

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

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Quebec and Confederation: Gains and Compromise

MARCEL MARTEL, COLIN M. COATES,
MARTIN PÂQUET, AND MAXIME GOHIER

Confederation happened because of Quebec, not in spite of it. When delegates gathered in Charlottetown in September 1864 and a month later in Quebec City, French-speaking representatives from the future province of Quebec occupied a position of some strength at the negotiating table despite being members of a linguistic and religious minority. Their concerns had to be addressed in order to proceed with the reorganization of the colonial order in North America. Without significant support from French-Canadian politicians, a new constitutional arrangement was unlikely to succeed. For their part, English-speakers, who constituted a minority in the future province of Quebec, counted on their representatives to protect their interests.

Reconciling the rights and concerns of French- and English-speaking colonists had been a major political and constitutional issue in British North America since the Treaty of Paris in 1763, which ceded New France to the British. For over a century, British authorities had imposed constitutional reorganizations on their Empire in North America without substantial input from colonists. A series of constitutional changes attempted to wrestle with the issue of integrating a large Catholic and French-speaking population into a colonial political structure administered from London. In 1774, Britain enlarged the boundaries of the province of Quebec,

recognized French civil law, and permitted Catholics to take oaths that allowed them to occupy state offices. Only seventeen years later, British authorities again modified constitutional arrangements: they divided the province of Quebec into two distinct territories, Lower Canada and Upper Canada, and gave both colonies representative parliamentary institutions.

Following the 1837–38 rebellions, Britain attempted to assimilate French Canada by decreeing the union of Lower Canada and Upper Canada. Despite being less populous, Canada West (the former Upper Canada) received the same number of representatives as Canada East (Lower Canada) in the new legislature that would govern both sections of the colony. The use of French in the colonial parliament was also initially disallowed, though it was subsequently restored in 1848. This attempt to assimilate French-Canadian society into a broader British North American polity was also unsuccessful. French-Canadian politicians had to address complaints from reform politicians in Upper Canada. Anxious to flex their increasing demographic muscle, Protestant political leaders wished to enhance their autonomy from the large number of Catholic voters. However, French-Canadian politicians like Louis-Hippolyte La Fontaine brilliantly used ideological differences among their English-speaking counterparts to develop workable coalitions that relied on substantial support from Francophone legislators to maintain power. For example, after the 1851 census had proved that Upper Canada had become more populated than Lower Canada, Protestants demanded “representation by population” hoping that it would guarantee their section greater autonomy from Catholic political influence. But French-Canadian allegiances with moderate Upper Canadian politicians allowed them to stonewall all attempts to implement this policy throughout the 1850s and early 1860s. This recognition among French-Canadian leaders that the French- and British-Canadian duality could be harnessed to serve their interests shaped their political thought and strategy throughout the next fifteen years.

The “Quebec” Delegation in Action

By the time colonial politicians met to discuss the idea of a broader union of British North American colonies in the 1860s, French Canadians occupied important positions at the negotiating table. Without the involvement of these key political figures from Canada East, the project could not

have moved forward. The union of the British North American colonies became a possibility when George-Étienne Cartier, leader of the *Bleus* (Conservatives) in Canada East (the future province of Quebec), joined John A. Macdonald and George Brown from Canada West to form a coalition to end political deadlock in the colony of the Province of Canada. For some of the political leaders in that colony, one way of dealing with the ongoing disputes was to include the other British colonies in a larger federation.

Taking advantage of a meeting to discuss the union of the three Maritime colonies (Nova Scotia, New Brunswick, and Prince Edward Island) scheduled for September 1864 in Charlottetown, Canadian political leaders presented the broader project of uniting all the colonies into a new polity. The French-Canadian delegates were George-Étienne Cartier and Hector-Louis Langevin, alongside Irish-Catholic Montrealer Thomas D'Arcy McGee and Scottish-Protestant Alexander Galt from the Eastern Townships.

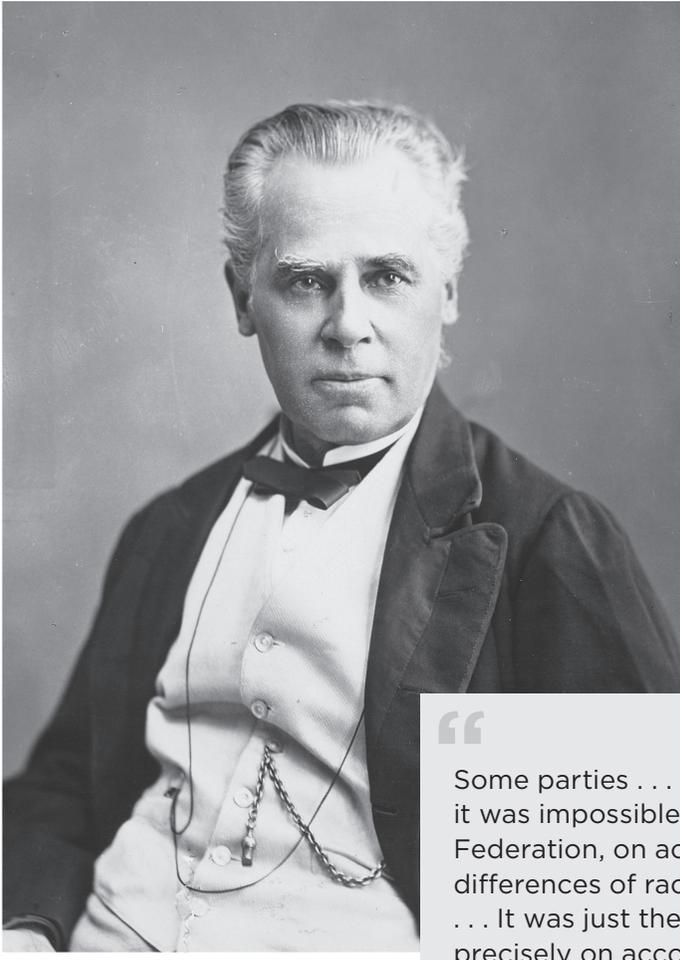
After working out broad strokes of a deal for British North American union, thirty-three colonial leaders reconvened at Quebec City to refine the terms of union. The compromises that they worked out became the 72 Resolutions—also known as the “Quebec Scheme”—and it was this agreement that eventually became the basis for the final negotiations in London, England and the eventual British North America Act.

