CHAPTER 1

Introduction

For the past twenty-five years the Canadian polity has lurched from one constitutional crisis to another. The rise of secular Quebec nationalism in the 1960s triggered a series of challenges to the stability of the political system and established the urgency of basic constitutional reform. The prime minister of the day, Pierre Trudeau, raised the stakes by pronouncing that the "the whole Constitution is up for grabs."[1] A number of provincial governments, especially from the West, pressed their own constitutional agendas with increasing vigor. And while all of this was going on, the Parti Québécois took office in Quebec, formed a government, and prepared to put the question of sovereignty-association to the electorate. The result was that as the obsession with constitutional reform grew through the 1970s, so positions hardened; and as the stalemate deepened, so the situation in Quebec made constitutional reform that much more urgent.

Yet even when the impasse was finally broken in 1982, the passage of the Constitution Act, 1982 (including a Charter of Rights and Freedoms) did not produce instant constitutional harmony so much as it superimposed a set of new controversies on a cluster of old ones.[2] On the one hand, the Quebec National Assembly followed Premier René Lévesque's lead, repudiated the 1982 settlement, and triggered a fresh round of negotiations to "bring Quebec into the constitutional family." The product of these discussions, the Meech Lake Accord,[3] quickly became as controversial as the Constitution Act itself. On the other hand, litigation under the Charter of Rights quite quickly forced (or allowed) judges and lawyers to address squarely a range of social issues with an authority they lacked before 1982. Through it, Canadians have begun to learn what Americans have long known; namely, that dealing with the constitutional implications of issues such as

freedom of expression and abortion can create deep political divisions.

Why has Canada's recent constitutional experience been so difficult and discordant? One reason is that constitutional debate has come increasingly to center on two "competing conceptions" or "alternative visions" of what the country is or ought to be; conceptions which, if not totally incompatible, have nevertheless helped to polarize political debate. Highly schematically, one is built on a liberalism that emphasizes individual liberty, views the state as a means to protecting liberty, and typically looks to the national government for leadership. The other stresses the value of community, is more likely to encourage collective choice, and tends to recognize the importance of provincial governments as the guardians of regional identities.

This tension between liberty and community, as I will call it, has manifested itself most clearly in Quebec, where collective identity has always been a crucial political issue; where the Charter of Rights was openly resisted on the grounds that it would thwart attempts to preserve the province's cultural distinctiveness; and where explicit constitutional recognition that Quebec is a "distinct society" within Canada remains the price of ratifying the 1982 settlement *ex post*. Yet the tension between liberty and community has not been confined to Quebec. Pierre Trudeau's pan-Canadian vision, in which language and other rights would be judicially protected and nationally enforced, was meant to serve as a counterpoise to the view, popularized by former Prime Minister Joe Clark, that Canada is "a community of communities." One of the stock objections to the Charter of Rights among English-Canadian critics was that judicial review would undermine "a sense of community"[4] and make it difficult to produce social policy in line with "community values."[5] And the notion that Canadian constitutional politics is best understood as a "dialectic" between "polar positions" remains very much alive. Indeed, it has become an almost standard reflex, especially among English-Canadian commentators, to portray recent constitutional developments, up to and including the Meech Lake Accord, as a "complex compromise among competing views"[6] of the Canadian polity.

This book, a study of the legal and political ideology of the provincial rights movement in Ontario between 1867 and 1900, has two principal objectives. The first is to understand the deeper historical structure of these "alternative visions" of liberty and community in Canada, especially and principally English Canada.[7] The premise of the study is that, for all of the important changes wrought by the Charter of Rights, constitutional discourse in Canada cannot fully escape the long shadows cast by the constitutional tradition. I have

chosen to concentrate on the legal and political thought of the provincial rights movement because it offers what is arguably the most searching and accessible English-Canadian account of the questions of liberty and community. What I try to explain is how a particular claim of community—provincial autonomy—became a legitimate, durable, indeed central constitutional value that continues to inform constitutional debate in Canada—in a way, for instance, that the doctrine of states' rights does not in the U.S.

