

Theology on the Web.org.uk

Making Biblical Scholarship Accessible

This document was supplied for free educational purposes. Unless it is in the public domain, it may not be sold for profit or hosted on a webserver without the permission of the copyright holder.

If you find it of help to you and would like to support the ministry of Theology on the Web, please consider using the links below:



Buy me a coffee

<https://www.buymeacoffee.com/theology>



PATREON

<https://patreon.com/theologyontheweb>

PayPal

<https://paypal.me/robbradshaw>

A table of contents for *Canadian Journal of Theology* can be found here:

https://biblicalstudies.org.uk/articles_canadian-journal.php

The Roman Catholic Church and the State in Canada : An Historical Survey of their Relations

KENNETH H. COUSLAND

ONE of the burning issues in every period of Christian history, including our own, is that of the relationship between church and state, two bodies which have identity and yet are different. Both are rooted in the nature and needs of man and are composed of individuals, often the same individuals. Their objects and function differ to some extent, but the area of their common interest covers every realm of human activity. In early civilization the connection between them was so close that hardly any distinction can be said to have existed. But with the rise of the Christian church and the increasing complexity of society, there grew up the conception of church and state as two separate entities, each with its own place and function. The sphere of each, however, was not easy to define. The crux of the matter was the difficulty of reconciling the claims of Caesar and of God. Both were high demands upon the Christian. The question was, how were they to be adjusted when they conflicted with one another. History shows that they frequently were rival claims and that serious clashes took place when one intruded upon what the other considered its area of authority. The ensuing controversies played a large part in determining the course of religious history. Throughout the centuries every effort has been made to solve the problem; but no final answer has been found, and constant readjustments have been, and still have to be made. The subtle problem remains as to the limits of each.

The fundamental issues in the church-state relationship remain constant through the centuries, though the forms in which they appear vary in different countries and periods, depending upon the circumstances of time and place. In Canada the problem has its own characteristics resulting from the special features of its history, the main factor being the power of the Roman Catholic Church, especially in the Province of Quebec. This article will not attempt to cover the whole field but will be concerned with one aspect only, namely, that of the Roman Catholic Church in its relationship to the state.

The key to understanding the situation is found in the Roman Catholic view of the nature and authority of the church, involving as it does, control over the beliefs and practices of her members in every sphere of life, independent of civil authority. She has inherited from the early Fathers and Thomas Aquinas the theory that church and state are both of divine origin and each is supreme in its own sphere. Mutual understanding is the ideal,

but where agreement is impossible the church must prevail, because she belongs to the divine-supernatural order and is universal, eternal, unchanging, whereas the civil power belongs to the divine-natural order and is limited and changing.

This is the wider background against which the position of the Roman Catholic church in Canada is to be seen. The explanation of its strength and influence is to be found in its doctrine of the church and in the historical circumstances of its struggle for ecclesiastical control. From the beginning religion has played an important part in the history of the country. The extension of the church was one of the motives which prompted the early voyages of discovery; hence with the explorers came priests from France. The Récollets were the pioneers, but in 1625 they were superseded by the Jesuits who became a power in New France and laid the foundations of ecclesiastical control. The first government was that established by Champlain, though for a time government meant little more than control by trading corporations.

Meantime the question of Gallicanism and Ultramontanism was agitating the civil and ecclesiastical leaders in France. In that country there had grown up a concept of the autonomy of the national church within the universal Roman Catholic church—a kind of “dominion home rule”—as opposed to Ultramontanism which demanded direct papal control. The effects were felt in New France when in the colony of Port Royal in Acadia, a clash took place between the Gallican, Poutrincourt, and the Jesuits who were strongly Ultramontane. This was the prelude to a long drawn out struggle which continued throughout the French period in the main settlements on the St. Lawrence, marked by the steadily increasing power of the Jesuits. The controversy came to a head over the appointment of a bishop. The Gallican party in France claimed that the colony was part of the diocese of Rouen¹ and put forward their candidate, the Sulpician, De Queylus. The Jesuits, however, secured the election of Laval who, though not a Jesuit, was a thoroughgoing Ultramontane and worked to bring the church under the direct control of the Papal See.

