

INTERCOLONIAL UNION.

THE PROPOSED CONSTITUTION

AS ADOPTED BY THE QUÉBEC CONFERENCE IN OCTOBER, 1864.

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1864.

INTERCOLONIAL UNION.

THE PROPOSED CONSTITUTION.

I. The best interests and present and future prosperity of British North America will be promoted by a Federal Union under the Crown of Great Britain.

II. In the Federation of the British North American Provinces the system of Government best adapted under existing circumstances to protect the diversified interests of the several Provinces, and secure efficiency, harmony, and permanency in the working of the Union, would be a General Government charged with matters of common interest to the whole country, and Local Governments for each of the Canadas and for the Provinces of Nova Scotia, New Brunswick, and Prince Edward Island, charged with the control of local matters in their respective sections, provision being made for the admission into the Union, on equitable terms, of Newfoundland, the North-West territory, British Columbia, and Vancouver.

III. In framing a Constitution for the General Government, the Conference, with a view to the perpetuation of our connection with the Mother country, and to the promotion of the best interests of the people of these Provinces, desire to follow the model of the British Constitution, so far as our circumstances will permit.

The Executive Authority.

IV. The Executive authority or Government shall be vested in the Sovereign of the United Kingdom of Great Britain and Ireland, and be administered according to the well understood principles of the British Constitution by the Sovereign personally, or by the Representative of the Sovereign duly authorized.

V. The Sovereign or Representative of the

Sovereign shall be Commander-in-Chief of the Land and Naval Militia Forces.

Constitution of the Parliament.

VI. A General Legislature or Parliament is provided for the Federated Provinces, composed of a Legislative Council and a House of Commons.

VII. For the purpose of forming the Legislative Council, the Federated Provinces are to be considered as consisting of three divisions—1st, Upper Canada; 2d, Lower Canada; 3d, Acadia, or Nova Scotia, New Brunswick, and Prince Edward Island, each division with an equal representation in the Legislative Council.

VIII. Upper Canada is to be represented in the Legislative Council by 24 members, Lower Canada by 24 members, and the three Maritime Provinces by 24 members, of which Nova Scotia shall have 10, New Brunswick 10, and Prince Edward Island 4 members.

IX. The colony of Newfoundland will be entitled to enter the proposed Union, with a representation in the Legislative Council of 4 members.

X. The North-West territory, British Columbia, and Vancouver will be admitted into the Union, on such terms and conditions as the Parliament of the Federated Provinces shall deem equitable, and as shall receive the assent of her Majesty; and in the case of the Province of British Columbia or Vancouver, as shall be agreed to by the Legislature of such Province.

XI. The Members of the Legislative Council are to be appointed by the Crown under the Great Seal of the General Government, and shall hold office during life; if any Legislative Councillor shall, for two consecutive sessions of Parliament, fail to give his attendance in the said Council, his seat shall thereby become vacant.

XII. Members of the Legislative Council to be British subjects by birth or naturalization, of the full age of thirty years, to possess a continuous real property qualification of four thousand dollars over and above all incumbrances, and to be and continue worth that sum over and above their debts and liabilities, but in the case of Newfoundland

and Prince Edward Island the property may be either real or personal.

XIII. If any question shall arise as to the qualification of a Legislative Councillor, the same is to be determined by the Council.

XIV. The first selection of the Members of the Legislative Council to be made from the Legislative Councils of the various Provinces, except as regards Prince Edward Island, so far as a sufficient number be found qualified and willing to serve; such members shall be appointed by the Crown at the recommendation of the General Executive Government, upon the nomination of the Local Governments, and in such nomination, due regard is to be had to the claims of the Members of the Legislative Council of the opposition in each Province, so that all political parties may as nearly as possible be fairly represented.

XV. The Speaker of the Legislative Council (until otherwise provided by Parliament) is to be appointed by the Crown from among the members of the Legislative Council, and to hold office during pleasure, and shall only be entitled to a casting vote on an equality of votes.