The “Quebec” delegation included four French Canadians, Cartier, Langevin, Jean-Charles Chapais, and Étienne-Paschal Taché, along with two Anglophones: Galt and D'Arcy McGee. No members of the opposition *Rouge* party (Liberals) attended the Quebec talks and their absence meant that one of their key tenets—the separation of Church and state—was not reflected in the new agreement. If Quebec gained a significant, though not absolute, degree of autonomy with the Confederation deal, so did the French-language Catholic Church, albeit within the boundaries of the province.

At the negotiating table, the French-Canadian representatives made specific demands. It is important to situate their positions within the context of the limited state activities of the nineteenth century. Governments throughout the Western world played fairly minor economic and social roles at the time compared to the latter half of the twentieth century. During Canada's early years, for example, federal employees only numbered in the hundreds and federal revenues amounted to only fourteen million

George-Étienne Cartier
*Attorney General East,
Province of Canada, Que.*

7 FEBRUARY 1865



CONFEDERATION QUOTE 4.1
Quotation from Province of Canada,
Legislative Assembly, 7 February 1865
Photograph from Library and Archives
Canada, MIKAN 2242461

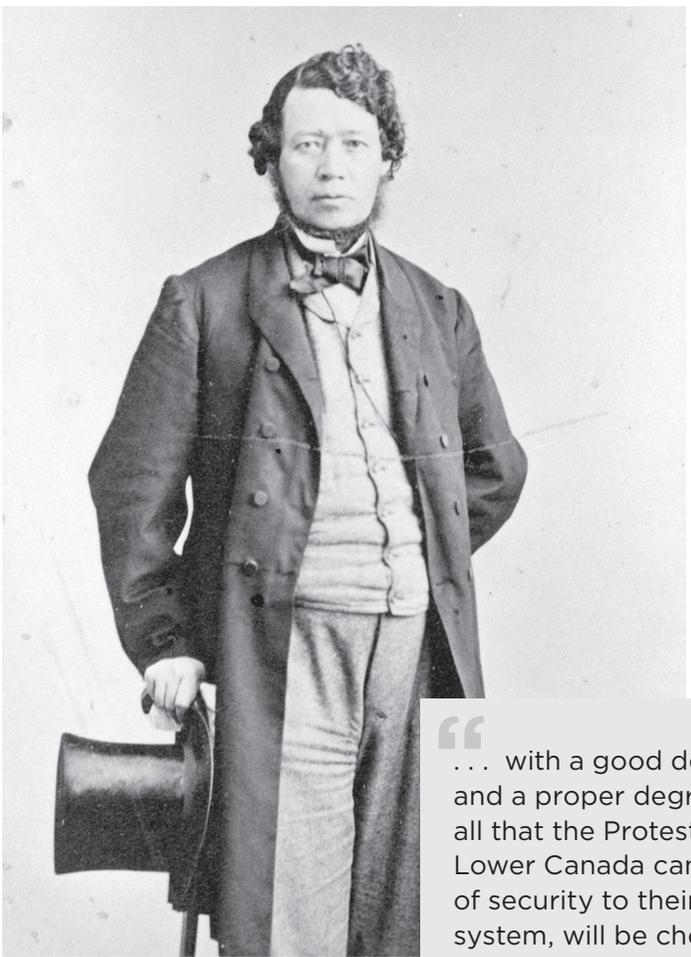
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Some parties . . . pretended that it was impossible to carry out Federation, on account of the differences of races and religions. . . . It was just the reverse. It was precisely on account of the variety of races, local interests, &c., that the Federation system ought to be resorted to, and would be found to work well.

”

Thomas D'Arcy McGee
*Liberal-Conservative Member of the
Legislative Assembly, Province of Canada, Que.*

9 FEBRUARY 1865



CONFEDERATION QUOTE 4.2
Quotation from Province of Canada,
Legislative Assembly, 9 February 1865
Photograph by William Notman, from
Library and Archives Canada, C-016749

“ . . . with a good deal of moderation and a proper degree of firmness, all that the Protestant minority in Lower Canada can require, by way of security to their educational system, will be cheerfully granted to them by this House . . . if there are to be any special guarantees or grants extended to the Protestant minority of Lower Canada, I think the Catholic minority in Upper Canada ought to be placed in precisely the same position—neither better nor worse. ”

dollars, almost all of which came from excises and duties. Confederation did not, in other words, lead immediately to a vast expansion in the scope of government. When negotiating Confederation at Quebec City, French-Canadian politicians expected to gain provincial control of political and social institutions that they judged instrumental to the strengthening of French-Canadian culture and identity. The Maritime delegates also generally shared the French-Canadian distrust of the centralizing tendencies. Federalism, with the provincial autonomy and diversity it offered, was therefore a political necessity. A legislative union with a strong central government, which Macdonald personally preferred, was therefore out of the question. While discussing the powers to be allocated to the federal government and the provinces, French-Canadian representatives insisted that education be controlled by the future provincial governments because denominational divides across the country ran deep, and local circumstances required accommodation. French-Canadian leaders, furthermore, expected some assurances regarding the use of the French language in federal institutions and in the future province of Quebec.

D'Arcy McGee and Galt were instrumental in protecting the rights of the English-speaking population of Quebec, and Cartier and Langevin agreed with their position. The issues of bilingualism and schooling were crucial. In fact, Quebec became the only bilingual province where French and English both became official languages in the legislature and courts. For education, denominational Protestant and Catholic schools (not language-based) were guaranteed. Anglophones, both Protestant and Catholic, as well as Catholic Francophones, thereby secured essential protections for many of the institutions they considered key to their cultural survival.

