IB 02-5

Canada and the road to confederation, 1837–67

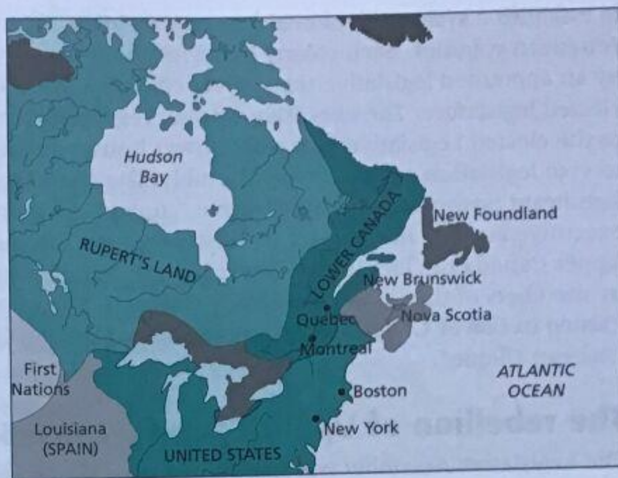
The United States turned west and started expanding. Over the next three decades the US would annex Texas, attempt to further subjugate Native Americans, evict the British from the Oregon territory and expel the Spanish and Mexicans from the southwest. The United States could now claim to fill a large part of North America.

The wars of independence had largely swept the Americas clean of colonial masters by the 1830s, except in a handful of Caribbean Islands and British North America (Canada). Canada would follow a different path to independence. Canada's road was evolutionary not revolutionary; the product of public opinion, the popular press, party politics, hard fought elections, ministerial conferences, parliamentary debate, legislation and royal writ. In many respects, confederation was the logical outcome of British rule in Canada. The colonial ruling class were extremely conservative and staunchly British—to a fault, many boasted royal lineage or connection. They unanimously disapproved of the republican values of the United States and believed in the superiority of the British Empire, notably its laws and institutions, personified by loyalty to the Crown. In Quebec (French speaking) it was also a truism but for different reasons. British statutes had protected and preserved the French Canadian way of life; its civil laws, education, land holding (Seigneurial) system and Catholicism since the conquest. Quebec was wary of the United States but for a very different reason—the fear of assimilation.

The path to confederation was about competing visions that would shape the new country. The debate was rarely tranquil, often vicious and always rancorous. This section will examine Canada's path to confederation, starting with the causes and effects of the rebellions of 1837 and the 1839 Durham Report. The challenge to unite the colonies was similar to many of the problems faced by the 13 colonies: notably, creating a federal government with powers entrenched in a viable constitution. This required compromise but several colonies either refused to join or were reluctant to accept leaving the British Empire. External causes were critical in convincing reluctant partners to confederate. These influences will also be examined.

In the end, confederation was achieved July 1, 1867. Founded on the principles of "Peace, Order and Good Government", the new nation was a self-governing dominion within the British Empire, sovereign in the administration of internal affairs. Canada's constitution, the British North America Act (Constitution Act 1982), stipulated a federal system of parliamentary government and laid out the division of powers between the two levels of government: federal powers in section 91 and provincial powers in section 92. Britain retained foreign policy, the Supreme Court and constitutional amendments until the Statute of Westminster gave these to Canada in 1931.

The new federal government set to work building a transcontinental nation across the cold northern half of the continent. Governing this vast nation with its small population divided by geography and climate, culture and language would create regionalism that threatened the nation's survival.



The British North America Act of 1791

The rebellions of 1837

On September 12, 1759, British General Sir James Wolfe defeated the French forces of Marquis de Montcalm on the Plains of Abraham outside Quebec City. The British victory essentially ended the Seven Years war (French and Indian War) of 1754–63 and gave British control of the much of the continent, but not for long. The US Revolution reduced Britain's holding in the New World to British North America comprised of the independent colonies (from east to west) of Newfoundland, Nova Scotia, New Brunswick, Prince Edward Island, Lower Canada (Quebec—French speaking majority) and Upper Canada (Ontario). Rupert's Land belonged to the Hudson's Bay Company and was eventually sold to Canada in 1869. The newest colony in the mix was Upper Canada.

