

## NOTES ON THE QUEBEC CONFERENCE, 1864<sup>1</sup>

OUR knowledge of the proceedings at the Conference on the confederation of the British North American provinces, held at Quebec in October, 1864, is far from satisfactory. The sittings were held behind closed doors, and little except the official Report of Resolutions adopted was made public at the time. Sir Joseph Pope found among the papers of Sir John Macdonald a mass of documents relating to the Conference, including printed draft Minutes of Proceedings, up to October 20; the original rough minutes in the handwriting of the Executive Secretary, Lieut.-Col. Hewitt Bernard; Col. Bernard's notes of speeches and other proceedings; the original texts of motions and amendments; and many other memoranda. From these he published, in his *Confederation Documents*, the "Minutes of Proceedings" and the "Discussions", which together form our chief source of information as to what happened in the Conference. They are, however, obviously incomplete. The Minutes are quite meagre, and, towards the end of the Conference, are in places entirely wanting. The "Discussions", based on the long-hand notes of Col. Bernard, are necessarily fragmentary. Any further evidence is, therefore, of peculiar importance.

The following document is an account of the proceedings by the Hon. A. A. Macdonald, one of the delegates from Prince Edward Island, drawn up from his own notes taken at the Conference.

A. G. DOUGHTY

### [*Transcript.*]

From notes taken at the Quebec Conference held at Quebec on October 10, 1864. (*By A. A. Macdonald.*)

On the assemblage of the delegates from all the Provinces at the Parliament building in Quebec there were present besides the ministers of the two Upper Provinces seven delegates from New Brunswick five from Nova Scotia seven from Prince Edward Island and two from Newfoundland.

<sup>1</sup>From the Papers of Sir John A. Macdonald in the Public Archives of Canada.

It was moved by Colonel Gray, who had been Chairman of the Conference at Charlottetown and seconded by Mr. Tilley that Sir E. P. Taché should be Chairman and carried unanimously.

Hon. Dr. Tupper then moved that Hon. Wm. Pope, delegate from P.E.I., be appointed secretary which was agreed to.

After some discussion as to mode of procedure it was decided that besides the secretary for the whole convention an additional secretary should be appointed for each Province.

A certified list of the delegates representing each province was handed in and tabled.<sup>1</sup>

Sir E. P. Taché, Chairman then addressed the delegates and welcomed them to Quebec.<sup>2</sup> He said that the object of the Conference was to do away with some of the internal hindrances to trade, and to unite the Provinces for mutual defence. Without unity of action and comity of sentiment a great Country could not expect to exist. The majority of the people believe if their rights and privileges are left to the local Legislatures they will be safe in the liberties guaranteed to them and ratified by solemn treaties even if we do not come to an understanding on the subject of confederation. He hoped that this meeting of the leading statesmen of the British Provinces who are here assembled may be productive of an amount of good that will be beneficial in the highest degree "to all the Provinces."

A lengthy discussion followed as to the means of voting on such questions as were to be considered. Were the delegates to vote individually, or should the votes be given by Provinces! Should each Province have the same status whether large or small in deciding a question respecting which there were different views! Were the members of the Conference to first express their opinions in the general meeting! Were the senior members to explain what had been already done! The discussion of these preliminaries having taken up some time. It was finally agreed that each Province should have one vote. That free discussion should be allowed. That the delegates from each Province might retire to discuss among themselves any question before voting, etc., etc. It was also decided that the Conference should meet at 11 o'clock a.m. daily and sit continuously until 4 p.m. (fifteen minutes being allowed for a light lunch in the room adjoining.)

<sup>1</sup> The following is a list of the delegates:

CANADA.—Sir E. P. Taché, John A. Macdonald, G. E. Cartier, George Brown, Oliver Mowat, Alexander T. Galt, W. McDougall, T. D'Arcy McGee, Alex. Campbell, J. C. Chapais, H. L. Langevin, J. Cockburn.

NOVA SCOTIA.—Charles Tupper, William A. Henry, Jonathan McCully, Robert B. Dickey, Adams G. Archibald.

NEW BRUNSWICK.—Samuel L. Tilley, W. H. Steeves, J. M. Johnson, P. Mitchell, E. B. Chandler, John H. Gray, Charles Fisher.

NEWFOUNDLAND.—F. B. T. Carter, Ambrose Shea.

PRINCE EDWARD ISLAND.—J. H. Gray, E. Palmer, W. H. Pope, A. A. Macdonald, G. Coles, T. H. Haviland, E. Whelan.

<sup>2</sup> Nothing of the speeches and discussion of the first day is found in Bernard's notes.

Hon. G. E. Cartier then gave an exposition of the first delegation to Charlottetown and what followed until the Conference had reassembled now at Quebec. He said: We thought if the Legislatures of the different Provinces were brought together they would legislate more for the general advantage. The United Provinces have about  $4\frac{1}{2}$  millions of inhabitants we have therefore the personal element which is essential. Then it is evident that no nation can attain great power without the Maritime element. We must have Commercial intercourse with Europe during more than six months of the year. You who live down by the sea have seaports open all the year round and it is better that you should have the benefit of our trade than that a foreign power should have it. We thought that a Federation scheme was the best because these provinces are peopled by different nations and by peoples of different religions. There is the question of a Tariff for the United Provinces. The regulation of postal communication and rates of postage, national works which might be brought before the general government without detriment and without offending any party or interest. We have now Customs and Tariffs in the different Provinces all now differing from each other each Province looking out only for its own interest. As to defence we all know the position England has assumed towards us. Separated as we are we can not defend ourselves. Cobden and Bright say what is the use of sending an army to defend Prince Edward Island. It would be a great question if England would send an army or bring the power of Britain to defend any province from invasion. When we bring the Country all together all our means would be united to repel an enemy. We would also have the seamen and we would have about 60,000 of them on the St. Lawrence. The position that England has taken now shows that we must be under one system of Government. Our financial interests also demand that we should be united. We all desire that these provinces should be as great as possible. There is always something better to be done something greater to be attained. I would never advocate this Union if I thought we would not thereby perpetrate<sup>1</sup> the power of Queen Victoria in this Province.

