


The OXFORD COURSE in
**CANADIAN
HISTORY** 

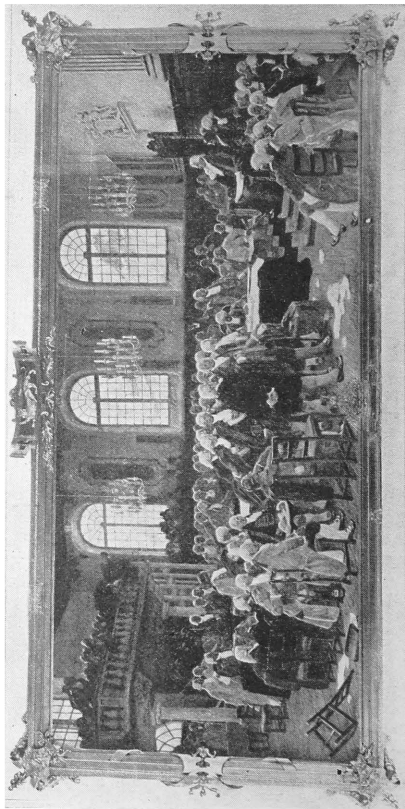


POLITICAL
DEVELOPMENT
TO 1849



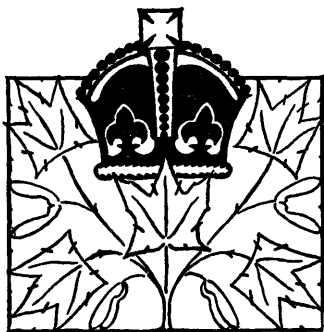
THE MAKERS OF CANADA
LIMITED
TORONTO

The OXFORD COURSE *in*
CANADIAN HISTORY
BOOK 5



THE FIRST PARLIAMENT OF QUEBEC, 1792
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CANADIAN HISTORY



POLITICAL
DEVELOPMENT
TO 1849

TORONTO
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THE OXFORD COURSE IN CANADIAN HISTORY

POLITICAL DEVELOPMENT UP TO CONFEDERATION

INTRODUCTION

FOR many readers of this course the study of political institutions may be wholly a new field of exploration. In dealing with the achievements of navigators and discoverers, the reader has before him a visual image of concrete happenings, of storms and icebergs, of furious rivers and precipitous passes, of perils undergone and hardships endured. There is a romantic sweep about the explorations of a Mackenzie, in the visible tokens of triumph in the driving of the last spike at Craigellachie, that carries the reader along and holds his attention.

But the slow patient work of the legislator and reformer, the achievement of liberty "slowly broadening down from precedent to precedent," is like the building of a coral-reef, it is the product

POLITICAL DEVELOPMENT

of countless generations of social evolution, it rests upon the foundations of dead social forms and customs which once lived but have served their purpose and have been submerged by the rising tide of new life. Hence the study of this process, as it appears in the history of Canada, demands a greater effort from the reader than the previous aspects of his study will have done.

Everyone who reads a daily paper is familiar with the main features of the political landscape, so to speak. He knows that the City Hall of Toronto or Montreal is the centre of many activities which directly concern his welfare. He knows that the city is, or seems to be, governed by a Mayor, a Board of Control, and a City Council. He knows that a force of city police exists to protect his property and his life, as well as to put chalk-marks on lingering motor cars. He also knows that the affairs of his own particular province are administered by a Provincial government consisting of a parliament, a party system, and a civil service. He also knows that there is a central administration for the whole Dominion, in which the pattern of his

THE VALUE OF KNOWLEDGE

Provincial government is repeated on a larger scale. Finally he knows that in the offing there is the Imperial parliament, a sort of far-off divine event, and the majestic figure-head of the British constitution, who is from time to time the centre of enthusiastic displays of a sentiment called loyalty.

These things he knows, and knows too that he is a unit in this political fabric, with an interest in it represented on the one hand by that mysterious power called the vote, and on the other by the regularly recurring and always irritating request for a contribution to the business in the form of taxes.

