

RECONSIDERING CONFEDERATION: Canada's Founding Debates, 1864-1999
Edited by Daniel Heidt

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Ontario: The Centre of Confederation?

DANIEL HEIDT

On 1 July 1867, celebrations of the new dominion of Canada broke out across Ontario. It was the only province to enjoy such widespread festivities. In Nova Scotia, by contrast, the *Morning Chronicle* mourned the event with the mock eulogy: “Died! Last night at 12 o’clock, the free and enlightened Province of Nova Scotia.”¹ The widespread Ontarian celebrations stemmed, in part, from the belief that their wealthy and populous province would be at the centre of Canadian politics. In fact, this sort of influence became so commonplace that most of the province’s inhabitants still do not readily identify as “Ontarians,” preferring to instead think of themselves as “Canadians.” Aside from this vague sense of centrality, however, many Ontarians disagreed about just how their province would benefit from the deal and there was also a smaller but nevertheless significant group who doubted the viability of the broader union. These varied and, at times, conflicting assessments of the proposed union arose from the way that the Province of Canada evolved out of the separate, yet connected colonies of Upper and Lower Canada. The ensuing debates in the colony’s two legislatures reflected the largely French-English emphasis of that era’s politics, ignoring additional ethnic and Indigenous voices. The Numbered Treaties that would subsequently govern Indigenous lands across much of Northern Ontario were not negotiated until the post-1867 era when the Dominion of Canada was well in place. The backgrounds to these events

are critical to understanding how these key agreements came about. The discussions of the deals also reveal the strengths and weaknesses of the union—many of which persist today.

Background

Understanding Ontarian responses to Confederation requires knowing something about the colony's prolonged pursuits of autonomy and expansion. Upper Canada (present-day Ontario) was carved out of Quebec via the Constitutional Act of 1791 in response to complaints about the "rigorous Rules, Homages and Reservations, and Restrictions of the French laws and Customs."² The history of balking at the French-Catholic majority of the St. Lawrence region was a long one, and it was not surprising that this refrain would persist into the 1860s. The new colony of Upper Canada soon possessed an elected Assembly, but it lacked power because the British, guided by suspicions about the loyalty of Americans arriving from the independent states to the south, preferred to vest power with their appointed lieutenant-governors and councils.³ Despite the colonial population proving its loyalty during the War of 1812 and by rejecting William Lyon Mackenzie's 1837 rebellion, the imperial government did not give Upper Canadian politicians the power to run their colony—responsible government. Instead, they united Upper and Lower Canada against the will of the majority of both populations. Each section received an equal number of seats in the new Legislative Assembly, and imperial authorities hoped that this unification would create an English-speaking majority that would encourage French-speaking colonists to assimilate.⁴

The new united Province of Canada eventually secured responsible government but not without incurring some maladjustments that arose from its unique features. The fact that half the colony was predominantly English and the other half predominantly French eventually created an expectation that the majority of politicians from both sections had to support measures effecting the entire colony. Such concurrence was rare and, thus, the achievement of responsible government wreaked havoc on political stability by the end of the 1850s. Divisions over land, language, religion, and defence ensured that governments did little or resigned on a regular basis. In this crippled state, the colony lacked the credibility to assume responsibility for additional territory. Over the preceding decades,



Fig 3.1 British North America's settler political boundaries as they existed in 1867. Developed from Natural Resources Canada, "Map 1867," *Library and Archives Canada*, <https://www.collectionscanada.gc.ca/confederation/023001-5005-e.html>.

Upper Canadian farmers had “settled” all available farmlands and a new generation of farmers looked to the North-West for additional lands. The Province of Canada’s relative paralysis, however, made it a poor contender to assume responsibility for this territory from the Hudson’s Bay Company.⁵

Nor was there much positive experience to glean from Upper Canadian relationships with Indigenous Peoples. After the Royal Proclamation of 1763 reserved the lands west of the Thirteen Colonies for Indigenous Peoples and gave the British Crown exclusive right to negotiate future land exchanges, the latter negotiated a series of Treaties with Indigenous

groups in present-day Ontario to cement alliances, redistribute land, and maintain lasting relationships. These negotiations generally followed new-comer “settlement,” and continued into 1850 with the Robinson-Huron and Robinson-Superior Treaties which “brought colonial treaty making to a new level: now land-related treaties dealt with large tracts, recognized continuing hunting and fishing rights, committed the Crown to annuities, and contained provision for reserves for the First Nations signatories.”⁶ Whereas the treaties established a way of securing peaceful co-existence, they did little to suggest a way forward in designing a new system of government for the Province of Canada.

Solutions had been floated regularly, and federalism was often among them. Embracing the “federal principle,” as it was often called, by uniting some or all of British North American colonies and assigning divisive issues to provincial governments so that parliament could focus on areas of common interest, was a longstanding idea. Conservatives and Reformers both advocated the solution at different times, hoping to export Canadian manufactured goods to the Maritimes and the North-West.⁷ In 1858, for example, the Macdonald-Cartier government kept itself alive by taking up Alexander Tilloch Galt’s vague suggestion for a British North American (BNA) federation. At the Reform Convention of 1859, George Brown, the editor of the *Globe* and a leader of the Reformers, proposed a federal union with limited powers for the general government and local powers for two or more sections of the united province.

