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Canada's Evolving Crown: From a British Crown
to a "Crown of Maples"

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Abstract

This article examines how instruments have changed the Crown of Canada from 1867 through to the present, how this change has been effected, and the extent to which the Canadian Crown is distinct from the British Crown. The main part of this article focuses on the manner in which law, politics, and policy (both Canadian and non-Canadian) have evolved a British Imperial institution since the process by which the federal Dominion of Canada was formed nearly 150 years ago through to a nation uniquely Canadian as it exists today. The evolution of the Canadian Crown has taken place through approximately fifteen discrete events since the time of Canadian confederation on July 1, 1867. These fifteen events are loosely categorized into three discrete periods: The Imperial Crown (1867-1930), A Shared Crown (1931-1981), and The Canadian Crown (1982-present).

Keywords: Imperial, the London Conference, the Nickle Resolution, the British North America Act, Queen Victoria, Sovereignty, the Statute of Westminster

Introduction

Of Canadian legal and governmental institutions, the Crown sits atop all, unifying them by means of a single institution. This Crown has remained both a symbol of strength and a connection to Canada's historical roots. The roots of the Crown run deep and can be traced as far back as the sixteenth century, when the kings of France first established the Crown in Canada in *Nouvelle-France*. Both French and British kings and queens have continuously reigned over Canada since 1534 – approximately half a millennium – contributing to what has become known as one of the world's oldest monarchies. Remarkably, however, Canadian scholars, like many Canadians, seldom concern themselves with the Crown as an important institution. While it remains omnipresent in Canadian society, and given recent renewed interest in the institution, it is hardly ever seen, heard, or studied. How have legal instruments changed the Crown in Canada from 1867 through to the present? How has this change been effected? How truly “Canadian” is the Canadian Crown? How is it distinct from the British Crown? This article traces the evolution of the Canadian Crown through approximately fifteen discrete events that have taken place since the time of Confederation on July 1, 1867. These fifteen events are loosely categorized into three discrete periods: The Imperial Crown (1867-1930), A Shared Crown (1931-1981), and The Canadian Crown (1982-Present). We focus on aspects of law, politics, and policy (both Canadian and non-Canadian) that have facilitated the evolution of the Crown from a British Imperial institution to one that is distinctly Canadian.

The Imperial Crown (1867-1930)

On the heels of the Charlottetown and Quebec Conferences of 1864, the Fathers of Canadian Confederation traveled to London (Great Britain) in 1866 to form a country.¹ They brought with them the 72 resolutions adopted at the Quebec Conference two years previously. In discussion with the Imperial Government, they held the final of a series of conferences, the London Conference of 1867 (see Tidridge).² Following

this conference and its finalization of the particulars of what the Canadian state would soon look like, Queen Victoria gave royal assent to the British North America Act (1867). Having obtained a constitution that was not unlike that of Great Britain (Tidridge 42), Sir John A. MacDonald (1867-1873, 1878-1891) (often referred to as “The Father of Canada”) reportedly stated to his Queen that he intended to “declare in the most solemn and emphatic manner our resolve to be under the sovereignty of Your Majesty and your family, *forever*” (emphasis added) (Tidridge 42).

