

The 1947 Letters Patent

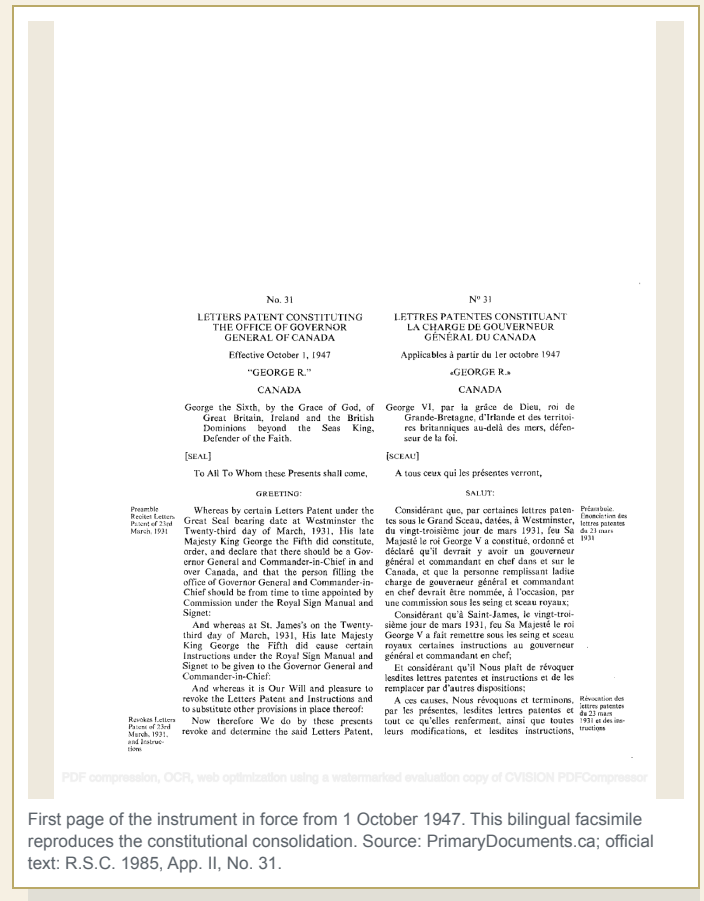
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The document created neither a substitute president nor a competing sovereign. It instead secured a permanent Canadian presence for the head of state: the Crown remained the source of authority, its ordinary exercise was localized in Ottawa, and political decisions remained answerable through the ministers who advised them.

The arrangement joins continuity to responsible government: a non-partisan office can always act, while the normal use of its extensive legal powers remains tied to the advice of a government accountable to the House of Commons.

ONE STATE	LOCAL ACTION	VISIBLE RESPONSIBILITY
The governor general acts in the Sovereign's name, not on a rival electoral mandate.	Routine constitutional functions can be completed within Canada.	Cabinet advises and bears political responsibility for decisions.

The Letters Patent did not proclaim a new independence. They made already acquired autonomy more practical: routine federal acts could be completed in Canada and in Canadian form, without turning the King's representative into the holder of a personal sovereignty. The pages that follow distinguish written law, convention, deputies and the administrator before assessing the arrangement's institutional benefits.





ORIGINS · CONTINUITY AND AUTONOMY

Why rewrite the rules in 1947?

The Letters Patent were not a sudden constitutional birth certificate. They belonged to a longer evolution in which a single imperial Crown became, through law and convention, a distinctly Canadian Crown.

1867 Section 9 of the Constitution Act, 1867 vests executive government in the Sovereign; sections 10 - 14 regulate its exercise through the governor general.	1926 The Balfour Declaration recognizes the Dominions as autonomous communities, equal in status and united by common allegiance to the Crown.	1931 The Statute of Westminster gives legislative form to autonomy. Separate letters patent and instructions then govern the office.	1947 George VI revokes the 1931 instruments, replaces them, and grants a general authority to exercise Crown powers in respect of Canada.	1952 Vincent Massey becomes the first Canadian-born governor general; an office already Canadianized in law gains a Canadian occupant.
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THE FRAMEWORK OF 1867

The Constitution Act, 1867 did not establish a presidential executive. It vested executive authority in the Crown and created a Privy Council to advise the governor general. The vocabulary is monarchical, but responsible government supplies its democratic logic: the ministers who advise must retain the confidence of the elected House. Formal authority and political responsibility are deliberately placed in different hands.

FROM EMPIRE TO EQUALITY OF REALMS

During the nineteenth century the governor general served both as the Sovereign's representative and as an agent of the British government. The second capacity disappeared. The Imperial Conference of 1926 established that a governor general represented the Crown and no longer the government of the United Kingdom. The Statute of Westminster, 1931 then removed major imperial legislative constraints. The 1947 instrument consolidated autonomy; it did not suddenly transfer a foreign sovereignty.