Colonel Gray, P.E.I., said: When I spoke of establishing a nationality I only referred to what has been the dream of my life to be one day a citizen of a great nation extending from the Great West to the Atlantic seaboard. He sincerely hoped that the delegates from all the provinces would unite to accomplish this great work. Prince Edward Island was but a small province but it could be to the other Provinces all that the little state of Rhode Island was to the great American Union, etc.

Hon. Mr. Carter, Newfoundland. Spoke in favour of the general principle of Federation and its bearing on Newfoundland which was a Commercial Colony possessed of immense wealth in its Fisheries. Many people had made fortunes there and retired to Britain to spend them. He looked to Federation as opening up a wide field for enterprise in this Continent and it might be the

<sup>1</sup> *Sic*. Doubtless a typist's error. Read "perpetuate".

means of inducing such persons to live here instead of retiring to the old country to spend their fortunes. The debt of the Colony was only £200,000, while the exports are in excess of the imports. The Provincial debentures bearing 5 per cent command a premium. We can supply your navy with seamen for we have a hardy race inured to the dangers of the deep and ready to defend the country when they are required to do so. Our province is larger than either England, Ireland or Scotland and comprises 40,000 square miles.

While I am a member of the administration my co-delegate is a member of the opposition in that Colony but our interests are alike in desiring to do all we can to benefit the Province we come from.

Hon. Mr. Shea, Newfoundland, agreed with Mr. Carter as to the favourable consideration which should be given to the proposed measure. We have the strongest feelings in favour of Confederation and as Newfoundland stands as the key to the Atlantic it is the interest of Canada that we should not be taken hold of by any foreign power. We stand at the entrance of the Gulf of St. Lawrence and the power which holds the Colony would control the trade of the Gulf by both entrances. Our fisheries employ 30,000 men a hardy and industrious class of men unsurpassed for daring and energy by any other seamen in the world. We have 350 vessels engaged in the seal fishery alone with 14,000 men.

Our imports are about six millions and our exports exceed our imports by nearly a million dollars annually. Our Revenue per head is larger than that of any of the other provinces. Our debt does not amount to more than \$900,000. We can raise all the money we want @ 4½ per cent. Our financial position is better I believe than that of the States of the American Union. A very small portion of our imports come from Canada while a very considerable portion come from the United States. Our people have no facilities for trade with Canada, they had to go to the United States. It took a month for a reply to be received to a letter addressed to Canada and the postage was double what it was between Canada and Britain. We looked to Confederation to remedy this state of affairs. We have what Canada requires and we want the class of goods that Canada can supply. We must have steam packets plying regularly between Canada and the Colony and then trade would soon follow that channel.

Hon. Mr. Galt referred to the observations of previous speakers at some length and the benefits which would be conferred upon all the provinces by a uniformity of tariffs, postage, banking, currency, etc., and gave a number of statistics bearing on the subject. The Inter-colonial Railway would be the great highway between the Canadas and the Maritime Provinces, if the Union could be accomplished and the road completed. It would be the bond of Union between the East and the West. . . . The debt of Canada was somewhat less per head than that of New Brunswick. In Newfoundland and Prince Edward Island the case is different. It is not so much what the debt of a colony is as what the expenditure is per

head of the population. Provision must be made for the Local Governments. All the revenue from Customs and Excise would go to the general government. The expenses of the Local Government would be lessened by the works they have now to provide for being lessened. In Canada it was thought the General Government could contribute towards the wants of the local Governments. The debts and taxation of the Provinces offered no material objection in our view. Many of us are of opinion that direct taxation is what is best but we must not insist on our individual opinions.

- Mr. Mitchell. I believe it is desirable as a means of perpetuating British rule in these Colonies. We want a general system of currency and Post Office arrangements. We want restrictions of trade removed and that we may be united and act with one mind for the defence of our rights. I hope that no peddling policy will be adopted.
- Hon. Mr. Coles. We must not expect that Prince Edward Island will come into a confederation to be taxed three dollars per head instead of one dollar as at present. Nova Scotia, New Brunswick and Newfoundland have the Crown lands and other Revenues which we do not possess in our province. If Prince Edward Island was to give up her excise and customs she would have no revenues left with which to carry on the business of the province.
- Hon. Mr. Haviland. We are here to throw away our party views and to look on the questions before us in a broader spirit. As a British American I will go heart and soul for a Federal Union of all the Colonies.
- Hon. Mr. Pope. When the proper time arrives to do so I will show how Prince Edward Island will be effected [*sic*] by withdrawing her general revenues.
- Hon. Mr. McCully spoke at some length but chiefly as to opinions on Legislative Union which he stated were prevalent in his Province.
- Hon. Dr. Tupper thought we should have a fuller exposition from the Canadian Ministry of what was intended at the present time. If it can be shown that the difficulties can be removed I shall be pleased, as it will elevate our Status, improve our social position and enable us to occupy a higher place in the national family. . . .
- Hon. John A. McDonald. We all meet here for the purpose of discussing the general principles of a Federal Constitution, leaving it thus open to all parties to express their views freely. Unless the details can be made satisfactory the whole thing must break down.
- Hon. Mr. Dickie. The question must depend on what the details are to be and it should be more discussed before we give our vote one way or the other.
- Hon. Mr. Brown thought it inexpedient to have a general debate on one resolution and then afterwards the same to be again gone over.
- Hon. Dr. Tupper stated the purport of the former Conference at which owing to the statements of gentlemen from Canada it was decided not to report finally until it was known what has been done at the present Conference. . . .

After some further discussion it was decided to adjourn until tomorrow at 11 a.m.

QUEBEC, OCTOBER 11, 1864. (TUESDAY)

Conference opened at 11 a.m.

It was resolved after debate that Mr. H. Barnard should be appointed Executive Secretary to the Conference to keep a record of the official decisions of the Conference.

It was also decided after debate that each Province by whatever number of delegates it was represented should have one vote in deciding all questions except those of order.

Free discussion to be allowed.

Conference to be in committee of the whole.

No discussion allowed after vote taken.

Each Province delegation may retire for consultation.

Afterwards all resolutions to be with speaker in chair.

At close of Conference decision as to publication.

