



Responsible government and federalism are two cornerstones of Canada's system of government. There is a third, without which neither of the first two would be safe: the rule of law.

What does the rule of law mean?

It means that everyone is subject to the law; that no one, no matter how important or powerful, is above the law: not the government; not the prime minister, or any other minister; not the Queen or the governor general or any lieutenant-governor; not the most powerful bureaucrat; not the armed forces; not Parliament itself, or any provincial legislature. None of these has any powers except what are given to it by law: by the *BNA Act* or its amendments; by a law passed by Parliament or a provincial legislature; or by the Common Law of England, which Canada inherited, and which, though enormously modified, added to and subtracted from by Parliament and provincial legislatures, remains the basis of Canada's constitutional law and criminal law, and the civil law (property and civil rights) of the whole country except Quebec.

If anyone were above the law, none of Canada's liberties would be safe.

What keeps the various authorities from rising above the law, doing things the law forbids, exercising powers the law has not given them?

The courts. If they try anything of the sort, they will be brought up short by the courts.

But what's to prevent them from bending the courts to their will?

The great principle of the independence of the judiciary, which is even older than responsible government. Responsible government goes back only about 200 years. The independence of the judiciary goes back almost 300 years to the *English Act of Settlement of 1701*, which resulted from the English Revolution of 1688. That act provided that the judges, though appointed by the King (nowadays, of course, on the advice of a responsible Cabinet) could be removed only if both houses of Parliament, by a formal address to the Crown, asked for their removal. If a judge gave a decision the government disliked, it could not touch him, unless both houses agreed. In the almost three centuries that have followed, only one judge in the United Kingdom has been so removed, and none since 1830.