WHY A ROYAL INSTRUMENT?

The Sovereign issued the Letters Patent under the Great Seal of Canada within the existing royal prerogative and constitutional order. They constitute the office, confer authority and

secure succession. They are not an ordinary Act of Parliament, although they appear among the constitutional instruments printed in the schedule to the Revised Statutes of Canada. Their brevity is technical: they operate with the Constitution, statutes and conventions.

MACKENZIE KING'S CANADIAN ADVICE

The reform was prepared under William Lyon Mackenzie King's government and recommended to the King by Canadian ministers. It answered a practical question of institutional maturity: why send acts concerning Canada alone to London when a permanent representative of the Crown was present in the country? The instrument made Canadian administration more autonomous without rebuilding the state around the personality of an office-holder.

WHAT 1947 DID NOT MEAN

The King gave up no Canadian capacity, and the governor general did not become the head of a separate state. The Sovereign remained King of Canada, appointed the governor general on the prime minister's advice, and retained certain personal functions. The accurate description is a very broad authorization to act, not a replacement. That distinction preserves both the law and the political value of a Crown expressed through its holder and representatives.

A TELLING DETAIL. The Letters Patent entered into force on 1 October 1947, the same year as the Canadian Citizenship Act. The measures had different purposes, but both belong to a period in which federal institutions were increasingly described through instruments distinctly Canada's own.



ARTICLE II · AUTHORITY AND ADVICE

Very broad words, disciplined practice

“...to exercise all powers and authorities lawfully belonging to Us in respect of Canada...”

Letters Patent, 1947, Article II. The authorization must be read with the Constitution, statutes and conventions.

FROM LEGAL AUTHORITY TO DEMOCRATIC RESPONSIBILITY

THE SOVEREIGN

The personal and enduring source of the Canadian Crown's authority.

GOVERNOR GENERAL

Exercises most powers in Canada in the Sovereign's name.

MINISTERS

Almost always advise and must answer for that advice.

THE HOUSE

Grants or withdraws confidence from the government bearing the decision.

THE TEXT OPENS; THE CONSTITUTION CONFINES

Article II authorizes the governor general, with the advice of the Privy Council or any of its members as the case requires, to exercise Crown powers in respect of Canada. “All powers” is intentionally general: it prevents a missing item in a list from disabling a constitutional function. It is not a blank cheque. Every act requires lawful authority, must respect statutory and constitutional limits, and must proceed through the appropriate form of advice.

PRIVY COUNCIL IS NOT IDENTICAL TO CABINET

The Constitution names the King's Privy Council for Canada. Its members are appointed for life, but active advice is almost always supplied by Cabinet, the politically responsible committee of serving ministers. Orders in council are made by the “Governor in Council”: legally the governor general acting on that committee's advice. Old terminology therefore makes a modern principle visible - a ministerial decision carried into law in the name of the state.

POWER IS NOT THE SAME AS DISCRETION

The office-holder has extensive legal powers but does not freely choose their political use. In ordinary matters the governor general follows ministerial advice. A small field of reserve powers remains relevant in exceptional circumstances: appointing a prime minister, responding to a request for dissolution, or ensuring that a ministry capable of securing con-

fidence exists. Even then the purpose is not to impose policy but to sustain responsible government.

HOW ADVICE PROTECTS BOTH SIDES

Advice keeps the Crown non-partisan because ministers own the contestable choice. Conversely, performance by the Crown reminds us that the prime minister is not personally the state. An order, commission or proclamation survives a ministry because it belongs to continuing public authority. The system thus separates immediate accountability from legal permanence.

THE SOVEREIGN'S PERSONAL FUNCTIONS

“Most” is more accurate than “all.” The Sovereign appoints the governor general on the prime minister's advice and alone can amend the Letters Patent. Privy Council Office guidance also identifies approval of new honours and, under one reading of section 26 of the Constitution Act, 1867, the appointment of additional senators as powers not delegated. These exceptions do not hinder daily government; they show that representation is not substitution.

AUTHORITY WITHOUT A RIVAL MANDATE

In a presidency, an elected head of state may set an independent electoral legitimacy against the legislature. Canada refuses that rivalry at the apex of the state. A governor general has no platform, caucus or electoral interest in prolonging a confrontation. The office's legitimacy rests on the Constitution and expected neutrality; the government's legitimacy rests on parliamentary confidence.

1947

The innovation was not the existence of a governor general but the breadth and simplicity of a general authorization. Canadian government could act normally without routine recourse to the Sovereign, while the legal unity of the Crown was preserved.



THE MACHINERY OF CONTINUITY

Commission, seal, deputies and administrator

AN OFFICE AND A PERSON

Article I constitutes the office of Governor General and Commander-in-Chief. Its holder is appointed by a separate commission under the Great Seal of Canada. The distinction prevents the permanent institution from being confused with its temporary occupant. At installation, the commission and Letters Patent are read publicly; the incoming governor general takes the oaths of allegiance, of office, and as Keeper of the Great Seal.