XVI. Each of the twenty-four Legislative Councillors representing Lower Canada in the Legislative Council of the General Legislature shall be appointed to represent one of the twenty-four Electoral Divisions mentioned in Schedule A of Chapter First of the Consolidated Statutes of Canada, and such councillor shall reside or possess his qualification in the division he is appointed to represent.

XVII. The basis of representation in the House of Commons is to be population, as determined by the official census every ten years; and the number of members at first shall be 194, distributed as follows:

Upper Canada.....	82
Lower Canada.....	65
Nova Scotia.....	19
New Brunswick.....	15
Newfoundland.....	8
and Prince Edward Island..	5

XVIII. Until the official census of 1871 has been made up, there will be no change in the number of representatives from the several sections

XIX. Immediately after every decennial census thereafter, the representation from each section in the House of Commons is to be re-adjusted on the basis of population.

XX. For the purpose of such re-adjustments, Lower Canada will always be assigned sixty-five members, and each of the other sections shall at each re-adjustment receive, for the ten years then next succeeding, the number of members to which it will be entitled on the same ratio of representation to population as Lower Canada will enjoy according to the Census then taken by having sixty-five members.

XXI. No reduction is to be made in the number of Members returned by any section, unless its population shall have decreased relatively to the whole population of the Union, to the extent of five per centum.

XXII. In computing at each decennial period, the number of Members to which each section is entitled, no fractional parts will be considered, unless when exceeding one half the number entitling to a Member, in which case a Member shall be given for each such fractional part.

XXIII. The Legislature of each Province, will divide such Province into the proper number of constituencies, and define their boundaries.

XXIV. The Local Legislature of each Province may, from time to time, alter the Electoral Districts for the purposes of representation in such local legislature, and distribute the representatives to which the Province is entitled, in any manner such Legislature may think fit.

XXV. The number of Members may at any time be increased by the General Parliament,—regard being had to the proportionate rights then existing.

XXVI. Until provisions are made by the General Parliament, all the Laws which, at the date of the Proclamation constituting the Union, are in force in the Provinces respectively, relating to the qualification and disqualification of any person to be elected or to sit or vote as a member of the Assembly in the said Provinces respectively—and relating to the qualification or disqualification of voters, and to the oaths to be taken by voters, and to

Returning Officers and their powers and duties,—and relating to the proceedings at Elections,—and to the period during which such Elections may be continued, and relating to the Trial of Controverted Elections, and the proceedings incident thereto and relating to the vacating of seats of Members and to the issuing and execution of new Writs in case of any seat being vacated otherwise than by a dissolution,—shall respectively apply to Elections of Members to serve in the House of Commons, for places situate in those Provinces respectively.

XXVII. Every House of Commons is to continue for five years from the day of the return of the writs choosing the same, and no longer, subject, nevertheless, to be sooner prorogued or dissolved by the Governor.

XXVIII. There shall be a session of the General Parliament once at least in every year, so that a period of twelve calendar months shall not intervene between the last sitting of Parliament in one Session and the first sitting of Parliament in the next session.

Powers of Parliament.

XXIX. That the General Parliament will have power to make Laws for the peace, welfare and good Government of the Federated Provinces (saving the Sovereignty of the Mother Country) and especially Laws respecting the following subjects:—

1. The Public Debt and Property.
2. The Regulation of Trade and Commerce.
3. The imposition or regulation of Duties of Customs on Imports and Exports, except on Exports of Timber, Logs, Masts, Spars, Deals and Sawn Lumber, and of Coal and other Minerals.
4. The imposition or regulation of Excise Duties.
5. The raising of money by all or any other modes or systems of Taxation.
6. The borrowing of Money on the Public Credit.
7. Postal Service.
8. Lines of Steam or other Ships, Railways, Canals and other works, connecting any two or more of the Provinces together, or extending beyond the limits of any Province.

