

The Constitutional Act, 1791

The Constitutional Act, 1791, act of the British parliament creating Upper Canada and Lower Canada came into effect on December 26, having received royal assent the preceding June. This Act enshrined constitutional changes that were part of that reorganization of British North America which, under the pressure of thousands of Loyalists seeking refuge after the American Revolution, had led to the creation of the provinces of New Brunswick and Cape Breton in 1784. On this earlier model of separation, a constitutional bill was, prepared by William Wyndham Grenville to ensure the conditions necessary for the development of British parliamentary institutions in the colonial territory governed by the Quebec Act of 1774. According to its author, the bill's general purpose was to "assimilate" each colony's constitution to that of Britain.

The bill had 4 main objectives: to establish colonial governments that would guarantee the same rights and privileges there as were enjoyed by loyal subjects elsewhere in North America; to ease the burden on the imperial treasury by granting colonial assemblies the right to levy taxes with which to pay for local civil and legal administration; to justify the territorial division of the Province of Quebec and the creation of separate provincial legislatures; to maintain and strengthen the bonds of political dependency by remedying acknowledged constitutional weaknesses of previous colonial governments. This involved bolstering the authority and prestige of the governor by making him a true representative of the imperial power, and limiting the powers of the elected colonial assemblies by creating independent legislative councils whose appointed members comprised an aristocratic body modelled on the House of Lords and devoted to the interests of the Crown. The Act guaranteed continuity of ownership of lands held under the Seigneurial System in Lower Canada and created the Clergy Reserves in Upper Canada.

By giving Upper Canada a provincial constitution and a separate existence, and by favoring British colonization there, Britain took the first steps on the path that led, ultimately, to the creation of the Canadian Confederation. Nevertheless, the Constitutional Act was flawed, and many historians have considered its distribution of financial powers in favour of the appointed councils as factors contributing to the intercultural conflict of the early 19th century.

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