After the London Conference came to a close and numerous delegates returned to Canada, the Imperial Crown (through the Imperial Parliament) continued to rule the Empire as a single unit. The Crown of Great Britain was understood to be the same Crown as that of Canada, and as that of the other realms. However, in 1892 the Canadian case of *Liquidators of the Maritime Bank of Canada v. the Receiver General of New Brunswick* began to erode the understanding of the Imperial Crown as a unitary institution (see *Maritime Bank of Canada [Liquidators of] v. New Brunswick [Receiver-General]*). In *Liquidators*, the priority of the Provincial Government over “simple contract creditors” was at issue (*Maritime Bank of Canada [Liquidators of] v. New Brunswick [Receiver-General]* 1). *Maritime Bank* was winding up business and the salient question was posed: “Was the provincial government entitled to payment in full by preference over the noteholders (*sic*) of the bank, and if not, was the provincial government entitled to payment in full over the other depositors and simple contract creditors of the bank”? (*Maritime Bank of Canada [Liquidators of] v. New Brunswick [Receiver-General]* 1). As the prerogative of the Crown was involved, a secondary question arose: Was provincial property and revenue vested in the Crown-in-Right of Canada, or in the Crown-in-Right of New Brunswick? (*Maritime Bank of Canada [Liquidators of] v. New Brunswick [Receiver-General]* 5). After lengthy litigation, the matter found itself before the Judicial Committee of the Privy Council in London, and their Lordships eventually ruled that the property was vested in the Crown-in-Right of New Brunswick (*Maritime Bank of Canada [Liquidators of] v. New Brunswick [Receiver-General]* 8). In addition to being a significant case because it recognized that the Crown was not a unitary instrument, the case also remains important

today because it helps to clarify the relationship between provinces and the federal government within Canada. As each province and the federal government were recognized as possessing a separate Crown in their own right after this ruling, provinces were no longer seen as subservient to the federal government in matters between them. Indeed, in *Liquidators*, Their Lordships affirmed:

[t]he act of the Governor-General and his Council in making the appointment [of a Lieutenant Governor] is, within the meaning of the statute, the act of the Crown; and a Lieutenant-Governor, when appointed, is as much the representative of Her Majesty for all purposes of Provincial Government, as the Governor-General himself is, for all purposes of Dominion Government. (*Maritime Bank of Canada [Liquidators of] v. New Brunswick [Receiver-General]* 4)

While *Liquidators* abolished the unitary nature of the Crown, it did not go as far as to alter the understanding of the Crown being a British/Imperial institution. As late as 1917, Canadians continued to receive hereditary honors such as hereditary-peerage appointments, titles of nobility, and orders of chivalry from the British Crown (McCreery 34-37). Until 1917,³ the British Crown, as the fount of Canadian honor (*fons honorum*), continued to bestow British honors upon deserving Canadians. However, in 1917 dissatisfaction with the British appointment process saw Member of Parliament (MP) William Nickle (*sic*) put forward the Nickle Resolution (passed by the House of Commons [hereafter the Commons] in 1919) (McCreery 34-37). This resolution requested that the Crown cease bestowing British honors upon Canadians. Although the resolution succeeded in the lower House, as this resolution touched on matters relating to the Royal Prerogative, its successful passage of the Senate was seen as an impossibility. As a result, the Nickle Resolution never became Canadian law (McCreery 34-37). Nonetheless, the resolution established a policy in Canada that eventually led to the creation of a Canadian honors system, bestowed by a Canadian Crown, in 1967 (McCreery 34-38).

The Commons continued to govern under the authority of the Imperial Crown, although it was a segmented Crown. Under the Imperial Crown, the Commons in Canada, in 1926, witnessed its most serious

constitutional crisis in Canadian history. The King-Byng-Thing (also referred to as the “King-Byng Affair”), as it was later termed, involved a dispute between then-Governor General of Canada (hereafter Governor General) The Lord Byng of Vimy (1921-1926) and long-serving Liberal Prime Minister (PM) William Lyon Mackenzie King (1935-1948) (MacKinnon 127-132). King, having recently won an election with fewer seats than his chief opponent (the Conservative Party of Canada [hereafter the Conservatives]), was governing⁴ with the support of a third of his party in the Commons (the Progressive Party of Canada) (MacKinnon 127-132). King’s government soon fell on a motion of non-confidence. Following the defeat, King requested of The Lord Byng of Vimy the dissolution of Parliament and that he call another election. Having recently been through an election, and with another party in the Commons able to form a minority government (the Conservatives), the Governor General denied King’s request. Desperate to maintain power, King (a staunch Canadian nationalist) appealed to Byng to consult the Imperial Government, the Colonial Office, and through them, both the Imperial Crown for guidance on what to do in the situation (MacKinnon 127-132). Byng refused King’s request for dissolution, and by doing so helped to redefine the role of the office of the Canadian vice-regal representative (MacKinnon 127-132). Although the Imperial Crown still provided the legal basis of governance in Canada, Byng’s refusal to acquiesce in King’s request further saw the development of a distinction between the institutions of the British Crown and the “Canadian Crown.” Following this refusal, the Conservatives were permitted to attempt the formation of government but failed.⁵ Byng dissolved Parliament soon after the failure.