9. Lines of Steamships between the Federated Provinces and other countries.
10. Telegraphic Communication and the incorporation of Telegraph Companies.
11. All such works as shall, although lying wholly within any Province be specially declared by the Acts authorizing them to be for the general advantage.
12. The Census.
13. Militia—Military and Naval Service and Defence.
14. Beacons, Buoys and Light Houses.
15. Navigation and Shipping.
16. Quarantine.
17. Sea Coast and Inland Fisheries.
18. Ferries between any Province and a foreign country, or between any two Provinces.
19. Currency and Coinage.
20. Banking and the issue of Paper Money.
21. Savings Banks.
22. Weights and Measures.
23. Bills of Exchange and Promissory Notes.
24. Interest.
25. Legal Tender.
26. Bankruptcy and Insolvency.
27. Patents of Invention and Discovery.
28. Copy Rights.
29. Indians and Lands reserved for the Indians.
30. Naturalization and Aliens.
31. Marriage and Divorce.
32. The Criminal Law, excepting the Constitution of Courts of Criminal Jurisdiction, but including the procedure in Criminal matters.
33. Rendering uniform all or any of the laws relative to property and civil rights in Upper Canada, Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland, and for rendering uniform the procedure of all or any of the Courts in these Provinces; but any Statute for this purpose shall have no force or authority in any Province until sanctioned by the Legislature thereof.
34. The Establishment of a General Court of Appeal for the Federated Provinces.
35. Immigration.
36. Agriculture.

37. And generally respecting all matters of a general character, not specially and exclusively reserved for the Local Governments and Legislatures.

XXX. The General Government and Parliament will have all powers necessary or proper for performing the obligations of the Federated Provinces as part of the British Empire to foreign countries, arising under treaties between Great Britain and such countries.

XXXI. The General Parliament may also, from time to time, establish additional Courts, and the Government may thereupon appoint other Judges and Officers, when the same shall appear necessary or for the public advantage, in order to the due execution of the laws of Parliament.

XXXII. All Courts, Judges, and Officers of the several Provinces are to aid, assist, and obey the General Government in the exercise of its rights and powers, and for such purposes will be held to be Courts, Judges, and Officers of the General Government.

XXXIII. The General Government are to appoint and pay the Judges of the Superior Courts in each Province, and of the County Courts of Upper Canada and Parliament shall fix their salaries.

XXXIV. Until the consolidation of the laws of Upper Canada, New Brunswick, Nova Scotia, Newfoundland, and Prince Edward Island, the Judges of those Provinces appointed by the General Government, shall be selected from their respective Bars.

XXXV. The Judges of the Bench of Lower Canada be selected from the Bar of Lower Canada.

XXXVI. The Judges of the Court of Admiralty now receiving salaries are to be paid by the General Government.

XXXVII. The Judges of the Superior Courts will hold their offices during good behaviour, and to be removable only on the address of both Houses of Parliament.

Local Government.

XXXVIII. For each of the Provinces there is to be an Executive Officer, styled the Lieutenant-Governor, who is to be appointed by the Governor-General in Council, under the great seal of the Federated Provinces,

during pleasure: such pleasure not to be exercised before the expiration of the first five years, except for cause, such cause to be communicated in writing to the Lieut.-Governor immediately after the exercise of the pleasure aforesaid, and also by message to both Houses of Parliament, within the first week of the first session afterwards.

XXXIX. The Lieutenant-Governor of each Province is to be paid by the General Legislature.

XL. In undertaking to pay the salaries of the Lieutenant-Governors, the Conference does not desire to prejudice the claim of Prince Edward Island upon the Imperial Government for the amount now paid for the salary of the Lieutenant-Governor thereof.

Local Legislatures.

XLI. The Local Government and Legislature of each Province are to be constructed in such manner as the existing Legislature of such Province shall provide.

XLII. The Local Legislatures will have power to alter or amend their Constitution from time to time.

XLIII. The Local Legislatures will have power to make laws respecting the following subjects:

1. Direct taxation and imposition of duties on the export of timber, logs, masts, spars, deals and sawn lumber, and of coals and other minerals.*
2. Borrowing money on the credit of the Province,
3. The establishment and tenure of local offices, and the appointment and payment of local officers,
4. Agriculture,
5. Immigration.
6. Education; saving the rights and privileges which the Protestant or Catholic minority in both Canadas may possess as to their denominational schools, at the time when the union goes into operation.
7. The sale and management of public

* We understand that this clause is only intended to apply to the timber of New Brunswick and the coal of Nova Scotia, and that since the Conference broke up means have been taken to procure the assent of delegates to the necessary verbal corrections of the clause.

lands, excepting land belonging to the General Government.