But other solutions initially seemed more attractive. One of the issues at the forefront of any discussion about a new form of governance was demographics. Although Canada West had been over-represented in the original division of seats in the united colony, the 1851 census revealed that mass immigration had reversed the situation. Demands in Upper Canada for representation by population (or “rep by pop”) intensified as Canada West’s population continued to grow at a far faster pace than that of Canada East’s. Moreover, a variety of issues set the two sides of the united colony on a collision course that would result either in stalemated parliaments or endless government turnover. The Civil War to the south raised new and serious concerns about the plausibility and expense of defending against the North’s immense standing army; and the commercial economy that had taken root in the western section of the colony increasingly required trading partners if growth was going to continue at the rate

the inhabitants wanted. Over the next several years, the Brownites who had come to dominate the Reform side of the political spectrum frequently won a majority of the seats in the western part of Canada, but Brown's tendency to insult French-Catholic Lower Canadians put an end to any possibility of forming the sort of working coalition necessary to form a government.

The Conservatives had a great deal more experience with cooperation between the upper and lower sections of the colony. Robert Baldwin and Louis-Hippolyte La Fontaine had partnered during the 1840s to secure responsible government; John A. Macdonald and George-Étienne Cartier governed cooperatively during much of the late 1850s and early 1860s. By then, though, moderate Reformers and the *Rouges* (Liberals) formed their own alliances and Canada endured the rise and fall of three governments between 1862 and 1865. George Brown, an unlikely non-partisan, offered a solution to the impasse. He secured the establishment of a committee in the Legislative Assembly that studied constitutional reforms to resolve the deadlock, and he subsequently agreed to join and support the Great Coalition encompassing Upper Canadian Reformers and Conservatives as well as Lower Canadian *Bleus* (Quebec Conservatives).

This new alliance formed on the eve of a September 1864 conference in Charlottetown to discuss the possibility of uniting the Maritime provinces. After the conference agreed to hear the Canadian delegation, Macdonald and Cartier laid out the broad arguments in favour of a union of the British North American colonies—that through unity, concerns over defense and trade could be solved, while federalism would preserve each colony's autonomy in matters such as education where differences of opinion continued to complicate the Province of Canada's politics. Later, Alexander Galt offered an explanation of the financial settlement, noting that the general government would assume all debts and provide revenue to each of the provinces on the basis of their population. This was certainly an effort to sweeten the pot for the Maritimers, but it also created a new area of concern for Ontarians who were reluctant to assume their neighbours' debts. George Brown then summarized some of the constitutional issues.⁸ Notably absent from these speeches—and the discussions that followed—was dialogue concerning the appointment of political offices, such as lieutenant-governors, and practices, like the federal disallowance of provincial legislation, which would both subsequently privilege federal



Fig 3.2 The Charlottetown delegates, 1 September 1864, photograph by George P. Roberts, LAC, C-000733. Front row from left to right: Alexander Tilloch Galt; Hector-Louis Langevin; John Hamilton Gray, N.B.; George-Étienne Cartier; John A. Macdonald; John Hamilton Gray, P.E.I.; Samuel Leonard Tilley; Adams George Archibald; Alexander Campbell; George Coles; George Brown; William H. Lee, Clerk Executive Council, Canada. Back row from left to right: Charles Drinkwater; Major Bernard; Sir Charles Tupper; Edward Barron Chandler; Edward Palmer; Robert Barry Dickey; Thomas D'Arcy McGee; William Alexander Henry; William Henry Steeves; John Mercer Johnson; Andrew Archibald Macdonald; William McDougall; William Henry Pope; Jonathan McCully.

over provincial power.

The meeting then adjourned, agreeing to resume discussions at Quebec City in October and it was here that all of the good intentions of the Charlottetown Conference were put to the test. The discussions followed the general agreements forged at the preceding conference, but many details still had to be worked out and the delegates “consistently underestimated how long [agreement] would take.”⁹ On some matters, though, agreement seemed fairly straightforward. For example, all agreed

in Quebec, it seemed, that the new country could avoid the American error of vesting too much power in the states by providing for a strong central government, and only allowing “sectional prejudices and interests” to be “legislated by local legislatures.”¹⁰ After two weeks of sometimes lengthy discussions, the 72 Quebec Resolutions emerged, laying out the principles upon which Confederation would be based. Within another week, the 72 Resolutions were published in newspapers across British North America, and became the topic of debate in both public and private conversations.

