

### The executives

By Section 58 of the B.N.A. Act, 1867, for each of the provinces a lieutenant-governor is appointed by the Governor General in Council. On appointment he is issued a commission, which authorizes him to perform and execute his several functions according to the provisions of the B.N.A. Act, 1867, and "of all other statutes in that behalf...according to such instructions as are herewith given to you and hereunto annexed or which may from time to time be given to you...under the Sign Manual of our Governor General of our Dominion of Canada, or by order of our Privy Council for Canada". A general form of instructions was prepared in 1892 to be given thereafter to lieutenant-governors of the several provinces at the time of their appointment.

Whatever obscurity may at one time have prevailed as to the position of a lieutenant-governor appointed on behalf of the Crown by the Governor General was dispelled by the judicial decision in the case entitled *Liquidators of the Maritime Bank of Canada v. The Receiver General of New Brunswick* [1892] A.C. 437. That decision established the proposition that the lieutenant-governor of each province of Canada represented the Queen in the exercise of her prerogative as to all matters within the exclusive jurisdiction of the province. Thus the lieutenant-governor may exercise the prerogative powers of his office subject to the limitations contained in his commission or instructions or the terms of any relevant statute, and the exercise of executive authority in substance follows the distribution under the B.N.A. Acts of legislative powers.

The lieutenant-governor as the head of the executive government of a province and as a constituent branch of each provincial legislature acts in two capacities:

- (a) as the representative of the Sovereign for all purposes of provincial government;
- (b) as a federal officer in respect of the discharge of certain of his functions. (Originally this was particularly so with respect to the duty, whenever a bill passed by the provincial legislature is presented to him for the royal assent, to declare, according to his discretion, but subject to the provisions of the B.N.A. Act and to the Governor General's instructions, either that he assents thereto in the Governor General's name or that he withholds the Governor General's assent or that he reserves the bill for the signification of the Governor General's pleasure.)

While it was thought, at the time of Confederation, that thus,