief acts seemed to be the logical consequence of an authoritarian, pro-Catholic administration. During the Gordon riots, one London minister labelled the Quebec Act ‘a most wicked and pernicious piece of business’ and ‘the late act to take off restraints from Papists an arrow shot from the same quiver’.<sup>5</sup>

Owing to the centrality of the Quebec Act in radical and popular politics during the 1770s, historians have examined the press campaign against it. They have contrasted the Enlightened toleration of its drafters and defenders with the Protestant zealotry of its opponents and, latterly, the Gordon rioters.<sup>6</sup> Ollivier Hubert and François Furstenberg situated the passage of the bill alongside the efforts of the popular English press to combine ‘anti-Catholic prejudice with an alarmist defence of the Bill of Rights’ and noted that the integration of Quebec encouraged ‘an openness to a legally and religiously diverse empire

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<sup>4</sup> J. Brewer, *Party Ideology and Popular Politics at the Accession of George III* (New York, 1981), pp. 202–5, 216; J.E. Bradley, *Religion, Revolution and English Radicalism: Non-conformity in Eighteenth-Century Politics and Society* (Cambridge, 1990), pp. 38, 58–9, 147, 260–64; K. Wilson, *The Sense of the People: Politics, Culture and Imperialism in England, 1715–1785* (Cambridge, 1995), pp. 264–9.

<sup>5</sup> *London Evening Post*, 13 Apr. 1780, p. 1.

<sup>6</sup> P. Lawson, “‘The Irishman’s Prize’: Views of Canada from the British Press, 1760–1774”, *Historical Journal*, xxviii (1985), p. 596; P. Lawson, *The Imperial Challenge: Britain and Quebec in the Age of the American Revolution* (Montreal, QC, 1989), pp. 47, 77, 148; D. Milobar, ‘Quebec Reform, the British Constitution, and the Atlantic Empire: 1774–1775’, *Parliamentary History*, xiv (1995), p. 84; P.M. Doll, *Revolution, Religion, and National Identity: Imperial Anglicanism in British North America, 1745–1795* (Madison, WI, 2000), pp. 146–53; K. Stanbridge, ‘Quebec and the Irish Catholic Relief Act of 1778: An Institutional Approach’, *Journal of Historical Sociology*, xvi (2003), pp. 375–6; N. Rogers, ‘The Gordon Riots and the Politics of War’, in I. Haywood and J. Seed, eds, *The Gordon Riots: Politics, Culture, and Insurrection in Late Eighteenth-Century Britain* (Cambridge, 2012), pp. 21–45, at 28; D. Rabin, ‘Imperial Disruptions: City, Nation, and Empire in the Gordon Riots’, in Haywood and Seed, eds, *Gordon Riots*, pp. 93–114, at 96; Jones, “‘In Favour of Popery’”, p. 404.

that stood in stark contrast to the traditional definition of a militantly Protestant British imperial nationalism'.<sup>7</sup> Nancy Christie has revised accommodationist interpretations of post-conquest British rule in Quebec, arguing that the British government pursued an authoritarian approach to assimilation rooted in principles of submission and hierarchy. Nevertheless, she concluded that the North ministry 'took great political risks to introduce legislation that awakened anti-Catholic sentiments'.<sup>8</sup>

However, such a characterisation neglects the ecclesiological debate about the connection between the legislation and the Hanoverian church-state relationship. Opponents of the legislation drew on Enlightenment critiques of priestcraft and superstition that had their origins in the Reformation in arguing that the North ministry proposed to establish rather than to tolerate Catholicism. These arguments remind historians that the transition from the Reformation to the Enlightenment involved the reformulation of sixteenth-century anti-papery into seventeenth-century assaults on priestcraft and eighteenth-century anticlericalism.<sup>9</sup> The provision for compulsory tithing was found most offensive. Speaking in favour of his motion to repeal the Quebec Act in 1775, Earl Camden (a Chathamite former lord chancellor), argued that the Peace of Paris had promised 'only a toleration' and freedom of worship 'as far as the laws of Great Britain permit'. Tithing represented 'an impolitic insuperable bar' to persuading Canadians to convert to Protestantism.<sup>10</sup>

While the opposition's concerns belonged to the Protestant anticlericalism of the Enlightenment in England and its general fear of priestcraft, their arguments were also

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<sup>7</sup> F. Furstenberg and O. Hubert, 'Introduction: Entangling the Quebec Act', in F. Furstenberg and O. Hubert, eds, *Entangling the Quebec Act: Transnational Contexts, Meanings, and Legacies in North America and the British Empire* (Toronto, ON, 2020), pp. 17, 23.

<sup>8</sup> N. Christie, *The Formal and Informal Politics of British Rule in Post-Conquest Quebec: A Northern Bastille* (Oxford, 2020), p. 91.

<sup>9</sup> S.J. Barnett, *Idol Temples and Crafty Priests: The Origins of Enlightenment Anticlericalism* (Basingstoke, 1999).

<sup>10</sup> William Cobbett, *The Parliamentary History of England, from the Earliest Period to the Year 1803* (36 vols, London, 1806–20), xviii, pp. 658–9.

directed against an older enemy: the Catholic priest. Opposition pamphleteers expressed Erastian confidence in the supremacy of the civil magistrate to restrain ‘popery’ and priestly power, drawing on the Reformation ideal of the godly prince to defend the spiritual liberty of the lay Christian, to buttress the state against prelacy, and to secure civil concord.<sup>11</sup> The papacy’s claim to its dispensing power and its practice of absolving oaths demonstrated the perennial problem of Catholic disloyalty and prompted memories of the use of the dispensing power by James II to appoint Catholics to civil and military office and to ‘indulge’ Catholic worship. Between the 1680s and the 1720s, English anti-clericals had refashioned the term ‘priestcraft’ to service a critique of the ‘craft’ of priests of all confessions.<sup>12</sup> But the Enlightenment in England had never simply been a rebellion against the institutional church and its priests. Fear of overmighty priests had emerged from the worldview of England’s Reformation and had found expression in a Protestant conception of civil religion whose proponents envisioned a positive role for ministers of the established public faith in administering the externals of worship and encouraging civil peace.<sup>13</sup>

Since they supposed that the Catholicism of the Canadians represented the inverse of Christian civil religion, opponents of the Quebec Act were able to direct the concept of priestcraft against the Protestant’s traditional enemy. So that the Canadian priesthood and laity might be reminded of their ‘dependence upon your Majesty’s protection, and may reverence your authority’, Sir James Marriott urged, ‘it will be proper that your Majesty’s arms, as it was done by Queen Elizabeth at the time of the Reformation, should be placed in

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<sup>11</sup> J. Rose, *Godly Kingship in Restoration England: The Politics of the Royal Supremacy, 1660–1688* (Cambridge, 2011).

<sup>12</sup> P. Harrison, *‘Religion’ and the Religions in the English Enlightenment* (Cambridge, 1990), pp. 85–96; J. Champion, *Pillars of Priestcraft Shaken: The Church of England and Its Enemies, 1660–1730* (Cambridge, 1993); M. Goldie, ‘Priestcraft and the Birth of Whiggism’, in N. Phillipson and Q. Skinner, eds, *Political Discourse in Early Modern Britain* (Cambridge, 1993), pp. 209–31.

<sup>13</sup> A. Walsh, *Civil Religion and the Enlightenment in England, 1707–1800* (Woodbridge, 2020).

the most conspicuous manner in the churches'.<sup>14</sup> Francis Masères argued that the present religious tests, 'which consist of the abjuration of the pope's power, and the declaration against transubstantiation, might perhaps, without danger, be changed into others less offensive to the catholicks, and which many of them might probably take with a good conscience'. But they must abhor 'the doctrine of not keeping faith with hereticks'.<sup>15</sup> Because their faith was incompatible with loyal and peaceful citizenship, the imperial British state must impose restrictions on the Canadians' worship for its own tranquillity.

It followed that the same limitations on Catholics in Britain and Ireland should apply in Canada. The Act of Supremacy must stand unamended and the anti-popery laws, renewed under William III and Mary II, should extend to the province, even though Canada had been acquired after their passage. In writing of the anti-popery laws, opponents of the Quebec Act referred in general terms to the Test Act (1678), which made the oaths of supremacy and allegiance and a declaration against transubstantiation requirements for civil and military office, although some were willing to enable Catholics to sit in a representative assembly. The anti-popery laws also included the Popery Act (1698 and, in Ireland, 1703), which renewed the bounty on Catholic priests and disallowed Catholic schooling, inheritance and purchase of land, the Act of Settlement (1701), and the oaths of abjuration and allegiance to swear loyalty to the Hanoverian Crown. The centrality of these several oaths to the Quebec debate provides a salutary reminder of the claim of J.C.D. Clark that Britain was a 'polity defined by oaths'.<sup>16</sup> Affirmation of the Hanoverian succession and was not simply a political issue. It was a soteriological one that involved denial of the empire of the pope, helping to realise the gospel promise that every man was to be his own minister.

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<sup>14</sup> Sir James Marriott, *Plan of a Code of Laws for the Province of Quebec* (London, 1774), p. 198.

<sup>15</sup> Francis Masères, *Things Necessary to be Settled in the Province of Quebec* (London, 1772), pp. 13–14.

<sup>16</sup> J.C.D. Clark, 'Religion and Political Identity: Samuel Johnson as a Nonjuror', in J. Clark and H. Erskine-Hill, eds, *Samuel Johnson in Historical Context* (Basingstoke, 2002), pp. 79–145, at 80.



In claiming that the Act of Supremacy and the anti-popery laws should apply in territories acquired after the passage of such legislation, opponents of the Quebec Act interpreted England's 'empire' in its ecclesiological sense. They argued that the Act of Supremacy had enshrined the authority of the imperial Crown in temporals and spirituals across all royal possessions both at the time of the Reformation and after. In the House of Lords, Camden asserted that parliament should no more repeal the Act of Supremacy than 'the Great Charter, or the Bill of Rights'. He 'deduced the whole series of laws from the supremacy first revindicated under Henry the 8th down to this day, as fundamentals constituting a clear compact that all establishments by law are to be Protestant'. The bill contravened 'all the oaths of office and of trust from the constable up to the members of both Houses, and even to the sovereign in his coronation oath'.<sup>17</sup> It violated the principles of England's ancient constitution.