Indigenous Rights

This interest in minority rights did not extend to Indigenous Peoples. French-Canadian and English-speaking representatives from the future province of Quebec did not discuss Indigenous People's rights at all, even though some constitutional provisions would have major impacts on them. The Province of Canada had adopted a number of laws impacting Indigenous Peoples since 1851, but it was only in 1860 that it officially received from London the responsibility over "the Management of the Indian Lands and Property."¹ In fact, Indigenous Affairs was the

final power London devolved to the colony before Confederation. Thus, when discussions began over a possible legislative or federal union of the Canadas in the late 1850s, Indigenous peoples and their rights were still officially a prerogative of the Crown.² At Charlottetown, no one broached the subject and, at Quebec, it was only on October 25—after two days of deliberations on the respective powers of the federal and local governments—that Oliver Mowat proposed that the “General Legislature” have jurisdiction over “Indians.”³ The delegates do not appear to have even discussed the proposal⁴ and no objections were raised when “Indians and Lands reserved for the Indians” was finally added as one of the 37 “powers” of the “General Government.”⁵ The subject of Indigenous Peoples was also absent from the subsequent debates on the 72 Resolutions that took place in the Canadian Assembly and Legislative Council in 1865.

The fact that Indigenous People were not at the negotiating table (either physically or symbolically) does not mean they were not a concern for leaders in British North America, although it is hard to grasp the thoughts of the Fathers of Confederation on the subject. Many of the framers of the 72 Resolutions had been involved in Indian Affairs over the previous decade. In his position as Attorney General of Canada East, George-Étienne Cartier had often worked on issues relating to Indigenous rights, as did John A. Macdonald in his capacity as Attorney General for Canada West. Both had been responsible for introducing bills relative to Indigenous People to the Assembly, including the *Gradual Civilization Act* of 1857 and the bill securing the devolution of responsibility over Indian Affairs to the United Canadas in 1860. As Commissioner of Crown Lands, Alexander Campbell was the acting head of the Indian Department from March 1864 up to Confederation, a position previously occupied by William McDougall (1862–64), also present at the Quebec Conference.⁶ For his part, Hector-Louis Langevin would become the first Superintendent General of Indian Affairs after Confederation, while Macdonald would serve more time in this position than anyone else in Canadian history (1878–87). During his time as Superintendent, Macdonald was also one of the main promoters of the federal system of residential schools.⁷

Indigenous Affairs thus mattered to Canada’s founders, although these men obviously considered it self-evident that its supervision and management be vested in the “national” government. A newly obtained jurisdiction—one the Maritime colonies also exercised, though unofficially—it

was still perceived as a symbol of Crown sovereignty and a legitimate imperial power over local legislatures, a political model Conservatives such as Macdonald wished to perpetuate.⁸ For the Fathers, management of Indigenous Affairs was an important part of their nation-building project, being one of the main symbolic links that would unite the new “Federal Union” with “the Crown of Great Britain,” ensuring the “perpetuation of [the] connection with the Mother Country” they sought to preserve.⁹

As a result of this omission, the same issues that had characterized relations between Indigenous Peoples living in Canada East and their non-Indigenous neighbours would extend into the future. Unlike the policy initiated in Canada West that was to be followed in the Plains and the North-West, no formal treaties with Indigenous nations governed land use. The Confederation agreement of the 1860s did not, consequently, resolve any outstanding issues between non-Indigenous Quebecers and the Mohawk, Wendat, Anishinaabeg, Abenaki, Atikamekw, Wolastoqiyik (Maleseet), Mi’kmaq, and Innu. With the expansion of Quebec’s borders to the north in 1898 and 1912, the territory of other Indigenous nations, including the Cree, the Naskapis, and Inuit, would also be integrated into the province without any treaty being negotiated for the acquisition of their lands.

Debating the Merits of Confederation

Once approved by all delegates attending the October conference, the Confederation pact triggered important debates in the various colonial legislatures. In the Province of Canada’s rotating capital at Quebec City, the Legislative Council (the upper body of the assembly, which since 1856 had included some elected members) held debates between 3 and 20 February 1865, and the entirely elected Legislative Assembly between 3 February and 13 March 1865.

Many French-Canadian politicians considered the Quebec Resolutions to be an improvement on the previous constitutional arrangement. Cartier and his *Bleu* allies in the Legislative Assembly agreed to support a coalition government until the political and institutional reorganization of British North America was a *fait accompli*. Since the Cartier-Macdonald-Brown coalition formed a majority, the passage of the deal was fairly certain. However, no one took the results for granted, and French-Canadian

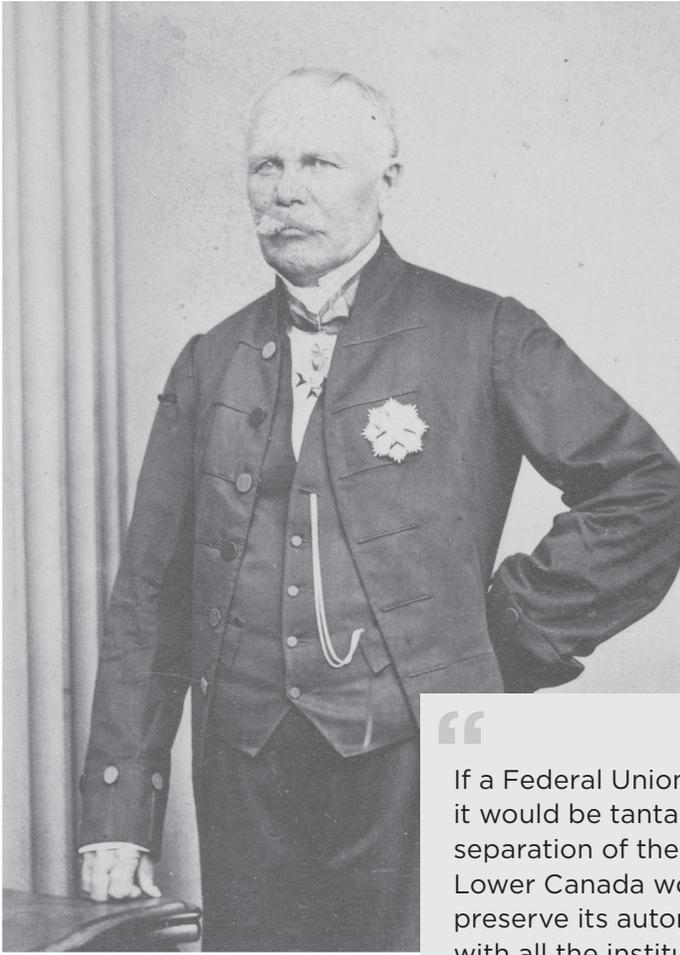
society was divided—like other British North American colonies—on the strengths and weaknesses of the new constitutional deal. In addition to convincing the colony’s political representatives to vote for the Quebec Resolutions, supporters also had to reassure the broader population through the press that the creation of the new federation was the best available course of action. This imperative for wider public support, along with the historical gravity of the occasion, prompted the legislatures to commission the publication of a record of their debates soon thereafter for public consumption.¹⁰