After the King-Byng controversy, King sought to formerly redefine (indeed better define) the role of the Governor General. In 1926, the seventh Imperial Conference (October 19 to November 22) was called and hosted by King George V in London (Smith 28, 41, and 44). Leaders⁶ of the dominions from across the British Empire (hereafter the Empire) gathered to discuss the relationship of the Commonwealth realms (the “independent states”⁷ within the Empire) with Great Britain. At the conference it was decided that each of the states within the Empire would hold equal status and that no independent state would be subservient to

Great Britain (Smith 44). The recognition that independent states were equal in status to Great Britain reaffirmed the understanding (as demonstrated by Byng) of what the relationship between Canada and Great Britain was earlier that year. However, it is possible that he was actually following convention as to the power of dissolution (McWhinney 15-16). When the conference came to an end the Balfour Declaration of 1926 was issued. In this seminal document, Lord Balfour famously summarized the agreement of the Conference, stating that

[the Commonwealth realms] are autonomous Communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations. (McWhinney 3)

This underlined a logical progression in the development of the understanding of the evolving Canadian Crown with respect to Canada's fast-ebbing constitutional subservience to the Crown of Great Britain. Unanimously approved by all of the Imperial PMs at the conference, the declaration showed that although all realms within the Empire shared the same Imperial Crown, it was from that point considered a segmented Crown (as shown previously in *Liquidators*). Accordingly, it was seen that each segment of the single Imperial Crown could function autonomously from the others. While the autonomous nature of the Imperial Crown in Canada was visibly strengthened by the events of 1926, the Imperial Parliament, recognizing this change, did not pass a single piece of legislation. In fact, the equality of the Crown in each of the realms of the Empire would have to wait another five years to be legislatively enshrined.

A Shared Crown (1931-1981)

If the period 1867-1930 can be characterized as that of the Imperial Crown, the following period necessarily must be characterized as that of a shared Crown. Following the Imperial Parliament's passage of the Statute of Westminster in 1931, the ideas that were generated at the Imperial

Conference in 1926 and drafted into the Balfour Declaration were carved into law (Boyce 26-28). With the passing of this statute, Westminster Parliament specifically renounced any legislative authority over the affairs of independent states within the Empire, except as specifically provided for in other statutes (i.e., certain changes to the British North America [BNA] Act of 1867 still required the assent of Parliament in London) (Boyce 26-28). Thus, while the Statute of Westminster did not cut all ties between the Canadian Crown and the British Crown, it did mark the end of the Imperial Crown within the realms. Replacing the Imperial Crown was the idea that the Crown was an institution equally shared between the Commonwealth realms of the Empire; no single state was seen as subordinate to any other (including Great Britain) (Boyce 26-28). While this idea was not a novel one (it was found in the Balfour report), the importance of the Statute of Westminster was that it enshrined the idea into legislation and marked the effective legislative independence of the countries involved. The statute effectively established the benchmark for the relationship between the Commonwealth realms and the Crown; it continues to govern this relationship today.