Supporters of the legislation drew on more recent legal precedent to argue that the Act of Supremacy and the anti-popery laws did not extend to Canada and that to apply them would be to ignore the dictates of just and moderate rule. One anonymous pamphleteer observed that the question turned on 'whether the *Supreme Legislator* of the *British Empire* has a right to give, to its ceded Province of *Canada*, such form of government, and such toleration of religious professions, as shall appear fitting for the *imperial* state to give, and for the *dependent* state to receive'. The Treaty of Paris represented an inviolable contract to grant 'a *toleration* of the exercise of their religion, *subject to the King's Supremacy*'. It did not 'enable four hundred migrants, because they are Protestants, to erect themselves into a constitutional *aristocracy*, and tyrannize over and oppress above an hundred thousand

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<sup>17</sup> Cobbett, *Parliamentary History*, xvii, p. 1403.

peaceful and dutiful subjects'.<sup>18</sup> It was not simply politic, but right, that the state should provide clemency for a conquered territory populated overwhelmingly by Catholics. A concessive policy, granting full toleration under the supremacy of the Crown-in-Parliament, would better foster the amity and fealty of the Canadians.

It was also necessary for supporters of the legislation to dispense with their opponents' claims that Catholicism was an uncivil faith and a threat to the liberty of Protestants. In arguing that popery, priestcraft and superstition were not intrinsic to Catholic worship, defenders of the Quebec Act performed a striking conceptual innovation and revised the intellectual basis for English Protestant civil religion. 'The errors of the church of Rome hourly lose ground', asserted one pamphleteer, 'the craft of priests and designing men begin to be seen through by the people, and they glow with a warmth to exercise their own right of understanding'. The 'superstition that had so mingled with their doctrine, that it was difficult to perceive any fixed principle in it, is almost banished'. Error was falling to truth. Prudence might now temper zeal. Civil toleration would restrain the pride and ambition of the priest. It was wise to 'permit an evil that in time will work its own cure'. Rather than representing a church establishment, the provision for compulsory tithing to fund secular priests was necessary for effective parochial ministry. In making these arguments, supporters of the legislation not only claimed that Catholics could be loyal to the imperial state, but that they merited a bishop and endowed priests to perform their public offices, holding out the possibility that Catholicism could be a civil religion. The Quebec Act, argued the same pamphleteer, would 'give stability to the public faith'.<sup>19</sup>

To examine this debate is to move beyond popular political discourse and to prioritise the press, pamphlet and parliamentary debates that attended the passage of the Quebec Act

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<sup>18</sup> *An Appeal to the Public; Stating and Considering the Objections to the Quebec Bill* (London, 1774), pp. 10–12, 15.

<sup>19</sup> *Thoughts on the Quebec Act* (London, 1774), pp. 23–4, 26–7.

and attempts to repeal it. Alongside several anonymous contributions in favour of, and others against, government policy, the most thoroughgoing alternative proposals came from the pens of Masères and Marriott. An English lawyer of Huguenot descent who had served as attorney-general of Quebec between 1766 and 1769, Masères penned a series of pamphlets on the subject.<sup>20</sup> Marriott had been Master of Trinity Hall, Cambridge, and vice-chancellor of the university. Having sought political favour with most sides, he became the government's advocate-general and published his *Plan of a Code of Laws for the Province of Quebec* in 1774, although it did not form the basis for the Quebec Act.<sup>21</sup> Writing for the ministry was William Knox, a Protestant Irish landowner in the colonies and London agent for Georgia who had been dismissed by that colony's assembly for publishing a defence of the Stamp Act. Knox joined the government in 1770 as undersecretary of state for the American department and became a figurehead for the coercion of America.<sup>22</sup> Sir William Meredith, a Rockinghamite Whig and former lord of the admiralty, later joined the North ministry as comptroller of the household and published a response to the attacks of Lord Chatham on the bill in the Lords.<sup>23</sup> The satirist, John Shebbeare, animadverted in support the Quebec Act in 1775, earning a riposte from Hugh Baillie, a former judge of the court of admiralty in Ireland.<sup>24</sup>

Opponents of the Quebec legislation developed a critique of priestcraft and superstition that had roots in the reliance of the Enlightenment in England on the Erastian

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<sup>20</sup> E. Arthur, 'Masères, Francis', in *Dictionary of Canadian Biography*, vi (University of Toronto/Université Laval, 2003–), available at [http://www.biographi.ca/en/bio/maseres\\_francis\\_6E.html](http://www.biographi.ca/en/bio/maseres_francis_6E.html) (accessed 28 July 2020).

<sup>21</sup> P. Polden, 'Marriott, Sir James (1730–1803)', *Oxford Dictionary of National Biography* [hereafter *ODNB*].

<sup>22</sup> L.J. Bellot, *William Knox: The Life and Thought of an Eighteenth-Century Imperialist* (Austin, TX, 1977), pp. 122, 126–8.

<sup>23</sup> L. Namier and J. Brooke, eds, *History of Parliament: The House of Commons, 1754–1790* (3 vols, London, 1964), iii, pp. 130–33.

<sup>24</sup> M.J. Cardwell, 'Shebbeare, John (1709–1788)', *ODNB*; K. Costello, *The Court of Admiralty of Ireland, 1575–1893* (Dublin, 2011), pp. 110–30, 141–53.

church–state relationship, claiming that the bill established rather than tolerated Catholicism and that it endangered the spiritual welfare of the laity and the security of the state. They drew on the idea of the godly prince in defence of their argument that the Act of Supremacy and anti-popery laws applied in Canada, prioritising the imperial Crown as the secular guarantor of Christian liberty. Setting their argument in European context, some drew on the early writings of Frederick the Great, prior to his conquest of Catholic Silesia and the construction of St Hedwig’s Cathedral in Berlin, and Marriott delved into the history of the Gallican Church in Canada. Supporters of the legislation were forced to demonstrate that it tolerated rather than established Catholicism. Alongside recent legal precedent, they deployed arguments in favour of just and moderate rule in a newly acquired territory. Most importantly, they needed to demonstrate that it was safe to follow such a course with Canadian Catholics because their faith was becoming civil. The safety and tranquillity of the state depended upon its employing ministers of the public faith even in a Catholic society. Papal endorsement of the Hanoverian succession and the growth of Cisalpine principles among English Catholics demonstrated that Canadians, whose heritage had been Gallican, need not be popish. A generous policy of toleration might encourage a reformation in the Canadians’ religion. By furnishing Quebec with an endowed secular priesthood superintended by a bishop, the drafters and defenders of the Quebec Act argued that Canadian Catholics could reconcile secular and spiritual loyalties within the imperial state.

## II

Anti-Catholicism, prior to attempts to fashion Catholic toleration during the 1770s, had been an essential tenet of eighteenth-century Whiggery. In publishing a speech supposedly to be presented to the Commons in support of the Continental Congress, Arthur Lee, Massachusetts correspondent to Britain and France, drew on Whigs’ sense of the history of the British Isles since the Revolution of 1688. The speech concluded by condemning an ‘Act, fraught with

principles, both civil and religious, directly repugnant to those secured by the ever-glorious Revolution'.<sup>25</sup> Petitioning 'the Imperial Crown of these Realms' to withhold royal assent for the legislation—in a striking contravention of the doctrine of the Crown-in-Parliament—the Common Council of the City of London observed that the Hanoverian dynasty

was called to the Throne of these Kingdoms in consequence of the exclusion of the Roman-Catholic ancient branch of the Stuart Line, under the express stipulation that they should profess the Protestant Religion; and, according to the oath established by the sanction of Parliament in the first year of the reign of our greater Deliverer, King William the Third.

The king 'at your Coronation solemnly swore that you would, to the utmost of your power, maintain the Laws of God, the true Profession of the Gospel, and the Protestant Reformed Religion established by Law'.<sup>26</sup>

Opponents of the government interpreted Catholic polities, especially France, as tyrannies defined by pacts between popish priests and absolutist kings to reinforce each other's arbitrary power through doctrines of divine right and passive resistance. Popery was, according to one correspondent in the *General Evening Post* in 1774, the 'intimate and almost inseparable companion' of arbitrary power.<sup>27</sup> Catholic societies were impoverished and ignorant. Catholic subjects were benighted and blind. By contrast, the modern British constitution was an exemplar of mixed and balanced government. It enabled political liberty, economic prosperity and religious toleration. Especially since the formation of the anti-Bourbon European coalition that had resulted from the Revolution of 1688, Whigs cultivated

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<sup>25</sup> [Arthur Lee], *A Speech Intended to Have Been Delivered in the House of Commons in Support of the Petition from the General Congress at Philadelphia* (London, 1775), p. 33.

<sup>26</sup> *Gentleman's Magazine*, xlv (June 1774), p. 248.

<sup>27</sup> *General Evening Post*, 19–21 July 1774, p. 4.

a sense of Britain as a bulwark of Protestant liberty against France and Spain.<sup>28</sup> The Quebec Act also followed decades of mounting fear, despite the defeat of the Jacobite rebellion in 1745 and the recognition of the Hanoverian succession by Pope Clement XIII in 1766, that Catholicism remained latently powerful within England. In 1767, the Earl of Radnor moved in the Lords for an address to the king requesting a census of Catholics in England.<sup>29</sup>

Aside from commonplace Whig political assumptions, the opposition drew from an Enlightened analysis of superstition that associated Catholic worship with priestcraft, persecution and absolutism. A ‘*sanguinary and intolerant system of superstition*’ had been established in Quebec, complained the Dissenter, Frederick Bull, in the Commons during a debate to repeal the Catholic Relief Act (1778). It tended towards ‘*the destruction of the Liberties of the People, and the formation of an arbitrary despotic Government*’. The doctrine of passive obedience made Catholicism a system of ‘*Priest-craft, and State-craft*’. It was a religion that supplanted ‘*moral honesty in the world, and which tends to subvert the peace and order of society*’. It resulted only in ‘*the despotism of the Prince, and the slavery of the People*.’<sup>30</sup> In a memorandum of 1763, while president of the board of trade, Lord Shelburne discussed the erroneous view ‘*that The Influence of Religion or rather Superstition is confined to a certain latitude, and that Nothing is to be feared from its effects in America*’. The Canadians’ ‘*religion when operating in its enthusiastic form, naturally tends to the destruction of Governors and the worst species of Anarchy*’.<sup>31</sup>

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<sup>28</sup> L. Colley, *Britons: Forging the Nation, 1707–1832* (New Haven, CT, 1992); C. Haydon, *Anti-Catholicism in Eighteenth-Century England c.1714–80: A Political and Social Study* (Manchester, 1993); D. Armitage, *The Ideological Origins of the British Empire* (Cambridge, 2000).