Beyond its genealogical value, however, this historical reconstuction of provincialism in Canada is intended to challenge the dominant mode of thinking about the core principles of federalism and liberalism here and now. Indeed, it is meant to throw into question the analytical usefulness of the dichotomy between liberty and community as it is usually understood. It has become all too easy to reduce the central constitutional question facing Canadians these days to a stark choice between provincial power and the protection of individual rights—or perhaps some more or less acceptable compromise between the two. My goal is to show that, if the constitutional tradition is taken as a point of reference, then this way of stating the choice misreads the past, distorts the choices available to us in the present and constricts our view of the future. The early theorists of provincial rights did not assume that community and liberty were "binary opposites"[8] secretly or openly at war with each other. On the contrary, they argued consistently that their defense of community was a means to protect liberty. They were not completely successful in that endeavor, but their reluctance to view liberty and community as competing and contradictory political goods may still serve as a useful corrective to what has become the dominant view.

I argue, in short, that the real challenge facing Canadian constitutional politics is less to control the competition *between* liberty and community than it is to find principled ways to mediate the tensions *within* Canada's distinctive (and somewhat more communitarian) form of liberalism. If it is too easy to reduce our constitutional choices to some formula like 'provincial power versus individual rights', then some better and more nuanced theory is needed to sort out the internal dialectic within Canadian politics. While this book will not provide such a theory in detail, it will at least provide a defense for the construction of such a theory. In that sense, my goal is to create an "alternative past" from which to view these "alternative futures" afresh.

When John A. Macdonald, Canada's first prime minister, rose in the Canadian assembly in 1865 to defend the blueprint for the federal constitution, he candidly admitted that he had wanted to create a

simple union in which there would be one government legislating for the whole of what was then called British North America. A simple legislative union, he argued, would have been "the best, the cheapest, the most vigorous, and the strongest system of government."[9] Macdonald realized, however, that such a system was "impracticable"[10] in a diverse country like Canada because it simply would not be acceptable to those regionally based populations—especially French Canadians—who feared the "absorption" of their "individuality."[11] Ever pragmatic, Macdonald ultimately had to accept a system in which the central government would lead, but in which "separate provincial organizations would be in some degree preserved."[12] The Confederation settlement, he concluded, created a constitutional "happy medium,"[13] a scheme of government that combined "the strength of a legislative and administrative union" with the "sectional freedom of a federal union, with protection to local interests."[14]

Macdonald accepted the compromise proposal cheerfully because he was convinced that the concessions he had been forced to make in the direction of federalism would not undermine the almost imperial authority of the federal government to build the nation. For one thing, it is clear that, from Macdonald's perspective, these concessions to regional or provincial "individuality" were directed principally at Quebec. The principle of local independence of course applied to all the provinces, not just Quebec, but Macdonald apparently assumed that parochial loyalties would have little lasting appeal in English Canada. The Maritime provinces had distinctive laws, and Macdonald granted that these different legal traditions should be protected. But he also believed that these differences were relatively trivial, especially in comparison with French Canada, and he hoped that once they joined Confederation the Maritimers would assimilate their laws to the rest of the country.[15] As to the well-known demands for local control over local affairs made by the Ontario Reform party, Macdonald had almost nothing to say at the time of Confederation. Ontario, like the other provinces, would be given some measure of control over its own affairs, but he seems to have assumed that most Ontarians would be more interested in managing everybody's affairs from Ottawa than in controlling merely their own from Toronto.

Moreover, even if he was wrong about the disappearance of the spirit of localism, Macdonald believed that the central government would have little to fear from the provinces because Ottawa had been dealt the superior constitutional hand. The national government had been given "all the great subjects of legislation,"[16] including the apparently unqualified power to regulate trade and commerce, and a general, residual power to act for the "peace, order and good government" of the country. Beyond these positive powers, the constitution came

equipped with a number of supervisory mechanisms—including the power to veto any provincial law—with which the federal government could defend itself against provincial attacks. As he put the matter to a political friend who was apprehensive that the provinces would grow too strong: "By a firm and patient course, I think the Dominion must win in the long run. The powers of the General Government are so much greater than those of the United States, that the central power must win in the long run. My own opinion is that the General Government or Parliament should pay no more regard to the status or position of the Local Governments than they would to the prospects of the ruling party in the corporation of Quebec or Montreal."[17]