But how few people know why things have so shaped themselves, why a trial by jury takes the place of the fringesquad, why there is an upper house in the Dominion parliament and none in the Ontario parliament, why the government of Canada plays a game of see-saw in which at irregular intervals one party replaces the other in the enjoyment of the power and emoluments of office.

Nevertheless it is by the knowledge of these things that a man becomes truly free. Free from the perils of ignorance,

POLITICAL DEVELOPMENT

from the mists of prejudice, from the swaying winds of popular journalism. It is only as an intelligent understanding of the history of the political institutions of Canada is acquired that the reader can become in a real sense a citizen of this great and growing country.

While such a study demands effort it also repays it, and in the process the student will find a fascination in becoming familiar with the great personalities of the political arena. The figures of Dorchester, McKenzie, Papineau, Sydenham, Elgin, Howe, Tupper, Sir John A. Macdonald, Cartier, Brown, Sir Wilfrid Laurier, only to mention names at random, stand out like great forest trees, as landmarks in the history of the nation's progress. The study, to which this serves as an introduction, can, of course, only offer an outline, the salient points in a long and intricate development, but in it the reader will find guidance in his reading and will gain a sense of meaning and purpose in the vast mass of legislation, and custom which makes up the Constitution of Canada.

He will also find that a knowledge of Canadian political development leads

FROM 1763-1867

inevitably to a study of British political institutions from which the Canadian political system has been a natural outgrowth. The bibliography at the end will give him guidance for further study in this important field.

THE CENTURY 1763-1867

The century which elapsed between the Battle of the Plains of Abraham and the Confederation of the British North American provinces, witnessed profound changes in the old world and the new. In Europe, the French Revolution, the Napoleonic struggles and the subsequent emergence of modern nationalism and democratic movements, completely altered the social and political fabric. In America the revolt of the Thirteen Colonies deprived England of the richest portion of her vast colonial Empire, and led directly to the downfall of the system upon which it had been erected. In the remaining British provinces very slowly and very painfully were evolved the ideas from which a new and greater Empire was to spring. Within a hundred years after the Declaration of Independence these scattered colonies had achieved not

POLITICAL DEVELOPMENT

only the right to preside over their own destinies, but had created a united dominion, the first great self-governing state under the British flag.

RESPONSIBLE GOVERNMENT DEFINED

The chief significance of the political development in British North America up to 1867, lies in the struggle for responsible government. By responsible government we mean those parliamentary institutions through which the executive and legislative powers are brought into harmony with the will of the people. This is the principle which underlies the modern Canadian cabinet. At the head of the political structure is the governor-general whose position is analogous to that of the King in England. He performs no executive act except through responsible ministers. Together these ministers constitute the cabinet, which under the leadership of the premier is responsible to the elected representatives of the people in the House of Commons. The House of Commons initiates and controls all financial expenditure, and a cabinet which can no longer command a majority there must resign, because it

RESPONSIBLE GOVERNMENT

could secure no money to carry on public business. Responsible government thus roughly defined, means that the will of the people must ultimately prevail and that the executive can hold office only so long as it is in accordance with that will.

The extent, however, to which responsible government becomes effective, depends entirely upon the range of public affairs which fall within the competence of the executive. Certain departments of government, as for example, foreign affairs or constitutional amendment, may be left wholly or in part to the control of the British parliament. At the present time the division of authority is based entirely upon consideration of convenience and sentiment, and Canada's right to define this relationship is clearly recognized by Great Britain. The modern British Empire has become a community of self-governing nations. The transition from the old colonial system is the story of responsible government.

THE OLD COLONIAL SYSTEM

Under the old colonial system the colonies were held to exist solely for the commercial aggrandizement of the mother

POLITICAL DEVELOPMENT

country. Their trade was carefully developed and strictly regulated, but their internal affairs were left to their own management. From the first settlement of Englishmen in America during the reign of James I., each colony was empowered to elect an assembly to discuss with the governor the raising of taxes, and the promulgation of new laws; but the governor, like the king, carried on the duties of the executive with the assistance of officials, who did not necessarily resign on an adverse vote in the legislature. This was *representative* but not *responsible* government though it was quite in accord with the contemporary idea of the British constitution. During the first half of the 18th century the British constitution underwent profound revision, as the principles of ministerial responsibility and cabinet government gradually became established. At the same time the conception of colonial administration remained unaltered. Self government in the colonies continued to mean *representative* government, and the perpetuation of two irreconcilable elements, an irresponsible executive and a popularly elected branch of the legis-

