FEDERAL INFLUENCES ON THE CANADIAN CABINET.

The preamble of the British North America Act recites the desire of the provinces of Canada, Nova Scotia, and New Brunswick to be federally united, into one dominion, under the Crown of the United Kingdom and Ireland, with a constitution similar in principle to that of the United Kingdom. Although points of resemblance to the constitution of the United Kingdom are evident in various sections of the British North America Act, there can be no doubt that the primary intention of the Quebec and London Conferences was to reproduce within the framework of federal institutions in Canada the cabinet system of Great Britain, this being recognized as the chief distinguishing feature of the English constitution, "the true centre of gravity" as Gladstone one described it "for the working system of the state." The establishment of the Dominion of Canada marked the first attempt to apply the principles of the cabinet system within the structure of a federal constitution.[1]

In other federal constitutions, notably that of the United States, it had been the practice to provide for the composition of the executive, its powers, and its relations in the explicit terms of the written instrument. In the Canadian federation the statutory provisions for the executive branch of government were meagre and indefinite. In the express terms of the British North America Act, the executive government and authority of and over Canada was declared to continue and be vested in the Queen, aided and advised by a council without limit of numbers to be styled the Queen's Privy Council for Canada, the members of which were to be chosen by the Governor-General, acting on behalf and in the name of the Queen, and to be removed by him when occasion demanded. The powers to be exercised by the Governor-General in the name of the Queen, either individually, or by and with the advice and consent of the Privy Council or any part thereof, were declared to be those that had formerly belonged to the governors of the provinces individually, or by and with the advice and consent of their executive councils or any part thereof, so far as these powers were capable of being exercised after the union of the provinces in relation to the government

[1] In 1852 an Act was passed establishing Provincial Councils and a General Assembly for New Zealand (15 & 16 Vict., ch. 72). Evidently this constitution was studied with care by leading members of the Quebec and London Conferences, but it provided for a legislative union rather than a federal union although provision was made for a considerable measure of local self-government in the six provinces. See A. P. Newton, *Federal and Unified Constitutions*, p. 146 *et seq.*

of Canada.[2] Except in those clauses which provided specifically for action by the Governor-General in Council, there was nothing in the written constitution of Canada requiring the Governor-General to act in accordance with the advice of the Privy Council for Canada; there was no limitation upon his freedom of choice in selecting and removing his ministers, or of determining by his own will or under instructions from the Imperial Government the number of members who should form and compose the Queen's Privy Council for Canada.

The generality and vagueness of these provisions concerning the composition, powers, and relations of the Canadian executive, which to most foreign observers is so perplexing, is readily understood by those who are familiar with the growth of the cabinet system in Great Britain, and the circumstances surrounding the extension of responsible government to the provinces of British North America. Under the principles of responsible government as understood at this time, executive authority which still belonged nominally in the field of internal affairs to the Governor-General as representative of the Queen, had passed substantially in practice to his ministers by whose advice he administered the government of the Dominion. Moreover, as Todd has well expressed it:

> The introduction of "responsible government" into the British colonies was an event which it required no legislative process to effect or ratify. . . . It scarcely necessitated any alteration in the governor's "commission and instructions"; although, as the new system has matured, these organic instruments of colonial government have been occasionally modified, so as to bring them into more perfect accord with the existing polity. The only definite change in the royal instructions upon the introduction of responsible government into a colony was to provide that henceforth the members of the Executive Council should be appointed with the understanding that, upon their ceasing to retain the confidence of the popular branch of the legislature, they must resign office. But, in connection with this virtual transfer of power from an irresponsible to a responsible executive, the imperial government surrendered the exercise of local patronage; and appointments to places of power and profit in the colony passed from the hands of the governor and the home authorities into those of the Executive Council or "responsible" ministry.[3]

In other words, to borrow a suggestive phrase of Lord Dufferin's the introduction of responsible government began a process which in due course converted the Queen's Privy Council for Canada into the Cabinet of the Prime Minister of Canada.[4]

[2] B.N.A. Act, 1867, sec. 12.
[3] Alpheus Todd, *Parliamentary Government in the British Colonies*, p. 28.
[4] "I am rather inclined to favour than otherwise, the tendency which is taking place of the Governor-General's Council to transmute itself into the Prime Minister's cabinet." (Dufferin) *Macdonald Papers*, Governor-Generals' Correspondence, vol. 5, Dufferin, 1872-73.

Now the application to the Canadian federation of the cabinet system of Great Britain, not by any rigid provisions of a written constitution (if such a method had been practicable) but by the progressive extension to the Dominion of the conventions of cabinet government, had important consequences for the development of the Canadian executive. Accustomed to the genial climate of convention, unhampered by the narrow enclosures of a written constitution, the cabinet system when transplanted to Canadian soil soon adapted itself to the novel circumstances of a federal state and assumed characteristics which were essentially the product of its new environment. These special characteristics of the cabinet system in Canada pertain both to the structure and operation of the executive branch of government. They represent not so much a deviation from or abandonment of the conventions of cabinet government in Great Britain as a supplement or appendix of convention, so to speak, which owes its origin largely to the federal form of the Canadian constitution but has been influenced also in its growth by the economic geography of the Dominion and the racial and religious distribution of its population.