In the end, Macdonald underestimated both the depth of localist sentiment and the ability of a political opposition, the provincial rights movement, to construct a powerful counter-vision from the core principle of provincial autonomy. As it was expounded in its mature form in the 1880s and 1890s, the constitutional doctrine of provincial autonomy consisted of three separate, but related, claims, all of which were arguably derived from the "federal principle" and supported by the British North America (BNA) Act.[18] First, the provincialists argued that the federal principle means, at a minimum, that the federal government has no right to interfere in those subjects placed within the control of the provincial legislatures, just as, conversely, the provincial governments have no right to infringe upon federal jurisdiction. Federalism means that each level of government is supreme or sovereign within its sphere, which is why the BNA Act conferred upon each "exclusive"[19] authority to legislate on a given set of subjects. Second, the provincialists argued that real federalism requires a balanced division of power in which neither level overwhelms the other. In this sense, federalism implies political parity, and the autonomists argued that the division of powers outlined in sections 91 and 92 of the BNA Act established a rough balance between national and provincial powers respectively. Third, the provincialists argued that federalism means contractualism. Confederation, they said, was created as a compact among the provinces which, according to the act's preamble, had "expressed their desire to be federally united into one Dominion."[20] If amendments were to be made to the compact, it followed that provincial consent alone was required. So defined, the doctrine of provincial autonomy became the standard against which Prime Minister Macdonald's actions were relentlessly judged, and the ideal in light of which the impurities of the constitution were identified.

It is a measure of the success of the provincial rights movement that by the turn of the century the federal veto powers over provincial

legislation had been largely discredited; the courts had placed Macdonald's centralist reading of the BNA Act in grave doubt; and the most eloquent defenders of provincial autonomy had infiltrated enemy lines and were sitting in the national cabinet. Only the "compact theory" and its implications for constitutional amendment failed to take hold in the generation after Confederation—and even here the more recent success of a modified version of the compact theory suggests that the autonomists did not suffer total defeat. By 1900 the interchangeable terms "provincial rights" and "provincial autonomy" had become "clichés of Canadian constitutional discussion."[21] And they remain central to Canadian constitutional politics to this day—witness the West's efforts to have provincial control over natural resources constitutionally bullet-proofed,[22] the Supreme Court's dictum that basic constitutional amendment requires substantial provincial support,[23] Quebec's initiatives to place limitations on the federal spending power,[24] and the steady stream of cases in which the Supreme Court of Canada has acted as the "umpire" that will define and protect the spheres of federal and provincial jurisdiction.[25]

What was the original appeal of the constitutional doctrine of provincial autonomy? What is the legacy of the provincial rights movement for contemporary Canadian politics? This study attempts to answer these questions.

II

The provincial rights movement was the first constitutional protest movement in post-Confederation Canada, and its importance has not been lost on those who have attempted to understand the evolution of the Canadian constitution. There exists, indeed, a large and burgeoning literature which attempts to account for the autonomists' success. As the methods of studying political phenomena have proliferated in the last generation in Canada, so have the explanations for the rise of the provincial rights movement. At the risk of oversimplification, one can discern four different approaches to the study of the provincial rights movement: political, institutional, sociological and economic. These approaches are obviously not mutually exclusive, and most accounts expressly avoid unicausal explanations. Nevertheless, it will be helpful for the purposes of clarity to disentangle the major threads.

The politics of late-nineteenth-century Canada was dominated by strong partisan competition, and many observers have quite sensibly wanted to place the provincial rights movement squarely in the

political context of party development. They note that in the years after 1867 the rivalry between the provincial governments and Ottawa became virtually synonymous with the competition between the Liberal and Conservative parties. They suggest that partisan considerations motivated both sides, and they argue that the success of the provincial rights movement must be considered in the context of the rise of the Liberal party in Canada. From this perspective it is thus not coincidental that provincial rights came of age when Laurier became prime minister and Liberals controlled most of the provincial legislatures.[26]

Others take a more specifically institutional approach. They note that the creation of party discipline within Parliament created a form of cabinet government in which political authority came to be concentrated in the first minister. When cabinet government is combined with federalism, the potential exists, therefore, for what Richard Simeon calls "federal-provincial diplomacy,"[27] in which heads of government are able to negotiate on behalf of their constituencies in a way that roughly resembles interstate negotiations and diplomacy. And the fact of the matter is that in the early years provincial premiers (most notably Oliver Mowat of Ontario) were simply shrewder, cannier, more skillful diplomats than their federal counterparts.[28]

Still others prefer a sociological explanation of the rise of provincial autonomy. They argue that the so-called Fathers of Confederation attempted to establish a political framework that simply contradicted the stubborn sociological reality that Canada is a country of strong regional and ethno-cultural loyalties. As Alan Cairns has put it, the BNA Act was just "too centralist for the diversity it had to contain."[29] For him, the provincial rights movement was, therefore, the agent of a natural and almost inevitable self-correction.