THE COLONIAL SYSTEM

lature. British statesmen of the period did not even consider the possibility of colonial officials becoming accountable primarily to the representatives of the people. A colonial executive was in the eyes of the Secretary-of-State for the colonies an imperial officer, whose first responsibility was to the governor and through him to the home government. It would be a mistake, however, to imagine that the colonists did not enjoy a large measure of political liberty. They regulated their domestic affairs with ever increasing vigilance. Their assemblies were perennially at loggerheads with the governors who were dependent upon them for votes of supply. While the colonists did not dispute the right and the obligation of the mother country to regulate their foreign relations, and to defend them from attack, they became increasingly jealous of trade restrictions, and any invasion of the sphere of internal government. It was when Great Britain sought to define too closely the imperial authority by asserting her right to tax the colonies for their own defence, that rebellion ensued. The outstanding cause of the American Revo-

POLITICAL DEVELOPMENT

lution was the failure of the British statesmen to reconcile colonial self-government with imperial control. Even in the humiliation of defeat after 1783 they became convinced that the large measure of liberty accorded the colonies, had been the chief reason for the revolt and determined to govern future colonial relationships in the light of this lesson. The reconciliation of the apparently irreconcilable, is the problem with which modern Canadian history opens, and to which responsible government became the answer.

Before studying the immediate circumstances which culminated in the achievement of responsible government in British North America after 1840, it will be necessary to examine the political background and the particular problems, first in Canada, and secondly in Nova Scotia. It will then be possible to show how these problems converged upon one central issue, responsible government.

POLITICAL BACKGROUND IN CANADA

1. *The Cession.* In 1763, France, by the Treaty of Paris, which terminated the Seven Years' War ceded Canada to

POLITICAL BACKGROUND

Great Britain, thereby adding to the British Empire an area far greater than that of all its previous American possessions. The new province had been acquired, not because it was regarded as a rich prize, but because the British ministers felt under the necessity of relieving the thirteen colonies from the menace of French aggression. The conquest, however, while it removed a thorn in the side of New England, created a perplexing problem for the mother country. The task of governing a province, populated by another European race, alien in religion, language and law, was not simplified by the knowledge that a similar, though vastly smaller experiment in Nova Scotia had closed with the tragic expulsion of the Acadians. (See Book IX. on the Maritimes.) In attempting the task the ministers of the Crown in England, and the military governors in Canada, were guided by two objectives. (1) To wean the Canadians from their old allegiance and (2) to give the country a British character, by attracting English-speaking settlers, and establishing British institutions. As events proved, the hope of an early influx of English

POLITICAL DEVELOPMENT

settlers was not realized, with the result that the British governors, Murray, Dorchester and Haldimand, (see *The Makers of Canada*, Vol. IV.), concentrated upon winning the confidence of the French population, both from motives of goodwill, and expediency. This policy of conciliation was confirmed by the Quebec Act of 1774.

2. *The Quebec Act.* The Quebec Act speaking broadly, may be said to have established existing privileges rather than to have created new ones. It accorded a full degree of tolerance to the Roman Catholic religion, and gave recognition to the ancient means of collecting dues. French civil law was retained while the criminal code of England, which had already become popular with the French, was continued in use. An assembly for which the numerically insignificant English-speaking minority had been clamouring, was for the present withheld, authority being vested in a governor, assisted by an executive and legislative council. The Quebec Act had far reaching consequences. Essentially a concession to privilege it gained for the British connection the lasting affection

THE QUEBEC ACT

of seigniors and clergy. How valuable this became may be gauged from their loyalty during the American Revolution, and again during the troubled periods of 1812, and the rebellions of 1837. At the same time that the act secured this powerful influence against the forces of disintegration, it provided the foundation for the future racial solidarity of the French Canadians.