Supporting Arguments

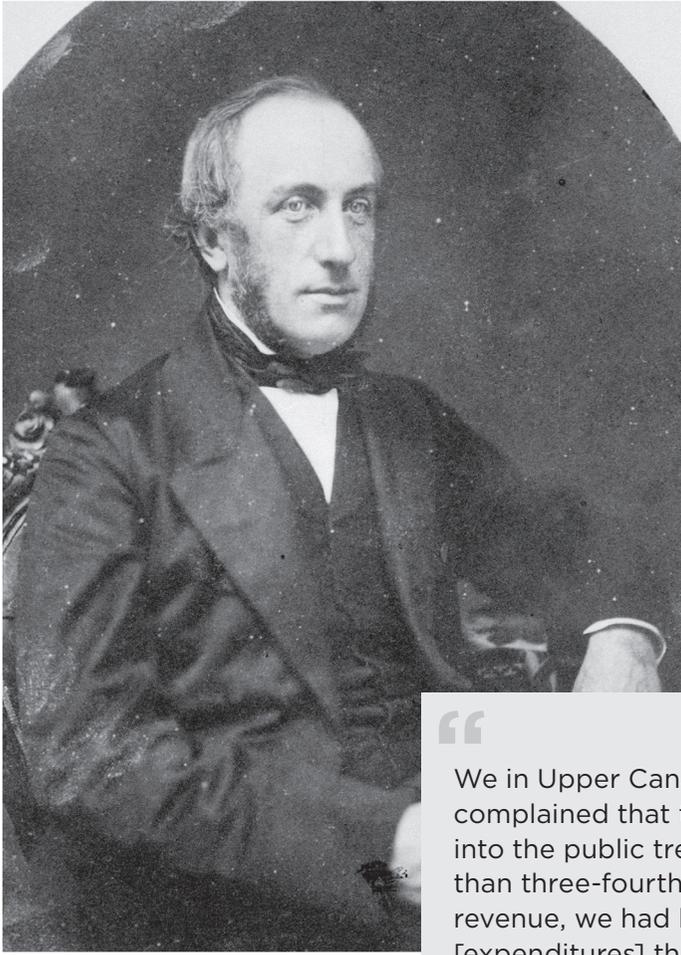
Once the delegates returned to their respective colonies, each legislature debated the merits of the deal. The vast majority of Upper Canadian politicians liked most of what they read. Unlike Lower Canada, whose representatives offered impressive speeches for and against union, Upper Canadian oratory and constitutional talent generally lay with the pro-Confederation camp.

“Rep by pop” was almost universally popular. Reformers and Conservatives alike rejoiced at the achievement of this long-sought goal.¹¹ In the new federal parliament, Ontarian representatives would constitute 45 percent of seats. If Ontario’s population continued to grow, some speculated, the province could achieve an absolute majority of seats. Shrewd readers will recognize that such parliamentary majorities offered the possibility of Ontario dictating the federal government’s policies against the collective wishes of the rest of Canada. While Upper Canadians hoped to achieve this sort of power,¹² they avoided expressing this aspiration during the debates to prevent Lower Canadians from fearing an Ontarian tyranny. Instead, advocates like George Brown echoed English Canada’s long-held fears of French domination by describing “rep by pop” as a defensive measure that would allow Ontario MPs to unite and prevent Lower Canadians from “forcing through whatever we may deem unjust to us” in the House of Commons.¹³ He also suggested that any Ontarian attempt to use its parliamentary preponderance of votes to overrule the objections of other provincial MPs would be countered in the Senate, where the rest of Canada held the majority of votes.

The opportunity to expand into the North-West was also extremely popular in Ontario. The establishment of the Dominion of Canada would

George Brown
*President of the Executive Council,
Grit Leader*

8 FEBRUARY 1865



CONFEDERATION QUOTE 3.1

Quotation from Province of Canada,
Legislative Assembly, 8 February, 1865
Photograph by William Ellisson, from
Library and Archives Canada, C-008359

“

We in Upper Canada have complained that though we paid into the public treasury more than three-fourths of the whole revenue, we had less control over [expenditures] than the people of Lower Canada. Well, sir, the scheme in your hand remedies that . . . we are to have seventeen additional members in the house that holds the purse.

”

create a country with sufficient resources to convert the region into a new economic hinterland. Rural Upper Canadians looked forward to their sons and daughters “settling” what George Brown called the “vast Indian Territories” as an agricultural frontier, while urbanites anticipated that the region would offer new demand for Central Canadian manufacturers. This territorial growth, many Upper Canadians also assumed, would be critical to establishing a vast country capable of maintaining British rule across the continent and checking American expansionism.

In addition to “rep by pop” and expansionism, Confederation supporters in Ontario also embraced the “federal principle” as a practical way of hiving off divisive issues from national politics. Comparing the speeches of different speakers, however, will leave some readers wondering whether they were talking about the same constitution. In some cases, the differing messages were the result of confusion. To that date, only Switzerland and the United States had created modern federal governments, and many Ontarians struggled to grasp the complexity of the still novel system. In addition, the continuation of the long and bloody American Civil War into 1865 led many British North Americans to question the advisability of institutionalizing strong regional identities by creating provincial governments. John A. Macdonald, for example, blamed the Civil War on excessive states’ rights and localism, preferring a legislative union similar to that governing England and Scotland because he and his Ontario followers believed that it was more likely to win the loyalty and respect of all citizens by subverting regional disagreements. A legislative union was, however, inconceivable for a British North American union since Lower Canada and the Atlantic colonies would never resign control of key local concerns such as education and legal codes to a national parliament that could be dominated by Ontario votes. Macdonald and his Ontario followers, therefore, accepted provincial jurisdictions while insisting that they be kept to a minimum. These centralizers also noted that the 72 Resolutions empowered the federal government to disallow (think veto) provincial legislation. In addition, the federal government retained “residual” powers—or the jurisdiction to pass legislation concerning “all matters of a general character, not specially and exclusively reserved for the Local Governments and Legislatures.”¹⁴ The federal parliament, they concluded, would be supreme in all important jurisdictions and would have the power to assume responsibility for new national concerns that

would arise in future decades (like air travel). Provincial governments would, by comparison, be “subordinate” to their federal counterpart.¹⁵

