



Volume 2. From Absolutism to Napoleon, 1648-1815

Emperor Joseph II's Toleration Patent for the Lands of the Austrian Empire (1781)

This important ruling, formulated as an official instruction to the various provincial chancelleries, applied only to Protestant Lutheran and Calvinist as well as Greek Orthodox Christians in those parts of the Austrian state where they had not previously (as they had in the Kingdom of Hungary) enjoyed freedom of worship and the right of settlement as Austrian subjects. Despite these restrictions, and the further, humbling limitations the edict imposed on non-Catholics (so as to minimize the Catholic Church's opposition), the Toleration Patent was a dramatic and revolutionary step, signaling a major victory of Enlightenment principles in the program of Austrian "enlightened absolutism." A surprisingly large number of hitherto self-concealed crypto-Protestants emerged into public light, and conversions from Catholicism became so frequent that the authorities took steps to hinder them. After Joseph's death in 1790, Catholic conservative quarters urged the repeal of the Patent, but it remained in force nonetheless.

The Toleration Patent

My dear Lieges!

Being convinced, on the one hand, that all violence to conscience is harmful, and, on the other, of the great benefit accruing to religion and to the State from a true Christian tolerance, We have found Ourselves moved to grant to the adherents of the Lutheran and Calvinist religions, and also to the non-Uniat Greek religion, everywhere, the appropriate private practice of their faith, regardless of whether it had been previously customary or introduced, or not. The Catholic religion alone shall continue to enjoy the prerogative of the public practice of its faith, but members of the two Protestant religions and the existing non-Uniat Greek shall be permitted the private practice thereof in any place where the number of persons, as defined below, and the resources of the inhabitants make it practicable, and where the said non-Catholics do not already enjoy the right of practicing it publicly. In particular, We allow:

Firstly, non-Catholic subjects, where there are one hundred families, even if they are not all domiciled in the locality of the place of worship or of the pastor, but part of them live as much as some hours' distance away, to build a place of worship and school of their own, and those living further away may attend the nearest place of worship (inside Our Hereditary Dominions) as often as they wish, also the pastors belonging to Our Hereditary Dominions may visit the members of their congregations, and may administer the necessary instruction and spiritual and

material comfort to the sick, but may not, under pain of severest punishment, prevent a Catholic priest from being called in, if any sick person wishes it.

In respect to the place of worship, We order expressly that it shall not have any chimes, bells, or towers, unless such already exist, or public entrance from the street signifying a church, but otherwise they are free to build it of whatever material they will and shall be completely free to administer their sacraments and celebrate Divine service, both in the place itself and conveyed to the sick in the Chapels of Ease, and to conduct funerals with their pastor in attendance.

Secondly, they are free to appoint their own schoolmasters, who are maintained by the parish, but shall be subject to the supervision of the Provincial Schools Directorate in respect of methods of instruction and discipline. In particular, We allow:

Thirdly, to the non-Catholic inhabitants of a locality, the choice of their pastors, if they pay for and support the same, but where the authorities provide these services they must enjoy the right of presentation; but We reserve to Ourselves the right of confirmation, in such fashion that where there are Protestant Consistories, the confirmation is given through them, and where there are none, granted through the existing Protestant Consistories in Teschen or Hungary, until conditions call for the establishment in a Province of its own Consistory.

Fourthly: the *jura stolae* remain reserved to the Parish Ordinary, as in Silesia.

Fifthly: the jurisdiction in respect of matters affecting the religion of non-Catholics shall be exercised by the administrative officials of the Province, assisted by one of their own pastors and theologians; this Court shall render judgment in accordance with their religious tenets, but appeal shall lie from this to Our Chancellery.

Sixthly: the issue by non-Catholics of the reversals on marriage, hitherto customary, in respect of the upbringing of the children in the Catholic faith is to cease altogether from now on; where the father is a Catholic, all children, of either sex, are to be brought up without question in the Catholic religion, this being to be regarded as a prerogative of the ruling religion; where, however, the father is Protestant and the mother Catholic, the sex of the child shall decide.

Seventhly: non-Catholics are in future admitted under dispensation to buy houses and real property, to acquire municipal domicile and practice as master craftsmen, to take up academic appointments and posts in the public service, and are not to be required to take the oath in any form contrary to their religious tenets, nor, unless they themselves wish it, to attend processions or functions of the ruling religion. The sole criteria in all choices or appointments to official posts are — as has long been the case in Our army, without the least difficulty and with great benefit — to be the candidate's integrity and competence, and also his Christian and moral way of life; difference of religion is to be disregarded. Dispensations to acquire property, municipal domicile, and master craftsmen's licences are to be issued by the Kreis authorities in towns under manorial jurisdiction; in Royal and *laibgeding* boroughs, by the Provincial Cameral offices,

where such exist; failing them, by Our Provincial Government. They are to be issued without difficulty. Should, however, the authority find any objection to an application suggesting that it ought to be rejected, a reasoned report is to be sent to the Provincial Government, and thence to the Chancellery, for Our decision.

In cases of the *jus incolatus* of the upper classes, the Provincial Government is to give its opinion, and the dispensation is to be granted by Our Bohemian-Austrian Court Chancellery.

Provincial Governments are to communicate this Our decision to all Kreis offices, magistrates, and manorial authorities through printed circulars, of which a larger number than the usual is to be run off. Further, printers and publishers in the Province are permitted to hand these printed circulars to any person asking for them and thus secure adequate dissemination thereof also in other Provinces.

Source of English translation: C.A. Macartney, ed., *The Habsburg and Hohenzollern Dynasties in the Seventeenth and Eighteenth Centuries*, in *Documentary History of Western Civilization*. New York, Evanston, and London: Harper & Row, 1970, pp. 269-74. Introduction, editorial notes, chronology, translations by the editor; and compilation copyright © 1970 by C.A. Macartney. Used by permission of HarperCollins Publishers.

Source of original German text: Gustav Frank, ed. *Das Toleranz-Patent, Kaiser Joseph II. Urkundliche Geschichte seiner Entstehung und seiner Folgen* [*Emperor Joseph II's Toleration Patent: Documentary History of its Origin and Consequences*]. Vienna: Wilhelm Braumüller, 1882, pp. 37-41.