On the other hand, by placing the ancient privileges of French Canada under the protection of a statute it made the process of change much harder, and undoubtedly served as a barrier to any gradual assimilation which might have taken place between the French and English if the former had not been securely entrenched behind the Quebec Act.

During the period between Guy Carleton's administration of the Quebec Act from 1774 to 1777, and his return as Lord Dorchester in 1786, events had occurred which made the government of Canada under the Quebec Act an impossible task. The American Revolution had taken place, an influx of 30,000 loyalist refugees had settled in what was now to be known as Upper Canada, and

POLITICAL DEVELOPMENT

Dorchester quickly recognized and reported to the British government that administration of two regions so different in tradition and temper as Upper and Lower Canada, under the machinery of the Quebec Act had proved a failure. A stoutly loyalist constitutional British community could not be governed under an arrangement which had been provided wholly to conciliate French prejudices and to preserve to them as much as possible of the paternalist form of government with which they had been so long familiar.

The next stage of the evolution of Canadian political institutions is marked by the passing of the Constitutional Act of 1791 and the coming of representative government throughout the British North American colonies. This stage occupies the period from 1791 to the coming of Lord Durham in 1838.

REPRESENTATIVE GOVERNMENT IN CANADA FROM 1791-1838

The main characteristics of this stage of Canadian evolution were:

- (a) The gradual reversal of the balance of population by which Upper Can-

THE CONSTITUTIONAL ACT

- ada from being the comparatively insignificant appendage of Quebec became the predominant partner.
- (b) The growth of the central problem of Canadian history, the conflict between self-government, the essential idea of British parliamentary institutions, and imperial control.
 - (c) The increasing divergence between Upper and Lower Canada.

Events ran a somewhat different course in the two Canadas and each must be considered separately. There were also difficult external problems. The question of the boundary between the new United States and British North America was still unsettled, and the new states had not yet abandoned the hope of acquiring by force or by seduction the provinces which had remained faithful to the British flag. Hence the lot of a Canadian governor in these troubled years was not a happy one.

The Constitutional Act of 1791 did not actually divide the two Canadas but assumed that the division would be made, and provided a constitution for each.

In Lower Canada, or Quebec, the administration was to consist of the gover-

POLITICAL DEVELOPMENT

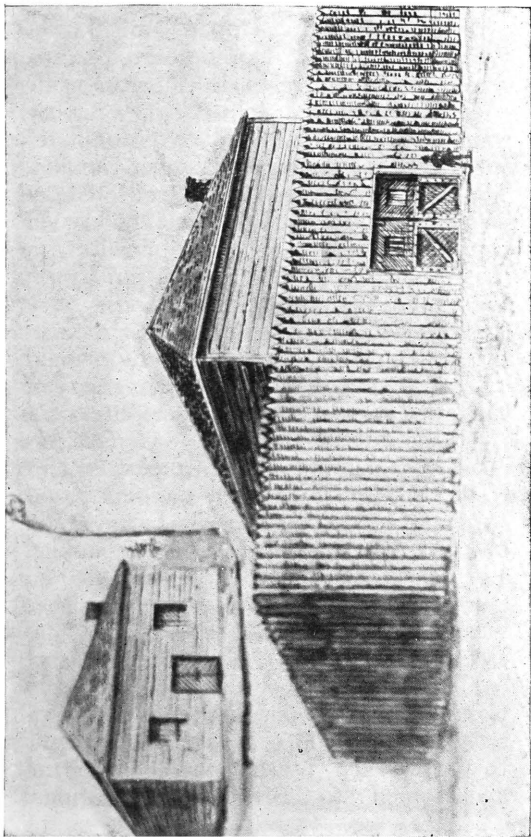
nor or lieutenant-governor, a legislative council of at least fifteen, summoned under the great seal of the province, and an elective assembly with a minimum of fifty members.

For Upper Canada, under the governor was a legislative council with a minimum of seven members and an elective house of at least sixteen. A broad franchise basis was established. The governor had the power of assenting to, rejecting, or reserving any bill. Even after his assent a bill might be disallowed by the British government within two years.