8. Sea coast and inland fisheries.

9. The establishment, maintenance and management of penitentiaries, and of public and reformatory prisons.

10. The establishment, maintenance and management of hospitals, asylums, charities and eleemosynary institutions.

11. Municipal institutions.

12. Shop, saloon, tavern, auctioneer and other licenses.

13. Local works.

14. The incorporation of private or local companies, except such as relate to matters assigned to Parliament.

15. Property and civil rights, excepting those portions thereof assigned to Parliament.

16. Inflicting punishment by fine, penalties, imprisonment or otherwise for the breach of laws passed in relation to any subject within their jurisdiction.

17. The administration of justice, including the constitution, maintenance and organization of the courts—both of civil and criminal jurisdiction, and including also the procedure in civil matters.

18. And generally all matters of a private or local nature.

XLIV. The power of respiting, reprieving, commuting and pardoning prisoners convicted of crimes, and of remitting of sentences in whole or in part, which belongs of right to the Crown, will be administered by the Lieutenant Governor of each Province in Council, subject to any instructions he may from time to time receive from the General Government, and subject to any provisions that may be made in this behalf by Parliament.

General Provisions.

XLV. In regard to all subjects over which jurisdiction belongs to both the General and Local Legislatures, the laws of the General Parliament are to control and supersede those made by the Local Legislature, and the latter to be void so far as they are repugnant to or inconsistent with the former.

XLVI. Both the English and French languages may be employed in the General Legislature and in its proceedings, and also in

the Local Legislature of Lower Canada, and in the Federal and Local Courts of Lower Canada.

XLVII. No lands or property belonging to the General or Local Government are to be liable to taxation.

XLVIII. All bills for appropriating any part of the Public Revenue, or for imposing any new Tax or Impost, must originate in the House of Commons or the Local Assembly, as the case may be.

XLIX. The House of Commons or Legislative Assembly is not to originate or pass any Vote, Resolution, Address or Bill for the appropriation of any part of the Public Revenue, or of any Tax or Impost to any purpose, not first recommended to the House of Assembly by Message of the Governor General, or the Lieutenant Governor, as the case may be, during the Session in which such Vote, Resolution, Address or Bill is passed.

L. Any Bill of the General Legislature may be reserved in the usual manner for Her Majesty's Assent, and any Bill of the Local Legislatures may in like manner be reserved for the consideration of the Governor General.

LI. Any Bill passed by the General Parliament is to be subject to disallowance by Her Majesty within two years, as in the case of Bills passed by the Legislatures of the said Provinces hitherto, and in like manner any Bill passed by a Local Legislature shall be subject to disallowance by the Governor General within one year after the passing thereof.

LII. The Seat of Government of the Federated Provinces will be at Ottawa, subject to the Royal Prerogative.

LIII. Subject to any future action of the respective Local Governments in respect thereof, the Seat of the Local Government in Upper Canada shall be Toronto; of Lower Canada, Quebec; and the Seats of the Local Governments in the other Provinces shall be as at present.

Finances, &c.

LIV. All cash, bankers' balances and other cash securities of each Province, at the time of the Union, are to belong to the General Government.

LV. The following public works and prop-

erty of each Province will belong to the General Government—to wit :

1. Canals;
2. Public harbours;
3. Light-houses and piers;
4. Steamboats, dredges and public vessels;
5. River and lake improvements;
6. Railway and railway stocks, mortgages and other debts due by railway companies;
7. Military roads;
8. Custom houses, post offices and other public buildings, except such as may be set aside by the General Government for the use of the Local Legislatures and Governments;
9. Property transferred by the Imperial Government and known as ordnance property;
10. Armories, drill sheds, military clothing and munitions of war; and
11. Lands set apart for public purposes.