Conference then resumed the consideration of motion in favour of Federal Union as per Resolution<sup>1</sup> and

Hon. John A. McDonald said:<sup>2</sup> As we can't have the same scale of duty throughout the various provinces, we must continue with hostile tariffs unless we have the Union which is the only alternative. How is this to be done? Now as to the Constitution of the Legislatures we should have two Chambers, an upper and a lower house. In the upper house equality in numbers should be the basis. In the lower house population should be the basis. Upper Canada had at last census 1,400,000, now it has 1,600,000. Lower Canada had then more than 1,000,000, now 1,200,000. Nova Scotia say 350,000. New Brunswick 260,000. Newfoundland 125,000. Prince Edward Island 85,000. Upper Canada would be taken as one division say with 60 members. Lower Canada 60 members and Acadia and Maritime 20 each.

—The mode of appointment to the Upper House—

Many are in favour of Election and many are in favour of appointment by the crown. My own opinion will be made up on having arguments on both sides of the question as my mind is open on the subject. I may say however that I am favourable to appointments by the Crown. I am after experience in both systems in favour of returning to the old system of nomination by the Crown. It is asking too much to require the members of the upper house of each province to extinguish themselves. We have 72 members in the Upper house, 48 elected and balance nominated by the Crown. If a ballot were taken for 20 in the old house to represent in the new house it might answer, or the new house might be elected from the old Upper house. There should be a large property qualification for the Upper house which is then the representative of property.

<sup>1</sup> This Resolution, introduced by John A. Macdonald and S. L. Tilley on October 10, was "That 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, provided such union can be effected on principles just to the several Provinces."

<sup>2</sup> By comparison with the text in Pope's *Confederation Documents* it will be seen that the present writer has omitted all the earlier portion of John A. Macdonald's speech.

It should be an independent body as far as property goes. First election to be made by the present constituency and afterwards qualification of Electors to be fixed by the general parliament. We must have a strong Central Government with all authority except what is given to the local governments in each Province and avoid the errors of the American Constitution.

Hon. Mr. Dickie enquired what authority we have from the British Government to agitate this question. May we not have those advantages we look for without legislative and administrative arrangements . . . referred to flour trade . . . Taxation in Canada is here on roads and bridges and also for education. There is also Municipal taxation besides the general tax; therefore such a measure must increase taxation very materially in the Maritime Provinces and if Municipal taxes are not included in the Canadian statement it must make taxes more than they really appear to be.

(Note) Despatch of 6th July 1862 was read in reply to Mr. Dickie's question.

Hon. Mr. Galt replied at some length: There is no doubt but what the free trade between the Provinces might be extended, even as we are, but it could not be done so effectually. I think it necessary to give certain amounts from the general revenue to local wants.

Hon. Mr. McCully addressed the conference in a long speech but his remarks very general.

Hon. Mr. Brown said he differed in many details which he would discuss in other resolutions when they came up. The first resolution was then unanimously agreed to. The second resolution in favor of Federation of the Provinces with general Government and local Governments for each of the Canada's and for the Maritime Provinces in local matters, with provision of admission of N.W.T., B.C. and Vancouver<sup>1</sup> then submitted by Hon. Mr. Brown who said that the British Government have offered the North West Country to Canada already and that we should open up roads into that Country, etc., etc., etc.

Hon. Mr. Archibald approved of the general principles of allowing the increase of territory as contemplated in the resolution. . . . A good deal of general discussion followed when four o'clock having arrived the Conference adjourned until 11 A. M. to-morrow.

<sup>1</sup> The following is the wording of this Resolution as given in the Minutes:

"That 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 Maritime Provinces, charged with the control of local matters in their respective sections, provision being made for the admission into the Union on equitable terms of the North-West Territory, British Columbia and Vancouver."

WEDNESDAY, OCTOBER 12, 1864.

Conference assembled at 11 A. M.

A number of communications addressed to the Conference by various societies and individuals inviting the Conference to visit public institutions, etc., and also from the press for reports of the proceedings were read and the minutes of previous meetings were agreed to.

A discussion relative to inviting the Western Territory and British Columbia to unite with the Conference then ensued, and thereupon and owing to other circumstances connected with the delegation, the Canadians adjourned to hold an Executive Council meeting.<sup>1</sup> The delegates from the Maritime Provinces remained and discussed a resolution submitted by Hon. George Brown, that the Lower Provinces be admitted as one, and Upper and Lower Canada as one each.<sup>2</sup>

After considerable debate all the delegates from the Lower Provinces disagreed to this resolution.

Conference adjourned till 11 A. M. to-morrow.

QUEBEC, THURSDAY, OCTOBER 13, 1864.<sup>3</sup>

Conference met pursuant to adjournment. Minutes of previous meeting adopted.

Hon. Mr. Brown agreed to withdraw his resolutions of the previous day.

Hon. John A. Macdonald then read several resolutions which the Canadians had prepared to submit as to the Constitution of the Legislature, viz.,

That the Legislative Council consist of 72 members, 24 from Upper Canada, 24 from Lower Canada and 24 from Lower Provinces, to be chosen from the present Councils and appointed by the Crown under great seal of Executive Government and to be for life. Executive Government to be responsible. Local Governments to consist of two branches. The Lieutenant Governor to be appointed under great seal of General Government. Mr. Macdonald explained these resolutions in his address to the Conference, and then

Hon. Mr. Fisher moved that the General and Local Governments shall be formed on the model of the British Constitution as far as possible. A long discussion then ensued as to the propriety of passing such a resolution, which, after several amendments were proposed, resulted in the adoption of the amendment of Mr. Tilley that the word "Local" be struck out of Mr. Fisher's resolution which was then agreed to as amended.

<sup>1</sup> The delegates from Canada were appointed a committee to prepare resolutions to be submitted to the Conference.

<sup>2</sup> There is no reference to this matter in this day's Minutes or Discussions as published by Pope.

<sup>3</sup> Bernard's notes of the sittings from October 13 to October 18 inclusive, if prepared, are now missing. The present document, therefore, becomes of primary importance for these days.



Hon. John A. Macdonald moved that there be a general Government consisting of a Legislative Council and a House of Assembly. 2nd. That the Council consist of 72 members, 24 for each of the Canada's and 24 for the Lower Provinces.

