

The *Constitution Act, 1867*, remains the basic element of the written Constitution.

But the written Constitution, the strict law of the Constitution, even with the latest addition, the *Constitution Act, 1982*, is only part of the whole working Constitution, the set of arrangements by which Canadians govern themselves. It is the skeleton; it is not the whole body.

Responsible government, the national Cabinet, the prime minister, the bureaucracy, political parties, federal-provincial conferences; all these are basic features of Canada's system of government. But the written Constitution does not contain one word about any of them (except for that phrase in the preamble to the act of 1867 about "a Constitution similar in principle to that of the United Kingdom"). The flesh, the muscles, the sinews, the nerves of the Constitution have been added by legislation (for example, the *Elections Acts*, federal and provincial, the *House of Commons Act*, the *Legislative Assembly Acts*, the *Public Service Acts*), by custom (the prime minister, the Cabinet, responsible government, political parties, federal-provincial conferences), by judgments of the courts (interpreting what the act of 1867 and its amendments mean), by agreements between the national and provincial governments.

If the written Constitution is silent on all these things, which are the living reality of the Constitution, what does it say? If it leaves out so much, what does it put in?

Before we answer that question, it is necessary to understand that the written Constitution, unlike the American, is not a single document but a collection of documents.

The core of the collection is still the act of 1867. This, with the amendments added to it down to the end of 1981, did 12 things.

First, it created the federation, the provinces, the territories, the national Parliament, the provincial legislatures and some provincial cabinets.

Second, it gave the national Parliament power to create new provinces out of the territories, and also the power to change provincial boundaries with the consent of the provinces concerned.

Third, it set out the power of Parliament and of the provincial legislatures.