THE QUEBEC CONFERENCE

by

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Although the Quebec Conference apparently began where the Charlottetown Conference left off, there remained throughout both these constitutional conferences wide divergence of opinion as to what, precisely, had been achieved at Charlottetown. The very conversational and informal character of the maritime discussions undoubtedly contributed to this confusion, as did the fact that not all the delegates to Quebec had been at Charlottetown. Notable among the latter, in fact, was the chairman of the Quebec Conference, Sir E. P. Taché, who was therefore quite unable to mediate the numerous arguments as to what had or had not already been decided.

It will be recalled that, although the delegates from Nova Scotia, New Brunswick and Prince Edward Island had gathered at Charlottetown on September 1, 1864 to consider the “expediency” of a legislative union of the three provinces, scant attention had been given to this subject at the conference. When word of the proposed maritime conference had reached the Canadian coalition government in July, they saw an unexpected opportunity to secure the adhesion of the maritimes to their contemplated grand federation of all British North America, and asked to be allowed to send a delegation to the conference. Their request was readily granted, and from the time the Canadian delegation arrived at Charlottetown, the maritime delegates had seemed more than willing to adjourn their discussion of maritime union in favour of sitting back and listening while the Canadian scheme of a grand federal union, possibly to include themselves, was expounded. The maritimers found themselves carried along on a mounting emotional tide. Here was a plan that would allow each of the maritime provinces to retain all its own cherished political institutions, while elevating the political stature of all three, and yet allowing them to remain within the secure and comfortable ambit of the British Empire. The Canadians in their turn lost no opportunity to appeal to the latent loyalty ever endemic in the maritimes. They found, in fact, that such patriotic appeals were particularly well fitted to perorations following the public banquets with which the Charlottetown meetings were amply interspersed.

It is not difficult to imagine that, in such an atmosphere, general and obvious enthusiasm for federation may have been misinterpreted as agreement on details. In any case, the Canadians were so delighted with their reception at Charlottetown that John A. Macdonald (later Sir John) shortly announced that his executive council would advise the governor general, Lord Monck, to call for the appointment of delegates from the three maritime provinces as well as from the
remote colony of Newfoundland to meet with the Canadian cabinet at Quebec on October 10 to discuss in greater detail, and hopefully to draft a constitution suitable for the proposed federation. The Canadians had from the start made it abundantly clear that the maritimes were to be left free to decide whether they would enter the proposed union as a single united province or as three separate provinces, or even whether they might amalgamate after entering the federal union. Thus the maritimers felt no immediate need to decide the question of maritime union before turning their attention to the subject of a large federation; in fact, the maritime delegates evinced a decided aversion to the passing of any judgment on maritime union whatsoever. Accordingly, the Charlottetown Conference remained in adjournment during most of the sessions of the Quebec Conference until its own long-delayed final adjournment at Toronto on November 3, a full week after the closing of the Quebec Conference.

It is quite clear that the Canadians at Charlottetown had developed in broad outline a proposal for the union of all the British North American provinces of which the most conspicuous features were: continuing loyalty to the British crown; the residuum of power resting with the central government; a bicameral federal legislature with representation in the lower house based on population and in the upper on regional, but not provincial, equality; the operation of responsible government in both the local and federal fields; and the appointment of a governor general by the crown. Other matters were discussed, but on these alone there seemed to have been substantial though informal unanimity. That some of the unanimity was more apparent than real became evident at Quebec, where there were some heated discussions on one or two of these items.

The best account of the proceedings at Charlottetown is contained in a long confidential despatch by Lieutenant-Governor Gordon of New Brunswick to the Colonial Office dated Sept. 12, 1864. This despatch was based on discussions with the various delegates, especially the Canadians. Gordon, an ardent opponent of the federation of all the provinces, and the prime mover of the scheme for maritime union, had been at Charlottetown. When the Canadians later visited Fredericton on their way home, Gordon invited Cartier, Brown and Galt to be his guests, and he was thus able to get further information on the progress of the discussions. Among the features of the federation which Gordon described were the detailed subjects which the Canadians proposed should be given to the central government. The striking similarity between this list and that introduced into the Quebec Conference by John A. Macdonald, not only in content but even in arrangement, makes
it difficult to think that the Canadian plan had not already been reduced to writing, and that Gordon had been shown this detailed scheme. He also explained that the Canadians proposed that in the federal legislative council Upper Canada should be represented by 20, Lower Canada by 20, and the three Maritime Provinces taken together by 20 members.

When the delegates came to Quebec in October, the main principles of Confederation had therefore been explained and generally accepted. The homework of the Canadian delegation and the preliminary meetings at Charlottetown enabled the “fathers of confederation” at Quebec to complete their work in a remarkably short time.

It may be useful to review briefly the major factors that were responsible for these constitutional conventions, and for the sense of urgency about their proceedings. Two forces, one international and external, the other constitutional and internal, conspired to make the time ripe for action. The external force was, of course, the American Civil War, which had placed a strain on British-American relations, and consequently, on relations between the United States and those British possessions that lay on America’s northern doorstep. The existing tension roused fears among British North Americans, and particularly among the Upper Canadians, who were at once most exposed and whose domain seemed most desirable, fears ranging all the way from possible economic reprisal, including abrogation of the Reciprocity Treaty of 1854 and repeal of the free bonding privileges for goods crossing American territory en route to European markets, to possible physical aggression once the Civil War had ended. Hence, the fear of possible annexation to the United States was in 1864 one of the major forces driving provincial leaders towards union.