A lengthy discussion followed this point and Mr. Tilley moved that the Canada's have 24 each and the Lower Provinces 32 members or a House of 80 members, and in his remarks stated that these would be appointed, 12 to Nova Scotia, 10 to New Brunswick, 6 to Newfoundland and four to Prince Edward Island. Many of the delegates spoke on this subject and the hour of 4 O'Clock ensuing the Conference was adjourned until 11 A. M. tomorrow.

FRIDAY, OCTOBER 14, 1864.

Conference met at 11 A. M. and resumed the consideration of the motion respecting Legislative Council.

The members from the Lower Provinces strongly urged their contention for a larger relative representation which the Canadians opposed. Many of the members of the Conference took part in the discussion of this question and many amendments were offered. The Maritime delegates contended that population should not decide the numbers in the Federal Legislative Council. Each Province had its own Constitution under which the smaller Provinces had the same powers as the larger ones and could thus with reason claim the right to a fuller quota in the Council than proposed by the Canadians. The only safeguard the small Provinces would possess was in the Council. If numbers in the other House were based on population they should not also decide the representation which the weaker Provinces were to receive in the Upper Chamber, etc., etc. At 4 O'Clock Conference adjourned till 11 A. M. tomorrow.

SATURDAY, OCTOBER 15, 1864.

Conference resumed.

It was resolved that on and after Monday the 21st inst., Conference meet @ 10 A. M. and sit till 8 P. M. Meet again at 7.30 P. M. and sit as late as desirable.

The further consideration of representation in the Legislative Council was resumed and the general subject of Federation was discussed in connection with this resolution.

The delegates from Prince Edward Island were not satisfied with the number of representatives proposed for their Province.

Hon. Mr. Langerin<sup>1</sup> claimed that Quebec should have an equal number with Upper Canada but did not appear to urge a smaller number than Mr. Tilley proposed for the Lower Provinces.

(Note). I think that Hon. Mr. Brown contended for a larger number for Ontario than for Quebec.

Nearly all of the delegates expressed their views at some length but no other notes were taken by the writer of their speeches on this

<sup>1</sup> *Sic.* Read "Langevin."

day, as he was engaged in compiling statistics of P. E. I. in Dollars and Cents, and at 2.30 P. M. the Conference adjourned until 10 O'Clock A. M. on Monday.

MONDAY, OCTOBER 17, 1864.

Conference met at 10 A. M.

The resolution submitted by Mr. Brown on Tuesday last was taken up setting forth that the system of Government should be Federal with Local Governments in each Province and provision for admission of the North West Territories, Newfoundland, British Columbia and Vancouver, and further debate following the resolution was adopted and entered on the record.<sup>11</sup>

The adjourned debate on the constitution of the Federal Legislative Council was then resumed.

Hon. A. A. MacDonald said:

That he considered each Province should have equal representation in the Federal Upper house and instanced the different States of the Union which however diversified in area were each represented by two Senators in the General Government. It was he thought understood at first that while the Lower house should have its number of members based on population, the Upper house should be more representative of the smaller Provinces as it was to be the guardian of their rights and privileges. Each Province now possesses a constitution of its own similar in the case of the smallest to that in the largest Province and equal rights and privileges were accorded to all alike. It was therefore a good reason why the smaller Provinces should claim better representation in the Legislative Council than the resolution provided. The Canadians make no allowance for our present condition. We are not specially desirous of changing it. What are the inducements for us to give up our Constitution! What is Canada conceding to the Lower Provinces! Canada proposes a certain number of Councillors to suit the ideas of its own people and will not admit of any deviation from that proposal. Each Province has now a fixed number of Provincial Legislative Coun-

<sup>1</sup> According to the Minutes this resolution (see note 6 above) had been passed on October 12. It was now reconsidered and amended so that the latter portion reads: "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."

The change in *status* of Newfoundland is interesting, but neither Bernard nor Macdonald throws light on it. The Newfoundland delegates had hitherto been participants in the discussion and voting, apparently on equal terms, but, according to the Minutes, at this sitting a resolution was carried: "That the Colony of Newfoundland, having sent a deputation to this Conference, be now invited to enter into the proposed Confederation, with a representation in the Legislative Council of four members."

This resolution was, we are told, communicated to the Newfoundland delegates, and the invitation accepted by them, the right being reserved to press their claims for a larger representation in the Legislative Council.

cillors and in a general Council half the number would be a fair representation for each Province. The two Canadas have 72 Legislative Councillors. The Maritime Provinces with Newfoundland have the same number. I suggest that we take the numbers in the present Councils as our basis and allow each Province half that number in the Federal Legislative Council. This proposal was not entertained and farther debate ensued. It was advocated by some delegates to allow the Crown to add to the number of Legislative Councillors at any future time as they might deem necessary, but this was objected to by the Prince Edward Islanders and some others as it would destroy the equilibrium established between the Provinces and would be difficult to work out satisfactorily.

The resolution that for the purpose of forming a Legislative Council the Federated Provinces shall be considered as consisting of three divisions, 1st Upper Canada, 2nd Lower Canada, and 3rd Nova Scotia, New Brunswick and Prince Edward Island as the third division with equal representation from each division, was then submitted to vote, and carried; Prince Edward Island delegates dissentient.

The resolution fixing the number of Legislative Councillors at 24 for each division was then submitted to vote. The Hon. Dr. Tupper proposed 24 for each of the Canadas, 10 for Nova Scotia, 9 for New Brunswick, and 5 each for Prince Edward Island and Newfoundland.

This after debate was withdrawn.

Hon. Mr. Coles proposed 20 each for the two Canadas, 8 each for Nova Scotia and New Brunswick, and 4 each for Prince Edward Island and Newfoundland.

This after debate was also withdrawn.

Hon. A. A. MacDonald proposed that half the present number in each Province constitute the number in the Federal Legislative Council.

This resolution was also withdrawn.

The question on the main motion was then put and Prince Edward Island having retired and consulted decided against it by a majority. The Chairman for P. E. I. announced that decision, and all other Provinces having voted for the resolution it was declared carried.<sup>1</sup>

It being now 2 o'clock Conference adjourned until 7:30 p. m.