Subsequent to the passing of the Statute of Westminster, King Edward VIII abdicated the throne before he produced an heir; in turn, British statutes such as the Act of Settlement in 1701 resulted in King Edward's brother (Prince Albert, Duke of York) becoming King George VI. At his Coronation in 1937, he became the first Sovereign to be asked if he would govern the realms with respect to their particular laws and customs (Tidridge 48). Two years afterward, George embarked on an extensive tour of Canada, including a brief stop in the United States (US), which marked the first time that a reigning Sovereign visited the US.⁸ In accordance with the Balfour Declaration and the Statute of Westminster, King George was styled "King of Canada" during his stay; in this capacity, he addressed Canadian Parliament, gave Royal Assent to legislation, and accepted the credentials of the new US ambassador to Canada (Tidridge 48-49). In further demonstration of the principles of equality among the independent states, which were part of the Empire, in the middle of his Canadian tour the King briefly visited the US as King of Canada, not of Great Britain (Tidridge 48-49). This further marked the

evolution of the Crown from an Imperial one to one shared among independent states.

A decade after King George's coronation, Canadian Parliament passed the Canadian Citizenship Act in 1946 (see Canadian Citizenship Act). The Act did not affect the legal status of the Crown in Canada; however, it was largely a symbolic step further in the Canadianization of the Crown. Prior to this act, Canadians were British Subjects, with "subject" connoting allegiance and loyalty to the Sovereign. The Citizenship Act replaced the term "British Subject" with "Canadian Citizen" (see Canadian Citizenship Act). It declared that, "[a] person, born after the commencement of this Act, is a natural-born Canadian citizen" (Canadian Citizenship Act 4-6). While this did not affect Canadians in practical terms, the change was yet another step in the evolution of a Canadian identity distinct from that of British identity (see Knowles). The Act, however, distinctly maintained allegiance to the King in its *Oath of Allegiance*, which read, "I, A. B., swear that I will be faithful and bear true allegiance to his Majesty King George the Sixth, his Heirs and Successors, according to law, and that I will faithfully observe the laws of Canada and fulfil my duties as a Canadian citizen" (Canadian Citizenship Act).

One of the most significant events in the evolutionary history of the Crown of Canada occurred around the same time, when the King issued in 1947 the Letters Patent Constituting the Office of Governor General of Canada (see Letters Patent Constituting the Office of Governor General of Canada). While the BNA Act established the office of the Governor General, it did so in a very restricted way. Many of the executive powers exercised by the Governor General today (though not precluding the monarch from doing so) remained solely in the King's authority before 1947 (Smith & Jackson 31-36). In 1947, Canadian Parliament became concerned as to what would happen to the office of the Governor General in the event of regency (Smith & Jackson 38-39). As the King still possessed many different powers that only he could exercise, there was uncertainty how the Crown in Canada would function if the King became incapacitated in some way, was captured, or was too young to govern on his own (Smith & Jackson 38-39). To avoid complex legislation (in both

Canada and Great Britain) to establish a Canadian equivalent to a Regency Act, the decision to permit most of the executive powers of the King to be exercised by the Governor General was made (Smith & Jackson 31-36). The Letters Patent declared, “[w]e do hereby authorize and empower Our Governor General, with the advice of Our Privy Council for Canada or of any members thereof or individually, as the case requires, to exercise all powers and authorities lawfully belonging to Us in respect of Canada” (Letters Patent Constituting the Office of Governor General of Canada 2).

Altering the Letters Patent was one of the few restrictions that the Governor General would have on his powers (Smith & Jackson 42-44). As Letters Patent form part of the Royal Prerogative and are a unique form of authority, only the Sovereign can revoke, alter, or amend this legal instrument (Smith & Jackson 42-44). While the visibility and prestige of the office of Governor General were dramatically increased with the issuing of the Letters Patent, the Governor General exercised power on behalf of the King – the letters Patent did not impact the identity of Canada’s head of state or the Sovereign. Even so, and even though the initial concern which prompted issuing of the Letters Patent focused on how Canada would function in the event of a regency, there remains significant confusion regarding precisely what this legal instrument achieved politically. In fact, the uncertainty over this issue is so widespread that upon leaving office in 2005, former-Governor General Adrienne Clarkson (1999-2005) stated:

There is much misunderstanding about the authority of the Governor General. Even many politicians don’t seem to know that the final authority of the state was transferred from the monarch to the Governor General in the Letters Patent of 1947, thereby making Canada’s government independent of Great Britain. (Smith & Jackson 32)

This is nonsense on Clarkson’s part. In 2009, long after Clarkson left office she again demonstrated her misunderstanding of the Letters Patent. She did so by referring to herself as “head of state.” Similarly in the final days of Michaëlle Jean as Governor General (2005-2010), she stated that “[f]rom 1947, with what we call the letters patent, the sovereign conferred

the responsibility of the head of state and all of the responsibilities are those of the head of state” (Smith & Jackson 32). Both Clarkson and Jean failed to grasp the essence of the Letters Patent. They showed the understanding that they transferred the office of head of state from the “office” of the King, to the office of the Governor General. To be sure, this was anything but the case. After 1947, the King continued to be the head of state, while the powers of head of state were simply exercised by the Governor General. No change was made to Canada’s head of state.

While both of these events were rather embarrassing, neither were they the least bit surprising as the former governments wanted to lead people to believe that the Governor General was the head of state. In time, they sought to ease Canada out of what they considered its colonial past. However, there remained mistakes that PM Stephen Harper (2006-present) was obliged to deny categorically, including the incorrectness of the remarks made by the Governors General. He stated emphatically that Queen Elizabeth and not Clarkson nor Jean were Canada’s heads of state during their respective tenures (Smith & Jackson 32). While these incidents demonstrate the extent to which the Letters Patent have been grossly misconstrued, they also help to underscore what they did not do. With the Letters Patent, King George did not issue a “blanket abdication of the Sovereign’s role in the Canadian state” nor did he limit the Royal Prerogative in Canada (Smith & Jackson 32). Rather, the Letters Patent merely delegated authority from one institution (the King) to a subordinate body (the Governor General). Just as legislatures have passed enabling legislation delegating regulatory making power to third parties, and then later revoked this power, the Letters Patent issued by the King only permitted the delegation of some aspects of his authority to the Governor General. While it is important to note that the Letters Patent did not remove the Crown from the head of King George and place it on the head of The Viscount Alexander (Governor General during that time), it is similarly important to recognize that it did vastly expand the office of the Governor General in very practical terms (Smith & Jackson 35-36). Following the issuance of the Letters Patent, the Governor General was able to exercise nearly all of the day-to-day powers of the Crown clear across Canada. As a result of this development, the Governor General was

also able to function in almost all areas without approval from the reigning Sovereign.

In 1952, Vincent Massey was appointed as the first Canadian-born Governor General and served until 1959 (Monet 85). His appointment marked a momentous step in the evolutionary path of the Canadian Crown, which all subsequent appointees would mirror. Prior to his appointment, Canada's Governor Generals were British. Despite their background, nearly all became thoroughly imbued with the juvenescent spirit of Canada as a young country and contributed significantly to the development of Canada's national identity as well as its various institutions of nationhood (Monet 85). During the same year as Massey's appointment, King George VI died suddenly. In the wake of his death, Princess Elizabeth (his eldest daughter) became Queen Elizabeth II. While accession to the throne is automatic and does not require an act of Parliament, the government traditionally issues a Proclamation⁹ regarding the accession. The Queen's accession led to Canada's Parliament passing the Royal Style and Titles Act. These instruments made The Queen the first monarch to be distinctly identified as the Sovereign of Canada, officially labelling her "Her Majesty Elizabeth the Second, by the Grace of God of the United Kingdom, Canada and Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith" (Royal Style and Titles Act 2). As a development in the evolution of the Canadian Crown, passage of this act was similar in intent to Canada's formal declaration of war against Nazi Germany on September 10, 1939.¹⁰ In both circumstances, Canada previously relied on Imperial Parliament to act on its behalf. However, by 1939, and again legislatively in 1953, Canada eventually matured to a point as a country where its political leadership felt obligated to assume the role of issuing the proclamation/declaration on its own. As a result of Canadian Parliament identifying The Queen as Canada's reigning Sovereign and Great Britain declaring her Britain's reigning Queen, the two countries (acting together) showed the practical effect of both a long evolutionary process and the passage of the Statute of Westminster. Canada was no longer the possession of an Imperial Crown, but an equal realm of a shared Crown. This became true of the other Realms as well.