But there was also an internal force pushing in the same direction; again, especially in the Canadas. There a thoroughly inadequate constitution had been operating with increasing difficulty since 1840, when Upper and Lower Canada had been welded together in a close legislative union which had turned out almost as unhappily as a Siamese twin relationship. When this union had degenerated to what was apparently to be a permanent deadlock, some form of federalism had seemed to offer a solution, and to this end a coalition had been formed in the previous mid-summer. It had been decided that the government would first try to form a federal union of all the British provinces, falling which, it would revert to the more limited scheme of federating the two Canadas alone, which had originally been the preference of Upper Canadian Reformers. The opportunity presented by the Charlottetown Conference had been seized and the
results had been most satisfactory, but the gains must be consolidated without delay. Early in the approaching year the Canadian coalition cabinet would have to face the representatives of the people in the Canadian assembly, where an adverse vote would force the resignation of the entire cabinet, in which all the Canadian delegates to the conference held portfolios.

No such urgency in regard to constitutional change prevailed in the maritimes, where the machinery of government had been operating with reasonable efficiency, though there seemed to be more of it than was needed. An eminent British author had once described the governments in these small and scantily populated provinces as resembling Westminster seen through the wrong end of a telescope. Everything was there, but all in miniature, and it was all expensive. Constitutional factors therefore provided little impetus in the maritimes for federation, but lack of enthusiasm on this point was perhaps compensated for by the prospect of an intercolonial railway, which it was assumed would be a part of any union agreement.

It was little less than a stroke of genius that had led the Canadian coalition government to select Quebec as the site for their epochal conference which was aiming to unite all the scattered provinces of British North America. The meetings were held in a government building temporarily being used by the Canadians pending completion of the permanent parliament buildings at Ottawa. Perched on the very brow of the famous Quebec escarpment facing the mighty St. Lawrence this unpretentious brick building had been built on the site of the more ancient palace of Bishop Laval, pioneer founder of educational institutions for the promotion and preservation of French and Christian culture in the New World. On this same site was later to be built the much better known Chateau Frontenac, commemorating in name the valiant French struggle for military control of the St. Lawrence-Mississippi valleys, so nearly linking, diagonally across the continent, the Gulf of Mexico with the Gulf of St. Lawrence. And just behind this historic spot, and partly hidden from view, lay the equally famous "plains" on which in 1759 had been fought the epoch-making battle which was then thought to have finally determined the ultimate political destiny of North America.

The importance of these historic associations was matched by the magnificence of the view from within the conference chamber. Along the northeast side of the room were three large romanesque windows looking down upon and out toward the ever broadening estuary of the great river. In the immediate foreground lay the cultivated fields of the island of Orleans; while on the river's right bank lay the forested but smoothly-rounded domes of the ancient Appalachian highlands

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whose geological sediments date far back into pre-Cambrian times, and
whose southern terminus was to be found in distant Alabama, and its
eastern, in the higher and more impressive Notre-Dame range in
Gaspé. This lofty range isolated the Canadians of Lower Canada
from their kinsmen, the Acadians of northern New Brunswick. Against
the left bank of the river pressed the southern edge of the Laurentian
highlands composed of even more ancient rock interspersed with
patches of equally ancient sediments as well as innumerable small
glacially produced lakes, a formation known as the Canadian Shield,
extending in a mighty up-turned arc across Hudson Bay from Ungava
on Hudson Strait northwest through Keewatin toward the Arctic Sea.

Here, then, lay open to view much of the geography and equally
much of the history of the vast domain for which the fathers were
now to attempt to devise a suitable constitutional garment. Here, as
perhaps at no other location in North America, was a scene to stretch
the historic imagination of even the most myopic, and to stir the blood
of even the most lethargic.

One thing, only, marred the otherwise ideal setting for the Quebec
Conference and may have had an important though imponderable
effect on the proceedings, that was the unseasonable weather. Usually
clear and crisp in late autumn, it had in 1864 been persistently cold
and wet. This tended to keep the delegates indoors where they
became virtually a captive audience and may have contributed to the
irascibility and querulousness which reached a climax during the
discussion of financial arrangements toward the end of the conference.

Since all the delegates to Quebec were mature politicians, it might
be well to examine some of the basic cleavages which then separated
the two rival political parties in British North America. The members
of one of these regularly called themselves Conservatives, more rarely
Tories. Occasionally they were called Bleu in Lower Canada. The
other party had several names: Reform was a particularly North
American term, although the older traditional British designation,
Liberal, still survived. Among the more extreme, Clear Grit was used
in Upper Canada as was Rouge in Lower Canada, whereas Radical
was mainly a term of reproach. Unlike party cleavages in Britain,
however, these divisions were quite likely to be based less on anti-
thetical political philosophies, and more on expediency or personal
compatibility.

Nevertheless, the old world distinctions had somehow, although
in rather nebulous form, managed to survive the Atlantic crossing.
Speaking in the broadest terms, the Conservatives tended to con-
centrate their thinking on the state. So much so, in fact, that service
to the state was ranked by them among the highest of social virtues. The Grits, on the other hand, tended to exalt the individual. Thus, while the one stressed loyalty and duty to the state, the other emphasized liberties and rights, usually interpreted as freedom from state interference in one's private affairs, but also including the obligation of the individual to help in creating and moulding the institutions of government. The Conservatives viewed the state as an organism with a life of its own, "Who dies if England lives?"; whereas to the Reformers, particularly the more extreme, the state was a mere mechanism whose only function was to serve the welfare of the individual. Not that either of these rival parties would have been likely to have voiced its political creed in any such philosophical terms. Indeed, there was on both sides, but perhaps more particularly among the Conservatives, a positive aversion to doctrinaire credos which were felt to indicate a leaning toward either pre-revolutionary French "philosophes", or toward contemporary American doctrine of rights, both of which were still anathema.