<sup>29</sup> Haydon, *Anti-Catholicism*, pp. 190–2; G.M. Ditchfield, ‘A Christian Whig: Lord Shelburne and the Latitudinarian Tradition’, in N. Aston and C. Campbell Orr, eds, *An Enlightenment Statesman in Whig Britain: Lord Shelburne in Context, 1737-1805* (Woodbridge, 2011), pp. 79–96, at 93.

<sup>30</sup> *Gazetteer and New Daily Advertiser*, 22 June 1780, pp. 1–2.

<sup>31</sup> Ann Arbor, MI, University of Michigan, William L. Clements Library [hereafter CL], Shelburne Papers, vol. 64, p. 533, memorandum, 31 May 1763.

Despite the Gallican church settlement, the close association between Quebec and the Jesuits made Ultramontanism a common target of the opponents of the legislation. Following the suppression of the Jesuits in July 1773, Jean-Olivier Briand, Catholic bishop of Quebec, whose consecration in Paris in 1766 had been overseen by Rockingham's first ministry, allowed them to remain there. Often alluding to James II's use of the dispensing power to exempt the obligations of law in certain cases, which had been declared illegal in the Bill of Rights, the opposition seized on the pope's dispensing power as a threat to British sovereignty. Describing the need for regulars to be banished and for secular priests to take the oath of abjuration, Masères claimed that 'this, it is well known, is what none of the Roman-Catholick priests in this province have done, or can do while they continue Roman-Catholicks, the said oath being a renunciation of the most essential article of their religion'.<sup>32</sup> For Marriott, the spiritual supremacy of the see of Rome had made 'the system of the church of Rome so much the system of an imperium in imperio, that it strikes upon all royal and civil authority'.<sup>33</sup>

Marriott developed the opposition's criticism of the uncivil tendencies of Catholicism to cast it as the inverse of classical and modern civil religion. It was the antithesis of a reasonable faith whose professors conformed with civil authority. Catholics '*will neither tolerate nor be tolerated*'. Religion, Marriott explained, 'whether true or false, whether in reason or excess, as a principle of action, necessarily unites itself with every system of civil government'. Those who had been 'at once priests and legislators' had 'so far affected all civil government, that they have raised up an empire more lasting than that of ancient Rome'. The 'legion of ecclesiastics may prove as powerful in subverting, as in maintaining princes and states'. While 'true religion is a reasonable and well-grounded sense of hope and fear of

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<sup>32</sup> Francis Masères, *The Canadian Freeholder* (3 vols, London, 1776–9), i, pp. 410–11.

<sup>33</sup> Marriott, *Plan*, p. 130.

reward and punishment in a future state, arising from the belief of a supreme all perfect being, so false religion, or superstition, as Plutarch defines it, is an unreasonable and excessive dread of invisible agents'.<sup>34</sup> Catholicism was an incarnation of false religion whose professors persecuted heresy and whose priests united with the civil power to tyrannise over Christian subjects.

The weakness of Gallican principles among Canadians, continued Marriott, demonstrated the impossibility of casting an alliance between the state and the Catholic church in their territory. William Warburton, bishop of Gloucester, had argued that the church–state relationship was the product of an alliance between two originally independent societies and that, in most instances, the state contracted with the faith that enjoyed most proselytes. However, in *The Alliance between Church and State* (1736), amended editions of which appeared in 1741, 1748 and 1766, Warburton sought to frame the church–state relationship against both Catholics, who left 'the State a creature of the Church', and Erastians, who rendered 'the Church a Creature of the State'. Warburton's idiosyncratic argument rested on combining a Lockean interpretation of the origins of secular government with a defence of the sacerdotal authority of the Church of England. Whereas church and state had been originally two separate societies, their leaders had compacted together to secure the sovereignty of the state and the security of the lay Christian. Both societies had been originally '*Sovereign, and independent on the other*', but they came to form '*a politic League and Alliance for mutual Support and Defence*'. The church establishment would 'APPLY ITS UTMOST INFLUENCE IN THE SERVICE OF THE STATE'. The state would 'SUPPORT AND PROTECT THE CHURCH'.<sup>35</sup> For Marriott, the Warburtonian position was implausible. 'The idea of a church or religious association, which is to be considered as an independent contracting

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<sup>34</sup> Ibid., pp. 129, 131–4.

<sup>35</sup> William Warburton, *The Alliance between Church and State* (4th edn, London, 1766), pp. 28, 85, 112.



party, and which enters into terms with the civil state as an ally’, he argued, ‘in a treaty offensive and defensive, which I have not yet met with in the code of the law of nations.’ Certainly, ministers of religion ‘deserve the protection of the sovereign power and civil magistrate in the highest degree, while they observe the first principles of religion, humility, and obedience’.<sup>36</sup> Catholicism did not inculcate such principles.

The civic dimensions of the opposition’s attack also found expression in progressive tones of political economy. By the failure to make good the promises of the Proclamation of 1763, Camden claimed that Canada maintained all the hallmarks of ‘tyrannical government’, serving the interests of the Catholic clergy and French nobility ‘who are willing to submit to a despotic government, for the sake of tyrannizing over the peasantry of Canada’. Such a system was ‘repugnant to the spirit of commerce, and abhorrent to the feelings of native British subjects’.<sup>37</sup> Marriott argued that any settlement in Quebec must aim ‘to suppress the military and monastic spirit, and to encourage the commercial’. Feast and holy days should be prohibited for ‘the encouragement of industry’. Monasteries and convents of ascetics were antithetical to enlightened society. ‘The spirit of monachism and military service have gone hand in hand in the feudal history’, Marriott argued, in language borrowed from the stadial theories of progress of the Scottish Enlightenment. In the modern age, it was ‘unhappy for mankind that there remain so many traces of it’.<sup>38</sup> The British conquest of Canada provided the occasion for wise legislators to progress civil and religious enlightenment by weakening the feudal grip of the Catholic Church over Canadian civil society.

### III

Opponents of the Quebec Act believed that the only safe way to restrain Catholicism was to impose the unamended Act of Supremacy and the anti-papery laws on Canada. For the

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<sup>36</sup> Marriott, *Plan*, pp. 134–5.

<sup>37</sup> Cobbett, *Parliamentary History*, xviii, p. 660.

<sup>38</sup> Marriott, *Plan*, pp. 218–19, 170–71.

Scottish Calvinist James Murray, the Quebec Act was ‘an infraction of the constitution, by establishing popery in the British empire, which the revolution settlement guarded against’.<sup>39</sup> In supporting the legislation, the bishops were ‘shamefully forgetful of that solemn vow, promise and profession, which you repeatedly made and the several times you were ordained Deacons and Priests, and when you were consecrated’. They had been ‘violators of the oath of *abjuration*, and of *the King’s supremacy*’. The Act of Supremacy was ‘so fundamental a part of the constitution of this kingdom, and the power therein declared so indefeasibly inherent in the crown of these realms, that for your Majesty to consent to any act of legislature which should tolerate such parts of the Romish religious system’ would be to renounce the Crown’s sovereignty.<sup>40</sup>

In the ancient constitutional mode of Whig political thought, opponents of the Quebec Act argued that the Act of Supremacy was equally as inviolable as the Petition of Right or Magna Carta. When Camden moved a motion in the Lords to repeal the Quebec Act, he criticised the constitutional implications of ‘dispensing with the Oath of Supremacy, whereby every officer of government in that province, both civil and military, even the governor himself, may be of the Romish religion’. Camden dwelled on the Act of Supremacy because it was ‘as sacred and fundamental’ as the Act of Settlement (1701) and Magna Carta.<sup>41</sup> Between 1776 and 1779, Masères published *The Canadian Freeholder*, a three-volume dialogue between a fictional Catholic freeholder and an English gentleman in which the latter claimed that the reference in the Treaty of Paris to the laws of England included the Act of Supremacy, ‘a grand, fundamental, statute’, which declared that the foreign jurisdiction of the papacy ‘shall be for ever excluded not only from England and Wales, and the other

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<sup>39</sup> James Murray, *An Impartial History of the Present War in America* (2 vols, London, 1778), i, p. 424.

<sup>40</sup> James Murray, *The Lawfulness of Self-Defence* (Glasgow, 1780), pp. 26–7, 137–8.

<sup>41</sup> Cobbett, *Parliamentary History*, xviii, p. 658.

dominions then belonging to the Crown, but also likewise from all the dominions *that hereafter should belong to it*'.<sup>42</sup>

The claims of Masères' Englishman prompted him to recite a Whiggish history of the relationship between the ancient constitution and the royal supremacy. Historians of eighteenth-century Saxonism have tended to prioritise its secular manifestations, but low-church Whigs idealised the Saxon church and interpreted in Anglo-Norman churchmanship an ecclesiological iteration of the Norman yoke.<sup>43</sup> The royal supremacy, explained the Englishman, was 'not the same power in spiritual and ecclesiastical matters which was exercised in England by the Pope a little before the acts of parliament by which his authority was established', since Anglo-Norman kings had ceded spiritual jurisdiction to Rome. The Englishman rehearsed the history of papal usurpation in England between the deposition of Stigand, the last Saxon archbishop of Canterbury, in 1070 and the Act for the Submission of the Clergy (1534), the Act for the Exoneration of Exactions Paid to the See of Rome (1534), and the Act of Supremacy (1534), which restored powers usurped by the pope to the Crown.<sup>44</sup> The object of the Englishman's synthesis of Whig ancient constitutionalism and ecclesiology was obvious. Without the Act of Supremacy, the latent tendency of Catholics to seek papal authority would endanger the spiritual liberty of all lay Christians in Quebec.

By this analysis, Canadians were entitled to English rights and liberties both secular and religious. In claiming that the Act of Supremacy and anti-popery laws should operate unamended in Canada, the opposition sought legal precedent in *Calvin's Case*. Put before the King's Bench in 1608, the decision had established that English common law considered a child born in Scotland before the union of crowns of 1603 to be an English subject and,

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<sup>42</sup> Masères, *Canadian Freeholder*, i, p. 408.

<sup>43</sup> For a recent reappraisal, see D.M. Frazier Wood, *Anglo-Saxonism and the Idea of Englishness in Eighteenth-Century Britain* (Woodbridge, 2020), pp. 189–94.

