

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 20, 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.

The Constitution of Canada, which had a corporate beginning in 1867, combines, in a set of rules determining the creation and operation of the machinery or institutions of government, the Cabinet system of responsible government (based on an inheritance from Britain) with a Canadian adaptation of federalism (as then practised in the United States for eighty years). A written document, the British North America Act of 1867, contains a substantial portion of Canada's Constitution and this Act, with its various amendments,* is popularly held to be the Canadian Constitution. There is, however, another and perhaps more important part which appears, through the evolutionary processes of historical growth, in various guises including well-established usages and conventions found in the unwritten provisions of the Constitution.

Thus, the British North America Act is not a comprehensive constitutional document presenting an exhaustive statement of fundamental laws and rules by which Canada is governed. The Constitution of Canada in its broadest sense includes other British statutes (such as the Statute of Westminster, 1931) and Orders in Council (notably those admitting various provinces and territories to the federation), statutes of the Parliament of Canada relating to such matters as the succession to the Throne, the Royal Style and Titles, the Governor General, the Senate, the House of Commons, the creation of courts, the establishment of government departments, the franchise, elections, and also statutes of provincial legislatures relating to provincial constitutional institutions and government matters. Federal and provincial Orders in Council, legally authorized by their respective statutes, provide further constitutional material as do the decisions of the courts which interpret the British North America Act and all ordinary statutes and indeed possess the power to set aside any laws which they hold to be *ultra vires* or beyond the jurisdiction of the enacting legislative bodies, whether federal or provincial. Moreover, the Canadian Constitution comprises, in addition to the statutory law and its judicial interpretation, substantial sections of the common law, unwritten constitutional usages and conventions and principles of democratic government which were transplanted from Britain over two hundred years ago and have since then been thriving and evolving in the Canadian environment. For example, the Cabinet system of responsible government (see pp. 55-57) and its functioning through close identification of the executive and the legislative powers (that is, of the Cabinet and the House of Commons) is not mentioned in the British North America Act but derives from an unwritten convention of the Constitution.

* See *A Consolidation of The British North America Acts 1867 to 1952*, prepared by Elmer A. Driedger (Queen's Printer, Ottawa, 1956, 50 cents).