Early in the nineteenth century, the Conservatives supported the Establishment, although that term did not reach the New World until much later. They exalted the Church of England and its clerics, the United Empire Loyalists, and, of course, the Crown and the British connection. In government they had favoured a combining of legislative and executive councils in which provincial judges, always appointed by the Crown, regularly held dominant positions, thereby uniting rather than separating Montesquieu's three branches of government. Their procedural model was the British House of Lords. The Reformers, on the other hand, were generally anticlerical and had fought, not entirely unsuccessfully, for more provincial autonomy, an expanded franchise, and for the election of government officials and the expansion of the functions of elected assemblies; their model was the British House of Commons. They had been largely instrumental in achieving for all the provinces what had come to be known as "responsible government", similar in its *modus operandi* to what the British called "cabinet government" in which the executive is always removable by an adverse assembly vote.

The prevalence of "little Englandism" at the mid-century had had significant influences on both these parties. For the Tories it resulted in a strong urge so to strengthen the British dependencies that these might be viewed in Britain as more worth retaining. As for the Reformers, they found themselves in the position of needing to perform an almost complete about-face on the question of colonial autonomy which heretofore had been one of their chief platform planks. Now that the British government had become so insistent on linking self-
defence with self-government, full autonomy might turn out to be a positive liability. Hence, the Reformers tended to join the Conservatives in extolling the British connection, the retention of which might eventually save the provinces from vast and unpredictable military expenditures. The British connection was, therefore, at this juncture, a subject rather too hot to handle. The phrase might be retained in modulated tones while its implications were carefully avoided. This curious situation may help to explain some of the wording of the Quebec Resolutions as well as some of the obvious omissions.

Much has been made, by both historians and politicians, of the fact that among the provincial delegates to both the Charlottetown and Quebec Conferences were outstanding representatives of both these rival parties. The fact is, however, that, while the Reformers had regularly ridden into power in the late 1840’s on the wave of the successful establishment of responsible government, by the early 1850’s the political pendulum had begun to swing back, so that by 1864 hardly a single provincial government was still controlled by the Reformers. The reason for this Reform debacle can not be gone into here. Suffice to say that among the delegates from each province, except in the case of New Brunswick, the majority were Conservatives. The government of Taché-Macdonald was, of course, predominantly Conservative and was represented at Quebec by its entire cabinet which meant that it was obliged to act in unison when meeting in conference sessions. In New Brunswick the Reform party was still nominally in power; but reform in New Brunswick had never had the radical quality that it possessed in the other provinces. Moreover, a successful reformer can only with difficulty remain in power without losing some of his reforming zeal; and in 1864 premier Tilley had been in power for nearly a decade. The governments of the other two maritime provinces of Nova Scotia and Prince Edward Island were Conservative and sent a majority of Conservatives to these conferences. Newfoundland sent one member of each party to Quebec. The dominant position of the Conservatives at the conference was further enhanced by the fact that the voting was to be by provinces and Canada was to be considered as two provinces rather than one. Nor did it detract from their dominance when it was decided that the Canadians should prepare the draft resolutions for each day’s agenda. In this connection it is perhaps worth noting that it was Macdonald’s private secretary and future brother-in-law, Lieutenant-Colonel Hewitt Bernard who was chosen executive secretary of the conference. It is still on Bernard’s notes of the proceedings that we are dependent for much of our information about what went on at Quebec.
Too much, however, should not perhaps be made of this technical ability of the Conservatives to swamp their Reform rivals in voting at Quebec, although even a casual reading of the resolutions passed at the conference makes it quite evident that the decisions arrived at were predominantly in accord with Macdonald's basic Conservative principles. We simply do not have the documents to show how often the delegations in their frequent caucuses preceding a vote were split along party lines. The general mood of the conference would seem to cast some doubt that this type of cleavage, so strong in provincial politics, actually did prevail. If the seventy-two resolutions produced by the delegates to Quebec seem to bear the clear and unmistakable imprint of Conservative origin, the explanation probably lies not so much in sheer weight of Tory votes as in the compelling exigencies of 1864. In the longer perspective of history, Canada's highly centralized constitution may be chargeable more to American pressure than to Macdonald's superior strategy.

On the opening day of the Quebec Conference all the delegates took their seats around the conference table almost as depicted by Robert Harris in his famous painting of the "Fathers of Confederation". Grouped in the center and dominating the painting as they did the conference were the leading members of the Canadian coalition who had attended the Charlottetown Conference. To this central core Governor General Lord Monck had now added the four remaining members of the Canadian cabinet, making twelve in all.

At the head of the cabinet, at least nominally, sat the veteran French Canadian, Sir E. P. Taché, Conservative from Lower Canada. With his equanimity of temperament, and in spite of his ninety years, he was the obvious and inevitable choice for chairman of the conference. His death the following summer, however, prevented him from witnessing the fruition of the work of the conference.

Throughout the Quebec Conference, as at Charlottetown, John A. Macdonald stood head and shoulders above his Canadian colleagues. It is essential, therefore, to examine some of his basic convictions and policies. Although Macdonald's great strength lay in the consistency with which he had adhered throughout his life to certain Conservative principles, he was never a mere reactionary. In fact, he carefully avoided becoming involved in political battles that had already been lost. Fundamental to all his political activity was his intense loyalty to the British Crown. He had imbibed this loyalty almost from childhood; and this had been reinforced by the fact that he had been reared in a region of Upper Canada first settled by United Empire Loyalists. For reasons not difficult to understand, strong loyalty to
Britain tended to be accompanied, as it was in Macdonald, by suspicion of, if not actual hostility toward the American Republic to the south; feelings which were far from being assuaged by the American Civil War still raging fiercely during the sittings of the Quebec Conference. Macdonald was quick to take advantage of this situation by pointing out the “present isolated and defenceless position” of the provinces that could be remedied only by federation; and what better argument for a strong and highly centralized federal government than the “mistake” made by the American founding fathers in leaving residual powers, involving virtual sovereignty, with the states; a circumstance which Macdonald felt had eventually led the southern states to feel justified in seceding from the union.