<sup>44</sup> Masères, *Canadian Freeholder*, iii, 595–7, 603–4, 606–7.

therefore, entitled to the benefits of English law. The case led to the assumption that, unless specifically exempted, English laws applied to all parts of the sovereign's dominions.<sup>45</sup> The penal laws, inferred Marriott, should thus be applied against Catholics in North America and the oath of supremacy need not be revised.<sup>46</sup> However, the North ministry had been able to draw on more recent precedent. In 1705, the attorney-general, Edward Northey, had ruled in response to a challenge to the religious policy of Lord Baltimore in Maryland that Elizabethan anti-Catholic legislation only applied to the colonies under English rule at the time of its passage, leaving doubt about the legitimacy of such laws in dominions acquired after their enactment.<sup>47</sup> Although the renewal of the anti-popery laws during the 1690s had left the implications of Northey's ruling unclear with regard to the status of Catholics in Maryland, a colony founded during the 1630s, the opposition believed that the language of the Act of Supremacy trumped any such precedent anyway. Masères' Englishman argued that the Act of Supremacy 'expressly relates to the future dominions of the crown of England as well as those which at that time belonged to it'.<sup>48</sup>

To reinforce his argument, the Englishman referred to the seminal ruling of the lord chief justice of the King's Bench, Lord Mansfield, in *Campbell v. Hall* (1774). In a decision relating to a customs duty imposed by the governor of Grenada using a letter patent, Mansfield had agreed with the plaintiffs that, in the Proclamation of 1763, the Crown had 'immediately and irrevocably granted' British constitutional rights to all inhabitants of Grenada and that the tax could not be levied by Crown authority alone.<sup>49</sup> For Mansfield, once the rights of conquest had thus been relinquished, all acquired territories subject to the

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<sup>45</sup> *The Seventh Part of the Reports of Sir Edward Coke* (London, 1738), pp. 1–29; *Calvin's Case* (1608), 77 ER 377, (1608) Co Rep 1a.

<sup>46</sup> Marriott, *Plan*, p. 138.

<sup>47</sup> Historical Manuscripts Commission, *The Manuscripts of the Earl of Dartmouth* (3 vols, London, 1887–96), ii, p. 548.

<sup>48</sup> Masères, *Canadian Freeholder*, ii, pp. 405–7.

<sup>49</sup> *Constitutional Documents*, i, pp. 522–31.

Proclamation were now to be governed by statute law and the Crown-in-Parliament. Masères and Marriott opted to accept Mansfield's interpretation, claiming that freedom from popery was an ancient constitutional right of all English subjects. For Masères' Englishman, 'even according to the doctrine laid down by Lord Mansfield of the legislative power of the Crown over conquered countries', the revision of the oath of supremacy was unlawful.<sup>50</sup> For Marriott, if 'the exercise of the power of the papal see cannot be permitted in the ancient colonies of the crown by existing law, it is clear that it cannot be permitted in a new acquired colony, when the ceded colony is put by the treaty on the same footing'.<sup>51</sup> That the Quebec Act had been legitimately passed by the Crown-in-Parliament was undeniable. At issue was the ability of Canadians to claim the ancient constitutional rights and liberties of the English, including the abrogation of papal tyranny.

#### IV

In seeking to frame the religious settlement of Quebec closely around the Proclamation of 1763, opponents of the legislation claimed to be arguing for Catholic toleration rather than establishment. The Proclamation secured the agreements made in the capitulation of Montreal (1760) and, later, the Treaty of Paris that 'new Roman Catholic Subjects may profess the worship of their Religion according to the rites of the Romish church, as far as the Laws of Great Britain permit'.<sup>52</sup> Frederick Bull proclaimed that he 'would not be understood to be an advocate for *persecution*'. It was 'not on account of *any* of the religious tenets of the Papists' that he objected to the Quebec Act, but rather 'because they *cannot* give any security for their *civil* obedience, under any *Protestant* Government whatever'. They were bound 'to *destroy* those whom they call *Heretics*'. Bull's 'Opposition to a set of men holding such *horrid* opinions' was 'not Persecution, much less Religious Persecution'. To maintain the

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<sup>50</sup> Masères, *Canadian Freeholder*, ii, pp. 405–7.

<sup>51</sup> Marriott, *Plan*, pp. 121–2.

<sup>52</sup> *Constitutional Documents*, i, p. 115.

Proclamation was ‘common prudence’ and ‘benevolence to ourselves and our connections’. It was ‘self-defence, and ought to be supported by every one who is a friend to the *rights of mankind*’.<sup>53</sup> Masères’ Englishman noted that, although the Act of Supremacy applied to Canada, there were no such ‘extending words’ in the Act of Uniformity (1662).<sup>54</sup> Masères believed that such practices as transubstantiation, worship of the Virgin and saints, Latin mass and auricular confession, however ‘false or foolish’, did ‘not affect the safety of the government’. By providing for toleration, the government might encourage Catholics to inquire into their faith, since ‘nothing but gross and brutish ignorance, accompanied with a fear of inquiring freely into the nature of it, supports the popish religion’.<sup>55</sup>

Such a settlement would allow secular priests to regulate the outward worship of Canadian Catholics and to provide parochial ministry. In his memorandum of 1763, Shelburne argued that Canadians should be entitled to ‘no other Priests but the *Secular*’. They would be licenced by the governor, ideally Canadian by birth, and supervised by a bishop whose appointment depended on royal approval and whose power of excommunication was subject to gubernatorial sanction. This arrangement would secure ‘proper *external decency*’ and ‘avoid that absurd though fashionable *indifference*, which in such a motley society as that of Canada, must be most *contrary to sound politics*’.<sup>56</sup> Marriott distinguished between doctrines and ‘forms of worship or rituals’. There was ‘no great political consequential evil can follow from this culte, or mode of worship’. Secular priests could perform acts of worship, but it was inappropriate ‘to tolerate all the doctrines of the Romish church’. By removing regulars and regulating secular priests, the government prioritised lay Catholics and might aim at ‘the removing their ignorance, by the introduction of learning and commerce,

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<sup>53</sup> *Gazetteer and New Daily Advertiser*, 22 June 1780, p. 1.

<sup>54</sup> Masères, *Canadian Freeholder*, iii, p. 538.

<sup>55</sup> Masères, *Things Necessary to be Settled*, pp. 14–15.

<sup>56</sup> CL, Shelburne Papers, vol. 64, pp. 533–9, memorandum, 31 May 1763.

and removing ecclesiastical foreign authority'. The governor should endeavour 'to extirpate, not men, but opinions, by a modified toleration, and to lay a foundation for the church of Canada to reform itself by degrees'.<sup>57</sup>

Opponents of the Quebec Act argued that the most important distinction between toleration and establishment was the clause obliging the laity to pay tithes. Believing a system of voluntary lay contributions to be insufficient, Mansfield had inserted the provision for mandatory tithing into the final draft of the bill.<sup>58</sup> But some claimed that the government could respect the Treaty of Paris without it. For Masères' Englishman, 'Nothing, surely, that has the least tendency to an *establishment* of the Romish religion, or an engagement to use the authority of government to compel the people to pay the priests their tythes, or other dues, as a reward for teaching that religion, can be inferred' from the peace treaty. Sir Jeffrey Amherst, commander-in-chief in North America and the first governor of Quebec, had assented to Catholic toleration, but not 'an establishment of it by giving the priests a legal right to their tythes'. Amherst's successor, James Murray, had been 'biassed by the perpetual flattery of the bishop and his clergy' to support compulsory tithing.<sup>59</sup> However, the waters were muddied in those instances in which Protestants owned land to which secular priests held seigniorial rights. For Marriott, even though the 'English Protestant settlers, while the largest seignories are got into their hands, and more are getting daily, think it hard that they should pay tithes to Popish clergy', it was 'just, that the parochial clergy should have their dues'.<sup>60</sup>

Nearly as problematic was the presence of a bishop. Quebec had lacked one since 1760, the year of the death of Henri-Marie Dubreuil de Pontbriand. In the summer of 1765,

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<sup>57</sup> Marriott, *Plan*, pp. 126, 128, 238–9.

<sup>58</sup> *Constitutional Documents*, i, pp. 386–7.

<sup>59</sup> Masères, *Canadian Freeholder*, i, pp. 407, 413, 17.

<sup>60</sup> Marriott, *Plan*, pp. 223–4.

the Rockingham ministry considered ‘Heads of a Plan for Establishment of Ecclesiastical Affairs in Quebec’, which contained proposals not for a bishop but rather ‘a Person, so licenced to superintend the affairs of the Romish Church’.<sup>61</sup> By the summer of 1766, the ministry had taken a more conciliatory stance. Robert Henry Drummond, archbishop of York, proposed the appointment of a Catholic bishop, but to restrict his powers to ordination and to require the priesthood to take the oaths of allegiance and to pray for the king.<sup>62</sup> The ministry fixed upon Jean-Olivier Briand, vicar-general of Quebec, who was consecrated in Paris with tacit ministerial support. The conjunction of Rockinghamite lenience in Canada and the efforts of Thomas Secker, archbishop of Canterbury, and the Society for the Propagation of the Gospel in Foreign Parts to impose an Anglican bishop on New England motivated Thomas Hollis of Lincoln’s Inn and Thomas Mortimer, editor of the *Political Register*, to campaign in the press against popery.<sup>63</sup> In May 1769, the *Political Register* claimed that the appointment of a bishop had secured ‘the religious establishment of the Roman catholics in Canada’.<sup>64</sup> Away from this radical extreme, Masères argued that the office of bishop ‘has a strong tendency to keep up the Roman-catholick religion’.<sup>65</sup> But it did not represent an establishment. Masères, like Shelburne and Marriott, was content to provide for a bishop to superintend secular priests, subject to strict gubernatorial oversight.

Similarly, the opposition’s desire for a representative assembly in Quebec tempered its opposition to Catholic officeholding. On one hand, Masères’ Englishman claimed that ‘the

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<sup>61</sup> CL, Shelburne Papers, vol. 66, p. 23, Board of Trade report, 30 May 1765.

<sup>62</sup> P.W. Walker, ‘The Church Militant: The Anglican Loyalist Clergy and the Making of the British Counterrevolution’ (Columbia Univ. Ph.D. thesis, 2016), p. 78.

<sup>63</sup> C. Robbins, ‘The Strenuous Whig: Thomas Hollis of Lincoln’s Inn’, *William and Mary Quarterly*, vii (1950), pp. 406–53; P.D. Marshall, ‘Thomas Hollis (1720–74): The Bibliophile as Libertarian’, *Bulletin of the John Ryland Library*, lxvi (1984), pp. 260–1; C. Haydon, “‘Popery at St. James’s’”: The Conspiracy Theses of William Payne, Thomas Hollis, and Lord George Gordon’, in B. Coward and J. Swann, eds, *Conspiracies and Conspiracy Theory in Early Modern Europe: From the Waldensians to the French Revolution* (Farnham, 2004), pp. 175–95.