During the debates in the legislature, proponents focused on the difficult challenges involved in creating a federation as well as the various economic and political benefits that the new union supposedly offered to all the colonies. For many supporters, Confederation was a visionary project. The integration of the Maritimes offered the promise of broader markets for agricultural and manufactured goods. A railway linking Canada West and East with the Maritimes was a key feature of the vision of future prosperity. According to advocates, this railway was indispensable to creating a larger consolidated market of four million consumers. Confederation, they contended, would thereby encourage French-Canadian political and business elites to take part in the creation of a continental nation. The new country would, furthermore, soon acquire the North-West Territories—then under the nominal control of the Hudson’s Bay Company and occupied largely by Indigenous Peoples—and this vast territory would be thrown open to immigrants and native-born settlers alike.

Some doubters worried that the 72 Resolutions would erase local distinctiveness. So Cartier reassured his listeners that different religious and ethnic traditions would survive in the new country and proclaimed that Canada would constitute a new “political nationality with which neither the national origin, nor the religion of any individual, would interfere.”¹¹ The protection of French Canadians’ rights under the new constitutional arrangement would, according to Cartier and his supporters, depend on the shape of the new political institutions, the freedom to exercise their religion, limited language guarantees, and the preservation of their system of civil law. The presence of two national communities, they recognized, created tensions that had complicated colonial governance in the United Canadas, rendering the formation of stable governments which enjoyed the confidence of the House almost impossible, particularly in the 1860s.

Étienne-Paschal Taché
Premier, Province of Canada, Que.

3 FEBRUARY 1865



CONFEDERATION QUOTE 4.3
Quotation from Province of Canada,
Legislative Council, 3 February 1865
Photograph from Library and
Archives Canada, PA-074100

“

If a Federal Union were obtained it would be tantamount to a separation of the provinces, and Lower Canada would thereby preserve its autonomy together with all the institutions it held so dear, and over which they could exercise the watchfulness and surveillance necessary to preserve them unimpaired.

”

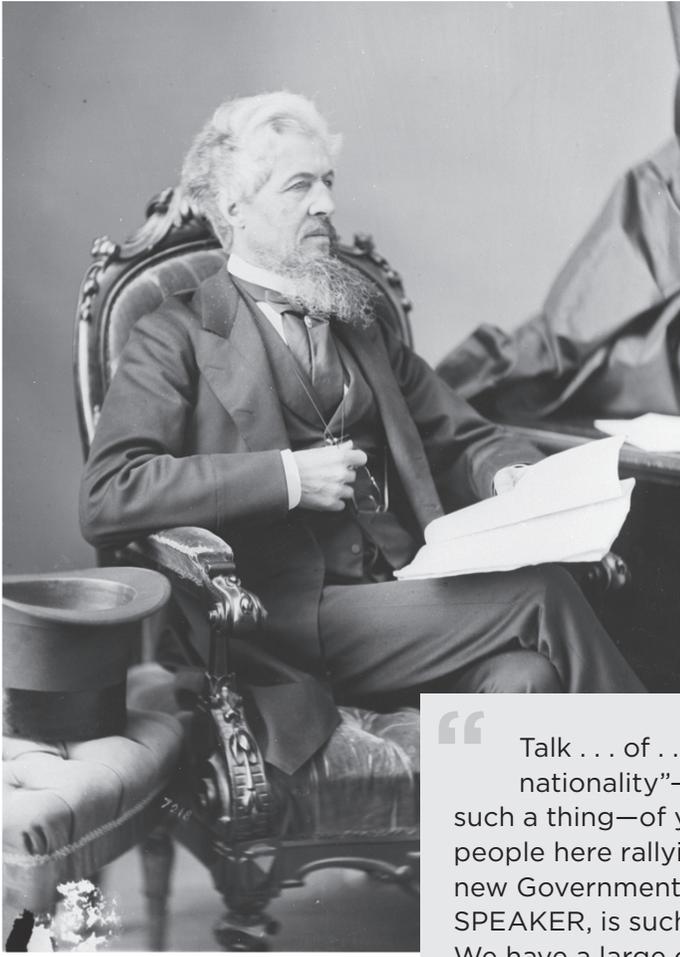
The time had come, they contended, to divide the United Canadas into two. This would allow voters in the future province of Quebec to regain the political institutions that they used to control until the dissolution of the Legislative Assembly in 1838. This notion of “separation from” was central for proponents of Confederation in both Canada East and Canada West. Taché, who attended the Quebec Conference, stated that Confederation was “tantamount to a separation of the provinces, and Lower Canada would thereby preserve its autonomy together with all the institutions it held so dear, and over which they could exercise the watchfulness and surveillance necessary to preserve them unimpaired.” The individual who transcribed Taché’s remarks added that these words were repeated in French, “for the express purpose of conveying his meaning in the clearest and most forcible manner to his fellow-members for Lower Canada, who might not have apprehended so well the English.”¹² The new federal government would have limited control over issues at the heart of French-Canadian concerns. Langevin explained that at the level of the federal government, “there will be no questions of race, nationality, religion or locality, as this Legislature will only be charged with the settlement of the great general questions which will interest alike the whole Confederacy and not one locality only.”¹³