The leading Reform member of the Canadian coalition was George Brown, also of Upper Canada. Although Brown was editor of the Toronto Globe, the most influential journal in Upper Canada, and commanded wide popular support among his constituents, he lacked much of Macdonald’s ability to secure the personal devotion, amounting at times to discipleship, of other political leaders. Indeed, Brown and Macdonald were temperamentally, as well as politically, poles apart, and had a hearty dislike for each other. However, they shared several deep and abiding convictions. Both were of Scottish origin; both were in varying degrees Presbyterian; and despite Brown’s earlier leaning toward the American way of life, the reputation for which he had not yet entirely sloughed off, both were at this time completely devoted to the British connection, though Brown did not parade that fact as did Macdonald.

Brown’s chief panacea for the undoubted inadequacies of the Canadian constitution had been a quite limited federation of Upper and Lower Canada with representation by population, or “rep by pop” as it was called. But once he had been persuaded to attempt the federation of all the British North American provinces, Brown’s position was hardly distinguishable in essentials from that of Macdonald. However, one can easily imagine that there must have been great emotional strain on both these statesmen at Quebec, particularly on Brown, as he found himself daily obliged to stand in support of his lifetime political opponent whose policies he had heretofore so vigorously denounced.

Another Conservative member of the coalition who was an active participant at Quebec was Alexander Tilloch Galt, Canadian Minister of Finance. Formerly commissioner of the British-American Land Company, Galt was interested in this grand union of the provinces partly because of the influence it might be expected to have on land values and on railway construction. His vital interest in securing
financial backing for the further extension of the Grand Trunk Railway, of which he had long been a director, from the St. Lawrence across the lofty Notre-Dame range to Halifax, made a strong appeal to the maritime delegates who frequently showed more interest in the extension of the Intercolonial Railway than in the political adhesion of their people to those of Canada. Quite fittingly Galt was appointed as the first federal Minister of Finance, since it was he who was chiefly responsible for proposing and justifying the complicated economic arrangements set down in the Quebec Resolutions which became the basis for the British North America Act of 1867.

George E. Cartier, Conservative Attorney-General of Lower Canada was one delegate who was old enough to have taken an active part in the abortive rebellion of 1837. Although he had marched out from Montreal with musket on shoulder looking for some representatives of her gracious and youthful majesty, he made no such encounter, and lived to become one of Victoria's most devoted servants and admirers. It is interesting to note that Macdonald, during that same outbreak, had joined the Loyalist militia; yet thirty years later we find Macdonald leaning heavily on Cartier for Lower Canadian support in securing a federation of all the provinces. This support he had. But Cartier, on formation of the coalition the previous June, had felt sufficiently strong in the devotion of his Lower Canadian constituents and in the support of the powerful Catholic hierarchy to reject any idea of reinforcing his political position, as Macdonald had reinforced his, by inviting the adhesion of even a single member of the Rouges. Cartier, in fact, seemed to feel no need for additional support from either his political allies or opponents; and what he did not feel he needed, he did not get, as the violent opposition to federation of so many of the Rouges, both French and English-speaking, in the Canadian assembly debates of the following year was amply to demonstrate.

Oliver Mowat and William MacDougall were the two Reformers who with George Brown joined Macdonald's coalition government. Mowat's training had been in the law; he had, in fact, received much of that training in Macdonald's law office in Kingston, Ontario. Although differing radically in political views, the two retained cordial personal relations. Mowat had already made a reputation for his legal skill. At Quebec he moved and was no doubt influential in formulating several important resolutions including the one listing the powers of provincial legislatures, in the defence of whose autonomy he remained active throughout his life.

William MacDougall, like Mowat, had been reared in Upper Canada. He was the editor of the Reform North American, later
absorbed into George Brown's *Globe*. MacDougall, in line with his philosophy, was in favour of election of members to the Upper House of the proposed legislature; but he was unable to turn the strong tide in favour of appointment by the Crown.

Of the remaining members of the Canadian delegation, Thomas D'Arcy McGee, Conservative from Montreal, deserves some mention. Like Cartier, McGee had performed a complete political right-about-face. He began his journalistic and political career in Ireland as an ardent supporter of Irish rights, but he later turned against his associates and denounced the secret Fenian brotherhood. He became one of the most eloquent advocates of the necessity for a great new British-Canadian nationality. This so enraged the Fenians of Montreal that on the night of April 10, 1868 as he returned to his home from addressing the House of Commons, he was shot in the back by one of their member. Always interested in conciliation, at the Quebec Conference McGee moved, with reference to the resolution on education, the important rider designed to guarantee protection of the "rights and privileges which the Protestant or Catholic minority in both Canadas may possess as to their denominational schools" at the time of union.

Delegates at Quebec from the maritime provinces, unlike the delegation from Canada, in no case consisted of any one entire provincial cabinet. Six additions to those present at Charlottetown had been made: two each to the New Brunswick and Nova Scotian delegations, and two from Newfoundland which had not been represented at Charlottetown. In all cases there were members of both government and opposition, but with the Conservatives in a preponderant position in the Nova Scotian and Prince Edward Island delegations.

Dr. Charles Tupper (later Sir Charles) was Conservative premier of the proud province of Nova Scotia. Tupper had originally favoured maritime union; but at some unspecified time after the opening of the Charlottetown Conference, he had apparently made a pact with John A. Macdonald to support an all-inclusive union. This pact was to endure, even during the trying times following the Quebec Conference when it seemed in the maritimes that the cause of the grand federal union was irretrievably lost. One sign of Tupper's greatness, like that of Macdonald, was his ability to retain the Reform opposition delegates, A. G. Archibald and Jonathan McCully, in support of the Quebec scheme even when, later on, the genius of Joseph Howe, Reform leader who was unable to attend the Quebec Conference, seemed about to submerge any politician having the temerity to persist in advocating what Howe denounced as the "botheration scheme".
It has remained more difficult to determine the role of the New Brunswick delegates at Quebec. The government was nominally Reform at the time of the conference and there were ostensibly only two Conservatives among the seven delegates. But even the attitude of the premier, Leonard Tilley (later Sir Leonard) remains unclear (only partly due to the failure of the literary executors of this outstanding figure in Canadian history to make the Tilley papers available to the public as was done with respect to Macdonald, Galt and Brown).