In 1663 there came a change in the civil government. On the advice of Colbert, Louis XIV changed the administration into that of a French province. Control was centralized under a Governor and Intendant who were directly responsible to the King of France.² The bishop sat in the supreme council, and through the right of sharing with the governor in the appointment of councillors was in a position of advantage and therefore was still able to exercise a large influence in public affairs. Moreover, education continued to be controlled by the church and its numerous societies,³ and tithes were imposed for the support of the clergy. Nevertheless, the administrative changes brought about a decline of clerical influence. In

1. S. M. Eastman, *Church and State in Early Canada*, Edinburgh, 1915; p. 31.

2. J. G. Bourinot, *Manual of the Constitutional History of Canada*, Toronto, 1901; p. 2.

3. *Ibid.*, p. 4.

France Colbert was stressing the Gallican principle and in New France the real power came into the hands of the Intendant, Talon, a Gallican. His policy of holding the Jesuits in check brought about a marked decrease of ecclesiastical control. The decline continued under the administration of Frontenac who successfully asserted his prerogatives in the face of clerical opposition. Except for a brief theocratic revival in the time of Denonville the state continued to gain at the expense of the church, until during Frontenac's second term of office the state may be said to have triumphed in New France. Thus the French period closes with the state in the ascendancy.

A second stage was reached in the period of British rule. When Canada came into the possession of Great Britain in 1759, direct relationships with France and hence with the Gallican party ceased, and in the process of becoming adjusted to British policy the Church recovered its dominant position. During the years of military occupation relationships on the whole were cordial but with the introduction of English law serious trouble arose. The French Canadians were fearful of losing their privileges and even their nationality. They were almost without leadership, for many of their former leaders had returned to France. True, the emigration had been small but it included a number of those who had been influential in military and civil affairs. The only real leadership left was that of the church. The parish church had long been the centre of social, political and religious life and represented what there was of communal solidarity.⁴ The priest was the recognized leader in the community, and the people themselves by character and temperament were readily subject to his control. Thus with the removal of Gallican leadership it was an easy step to the closer union of people and clergy, and in this crisis there grew up a peculiarly intimate alliance between people and priests, which was further cemented by the fact that no clergy might now come from France. The local priest with his knowledge of the people and conditions, exerted a steadily increasing influence. In fact it might be said that the priest was the actual successor of the French civil authority.

Clerical control was further increased by the passing of the Quebec Act in 1774. It may be argued with some force that this Act was guided more by political expediency than by benevolence or a desire for toleration, and that it was a bid for the loyalty and support of the French Canadians. However that may be, it was destined to have important results. It promised to the people "free exercise of the religion of the Church of Rome" and to the clergy their "accustomed dues and rights." It abolished the test oath and substituted a special oath of allegiance without any religious qualifications. It imposed the criminal law of England, but retained French civil law, which remains to this day. It dispensed with an Assembly and entrusted the government to the Governor and a legislative council. By these clauses

4. W. A. Riddell, *Rise of Ecclesiastical Control in Quebec*, N.Y., Columbia Univ. 1916; p. 63.

but where agreement is impossible the church must prevail, because she belongs to the divine-supernatural order and is universal, eternal, unchanging, whereas the civil power belongs to the divine-natural order and is limited and changing.

This is the wider background against which the position of the Roman Catholic church in Canada is to be seen. The explanation of its strength and influence is to be found in its doctrine of the church and in the historical circumstances of its struggle for ecclesiastical control. From the beginning religion has played an important part in the history of the country. The extension of the church was one of the motives which prompted the early voyages of discovery; hence with the explorers came priests from France. The Récollets were the pioneers, but in 1625 they were superseded by the Jesuits who became a power in New France and laid the foundations of ecclesiastical control. The first government was that established by Champlain, though for a time government meant little more than control by trading corporations.

Meantime the question of Gallicanism and Ultramontanism was agitating the civil and ecclesiastical leaders in France. In that country there had grown up a concept of the autonomy of the national church within the universal Roman Catholic church—a kind of “dominion home rule”—as opposed to Ultramontanism which demanded direct papal control. The effects were felt in New France when in the colony of Port Royal in Acadia, a clash took place between the Gallican, Poutrincourt, and the Jesuits who were strongly Ultramontane. This was the prelude to a long drawn out struggle which continued throughout the French period in the main settlements on the St. Lawrence, marked by the steadily increasing power of the Jesuits. The controversy came to a head over the appointment of a bishop. The Gallican party in France claimed that the colony was part of the diocese of Rouen¹ and put forward their candidate, the Sulpician, De Queylus. The Jesuits, however, secured the election of Laval who, though not a Jesuit, was a thoroughgoing Ultramontane and worked to bring the church under the direct control of the Papal See.