THE GREAT SEAL AS EVIDENCE OF STATE

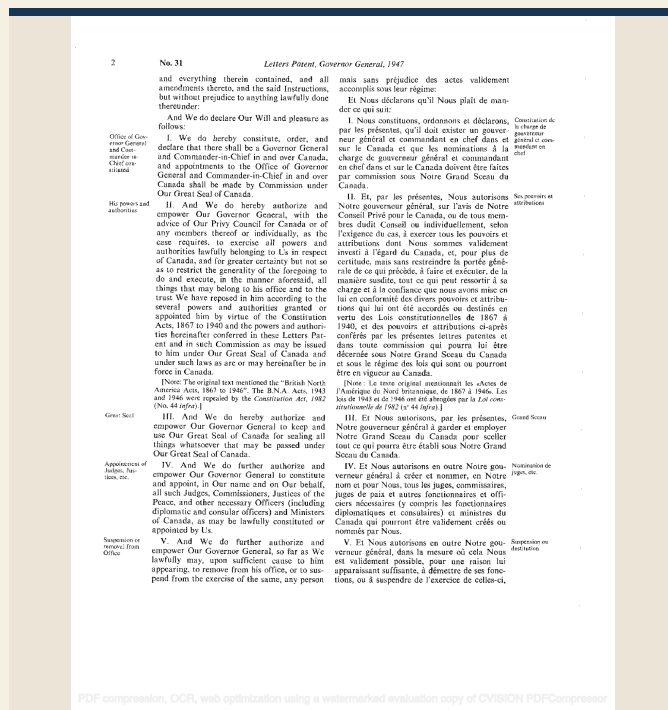
Article III authorizes the governor general to keep and use the Great Seal of Canada. It authenticates major appointments, commissions and proclamations. This is not ornament: affixing the seal is evidence that an act lawfully proceeds from the Crown of Canada. Custody of the seal connects a modern administration to an old technology of public proof.

DEPUTIES: DELEGATION WITHOUT DISAPPEARANCE

Article VII permits deputies to receive assigned functions. Justices of the Supreme Court may, for example, grant royal assent or sign orders when required. Their appointment does not remove the governor general's power. Nor is an ordinary deputy a complete administrator: Privy Council Office guidance notes, in particular, that a deputy may not dissolve Parliament.

THE ADMINISTRATOR: PREVENTING A VACUUM

Article VIII provides that on death, incapacity, removal or absence, the powers pass to an administrator. In established practice the Chief Justice of Canada, or failing that the senior puisne justice, assumes the office. An administrator possesses the full authority, including dissolution when lawful. The role is therefore more than an emergency signature; it is the mechanism for uninterrupted constitutional capacity.



The second page contains the constitution of the office, the general grant of authority, the Great Seal and appointments. English and French appear in parallel in the constitutional consolidation.

THE 2021 PRECEDENT

After Julie Payette resigned, Chief Justice Richard Wagner was sworn in as Administrator on 23 January 2021. Government continued, acts could be completed, and the office did not wait for a new permanent appointment.

THE SOVEREIGN'S PRESENCE

The King's presence in Canada does not automatically suspend the governor general's functions. A royal visit therefore creates no operational ambiguity: representation continues unless legal direction provides otherwise.

THE DISTINCTION THAT MATTERS. A deputy receives specified functions; an administrator temporarily receives the office with its full powers. Treating the terms as synonyms hides the care with which the Constitution prevents both a vacuum and overbroad delegation.

Why the public reading? At installation, reading the commission and Letters Patent makes the passage from appointee to office visible. The oaths confirm that the holder serves Canada within an office already defined, rather than creating a personal authority upon entering Rideau Hall.



IN PRACTICE · WHAT THE INSTRUMENT ENABLES

A short text, a daily constitutional life

Function	Authority and actor	Practical consequence
Parliament	Art. VI: summoning, proroguing and dissolving by the governor general; ministerial advice under convention.	Parliamentary cycles begin and end without confusing the continuing state with the government requesting the act.
Appointments	Art. IV: judges, commissioners, diplomats, officers and ministers where law assigns appointment to the Crown.	Commissions belong legally to the state even when selection and responsibility belong to government.
Orders	Art. II with the Constitution and statutes: the Governor in Council gives legal effect to authorized Cabinet decisions.	Regulations, appointments and proclamations use a public, recorded and durable form.
Royal assent	The governor general or a deputy completes legislation in the Sovereign's name.	A statute becomes the act of Crown, Senate and Commons - not the personal signature of the head of government.
Command	Art. I and Canadian law: the office is also Commander-in-Chief.	The Forces serve the state under civilian authority; the viceregal role is constitutional and ceremonial, not personal operational command.
Mercy	Art. XII: royal prerogative of mercy on ministerial advice under published guidelines.	An exceptional remedy for injustice exists without creating a parallel justice system based on personal favour.

