

REFERENCE PAPERS



INFORMATION DIVISION
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No. 70 THE CONSTITUTION AND GOVERNMENT
OF CANADA

I The Constitution of Canada

The Canadian federal state was established by the British North America Act, 1867, which united the three British North American provinces of Canada, New Brunswick and Nova Scotia into one country, divided into four provinces, namely, Ontario, Quebec, New Brunswick and Nova Scotia. British Columbia entered the Union in 1871 and Prince Edward Island in 1873. The Provinces of Manitoba, Saskatchewan and Alberta were created out of portions of the territories formerly held by the Hudson's Bay Company and admitted to the Union in 1870, and Newfoundland entered the Union in 1949. At the present time, therefore, Canada consists of ten provinces and the remaining territories, not included in any province, now known as the Yukon Territory and the Northwest Territories.

The British North America Act of 1867 divided legislative and executive authority between Canada on the one hand and the several provinces on the other. Judicial authority was not similarly divided, provincial and federal courts having jurisdiction with respect to both federal and provincial laws.

While the British North America Act of 1867 together with its subsequent amendments is popularly regarded as the Constitution of Canada, it is not an exhaustive statement of the laws and rules by which Canada is governed. The Constitution of Canada in its broadest sense includes other statutes of the United Kingdom Parliament (e.g., the Statute of Westminster, 1931), statutes of the Parliament of Canada relating to such matters as the succession to the Throne, the demise of the Crown, the Governor General, the Senate, the House of Commons, electoral districts, elections, Royal Style of Titles, and also statutes of provincial legislatures relating to provincial government and provincial legislative assemblies. Other written instruments, such as the Royal Proclamation of 1763, early instructions to Governors, letters patent creating the offices of Governors and Governors General, and Orders in Council passed pursuant to the British North America Act, also form part of the Canadian constitutional system. In addition, the Constitution of Canada includes well-established usages and conventions. The preamble to the British North America Act states that it was the desire of the original provinces to be united "with a constitution similar in principle to that of the United