At Quebec Tilley spoke staunchly in favour of the grand federation. He appears also to have been mildly in favour of maritime union. As an important drug merchant located in New Brunswick’s commercial metropolis of Saint John, his special ability, like that of Galt, lay in the field of finance. At Quebec, Tilley was partly successful in securing better financial and economic terms for his railway-burdened province.

The two members of the Conservative opposition from New Brunswick were Edward Chandler and Col. John Hamilton Gray. At the conference, Chandler, although ostensibly a Conservative, emerged as the most fervent advocate of the maintenance of strong provincial legislative bodies within the proposed federation. In this, of course, he ran counter to Macdonald’s view that the provinces should be reduced practically to municipal status.

After an initial statement in favour of federation by Conservative T. H. Haviland who, incidentally, had not been at Charlottetown, Prince Edward Islanders disapproved of almost all the major resolutions at Quebec. They objected to the method of choice of members of the proposed Upper House; they objected to the number of representatives to be assigned to them in both the federal Upper and Lower Houses; they objected to the financial arrangements; and they leaned toward local autonomy against the strong centralizing tendency of the Canadas. Unlike New Brunswick and Nova Scotia they were supremely indifferent to the lure held out by Macdonald of the completion of the Intercolonial Railway.

It is perhaps significant that among the Island delegates the strongest support for federation, both during and following the conference, should come from the Irish born Edward Whelan, publisher of the Examiner. Like his compatriot, Thomas D’Arcy McGee of Upper Canada, Whelan had stressed the need for the creation of an ardent nationalism that would embrace all the inhabitants of British North America. But he died December 10, 1867, a few months after confederation was effected without the adherence of Prince Edward Island, which did not become a part of Canada until 1873.
A. A. Macdonald, recently elected to Prince Edward Island's new legislative council, performed an important service by taking notes of the proceedings at the meetings of the conference. These notes serve as a valuable supplement to those of the executive secretary of the conference, Hewitt Bernard. Macdonald also made a clear statement of his province's rather disdainful attitude toward the whole union proposal, especially with regard to the financial settlement.

One of the Island delegates appointed to Quebec, the Hon. Daniel Davies, M.P.P., although understood by the lieutenant-governor who had just appointed him to have left with his colleagues, never reached Quebec. It has now been revealed that this semi-father of confederation was on the point of boarding the Canadian steamer, Queen Victoria, when he was dissuaded by his expectant wife. How the hawk-eyed journalists swarming the Lower Town docks at Quebec and the equally inquisitive historians in the following century, including, alas, the present writer, could have missed this choice bit of trivia is somewhat difficult to understand.

The position of Newfoundland's delegation at the Quebec Conference was somewhat anomalous. The colonial governor having left St. John's for England, and the new governor not yet having arrived, the delegates had been selected and their credentials made out by the colonial secretary, R. Carter, who was administering the government in the absence of the governor. Although the Newfoundlanders were present and participating from the opening day of the conference, they were not formally admitted, according to A. A. Macdonald, until October 17.

The Newfoundland delegates were F. B. T. Carter, leading Conservative and speaker of the island's assembly, and Ambrose Shea of the Reform opposition from the same body. Both had been born in Newfoundland. Bitterly opposed in island politics, these two delegates presented a united front at Quebec, and both spoke most favourably of the advantages that would accrue from Newfoundland's inclusion in the Canadian scheme. On returning home, however, they quickly discovered that public opinion on the island was almost solidly against the idea. Newfoundland did not, in fact, consent to join the Canadian federation until 1949.

Taken as a whole, there was among the delegates a preponderance of those of Scottish origin, with those of Gallic extraction ranking next. There was, however, this significant difference between them that, whereas most of the Scots had been born in Scotland, not one of the French Canadians had been born in France. Only from Prince Edward Island was the proportion of native born at all comparable to that in Lower Canada.
The fathers at Quebec fairly accurately reflected the characteristics of contemporary British North American politicians. Compared with those of a later date, there was an exceptionally large proportion of professional journalists and a correspondingly smaller proportion of men trained in law. This may perhaps explain the lack of any evidence that the fathers, despite their undoubted practical experience, had read any of those contemporary English political philosophers who were in the midst of reshaping political thought. There is no hint that their minds had been touched by the pioneer thinking of Jeremy Bentham, J. S. Mill or John Austen, much less by the classical works of Locke or Montesquieu. They remained steeped in mid-nineteenth century British North American conditions. They were basically political apprentices, not scholars. They all spoke the same constitutional language with the same emotional overtones. For this very reason, they were able to push forward and produce in little more than a fortnight seventy-two resolutions which with little change were to form the basis for the British North America Act of 1867, which may still be considered as Canada’s only written constitution.

Hardly had the Quebec Conference become organized than Macdonald rose to present the first resolution. He used the occasion to deliver a lengthy key-note speech, which contained little that he had not already expatiated upon at Charlottetown. Macdonald stressed the necessity of taking the British constitution as their model, so far as circumstances might permit, in forming their proposed federal union. He was equally insistent that they must carefully avoid the great “error” made by the American founding fathers when they reserved to the individual states all powers not specifically assigned to the central government, thus leaving sovereignty on the periphery instead of at the centre. While the provinces could not aspire to ultimate sovereignty, which must remain in Britain with the Queen, Lords, and Commons, such power as the provinces might attain must be placed securely in the central government of the new federation. Copying the British model, Macdonald felt, would also aid in binding the provinces to the mother country. So frequently throughout the conference did Macdonald hark back to this theme, that one is left wondering whether the phrase “the well-understood principles of the British constitution” was for him more of a pass-word or shibboleth than a positive archetype.