Since the cabinet system both in Great Britain and in Canada has been permitted to develop in the atmosphere of convention, and inasmuch as constitutional precedents have a tendency to harden into recognized conventions, a peculiar significance attaches to the composition of the first cabinet of the new Dominion which came into being on July 1st, 1867. So far as the British North America Act gave direction regarding the composition of the executive, it would appear that the Governor-General had an unfettered discretion to summon whom he would as members of the Queen's Privy Council for Canada. In fact, however, as noted previously, the recognized principles of responsible government required him to select only the person whom he believed capable of forming a stable administration enjoying the confidence of the representative branch of the legislature. The person so selected as Prime Minister must then in turn recommend to the Governor-General the names of the colleagues whom he desired to act with him as the constitutional advisers of the Crown. When these were sworn of the Privy Council and assigned to their several portfolios the new government was in a position to discharge its functions as the Queen's Privy Council for Canada. This transfer of responsibility for selecting members of the Privy Council from the Governor-General to the leader of a political party involved as a matter of course that the members of the Council would be nominated by the Prime Minister with due regard to the

effect of their appointment on the fortunes of his party. It meant inevitably that political considerations would exercise a powerful influence on the composition of the Council, and it followed naturally that a Prime Minister of a federal state, wishing to consolidate his followers into a strong national party must take care to avoid the imputation that one province or section of the population was given a disproportionate influence on the formulation of policy. Out of such circumstances there developed in due course the conventions which have given a representative or federal character to the Canadian cabinet.[5]

The considerations of policy which impelled Sir John Macdonald to give recognition to the principle of representation in the cabinet were strengthened at the formation of the Dominion by the fact that the proposals for union of the provinces were carried to a successful conclusion by a coalition government in which Liberals in Upper Canada under George Brown has joined with Conservatives to advance the cause of federation. The first government of the Dominion was of necessity a coalition government with fair representation accorded to the Liberals of Upper Canada. The problem of satisfying the various claims to cabinet representation without making that body so large as to be unwieldy was perhaps never so difficult as in 1867. After much negotiation behind the scenes, the cabinet as finally constituted was composed of thirteen members, five from Ontario including three coalition Liberals, four from Quebec, and two each from Nova Scotia and New Brunswick. Sir Joseph Pope, in his biography of Macdonald, remarks that when the list was finally determined two prominent names were missing, Dr. Tupper from Nova Scotia and D'Arcy McGee from Quebec:

> The reason is to be found in the attitude of Mr. Cartier, who insisted upon having three French-Canadian representatives in the Cabinet. The Protestant minority of Lower Canada had also to be represented. Mr. McGee sat for a Lower Canadian constituency and was an Irish Roman Catholic. To have brought in three French-Canadian representatives and Mr. McGee would have raised the number of Quebec's ministers to five. Messrs. Howland and McDougall insisted on Ontario having one more Cabinet Minister than Quebec. To satisfy all parties would mean that Ontario and Quebec should have eleven members between them. To this Macdonald would by no means consent, on the ground that when the other provinces

[5] This development had been predicted by Hon. Christopher Dunkin when the Quebec Resolutions were under discussion in the Parliament of the United Provinces in 1865.

"I think I may defy them to shew that the Cabinet can be formed on any other principle than that of a representation of the several provinces in that Cabinet." Confederation Debates, p. 497.

"Your federal problem will have to be worked out around the table of the Executive Council." *Ibid.*, p. 513.

were proportionately represented, the cabinet would be so large as to be unworkable. There seemed to be no solution of the difficulty, and Mr. Macdonald was on the point of advising the Governor-General to send for Mr. Brown when Dr. Tupper, with rare disinterestedness, placed his portfolio at the disposal of his leader, at the same time suggesting to him a means of overcoming the difficulty. We may imagine him saying "as leader of the Confederate party of Nova Scotia, I am entitled to office. In order to remove the difficulty which has arisen, I am willing to forego my claims, and in foregoing them to satisfy the legitimate aspirations of the Irish-Catholic body. In my place appoint an Irish-Catholic from Nova Scotia, viz., Hon. Edward Kenny."[6]

From this authoritative statement of Macdonald's problem and the manner of its solution, it is evident that in the selection of the first Dominion Cabinet there was a distinct recognition of three forms of representation, the representation of provinces, of the French-Canadian population of Quebec, and of two religious minorities—the Protestant minority in Quebec, and the Irish Catholics who formed a considerable element of the population in each province of the Dominion but more especially in the province of Ontario.

Thus, from the moment the Dominion came into being, precedents were established which gave to the Canadian cabinet a representative character which distinguished it from its prototype in Great Britain. These precedents, of course, were not of a binding character. To some extent they were the result of special circumstances arising out of the negotiations which preceded union. Nevertheless, concessions to claims for representation once given could not easily be withdrawn. Whatever the party character of the government might be, it was obliged to appeal to the same electorate for support, and must expect to be confronted by similar demands for cabinet representation on the basis of province, race, and religion. The path broken by Macdonald was not likely to be forsaken by his successors. The representative principle as applied to the first Dominion cabinet was confirmed and strengthened by the endorsation which it received from Alexander Mackenzie when he formed the first Liberal administration in 1873. In every important respect he adhered to the former precedents. The representation from New Brunswick and Nova Scotia remained as before, with two members from each province in the cabinet. Prince Edward Island, which had just been admitted into the Dominion, was given representation through the appointment of Hon. David Laird as Minister of the Interior. The representation from Ontario and Quebec was slightly altered, six members being appointed from Ontario and three originally from Quebec. This change was not, however, a substantial one,