Finally, a wide variety of economic explanations have been advanced, the common thrust of which is to show that the provincial governments were able in one way or another to attract the support of influential private interests while the federal government was losing the support of its economic constituency. According to Garth Stevenson, for example, "the fact that Toronto capitalists gained less than they had expected from the annexation of the West" and so abandoned Macdonald's Tories, was a "contributing factor" to the rise of provincial rights.[30]

Now, this brief summary obviously does not do justice to the subtlety or complexity of the historical scholarship produced in the last generation. Yet even in this highly schematic portrait a paradox appears. The paradox is that in attempting to account for one of the pivotal constitutional episodes in Canadian political history, most

historians and political scientists have resorted to some extra-constitutional standard of explanation—to partisan political competition, to institutional design, to sociological realities, to economic factors and so forth. It must be emphasized that the provincial rights movement was at base a constitutional movement. Its advocates realized that the thing they wanted—whether prestige, power, protection for certain cultural values, or economic independence—depended on expressly constitutional reforms. The explanations summarized above generally recognize the constitutional character of the provincial rights movement, but they tend to discount the importance of the constitutional debates and controversies themselves. However different these explanations may be in detail, they seem to agree that the constitutional issues and arguments are ultimately less important in explaining the success of the provincial rights movement than are broader political, institutional, sociological and economic variables.

Actually, this paradox is simply resolved. The explanations summarized above represent a common attempt to overcome what has been perceived as the too narrowly legalistic account of Canadian constitutional development that prevailed in the 1930s, 1940s and 1950s. Most studies of constitutional development written in those decades tended to concentrate on the interpretations of the BNA Act rendered by the Judicial Committee of the Privy Council (JCPC), the court of final resort for Canadian constitutional cases until 1949. This concentration on the legal aspects of Canadian constitutional development grew out of the political controversies of the 1930s. Many of the most prominent constitutional scholars of the era—F. R. Scott, W. P. M. Kennedy, V. C. MacDonald, Bora Laskin and others[31]—were extremely critical of the way in which the Judicial Committee had eviscerated the Canadian version of the New Deal. Their study of earlier judicial cases simply underscored their conclusions by demonstrating that the JCPC's provincialist tilt was longstanding. Through a consistently restrictive interpretation of the powers available to the federal government, the JCPC had derailed the political development of Canada by undermining Ottawa's capacity to build the nation.

The difficulty is that this legal account of the provincialization of the constitution distorted and oversimplified a more complex historical phenomenon. As Alan Cairns has put it: "It is impossible to believe that a few elderly men in London deciding two or three constitutional cases a year precipitated, sustained and caused the development of Canada in a federalist direction that the country would otherwise not have taken."[32] Precisely because the legalistic interpretation of the provincial rights movement oversold itself so badly, recent scholarly studies have gone out of their way to find alternative explanations.

Taken as a whole, there is no doubt that recent scholarship has done much to produce a rich and textured explanation of *how* the constitutional reformers of the late nineteenth century succeeded in thwarting Macdonald's grand design. It has been rather less successful, however, at understanding just *what* it was that the provincial rights movement set out to reform. Stated baldly, most students of the provincial rights movement assume that the meaning and function of the legal reforms to which the provincial autonomists addressed themselves are self-evident and unproblematic. They assume, more specifically, that Macdonald and the provincial autonomists were competing to control the definition of the newly-formed federal constitution in a way that would suit their interests; that the dispute between them can be understood in terms of winners and losers; and that, therefore, the interesting part of the story is the dynamic of the dispute itself and its resolution. That, indeed, is why almost every study begins, implicitly or explicitly, from the assumption that the most important and interesting question is why the provincial autonomists were as successful as they were.

