

POLITICAL SYSTEMS

based on the established supremacy overseas of the king, the parliament, and the courts of the mother country. The colonial governors were thus obliged to serve two masters: the king, whose veto power over legislation in the British Parliament was rapidly disappearing but who would not relinquish it in the colonies, and the colonial legislatures through which the American colonists sought to control their local affairs. There seemed to be no way to provide meaningful autonomy for the colonies and the American Revolutionary War broke out which resulted in separation from Britain.

In the American Constitution of 1789, the president and congress were set at arm's length, each with autonomous powers—a relation which mirrored that which currently existed between George III and the British Parliament. However a very important exception was the requirement that the executive head of state be elected for a fixed term of office.

Changing Powers, Changing Centuries

In 1832, in Britain the Great Reform Act widely extended the franchise among the people. The prime ministers gradually assumed control of the selection of cabinet ministers and the agenda. It was established that the king was bound to take the advice of the ministers and that they in turn had to agree on that advice. Also in the decade beginning with 1830, it was established that the prime minister and his cabinet had to maintain the confidence of a majority in the House of Commons, or resign and call a new election.

Thus compared to 1776, real executive power in Britain had been depersonalized. The monarch, now Queen Victoria, was largely the nominal head of state, bound to take the advice of her ministers in the conduct of the governments at home and overseas.

Meanwhile in North America...

The same constitutional conflicts surfaced again in the remaining British North American colonies. Again the British Government could see no way out. Again there was rebellion—in both Upper and Lower Canada in 1837.

Both rebel leaders, Mackenzie in Upper Canada and Papineau in Lower Canada, advocated the American constitutional system as the solution. The rebellion failed, but the British Government did send Lord Durham as Governor General to make a report and propose remedies.

A Canadian, Robert Baldwin, one of the leaders of a "Reform" party in Upper Canada, knew of the modern cabinet system in Britain. His widely supported party wished to retain the British connection and preferred the British constitution. He persuaded Lord Durham that each of the colonies should be granted the right to self-government. And such was the principal recommendation of the Durham Report to the British Government in 1839.

However there was a vital proviso. In recommending that the colonial governor should govern under the advice of a cabinet dependent on an elected assembly, Durham reserved foreign relations, foreign trade, and the constitution of the colonial system of government itself. On these matters only would the governor continue to take his instructions from Britain. Thus he could respond to two masters on different subjects. It is worth repeating that

Our Common Heritage: Two Different Systems of Government

Canada and the United States owe a great debt to Britain for their constitutions and legal systems, both of which are drawn from centuries of British constitutional and legal development.

Although there are many common features, there is one very important critical difference. In the United States, there is a firm separation of powers between the executive and legislative branches. In Canada, there is a union of powers, exercised by the federal ministry and the House of Commons under the cabinet system. The same contrast obtains between the American states and the Canadian provinces. How did this come about?

Changing Attitudes, Changing Times

In Britain 200 years ago, while the legislative supremacy of Parliament had been established, the executive head of the nation was still the king, at that time George III. In the main, he personally controlled colonial administration and policy, foreign relations, and the armed forces. He had his chosen cabinet of ministers to advise him, including a prime minister. However this was not the modern cabinet system we know today.

The king set the agenda and was free to accept or reject ministerial advice. Parliament controlled the purse strings and could insist on legislation. The king often had to bargain with the House of Commons to obtain the legislation and revenue he wanted. However many seats were controlled by the king or his ministers, or by powerful royal partisans.

Thus in 1776 in Britain there was a separation of the executive and legislative powers of the state. At that time British voters exerted considerable influence on the House of Commons and the king, but American colonial citizens did not fare so well. These colonies had become too mature and complex for long distance control and their citizens wanted to manage their domestic affairs through their legislatures, as did their British cousins.

Yet the colonial system prevailed,