At 7:30 Conference again met and a resolution was moved "that the members of the Legislative Council shall be appointed by the Crown under the great seal of the General Government and hold office for life."

Hon. John A. McDonald, George Brown, Dr. Tupper and others spoke on this resolution but I have no notes of their addresses.

Hon. Mr. Coles moved, seconded by Hon. A. A. MacDonald "That at the first and all subsequent Elections of members to serve in the Upper House they shall be chosen by a majority of both branches

<sup>1</sup> Much of this matter is not found in the Minutes, and it is there stated that the resolution fixing the number of Legislative Councillors was carried unanimously.

of the Provincial Legislative from such qualified persons as are thirty years of age or upwards. One half of such Council to go out every four years after the first Election, to be decided by lot in first session."<sup>1</sup>

Mr. Coles spoke in advocacy of his resolution.

Hon. A. A. MacDonald in seconding it considered that in this way only would the popular opinion of the Province be expressed whereas in appointments made by the Crown such would not be the case and the nominee of the Crown might be the most unpopular person in the Province.

At 12 midnight Conference adjourned till 10 a. m.

TUESDAY, OCTOBER 18, Conference met at 10 o'clock a. m. and resumed the adjourned debate, etc.

"That the members of the Legislative Council shall be appointed by the Crown under the great seal of the General Government and hold office for life." The Prince Edward Island delegates withdrew and consulted as to their action. The question was asked: Shall appointment be open to all persons? and on a vote being taken, 5 voted nay, 1 voted yea. It was then asked: Shall appointments be made from present Councillors as far as qualified? Ans. No, by majority, only one voting yea.

On returning to the Conference Chamber the question was put on the main motion and it was carried unanimously by Provinces (although individual members in all Provinces did not agree).

The qualifications necessary for eligibility to serve as Legislative Councillors was then considered, and it was proposed to select them by lot from the present Legislative Councils except in Prince Edward Island, this proposition was defeated. It was then proposed to select the Legislative Councillors with due regard to local parties,—to be appointed by the General Executive Government on recommendation of the local Executive from present Legislative except as regards Prince Edward Island, this was also lost.

It was proposed that the first selection be made from duly qualified members of the Legislative Council in Canada but in the other provinces to be opened to all who possess the requisite qualifications whether now members of the Legislative Council or not, this was withdrawn.

It was then proposed to select the Legislative Council with due regard to local parties, appointments to be made by the Federal Executive on recommendation of the Local Executive from present Legislative Councils.<sup>2</sup>

At 11.30 the motion for adjournment was carried.

<sup>1</sup> This interesting motion is not entered in the Minutes as published.

<sup>2</sup> It would seem from the Minutes and Col. Bernard's notes that Mr. Macdonald has included in this day's business some matter that did not formally come before the Conference until the following day.

The Conference met at 10 a.m. WEDNESDAY OCT. 19,<sup>1</sup> and consideration of the adjourned debate resumed on resolution.

That the members of the Legislative Council for the General Government shall in the first instance be selected from the Legislative Councils of the various provinces with the exception of Prince Edward Island, so far as qualified, and debate ensuing the Prince Edward Island delegation retired to consult and on a vote of that province being taken a majority was against the resolution, which was adopted by the vote by provinces in the General Conference.

The resolution that the first Council in the Federal Legislative [*sic*] shall be appointed by the Crown on the recommendation of the Local Governments with due regard to claims of the opposition was then proposed and after long debate it was adopted.

Hon. Peter Mitchell being called away on his private business got leave of absence for the remainder of the Conference.

Conference adjourned at 2 p. m. until 7 p. m.

Conference resumed at 7:30 p. m.

Resolution that the basis of representation in the House of Commons shall be population and 194 members viz., Upper Canada, 82, Lower Canada 65, Nova Scotia 19, New Brunswick 15, Newfoundland 8, Prince Edward Island 5, was then put. Debate thereon continued until 10 o'clock when the motion for adjournment was carried for 10 o'clock tomorrow.<sup>2</sup>

THURSDAY, OCTOBER 20, Conference met at 10 a. m.

Several resolutions respecting sessions of Legislatures and the powers thereof were submitted. Also Resolution respecting mode of appointment of Lieutenant Governors and the duration of their holding office led to lengthy debate before they were finally adopted by the Conference.

(*Note*) Major Barnard the Executive Secretary of the Conference has given a fuller and better report of this days debates than could be made out from my notes, so I have taken his report for the 20th.

THURSDAY, OCTOBER 20TH.

Extracts from the minutes of Major Hewitt Barnard from Appendix VI Page 351—Vol. 1—Pope's Sir John MacDonald.<sup>3</sup>

<sup>1</sup> Bernard's notes for this day are quite extensive.

<sup>2</sup> According to Bernard, a long discussion arose on this and the following day from Prince Edward Island's objection to the small representation allotted to her in the House of Commons. Unfortunately Macdonald, although a delegate from the island, says nothing on the subject.

<sup>3</sup> In this Appendix to the first volume of his *Memoirs of Sir John Macdonald* Sir Joseph Pope published some extracts from Col. Bernard's notes, the whole of which were subsequently published in his *Confederation Documents*.

**Mr. Brown:**

As to local Governments, we desire in Upper Canada that they should not be expensive, and should not take up political matters. We ought not to have two electoral bodies. Only one body, members to be elected once in every three years. Should have whole legislative power—subject to Lieutenant Governor. I would have Lieutenant Governor appointed by General Government. It would thus bring these bodies into harmony with the General Government. In Upper Canada executive officers would be Attorney General, Treasurer, Secretary, Commissioner Crown Lands, and Commissioner Public Works. These would form the Council of the Lieutenant Governor. I would give Lieutenant Governor veto without advice, but under certain vote he should be obliged to assent.

During recess Lieutenant Governor could have power to suspend executive officers. They might be elected for three years or otherwise. You might safely allow County Councils to appoint other officers than those they now do. One Legislative Chamber for three years, no power of dissolution, elected on one day in each third year. Lieutenant Governor appointed by Federal Government. Departmental officers to be elected during pleasure, or for three years. To be allowed to speak but not to vote.

**“Mr. Cartier:**

I entirely differ with Mr. Brown. It introduces in our local bodies republican institutions. Mr. Brown moved: “That in the local Government there shall be but one Legislative Chamber.”