Proponents of the Quebec Scheme also insisted that not one single drop of blood was shed in its accomplishment. British North Americans did not need to wage war to achieve political unity. George-Étienne Cartier reminded his counterparts that colonists were able to double the size of their population without strife, in distinct contrast to bellicose France. Although Napoleon III, argued Cartier, had become a major player on the European scene, he did it “after great expenditure of blood and treasure,” which led to the incorporation of Savoy and Nice and “an addition of nearly one million inhabitants to France.”¹⁴

Opponents of the Quebec Scheme dismissed the congratulatory rhetoric of those who favoured Confederation, and criticized many of their claims. Christopher Dunkin, the MLA for Brome in Quebec’s Eastern Townships, was one of the few Conservatives to oppose the Quebec resolutions. In a very long speech that required two days to present, he raised a series of concerns about the Confederation deal. He was not convinced, for example, that a new nationality would emerge from the union. The British North American colonies, he contended, were divided by religion,

Christopher Dunkin
*Member of the Legislative Assembly,
Province of Canada, Que.*

27 FEBRUARY 1865



CONFEDERATION QUOTE 4.4

Quotation from Province of Canada,
Legislative Assembly, 27 February 1865
Photograph by Topley Studio, from Library
and Archives Canada, PA-026325

“ Talk . . . of . . . “a new nationality”—of your creating such a thing—of your whole people here rallying round its new Government at Ottawa. Mr. SPEAKER, is such a thing possible? We have a large class whose national feelings turn towards London . . . Paris . . . the Emerald Isle . . . and . . . Washington; but have we any class of people who are attached . . . to the city of Ottawa, the centre of the new nationality that is to be created? ”

Antoine-Aimé Dorion
*Rouge Leader, Member of the Legislative
Assembly, Province of Canada, Que.*

16 FEBRUARY 1865



“

I thank God, sir, I never insulted Upper Canada, like some of those who reviled me. I never compared the people of Upper Canada to so many codfish. I showed on the contrary that I was always willing to meet the just claims of Upper Canada.

”

CONFEDERATION QUOTE 4.5

Quotation from Province of Canada,
Legislative Assembly, 16 February 1865
Photograph by Topley Studio, from Library
and Archives Canada, PA-025755

ethnicity, and language. He also denied that united British North American military forces would be able to repel an American invasion. Given the size of the Northern US Army then engaged in the Civil War, the limited joint forces available to British North America, whether united under a single banner, or united in common defence, could do little to stop an attack.¹⁵

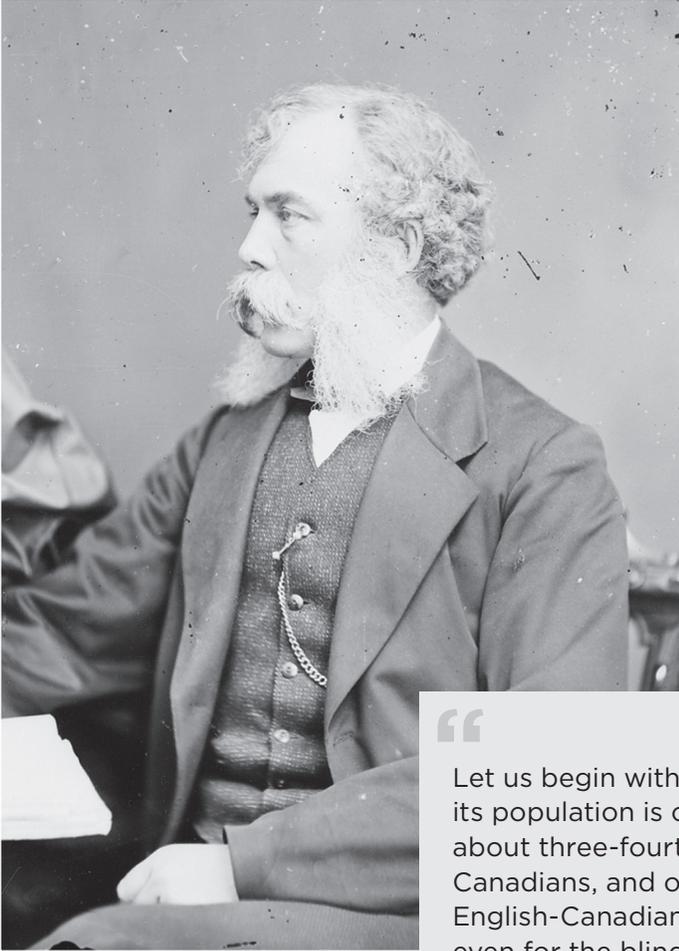
Among the strongest opponents were the *Rouges*, who were considered radical liberals because of their views on the separation between church and state. Their leader, Antoine-Aimé Dorion, led the *Rouge* charge against the new constitutional package. Noting that the majority of elected officials in the Assembly did not understand French, he delivered his criticisms in English. Dorion questioned whether Confederation would actually establish a federal union. No, he argued, the federal power to disallow provincial legislation would allow the former to overrule “laws passed by the local legislatures and demanded by a majority of the people of that locality.”¹⁶ He reminded his audiences that he was a longstanding advocate of a true Confederation and “to leave to a general government questions of trade, currency, banking, public works of a general character, &c., and to commit to the decision of local legislatures all matters of a local bearing.”¹⁷ The Quebec Scheme, he warned, would pave the way to a legislative union that would be detrimental to French Canadians. Dorion also denounced the anti-democratic nature of the proposed appointed Senate.¹⁸ Like other opponents in New Brunswick and Nova Scotia, he challenged the government to let the electorate decide the fate of the 72 Resolutions.

Some of Dorion’s concerns were well founded. It may have been difficult to foresee in 1867, but the federal government sometimes used its disallowance powers in the way that Dorion warned about (although such actions have not occurred since 1943). Nonetheless, the potential threat to minority rights that the greater constitutional authority of the federal government poses remains a key argument in favour of Quebec acquiring greater autonomy within, perhaps even separation from, the Canadian union.¹⁹

The largest group of opponents to the terms of union were the *Violets* (Purples) or moderate liberals. One representative of this group was Henri-Gustave Joly de Lotbinière, who spoke for an entire day on February 20 against the Confederation deal.²⁰ His speech was “distinctive,” according to his biographer J.I. Little, because of his “erudition with

Henri-Gustave Joly de Lotbinière
*Member of the Legislative Assembly,
Province of Canada, Que.*

20 FEBRUARY 1865



CONFEDERATION QUOTE 4.6
Quotation from Province of Canada,
Legislative Assembly, 20 February 1865
Photograph by Topley Studio, from Library
and Archives Canada, PA-025470

“

Let us begin with Lower Canada; its population is composed of about three-fourths French-Canadians, and of one-fourth English-Canadians. It is impossible, even for the blindest admirers of the scheme of Confederation, to shut out from their view this great difference of nationality, which is certainly fated to play an important part in the destinies of the future Confederation.