Upper Canadian Reformers rejected this interpretation. Like many leaders from the Atlantic colonies, these future Ontarians feared the establishment of a federal government that could interfere with local concerns. While few favoured the extreme states’ rights demanded by the American Confederacy, Brown and other local rights advocates had ensured that the 72 Resolutions incorporated a series of local jurisdictions including direct taxation (e.g., property tax), education, local works, and municipal institutions. The same terms of union also, somewhat confusingly, promised each province jurisdiction over “all matters of a private or local nature, not assigned to the General Parliament.” As Paul Romney suggests, Upper Canadian Reformers expected these articles to collectively ensure that “Ontario’s local affairs would be a matter for Ontarians alone.”¹⁶

The political union of British North America, Confederation advocates insisted, would also bolster the defence of each colony. This argument typically amounted to “united we stand, divided we fall.” Britain, all hoped, would still help to defend the fledgling dominion; but by uniting, the new country could aggregate its forces and deploy them where necessary via an Intercolonial railway that would soon be constructed. The Confederation would, in short, cause the colonies to become “a great nationality, commanding the respect of the world,”¹⁷ and deter American manifest destiny.

Opposing Arguments

Not all Upper Canadian politicians voted in favour of the 72 Resolutions. Opposition to the terms of union was not strong or unified in Upper Canada, but the critiques often centred distinct assessments of Upper Canadian interests. Most critics favoured union in principle, but were unimpressed by the Quebec Resolutions. The Great Coalition’s insistence that the Province of Canada debate the terms of union as a “treaty” that could not be amended, however, deterred all but the most ardent critics from matching their complaints with negative votes.¹⁸ The Upper Canadian opponents, therefore, must be understood as a disparate lot who recognized several shortcomings of the deal, but were ultimately unable to do more than delay its affirmation.

Because their colony imported the most goods and paid the most taxes, Upper Canadians such as Matthew Crooks Cameron (the Conservative representative for North Ontario in the Assembly and future leader of the province's Conservatives) complained that Ontarians would ultimately pay a disproportionate share of the dominion's future costs, and therefore objected to the increased expenses envisioned in the terms of union. The new dominion government would, for example, assume all of the member colonies' debts and pay a subsidy to each province (somewhat like equalization payments today). Establishing a House of Commons, a Senate and separate provincial legislatures, also seemed redundant as well as expensive to many who preferred the current system.¹⁹

The cost argument extended to other subjects as well. Perhaps the most consistently unpopular article of the terms of union was the promise to construct an Intercolonial railway. Until the 1870s, no rail link connected the Province of Canada to the Atlantic colonies, and trade was limited to what could be shipped via the St. Lawrence during the spring, summer, and fall months. Negotiations to construct a railway linking these regions had gone on for years, but repeated disagreement about how much of the cost each colony would bear consistently spoiled agreement. At the most recent negotiations in 1862, the government of John Sandfield Macdonald and Louis-Victor Sicotte agreed that the Province of Canada would pay 5/12 of the railway's construction cost, but then abruptly pulled out.²⁰ This linkage, viewed as a nation-building necessity by pro-Confederation politicians across the country, and an especially important incentive for Nova Scotia and New Brunswick, was generally unpopular in Upper Canada because, as David Reesor of Kings complained, the Province of Canada's taxpayers would shoulder "twice as great an expenditure as was formerly contemplated."²¹ Knowledge of the great political contest in New Brunswick concerning the future railway's route, in addition to the Grand Trunk Railway's recent financial struggles, also led these critics to worry that the construction guarantee was tantamount to writing a blank cheque.²²

Critics also worried that the construction of the railway, and the union scheme more generally, was a poor defensive measure. Railways located so close to the American border were vulnerable to attack, and would require significant defensive forces—if the line could be defended at all. The idea that British North America could be better defended by establishing a

single border stretching from the North-West to Nova Scotia also seemed doubtful. "This union," John Sanborn mocked,

was to strengthen us so marvellously that we would be able to intimidate all the rest of the world, and guarantee us a lasting peace with all mankind. It might increase facilities for communication, but could not increase our real strength. How the people of New Brunswick could be expected to come up to Canada to defend us, and leave their own frontier unprotected, he could not comprehend.²³

John Macdonald (the Reform MLA for West Toronto, not the future Prime Minister) similarly doubted that "we in Upper and Lower Canada, with a population less than that of the city of London, will be called upon to defend such a frontier—a territory, we are told, as great as the continent of Europe?"²⁴ Local defences, it seemed, needed to be constructed regardless of each colony's political status and the proposed union, therefore, would be an ineffective deterrent or even entangling.