**“Sir E. Taché:**

This motion is made merely to elicit opinion of Conference.

**“Mr. Tilley:**

New Brunswick differs from Mr. Brown. They propose to keep the existing things as they are, so far as consistent with expense. They propose Lieutenant Governor, five departmental officers, with seat in House.

**“Mr. Dickey:**

Before details, settle principles. Will Conference take present local Governments as models?

**“Mr. Fisher:** I am opposed to Mr. Brown's views. I approve of the present system of Local Legislatures. I agree with Mr. Brown that the Lieutenant Governor should be appointed by the Federal Government.

**Mr. Carter:**

In 1842 we had one chamber in Newfoundland partly appointed by Crown and partly by people. It worked well. An object to reduce expense.

**Mr. Henry:**

I think uniformity is very desirable, but you should first consider what is to be left to the Local Legislatures before you proceed to discuss their constitutions.

**Mr. McGee:**

No. Institute your body and then assign its powers.

Mr. Chandler:

We are here to form a constitution for Federal Government. Let the provinces otherwise remain as they are, so far as possible.

Dr. Tupper:

I agree with general principles laid down by Mr. Brown that the Governments should be as simple and inexpensive as possible. We should diminish the powers of the Local Governments, but we must not shock too largely the prejudices of the people in that respect.

Mr. McCully: We must have miniature responsible governments.

Adjourned at 2 o'clock until Friday, 21st, 10 a. m.<sup>1</sup>

FRIDAY, OCTOBER 21, 1864, 10 A. M.

*A. A. Macdonald's notes resumed.*

Financial resolutions from No. 1 to No. 9 on the minutes were discussed by the leading members of the Conference which continued in session without adjournment until 5 o'clock P. M., when the Chamber being required for other purposes the Conference adjourned.

A number of resolutions besides those above mentioned were discussed and several changes made in the original drafts of some of them. There was a very general debate in which the leaders chiefly took part. Many questions and explanations were required by the other members, and all relating to finance were replied to by Hon. Mr. Galt who has all information on that point in his head and does not often require to refer to the printed statistics, but I have no other notes of the day's debate, as I was engaged in making up a number of statistical tables along with Hon. Mr. Pope. Conference adjourned until 10 A. M.<sup>2</sup>

Conference reassembled on 22nd October at noon and

Hon. Mr. Galt said: It is desirable that all the Provinces should enter the Federation with the same liabilities, and secondly that all should be admitted on just principles so that no claim can hereafter be advanced on account of claims now existing. He then read the resolutions respecting financial arrangements with the Provinces and stated the reasons at length of such an arrangement. He stated that \$80,000,000 was the present gross debt of all the Provinces, \$25 per head is the aggregate of the debt as nearly as possible. The debt of Canada on the 1st of January last was \$65,000,000 = Miscellaneous \$64,000, Common School debentures \$1,181,000, Indian fund \$1600,000, Capitalization payable to seigniorial tenures \$2,900,000, Municipal \$600,000, Jesuits, etc. in all \$4,000,000, Total \$75,578,000 is the debt of Canada. Credits on Sinking fund \$4,883,000, Common School fund \$1,200,000, Cash \$2,848,000, Net Liabilities \$68,445,953 on 1st January last. Three fourths of this debt has been incurred for public improvements tending to conduct

<sup>1</sup> This is not correct. There was an evening session on October 20.

<sup>2</sup> No reference to the discussion of financial matters on this day is made either in the Minutes or in Bernard's notes of the discussions. The subject of consideration was the powers of the General Legislature.

trade from the great West in this direction, 1st by Canals, 2ndly by Railways. We have expended \$24,908,000 for Canals, \$29,302,000 for Railways, about \$15,000,000 in the Grand Trunk line is deferred until it realizes a certain rate of interest. Great Western Railway \$2,500,000, a preference claim of \$1,000,000 comes in before us, but it is now paying interest on the Railway debt, Northern Railway \$2,300,000, Municipal Loan funds about \$9,000,000.

The liabilities of Nova Scotia about	\$5,000,000
“ “ “ “ New Brunswick	5,700,000
“ “ “ “ Newfoundland	1,000,000
“ “ “ “ Prince Ed. Island	250,000
“ “ “ “ Canada	68,445,950

Making a total indebtedness of \$80,395,950

\$25 per head will represent \$62,500,000 for Canada while the debt is \$69,000,000. In New Brunswick it will about represent the same proportion; in Nova Scotia also. In Newfoundland the debt is about \$8 per head, they will be charged with interest on that and will receive credit for \$25 per head. The debt of Prince Edward Island is \$3 per head, consequently it will benefit by \$22 per head as a subsidy. It is plain the Local Governments cannot exist without a subvention from the General Government, or resorting to direct taxation, a subvention is the best means. The General Government must desire to make the charges for local Governments as light as possible while the Local Governments would have an opposite interest. I trust whatever the amount of the subvention may be that it will not be changed hereafter. It should be definitely settled now and not doubled when the population of any Province doubles.

Hon. Mr. Tilley stated the objections he held against Mr. Galt's scheme. The Federal Government would take all the public property and proposed nothing in return for this. Our Railway now pays one and a half per cent on the cost of the road or \$60,000 over working expenses, wear and tear. Mr. Galt proposes to take this from us and allow us nothing in return. A large part of Canada's debt arises from interest on its railway debts. I should like to know what the value of your Railway debt would be after paying preference bonds? The Great Western Railway is the only one I look upon as a valuable asset, as it pays the Interest or part of it on its indebtedness. Suppose we construct the line between Nova Scotia and New Brunswick a part of the Intercolonial, will the receipts from it go into the general Revenue and are we to have no benefit from them?

Hon. Mr. Galt: I admit that the question of what future liabilities you incur is one of great importance that we should consider. The whole of the public works are given to the Confederation, etc., etc., etc., etc.

Hon. Messrs. Tilley & Brown, Tilley & Galt discussed this question at length. . . . .