[6] Joseph Pope, *Sir John A. Macdonald*, vol. 1, p. 330.

as two of the Ontario members were without portfolios, and within a few months the representation of Quebec was raised to four by the appointment of Hon. Lucius Huntington as President of the Council.[7] As in Macdonald's first cabinet, there were three representatives of the French-Canadian population, one representative of the Protestant English-speaking minority in Quebec, and one from the Irish-Catholics. With the selection of the first Liberal administration under Mackenzie, the principle of representation as applied to the Canadian cabinet was well set in the mould of practice in which it would harden eventually into the form of an accepted constitutional usage. Mackenzie, indeed, in an address to his constituents delivered shortly after the personnel of his cabinet was announced, gave utterance to sentiments which appeared to carry the principle of representation even beyond the lengths to which Macdonald had committed himself. He said:

> I may, with feelings of pride, refer to the standing of the members of the cabinet. . . . In the matter of religious faith, there are five Catholics, three members of the Church of England, three Presbyterians, two Methodists, one Congregationalist and one Baptist.[8]

The representative character of the cabinet as established by Macdonald and confirmed by Mackenzie could be maintained without serious disadvantage while the Dominion consisted only of the four original provinces. A new problem arose with the admission of Manitoba, British Columbia, and Prince Edward Island between 1870 and 1873. A strict adherence to the principle of provincial representation would have brought in its train an unnecessary expansion of the cabinet. As a compromise arrangement the representation of the new western provinces was secured indirectly for a time by one or more of the Ontario and Quebec ministers seeking election in a western constituency. Thus in the Conservative administration formed after the general elections of 1872, Sir George Cartier sat for the constituency of Provencher, Manitoba, while holding the office of Minister of Militia and Defence.[9] In the same government Sir Francis Hincks, holding the office of Minister of

[7] O. D. Skelton, *Life and Letters of Sir Wilfrid Laurier*, vol. 1, p. 159.

[8] Buckingham and Ross, *Life of the Hon. Alexander Mackenzie*, p. 354. It was not long before Mackenzie came to deplore the growing tendency to seek public appointments on the basis of religious affiliations. Answering a criticism of the composition of the Council of the North-West Territories, he made this comment: "I have no sympathy personally with the feeling that appears to be growing up in the country that every available place should be filled in accordance with the religious views of certain portions of our population." *Mackenzie Papers*, vol. 1, p. 121.

[9] N. O. Coté, *Political Appointments, Parliaments, and the Judicial Bench of Canada*, 1867-1896, p. 201.

Finance for a short time, was the elected member for Vancouver, and might be regarded therefore as a cabinet representative from British Columbia.[10] When Alexander Mackenzie succeeded to office in 1873, the lack of parliamentary supporters prevented him from granting cabinet representation to the western provinces, but as already indicated he gave representation in the cabinet to Prince Edward Island which had just been admitted to the Dominion. In the general elections of 1878 which returned the Conservatives to power, Sir John Macdonald was elected for Marquette, a Manitoba constituency, but subsequently vacated this seat upon his acceptance of office as Prime Minister and Minister of the Interior, and was elected in the same year as the member for Victoria, British Columbia.[11] He continued to represent this seat for the ensuing four years, and provided in this manner for the representation of Western Canada in the Dominion cabinet.

This arrangement for indirect representation of the entire western territory was a temporary expedient. It sufficed while the new provinces were sparsely settled and without a developed political consciousness. But the time soon arrived when it was no longer possible to satisfy Western Canada with half a loaf of representation. A demand arose for a Western Canadian in the cabinet who had participated in the stirring life and aspirations of the new empire and could interpret and advance its interests at Ottawa. This movement evidently assumed important proportions shortly after the completion of the Canadian Pacific Railway. In the Macdonald papers there is preserved a copy of a significant resolution passed by the Workingmen's Conservative Association at a convention held in Winnipeg on May Day, 1888. This resolution stated that

> In view of an early re-organization of the cabinet, and taking into consideration the importance of Manitoba and the North-West in the Dominion, it is the opinion of this association representing the workingmen of Winnipeg that representation in the Dominion cabinet should be granted with as little delay as possible to the territory west of the Ontario Provincial line.[12]

This formal expression of opinion, unimportant perhaps in itself, was at least a straw which showed how the political winds were blowing on the prairies. The pressure for a Western Canadian in the cabinet increased to such a degree that on August 3rd, 1888, Macdonald recommended the appointment of Hon. Edgar Dewdney as Minister of the Interior, a portfolio which was intimately related to the development of the North-West through its control of land

[10] Coté, *op. cit.*, p. 201.
[11] Coté, *op. cit.*, p. 105.
[12] *Macdonald Papers*, Cabinet Office, 1873-1891, p. 563.

policy and immigration. Mr. Dewdney sat in the House of Commons for Assiniboia, one of the new constituencies created in the North-West Territories, but in his explanation of ministerial changes at the ensuing session, Macdonald emphasized that the appointment was made in deference to the agitation for a representative of Western Canada as a whole in the cabinet. He said:

> It was of very great importance that there should be a selection made from those portions of the Dominion lying west of the four old Provinces. A feeling of dissatisfaction had arisen, and was being rather loudly expressed that the four old provinces should control the whole of this vast continent, and there was no representative man from west of the western boundary of Ontario . . . the fact of his (Mr. Dewdney) being a British Columbian, the fact of his having had a long experience in Manitoba and British Columbia, and the fact of his coming here as a representative of a North-West constituency, went far to allay that dissatisfaction and to introduce the practice of having all portions of this vast Dominion represented in the government of the country.[13]

This movement may be regarded as an intermediate stage in the movement towards direct provincial representation in the cabinet. The practice of considering Western Canada as a single unit for cabinet representation was continued during the remaining years of the Macdonald regime. Dewdney was succeeded in 1892 as Minister of the Interior by Hon. Thomas Mayne Daly of Manitoba who sat for the constituency of Selkirk and retained his office during the several Conservative administrations which were formed between Macdonald's death and the defeat of the party in the elections of 1896. A concession to the principle of provincial as distinguished from territorial representation may be noted however in the appointment of E. G. Prior of British Columba as Controller of Inland Revenue with a seat in the cabinet during the brief administrations of Mackenzie-Bowell and Tupper in 1895-6.[14] During this short period both Manitoba and British Columbia had representatives in the Dominion cabinet.

When Laurier formed his first government in 1896, the task of building a cabinet had not lessened with the years. He was compelled, as Dr. Skelton has said:

> To hold the balance fairly between his own parliamentary followers and the men in the provincial administrations, between the old Liberal war-horses and the eleventh-hour converts, between past service and future capacity, between debating skill and executive power, between province and province, and between section and section, alloting Quebec its English-speaking Protestant minister and Ontario its Irish-Catholic minister.[15]

[13] *House of Commons Debates, (Canada)* 1889, Vol. I, p. 27. See also Coté, *op. cit.*, p. 274.
[14] Coté, *op. cit.*, p. 438.
[15] Skelton, *op. cit.*, Vol. II, p. 6.

With such a problem before him, it was not surprising that he reverted to Macdonald's policy of satisfying the demands of the West by giving the entire territory a single representative in the cabinet. The person chosen for this role was Hon. Clifford Sifton, who was elected for the constituency of Brandon in Manitoba and appointed to the portfolio of Minister of the Interior.[16] Through his vigorous immigration policies which soon changed the face of the prairies, causing towns and cities to rise like magic in the wilderness, Sifton may be held responsible in large measure for the early breakdown of the principle of territorial as distinct from provincial cabinet representation in Western Canada. In the first ten years of the Laurier regime, the centre of population shifted steadily westward, while Manitoba through the progress of agriculture and British Columbia through the discovery of gold, assumed a position of importance relative to the older provinces which gave added weight to their demands for direct representation in the cabinet. At the same time, the population of the vast stretch of territory between the western boundary of Manitoba and the Rockies grew swiftly and surely. In 1905 two new provinces arose in Western Canada, making four organized provinces in the west as compared with five in the eastern portion of the Dominion. Inevitably these shifts of wealth and population must have their effect on representation in the Dominion cabinet. But the problem of meeting the new situation without disturbing the balance of representation in the older provinces was not easily solved. Laurier attempted a compromise by giving the West two cabinet posts instead of one, thus preserving for a time the principle of territorial representation in Western Canada.[17]

From 1911 onwards, the movement for separate provincial representation in the Dominion cabinet made rapid progress, aided partly by the accidental circumstances of the war, and in part by its growing acceptance as a principle of federal equity. There were some interesting departures from previous practice in the first Borden administration, the most important of which was an increase in the number of ministers alloted to Western Canada and a reduction in the number chosen from the Maritime Provinces. In selecting the western ministers, however, Mr. Borden did not accept outright the

[16] John W. Dafoe, *Clifford Sifton in Relation to His Times*, p. 96. "In his public address, upon taking office, Mr. Sifton said that in accepting office he had stipulated for a free hand in policies designed to settle the west." *Ibid.*, p. 105.

[17] Hon. Frank Oliver from Alberta was selected to succeed Sifton as Minister of the Interior in 1905. In the following year, Hon. William Templeman entered the cabinet from British Columbia as Minister of Inland Revenue. See Dafoe, *op. cit.*, pp. 301 and s46.

principle of provincial representation, being handicapped in relation to Alberta and Saskatchewan by a lack of supporters from these provinces.[18] His original cabinet included one minister from Alberta and British Columbia and two from Manitoba, later increased to three when Mr. Meighen was brought into the cabinet in 1915. Thus the total number of ministers from Western Canada was raised to five, although Saskatchewan remained without representation. The first clear-cut recognition of direct provincial representation in the cabinet for the western provinces came with the formation of the Union Government in 1917. Then for the first time since the creation of the new provinces, a Dominion cabinet contained representatives from British Columbia, Alberta, Saskatchewan, and Manitoba.[19] In the administration of Mr. Meighen in 1920-21, the principle of provincial representation was maintained substantially despite the defection of the Liberal members of the Union Government.[20] When in 1921 the new Liberal administration was formed by Mr. Mackenzie King the difficulty of making the cabinet representative of the provinces was greatly aggravated by the unexpected strength of the new Progressive Party in Western Canada and more especially in Alberta and Manitoba. There was indeed in the peculiar distribution of the Liberal members a strong temptation to ignore the claims of the provinces for distinct representation.[21] Mr. King, however, was so strongly impressed with the desirability of having a cabinet representative of all the provinces that he secured the election of Hon. Charles Stewart, former Premier of Alberta, through a Quebec constituency with the avowed object of giving Alberta a representative in the cabinet.[22] Shortly afterwards, Mani-