Certainly, throughout the conference proceedings, the British constitution remained a will-o’-the-wisp, always luring but seldom guiding. One basic reason for this became quite evident almost from the start. On at least one thing all the Quebec delegates seemed to agree. Conditions in British North America were such as to require
a federal type of union. This basic fact was embodied in the second of the Quebec resolutions, which was moved by George Brown and passed unanimously, to the effect that the federal system best adapted to the circumstances would be a general government to deal with matters of common interest, and local governments for matters of particular and local interest. But in accepting this resolution the conference had already departed from the British model, for the United Kingdom was, and had always been, a legislative, and not a federal union. True, Macdonald would have preferred such a legislative union; and there is reason to believe that he hoped by strengthening the central at the expense of the provincial governments to succeed in making the proposed union virtually a legislative union. Consequently, Macdonald never seemed to consider what adjustments would have to be made in applying British constitutional principles to the peculiar requirements of a federal type of government for British North America.

This problem came to a head in attempting to constitute a federal Upper House or Senate. Macdonald, interested in preserving the strength and prestige of this body, proposed that a relatively high property qualification for Senate membership be required. He proposed, and the conference after some argument agreed, that unencumbered ownership of real property, held in freehold tenure and worth at least four thousand dollars, be required. This was reminiscent of the property with which the Constitutional Act of 1791 had endowed some Canadians in an attempt to create a landed aristocracy in the New World to replace the aristocracy of lineage of the Old. This abortive British attempt to establish a landed aristocracy was, in its turn, reminiscent of the somewhat similar attempt by France to establish the feudal seigneurial system in New France. Both attempts had failed, and for much the same reason, namely, the preference of any New World aristocracy for residence in the Old.

Agreement on the appointment of senators for life by the Crown was reached with relatively little debate. It was rather the numerical distribution of the members of the Senate that caused the most heated and prolonged controversy. Although it was generally recognized that the British House of Lords, in addition to its ancient judicial functions, was expected to give stability and second thought to the possibly hasty actions of the Commons, it soon became apparent at Quebec that some of the delegates, especially those from Prince Edward Island, were looking to the proposed Upper House to perform the distinctively federal function of protecting provincial rights on the principle of the United States Senate. A. A. Macdonald of Prince Edward Island argued that each province should have equal
representation, since each province would be giving up the same amount of local autonomy. It was, he thought, understood that, while the Lower House should have its number based on population, the smaller provinces should be equally represented in the Senate, since it would be the guardian of their rights and privileges. In his notes, A. A. Macdonald plaintively records that his proposal was simply "not entertained". The solution, as finally adopted with Prince Edward Island dissenting, was based on so-called "sectional" equality. Canada was to be treated as two sections, and the three maritime provinces of New Brunswick, Nova Scotia, and Prince Edward Island as one, each section to have twenty-four representatives in the Senate. Newfoundland was to be treated separately and given four members. With the Canadians having forty-eight senators as against their twenty-four, sectional equality did not look very equal to the maritimes, especially when the twenty-four were divided three ways among the three provinces, ten to New Brunswick, ten to Nova Scotia, and four to Prince Edward Island. Numerically, this distribution corresponded roughly to what might have been expected if the distribution had actually been based on population. Obviously, as constituted, the Senate would be in no position to perform the federal function. Indeed, the federal Upper House as constituted was adapted to fulfilling neither the British nor the American function, but fell awkwardly between them.

The first members of the Canadian Senate were to be chosen from the existing provincial Legislative Councils, with the requirement that all political parties be fairly represented. No stipulation, however, was made for the perpetuation of this non-partisan senatorial distribution, and Macdonald himself, who was Prime Minister of the new Canadian federation for most of the remainder of the century, in making subsequent Senate appointments, raised only a single Liberal to the Upper House.

The constitution of the federal Lower House caused much less difficulty, except that again, Prince Edward Island delegates were not satisfied with the five out of the total one hundred ninety-four representatives that would fall to their lot on the basis of population. Still feeling bruised by the decision on representation in the proposed Senate, the Islanders finally pleaded for at least one more member in the Lower House since five assemblymen could not easily be shared by the Island's three counties! But no concession to his cherished principle of "rep by pop" was made by Brown, who was in charge at this stage.

Any problems that might have arisen in constituting the local provincial legislatures were easily sidestepped by leaving this task to
the then existing provincial governments. Indeed, except for the office of lieutenant-governor, the provincial legislatures were to be given the power of amending their own constitutions; whereas it was assumed that any amendment to the federal constitution would have to be enacted by the British Parliament.

Once the constitution of the federal legislative houses had been dealt with, it became necessary, as it is in the formation of any federal system, to establish a dividing line between areas of central and local legislative competence. When Macdonald's long list of central powers, which was presented first, is compared with the list of proposed provincial powers introduced a few days later by his Canadian colleague Oliver Mowat, it at once becomes apparent that Macdonald's list deals almost exclusively with subjects relating to national economic strength and unity, while Mowat's list, apart from strictly local matters like municipal institutions, deals with subjects necessary for the enactment of welfare legislation. Thus Macdonald's list included the vague and expansible item of "trade and commerce", while Mowat's included the even more vague and more expansible item of "property and civil rights". This last was essential from the Canadian standpoint, in order to preserve its distinctive code civil.

In line with Macdonald's repeated insistence that sovereignty, so far as possible, must lie with the central government, the list of federal powers concludes with the reservation to the central government of "all matters of a general character" except those "specially and exclusively reserved" for the provincial legislatures. However, the list of provincial powers concludes with a seemingly similar reservation to the provincial governments of all powers "of a private or local nature" not assigned to the central government. Hence, there were obviously unintentional as well as intentional areas of overlapping jurisdiction in the division of powers. In the case of conflict arising between federal and provincial legislation in an area of concurrent jurisdiction, such as agriculture and immigration, the delegates resolved that the federal statutes should take precedence over the provincial to the extent of their repugnance. This, however, did not by any means solve the entire problem of possible conflicts of jurisdiction.