Hon. Dr. Tupper said that \$20,000,000 of Canada's debt in the Grand Trunk line is not represented by any assets paid into the public

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Treasury, while Nova Scotia's Railways could be sold tomorrow for fifty per cent of cost, etc., etc., etc. Dr. Tupper continued his criticism of the financial aspects of the Lower Provinces and the position they would find them selves in if such proposals were adopted. He spoke at considerable length but the writer had no opportunity to note his remarks, as the other Island delegates had requested him to get up certain statistics respecting their Province, and to convert the Island Currency as given in the official returns, which gave only the Island Currency, into Dollars and Cents, Canadian Currency.<sup>1</sup>

The debate on the foregoing questions was continued by Messrs. Galt, Tilley, Archibald, Tupper, McCully, Coles, Chandler, Steeves, Dickey, Henry and nearly all the members of the Conference took part in it. The debate continued until 10 o'clock when the Conference adjourned until Monday, the 24th at 10 A. M., when being met a lengthy discussion followed chiefly on the financial resolutions, for report of some of the speeches I again refer to Major Barnard's report as given in Appendix vi page 352, Pope's Sir John Macdonald, a copy hereto annexed.

#### MONDAY, OCTOBER 24th.

Extract from minutes of Major Hewitt Bernard from Appendix vi page 351, Vol 1—Pope's Sir John Macdonald.

Mr. Mowatt moved (a resolution defining the powers of the Local Legislature<sup>2</sup>).

Mr. Chandler: I object to the proposed system. You are adopting a Legislative Union instead of a Federal. The Local Legislatures should not have their powers specified, but should have all the powers not reserved to the Federal Government, and only the powers to be given to the Federal Government should be specified. You are now proceeding to destroy the Constitutions of the Local Governments, and to give them less powers than they have allowed\* them from England, and it will make them merely large Municipal Corporations. This is a vital question, which decides the question between a Federal and Legislative Union, and it will be fatal to the success of Confederation in the Lower Provinces.

Dr. Tupper: I have heard Mr. Chandler's argument with surprise. Powers undefined must rest somewhere. Those who were at Charlottetown will remember that it was fully specified there that all the powers not given to Local should be reserved to the Federal Government. This was stated as being a prominent feature of the Canadian scheme, and it was said then that it was desirable to have a plan contrary to that adopted by the United States. It was a fundamental principle laid down by Canada and the basis of our deliberations. Mr. Chandler says that it gives a Legislative instead

<sup>1</sup> We have here, however, a much better report of this important discussion than that published from Bernard's notes.

<sup>2</sup> Read "Legislatures."

<sup>3</sup> Read "have had allowed."

of a Federal Union. I think that a benefit. Is the Federal Government to be one of mere delegates? We have provided for a legislative representation and for the representation of every section of all the Provinces. Such a costly Government ought to be charged with the fullest powers. It will be easier for every one of the remotest settlers in Nova Scotia and New Brunswick to reach the Federal Legislature than the present Local Legislatures. If it were not for the peculiar condition of Lower Canada and that the Lower Provinces have not municipal systems such as Upper Canada, I should go in for a Legislative Union instead of a Federal. We propose to preserve the Local Governments in the Lower Provinces because we have not Municipal Institutions. If Conference limit the powers of the General Legislature, I feel that the whole platform is swept away from us.

Mr. Coles: I did not understand this was laid down as a basis at Charlottetown. I thought there the only thing specified was representation by population in Lower House. I agree with Mr. Chandler's views.

Mr. Haviland: I disagree with Messrs. Chandler and Coles. I understood the basis of our scheme, so as to avoid difficulties of United States, is to give limited powers to local Legislatures.

Colonel Gray, N. B.; Mr. Cole's memory is hurt<sup>1</sup> (Quotes from Mr. McDonald's speech at Charlottetown and from Mr. Brown's that Federal Government was to have general powers and limited as to local). Whatever conclusion we may now arrive at, such was the basis of the Canadian scheme.

Mr. Chandler: My argument is not met as to merits, but as to what was laid down at Charlottetown. We all agree that local Government should have local powers, we differ as to whether such powers should be defined.

Dr. Tupper: Under Mr. Chandler's view the Governor General would be less than the Lieutenant Governor, and the Federal Government less than the local.

Mr. Dickey: I propose a Supreme Court of Appeal to decide any conflict between general and state rights. I am rather inclined to agree with Mr. Chandler. Immense interests omitted in Mr. Mowat's motion.

Mr. Brown: This matter received close attention of Canadian Government. I should agree with Mr. Chandler were it not that we have done all we can to settle the matter with sufficient powers to local Legislatures.

I would let the Courts of each Province decide what is local, and what general Government jurisdiction, with appeal to the Appeal or Superior Court.

Mr. McCully: I refer to New Zealand Act, which is evidently framed to meet difficulty. It strongly<sup>2</sup> defines what the local Governments shall not do. In 53rd clause General Assembly to make laws, etc., for government of New Zealand, and shall control and supersede

<sup>1</sup> Read "short."

<sup>2</sup> Read "strangely".

those of local Governments repugnant thereto. Mr. Brown will land us in position of United States by referring matter of conflict of jurisdiction to Courts. You thus set them over the General Legislature.

Mr. Attorney General MacDonald:

New Zealand constitution was a legislative Union, ours federal. Emigrants went out under different guarantees. Local charters jarred. In order to guard these they gave the powers stated to local Legislatures, but the General Government had power to sweep these away.

That is just what we do not want. Lower Canada and the Lower Provinces would not have such a thing. There is no analogy between New Zealand and ourselves in such respects. Our Courts now can decide where there is any conflict between the Imperial and Canadian Statutes. I think the whole affair would fail, and the system be a failure, if we adopted Mr. Chandler's views. It would be adopting the worst features of the United States. We should concentrate the power in the Federal Government, and not adopt the decentralization of the United States. Mr. Chandler would give sovereign power to the local Legislatures, just where the United States failed. Canada would be infinitely stronger as she is than under such a system as proposed by Mr. Chandler. It is said the tariff is one of the causes of difficulty in the United States. So it would be with us. Looking at agricultural interests of Upper Canada, manufacturing of Lower Canada, and maritime interests of lower Provinces, in respect to a Tariff, a federal Government would be a mediator. No general feeling of patriotism exists in the United States. In occasions of difficulty each man sticks to his individual State. Mr. Stephens, the present Vice President, a strong Union man, yet, when time came, he went with his State. Similarly we should each stick to our Province and not be British Americans. It would be introducing a source of radical weakness. It would ruin us in the eyes of the civilized world. All writers point out errors of United States. All the failings prognosticated by De Tocqueville are shown to be fulfilled.