[18] The Conservative representation from the western provinces was as follows: Manitoba, 8; Saskatchewan, 1; Alberta, 1; British Columbia, 8. Canadian Parliamentary Guide, 1932, p. 321.

[19] British Columbia, Hon. Martin Burrell; Alberta, Hon. A. L. Sifton, Hon. Sir James Lougheed; Saskatchewan, Hon. J. A. Calder; Manitoba, Hon. Arthur Meighen, Hon. T. A. Crerar. Canadian Parliamentary Guide, 1918, p. 19.

[20] Alberta, Hon. Sir James Lougheed; Saskatchewan, Hon. J. A. Calder; British Columbia, Hon. S. F. Tolmie; Manitoba, Rt. Hon. Arthur Meighen. Sir Robert Borden in 1917 and Mr. Meighen in 1920 found it impossible to give Quebec its accustomed quota of representatives in the cabinet. Canadian Parliamentary Guide, 1921, p. 19.

[21] The Liberal representation from the Western Provinces was as follows: British Columbia, 3; Alberta, 0; Saskatchewan, 1; Manitoba, 2. Canadian Parliamentary Guide, 1932, p. 321.

[22] "To my mind there can be nothing more unfortunate for this Dominion than that any part of it should have cause to feel that it is not to have its voice in the councils of the country. I feel that the whole purpose of Confederation itself would be menaced if any great body of opinion, any considerable section of this Dominion of Canada should have reason to think that it was without due representation in the shaping of national policies and in the carrying on of our public affairs." (Mr. Mackenzie King) *House of Commons Debates, Canada* 1922, vol. I, pp. 48.

toba was given representation through the appointment of Mr. McMurray as Solicitor-General. Thus from 1923 to the close of his first administration, the cabinet of Mackenzie King contained ministers from every province in the Dominion. Except for an interlude in the representation of Prince Edward Island, the same principle was adopted in the formation of succeeding Liberal ministries up to the general elections of 1930.[23] Finally, in the composition of the present administration under Mr. Bennett the principle of provincial cabinet representation received its endorsation at the hands of the Conservative party. It seems reasonable to conclude, therefore, that where lack of supporters does not make it impossible of adoption, a Canadian Prime Minister in forming his cabinet will be compelled to recognize the principle of provincial representation as an established convention of the constitution.

Before leaving the discussion of the convention of provincial representation in the cabinet, it should be noted that the appointment of ministers from each of the western provinces from 1917 onwards could only have been accomplished by an unnecessary increase in the personnel of the cabinet or by a reduction of the representatives of the other provinces. While the number of cabinet ministers has actually increased in the period of western expansion, the real solution of the problem was found in the reduction of the original representation from the Maritime Provinces. If it should be asked why the reduction should have been applied there and not in Ontario and Quebec, the answer is that Macdonald's dilemma still remained. Three French-Canadian members from Quebec was the irreducible minimum with an additional member from the Protestant minority in that province. Ontario might be satisfied with an equal number but could hardly be given less. Before the recognition of the claims of Western Canada it had usually been alloted five seats in the cabinet as against the irreducible four given to Quebec. It is evident, therefore, that the line of least resistance lay in the Maritime Provinces, the policy of reduction in this portion of the Dominion being recommended also by the diminution of the parliamentary representation of these provinces with each succeeding redistribution after 1891.[24]

[23] Hon. John Sinclair was a member of the cabinet without portfolio from 1921-1925. Prince Edward Island was without representation in the cabinet from 1925-1930. On June 17, 1930, Hon. Cyrus MacMillan was appointed Minister of Fisheries prior to the general election of that year.

[24] Prior to the redistribution following the census of 1891, the Maritime Provinces were represented in the House of Commons by a total of 45 members apportioned as follows: Nova Scotia, 21; New Brunswick, 16; P.E.I., 6. By 1925 the total representation had fallen to 29 members apportioned as follows: Nova Scotia, 14; New Brunswick, 11; P.E.I., 4. The Canada Year Book, 1931, pp. 97-99.