Following the US Revolution, large numbers of settlers poured across the porous border into Canada. They fell into two loose categories: farmers lured by vast tracks of fertile farmlands and the more important second group of United Empire Loyalists (also known as Tories), political refugees who fled to remain "Loyal" to the Crown. Many had fought in Tory regiments against the Revolution and had their property confiscated and were forced out of the United States. Influential and motivated by a desire to prevent revolutionary ideas filtering north, they joined forces with Upper Canada's established British merchant class of bankers and business men and became the powerful conservative élite that controlled Upper Canada. Their outlook was patriarchal, class-conscious, anti-democratic and monarchist. Their values would give the colony its pro-British character and abiding distrust of the United States. They were the dominate élite, the "Family Compact", a loose-knit fraternity that opposed any changes which could potentially undermine their privileged status, the British connection or contained the slightest hint of republican ideas and values. The challenge to the Family Compact came from the elected legislative assembly. Notably a group of British reformers (liberals) who landed with a trunk full of radical liberal ideas and political ambitions inspired by the US and French Revolutions and the European rebellions of 1830. They demanded an end to aristocratic and church privilege, advocated responsible government, popular elections and spoke a language of political change that challenged the status quo. They were joined by many immigrants from the United States who added their voice which sounded like republicanism to the Family Compact. Frustrations reached critical mass in 1837 and exploded into gunfire.

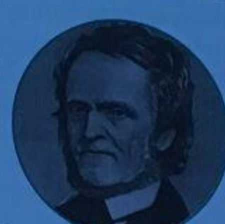
The Constitution Act (British North America Act) of 1791 was the problem. The British passed the Act following the US Revolution to establish a system of colonial government in its British North American colonies. Each colony had a lieutenant-governor advised by an appointed legislative (executive) council and a popularly elected legislature. The executive was not responsible or responsive to the elected Legislative Assembly (lower house) and had the power to veto legislation passed by the assembly. The assembly had one significant power and that was to vote "supply" tax money to the executive but had no say over the distribution of this money. In Upper Canada the Lieutenant Governor and council were controlled by members of the influential Family Compact. The same system existed in Lower Canada, which named its controlling élite "The Château Clique".

The rebellion of Upper Canada, 1837–38

The Legislative Assembly was frustrated by the control of the Family Compact. A string of Lieutenant-Governors proved to be nothing more than figureheads willingly doing the Family's bidding. The assembly demanded change, notably an end to political patronage, a public system of education, and an end to clergy reserves; public lands grants to the Anglican Church—but these demands were ignored by the council. The radicals' growing frustration found voice in the caustic pen of newspaper editor and publisher of the *Colonial Advocate,* William Lyon MacKenzie.

A Scottish-born radical, McKenzie crossed the ocean to Montreal in 1820, then moved to York (capital of Upper Canada renamed Toronto in 1834). In 1824 he established the *Colonial Advocate* and took up the grievances and cause of the lower assembly. Initially, he advocated peaceful change through boycotts, strikes and political protest. His editorials became increasingly outspoken in their condemnation of the government and he quickly won loyal friends and powerful enemies but not enough subscribers. The newspaper folded and MacKenzie fled to the United States to avoid his creditors. During his self-imposed exile, a group of young Tories (supporters of the Family Compact) tossed his printing press into Lake Ontario. Local authorities turned a blind eye to the incident. McKenzie returned to York, sued the vandals and was awarded damages. The trial made Mackenzie a celebrity and unchallenged leader of the reformers.

William Lyon MacKenzie (1795–1861)



Born in Dundee, Scotland, William MacKenzie came to Canada in 1820. He was a journalist, newspaper publisher, politician, first mayor of Toronto (1834) and leader of the Rebellion of 1837. An outspoken critic of the "Family Compact" he became increasingly abusive and defamatory in his attacks. He advocated equal rights for US settlers, responsible government and the end of land grants to the Anglican Church. Post-Rebellion, he fled to the United States, returned to Canada in 1850. In 1851 he won a seat in the Legislative Assembly (Haldimand County), which he held until 1858. A reformer to the end he continued to alienate with his acerbic tongue and sarcastic pen.

Shortly afterwards, MacKenzie and his followers established a committee and sent an emissary to London to appeal directly for change. The tactic was initially successful but was matched by the Family Compact who sent their own emissary to London and outflanked the reformers.

What did MacKenzie and his followers want? Most importantly, they desired a system of responsible government that gave more power to the elected assembly. They wanted settlers born in the United States to be given political rights (i.e. the vote) and an end to the system of clergy reserves. The reserves gave public land to the Anglican Church which they sold for profit. A large segment of the population were practicing Methodists or Catholics (mainly Irish) and disapproved of this preferential treatment. MacKenzie was elected to the assembly in 1829 and again in 1831. He began organizing committees to bring about change and reform. He admired US president Andrew Jackson (the hero of New Orleans) and advocated reforms branded as pro-US by his opponents. A Tory-dominated assembly expelled him in November of 1831 and again in 1832. In 1834 Mackenzie became an alderman on the new Toronto City council, who voted him to the Mayor's chair but lost out to a Tory candidate in 1835. He was increasingly frustrated with the failure of these tactics and started to advocate armed revolt. In January 1835 he returned to the assembly with its blessing and was as blustery as ever but lost the seat in the 1836 election. MacKenzie started a new publication *The Constitution* that demanded constitutional reform to rectify colonial grievances. The British response in the House of Commons was the "Ten Resolutions" that removed the few meaningful powers of the legislative assemblies. This was the last straw. MacKenzie demanded rebellion but was upstaged by "Les Patriotes" of Lower Canada who in October 1837 fired the first shots of rebellion and provided MacKenzie with a golden opportunity to strike.