”

copious references to political philosophy and history.”²¹ Joly de Lotbinière found nothing reassuring in the proposed constitutional deal. It would weaken relations between British North America and the Imperial government. The “so-called” economic advantages offered by the constitutional package could have been achieved without amalgamating all the British North American colonies, de Lotbinière contended. He also offered harsh criticisms for those who celebrated the merits of the proposal. Federal models of governance had failed in various part of the world, the United States being a case in point since a civil war had torn the country apart, but de Lotbinière reviewed the political evolution of countries in Europe and Latin America as well. Like Dunkin, de Lotbinière tried to undermine Cartier’s vision of a new Canadian nationality. The colonists who were about to be united under a similar political structure lacked commonalities. As one of the few French-speaking Protestants in public life in Canada, he reminded elected officials that there was no common language, nor common religion between English and French-speaking people. Disagreeing with his French-Canadian colleagues who had taken part in the negotiations over the constitutional package, he rejected their self-congratulatory statements on the supposed political gains they had made. Far from securing institutions to protect French language and culture, for Joly de Lotbinière the constitutional framework did not safeguard the distinctiveness of French Canada. On the contrary, it threatened the survival of French Canadians. “Let us not give to the world,” he exhorted, “the sad spectacle of a people voluntarily resigning its nationality.”²²

The Results of the Votes

The Legislative Council voted first on the terms of union on 20 February 1865, passing the motion to adopt the terms of union forty-five to fifteen. On March 10, at 4:30 a.m., members of the Legislative Assembly cast their votes. This latter vote took place in a tense atmosphere, since it occurred after Samuel Leonard Tilley’s pro-Confederation government lost the election in New Brunswick a few days earlier. This popular rejection was a major setback for the proponents of Confederation in the Province of Canada. Nonetheless, Macdonald, Brown, and Cartier won the vote with ninety-one members voting for and thirty-three against. In Canada East, thirty-seven members, including six *Violets*, voted in favour of the Quebec

Scheme, and twenty-five rejected it. Among the opponents in Canada East, all *Rouge* MPs voted against it, along with eleven *Violets* and four *Bleus*. The opponents represented Montreal Island ridings and those near the American borders since they believed in North-South trade with the United States rather than what they called the “illusionary” East-West trade that was part of the federation proposal.²³

In the end, most opponents of the Confederation deal chose to pursue their careers within the new political framework. For instance, de Lotbinière voted against the constitutional package, but he accepted the result. After Confederation, he was elected to both the House of Commons in Ottawa and the Quebec Legislative Assembly (it was possible to hold seats in both legislatures during the years immediately after 1867).²⁴ Leader of the provincial Liberal Party from 1869 to 1882, he briefly served as Quebec premier from 1878 to 1879. From 1900 to 1906, he became the lieutenant-governor of British Columbia. Likewise, Antoine-Aimé Dorion was elected a Liberal member of parliament in 1867, and was appointed minister of justice when Alexander Mackenzie became the first Liberal prime minister in 1873, but he retired from active political life a year later. For his part, Christopher Dunkin pursued his career in provincial politics by becoming the first minister of finance. In 1869, he agreed to join the federal government led by John A. Macdonald, but then left the position when he received a judicial appointment in 1871. In short, opposition to the Confederation proposals in 1865 did not indicate an unwillingness to accept the legitimacy of the new polity.

Debating Confederation Outside of Parliament

While elected and appointed politicians examined the terms of the Confederation deal in the legislature, debate raged in public as well. Following the Quebec conference, newspapers in the British colonies published favourable or critical assessments of the 72 Resolutions, reflecting their political affiliations. *Rouge* newspapers such as *Le Journal de Saint-Hyacinthe*, *Le Défricheur*, *L'Ordre*, *Le Canadien*, *La Tribune*, and *Le Pays* were highly critical. They depicted the deal as a threat to French-Canadian culture and language, and questioned the degree of autonomy that French Canadians would enjoy through the creation of the new provincial political institutions. In 7 June 1865, *L'Ordre*, for example, contended that

joining the United States would better protect French Canada because, within the United States, Quebec “would be a sovereign state.”²⁵ In Canada, by contrast, Quebec might become a mere municipality. The newspaper *Le Pays* warned of dire repercussions: “the French language drowned, religion persecuted, nationality submerged, the French-Canadian race violated and mistreated, its rights ravished, its liberties trampled.”²⁶ Between the Quebec conference and the debate in the Canadian parliament in 1865, public meetings, many of them organized by the *Rouges*, denounced the deal.²⁷

On the other hand, newspapers that supported Cartier and his political group defended the Confederation deal. *La Minerve*, for example, insisted on the gains that Quebec and in particular French Canadians had achieved with the constitutional provisions. Writing at the time of the Charlottetown Conference, *La Minerve* set out its position: “if the plan seems to us to safeguard Lower Canada’s special interests, its religion and its nationality, we’ll give it our support; if not, we’ll fight it with all our strength.”²⁸ *La Minerve* and other newspapers concluded that Quebec would benefit from the proposed union. For Joseph-Édouard Cauchon, who founded the *Journal de Québec*, Confederation would protect the French language, Catholicism, and French-Canadian culture. American annexation—the only logical alternative—would lead to linguistic and cultural assimilation.²⁹ In an 1865 pamphlet considering the Quebec Resolutions, Cauchon adopted a fairly similar stance. For him, the re-establishment of a local and autonomous legislature was key, whether it took place within a new federation with Canada West or with all the British North American provinces. “[A] local government,” he argued, “. . . would certainly offer a measure of protection to us, as Catholics and Frenchmen. . . . [A]s a religious minority, we would become, and always remain, a national and religious majority.”³⁰ In his analysis of newspaper coverage of the Confederation debates in the public domain, historian Arthur Silver observed that “*separation*” from Canada West and “*independence* (of Quebec within its jurisdictions) were the main themes of *Bleu* propaganda.”³¹