Prince Edward Island, the least populous of the seaboard provinces, was the one which had the greatest difficulty in maintaining its position. The history of cabinet representation in this province affords an admirable illustration of the influences which in due course have lead to the adoption of the doctrine discussed above. On its admission to the Dominion in 1873, Hon. David Laird was appointed Minister of the Interior, an office which he continued to hold until the closing months of 1876..[25] During the remaining two years of the Mackenzie government, the Island was without a seat in the cabinet, but with the accession of the Macdonald administration in 1878, it again received representation through the appointment of Hon. Jas. C. Pope as Minister of Marine and Fisheries. When Mr. Pope was incapacitated by illness during the general elections of 1882, Sir John Macdonald took special pains to assure his supporters in Prince Edward Island that he proposed to continue the representation of that province in the cabinet in the probable event of Mr. Pope's removal from public life. In a letter addressed to the Conservative members of Parliament from the Island on the eve of the election, he referred to the serious character of the illness of his colleague, and went on to say:

> If he is not returned to Parliament, his seat in the Ministry is thereby vacated as a Cabinet Minister must have a seat in Parliament. Whenever it is so opened, it is my intention to give Prince Edward Island a representative in the cabinet. You are at liberty to mention that you have written assurance to that effect from me, although this letter must not be published. I have no doubt the people of Prince Edward Island will accept your assurance that you have such a guarantee.[26]

Despite the definite character of this assurance, Macdonald found justification for departing from his undertaking. Mr. Pope died in 1882, but there was no representative of Prince Edward Island in the cabinet from this date until 1895. In the meanwhile, however, the claims of the province were not allowed to lapse, but were asserted with vigour by both Conservative and Liberal members in Parliament. Evidently the question troubled the conscience of Sir John from time to time, and especially as the general elections of 1887 drew near. Among his papers there is an interesting letter, written by one of his supporters from the Island, which so clearly expresses the grounds for provincial representation that it deserves to be quoted at length. This letter, written in answer to an enquiry from Sir John himself, is in the following terms:

[25] Coté, *op. cit.*, p. 78.
[26] *Macdonald Letter Book*, vol. 21, p. 722.

You wished me to write and give you my views as to giving this province a seat in the cabinet. I think the principle of making appointments to the ministry for talent is correct. At the same time, I am of opinion that if you wish to have a well-governed and contented confederation, you must, as far as possible, have a representative in the cabinet from each province. It is clear that one Minister can look after the interests of the largest province, he being accessible to members from every district, and it is equally clear that a province having no representative at the council board must suffer, as its interests will necessarily be overlooked; this is more especially the case in a distant and isolated province, such as ours. Ontario has six members in the Government, while the Island, from its peculiar situation greatly in need of a representative, has none. This our people look upon as an injustice . . . it is my belief that, at the next election, the seat in the cabinet will determine whether we return six to support the party or none.[27]

Despite this warning, Macdonald still failed to give Prince Edward Island a representative in the cabinet, feeling no doubt that prospect of a loss of six seats was at least no more disagreeable than the task of immediate cabinet reconstruction. The appointment of Hon. David Ferguson as Minister without portfolio is 1895 was regarded as an act of belated justice, and it remained for Laurier to remove the grievance for a period by the appointment of Hon. Louis Davies as Minister of Marine and Fisheries. Mr. Davies remained a member of the cabinet until 1901.[28] Thereafter until 1930, Prince Edward Island had to be content with no minister at all or a minister without portfolio. Western Canada was agitating for more adequate representation, and the political pressure from the Island was considerably reduced by the decrease in its parliamentary representation to four members in 1904.[29] Nevertheless, in spite of the long period when it was not represented in the cabinet, Prince Edward Island did not relax its claims to representation on the ground of federal equity, and the recent practice of appointing one of the Island members as a Minister without portfolio, as followed by Mr. Mackenzie King in 1921 and Mr. Bennett in 1930, is one that is likely to be adopted generally in the future. This of course does not preclude the possibility of an eligible member from Prince Edward Island being given a portfolio when conditions are otherwise favourable.

Prince Edward Island has been the only province to be threatened with total loss of cabinet representation, but Nova Scotia and New Brunswick have seen their representation cut in half during the past

[27] *Macdonald Papers.* Cabinet Office, 1873-1891, p. 436.

[28] N. O. Coté, *Political Appointments, Parliaments, and the Judicial Bench of Canada,* 1896-1917, p. 46. Sir Louis Davies was appointed a puisne judge of the Supreme Court of Canada, Sept. 25, 1901.

[29] The Canada Year Book, 1931, p. 99.

twenty years. From 1867 until 1896 the ratio of representation in these two provinces was undisturbed. In each succeeding cabinet there were two members from Nova Scotia and two from New Brunswick. The first break occurred in 1896 when Laurier reduced the number from New Brunswick to one.[30] In the Borden administration of 1911, this situation was reversed, there being two ministers from New Brunswick, and one, the Prime Minister, from Nova Scotia.[31] In Mr. Meighen's brief administration of 1920-21, New Brunswick and Nova Scotia each held two cabinet posts, but in the case of the latter one was without portfolio. With the formation of the Mackenzie King government in 1921, the practice soon became established of assigning one cabinet post to each of these provinces, and this policy has not been departed from in the several administrations formed since that date. There can be do doubt that the cabinet representation from New Brunswick and Nova Scotia has now reached the prudential minimum. The elimination of ministers from either of these provinces would not only threaten the foundations of the federal system, but would result inevitably in the loss of from ten to twelve seats to the party attempting to carry such a policy into effect. Prince Edward Island, with its four members in the House of Commons, may have to be content with a Minister without portfolio, but the two larger provinces of Maritime Canada have every reason to expect full cabinet representation with portfolios as long as the Canadian federal system retains its present provincial alignment.