A Canadian Crown (1982-present)

The shared Crown became a distinctly Canadian Crown in April 1982, when in Ottawa, The Queen proclaimed the Constitution Act (Constitution Act, 1982). In effect, Canada was already a fully developed and independent country by this time. Canadian Parliament, however, was still required to ask Parliament of Great Britain to amend certain parts of its written Constitution even though in practice British Parliament was rubber-stamping any such requests for decades without even the faintest hint of inquiry or question. Processes leading to specific constitutional change (patriation) were still desired in Canada. After extensive negotiations conducted over several years, nine of the ten provinces agreed on the form of the new Constitution Act and, of equal importance, on how future amendments to the act would be made (Noonan 11-17). While patriation was indeed important to Canada's national identity, its practice was also a cardinal stride in completing the evolution of the Shared Crown into a Canadian Crown. A new corporate sole was born; the Canadian and British heads of state were formally two distinct and separate bodies, although embodied in the same person (see Lagasse & Bowden).¹¹ The Constitution Act was largely a Canadian-made statute that embodied what Parliament of Canada desired. A significant feature of the Act was that it cast the Crown in its central place within the Canadian constitutional framework. The Act then crystallized the Crown by holding that it could be abolished or altered only through unanimous consent of Parliament of Canada and the ten provincial legislatures. In addition to the enactment of this legislation, which demonstrated that Canadians wanted to remain a constitutional monarchy, it formally established the Canadian Crown as an institution distinct from the British Crown. That the person wearing the crown happened to be the same in each case was completely irrelevant. Of considerable importance, however, was the fact that the Canadian Crown existed on its own from that point forward. No longer was there need for the impression that Canadians and Britons were sharing a single and segmented Crown.

The next twenty-five years saw a diminishment in the prestige of the Canadian Crown and reduced appreciation for its importance in the processes of Canadian political, judicial, and legislative institutions. Part of this shift away from recognizing the Crown's centrality in Canadian public life was undoubtedly a conscious choice on the part of Canadians who were fascinated by the revelations of damning scandals within the private lives of members of the Royal Family throughout the 1990s. Insouciance toward the Crown also developed unconsciously during this time since the Canadian Government quietly went about removing portraits of The Queen from schools, post offices, hospitals, and other public buildings and areas in accordance with new, though unwritten, government policy. From 1982 to 2008, Canadians saw very little of the Crown as an institution visibly exercising any actual role, other than when the office of the Governor General was portrayed in negative ways in order for politicians to score easy political points. A prime example of this was when PM Paul Martin (2003-06) scapegoated Adrienne Clarkson who was left to defend herself following revelations of a hefty and expensive travel history. Instead, during a period of roughly 25 years, "the Crown" essentially became a euphemism for a nice lady who dressed in large garden hats and wore decorative white gloves, while smiling and waving during the occasional walkabout but little else. Increasingly, Canadians questioned the role of the Crown and wondered whether having a Crown was necessary at all (Smith & Jackson 205-209). While governments across Canada continued sponsoring and paying for events, such as the Golden Jubilee in 2002, little emphasis was placed on the Crown as an important institution or as a vital constitutional and legal issue.