Could it have been that Macdonald was willing to have this most difficult problem of federalism left vague so that appeal could eventually be made to the recently formed judicial committee of the Imperial Privy Council, Britain's supreme court for all cases originating outside the United Kingdom? If so, it would tend to reinforce the view that Macdonald regarded London, rather than Ottawa, as the operational centre of what he hoped would be a highly centralized federal system.
If, however, Macdonald had any idea that the Privy Council in its later decisions would tend to favour the central government, he was to be disillusioned; because, for the remainder of the century the Privy Council, dominated by Lord Haldane, tended rather to take the side of the provinces. In a decision rendered in 1892, Lord Watson of the Privy Council had this to say about the British North America Act of 1867: "The object of the act was neither to weld the provinces into one, nor to subordinate provincial governments to a central authority, but to create a federal government in which they should all be represented, entrusted with the exclusive administration of affairs in which they had a common interest, each province retaining its independence and autonomy." So may judges create policy.

In the proposed executive branches of government, Macdonald was perhaps more successful in his endeavour to achieve a high degree of centralization. The lieutenant-governors of the provinces were to be appointed by the Crown, which meant, in practice, appointment by the governor-general acting on advice of his council. At one point, Macdonald explained that the lieutenant-governor, as chief executive officer of the provincial government, was to be a very high official who would be independent of the federal government; yet he was to be appointed, paid, and subject to removal for cause, by the federal parliament!

It was stated quite explicitly that the federal executive authority was to be vested in the sovereign of the United Kingdom of Great Britain and Ireland, to be administered according to the "well-understood principles of the British constitution" by the sovereign personally or by a representative of the sovereign. It was assumed that there would continue to be a governor-general who was to be given the large power of disallowing any bills of the provincial legislatures, irrespective of whether they were intra or ultra vires, just as bills of the general parliament might be reserved for the sovereign's assent.

The construction of the judicial system seemed to move along smoothly, perhaps because Macdonald as attorney-general for Upper Canada was considered to be an expert in this field. On his suggestion, all judges except municipally appointed magistrates were to be appointed by the governor-general in council, and also paid by the general government. The enactment of all criminal law and the regulation of procedure in criminal cases were to fall within the ambit of the federal legislature; while the constitution, maintenance and organization of the courts of both civil and criminal jurisdiction, including the regulation of procedure in civil cases, were to lie with the provincial governments. The federal government, however, was to have the power to establish other special courts, including a supreme court.
To the federal legislature was also given the task of rendering existing civil law uniform throughout all the provinces, except in Lower Canada, where the *code civile* was still being jealously guarded; such unification of the civil law was not to become operative, however, until approved by the legislature of the province affected. Along with the right to maintain the *code civile* in Lower Canada went the right to use the French language in the courts as well as in the legislature of Lower Canada, and also in the General Parliament. These concessions to the perpetuation of French culture, along with the provision designed to protect the separate schools, evidently satisfied the delegates from Lower Canada at Quebec; for they remained remarkably silent throughout the conference except in support of Macdonald’s ideas, though Cartier, of course, held a watching brief for the interests of Quebec.

The conference passed on from the judiciary to the concluding subject of financial arrangements. A. T. Galt was here the master of ceremonies, and it took all of his undoubted financial skill to keep the conference from being wrecked during these final deliberations. Galt’s proposals, which had already received Canadian cabinet approval before the Charlottetown Conference, and had been adumbrated there, contained two basic principles. One was that on the consummation of the union, the general government would at once take over the public debts of all the provinces up to a certain ceiling, calculated on the basis of the average existing per capita provincial debts. According to this calculation, the Canadas would have a joint permissible debt of $62.5 million, Nova Scotia $8 million, and New Brunswick $7 million. If the public debt of any province at the time of union fell below this permissible limit, as it certainly would in the case of Prince Edward Island and Newfoundland, the central government would pay the province 5% interest on the difference.

Galt’s second principle was that in order to meet its financial obligations the federal government would not only take over the bank balances of the provinces and all public property such as military installations and railway properties; but it would also have the exclusive right to collect indirect taxes, such as customs and excise duties, sources which had hitherto provided the maritime provinces with most of their revenue. Then to balance this loss of provincial revenue, the general government would undertake to make an annual grant to each of the provinces of eighty cents per head of its population. It was likely by sheer inadvertence that Galt had arrived at the precise per capita figure which the Imperial government had required Nova Scotia to pay to Cape Breton Island, when in 1820 that island was forcibly annexed to Nova Scotia. At that time, the cry had gone up
in Cape Breton that they were being sold to Nova Scotia for the price of a sheepskin. Now the shoe was on the other foot, and this same slogan was adopted by anti-unionist Nova Scotians against being sold to Canada.

It was natural that this financial debate should arouse in the provinces, especially in the maritimes where distrust of Canadian motives was always near the surface, requests for better financial terms. In a few cases these appeals were recognized as valid. Thus, New Brunswick, having incurred heavy expenses in pushing the Canada and New Brunswick railway northward from St. Andrews on Passamaquoddy Bay to far away Rivière-du-Loup on the St. Lawrence, was to be allowed an additional $63 thousand per year for the ten years following the union. In addition, this relatively poor province was to be permitted to continue to levy its export duties on timber, its most important export, as was Nova Scotia on her coal and other minerals. Newfoundland was also to receive preferential treatment. For surrendering all rights in its natural resources and crown lands, from which only a small revenue could be expected, it was to receive an additional $150 thousand per year for an undetermined period. Presumably little effort was made to appease Prince Edward Island although it stressed its urgent need for money to buy out the absentee landlords who, for over a century, had been sapping the Island's economy and morale. This appeal seems not even to have been considered. Apparently, the Island had been written off as a likely adherent to the union.