LVI. All lands, mines, minerals and royalties vested in Her Majesty in the Provinces of Upper Canada, Lower Canada, Nova Scotia, New Brunswick and Prince Edward Island, for the use of such Provinces, will belong to the local Government of the territory in which the same are so situate; subject to any trusts that may exist in respect to any of such lands or to any interest of other persons in respect of the same.

LVII. All sums due from purchasers or lessees of such lands, mines or minerals, at the time of the Union, also are to belong to the Local Governments.

LVIII. All assets connected with such portions of the public debt of any Province, as or assumed by the local Government, shall also belong to those Governments respectively.

LIX. The several Provinces are to remain vested with all other public property therein, subject to the right of the General Government to assume any lands or public property required for fortifications or the defence of the country.

LX. The General Government is to assume all the debts and liabilities of each Province.

LXI. The debt of Canada not specially assumed by Upper and Lower Canada respectively, not to exceed at the time of the

Union,.....	\$62,500,000
Nova Scotia to enter into the Confederation with a debt not exceeding.....	8,000,000
And New Brunswick, with a debt not exceeding.....	7,000,000

LXII. But it is expressly provided that in case Nova Scotia or New Brunswick do not incur liabilities beyond those for which their Governments are now bound, and which shall make their respective debts at the date of Union less than \$8,000,000 and \$7,000,000 respectively, they shall then be entitled to benefit by the interest at 5 per cent. on the amount not so incurred, in like manner as is hereinafter provided for Newfoundland and Prince Edward Island; the foregoing resolution being in no respect intended to limit the powers now given to the respective Governments of those Provinces by Legislative authority, but only to limit the maximum amount of charge to be brought by them against the General Government. The powers so conferred by the respective Legislatures to be exercised within five years from this date or the same shall then lapse.

LXIII. Newfoundland and Prince Edward Island, not having incurred debts equal to those of the other Provinces, are entitled to receive by half-yearly payments in advance from the General Government the interest at 5 per cent. on the difference between the actual amount of their respective debts at the time of the Union, and the average amount of indebtedness per head of the population of Canada, Nova Scotia, and New Brunswick.

LXIV. In consideration of the transfer to the General Legislature of the powers to taxation, an annual grant in aid of each Province shall be made, equal to an amount of 80 cents per head of the population, as established by the census of 1861. The population of Newfoundland being estimated at 130,000. Such aid shall be in full settlement of all future demands upon the General Government for local purposes, and shall be paid half-yearly in advance to each Province.

LXV. The position of New Brunswick being such as to entail large immediate charges upon her local revenues, it is agreed that for the period of ten years from the time when the

Union takes effect, an additional allowance of \$63,000 per annum shall be made to that Province. But that so long as the liability of that Province remains under \$7,000,000, a deduction equal to the interest on such deficiency is to be made from the \$63,000.

LXVI. In consideration of the surrender to the General Government by Newfoundland of all its rights in Mines and Minerals, and of all the ungranted and unoccupied Lands of the Crown, it is agreed that the sum of of \$150,000 shall each year be paid to that Province by semi-annual payments, provided that that Colony shall retain the right of opening, constructing and controlling Roads and Bridges through any of the said Lands, subject to any laws which the General Parliament may pass in respect of the same.

LXVII. All engagements that may, before the Union, be entered into with the Imperial Government for the Defence of the Country, shall be assumed by the General Government.

LXVIII. The General Government shall secure, without delay, the completion of the Intercolonial Railway from Riviere-du-Loup through New Brunswick, to Truro in Nova Scotia.

LXIX. The communications with the North-Western Territory, and the improvements required for the developement of the Trade of the Great West with the Seaboard, were regarded by this Conference as subjects of the highest importance to the Federated Provinces, and are to be prosecuted at the earliest possible period that the state of the Finances will permit.

LXX. The sanction of the Imperial and Local Parliaments is to be sought for the Union of the Provinces, on the principles adopted by the Conference.

LXXI. That Her Majesty the Queen be solicited to determine the rank and name of the Federated Provinces.

LXXII. The proceedings of the Conference, when finally revised, to be signed by the Delegates, and submitted by each Deputation to its own Government, and the Chairman authorized to submit a copy to the Governor General for transmission to the Secretary of State for the Colonies.