To be sure, an explanation of the success of the provincial rights movement is one part of the constitutional story in late-nineteenth-century Canada, but it is by no means the whole story. For beyond acting in concrete and clearly defined cases to secure provincial autonomy, the provincial rights movement used the law as a way of giving order to their political life and of connecting the new and sometimes perplexing forms of federalism to older, deeply cherished cultural symbols and values. In this sense, the constitutional quarrels in which the autonomists became engaged were not simply attempts to advance certain political, social and economic interests; they were also episodes in an ongoing process of cultural self-definition. The anthropologist Clifford Geertz has led the way in suggesting that, at a deeper level, law exists as one of the ways in which people make sense of the world around them and make it coherent. As Geertz puts it, "law" provides a way by which we sort out and give meaning to social "facts."[33] Far from being a mere instrument of political interest, Geertz tells us, law serves both to reflect and embody distinctive "visions of community." Law "contributes to a definition of a style of social existence."[34]

Geertz's approach, which has been applied by scholars to other constitutional questions,[35] would seem to be particularly helpful here because it would connect the struggle for provincial rights to the larger process of defining a distinctive Canadian political culture. From this perspective, the story of the provincial rights movement is important because it reveals a generation of politicians, not otherwise given to articulating their deepest beliefs, wrestling consciously with

what was a novel political and legal form—a federal constitution. Interpreted in this way, the provincial autonomists were not simply interested in thwarting Macdonald, advancing their political interest, or what have you. They were also concerned to show how a federal constitution could be fit squarely and comfortably into a larger, pre-existing, and deeply rooted cultural system. The provincial autonomists believed the Macdonald constitution was unacceptable because it was incoherent in Geertz's sense of the term: that is, it could not be reconciled with the constitutive symbols that anchored their self-identity. Provincial autonomy, understood as part of this larger cultural system, simply fit better with the deepest ideals of late-nineteenth-century liberalism: with the desideratum of self-government or political liberty, with what the autonomists considered to be the lessons of successful imperialism, with their deep faith in the rule of law, and with their abiding devotion to the protection of individual freedom. In coming to terms with federalism, the provincial autonomists were also coming to terms with themselves.

Actually, one of the virtues of this Geertzian approach is that it does, indeed, help to explain the success of the provincial rights movement in its struggles against Macdonald. All else aside, the provincial autonomists were extraordinarily skillful in deploying such powerful cultural symbols as self-government, home rule and the rule of law, and they used arguments derived from their common cultural experience to great advantage. Beyond this, the Geertzian approach helps to explain the dynamics of the political struggles of the late nineteenth century. It helps to explain why political parties, acting as cultural lightning rods, played such a central role in the provincial rights saga. Still more importantly, this method makes it easier to understand why such apparently mundane "facts" as widening streams, enforcing insurance contracts and conferring honorary titles became controversial "law." Seen through Geertz's lens, these "facts" assumed extraordinary importance because they provided opportunities for "imagining the real."[36]

I must emphasize again, however, that my principal interest here is not to provide yet another account of why the provincial autonomists succeeded as well as they did. Rather, my reason for viewing the claims of provincial autonomy as a form of cultural expression is to uncover the deeper structure of the autonomists' worldview. What I attempt to do in this study is to recapture a piece of what Geertz would call "local knowledge" by showing how the autonomists in their own quite distinctive way made sense of the constitution in light of prevailing cultural norms; how their understanding of provincial

autonomy in turn shaped their larger "vision of community"; and how this whole process led them to incorporate and project the tensions and contradictions of the larger cultural system they inhabited into their constitutional doctrine. In this sense, provincial autonomy was a legal and political ideology; it provided a way to express a set of basic and comprehensive political preferences.

I am attracted to Geertz's method as well, speaking now as a political scientist and a student of comparative federalism, because it provides a way to understand the continuities and discontinuities between the world of the provincial rights movement and our own; to understand a longstanding constitutional dispute across "historical phases."[37] Neither cultural ideals nor the facts through which these ideals are endowed with meaning are static. Both "law" and "fact" are constantly being revised in light of each other. Alan Cairns, among others, has pointed out that the current constitutional debate in Canada is, in its own way, a struggle for the control and definition of key cultural symbols which involves "the potential restructuring of the psyche of Canadians."[38] One premise that informs this work is that it will be easier to understand this cultural and symbolic dimension of the current debate when it is placed in the larger historical context from which it is derived. Another is that the study of comparative constitutional federalism can be enriched by an analysis of federalism that is less obsessed with legal cases and more sensitive to the cultural context of constitutionalism.[39]

III

This study does not pretend to provide a comprehensive account of the activities of the provincial rights movement in Canada. At the same time, I have attempted to select the story's time, setting and cast of characters with a view to producing a representative account. A word about what is covered and what is not covered in this book is, therefore, in order.