Then, in November of 2008, a sequence of events was set in motion following the economic crisis of 2007-2008, which led to the prorogation dispute of 2008 and eventually saw the Canadian Crown use one of its rarely used reserve powers (Lordon 16, and 61-105). After Harper's minority Conservative government presented the Commons with a fiscal update, talks among the other parties in the Commons began forming a coalition, defeating the Government in a confidence motion and then appealed to the Governor General to give the coalition a chance to form a government without an intervening election (Lordon 87). With the

expectation that he would be defeated by the coalition, Harper asked Jean to prorogue Parliament (with the effect of delaying the confidence motion) until the following year. He hoped that during the prorogation the coalition would fall apart and his Government would survive. Upon asking Jean to prorogue Parliament, the Governor General consulted with constitutional experts (including Peter Hogg) to understand her role and options. As the media focused attention upon the issue, Canadians once again realized that the Crown could potentially play a role of some significance within the governance of Canada (Lordon 94-95). While Jean eventually granted the Harper's request, to the elation of some and the dismay of others, it was since reported that Harper considered bypassing the Governor General and directly asking The Queen to intervene if Jean decided differently (Ibbitson). While the event was settled in cordially, the prorogation of 2008 marked another step in the quiet evolution of the Canadian Crown. Where the Crown was thought of as a relic of history kept around only as a bridge to Canada's past before the dispute occurred, the dispute itself marked one of the rare moments in which a separate and independent Canadian Crown performed a substantive function and solved a Canadian problem.

The latest significant step¹² in the Canadian Crown's long evolutionary journey was set in motion in October 2011 at the Commonwealth Heads of Government Meeting (CHOGM) in Australia (Bloxham & Kirkup). After the marriage of the Duke and Duchess of Cambridge earlier that year, it seemed likely that a child would soon be born who one day would inherit the throne. As a result, during the CHOGM, the heads of government of the sixteen Commonwealth realms that share Queen Elizabeth as a head of state, unanimously agreed to end the centuries' old practice of male primogeniture with regard to the Crown and succession. No longer would the sons of the monarch who were born after the daughters take precedence in the line of succession; the first-born child, whether male or female, would then become the heir apparent to the Throne. The Realms also committed to end the existing prejudice against members of the Royal Family marrying a Roman Catholic (Bloxham & Kirkup). This prohibition, dating back to the Act of Settlement in 1701, was a remaining vestige of an era when Protestant-Catholic conflict in

England recently plunged the country into civil war and there was desire to prevent the protestant throne (held by King William III and II, and Queen Mary II) from falling back into the hands of a Catholic monarch (Act of Settlement). While these changes to Crown succession are significant in their own right, they also represent the true Canadian-ness of the Canadian Crown as the Canadian values of prohibition against discrimination on the basis of gender and religion permeated the institution of the Crown of Canada. With this change, the Canadian Crown embodies some of the values dearest to Canadian identity. After the CHOGM, the Government of Canada introduced Bill C-53 to the Commons. This bill, which became known as the Succession to the Throne Act, was introduced in 2013, and assented to that same year. It formally adopted the agreement made at the CHOGM, which legally replaced male primogeniture with equal primogeniture.

Conclusion

Of all the Canadian institutions that contribute to Canadian identity across time and geography, perhaps none have been as constant as the Crown. From 1867 through to the present day, the Crown has been an ever-present institution from which authority flows to the judiciary, the legislative bodies, and the executive government. While the presence of the Crown has been constant, manifestation of the institution has evolved greatly since Confederation. Though initially the Crown was a unitary British Crown, worn by a British monarch, legislation, jurisprudence, government policy, multilateral relations, conferences, declarations, and the emergence of a Canadian identity have all slowly transformed the Crown into a distinctly Canadian institution. As this article has shown, the evolutionary process was certainly not one of simplicity. Rather, it was fraught with intrigue and at times pure chance. The process of change, moreover, did not occur quickly; nor did it always occur consciously. As this article demonstrates, the evolution of the Canadian Crown can be traced through approximately fifteen events that took place throughout Canada's history. These fifteen events have loosely been categorized into three separate periods with each forming the structure of this article: The

Imperial Crown (1867-1930), A Shared Crown (1931-1981), and A Canadian Crown (1982-present). Throughout these events, the Canadian Crown was slowly transformed from a British Crown into a veritable Crown of Maples.