In the battle for public opinion, proponents of Confederation could count on a powerful ally: the Roman Catholic Church, a religious institution with tremendous political influence. Ecclesiastical officials continued to exert influence over the chief French-Canadian proponents of Confederation, Cartier and Hector-Louis Langevin, during the negotiations in 1864 and 1866. Langevin, for instance, corresponded regularly

with his brother Edmond—who was the secretary and confidential adviser to the Archbishop of Quebec City—while in London overseeing the passage of the terms of union through Britain’s parliament. Hector-Louis assured his brother that he would prevent British politicians from removing education from the list of powers given to provinces.

During the debates in the Legislative Assembly, opponents to Confederation discussed the role of the Catholic Church. If the higher clergy supported Confederation, this was not necessarily the case among the lower clergy who were more closely connected to their parishioners. The *Rouge* member for Verchères, Félix Geoffrion, challenged the claim that the Catholic Church in Quebec unanimously supported Confederation.³² He asserted that numerous priests opposed the deal, which led Joseph-Édouard Cauchon to accuse Geoffrion of dragging the Church into the debate. In his sharp reply, Geoffrion noted that George-Étienne Cartier was the first to invoke the Church during his speech on 7 February 1865.³³ Without identifying the individual, Geoffrion referred to a news article published in *Le Canadien* where a priest denounced the federal government’s jurisdiction over marriage, because it would allow it to interfere with Quebec civil law. In his attempt to undermine the credibility of this religious opponent, Édouard Rémillard—who was a *Rouge* but supported Confederation³⁴—wondered if the views of two or three priests were sufficient to support the claim that the clergy was divided. After all, these two or three priests had contributed to the newspaper as citizens rather than as members of the Catholic Church.³⁵ Opponents to Confederation would not let Rémillard have the last word. Maurice Laframboise, for example, read a letter to the Legislative Assembly written by a priest and published in *Le Canadien* on 6 March 1865. The priest had opposed Confederation because he believed that French Canadians would lose their “liberty of action” in the new political structure. French Canadians, the priest had also contended, would have exercised almost no influence in federal institutions.³⁶

References to the views of some clergy members did not change the outcome of the debates in the Legislative Assembly, but the Catholic Church hierarchy mobilized the clergy in 1867. Several Quebec bishops, including Jean Langevin of Rimouski, Edmond’s and Hector-Louis’ eldest brother, praised Confederation. For Bishop Langevin, “the new constitution . . . is given . . . as the expression of the supreme will of the legislator of

the legitimate Authority, and thus of God himself.” For him, Catholicism and French-Canadian culture and language would be preserved, and therefore he asked his flock to support Confederation.³⁷ Bishop Ignace Bourget of Montreal sent a letter on 25 July 1867 requesting the clergy pronounce favourably on Confederation. For his part, Bishop Louis-François Laflèche of Trois-Rivières included a strong warning: anyone opposing Confederation would be committing a sin. Priests in his diocese were expected to read his letter during Sunday mass.³⁸

The British parliament passed the British North America Act, and it took effect on 1 July 1867. Elections took place in the fall of 1867. Quebec voters overwhelmingly elected Cartier and his Conservative team, controlling forty-seven seats to the opposition Liberals’ seventeen.

*Minority Rights: An Example for the World?*³⁹

During the 1864 negotiations, French- and English-Canadians from the future province of Quebec addressed concerns about rights for minorities. The Canadian parliamentary debates of 1865 covered the same ground. At a distance of over one hundred and fifty years, a close reading of these 1865 debates reveals that the participants had a limited conception of minority rights. Can we blame them? After all, most of these politicians participated in a legal culture based on the supremacy of Parliament that afforded the courts little scope for reviewing governmental action. It was also the age of empire building and the assertion of nationalism, with the emergence of new countries such as Germany and Italy. Despite such developments, on a day-to-day basis in most countries, governments played a fairly small role in citizens’ lives in any case. Indeed, with some of the key political divides in countries like Canada being focused on religious denominations, antipathies between Protestants and Catholics also made it difficult to address some topics openly. In these circumstances, the precept that minority rights should enjoy strong constitutional and judicial recognition and protection was much weaker than it is today.

And yet, despite their backgrounds and biases, the legislators did address the issue of minority rights to some extent. Power relations between the main linguistic and religious groups in the colonies often shaped their discussions. French Canadians and Catholics, who formed minority communities in every colony except Canada East, were often the focus

of these discussions. The vast majority of French-Canadians—more than 85 percent—lived in Canada East; about ninety thousand Acadians lived in New Brunswick, Nova Scotia, and Prince Edward Island. There were about forty thousand French Canadians living in Canada West (the future province of Ontario), and fifteen thousand French-speaking Métis on the Prairies. Catholics, in fact, constituted about 18 percent in Canada West, 20 percent in New Brunswick, and 25 percent in Nova Scotia. In Prince Edward Island, Catholics comprised about half of the population.⁴⁰ The rights of a second linguistic group also preoccupied the Fathers of Confederation: English speakers in Canada East. While Anglophones formed a majority outside of Canada East, their minority status within that province led their representatives to seek a measure of protection in the new constitutional order. (It is worth keeping in mind that around the time of Confederation, the percentage of Anglophones—and in particular Protestants in Canada East—was at its historic peak, about one-quarter of the total population. They therefore constituted an electoral force in Canada East that would only decline in subsequent decades, though the colony’s political leaders did not anticipate this demographic shift at the time.) Other minority groups, such as Jews and non-French or English ethnic groups were almost entirely ignored during the debates.