The provisions of the Quebec Act relating to the privileges of the Roman Catholic Church were confirmed, but a new provision relating to the protestant clergy was introduced which was to be the source of acute controversy for many years. This was the allotment of certain crown lands as "clergy reserves" for the support and endowment of a protestant clergy. It was over the interpretation of the phrase "a protestant clergy" that the dispute was to arise.

Other provisions related to land-tenure and commerce.

In 1791, by an order in council, Quebec



THE FIRST JAIL IN YORK, (Toronto)
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POLITICAL DEVELOPMENT

was divided into Upper and Lower Canada. Lord Dorchester became governor-in-chief of both Canadas, while Alured Clarke and John Graves Simcoe were created lieutenant-governors, respectively, of Lower and Upper Canada. The whole arrangement reflected a belief in the mind of Pitt that the French Canadians would see the benefits of a British constitution at work in Upper Canada and gladly embrace it.

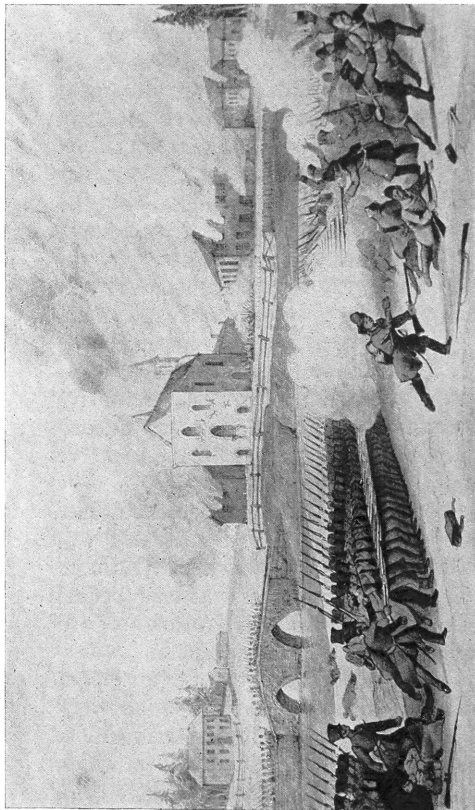
Professor Kennedy's acute criticism of the curious situation thus created should be read by every student of this phase of Canada's constitutional development. It is to be found in pages 85-87 of his indispensable book, "The Constitution of Canada."

(a) *Lower Canada.* The course of events between 1791 and 1838 is troubled and confused, fifty years of conflict and alarms. During this period, in a large measure owing to Governor Craig's ineptitude, the lines of racial cleavage were definitely established, and the French-Canadian party consolidated. The constitution handed to Lower Canada was to be worked by a people quite unaccustomed to British constitutional

PAPINEAU'S REBELLION

customs. The French-Canadian majority in the assembly soon learned, however, to apply the ancient British weapon of the power of the purse. The controversy turned with wearisome reiteration upon the demand of the crown for a permanent civil list, countered by the demand of the house for an elective legislative council, and for a degree of responsible government which the home authorities were quite unwilling to consider. A succession of governors alternately trying methods of conciliation and repression finally led to the breakdown of representative government as embodied in the Constitutional Act of 1791 and to the abortive rebellion of Papineau in 1837. The constitution was suspended and absolute power amounting to a dictatorship was placed in the hands of Lord Durham. After summarizing the course of events in Upper Canada we shall return to Lord Durham and his famous report.

(b) *Upper Canada.* While in Upper Canada the same period closed in a very similar deadlock and the bitterness of a frustrated rebellion, the factors which led up to this failure differed widely from those in Lower Canada.



THE REBELLION OF 1887
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SIMCOE'S AIMS

The period began with the appointment of John Graves Simcoe, a most worthy soldier and gentleman, as first lieutenant-governor.

