

The acquisition by Canada of Rupert's Land and the North-Western Territory enabled the Red River settlement, after a few months of disturbance, to receive limited provincial establishment under the name of "Manitoba" in 1870; provided the Federal Government with the public lands needed to help subsidize a transcontinental railway linking the Pacific with the Canadian East, thereby fulfilling the pledge to British Columbia to begin the Canadian Pacific Railway within two years and to complete it within ten years of the date of union, July 1, 1871; and laid, through the provision of millions of acres of public lands, the land and economic bases for the Federal Government's adoption of a free-homestead policy for the Canadian prairies that, in conjunction with the completion of the Canadian Pacific Railway and the launching of other railway lines, brought wave after wave of settlers into the Northwest Territories in such numbers as to justify the creation of the two Provinces of Saskatchewan and Alberta in 1905 out of the portion of the Northwest Territories south of the 60th parallel of north latitude. Although provision for their entry was included in the British North America Act, 1867, the Province of Prince Edward Island held back from the Union until 1873 and Newfoundland became Canada's tenth province on Mar. 31, 1949.

## AMENDMENT OF THE CANADIAN CONSTITUTION\*

### THE CONSTITUTION DEFINED

A constitution sets out the rules determining the creation and operation of the institutions of government. The Constitution of Canada has grown out of the British Constitution and both are the product of evolution rather than revolution. They are the consequence of prolonged and almost casual historical growth, rather than a carefully reasoned set of principles worked out at any one point of time. For this reason the Constitution has a number of sources, including Royal Letters Patent, despatches and instructions from the British Government to colonial governors, and Acts of the British and Canadian Parliaments. These elements have never been consolidated and fused together into a single basic document, with its own special rules of interpretation and amendment. Since the Statute of Westminster, 1931, Canadian legislatures are no longer subordinate to the British Parliament, and resolutions passed at Imperial Conferences in 1926 and 1930 made the Canadian Cabinet the sole advisers of the Sovereign on Canadian affairs, no longer subordinate in any way to the British Government. However, most of the basic provisions of the Canadian Constitution are contained in the British North America Act, passed by the British Parliament in 1867 to give effect to a federal union of the original provinces. This Act therefore contains most of the important parts of Canada's Constitution, which is why the British North America Act, with its various amendments, is normally thought of as the Canadian Constitution.

For reasons noted below, Canada still lacks the power directly to amend the British North America Act in certain important particulars. The question of transferring this amending power to wholly Canadian hands has been the subject of discussion and negotiation in Canada for over thirty years. In this time the British Government has been willing to agree to the transfer—the difficulty has stemmed from securing agreement in Canada on the form of amending procedure.

Associated with the setting up of a Canadian amending process has been a separate issue—the 'repatriation' or 'domiciling' of the Constitution in Canada. Already certain parts of the Constitution are based on Canadian instruments, the most important of which are the regulations governing the powers of the Head of State. In so far as the Governor General is concerned, his powers are now governed by the Letters Patent of 1947, a wholly Canadian instrument issued by the King on the advice of Canadian Ministers and under the Great Seal of Canada. Certain other aspects of royal powers are governed by a Canadian statute—the Seals Act, 1939. Many other important parts of Canada's Constitution are also found in Canadian statutes, such as the Supreme Court Act, 1949.

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