Army units from York were sent to quell the Lower Canada "Patriotes" and their firebrand leader Louis Joseph Papineau. MacKenzie organized his forces and was prepared to establish a provisional government in late november. Paramilitary groups trained in nearby farmer's fields with pitchforks and rakes and a few muskets. In early December, the rebels seized the York armoury and marched down Younge street to Mongomery's tavern and downed ample quantities of alcohol—liquid courage. A British regiment confronted the rebels. The fight was short, less than half an hour. Rebel courage melted with the first cannon shot. The rebels fired a ragged volley and fled. The victorious Tories took revenge and burned the houses of known rebels.

Mackenzie fled with 200 supporters to Navy Island in the Niagara River and declared "The Republic of Canada". The British attacked in January and most rebels fled to the United States and formed the "Hunter Patriots". Several prominent leaders were captured and hung. The "Hunters" raided across the border and were eventually defeated in November of 1838 at the Battle of the Windmill. The rebellion was over in Upper Canada but the matter was not closed. The government's victory ended radical opposition in the colony.

The question now was to determine how best to keep the colony British, not whether or not it should be British.

The rebellion of Lower Canada, 1837–38

Following the War of 1812, English immigration into Lower Canada resulted in English-speaking enclaves in Montreal, Quebec and the eastern townships along the south bank of the Saint Lawrence River. The French-speaking population's growth was due to natural increase promoted by the Catholic church and large families were the norm. Economically, agriculture suffered in the decades prior to the rebellion but the impact differed throughout the colony. Montreal, however, experienced a period of growth and prosperity. Once the center of the fur trade, former fur barons became bankers, merchants and manufacturers. The élite were mainly English-speaking Tories, an urban élite, who controlled the government. Christened the "Château Clique," French Canadians were mainly rural and controlled the elected assembly. Bitterness and resentment between the two major linguistic groups for control of the colony was the backdrop for the rebellion.

The man who would eventually lead the rebellion was Louis Joseph Papineau. He came on the scene as the elected Speaker of the Assembly in 1815. Politically, he supported British rule which protected French-Canadian language, culture, religion and civil laws. He fought against the control of the colony by the British urban élite. For the next 20 years he would try, unsuccessfully, to increase the power and influence of the assembly. The British government adopted a more conciliatory approach in the early 1830s but unforeseen events undermined these efforts, notably a significant drop in agricultural prices and a rapid increase in emigration from the Britain to the urban centres. A cholera outbreak arrived with the immigrants and killed thousands of French Canadians—who blamed the British and fed French-Canadian fears of being outnumbered. By 1830, Papineau had become a "republican reformer"; an advocate of the US-style democracy he demanded responsible government which was similar to the US slogan of "no taxation without representation". He demanded that the elected assembly control the purse strings and direct how the money would be spent. The Château Clique responded by seeking the British government's continued support of the current system. In 1832, three French-Canadiens were killed by British troops during an election riot and further stigmatized the two sides. Papineau's rhetoric became increasingly radical and the Patriote Party became more extreme and published it demands in the 92 Resolutions (1834). The assembly, similar to Upper Canada, refused to vote supply (tax dollars) to the civil service which paralyzed the government. A new player, the so-called British Party opposed these measures and petitioned the British government in London to overturn the Lower Assembly's legislative activism. Extremists on both sides became

Louis Joseph Papineau (1786–1871)

Louis Joseph Papineau was a leader of the Patriote Rebellion of 1837. A lawyer, wealthy land-owner (seigneur), political activist and liberal reformer, he was born, raised and educated in Quebec. Elected to the Legislative Assembly 1809, he was a popular, charismatic and skilful orator, who emerged as leader of young nationalists the "Parti Patriotes". He became Speaker of the Legislative Assembly in 1815. A defender of French-Canadian culture, history and heritage, he challenged the "Château Clique" continually earning the ire of the English speaking élite. He was chief architect of the 92 resolutions passed by the Assembly in 1834. When the Rebellion failed, he fled to the United States, returning in the amnesty of 1844. In 1848, he founded the liberal nationalist "Parti Rouge".

increasingly dogmatic and refused to budge. The French–English split became entrenched.