Simcoe was a whole-hearted worshipper of the British constitution, and dreamed of establishing in the wilds of Ontario an exact replica of the British order of things, a sacro-sanct constitution, an aristocracy, an Anglican Church by law established, and all the pleasant gradations of nicely ordered society with which he had been familiar in England. But an influx of refugees from the seceding states to the south, an influx consisting not merely of loyalists but of a crowd of sturdy middle-class folks imbued with democratic sentiments and belonging to all sorts of new, and to Simcoe, disreputable sects, very soon created difficulties and wrecked Simcoe's dreams. The main bone of contention was the vicious principle of "clergy reserves" which not only created a sense of injustice in the minds of the non-conforming clergy and their followers, but created a serious barrier to the natural progress of settlement and gave ample opportunity to land-speculators.

The opposition soon took the form of an

POLITICAL DEVELOPMENT

attack upon the system of government and its supporters, the Family Compact, which stood in the way of reform of these abuses.

A succession of leaders, some of whose characters were little better than those of contemporary agitators in England, Weekes, Thorpe, Gourlay, Willcocks, the Bidwells, and finally William Lyon Mackenzie, succeeded in reducing the machinery of government to a similar state of impotence such as we have seen was reached in Lower Canada. The disastrous appointment of Francis Bond Head as lieutenant-governor and his fatuous policy brought about the final débâcle of armed rebellion under the leadership of Mackenzie.

The time had come for drastic re-organization and with the advent of Lord Durham and his famous report a new step was taken, another milestone towards the consummation of confederation.

LORD DURHAM'S REPORT

The two problems which Lord Durham had to face are exceedingly well summarized by Professor Kennedy in his

DURHAM'S REPORT

book "The Constitution of Canada;" "The problem in Lower Canada was how to lower every barrier for the advantage of race consciousness. The problem in Upper Canada was how to divide political authority so that 'the advice of the house of assembly' might be an efficient fact as well as a constitutional theory," (Kennedy, op. cit., page 162).

The fundamental cause of the failure of representative government in the Canadas "was the fact that the crown had no constitutional responsibility to the houses of assembly, and yet there could be no legislation without them," (ib. p. 164).

Lord Durham's own summary of the situation is as follows:

"Representative government coupled with an irresponsible executive—constant collision between the branches of the government; the same abuse of the powers of the representative bodies owing to the anomaly of their position, aided by the want of good municipal institutions, and the same constant interference of the imperial administration in matters which should be left wholly to the provincial governments." As Professor Kennedy remarks, the system tended to

POLITICAL DEVELOPMENT

turn the lieutenant-governors into intendants. Before Durham had examined the actual conditions in Canada he had conceived the idea of a federation of all the British North American colonies, but a closer acquaintance with the facts made clear to him that the time was not ripe for such a scheme, and he finally decided to recommend only the re-union of Upper and Lower Canada under responsible government. Lord Durham saw clearly the racial problem of Lower Canada and believed that it could be solved by bringing the French-Canadians under the ascendancy of an English population and British institutions and slowly anglicizing them.

Time shewed the soundness of his views on responsible government and the futility of his belief in the possibility of anglicizing the French-Canadians.

The central features of Durham's recommendations were:

- (a) A legislative union of the two Canadas looking to the ultimate admission of the other colonies when they should apply for it.
- (b) The granting of cabinet government as it was carried on in Great



LOUIS JOSEPH PAPINEAU;
LEADER OF THE REVOLT IN THE CANADAS.



MAP OF UPPER AND LOWER CANADA.

Extract from "The York Herald"
PAPINEAU, the Leader of the Insurgents, for some years has occupied the most conspicuous position in Canadian affairs, is still in the prime of life, being about forty-two years of age. He is a Quaker by profession, and possesses a business education. Mr. PAPINEAU is well informed, is a good orator, and being intensely convinced of the justice and wisdom of his cause, and that

Great Britain is determined to oppress its Colony, all the energies of his mind have been devoted since 1825 to an uncompromising hostility to every measure of the provincial administration. His integrity of principle is great.

PAPINEAU is rewarded by the British Government as a Rebel and Traitor, for whose Head they offer £1,000.

LONDON:
HODSON, FLEET STREET, BERGER, STEEL, FURNESS,
and all Booksellers.
PRICE ONE PENNY.

THE PAPINEAU POSTER
Official notice of reward offered for Papineau

POLITICAL DEVELOPMENT

Britain, i.e., on the principle of ministerial responsibility.

