

of a legislative body, we must bear in mind that the colonial judiciary had been called upon at times to declare the invalidity of a colonial statute not within the legislative powers of the colonial charter of government, and that the colonial authorities generally recognized the Privy Council of England as the supreme court of the colonies in conflicts between laws. As Dr. Stevens very clearly shows, when the States were constituted, the courts continued the same process of judicially interpreting the new constitutions when they were believed to be at variance with statutes. The national government "created an element of superior law, in conflict with which not only state but national enactments of lesser authority are nullified." It has been generally believed that the supreme court was unique as respects its powers to interpret the constitution; but it is forcibly said that "all the judiciary does in England, in the several states, and in the courts of the United States, is to uphold the authority of what it decides to be the higher law, as against all lesser laws or judicial decisions." Consequently what has been so often assumed to be a novel feature of the American national court "is really only another adaptation from the past and rests upon colonial and English antecedents."

Although the convention of 1787 felt that the people would not consent to be governed by a king, yet so thoroughly impregnated were the delegates with the spirit and ideas of English institutions, that they actually reproduced a semblance of an English sovereign, and gave to a president many of the attributes of his executive authority. The president was in many respects the colonial governor adapted to new political conditions. The president of today "governs, in the main, with powers exercised before him by the colonial governors as the king's deputies, precisely because they were the very powers exercised at home by the king himself." Mr. Bryce comes to the same conclusion and praises the statesmen of the convention because "like the solid, practical men they were they did not try to construct the president out of their own brains, but 'made an enlarged copy of the state governor, or to put the same thing differently, a reduced and improved copy of the English king.'"

Although the president has the benefit of the advice and assistance of eight heads of departments, there is no cabinet in the English or Canadian sense, and while the term is used in the United States with reference to the chief officers of state at Washington, it has no place in the fundamental law or in the statutes of the country. Congress, with the aid of its numerous committees, exercises the sovereign power of legislation within the limits of the constitution, and is the real governing body of the Union; and the president himself, to whom the constitution gives the right of vetoing its enactments, is powerless in the face of a two-thirds majority in the Senate and House of Representatives. In each state of the union the governor is an active officer, having considerable responsibilities which afford him constant occupation. In none of the states is there an executive council bearing an exact analogy to the ministers of the provinces, but there are simply so many departmental officers, who have not in any state even those responsibilities which have in the course of time devolved on the so-called Cabinet at Washington in consequence of having be-

come an advisory or consultative board, summoned at the mere will or motion of the president, but without the power of controlling legislation in Congress. "Under our system of state law," says a careful critic of institutions, Mr. Woodrow Wilson, "the executive officers of state government are neither the servants of the legislature, as in Switzerland, nor the responsible guides of the legislature, as in England, nor the real controlling authority in the execution of the laws, as under our federal system. The executive of a state has an important representative place, as a type of the state's legal unity, but it cannot be said to have any place or function of guiding power." On the other hand the privy council and executive councils govern a Dominion of seven provinces and immense territories, stretching from the Atlantic to the Pacific, and covering an area of territory hardly inferior to that of the Federal Republic. They exercise functions of large responsibility, political as well as administrative, as the chosen committees of the different legislatures of the Union, in whose hands rests the fate of ministries, and, practically, of the government of the whole country. These committees perform all the duties which devolve, in the United States, on the president, the governors, and the respective departmental officers; and, in addition, initiate and direct all important legislation, or in other words practically perform the functions of the chairmen of congressional committees.

The great source of the strength of the institutions of the United States lies in the fact that they have worked out their government in accordance with certain principles, which are essentially English in their origin, and have been naturally developed since their foundation as colonial settlements, and what weaknesses their system shows have chiefly arisen from new methods, and from the rigidity of their constitutional rules of law, which separate too closely the executive and the legislative branches of government. Like their neighbours, the Canadian people have based their system on English principles, but they have at the same time been able to keep pace with the unwritten constitution of England, to adapt it to their own political conditions, and bring the executive and legislative authorities so as to assist and harmonize with one another. Each country has its "cabinet council," but the one is essentially different from the other in its character and functions. The word "cabinet," the historical student will remember, was first used in the days of the Stuarts as one of derision and obloquy. It was frequently called "junta" or "cabal" and during the days of conflict between the Commons and the King it was regarded with great disfavour by the Parliament of England. Its unpopularity arose from the fact that it did not consist of men in whom Parliament had confidence, and its proceedings were conducted with such secrecy that it was impossible to decide upon whom to fix responsibility for any obnoxious measure. When the constitution of England was brought back to its original principles, and harmony was restored between the Crown and Parliament, the cabinet became no longer a term of reproach, but a position therein was regarded as the highest honour in the country, and was associated with the efficient administration of public affairs, since it meant a body of men responsible to parliament for every act of government. The old executive councils of Canada were

obnoxious to the people for the same reason that the councils of the Stuarts and even of George III., with the exception of the régime of the two Pitts, became unpopular. Not only do we in Canada, in accordance with our desire to perpetuate the names of English institutions, use the name "Cabinet," which was applied to an institution that gradually grew out of the old privy council of England, but we have even incorporated in our fundamental law the older name of "privy council," which itself sprung from the original "permanent" or "continual" council of the Norman kings. Following English precedent, the Canadian cabinet or ministry is formed out of the privy councillors, chosen under the law by the Governor-General, and when they retire from office, they still retain the purely honorary distinction. In the United States the use of the term "Cabinet" has none of the significance it has with us, and if it can be compared at all to any English institutions it might be to the old cabinets who acknowledged responsibility to the king, and were only so many heads of department in the king's government. As a matter of fact, the comparison would be closer if we said that the administration resembles the cabinets of the old French kings, or to quote Mr. Bryce, "the group of ministers who surround the Czar or the Sultan, or who executed the bidding of a Roman Emperor like Constantine or Justinian." Such ministers, like the old executive councils of Canada, "are severally responsible to their master, and are severally called in to counsel him, but they have not necessarily any relations with one another, nor any duty or collective action." Not only is the administration constructed on the principle of responsibility to the president alone, in this respect the English king in old, irresponsible days, but the legislative department is itself "constructed after the English model as it existed a century ago," and a general system of government is established, lacking in that unity and that elasticity which are essential to its effective working. On the other hand, the Canadian Cabinet is the cabinet of the English system of this century, and is formed so as to work in harmony with the legislative department, which is a copy, so far as possible, of the English legislature of these modern times.

In the United States when the constitution was formed, parliamentary government, as it is now understood in England, and her self-governing dependencies, was not understood in its complete significance; and this is not strange when we consider that in those days the king appeared all-powerful. He did not merely reign, but governed, and his councillors were so many advisers, too ready to obey his wishes. Ministerial responsibility to parliament was still, relatively speaking, an experiment in constitutional government, its leading principles having been first outlined in the days of William the Third. The framers of the American constitution saw only two prominent powers, the king and parliament, and their object was to impose a system of checks and balances which would restrain the authority of each and prevent any one dominating in the nation. It is true in the course of time this system has become in a measure theoretical, since congress has practically established a supremacy, though the powerful influence exercised by a president at times can be seen from the great number of vetoes successfully given by Mr. Cleveland. In Canada, responsible and parlia-