Mr. Johnson: Enumerate for local Governments their powers, and give all the rest to general Government but do not enumerate both.

Mr. Palmer: Easier to define what are general, than what are local subjects, but we cannot define both. We cannot meet every possible case or emergency.

Mr. Henry: We should not define powers of general Legislature. I would ask Lower Canada not to fight for a shadow. Give a clause to give general powers (except such as given to local Legislatures) to federal Legislature. Anything beyond that is hampering the case with difficulties. If we are to have Confederation let us have one on the principles suggested by Attorney General MacDonald. In United States there is no power to settle constitutionality of an Act. Hereafter we shall be bound by an Imperial Act, and our judges will have to say what is constitutional under it as regards general or local Legislation.

Mr. Dickey: Why did Imperial statutes give the powers they did to New Zealand General Government?

Mr. Chandler: My plan is not precisely the same as United States, because Government does not in United States appoint the Lieutenant Governors and the Legislative Councillors. If my plan is not adopted, I should have elective Legislative Councillors.

Colonel Gray, N. B.: The power flows from Imperial Government. We propose to substitute the Federal Government for the Imperial Government but the Federal Government is itself subordinate to the Imperial Government. And as to the policy of the thing, I think it best to define the powers of the local Governments, as the public will then see what matters they have reserved for their consideration, with which matters they will be familiar, and so the humbler classes and the less educated will comprehend that their interests are protected.

*end of Major Bernard's notes*

TUESDAY, OCTOBER 25, 1864.

The financial arrangements still formed the chief subject of discussion. Several sets of resolutions on other subjects were submitted and agreed to chiefly those referring to the jurisdiction of the local and general legislatures, the judiciary, etc.

On consideration of the subject of Education it was moved by Hon. Darcy [*sic*] McGee and seconded by Hon. A. A. McDonald.

"That it be resolved that all rights and privileges which any denomination now possesses in respect to denominational schools or in educational matters shall be preserved to them by the constitution and shall not be abridged by Legislation."

(*Note*) This may not be the literal wording of the resolution, but such is its import. My note on it being an imperfect draft.<sup>1</sup>

This resolution was unanimously adopted.

Conference adjourned until 10 a. m. on Wednesday.<sup>2</sup>

WEDNESDAY, OCT. 26, 1864. Conference met at 10 a. m.

Hon. Mr. Pope submitted a statement of the position in which Prince Edward Island would stand in the financial arrangement proposed if it entered Confederation on those terms, and nearly every member of the Island delegation spoke on this question showing that it was impossible for the Government to be carried on there with such limited income.

Hon. Mr. Coles moved seconded by Hon. A. A. MacDonald, Whereas the question of Land tenures in Prince Edward Island is the cause of great discontent and the source of much agitation, and in order to

<sup>1</sup> According to the Minutes, the amendment consisted in adding to the clause which assigned education to the control of the local legislatures the words:

"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 Constitutional Act goes into operation."

<sup>2</sup> Bernard's notes end with this day's discussion.

settle the same it is necessary that the lands held by Absentee proprietors should be purchased at a reasonable rate by Government and resold to the tenants and whereas Prince Edward Island has no Crown lands, mines or minerals from which money can be realized to purchase the said proprietary lands and it is requisite for the prosperity of the Island that the said land question should be settled. Resolved therefore that a sum equal to the interest of the amount necessary to purchase the said lands be paid annually to Prince Edward Island in consideration of this question.

Hon. Mr. Coles spoke in support of his resolution as to the present state of the land question and what the local Government had done in its efforts to have the land tenures settled. He referred to the general benefits such a measure would have and its effect upon the views of the people on the subject of Confederation.

Hon. A. A. MacDonald said that the only advantage he could see that would accrue to the people of his Province under the proposed Confederation would be to have the lands purchased by the Government. This the local Government might accomplish through time without entering into Confederation but it must take many years to do it. Even if the lands were to be purchased by the general Government and handed over to the local Government to be disposed of to the tenants the funds arising from the sale would not constitute a permanent source of revenue. They would be all disposed of in a few years and the money would be expended for local improvements owing to the necessities of the Province while we would be taxed as much per head as we now pay and have besides to pay our proportion of the Federal taxation the same as all the other Provinces. Our local and Federal taxation would be more than we could bear. We would have to pay our portion of the railway debt without a railroad throughout our Province. It is a matter of indifference to our people whether the Intercolonial Railroad is built at all or not. Being an insular Province and entirely cut off from the mainland by the Ice for nearly half the year we need fear no foreign invasion and being but a small Province offer no inducements to a foreign invader to make war on us while so many richer Provinces offer more prizes and lie between us and any possible foe. We are loyal subjects of our gracious Queen and she would not see us cut off from protection while we put forth our own efforts to protect our shores. It would require more liberal financial terms than any yet proposed to induce our people to support a Federal Union if they were to form a portion of it. (He referred to the increased Tariff as compared with present local).

Hon. Mr. Galt said that the duties of Canada will be materially lessened under any circumstances and will be readjusted with reference to the position of all the Provinces and their duties after Confederation.

Conference adjourned at midnight after a number of resolutions had been passed.

THURSDAY, OCT. 27, 1864. Conference met at 10 a. m.

A number of resolutions which had been under consideration at previous sessions were adopted this morning and the whole read

over. Most of the delegates left early. I was the only Islander at the Conference during these formal proceedings. It was decided to have the resolutions of the Conference printed and submitted to the delegates at Montreal to be authenticated by their signatures and the Conference then adjourned to meet at Montreal tomorrow.

A brief session was held at the St. Louis Hotel<sup>1</sup> on October 29th but the printed report of the Conference resolutions was not ready and an adjournment was agreed upon till arrival at Ottawa.<sup>2</sup>

<sup>1</sup> The Minutes read "St. Lawrence Hall, Montreal."

<sup>2</sup> There is no reference in the Minutes to this adjournment to Ottawa.