(c) The establishment of sound municipal institutions.

The most serious objection to his proposals lay in the fact that the home government had already declared the principle of cabinet government inapplicable to the colonies. Even so advanced a liberal as Lord John Russell had said that ministerial responsibility was incompatible with the relations between the mother country and the colony.

Durham's solution lay in the division between colonial and imperial affairs. He saw clearly that it involved the independence of Canada in principle, and while a clear cut division between colonial and imperial affairs proved impossible, yet it was along these lines that the ultimate solution was reached.

Durham was not allowed to carry out his own recommendation. He was recalled even before his report was complete, and it was left to Lord Sydenham to make the first experiment with the new machinery. From 1838 to 1847, under Sydenham, Bagot and Metcalfe, the new united Canada passed through a

ELGIN'S POLICY

series of oscillations from the paternalism of Sydenham to an almost fully responsible government under Bagot, and back again to the old colonial system under Metcalfe. With the arrival of Elgin and under the enlightened guidance of Earl Grey, a genuine attempt was made to govern the unequally yoked Canadas with a very large measure of true responsible government. Grey's famous dispatch to Sir John Harvey, the lieutenant-governor of Nova Scotia, laid down the main lines of the new colonial policy which Lord Elgin followed unswervingly during the seven eventful years of his governorship. It is too long to quote here but the reader will find it given on pages 251-252 of Professor Kennedy's "Constitution of Canada."

While this fruitful period laid sound foundations for the future development of Canada it was nevertheless destined to give way to a final period of gloom and apparently complete failure, thus preparing the way for the triumphant emergence of Confederation and the solution of what seemed a hopeless situation. The circumstances immediately preceding Confederation are dealt with in the

POLITICAL DEVELOPMENT

next study, "The Fathers of Confederation," so that we shall conclude this brief survey of the political development of Canada prior to Confederation with some discussion of the reasons for the failure of responsible government in the re-united Canadas.

THE FAILURE OF RESPONSIBLE GOVERNMENT IN THE CANADAS

Under this title the reader will find in Chapter XVII. of Professor Kennedy's book an admirably lucid analysis of the reasons why responsible government, when tried in perfect good faith by the home authorities, broke down in the Canadas. The life of Elgin in Vol. VI. of *The Makers of Canada*, with those of Baldwin, Lafontaine and Cartier, Vol. V., will also provide abundant material illustrating this last troubled stage of political development.

It should be clearly grasped that although the external aspect of these last ten years is one of failure, yet underneath there is a solid foundation of political advancement. The central principle of cabinet responsibility was settled once

FAILURE IN THE CANADAS

and for all. It was clearly established that since the Canadian people bore the whole burden of financial responsibility for the administration of the country, the imperial government could not be allowed to dictate to the ministers responsible to the Canadian people in what way the necessary revenue should be raised. In the same way it was recognized that the problem of defence was one which the Canadians had the right to work out for themselves. The governor-general gradually came to fill a position analogous to that occupied by the crown in the British system of parliamentary government, and ceased to attend cabinet meetings.

The causes of failure arose from the problem originally bequeathed by the Quebec Act. Lord Durham's faith that the French-Canadians would be absorbed by the British community proved wholly unfounded. French-Canadianism became crystallized into a permanent consciousness of race-antagonism. The artificial union could only be carried on by the expedient of a dual government. There was a prime minister for Canada East and Canada West, respectively, and the dualism was carried down through

POLITICAL DEVELOPMENT

the more important cabinet offices. The anomaly was constantly arising by which measures repugnant to Canada East were carried by a majority drawn from Canada West, and vice-versa. Here arose the attempt, doomed to failure, to work the creaking machinery by means of the "double majority." The difficulty was intensified by the fact that Canada West, i.e., Ontario, had outstripped Canada East in population and general progress, and was crying out against the injustice of being governed by the minority in Canada East which enjoyed equal representation under the Canada Act.

George Brown's pet remedy of "representation by population" would only have reversed the situation and made it worse.

Hence the deadlock was finally reached which led men to look in the direction of federal experiments for a solution. The story of the solution is told in the next study, "The Fathers of Confederation."

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