Other objections to the Quebec Resolutions were more philosophical. There was, for example, considerable doubt about the "federal principle." The union of Upper and Lower Canada had brought immense discord. How would bringing Atlantic Canada into the mix while giving each province autonomy improve the situation?²⁵ In a private letter to Macdonald, Matthew Cameron complained that "the scheme itself based on the federal principle does not inspire me with a feeling of confidence that it will succeed in making us live more in harmony . . . or work with an eye solely to the common good."²⁶ He elaborated on this fear during his parliamentary critique of the Quebec Resolutions. Cameron advocated a legislative union because "if we are to be united, it ought to be in fact as well as in name; that we ought to be one people, and not separated from each other by sections."²⁷ Conscious of how the Southern desire for local autonomy sparked the American Civil war, Cameron concluded that if Canadians joined the British North American union proposed in the Quebec Resolutions, they "would be sowing the seeds of discord and strife, which would destroy our union."²⁸ Suggestions by Thomas D'Arcy McGee and other advocates that the union would create a "new nationality" were frequently disparaged.

The colonies jealously guarded their local laws, the Quebec Resolutions protected local autonomy, and many doubted that a federal system could promote unity by preserving difference.

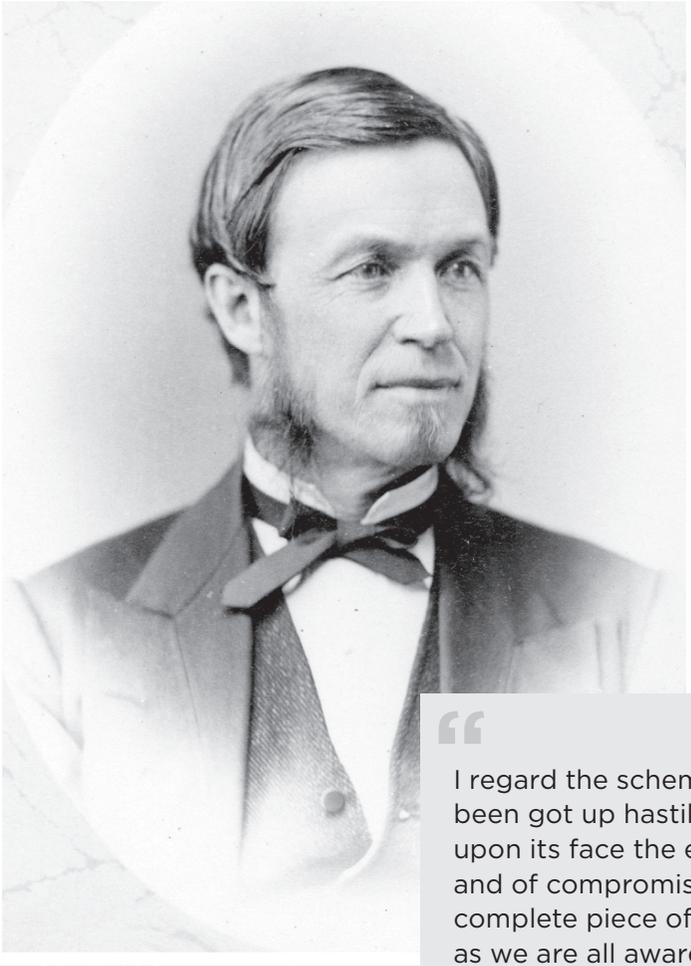
A few Ontario politicians even doubted their province's potential influence within Confederation. Cameron, for example, hypothesized that "sixty-five members from Lower Canada and forty-seven from the Lower Provinces, whose interests are identical, will be united against us."²⁹ Reform Legislative Council member John Simpson similarly warned that, even with the seventeen additional MPs that representation by population would give Ontario, "Upper Canada would still be in a large minority of the whole" and vulnerable to the spending whims of the rest of the country's federal representatives.³⁰

The decision to fill the Legislative Council (aka Senate) with lifetime appointees, rather than elected officials, also received considerable criticism. After 1856, the Province of Canada opened several of its Council seats to elections.³¹ Many Ontarians therefore objected to this move, suggesting that this would make the federal Senate unaccountable to voters and a tool of partisan patronage. As Ged Martin notes, critics interpreted the decision to appoint the first senators from existing councillors as "a transparent bribe to curb the upper houses in discharging the very task of disinterested second thoughts for which they were supposed to exist."³²

Finally, most anti-Confederates objected to the lack of public consent for the deal. The Great Coalition formed in 1864 without a general election, and one would not be called until 1867. While the Province of Canada's voter franchise was still based on wealth and gender, and some critics undoubtedly used the lack of public pronouncement on the union plan as an excuse for delay, many critics disliked implementing radical constitutional change without securing the approval of this limited franchise. John Sandfield Macdonald, who would become Ontario's first premier, even cast the electoral defeat of New Brunswick Premier Samuel Leonard Tilley during the summer of 1865 as an example for those who pushed forward with Confederation against public opinion, but his argument had little effect.³³

Matthew Crooks Cameron
*Member of the Legislative Assembly,
Province of Canada, Ont.*

24 FEBRUARY 1865



CONFEDERATION QUOTE 3.2

Quotation from Province of Canada,
Legislative Assembly, 24 February 1865
Photograph by Notman & Fraser, from
Library and Archives Canada, PA-028639

“

I regard the scheme itself as having been got up hastily, for it bears upon its face the evidence of haste and of compromise. Indeed, it is a complete piece of patchwork, and as we are all aware, it is a piece of patchwork in which we are not to be at liberty to change the patches in any respect so as to make it look better to the eye or more enduring to those who will have to wear it.