<sup>64</sup> *Political Register*, May 1769, p. 260.

<sup>65</sup> Masères, *Things Necessary to be Settled*, p. 3.



laws of England which disqualify papists from holding places of trust and profit ought still to be continued in the province', since these were 'not laws of persecution, but of self-defence'.<sup>66</sup> In part Masères' concern was driven by his fear that, as his Frenchman put it, enabling Catholics to hold public office might give encouragement to 'all those oppressive powers of the noblesse over the common people'.<sup>67</sup> On the other hand, Masères' Englishman noted that 'a general assembly of the people, consisting of Protestants and Papists indiscriminately, seems to be the most proper legislature for the province'.<sup>68</sup> Much like the Act of Uniformity, Marriott did not believe that the sacramental test applied outside of England. 'By the test act', he explained, 'the sacrament is to be taken by them within this realm of England.'<sup>69</sup> An assembly might only be representative if Canadian Catholics were permitted to sit in it.

## V

To illustrate the differences between toleration and establishment, opponents of the Quebec Act set their argument in European context. In committee on 3 June 1774, Isaac Barré MP, an Irish former soldier of Huguenot extraction and a hero of the Seven Years War, referred to Frederick the Great's *Oeuvres du philosophe de Sans Souci* (1749–50) while questioning Marriott. The three-volume edition had contained the epic poem *Le Palladion*, which, owing to its satire of Christianity, Frederick intended to keep secret. Responsibility for editing the second and third volumes, which contained a series of odes and poems, had been handed to Voltaire after he arrived in Potsdam in 1750. Barré asked Marriott, first, which he believed to be Frederick's religion and, second, which religion Frederick might have established in Quebec. Barré referred to Marriott's claim in his *Plan* that:

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<sup>66</sup> Masères, *Canadian Freeholder*, iii, p. 782.

<sup>67</sup> *Ibid.*, i, p. 6.

<sup>68</sup> *Ibid.*, iii, p. 792.

<sup>69</sup> Marriott, *Plan*, p. 55.

In order to judge politically of the expediency of suffering the Romish religion to remain *an established religion of the state* in any part of your Majesty's dominions, the Romish religion (I mean its doctrines, not its ceremonies) ought to be perfectly understood ... The opinion of the royal author of the Memoires of Brandenburg, seems to be conclusive on this head to every sovereign power; that the protestant religion is the best, both for the prince and the people: because there is no middle power to intervene and stand before the prince against the people, nor before the people against the prince.<sup>70</sup>

Marriott had relied on Frederick's authority to argue that the Protestant religion provided the best form of public worship because its doctrines guaranteed the sovereignty of the civil power and the spiritual liberty of the laity. The Reformation had subjected priestly power to secular authority, leaving priests unable to form tyrannical compacts with princes. Whereas Barré had referred to Frederick's *Oeuvres*, Marriott had chosen, in his text, to cite a passage from Frederick's *Mémoires pour servir à l'histoire de Brandebourg* (1750).

Frederick had written:

In monarchies, the Protestant religion, which reports to no one, is entirely subject to the government; whereas the Catholic religion establishes a spiritual state, all-powerful, fertile with conspiracies & artifices, in the temporal state of the prince; that the priests who direct consciences (and who have no superior but the pope) are more masters of the people than the sovereign who governs them; and that, because of his tendency to confuse the interests of God with the ambition of men, the pope has often found himself in opposition to sovereigns on subjects that were in no way the responsibility of the church.<sup>71</sup>

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<sup>70</sup> Cobbett, *Parliamentary History*, xvii, p. 1388. See also Marriott, *Plan*, pp. 129–30.

<sup>71</sup> Frederick II, *Mémoires pour servir à l'histoire de Brandebourg* (Berlin, 1750), pp. 276–7: 'Dans les monarchies la religion protestante, qui ne relève de personne, est entièrement soumise au gouvernement; au lieu que la catholique établit un état spirituel, tout-puissant, fécond en complots & en artifices, dans l'état temporel du prince; que les prêtres qui dirigent les consciences, (& qui n'ont de supérieur que le pape,) sont plus maîtres des peuples, que le souverain qui les gouverne; & que par

By alternative means, Marriott had used the authority of Frederick the Great to argue that Protestantism was a religion of the civil state whereas Catholicism established an *imperium in imperio*. By choosing to rely on his early philosophical writings for rhetorical effect, Barré and Marriott had been selective in their discussion of Frederick's policy. They made no reference to the conquest of Silesia between 1740 and 1742, which had occasioned Frederick to sanction Catholic toleration. By 1747, Frederick had supported the construction of St Hedwig's Catholic Cathedral in Berlin.<sup>72</sup> Other European rulers shared Frederick's attitude, including Gustavus III of Sweden, an admirer of Voltaire who enacted Catholic toleration.<sup>73</sup>

Throughout his *Plan*, Marriott also sought to demonstrate that his proposals were consistent with Gallican ecclesiology. He argued that 'the liberties of the Gallican church, in opposition to the authority of the see of Rome, make a part of the ecclesiastical establishment of Canada, and have great consequences with respect to your Majesty's rights'.<sup>74</sup> His interest in Gallicanism was not isolated. In 1774, the Irish Parliament approved a test enabling Irish Catholics to swear loyalty to the regime. Suggesting a further possible relaxation of the penal laws, the proposal had been sponsored by Frederick Hervey, the Church of Ireland bishop of Derry, and modelled on the articles of the Church of France.<sup>75</sup> In his pamphlet, Marriott proposed to investigate 'how far the civil and sovereign power of France restrained the ecclesiastical' because 'the *same restraining powers may be used by your Majesty, most*

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une adresse à confondre les intérêts de Dieu avec l'ambition des hommes, le pape s'est vu souvent en opposition avec les souverains, sur des sujets qui n'étoient aucunement du reffort de l'église' (author's translation).

<sup>72</sup> W. Hubatsch, *Frederick the Great: Absolutism and Administration*, tr. P. Doran (London, 1973), pp. 190–210.

<sup>73</sup> H.A. Barton, 'Gustavus III of Sweden and the Enlightenment', *Eighteenth-Century Studies*, vi (1972–3), pp. 1–34.

<sup>74</sup> Marriott, *Plan*, p. 134.

<sup>75</sup> E. O'Flaherty, 'Ecclesiastical Politics and the Dismantling of the Penal Laws in Ireland', *Irish Historical Studies*, xxvi (1988), pp. 22–50.

*agreeably to the Treaty*'. For instance, the French Crown's commissions had restrained episcopal power over lay and seigneurial benefices, even though bishops of Quebec had resisted them illegally. Marriott argued that it would be consistent with French law if parliament prohibited new members of religious orders and dissolved monasteries and nunneries. 'Inasmuch as by the ecclesiastical law of France, the King is head of the national church, in all external and temporal matters, as well as protector thereof in spirituals', Marriott concluded, its lands and revenues 'may be declared to be immediately vested in your Majesty'.<sup>76</sup>

Despite his relative approval of Gallicanism, Marriott joined with the opposition in targeting the influence of Jesuitical principles in Canada. Although he relied on Pierre Pithou's *Les libertés de l'église gallicane* (1594), he claimed that the priesthood of Quebec had opposed Gallican church government, citing an alleged instance when a priest had placed a village under interdict with episcopal sanction.<sup>77</sup> Marriott referred to the Jesuit historian Pierre Charlevoix and his *Histoire et description générale de la Nouvelle France* (1744) in his claim that the colony was 'in its present state *absolutely a mission*, and full of moveable regulars'. An act of parliament to place them under secular control would prove useful 'inasmuch as the holding beneficially civil advantages, such as tithes, and things arising out of land, is a secular or temporal right, being accorded to the ideas of the Gallican church, not in the interior of the church, but in the exterior power and protection of the state'.<sup>78</sup> Marriott also relied on Charlevoix to argue for the restriction or abolition of the episcopal office. The power of the bishop of Quebec had been so immense that 'the state of the provincial clergy reverts to the first establishment in 1659, when, as Charlevoix says, the new clergy served the

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<sup>76</sup> Marriott, *Plan*, pp. 152–4, 176–9.

<sup>77</sup> *Ibid.*, pp. 150–1.

<sup>78</sup> *Ibid.*, pp. 158–9. See François de Charlevoix, *Histoire et description générale de la Nouvelle France* (3 vols, Paris, 1744), i, pp. 339–40.

parish only by commission'.<sup>79</sup> It would be consistent with French church government to institute a synod of secular priests headed by a dean and chapter to name, 'by the ecclesiastical law of France', a grand vicar to administer the diocese and to regulate external ceremonies.<sup>80</sup> Under strict gubernatorial oversight, secular priests might then perform their public offices without threatening the civil state.

## VI

Although the mainstays of the parliamentary opposition to the Quebec Act were the Rockinghamites and Chathamites, the North ministry drew strength from the contribution of the first Rockingham ministry to a more concessive settlement in Quebec and the failure of the Chatham and Grafton ministries to advance alternative arrangements. The first Rockingham ministry had overseen the consecration of Briand. Recognising the law officers' view that the peace treaty indicated that Canadians would not be subject to disabilities imposed on Catholics in Britain and Ireland, a series of proposals were to be brought before Rockingham's ministry in the spring of 1766, but the opposition of the Earl of Northington to the conciliatory tenor of government policy provided the opportunity for George III to dismiss Rockingham.<sup>81</sup> Chatham handed responsibility for Quebec to Shelburne, who received advice from his confidante, Lauchlin MacCleane, that the anti-popery laws only applied to Great Britain and not to colonies conquered latterly.<sup>82</sup> The religious provisions of the 1774 bill did not unify the opposition. Speaking against the bill, Edmund Burke, a Rockinghamite with Catholic family roots in Ireland, made it clear that he was not in opposition to Catholic freedom of worship. 'There is', he argued, 'but one, healing Catholic principle of toleration which ought to find favour in this House'. He voted against the bill

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<sup>79</sup> Marriott, *Plan*, pp. 163–4. See Charlevoix, *Histoire*, i, pp. 339–40.

<sup>80</sup> Marriott, *Plan*, pp. 139–40.

<sup>81</sup> R.A. Humphreys and S.M. Scott, 'Lord Northington and the Laws of Canada', *Canadian Historical Review*, xiv (1933), pp. 54–62.