EVERY ACT CARRIES A CHAIN OF RESPONSIBILITY

The legal formula can suggest that the governor general decides alone. In practice, a file moves through departments, the Privy Council Office and, depending on the act, Cabinet or a minister. Advice is documented, the decision is placed in legal form, and the Crown's representative completes it. If contested, ministers explain the choice to Parliament and the public. Ceremony does not erase accountability.

APPOINTMENT IS NOT PERSONAL EMPLOYMENT

When Article IV mentions judges and ambassadors, it does not subject their careers to a governor general's preference. Statutes, selection processes and ministerial recommendations do the substantive work. Appointment by the Crown nevertheless gives the holder a commission of state rather than a contract of loyalty to a prime minister. Form thereby supports the independence expected of many public offices.

MERCY DISPLAYS THE COMPLETE LOGIC

The royal prerogative of mercy is rare and is not another level of appeal. Federal guidelines require exceptional circum-

stances and ministerial advice. The governor general holds the legal authority; administrators examine the file; a minister bears responsibility for the recommendation. Even a historically personal prerogative is reconciled with modern legality and accountability.

COMMAND-IN-CHIEF WITHOUT CAESARISM

The title sounds military, but it operates where civilian government directs defence and statute regulates operational command. The office represents the service of the Canadian Armed Forces to Canada and performs functions such as presenting colours and decorations. It provides no autonomous political army to the office-holder.

WHY FORM STILL MATTERS

Seals, commissions and proclamations look archaic only if their function is forgotten: they make authority identifiable, transferable and verifiable. Ministers can change overnight without refounding public offices, renegotiating every officer's allegiance or suspending state action. The Crown supplies the legal vocabulary of that permanence.

NEITHER MAGIC NOR FOLKLORE. Symbols do not add a second political decision. They identify the durable authority in whose name the responsible government's decision enters the legal order.



LIMITS • COMPARISON • BENEFIT

What the Letters Patent do not do



Rideau Hall around 1880. Official residence since 1867 and the governor general's workplace since 1940, it gives institutional continuity a physical home in the Canadian capital. Image: Office of the Secretary to the Governor General.

THEY DO NOT REMOVE THE SOVEREIGN

The governor general represents the King; the office is not a substitute Canadian monarchy. Appointment, amendment of the Letters Patent and a few acts remain with the Sovereign. This distribution permits complete local practice while preserving a personal head of state distinct from successive governments. To say that everything was “transferred” would make the very commission authorizing the representative unintelligible.

THEY DO NOT GOVERN THE PROVINCES

The instrument concerns the federal governor general and federal Crown powers. Lieutenant governors have their own constitutional foundations, notably sections 58 - 68 of the Constitution Act, 1867. They also represent the Crown but are not employees or deputies of the governor general. Monarchical federalism distributes the Crown through eleven legal spheres - one federal and ten provincial.

THEY DO NOT CREATE A DAILY POLITICAL UMPIRE

Authority to appoint, prorogue or dissolve is not a licence to correct an unpopular government. Policy belongs to elected representatives and ministers. Personal judgment becomes conceivable only to protect the minimum conditions of responsible government, such as ensuring that a ministry can secure confidence. Neutrality is an active discipline, not an absence of rules.

THE PRESIDENTIAL CONTRAST

A presidential republic normally vests executive office in a person elected separately from the legislature. That dual legitimacy can be a deliberate check, but it can also produce veto, deadlock and the personalization of the state around an electoral victor. Canada locates political leadership in a Cabinet removable by the House and places head-of-state acts in a non-partisan Crown. Conflict remains possible, but it is not made the program of a second executive.

A FUNCTIONAL, NOT ORNAMENTAL, MONARCHY

The Letters Patent show that the Crown is more than ceremonial memory. It is infrastructure: it authorizes, authenticates, appoints, summons and provides succession. Its benefit lies precisely in performing those functions without converting the office-holder into an electoral competitor. Continuity does not displace democracy; it supplies a framework that remains when majorities change.

A NECESSARY CAUTION

No architecture guarantees wise decisions. Constitutional monarchy depends on understood conventions, responsible ministers, a capable public service and an attentive public. Its advantage is both modest and durable: it separates the permanence of the state from the fortune of a government, and preserves a continuity mechanism when persons or majorities disappear.

Conclusion. In 1947 Canada did not choose between autonomy and monarchy. It used monarchy to make autonomy workable: the Sovereign remains the non-partisan source of authority, the governor general exercises it here, and elected government bears responsibility. That combination explains why six pages remain among the most effective - and least familiar - parts of Canada's constitutional order.