”

Afterwards

Ultimately, both of the province's legislatures approved the Quebec Resolutions. In the Assembly, majorities from Upper and Lower Canada approved the deal, though *Rouge* opposition ensured that the Lower Canadian majority was slim. The lack of a clear alternative plan, disunity, and a vote that required a clear yes or no stand made it impossible for Upper Canadians opposing the Quebec Resolutions to mount an effective opposition to the relatively popular push for union.

Readers should recognize that pro- and anti-Confederation advocates offered thoughtful assessments of the terms of union. Over the next one hundred and fifty years, for example, major nation-building projects like the Intercolonial railway were critical to establishing interprovincial trade. Yet Ontario, traditionally a “have” province, provided funds that brought national programs to other provinces. Similarly, a legislative union was not politically feasible in Canada, and our federal structure has provided considerable flexibility for varied ways of being Canadian. Yet these same divisions have, at times, been rallying points for those who wanted to leave the country in provinces like Quebec and Nova Scotia. Such observations do not disparage subsequent events or imply single causes; instead they recognize that both sides of the debates made legitimate observations.³⁴

But Ontario's founding debates did not end in 1865. In 1869, the federal government secured the North-West from the Hudson's Bay Company, and the Red River Métis' subsequent reaction to the federal government's failure to recognize their presence illustrated the danger of ignoring the authority of Indigenous inhabitants. This realization, in addition to the imperative of constructing a transcontinental railway, avoiding further expensive conflicts, and the knowledge that Indigenous Peoples all along the suggested routes expected to negotiate prior to the arrival of “settlers,” led the Crown to take up past precedents of the previous decade and negotiate a series of Numbered Treaties that would eventually stretch from Ontario to the Yukon.³⁵ These were, as historian J.R. Miller explains elsewhere in this volume, not just written treaties, but *covenants* which involved the deity that bound all parties to lasting commitments and relationships.³⁶ Although Ontario's borders did not reach their present state until 1912, a portion of Treaty No. 3 falls within these modern boundaries. Negotiations began in 1870 and continued each year, and Indigenous

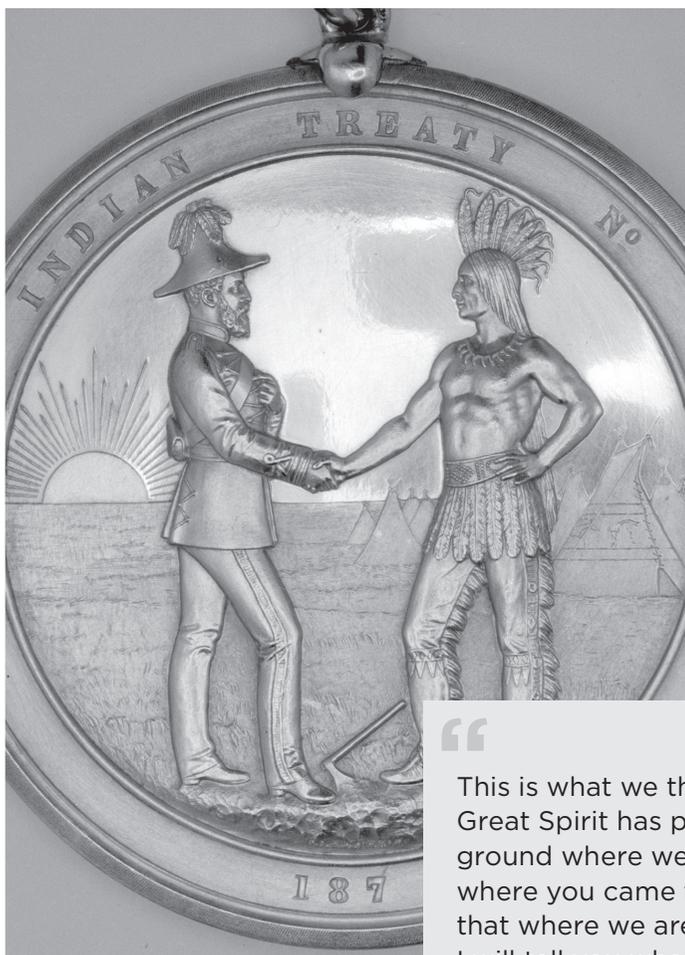
leaders held out each time for more generous terms. The breakthrough did not come until 1873 when Governor Alexander Morris met with the Saulteaux, Lac Seul, and English River First Nations leaders at the North-West Angle (where the borders of Manitoba, Ontario, and Minnesota meet today) with terms that aligned more closely with Indigenous expectations. After difficult negotiations, Chief Kakatcheway agreed to sign the treaty and Morris threatened to negotiate with each band individually if they did not follow suit. After further negotiations, the Crown agreed to increase the one-time cash payment from ten to twelve dollars, provide tools, farming implements, supplies, cattle, and certain clothing. It also accepted continued Indigenous hunting and fishing on Crown lands, and promised to allow Indigenous relatives from the United States to join the Treaty if they arrived within two years. Several of these commitments were verbal, rather than written, and were subsequently contested but, at the time, both sides agreed to the terms and Treaty No. 3 was signed on 3 October 1873.³⁷