Except for these special grants, the provinces, with their cash assets, as well as debts, taken over by the central government, would enter the union with their cupboards quite bare. They would, however, continue to be vested with all their natural resources, such as public lands, minerals and waterpower. Macdonald had assured the delegates in his initial speech that once the federal government had assumed full responsibility for all general matters, the expenses of the provincial legislatures would be very small, in fact, "scarcely appreciable". He would have been on firmer ground if he had stressed instead the increases that might be expected in provincial revenues as the value of their natural resources soared. For with the tremendous expansion in what was later called welfare legislation, an area left with the provinces as we have noticed, provincial expenditures have so far exceeded provincial revenues that the demands by the provinces for increased subventions have become one of the country's most popular pastimes.

Back in placid Fredericton the following year, Lieutenant-Governor A. H. Gordon, grieving over the submergence of his cherished maritime
union by the grander scheme of federation, and casting about for ways to discredit the Quebec scheme, came upon a discrepancy in Quebec Resolution 24 between the text as authenticated by chairman Taché which he had earlier received from Canada and the text as it had been introduced into the Canadian assembly for approval. He therefore enquired which of these texts should be regarded as authentic. The Canadian provincial secretary in replying to his letter pointed out that the proceedings towards the end of the conference had been “very much hurried”, and several quite obvious slips had been made in transcribing documents. He readily admitted that several changes had had to be made at an adjourned session of the conference at Montreal; but said that all these changes had received the unanimous approval of all the delegates present. He pointed out that if resolution 24 had been allowed to stand in its original form, any provincial legislature would have had the power to gerrymander any federal constituency out of existence, which obviously could not have been the intention. We have also the eyewitness testimony of A. A. Macdonald of the disarray into which the proceedings at Quebec fell in the final days of the conference.

It is worth noting that in the only engrossed copy of the Quebec Resolutions that has yet come to light, resolution 24 is in its original form. The document bears the signatures of J. A. Macdonald and G. E. Cartier, along with those of several other delegates. How many delegates eventually “authenticated” the resolutions (significantly not signifying approval) is not known, since only this partially signed copy has yet been found. The Ottawa manuscript dealer who offered this unique copy for sale claimed that he had found it in a stable in Hull. It now reposes in the Ontario Department of Public Records and Archives. A facsimile is in the possession of the Public Archives in Ottawa.

It was not until the end of 1866 that the resolutions were ready for the last formal review before introduction to the British Parliament. On the suggestion of the Colonial Office a third intercolonial conference was held at the Westminster Palace Hotel, London, on December 6, 1866 for this purpose. The London delegation was notable for the absence of any representatives from either of the two island colonies of Newfoundland or Prince Edward Island whose legislatures had failed to act favourably on the Quebec Resolutions. The most that can be said about Nova Scotia and New Brunswick is that their action had not been unfavourable. Both houses of the Nova Scotia legislature and eventually the Lower House of the legislature of New Brunswick had approved the general proposal that the provinces be united in a grand federation, but avoided giving approval to the Quebec Resolutions
as a sole basis for it. Moreover, these maritime delegates made as a condition of their attendance at London and, indeed, of their adhesion to the proposed federation, that arrangements for the completion of the Intercolonial Railway must be included in any proposal of union that might be presented to the British Parliament for enactment.

Actual changes in the wording of the original seventy-two Quebec Resolutions were, for the most part, small and unimpressive. One was the deletion of the word “federation” and the substitution of “confederation” at Macdonald’s suggestion. The story of this substitution is not without some interest. A few months before the London Conference, Governor General Lord Monck had written confidentially to the new colonial secretary, the Earl of Carnarvon, urgently warning him that he should resist any attempt that might be made at the London Conference to depart from Macdonald’s efforts to provide for a highly centralized government in the proposed union. Strangely enough, Monck regarded the term “federation” as meaning a loosely knit type of union, and he therefore expressed dissatisfaction with its use in the Quebec Resolutions. By some easily imagined intermediary this Monckian interpretation must have reached the London delegates, with the result that this bad word was carefully deleted and “confederation” substituted throughout the London Resolutions. Surely if popular usage is to be regarded as having any significance in determining the meaning of words, after two years of civil war in the states, the term “confederation” might have been expected to have taken on some of the meaning regularly associated with it south of the Mason-Dixon line, where it was claimed that the states had retained the right to secede from the union; whereas the “federal” North was resisting this view to the death. “Confederation” would seem a strange choice, therefore, by a man who wanted the central government to be paramount. But stranger still, perhaps, was the decision of some unknown legal draftsman of the Imperial government to use neither of these ambiguous terms in the eventual British North America Act and to substitute the non-committal word “union”; although the founding fathers to this day have continued to be referred to as the “Fathers of Confederation”.

But the London Conference accomplished at least one useful thing. At Galt’s suggestion the right to establish dissentient schools was made applicable to all provinces; and more important, it was added that an appeal might be made to the governor-general in council from the acts and decisions of the local authorities in matters of education, and that the General Parliament would have the power in the last resort to pass remedial legislation. It was this subsection of the act which was shortly to be applied to restore separate schools in the newly
formed province of Manitoba, where, following its adhesion to Canada, its Protestant settlers had soon overtaken in numbers the hitherto Catholic majority and had used this majority position to abolish provincial "separate" schools.

On December 24, 1866 the delegates to London passed a resolution "that a copy of these resolutions be transmitted to the Right Honourable Secretary of State for the Colonies". They were then entrusted to the Imperial draftsmen for preparation for introduction to Parliament, where they received their third and final reading on March 29, 1867. The new Canadian state duly came into existence on July 1, 1867. But terminological difficulties continued to haunt the new nation. July 1 was called either Dominion Day or Canada Day, sometimes depending on which political party was in power at the time. The word "Dominion" appears in the British North America Act but not "Dominion of Canada". This new state was to be called simply "Canada".
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