<sup>82</sup> Lawson, *Imperial Challenge*, pp. 96–7.

because of its failure to make good the promise of a representative assembly and its provisions for French civil law.<sup>83</sup>

Supporters of the bill could also point to practical relief for the gentry-dominated Catholic community in many English parishes. A substantial strand of scholarship has unearthed ‘the milder arts of toleration’ experienced by eighteenth-century English Catholics.<sup>84</sup> The death of the Old Pretender had been followed by papal endorsement of the Hanoverian claim to the throne. William Blackstone gave voice to relaxation about decreasing papal power among English Catholics and erosion in support for the Pretender in the final volume of his *Commentaries on the Laws of England* (1765-9).<sup>85</sup> Proponents of the Quebec Act argued that English Catholics’ Cisalpine habituation to the royal supremacy showed that they could be dutiful and peaceable subjects, providing a model for the liberal treatment of Canadians. In the context of the American crisis, the satirist Shebbeare put the argument most pointedly: ‘Decide, then, my fellow countrymen, of the church of England, whether, from the hands of Roman catholics, or of presbyterians, your destruction be most likely to proceed.’ The real enemies were ‘the Bostonian fanatics’ and not ‘the wisdom and the justice of parliament in beginning a reformation of the catholic church in Canada, by a truly christian indulgence of religious liberty’.<sup>86</sup>

Opponents of the Quebec Act recognised the virtues of limited enforcement of the penal laws in England. If, wrote Marriott, ‘the penalties of the laws are not felt by the

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<sup>83</sup> J. Wright, ed., *Debates of the House of Commons in the Year 1774, on the Bill for Making More Effectual Provision for the Government of the Province of Quebec* (London, 1839), p. 222.

<sup>84</sup> Henry Swinburne, *Travels Through Spain, in the Years 1775 and 1776* (2nd edn, 2 vols, London 1787), ii, p. 389. See J. Bossy, *The English Catholic Community, 1570–1850* (London, 1975), p. 130; M. Mullett, *Catholics in Britain and Ireland, 1558–1829* (London, 1998), p. 138; G. Glickman, *The English Catholic Community 1688–1745: Politics, Culture and Ideology* (Woodbridge, 2009), pp. 63, 255; A. Lock, *Catholicism, Identity and Politics in the Age of Enlightenment: The Life and Career of Sir Thomas Gascoigne, 1745–1810* (Woodbridge, 2016), pp. 220–8.

<sup>85</sup> William Blackstone, *Commentaries on the Laws of England* (4 vols, London, 1765-9), iv, p. 57.

<sup>86</sup> John Shebbeare, *An Answer to the Queries, Contained in a Letter to Dr. Shebbeare* (London, 1775), pp. 177–8.

professors of the Romish religion in England, it is by connivance from humanity and policy'. The difference was that the Quebec Act instituted 'the exercise of the power of the papal see'.<sup>87</sup> In a meeting with a delegation of the Protestant Association in 1780, Shelburne distinguished between his opposition to the Quebec Act and his failure to seek repeal of the Catholic Relief Act. He even asked the delegation to desist from campaigning against the latter legislation. The delegation observed that Lord George Gordon had 'supported the *Rockingham* and *Shelburne* parties in moving for the repeal of the *Quebec* bill for several sessions of Parliament;—but, the conduct of the *Rockingham* and *Shelburne* parties was so very inconsistent in relinquishing the repeal of that obnoxious Act, and bringing in the Popery bill for England'. Shelburne replied that 'he still disapproved of the *Quebec* bill', but the Catholic Relief Act was different because he 'could discover no tendency in the late Act to encourage Popery' and 'the preaching and exemplary lives of the Protestant Divines, would be the best means to combat the bad attempts of Popish emissaries'.<sup>88</sup>

As Richard Bourke has demonstrated, supporters of clemency in Canada argued that the British had relinquished the rights of conquest in the Proclamation and that the Quebec Act instituted precepts of just and moderate rule in an acquired territory. They drew from the argument of Montesquieu in *L'esprit des lois* (1748) that Christian morality had inserted the principle of moderation into the rights of war, assuring the conquered that their conquerors would guarantee them their religion and property.<sup>89</sup> For one contributor to the *Gentleman's Magazine*, 'The bill in question is not a bill *of donative*, but *of confirmation*'. Its provisions did 'not give a single indulgence in spirituals to the Canadians; it barely *ratifies* what they

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<sup>87</sup> Marriott, *Plan*, pp. 121–2.

<sup>88</sup> *Sketch of a Conference with the Earl of Shelburne* (London, 1780), pp. 13–14.

<sup>89</sup> R. Bourke, 'Edmund Burke and the Politics of Conquest', *Modern Intellectual History*, iv (2007), pp. 403–32; R. Bourke, *Empire and Revolution: The Political Life of Edmund Burke* (Princeton, NJ, 2015), pp. 462–8. See Montesquieu, *The Spirit of the Laws*, ed. A.M. Cohler, B.C. Miller and H.S. Stone (Cambridge, 1989), Part 5, Book 24, Chapter 3.

were previously entitled to, and solely strengthens the public promise of the crown by the solemnity of an act of parliament'. In a majority-Catholic population, the legislation made good 'the rules of sound policy, the dictates of benevolence, and the plighted confidence of nations'.<sup>90</sup> One anonymous pamphleteer claimed that, were the British state to break its commitments to peaceable Catholic subjects, 'it will in its consequences render vain *the Laws of Nations and Treaties*, which has hitherto operated, so much to the honour and peace of Modern Europe'.<sup>91</sup>

Defenders of the legislation also put the argument in prudential terms. A pacific pose was necessary in the context of an increasingly complex and diverse empire.<sup>92</sup> Meredith did not propose to 'consider the general policy, whether England had better have rested upon her natural innate strength, or have become the head of a divided empire, over different nations of different faith'. In the days of Elizabeth I, the state of England had been as in the prologue of Act II of William Shakespeare's *Henry V*: 'Oh England, model of thy inward greatness, / Like little body, with a mighty heart'. England's empire was now, in the words of Cassius in *Julius Caesar*, 'Bestriding the world / Like a colossus'.<sup>93</sup> By citing Cassius, who had instigated the assassination of Caesar, Meredith sought to illustrate that it was necessary to govern a diverse empire on liberal terms. One anonymous pamphleteer asserted that the act had been 'dictated with the greatest prudence'. To provide for compulsory tithing meant that Catholic priests would be 'as equally contented as if they were under the jurisdiction of France, or any other Romish power'. The policy would restrain the pride and ambition that

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<sup>90</sup> *Gentleman's Magazine*, xlv (July 1774), pp. 311–12.

<sup>91</sup> *Appeal to the Public*, pp. 20–1.

<sup>92</sup> P.J. Marshall, *The Making and Unmaking of Empires: Britain, India, and America, c.1750–1783* (Oxford, 2005); J. Pitts, *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France* (Princeton, NJ, 2005); C.R. Burset, *An Empire of Laws: Legal Pluralism in British Colonial Policy* (New Haven, CT, 2023), pp. 41–5, 64–5, 133–7.

<sup>93</sup> [Sir William Meredith], *A Letter to the Earl of Chatham, on the Quebec Bill* (5th edn, London, 1774), p. 33.



were ‘the characteristic of priests of all nations’. It was best to permit the evil ‘by keeping still those dangerous passions in a set of men who possess such power over the people as the Romish clergy’.<sup>94</sup> Shebbeare satirised the claim that George III had violated the ancient constitution ‘by permitting the Canadians to enjoy the religion in which they were bred, which was granted to them on the capitulation at Quebec, and is that very religion, which alone existed in England, when, for the preservation of the church, this very Magna Charta was made’.<sup>95</sup>

In making the prudential case, supporters of the Quebec Act dwelled on the examples of Minorca, Grenada and Ireland.<sup>96</sup> As acquired territories whose Catholic populations had not been expelled, Minorca and Grenada suggested that conquered Catholics might be peaceable subjects. Catholics had been permitted to vote and sit in the assembly in Grenada during the 1760s.<sup>97</sup> As Burke’s *Tracts Relating to the Popery Laws* (1765) demonstrate, attention had increasingly turned to the justice of Irish Catholic relief, especially granting Catholics the right to own property. Proponents of reform in Ireland argued that enabling the Irish to participate in their constitution and laws would discourage ignorance and encourage industry and enlightenment.<sup>98</sup> Knox considered the precedents offered by the cases of Ireland and Minorca ‘of the treatment, given by our ancestors to a conquered people professing the *Romish* religion’. In the case of Ireland, Knox found it ‘difficult to imagine, what more can be done by severe treatment to extinguish a sect, or to deprive its followers of all spirit or ability to disturb the government’. Criticising the popery laws in Ireland, he wished for a

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<sup>94</sup> *Thoughts on the Quebec Act*, pp. 26–7.

<sup>95</sup> Shebbeare, *Answer*, p. 9.

<sup>96</sup> S. Conway, ‘The Consequences of the Conquest: Quebec and British Politics, 1760–1774’, in P. Buckner and J. Reid, eds, *Revisiting 1759: The Conquest of Canada in Historical Perspective* (Toronto, ON, 2012), pp. 141–65, at 163–4.

<sup>97</sup> A. Willis, ‘The Standing of New Subjects: Grenada and the Protestant Constitution after the Treaty of Paris (1763)’, *Journal of Imperial and Commonwealth History*, xlii (2014), pp. 1–21.

<sup>98</sup> Bourke, ‘Edmund Burke and the Politics of Conquest’, pp. 413–19; Bourke, *Empire and Revolution*, pp. 409–10.

generation of bishops who understood that ‘Christianity no more authorizes Protestants to make converts by penal statutes and disabilities, than it does Roman Catholic to propagate their creed by fire and faggot’. Conversely, the success of the Treaty of Utrecht (1713–15), by which the conquered colonists of Minorca had been permitted ‘the full enjoyment of their religion and properties’, exemplified the advantages of clemency.<sup>99</sup>

## VII

To refute the accusation that they were encouragers of popery, supporters of the Quebec Act claimed that the legislation instituted Protestant precepts of toleration and that its opponents were defenders of persecution. One pamphleteer noted that it was unchristian to ‘compel these mistaken, yet believing, Christians to sacrifice the prejudices, the faith, the religion, they were born in, at the shrine of a superstitious and intolerant hierarchy’. The Quebec Act provided the necessary apparatus to reconcile Catholics with British rule and to encourage them to question their superstitious faith. Intolerance would foment resistance and rebellion. ‘Can we’, asked the pamphleteer, ‘by any means, conceive ourselves authorized to correct these errors by *persecution*? or will the Spirit of *our Faith* warrant us by *fire* and *faggot* to make *immediate* Proselytes of an hundred thousand subjects’?<sup>100</sup> Meredith believed that no supporter of toleration could ‘harbour any such idea as that of establishing a religion by force’.<sup>101</sup> Replying to Camden, Lord Lyttelton argued that ‘no true Protestant’ could oppose the Quebec Act ‘because the doctrinal principles of our holy religion, drawn from that pure and excellent source the Gospel of our Saviour, breathed forth a spirit of moderation, candour,

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<sup>99</sup> William Knox, *The Justice and Policy of the Late Act of Parliament* (London, 1774), pp. 20, 22, 25–6.