Newcomer settlement, however, continued to expand, and by the turn of the century, extended further into northern Ontario. The negotiations for Treaty No. 9 from 1905 to 1906 were a very different experience. Unlike Alexander Morris, Treaty No. 9's Commissioners did not deviate from the provisions already drafted in Ottawa. Instead, they worked to explain and convince Cree and Ojibwa leaders to sign the treaty. Unfortunately, the commissioners' explanations frequently oversimplified or even "flatly contradict[ed] the written provisions."³⁸ At Mishkeegogamang (previously Osnaburgh), for example, the commissioners emphasized obedience of Crown laws. Reassurances that bands could continue hunting and farming on all "surrendered" lands, on the other hand, were given without adequately explaining that these activities would be "subject to such regulations" made by the government and that this pledge also excepted "such tracts as may be required or taken up from time to time for settlement, mining, lumbering, trading or other purposes."³⁹ At Eabametoong (formerly Fort Hope), one of the Commissioners even suggested that the bands were only surrendering title to their "unused lands."⁴⁰ With these inaccurate reassurances and comparatively little bargaining power, the bands signed the Treaty.

While the meaning of the Indigenous and parliamentary records will continue to be discussed for decades to come, it is important that

Mawedopenais
Fort Francis First Nations Chief

2 OCTOBER 1873



CONFEDERATION QUOTE 3.3

Quotation from Alexander Morris,
*The Treaties of Canada with the Indians of
Manitoba and the North-West Territories
Including the Negotiations on Which They
Are Based, and Other Information
Relating Thereto*. Toronto: Willing &
Williamson, 1880, page 59
Photograph from Library and Archives
Canada, Acc. No. 1986-79-1638

“

This is what we think, that the Great Spirit has planted us on this ground where we are, as you were where you came from. We think that where we are is our property. I will tell you what he said to us when he planted us here; the rules that we should follow—us Indians—He has given us rules that we should follow to govern us rightly.

”

Ontarians, and Canadians have the opportunity to access and assess these discussions. The Province of Canada's debates, the Numbered Treaty texts, and accounts of the negotiations of those Treaties are all critical founding records. The Canadian state did not ultimately honour the terms of the Numbered Treaties and reconciliation remains an ongoing process that can only be aided by awareness of past agreements and wrongs. While the parliamentary debates on Confederation have a different flavour and purpose, they provide useful insights into the strengths and weaknesses of Canada's political structure and Ontario's past and present role within Confederation. With these insights, we can consider Canada's past, correct mistakes, and build on existing achievements.

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NOTES

The author wishes to express his gratitude to Penny Bryden for her extensive suggestions for this chapter.

- 1 *Halifax Morning Chronicle*, 1 July 1867.
- 2 Quoted in Gerald M. Craig, *Upper Canada: The Formative Years, 1784–1841* (Toronto: McClelland and Stewart, 1963), 9.
- 3 For a discussion of the recent literature on loyalty, revolution, and the long nineteenth century, see Jeffrey McNairn, “As the Tsunami of Histories of Atlantic and Liberal Revolutions Wash up in Upper Canada: Worries from a Colonial Shore—Part One,” *History Compass* vol. 14, no. 9 (2016): 407–17.
- 4 See Alan Taylor, *The Civil War of 1812: American Citizens, British Subjects, Irish Rebels and Indian Allies* (Toronto: Random House, 2010).
- 5 Douglas Oram, *Promise of Eden: The Canadian Expansionist Movement and the Idea of the West, 1856–1900* (Toronto: University of Toronto Press, 1992).
- 6 J.R. Miller, “Compact, Contract, Covenant: Canada’s Treaty-Making Tradition,” Keenan Lecture, 2003.
- 7 For a detailed discussion of pre-1864 federal proposals in Upper Canada, consult Daniel Heidt, “‘First Among Equals’: The Development of Preponderant Federalisms in Upper Canada and Ontario to 1896,” PhD diss., Western University, 2014, ch. 1 and 2.
- 8 P. B. Waite, *The Life and Times of Confederation, 1864–1867: Politics, Newspapers, and the Union of British North America* (Toronto: University of Toronto Press, 1962), 76–85.
- 9 Waite, *The Life and Times of Confederation, 1864–1867*, 89.
- 10 John T. Saywell, *The Lawmakers: Judicial Power and the Shaping of Canadian Federalism* (Toronto: University of Toronto Press for the Osgoode Society for Canadian Legal History, 2002), 6–7; see also G. P. Browne, *Documents on the Confederation of British North America* (Toronto: McClelland and Stewart, 1969), 94–95.
- 11 While George Brown pioneered the “rep by pop” movement, many Upper Canadian Conservatives joined the chorus. John Hillyard Cameron, for example, broke with Macdonald in 1861, and brought a growing number of Conservatives with him, forcing Macdonald to eventually make “rep by pop” an open question among his followers.
- 12 Daniel Heidt, “‘First Among Equals,’” ch. 2.
- 13 Province of Canada, Legislative Assembly, 8 February 1865, 88, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-02-08.html.
- 14 For classic texts on the centralist interpretation of Canada’s constitution, consult: Donald Creighton, *John A. Macdonald: The Young Politician* (Toronto: University of Toronto Press, 1952); Norman McLeod Rogers, “The Compact Theory of Confederation,” in *Papers and Proceedings of the Annual Meeting of the Canadian Political Science Association* (1931), 205–30; Richard Gwyn, *Nation Maker: Sir John A. Macdonald: His Life, Our Times, Vol. 2, 1867–1891* (Toronto: Random House Canada, 2011); W.L. Morton, *The Kingdom of Canada: A General History From Earliest Times* (Toronto: McClelland and Stewart Limited, 1963).
- 15 Province of Canada, Legislative Assembly, 6 February 1865, 42, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-02-06.html.