Stated briefly, the conventions of provincial cabinet representation as now established require that every province in the Dominion shall have not less than one representative, and that Quebec and Ontario shall have not less than four members each. But the precedents relating to geographical representation have not stopped here. Such a principle, conceded even in its simplest form, was certain to give birth to a progeny of subsidiary demands. In this connection, it is possible to trace a very interesting and significant attempt to secure representation in the cabinet for certain well-defined territorial divisions of the larger provinces, more particularly in the province of Quebec. In that province, it has long been the custom of both political parties to recognize two divisions of the French-Canadian constituencies, one centering on Quebec and the other on Montreal, with a third division comprising the English-speaking constituencies and the Eastern Townships. When these divisions first came to be

[30] Coté *op. cit.*, pp. 35, 36.
[31] Coté, *op. cit.*, pp. 38, 39.

recognized for purposes of cabinet representation it is difficult to say, but there are evidences of recognition in the period before federation when Upper and Lower Canada were governed under the terms of the Act of Union of 1840. At the formation of the Dominion, it was explicitly conceded by Macdonald that one of the cabinet ministers from Quebec should be a representative of the English-speaking Protestant minority.[32] Of the three French-Canadian ministers, it was only natural that they should be chosen almost invariably from the ancient capital of French Canada and the growing commercial metropolis of Montreal. At all events, aided by practical considerations of party organization, the principle of territorial representation within the province of Quebec made such headway as soon to acquire the force of established usage. There is evidence of it, for example, in the appointment of Mr. Pelletier to a cabinet post in 1877 when friends of Wilfrid Laurier were pressing strongly for his preferment. In Mackenzie's letter to Laurier explaining why the latter had not been summoned, he concludes with the following sentence:

> I have written you with all frankness, and will only say that nothing would have given me greater pleasure than to have had you as my colleague. Circumstances which I cannot control, and the necessity of considering the representation of localities in your Province have led to the choice of Pelletier.[33]

Ten years later, Macdonald was compelled to give an even more definite recognition to these claims of particular divisions of Quebec for representation in the cabinet. In a letter to Hon. J. O. Chapleau, of January 21st, 1887, Macdonald makes the following significant undertaking:

> In order to solve the unpleasant questions that have arisen in Quebec, and to enable you to remain as one of my colleagues in the Government with comfort to yourself, and to make the machinery of government run smoothly, I agree that the Province of Quebec shall be considered as being for the purpose of this note divided into three districts: 1. The district of Montreal; 2. The English-speaking counties and the Eastern Townships; 3. The district of Quebec. That you shall be considered as representing in Council the district of Montreal in the same manner, for instance, as Messrs. McLelan and Thompson represent Nova Scotia. That you shall be primarily consulted as to patronage in that district and practically have the control of it, subject to my final supervision as Premier. In such cases, you know, the reference to Council is merely formal.[34]

In later years both of the great political parties have given their endorsement to the same principle as applied to the province of

[32] Pope, *op. cit.*
[33] *Mackenzie Papers*, vol. 6, p. 59.
[34] *Macdonald Letter Book*, vol. 24, p. 120.

Quebec. It would be impossible to name any administration in which Quebec has not been represented in the cabinet by a member from the English-speaking counties and Eastern Townships, and difficult to find any case where separate representation has not been accorded to the districts of Quebec and Montreal in conformity with the policy announced by Macdonald in 1887. In Ontario, the only other province of the Dominion which has always had several members in the cabinet, the representation of provincial sub-divisions has not been so clearly marked. There has been in recent years, however, a growing disposition to give at least one cabinet representative to Northern Ontario, and another to Western Ontario, the remaining posts being assigned at the discretion of the Prime Minister[35] Having regard to the rapid growth of Ontario and its diversification of economic interests along territorial lines, it is not unlikely that the principle of territorial representation within that province may receive more ample recognition as time goes on.

It is asserted sometimes that there is a definite convention regarding the relative representation of Roman Catholics and Protestants in the Canadian cabinet. Little support can be found for this view in the records, although it follows from the convention providing for not less than three French-Canadian ministers from Quebec and the convention respecting Irish-Catholic representation that the Roman Catholic body will have a minimum of four seats in every cabinet.[36] As regards racial representation, the only well-founded convention is that which allots to French-speaking Canada a minimum of three seats from among those assigned to the province of Quebec. This does not mean, of course, that efforts have not been made to establish

[35] Strong claims have also been made for the representation in the cabinet of the French-speaking population of Ontario. See the speech of H. E. Lavigueur, M.P., in House of Commons Debates Canada, 1926-27, vol. I, p. 571. "There are in this House seventy-one French-Canadian members, including six ministers. I know that the French-Canadian element in Ontario has been asking for representation in the cabinet, and I would view with pleasure the nomination of one of our nationality to represent in the cabinet our people in Ontario."

[36] Some authorities have stated that the existing convention requires that the Irish-Catholic representative in the cabinet must come from Ontario. In a letter addressed to Mr. D. K. O'Sullivan of Toronto on Dec. 23, 1887, Sir John Macdonald took special pains to correct this misconception.