In 1837, the British government rejected the Patriotes' demands and authorized the Governor to take funds from the colony's treasury. The Patriotes responded with boycotts, protests, rallies and recruited volunteers who started military training in the countryside. They held out the slim hope that the British might back down and compromise if faced with this threat. They were wrong. The British sent troops from Upper Canada and elsewhere. In November, violence erupted in the streets of Montreal and in the countryside many areas experienced widespread civil disobedience and acts of violence.

On November 16, the rebel leaders were placed under arrest but fled to the countryside. They joined the rebel forces which had been organized into three columns. Between November 23 and November 30, the British forces attacked each column and after several sharp battles the rebellion collapsed. Hundreds of Patriotes were killed or wounded. Papineau escaped with many followers to the United States, determined to continue the rebellion. With the help of US sympathizers they organized the "Hunter's Lodges". In November 1838 the rebels crossed into Canada but were quickly defeated. Over a hundred rebels were captured, 12 were hung and 58 transported to Australia. The rebellion of Lower Canada was over and with it ended the threat to British control of the colonies.

Activity

Compare and contrast

Rebellions and revolutions

What is the difference between them?

Compare and contrast the demands of the rebels and revolutionaries in the following insurrections:

- Canadian Rebellions of 1837
- Hidalgo Revolt, Mexico, 1810
- Bahia Slave Rebellion, Brazil, 1835
- Nat Turner Rebellion, United States, 1831

The Durham Report

The British Government was deeply distressed by the rebellions. The unhappy memory of the US Revolution was embedded deeply in their consciousness. They did not want to forfeit any more colonies in the Americas. Parliament moved quickly and approved the immediate despatch of a fact-finding mission headed by Lord Durham. His findings and recommendations would become one of the most famous and hotly debated documents in Canadian history. Durham spent just eight months in Canada before being recalled for overstepping his powers. He spent his time touring the two colonies, interviewing, observing and investigating the causes of the Rebellions. His report was published in 1939 and focused on Lower Canada.

John George Lambton, first Earl of Durham (1792–1840)

The family of Lord Durham owned a large estate and coal mines employing over 2,000 miners. He was educated at Eton and served briefly in the cavalry. He entered politics in 1812 and remained in office until his death. He received a Cabinet post in1830 and was Ambassador to Russian (1835–37). He was nicknamed "Radical Jack" because he supported the liberal reforming Whig party. The party's platform included equal rights for Catholics, free trade, better access to education and the voting rights for all citizens. He helped author the famous Reform Bill of 1832 that attempted to correct abuses in the voting system. In 1839, he came to Canada to report on the rebellions and provide recommendations to restore peace and order in the colonies. His findings were published in the famous Durham Report published in late 1839. He suffered from poor health most of his adult life and died suddenly in July 1840.

Activity

The Durham Report

The excerpts from Durham's Report are the three most important and controversial recommendations. Read the excerpts and answer the questions that follow.

Excerpt 1

Responsible government

The system which I propose would, in fact, place the internal government of the colony in the hands of the colonists themselves. ... But the Crown must, on the other hand, submit to the necessary consequences of representative institutions; and if it has to carry on the government in unison with a representative body, it must consent to carry it on by means of those in whom that representative body has confidence.

Excerpt 2

The problem is Lower Canada

Nor do I exaggerate the inevitable constancy any more than the intensity of this animosity. Never again will the present generation of French Canadians yield a loyal submission to a British Government; never again will the English population tolerate the authority of a House of Assembly in which the French shall possess, or even approximate to, a majority.

Excerpt 3

The assimilation of French Canadians

I expected to find a contest between a government and a people: instead I found two nations [English and French] warring in the bosom of a single state: I found a struggle, not of principles, but of races; and I perceived that it would be idle to attempt any amelioration of laws or institutions until we could first succeed in terminating the deadly animosity that now separates the inhabitants of Lower Canada into the hostile divisions of French and English ...

Questions

1. By advocating responsible government, was Durham agreeing with the demands of the rebels? Consider why he might have done so?
2. Do you agree with Durham's assessment that the fundamental cause of the Rebellions was the racial divide between English and French Canadians?
3. Durham's believed that it was "idle" to try and resolve the crisis until the deadly animosity between the English and French was terminated. How do you think Durham proposed to do this? To find clues to your answer research the Act of Union 1840.
4. Speculate as to why Canadian historians still consider Durham's report controversial?

In particular, consider the perspective of French Canadians.