<sup>100</sup> *Appeal to the Public*, pp. 15, 36.

<sup>101</sup> [Meredith], *Letter*, p. 21.

and universal toleration to all religions that were not incompatible with the precepts of morality, and the general welfare and happiness of mankind'.<sup>102</sup>

Alongside commonplace appeals to Protestant arguments for toleration, defenders of the ministry's proposals needed to resolve the problem of Catholics' dual loyalties. Shebbeare chose to do so through historical analogy. The Quebec Act might be understood to have begun a new Reformation in the territory, establishing it on ecclesiological terms more comparable with those of the Henrician than the Elizabethan Reformation. Shebbeare claimed that '*popery and the Roman Catholic religion are not necessarily conjoined*'. He explained that 'the discipline of a church may be changed; the supremacy and jurisdiction imparted to another head; and yet, the articles of faith, the doctrine, the mode of worship, and the forms of prayer, may remain unaltered'. Such was the situation 'when Harry the eighth had finished the reformation, as far as he intended it'. Papal power was extinct, but no more. Now, in Canada, 'a reformation is begun'. By the revised Act of Supremacy 'all ecclesiastical jurisdiction is annexed to the crown' and 'his majesty is equally the supreme head of the church in Rome, in Canada, as he is of the protestant church, in England, and of presbytery, in Scotland'.<sup>103</sup> However, the opposition remained unmoved. Responding to Shebbeare, Hugh Baillie claimed that the Quebec Act represented 'an establishment of that religion: for the clergy, by that act, have the same power to demand their tithes, or other emoluments, as they could do under the French government'. Toleration was consistent with refusing 'legal emoluments' for Catholic priests.<sup>104</sup>

Other supporters of the Quebec Act chose alternative means to dispense with claims that Catholicism was an uncivil religion whose proselytes were disloyal to the sovereign Crown-in-Parliament and a threat to the liberty of Protestants. They agreed with Shebbeare

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<sup>102</sup> Cobbett, *Parliamentary History*, xvii, pp. 1403–6.

<sup>103</sup> Shebbeare, *Answer*, pp. 120–1.

<sup>104</sup> Hugh Baillie, *A Letter to Dr. Shebear* (London, 1775), p. 24.

that Catholics might be loyal to the royal supremacy. Canadians, replied Lyttelton to Camden, were Catholics ‘under the Jurisdiction of a Protestant Parliament, and under the Cognisance of Protestant Bishops, who form a Part of that Parliament’.<sup>105</sup> Shorn of the traditional oath of supremacy, Knox noted that Canadian Catholics’ freedom of worship was still subject to the approval of the Crown-in-Parliament in accordance with the Act of Supremacy. Those, he concluded, ‘who can discover the dominancy and establishment of the *Roman catholic* religion in the words of this clause, must be able to out-jesuit the keenest of the sons of *Loyola*’.<sup>106</sup> The legislation, observed Meredith, left the Canadians ‘not *torn* from the church, but separated from the state of Rome’.<sup>107</sup>

Instead of making a comparison with the early Reformation, these supporters of the legislation held out the possibility that Catholicism could become a civil religion. Lyttelton argued that the Quebec Act would encourage the progress of religious enlightenment among Canadians. The ‘dark times of superstition were past’, he claimed, ‘and the gloomy reign of persecution and priestcraft were now at an end, that science every where diffused had every where enlightened the human mind’. Catholics should be granted their ‘externals of religion’, which ‘to the pure of heart and to the truly devout were of little importance’.<sup>108</sup> One pamphleteer claimed that the legislation would maintain the public faith of the Canadians and ‘show our intentions of preserving it inviolate’. The crafts of the Church of Rome ‘hourly lose ground’. Now ‘prudence must govern the warmth of zeal’. The progress of truth would destroy the spirit of persecution, ‘that child of error and superstition’.<sup>109</sup> The framers of the

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<sup>105</sup> Thomas, Lord Lyttelton, *The Speech of Lord Lyttelton on a Motion Made in the House of Lords for a Repeal of the Canada Bill* (London, 1775), pp. 2–3.

<sup>106</sup> Knox, *Justice and Policy*, pp. 50–1.

<sup>107</sup> [Meredith], *Letter*, p. 32.

<sup>108</sup> Cobbett, *Parliamentary History*, xvii, pp. 1403–6.

<sup>109</sup> *Thoughts on the Quebec Act*, pp. 23–5.

legislation had not only dealt with the historic problem of Catholic disloyalty. They had procured a settlement that would encourage enlightened religion among Canadian Catholics.

To deny secular Catholic priests the right to collect tithes or a bishop to oversee them would be to act in bad faith. As much as for the Church of England, these were essentials for successful parochial ministry and to perform the external offices of the public faith. Knox argued that a bishop was necessary to guarantee the loyalty of Catholic priests to the British state. Without a bishop, ‘all candidates for orders must pass into *France*, or some other *Roman catholic country*’ for ordination.<sup>110</sup> For one pamphleteer, the tithing provision ‘is no more than the usual and accustomed dues to that body, established of the laws of England respecting them’.<sup>111</sup> Although Mansfield had intervened in the final stages of drafting the legislation to insert the clause for compulsory tithing, its origins were in a report of December 1772 by the government’s solicitor-general, Alexander Wedderburn, that would form the basis for the Quebec Act. Wedderburn’s proposals had been for ‘a proper establishment of parochial clergymen to perform the offices of religion’. He argued that the ‘safety of the state can be the only just motivation for imposing any restraint upon men on account of their religious tenets’, although ‘the public safety has been often endangered by those restraints, and there is no instance of any state that has been overturned by toleration’. Since Catholics ‘should be permitted freely to profess the worship of their religion’, it followed, ‘of course, that the ministers of that worship should be protected and a maintenance secured for them’.<sup>112</sup>

Supporters of the legislation also needed to demonstrate that it tolerated rather than established Catholicism over Protestants. Knox noted that the Quebec Act barred Catholic priests from tithing Protestants and that the province retained the right to establish a

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<sup>110</sup> Knox, *Justice and Policy*, pp. 34–5.

<sup>111</sup> *Thoughts on the Quebec Act*, p. 26.

<sup>112</sup> *Constitutional Documents*, i, pp. 427–8.

Protestant church which might endow its clergy through tithes.<sup>113</sup> Lyttelton argued that it was necessary to revise the oath of supremacy because it would otherwise compel Canadians ‘forcibly to abjure their religion’ and ‘fanaticism was never formidable till it was oppressed’.<sup>114</sup> The best distinction that Meredith could find ‘between establishment and toleration’ was that ‘the greater number has a right to the one, and the less to the other’. Because Catholics were far more numerous than Protestants in Quebec, ‘when the free exercise of the national religion was given to the Canadian nation, it could never be understood that they were to be deprived of their clergy; and if not, a national provision for that clergy follows of course’.<sup>115</sup> Catholicism was the public faith of the Canadians. The settlement of the province must include the necessary apparatus for the external offices of the national religion. An endowed priesthood able to perform the rituals of the public worship and to discharge parochial ministry would encourage loyalty to the imperial state and develop the civil tendencies of Canadian Catholicism.

## VIII

The Quebec Act encouraged a shift in Whiggish attitudes towards Catholics that would enable the progress of further Catholic relief in Canada, Britain and Ireland. Nowhere was this shift clearer than among Dissenters. Away from those Dissenters who swelled the ranks of the Gordon rioters, ‘rational’ Dissenters found only secular grounds for opposing the legislation.<sup>116</sup> In his assertion that the Quebec Act ‘makes the king of Great Britain a despot over all that country’, Richard Price did not mention Catholicism.<sup>117</sup> Joseph Priestley, an early proponent of Catholic emancipation, questioned the implications of the Quebec Act, but

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<sup>113</sup> Knox, *Justice and Policy*, pp. 53–5.

<sup>114</sup> Cobbett, *Parliamentary History*, xvii, pp. 1403–6.

<sup>115</sup> [Meredith], *Letter*, p. 24.

<sup>116</sup> J. Seed, “‘The Fall of Romish Babylon Anticipated’: Plebeian Dissenters and Anti-Popery in the Gordon Riots’, in Haywood and Seed, eds, *Gordon Riots*, pp. 69–92.

<sup>117</sup> Richard Price, *Political Writings*, ed. D.O. Thomas (Cambridge, 1992), p. 43.

only for Dissenters. Americans, witnessing ‘the boundaries of Canada extended, and made a perfect arbitrary government’, feared that it was ‘a model, no doubt, for their own in due time’. Could a Dissenter suppose ‘that those who are so violently hostile to the *offspring* of the English dissenters, should be friendly to the remains of the *parent stock*?’<sup>118</sup> On the extreme latitudinarian wing of the Church of England, Major John Cartwright, a sympathiser of the Americans’ cause, cited with approval the *Appeal to the Public* and Knox’s *Justice and Policy*, despite Knox’s association with the coercion of America.<sup>119</sup> Cartwright opposed the legislation because it extended the boundaries of Canada, lacked a representative assembly, and failed to institute British laws and liberties. ‘As to the intention of our ministers to promote in this act the interests of Popery’, Cartwright judged that ‘they may stand freely acquitted of them’. Although ‘the religious part of it might be amended, yet I cannot but smile at the terrors that have been expressed on this occasi[o]n, as if his Holiness was at the very door of St. Paul’s’.<sup>120</sup>

During the late 1770s, proponents of Catholic relief in Britain and Ireland felt confident to point to the success of Catholic integration in Quebec. One opponent of Lord George Gordon claimed that the opposition to the Catholic Relief Acts came from ‘the very identical men who stirred up religious suspicions in the minds of the people against their Sovereign, only for confirming those terms of capitulation his Majesty was bound to confirm, which gave the like toleration to his new Catholics subjects in Canada’.<sup>121</sup> James Usher, the Irish man of letters, claimed that Catholics had demonstrated their ‘good faith’ by rejecting the doctrine that they must not keep faith with heretics. Referring to the reforms of Frederick

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<sup>118</sup> Joseph Priestley, *An Address to the Protestant Dissenters on the Approaching Elections of Members of Parliament* (London, 1774), p. 13, sig. A13.