Notes:

¹ Those attending in London included Sir Adams George Archibald (Nova Scotia), Sir George-Étienne Cartier (Québec), Charles Fisher (New Brunswick), Sir Alexander Tilloch Galt (Québec), William Alexander Henry (Nova Scotia), Sir William Pearce Howland (Ontario), John Mercer Johnson (New Brunswick), Sir Hector-Louis Langevin (Québec), Sir John A. Macdonald (Ontario), Jonathan McCully (Nova Scotia), William McDougal (Ontario), Peter Mitchell (New Brunswick), John William Ritchie (Nova Scotia), Sir Samuel Leonard Tilley (New Brunswick), Sir Charles Tupper (Nova Scotia), and Robert Duncan Wilmot (New Brunswick).

² Note that there is some disagreement on the name of this conference. As the conference began in the last days of 1866 but carried well into 1867, some scholars refer to this conference as the London Conference of 1866 and others of 1867. This causes some confusion as a second, and wholly separate London Conference of 1867 took place between European nations regarding the political situation in Northern Europe at the time.

³ Canadians continued to receive armorial bearings from the Garter Principal King of Arms (the heraldic authority with jurisdiction over England, Wales, and Northern Ireland) and from the Court of The Lord Lyon (the heraldic authority with jurisdiction over Scotland) until the patriation of Canadian Heraldry in 1988 following the creation of the Canadian Heraldic Authority when Her Majesty The Queen issued a letters patent and created the Canadian Heraldic Authority.

⁴ This agreement with the third party was, strictly speaking, not a coalition government. The third party was not given any seats in cabinet.

⁵ To successfully form a government in a situation such as this, a secondary party must immediately pass a confidence motion, which the Conservatives failed to do. Their failure to pass a confidence motion resulted in a cabinet never being sworn in and thus a government never forming.

⁶ Primary leaders included Stanley Baldwin (PM of Great Britain [Chairman]), Stanley Bruce (PM of Australia), William Lyon Mackenzie King (PM of Canada), The Earl of Birkenhead (Secretary of State [India]), W. T. Cosgrave (President of the Irish Free State), Walter Stanley Monroe (PM of Newfoundland), Gordon Coates (PM of New Zealand), and J. B. M. Hertzog (PM of South Africa).

⁷ "Independent States" is a term used loosely throughout this article to denote a status of independence greater than that held by the remaining colonies of the Empire, which had not yet reached statehood, but the phrase is not meant to connote independence from the Empire in a manner similar to the US in 1776.

⁸ Sovereigns visited Canada prior to their ascension to the throne prior to this though, including King George who entered into Canada as Prince Albert.

⁹ Note that the Proclamation is only a pleasant custom. It has nothing to do with the Act, which is legislative (and important), and follows months later.

¹⁰ With the aim of asserting Canada's independence from the UK, which was already established through the Statute of Westminster (1931), a formal declaration of war as sought by means of the approval of the Federal Parliament during the initial week of September 1939.

¹¹ Lagasse and Bowden's "Royal Succession and the Canadian Crown as a Corporation Sole: A Critique of Canada's Succession to the Throne Act, 2013" (2014) 23 *Constitutional Forum Constitutionnel* 17 offers an outstanding discussion on the Crown as a corporation sole (a legal incorporated office which may only be occupied by a sole individual). This discussion is helpful for understanding how one person (Her Majesty) may occupy two distinct, but similar, offices concurrently.

¹² Note that this is the last step, which directly affected the legal nature of the Crown in Canada. Since Stephen Harper became Prime Minister of Canada in 2006, a renaissance of sorts occurred in Canada regarding the Canadian Monarchy. Two branches of the armed forces have seen their Royal moniker returned, Canadian embassies throughout the world must now display a portrait of Her Majesty the Queen, government buildings across Canada have seen similar portraits reappearing, and invitations to members of the Royal family to visit Canada have become more common. While this resurgence in loyalty to the institution is welcome by this author, these events do not directly affect the nature of the Crown as a legal institution in Canada, and thus an exploration of them here is omitted for brevity.

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