- 16 Paul Romney, *Getting It Wrong: How Canadians Forgot Their Past and Imperiled Confederation* (Toronto: University of Toronto Press, 1999), 103. See also J.M.S. Careless, *Brown of the Globe. Vol. 2: Statesman of Confederation, 1860–1880* (Toronto: Macmillan Company, 1963).
- 17 Province of Canada, Legislative Assembly, 6 February 1865, 27, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-02-06.html.
- 18 Unlike the debates in Atlantic Canada where Confederation proponents often advocated further negotiations that would amend the Quebec Resolutions, the Great Coalition, wary of further delays or disagreement, limited voting to accepting or rejecting the deal. This tactic did not deter critics from proposing amendments but none were successful. The London Conference delegates, ironically, subsequently deviated from the Quebec Resolutions on several occasions.
- 19 Province of Canada, Legislative Assembly, 24 February 1865, 453-63; 6 March 1865, 681; and 7 March 1865, 756, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-02-24.html, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-03-06.html and http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-03-07.html.
- 20 Gene Lawrence Allen. "The origins of the Intercolonial Railway, 1835–1869," PhD diss., University of Toronto, 1991.
- 21 Province of Canada, Legislative Council, 13 February 1865, 164, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLC_1865-02-13.html.
- 22 For detailed histories of the Intercolonial Railway, consult: Andy Albert den Otter. *The Philosophy of Railways: The Transcontinental Railway Idea in British North America* (Toronto: University of Toronto Press, 1997); Allen, "The Origins of the Intercolonial Railway."
- 23 Province of Canada, Legislative Council, 9 February 1865, 123, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLC_1865-02-09.html.
- 24 Ged Martin, "Painting the Other Picture: The Case Against Canadian Confederation," in *From Rebellion to Patriation: Canada and Britain in the Nineteenth and Twentieth Centuries*, ed. C.C. Eldridge (Whales Canadian Studies in Wales Group, 1989), 56–57.
- 25 For more on this perspective, consult Martin, "Painting the Other Picture," 49.
- 26 M.C. Cameron to JAM, 3 December 1864, LAC, MG26-A, Vol. 338, Pt 2.
- 27 Province of Canada, Legislative Assembly, 24 February 1865, 455, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-02-24.html.
- 28 Province of Canada, Legislative Assembly, 24 February 1865, 463, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-02-24.html.
- 29 Quoted in Martin, "Painting the Other Picture," 60.
- 30 Province of Canada, Legislative Council, 16 February 1865, 232, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLC_1865-02-16.html.
- 31 Janet Ajzenstat, "Bicameralism and Canada's Founders: The Origins of the Canadian Senate," in *Protecting Canadian Democracy: The Senate You Never Knew*, ed. Serge Joyal (Montreal: McGill-Queen's University Press, 2003), 12.
- 32 Martin, "Painting the Other Picture," 65.

- 33 Bruce W. Hodgins, *John Sandfield Macdonald, 1812–1872* (Toronto: University of Toronto Press, 1971), 78–79.
- 34 Readers will also appreciate a brief note on topics that these debates do not include. Separate schools for Catholic and Franco Ontarians, as well as English and Protestant Lower Canadians, was a key concern during the 1860s, and the 72 Resolutions preserved the rights of both groups as they existed “at the time when the Union goes into operation.” Yet education was rarely discussed during the legislatures’ Confederation debates. This is because Alexander Galt promised to propose legislation improving separate school rights in both sections of the colony after the Legislative Assembly voted on the Confederation deal, effectively separating the two subjects for a few key months.
- 35 Miller, “Compact, Contract, Covenant: Canada’s Treaty-Making Tradition,” 20–21.
- 36 Miller, “Compact, Contract, Covenant: Canada’s Treaty-Making Tradition,” 32.
- 37 Wayne E. Daugherty, “Treaty Research Report: Treaty Three, 1873” (Treaties and Historical Research Centre Self-Government, Indian and Northern Affairs Canada 1986). Bands that were not present at the negotiations signed adhesion agreements during the succeeding two years. It should be noted that Treaty No. 3 is the only Numbered Treaty to allow Métis to sign adhesion agreements.
- 38 John S. Long, “How the Commissioners Explained Treaty Number Nine to the Ojibway and Cree in 1905,” *Ontario History* XCVIII, no. 1 (Spring 2006): 13.
- 39 Treaty No. 9: Long, “How the Commissioners Explained Treaty Number Nine to the Ojibway and Cree in 1905,” 14–19.
- 40 Long, “How the Commissioners Explained Treaty Number Nine to the Ojibway and Cree in 1905,” 19. See also: John S. Long, *Treaty No. 9: Making the Agreement to Share the Land in Far Northern Ontario in 1905* (Montreal: McGill-Queen’s University Press, 2010).