<sup>119</sup> Major John Cartwright, *American Independence* (London, 1774), p. 34. See also Knox, *Justice and Policy*, p. 43; *Appeal to the Public*, pp. 46, 50.

<sup>120</sup> Cartwright, *American Independence*, p. 36.

<sup>121</sup> *The Reformer* (London, 1780), p. 10.

the Great, he claimed that the ‘protestant sovereigns of Germany accept the oath of fidelity of their catholic subjects as our own government has of the conquered subjects of Canada.’

Showing that their faith was a civil one, Catholics were ‘willing to give any test that can be offered of their loyalty and fidelity to a protestant government, in all the affairs that regard this life’. They merely desired ‘to be excused from a renunciation of their religion, or swearing decisively to speculative points that never were yet clearly decided’.<sup>122</sup>

For opponents of the Catholic Relief Acts, the Quebec Act had instituted a church establishment for Catholics whose loyalty remained unclear. It was necessary to continue to oppose the settlement precisely because proponents of Catholic relief were taking Quebec for a precedent. In the General Assembly of the Church of Scotland in 1779, a clergyman, Charles Nisbet of Montrose, observed that Scottish Catholics ‘will not be contented even to be put on a level with the English Roman-Catholics, but point at Canada, where the Popish religion, and the laws of France, are fully established by the wisdom and authority of parliament’.<sup>123</sup> Gordon felt moved in 1783 to claim the authority of Masères in conference with Fletcher Norton, Speaker of the House of Commons, in opposition to the Quebec Act. Masères was ‘a very honest lawyer, and one who had behaved himself well in his office in Canada’. Gordon took aim at the popery of the North ministry in requesting that the king resist an ungodly parliament by reversing ‘the establishment of Popery in Canada by the Quebec Bill, the new Popery Bill for England, and the late appointment of a Papist Tradesman to a place of profit about his Court’.<sup>124</sup>

Over the course of the 1780s, the victory of the United States in the American Revolutionary War, the flight of thousands of American Loyalists to Canada, and the dawn of

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<sup>122</sup> James Usher, *A Free Examination of the Common Methods Employed to Prevent the Growth of Popery* (Cork, 1781), pp. 154, 158–9.

<sup>123</sup> *A Narrative of the Debate in the General Assembly of the Church of Scotland, May 25, 1779* (Edinburgh, 1780), p. 68.

<sup>124</sup> Lord George Gordon, *Innocence Vindicated* (2nd edn, London, 1783), pp. 26, 15–16.



the French Revolution radically changed the context in which Britons contemplated the loyalty and status of Catholics. As Mary Louise Sanderson has shown, the ministry of Pitt the Younger drew on Gallicanism in its proposals better to integrate Catholic subjects through the English Catholic Relief Act and Canada Constitutional Act of 1791 and the Acts of Union and ill-fated plans for Catholic emancipation of 1801.<sup>125</sup> The Pitt ministry's approach had been reinforced by gubernatorial practice. While Guy Carleton, governor general of North America, upon the retirement of Briand in 1784, permitted the consecration of Jean-François Hubert as the new bishop of Quebec and Charles-François Bailly de Messein, who had tutored his children, as coadjutor, he resisted the appointment of European clergy.<sup>126</sup> The provisions of the Canada Constitutional Act were, in effect, those of Catholic emancipation.<sup>127</sup> Granting Canadian Catholics greater rights and freedoms than those enjoyed by their fellows in Britain and Ireland, the legislation enabled them to join the government of Lower Canada, leaving the British to dominate Upper Canada. Catholics were entitled to join the executive and legislative councils and they formed the majority in the new representative assembly, since most rural householders met the franchise requirement.

The debate about the Canada Constitutional Act revolved less around the wisdom and prudence of enabling further Catholic relief than erecting a representative assembly. There was remarkably little opposition to the idea of enfranchising Catholics.<sup>128</sup> Even opponents of

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<sup>125</sup> M.L. Sanderson, 'Limited Liberties: Catholics and the Policies of the Pitt Ministry in an Early Modern Context', *Journal of British Studies*, lix (2020), pp. 737–63.

<sup>126</sup> J.L. Harland-Jacobs, 'Incorporating the King's New Subjects: Accommodation and Anti-Catholicism in the British Empire, 1763–1815', *Journal of Religious History*, xxxix (2015), pp. 203–23. See also G. Paquet and J.-P. Wallot, 'Nouvelle-France/Québec/Canada: A World of Limited Identities', in N. Canny and A. Pagden, eds, *Colonial Identity in the Atlantic World, 1500–1800* (Princeton, NJ, 1987), pp. 95–114, at 105; P. Girard, 'Liberty, Order, and Pluralism: The Canadian Experience', in J. P. Greene, ed., *Exclusionary Empire: English Liberty Overseas, 1600–1900* (Cambridge, 2010), pp. 160–90.

<sup>127</sup> For the Canada Constitutional Act, see *Constitutional Documents*, ii, pp. 1031–51.

<sup>128</sup> J. Garner, *The Franchise and Politics in British North America, 1755–1867* (Toronto, 1969), pp. 134–5.

the Quebec Act such as Marriott and Masères had wished to see an assembly and had been willing to admit Catholics to it. In 1789, Masères assisted Sir James Monk (who had been attorney-general of Quebec between 1776 and 1789 and would hold the post again between 1792 and 1794) to publish a *State of the Present Form of Government of the Province of Quebec* in an attempt to recover his post.<sup>129</sup> Relying on Marriott's *Plan* and drawing from the authority of David Hume and Montesquieu in analysing the progress of civil society, Monk supported the extension of British laws and liberties by admitting Canadian Catholics to an assembly. Despite 'having never enjoyed it constitutionally', the conduct of the Canadians had demonstrated that they were 'as fond of liberty and as warmly attached to it, as any people in the world'.<sup>130</sup> Writing in response to Monk, one pamphleteer, claiming to be a citizen of Quebec, cited Knox's *Justice and Policy* in agreeing that, while 'some Canada merchants in the city of London remonstrated' against the Quebec Act, 'experience hath evinced how groundless their fears were'. Canadians had served in offices of trust and profit and proven their fidelity. The Quebec Act had been 'conferred upon an adopted people, by a liberal and enlightened nation'. However, Canadians were 'neither inclined, nor are they qualified to take part in a popular government'.<sup>131</sup> Their long experience of arbitrary power and seigniorial tyranny had left the Canadians ill fitted for representative politics.

Contributions to the debate about the religious provisions of the Canada Constitutional Act also proceeded with widespread acceptance of the concessions granted to Catholics in 1774. The legislation of 1791 contained proposals for clergy reserves of land to strengthen the Protestant interest. Income from the lease or sale of these reserves, which

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<sup>129</sup> J.H. Lambert, 'Monk, Sir James', in *Dictionary of Canadian Biography*, vi, available at [http://www.biographi.ca/en/bio/monk\\_james\\_6E.html](http://www.biographi.ca/en/bio/monk_james_6E.html) (accessed 7 May 2021).

<sup>130</sup> [Sir James Monk], *State of the Present Form of Government of the Province of Quebec* (London, 1789), p. 83.

<sup>131</sup> *Observations on a Pamphlet, Entitled A State of the Present Form of Government of the Province of Quebec* (London, 1790), pp. 11–12, 22, v.

formed one-seventh of Upper and Lower Canada, was earmarked for the Church of England.<sup>132</sup> The only parliamentary dissension to these proposals came from Charles James Fox, who objected to the principle that one-seventh of land owned by Catholics would be ‘appropriated to the Protestant clergy, although they might not have any cure of souls, or any congregations to instruct’. Such a large proportion ‘would rather tend to corrupt’ Protestant ministers ‘than benefit them’. If anything, he claimed, ‘the Roman Catholic religion ought to be the established church of the colony’.<sup>133</sup> In his pamphlet, Monk insisted that the Church of England must be strengthened in persuading Catholics, by pedagogical and pastoral example, to inquire into the truths of religion. It had been a failure that there had ‘not even been a Protestant church erected in the province’.<sup>134</sup> The debate focused more on problems of political economy in funding a national church without threatening commercial progress. One pamphleteer argued that ‘the establishing of an enlightened Clergy in the Province would materially contribute to its real interests’, but remained undecided on the question of whether the clergy reserves might be too generous.<sup>135</sup>

Even as the British insisted on the need to strengthen the Anglican interest in Quebec in the context of the arrival of American Loyalists and the French Revolution, the debate about the Canada Constitutional Act demonstrated that the Quebec Act had prompted a shift in Whig suppositions about the relationship between popery and Catholicism as well as the public faith of England and the empire. Supporters of the Quebec Act presented the possibility that conquered Catholics might become loyal and peaceable subjects of the sovereign Crown-in-Parliament. In so doing, they revised the anti-Catholic assumptions of

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<sup>132</sup> Doll, *Revolution, Religion, and National Identity*, pp. 245–6, 253–6; M. Gauvreau, ‘The Dividends of Empire: Church Establishments and Contested British Identities in the Canadas and Maritimes, 1780–1850’, in N. Christie, ed., *Transatlantic Subjects: Ideas, Institutions, and Social Experience in Post-Revolutionary British North America* (Montreal, QC, 2008), pp. 199–250.

<sup>133</sup> Cobbett, *Parliamentary History*, xxix, pp. 108, 429.

<sup>134</sup> [Monk], *State*, p. 23.

<sup>135</sup> *Thoughts on the Canada Bill* (London, 1791), pp. 40–1.

the Enlightenment in England. Their opponents had drawn on Enlightenment critiques of priestcraft and superstition in arguing that Catholicism could not be a civil religion and that the North ministry, by endowing secular Catholic priests in Canada with compulsory tithes and a bishop, had formed a church establishment. For supporters of the Quebec Act, these provisions were essential for parochial ministry and to maintain the offices of the public faith of the Catholic majority. By making good on commitments made in the peace negotiations in the fullest sense, defenders of the government's policy hoped to advance enlightened opinion among Canadian Catholics and the civil tendencies of their religion. A model for Canadian Catholics could be found in England where Cisalpine comfort with the Hanoverian church-state relationship resulted in pragmatic toleration in the parishes and relaxation about the gentry-dominated English Catholic community. To rebut Enlightenment scepticism about Catholic relief, supporters of the Quebec Act claimed that the North ministry had fashioned a legislative framework to reward the Canadians' public faith and to progress their society. The result of their efforts was a novel formulation of the intellectual foundations for Catholic emancipation.

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