In 1663 there came a change in the civil government. On the advice of Colbert, Louis XIV changed the administration into that of a French province. Control was centralized under a Governor and Intendant who were directly responsible to the King of France.² The bishop sat in the supreme council, and through the right of sharing with the governor in the appointment of councillors was in a position of advantage and therefore was still able to exercise a large influence in public affairs. Moreover, education continued to be controlled by the church and its numerous societies,³ and tithes were imposed for the support of the clergy. Nevertheless, the administrative changes brought about a decline of clerical influence. In

1. S. M. Eastman, *Church and State in Early Canada*, Edinburgh, 1915; p. 31.

2. J. G. Bourinot, *Manual of the Constitutional History of Canada*, Toronto, 1901; p. 2.

3. *Ibid.*, p. 4.

France Colbert was stressing the Gallican principle and in New France the real power came into the hands of the Intendant, Talon, a Gallican. His policy of holding the Jesuits in check brought about a marked decrease of ecclesiastical control. The decline continued under the administration of Frontenac who successfully asserted his prerogatives in the face of clerical opposition. Except for a brief theocratic revival in the time of Denonville the state continued to gain at the expense of the church, until during Frontenac's second term of office the state may be said to have triumphed in New France. Thus the French period closes with the state in the ascendancy.

A second stage was reached in the period of British rule. When Canada came into the possession of Great Britain in 1759, direct relationships with France and hence with the Gallican party ceased, and in the process of becoming adjusted to British policy the Church recovered its dominant position. During the years of military occupation relationships on the whole were cordial but with the introduction of English law serious trouble arose. The French Canadians were fearful of losing their privileges and even their nationality. They were almost without leadership, for many of their former leaders had returned to France. True, the emigration had been small but it included a number of those who had been influential in military and civil affairs. The only real leadership left was that of the church. The parish church had long been the centre of social, political and religious life and represented what there was of communal solidarity.⁴ The priest was the recognized leader in the community, and the people themselves by character and temperament were readily subject to his control. Thus with the removal of Gallican leadership it was an easy step to the closer union of people and clergy, and in this crisis there grew up a peculiarly intimate alliance between people and priests, which was further cemented by the fact that no clergy might now come from France. The local priest with his knowledge of the people and conditions, exerted a steadily increasing influence. In fact it might be said that the priest was the actual successor of the French civil authority.

Clerical control was further increased by the passing of the Quebec Act in 1774. It may be argued with some force that this Act was guided more by political expediency than by benevolence or a desire for toleration, and that it was a bid for the loyalty and support of the French Canadians. However that may be, it was destined to have important results. It promised to the people "free exercise of the religion of the Church of Rome" and to the clergy their "accustomed dues and rights." It abolished the test oath and substituted a special oath of allegiance without any religious qualifications. It imposed the criminal law of England, but retained French civil law, which remains to this day. It dispensed with an Assembly and entrusted the government to the Governor and a legislative council. By these clauses

4. W. A. Riddell, *Rise of Ecclesiastical Control in Quebec*, N.Y., Columbia Univ. 1916; p. 63.

of the Act, the Church secured a fresh opportunity to exercise its authority, and thus a solid foundation was laid for clerical control in Quebec. The ensuing policy of the British government contributed further to strengthen it. Hopes and plans for establishing the Church of England⁵ and bringing the French Canadians gradually to Protestantism were doomed to disappointment. The social and religious solidarity of the people stood in the way. Every attempt made by the British government to attain that end reacted in favour of the church and played into the hands of the clergy. Moreover, the barrier of language was effective in shutting out English ideas; and the French language in the hands of a church which permitted only what was in harmony with its teaching, became a factor in ecclesiastical control.⁶

In 1791 the Constitutional Act⁷ created the two provinces of Upper Canada and Lower Canada and gave more extensive powers to each. Free exercise of the Roman Catholic religion was guaranteed permanently in Lower Canada. In one sense the Act marked the culmination of the processes leading to clerical ascendancy, and the church in Quebec reached the virtual supremacy it has held to the present day. The union of the provinces from 1841 to 1867 did not materially change the position of the clergy and the Act of Confederation was, in respect to the Roman Catholic Church, but a confirmation of its previously won position.

