

American system advocated by Mackenzie and Papineau

Let us now look at relevant developments in British North America after the American Revolution. At first, Britain continued to govern the remaining British North American colonies along the old lines, though there were some minor administrative reforms. To make a long story short, we find that the same constitutional conflicts that had preceded the Revolution in the American colonies surfaced again in the British North American colonies during the 1820s and 1830s. The governor, appointed and instructed from London, held the whole of the executive power in a colony, along with his appointed executive council. This oligarchy came into conflict in the old way with the elected assembly of the colony. As in 1776, the British Government could see no way out of this dilemma — the colonial governor still could not serve two masters. The result was rebellion in both Upper and Lower Canada in 1837. It is noteworthy that the rebel leaders, Mackenzie in Upper Canada and Papineau in Lower Canada, both advocated the American constitutional system as the solution. The rebellions quickly failed, but they did prompt the British Government to send Lord Durham to British North America as Governor General, instructing him to report on the situation and propose remedies.

### Modern Cabinet

As explained earlier, this was the very decade in which the final steps rounding out the full modern cabinet system were taken in British itself. Moreover, while full collective cabinet responsibility thus became established in practice, there was little public explanation or articulation of what had happened. Indeed, many in Britain still considered cabinet accountability to the House of Commons to be what it was in the time of Pitt or even the earlier years of George III. But Lord Durham, being a radical and a reformer in British politics, was well aware of the new position. Another person who knew of it was Robert Baldwin, one of the leaders of the "Reform" party in Upper Canada. His reform group, which had wide support, preferred the British to the American Constitution and wished loyally to maintain the British connection. Robert Baldwin made representations to Durham, at the latter's invitation, urging that the grant of cabinet or responsible government to each of the colonies for all purposes of internal self-government was the great and necessary measure to be taken. No doubt this influenced Lord Durham greatly; in any event, this was the principal recommenda-

tion of the Durham Report to the British Government in 1839.

Speaking of the nature of cabinet or responsible government in the Report, Lord Durham said:

"In England, this principle has so long been considered an indisputable and essential part of our constitution, that it has really hardly ever been found necessary to inquire into the means by which its observance is enforced. When a ministry ceases to command a majority in Parliament on great questions of policy, its doom is immediately sealed; and it would appear to us as strange to attempt, for any time, to carry on a government by means of ministers perpetually in a minority, as it would be to pass laws with a majority of votes against them. The ancient constitutional remedies, by impeachment and a stoppage of supplies, have never, since the reign of William III, been brought into operation for the purpose of removing a ministry. They have never been called for, because in fact, it has been the habit of ministers rather to anticipate the occurrence of an absolutely hostile vote, and to retire, when supported only by a bare and uncertain majority."

Professor A. H. Birch points out that, even for Britain itself, this is the first authoritative statement in a great public document of the nature of the collective responsibility of the Cabinet. Commenting on the passage just quoted from Durham's Report, Professor Birch says:

"This statement is worth quoting in full because it was the first clear assertion of what later became known as the convention of collective responsibility. In giving the impression that this was a long-established principle of the British constitution, Durham (who was a Radical) was rather misleading. In fact it had been established only during the previous three or four decades, and securely and irrevocably established only since the Reform Act of 1832."

So the Canadian reformers and Durham himself were indeed very much up-to-date respecting the state of the British constitution on its home ground. The newness of this development at the time in Britain explains some of the misunderstandings of the period, in both Britain and Canada, about what "responsible government" did mean.

Finally, there was a vital refinement to Durham's proposal. In recommending that the colonial governor should govern under the advice of a cabinet dependent on the elected assembly of his colony, Durham reserved certain subjects, those of persist-