"The practice that has been followed since Confederation is to have an Irish-Catholic always in the cabinet. It has never been held necessary either before or since Confederation that the Irish representative should come from Ontario. When I first entered the Government in 1854, the Hon. Mr. Drummond of Montreal held the position—subsequently it was Mr. Alleyn from Quebec, then D'Arcy McGee from Montreal, then Sir E. Kenny from Halifax, then Mr. O'Connor from Ontario and Mr. Costigan from New Brunswick, that being the first instance in which two Irish-Catholics were in the cabinet at the same time." *Macdonald Letter Book,* vol. 24, p. 344.

other racial claims to cabinet representation.[37] The seat given to Irish-Catholics may be considered as a partial recognition of the importance of the Irish population of the Dominion. The Scots, with their usual propensity for occupying the seats of the mighty, have never found it necessary to establish their claims on the basis of convention.

Finally, it is important to observe that the representation of the provinces in the Canadian cabinet is not a mere nominal recognition to satisfy sentiment, although local sentiment has played its part in the development of the convention. The representation of provinces has become so effective that the ministers from the various provinces have come to be in a very large measure the ministers *for* their respective provincial communities. This applies both to the informal discussions in cabinet which precede the determination of policy, and to the more formal decisions respecting appointments to public office. The minister from Nova Scotia, for example, may hold the portfolio of Postmaster-General, but in discussions relating to tariff policy he will be expected to express the peculiar views of his province on this subject. Moreover, if appointments are to be made in or for a particular province, whether these be of a high or low estate, it has been the practice as a general rule to accept the recommendation of the minister from that province in making such appointments. It may happen, for example, that the Minister of National Revenue is from Ontario, that he is about to make some appointments to the Preventive Service in Nova Scotia, and that such positions are not within the scope of the Civil Service Act. The minister from Nova Scotia may hold the portfolio of Postmaster-General as suggested, and have no departmental connection whatever with these appointments. Nevertheless, they will usually be made only after the Minister of National Revenue has consulted with his colleague from Nova Scotia. Officially the appointments will be made on the recommendation of the Minister of the department concerned, and the responsibility will rest on his shoulders. Actually, however, the persons selected for the vacancies will owe their positions to the representative in the cabinet from Nova Scotia. This practice, which may be described as the rule of "ministerial courtesy" is closely analagous to the principle of "senatorial courtesy" in the United States.[38]

[37] Claims have been advanced at various times in behalf of the Acadian population of the Maritime Provinces, more especially in the Province of New Brunswick.

[38] See W. B. Munro, *The Government of the United States*, pp. 81 and 140. "Stated briefly, this is the practice of refusing to confirm the nomination of any local officer, such as a postmaster or collector of internal revenue, unless the nominee is satisfactory to the senator or senators from the state con-

Prior to the passage of the Civil Service Act, when offices in the gift of the government were more numerous than they are to-day, this ministerial control of provincial patronage was of very considerable breadth and importance. The letter from Macdonald to Chapleau, already quoted, affords an excellent illustration of the nature and extent of the practice. In that letter, apart from the general undertaking given by Macdonald to Chapleau that the latter would have effective control of patronage in the Montreal district, there was the following specific reference to higher posts within the gift of the government which were to be made formally by the Governor-General in Council:

> You [Chapleau] to have the recommendation of the Senatorship vacated by Mr. Masson. The Judgeship in appeal vacated by the death of Judge Ramsay to be filled from the Bar of Montreal, and the person to be selected by you and me—so with the Judgeship vacated by the death of Judge Torrance—after the election.[39]

It appears from this letter that ministerial control of provincial appointments was not confined to lighthouse-keepers and postmasters, but extended also to the higher appointments made by the Governor-General in Council on the nominal recommendation of the Prime Minister.[40] Although the facts are not available to show how far this general practice has prevailed to the present day, there is reason to believe that the principle of ministerial courtesy is as strictly regarded now as it was in Macdonald's time, although the scope of the power of recommendation and appointment has been greatly limited by the operation of the Civil Service Act.

Of the future development of conventions relating to the Canadian cabinet no one can speak with certainty. The break-down of the two-party system, or the emergence of purely sectional or occupational delegations to Parliament would have an undoubted effect upon

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cerned, provided of course that these senators are of the same political party as the President himself."

[39] *Macdonald Letter Book,* vol. 24, p. 120.

[40] In a letter written by Sir John Macdonald to Hon. J. O. Chapleau on Dec. 13, 1883, further light is thrown on ministerial control of provincial appointments. "I have yours of this morning urging the immediate appointment of Senecal to the Senate. I can have no objection that the proposed meeting of my Quebec colleagues should take place at once—or as soon as Pope can be seen about it, which I suppose will be tomorrow. I shall submit to the Governor-General any name recommended by those colleagues or the majority of them. I understand that Mr. Ross is to fill one vacancy; it only remains for us to name one other . . . so you had better have this meeting and all I shall ask of my colleagues at such meeting is that they will remember that the appointment should be made with reference to Dominion and not to Provincial interests. I mean that these positions should be given so as to strengthen the Federal Government rather than with a view to settle any complications in Quebec." *Macdonald Letter Book,* vol. 23, p. 316.

conventions which now appear to be firmly established. Enough has been written, however, to indicate that up to the present the development of the cabinet system in Canada has been influenced to a very considerable degree by the federal character of our institutions, and that this influence has left its mark both upon the structure and the operation of the executive branch of Canadian government. The consideration of some of the implications and problems arising from the federalization of the cabinet is reserved for an article which will follow.

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