First, I have chosen to concentrate my attention on the period between the promulgation of the BNA Act in 1867 and 1900 because the provincial rights movement was particularly active and particularly effective in the formative period of Canadian federal development. John A. Macdonald once likened the constitution to a mold that takes time to set. The metaphor is instructive because it conveys a sense both of the contingency of constitution-making and the deep conservatism of constitutional practice in a mature legal system.

Macdonald's opponents exploited both the contingency and the conservatism brilliantly. For while the meaning of the constitution was still in flux, the provincial autonomists developed a constitutional vision that directly challenged, and in many ways ultimately supplanted, Macdonald's centralist orthodoxy. Yet once settled, the idea of provincial rights became a fundamental and almost unchallengeable constitutional principle to which later generations could turn for legitimacy. The provincial rights movement thus had a formative, and apparently permanent, influence on the meaning of Canada's federal constitution. It is through them and during the period covered by this study that the idea of provincial rights, now ritually declaimed, was injected into the Canadian political tradition.

In those early years the call for provincial rights was heard throughout the country. Quebec politicians were responsible for some of the earliest and clearest statements of the meaning of constitutional federalism, and Quebec's Premier Honoré Mercier helped to organize the first coordinated provincial attack on Macdonald's interpretation of the constitution. A powerful movement to secede from Confederation took hold in Nova Scotia in 1867-68, and a second repeal movement asserted itself there in the 1880s. Yet as Christopher Armstrong has noted, the "heart and soul"[40] of the provincial rights movement in those years was in Ontario. It was in Ontario that the decisive constitutional challenges to Macdonald were launched, and it was there that the larger argument for provincial autonomy was spelled out with the greatest clarity. Ontario has long since ceded its leadership as the defender of provincial rights to other provinces—notably Quebec and the western provinces. In the early years, however, Ontario led the movement for autonomy. It will, accordingly, be the focus of this study.

As a number of scholars have pointed out, the controversy over provincial autonomy quickly became a partisan issue in Canada, led by elites but beamed toward a broader audience. Within Ontario, the provincialist position was associated most closely with the Reform (or Liberal) party, whose leaders used every medium at their disposal—parliamentary speeches, the Reform press, political picnics and election campaigns among them—to cement the connection between Reformism and provincial autonomy. Precisely because the doctrine of provincial autonomy was transformed in this process into a party slogan in which the leadership gave the cues, there was relatively little serious division of opinion within Reform ranks about the meaning and implications of the term. For that reason, I have not attempted to provide a complete roster of provincial rights opinion. Moreover, I

have not assumed that those who were responsible for leading the provincial rights movement from one constitutional skirmish to another were necessarily the best exponents of the autonomist position. Thus, some of the characters who will appear in what follows —for instance Oliver Mowat (premier of Ontario from 1872 to 1896) and Edward Blake (who served briefly as premier before becoming Liberal MP and national leader of the party)—will be familiar to many readers; others, especially David Mills (longtime MP, editorialist and lecturer) will be less so. Whether more or less familiar, I have chosen them because they developed the ideology of provincial autonomy most clearly, most comprehensively and most thoughtfully; they are the pillars on which the study rests.

Finally, I have made no attempt to reconstruct every dispute or rehearse every case that bore on the question of provincial autonomy. Given the way in which almost every political question was perceived to be colored by federalism, comprehensiveness would have required nothing short of a complete history of Ontario, if not Canada. Rather, I have concentrated on a number of pivotal episodes, taking my cue as to the actual selection of topics from the words and actions of the provincial autonomists themselves. Thus chapter 2 discusses the meaning of the Confederation settlement by focusing on the ambiguity of the term sovereignty as it was understood in pre-Confederation Canada. Chapter 3 concerns the provincial lieutenant-governorship and its relation to provincial autonomy and self-government. Chapter 4 explores the way in which the autonomists looked to imperial home rule as a model for their understanding of federalism. Chapter 5 discusses the autonomists' deep, liberal faith in the rule of law, and the way in which they used the principle of the rule of law to discredit the veto power of disallowance. And chapter 6 discusses the dispute over the division of powers in light of the autonomists' beliefs about law and the preservation of individual liberty.