For all these reasons there has grown up an amount of ecclesiastical control in Quebec which is probably not exceeded in any other country today.⁸ The Ultramontane ideal is widely held and the doctrine of the final authority of the Church is dominant. The Church controls education and marriage. It exercises censorship over literature and the theatre. Episcopal interdicts have a sanction that is often as effective as the law of the province. The organization of the parish makes for effective control.⁹ The curé exerts far-reaching influence, and the bishop exercises a general but absolute jurisdiction. As a result, the clergy are in a position to influence the voting of their people. Thus, taken all in all, there is in Quebec no question of the separation of church and state or even neutrality between them. In spite of some criticism and opposition the Church's influence remains the most significant factor in the life of the province.

It is in this historical setting that one can best understand the problem as it is today. The difficulties may not seem to be as acute in Canada as in some other parts of the world, but they are far from being resolved. The question of ultimate authority remains. The line of demarcation between the authority of the government and the church is anything but clear. Matters which seem to be within the spiritual sphere involve civil interests,

5. A. Shortt, and A. C. Doughty, *Documents Relating to the Constitutional History of Canada*. Ottawa, 1907, Section 32 and 33 of Murray's Instructions.

6. W. A. Riddell, *op. cit.*, p. 183.

7. W. Houston, *Documents Illustrative of the Canadian Constitution*, Toronto, 1891.

8. W. A. Riddell, *op. cit.*, p. 131.

9. E. M. Sait, *Clerical Control in Quebec*, Toronto, 1911; pp. 68, 69.

and vice versa, as for example, education and marriage; episcopal appointments and episcopal authority over church members; the claims for special exemptions and privileges for the clergy and those in religious orders; and the question of a Canadian ambassador to the Vatican.

The most obvious point of friction is in connection with education, an area in which both church and state are deeply concerned. Roman Catholics hold that education is a basic function of the church, in which it must be supported by the state, whereas in most of the provinces a system of public education has developed—hence the difficulties over the separate school question. Another major problem is that of the control over marriage. Both church and state claim the sovereign right to determine when two baptised persons are man and wife. In the eyes of the church marriage is a sacrament in which the state has no jurisdiction. Difficulty has arisen in the Province of Quebec over the validity of mixed marriages conducted by a non-Roman Catholic clergyman, even when all the provisions of the provincial law have been observed. In some cases these marriages have been annulled by the church courts and the civil courts have concurred in declaring them invalid. In such cases Canon Law would seem to take precedence over civil law. The church-state relationship is also involved in the question of divorce, since no divorce is granted in the province and those seeking divorce can obtain it only through a private bill passed by the federal government in Ottawa.

Again, the Ultramontane outlook of the church in Canada suggests the possibility of outside pressure being brought to bear upon the policies of the Canadian government. Adherence to a church which claims that the pope, as Vicar of Christ on earth, is its supreme and infallible head, with authority over all baptised Christians wherever they are and whatever their nationality, may involve conflict with national interest. Moreover, since the pope claims to have jurisdiction over all moral questions and to be the sole judge as to what comes into this category, non-Roman Catholics feel they have to be on guard against undue interference in matters of local concern. The pope is, in fact, in a dual position, for he is at the same time the spiritual head of the largest group of believers in Christendom and the temporal sovereign of a political state, the City of the Holy See. Small as this state is, it is nevertheless a highly centralized political-ecclesiastical organization and the nerve centre of a network of hierarchical authority. From it the Curia directs an active foreign policy on an international scale on behalf of the church. The individual Canadian Roman Catholic, therefore, is at once a citizen of Canada and the "subject" of the pope, and is told that his primary loyalty is to the policy of his church—in other words to that of the Vatican, in Rome, controlled mainly by Italians.

Further, the church teaches that the state should profess the Roman Catholic faith and positively aid her, to the exclusion of others. Thus the church, in addition to being international in scope, is also capable, under certain circumstances, of being a "state within a state," able to take action

to enforce its authority. The attitude towards the activities of the Jehovah's Witnesses and certain Baptist groups illustrates this point. It raises the larger question of the status of all other other religious bodies if and when the Roman church should become strong enough to press its exclusive claims and enlist the coercive power of the state in its support.

For all these reasons it is clear that in Canada problems do exist in the relationship between the Roman Catholic church and the state, and that the situation is fraught with potential difficulties which are never far beneath the surface and may crop up at any time. There is no simple answer. The most that can be expected is that knowledge of the factors involved and understanding of the historical background will give wisdom for dealing with each situation as it arises.