The compromises forged between 1864 and 1867 were ultimately inadequate to protect most Catholic and French minorities outside of Quebec. Historian Arthur Silver has argued that the rights of French Canadians were not expected to extend beyond the boundaries of the future province of Quebec⁴¹ and, indeed, the rights of French-speaking people, except those who lived in the future province of Ontario, rarely came up for discussion during the 1864 to 1867 negotiations and debates. French-Canadian politicians were ultimately unwilling to sacrifice the autonomy and control that the future province of Quebec would have over its “local affairs” in exchange for stronger constitutional guarantees for minority groups residing in other parts of the country. Education constituted one of the clearest battlegrounds, and Hector-Louis Langevin came under some pressure to adopt a different approach. Before leaving for London in 1866, Langevin met with Catholic bishops from the Maritimes, including Archbishop of Halifax Thomas Louis Connolly. In Nova Scotia, Catholics constituted a quarter of the population, and Connolly asserted their interests. Fearing that a non-confessional provincial school system would

endanger the faith of Catholics, Connolly asked for the constitutional recognition of separate schools. However, the premier of Nova Scotia opposed the idea, and Connolly lobbied British politicians in London, suggesting that the federal government should take constitutional responsibility for education.⁴² Hector-Louis Langevin, like many of his Canada-East peers, rejected the proposal because he feared that it would jeopardize French Canadians' rights in the future province of Quebec.

When considering language and education, Confederation proponents—and especially the French-speaking members of the parliament—understood what the new constitutional package meant, despite its limited focus on minority rights. Constitutional guarantees applied specifically to language and religion. In the British North America Act, section 133 recognized French and English as official languages, but only in Quebec and federal institutions. Concerning education, section 93 protected public and separate schools. It gave Catholic and Protestant minorities the right to appeal to the Governor General in Council (i.e., the federal cabinet) if a provincial legislature restricted access to schools or separate schools to less than what was offered at the time of union. Anglophones in Quebec received additional protections beyond language and education. Quebec's provincial parliament initially included both an elected Legislative Assembly and an appointed Legislative Council (which was only abolished in 1968). Moreover, in twelve provincial ridings largely comprising Anglophone populations at the time of Confederation, the “boundaries could not be changed without the additional approval of a majority of their own MPPs.”⁴³ These, too, had a long life, and the twelve “protected” ridings retained their constitutional protection until 1970. It is unlikely that such provisions fulfilled their promise of a meaningful defence of Anglophone rights, but they were significant parts of the compromises of the 1860s. In any case, the rights of Quebec's minority Anglophones to control their own schooling system never faced the same challenges that Francophone minorities experienced outside the province.

After 1867, it did not take long for Canadian Catholics, and especially French-speaking Canadians, to discover that the delicate balance of power and influence enshrined in the constitution did not favour those living outside of Quebec. In 1871, the province of New Brunswick decided to fund only non-denominational schools. Ignoring protests by Acadians and other Catholics, the federal government chose not to intervene.

Equally dramatically, and despite the clear protections contained in the Manitoba Act of 1870, that province's government made English its only official language and abolished funding for denominational schools within two decades of its founding. Subsequent court decisions favoured Catholic and French rights, but the provincial government ignored them while the federal government, led by Wilfrid Laurier, compromised on the issue of separate schools by allowing the Manitoba government to provide religious instruction for an hour a day. Finally, in 1912, the government of Ontario limited the use of French as a language of instruction in schools. Although French-Canadians in Ontario contended that section 93 protected French as a language of instruction, the courts decided otherwise. These school crises demonstrated the limitations of constitutional guarantees for minority groups and greatly influenced discussions, starting in the 1960s, that led to the patriation of the Constitution in 1982. In 1864, Canada West leader and staunch Protestant George Brown had tried to reassure delegates that such delicate issues had been resolved. He suggested that the constitutional package should be understood as inspirational. However, when put to the test, the guarantees to minority groups outside Quebec failed miserably.

Nonetheless, the substantial powers over key sectors such as education, health, and welfare served to solidify the power and autonomy of the largest number of French Canadians within Canada: Quebecers. The Confederation agreement therefore largely fulfilled Cartier's dream of protecting French-Canadian culture and society in his home province. To the extent that Quebec provided a jurisdictional framework for the survival and promotion of French-Canadian and Catholic society, Cartier's image of a bicultural Canada ultimately prevailed over the unitary model that Macdonald had favoured.

Further Reading

Bellavance, Marcel. *Le Québec et la Confédération: un choix libre? Le clergé et la constitution de 1867*. Québec: Septentrion, 1992.

Bonenfant, Jean-Charles. *The French Canadians and the Birth of Confederation*. Canadian Historical Association, Booklet 21. Hull: Leclerc, 1966.

Brouillet, Eugénie. *La négation de la nation. L'identité culturelle québécoise et le fédéralisme canadien*. Québec: Septentrion, 2005.

- Brouillet, Eugénie, Alain-G. Gagnon, and Guy Laforest, eds. *La conférence de Québec de 1864: 150 ans plus tard*. Québec: Les Presses de l'Université Laval, 2016.
- Kelly, Stéphane. *Les fins du Canada: selon Macdonald, Laurier, Mackenzie King et Trudeau*. Montréal: Boréal, 2001.
- Moore, Christopher. *Three Weeks in Quebec City: The Meeting that Made Canada*. Toronto: Allen Lane, 2015.
- Paquin, Stéphane. *L'invention d'un mythe. Le pacte entre deux peuples fondateurs*. Montréal: VLB, 1999.
- Silver, A.I. *The French Canadian Idea of Confederation, 1864–1900*. Toronto: University of Toronto Press, 1997.

NOTES

- 1 *An Act Respecting the Management of Indians Lands and Property* (23 Victoria, ch. 151). This law was adopted on 19 May 1860, and sanctioned by the Crown on 30 June 1860.
- 2 See, for instance, Joseph-Charles Taché, *Des provinces de l'Amérique du Nord et d'une Union fédérale* (Québec: Des presses à vapeur de J. T. Brousseau, 1858); Joseph Cauchon, *Étude sur l'union projetée des provinces britanniques de l'Amérique du Nord* (Québec: Augustin Côté et Cie, 1858). The only real discussion of Indigenous Peoples during the 1858 discussions was by Cartier, Ross, and Galt who proposed assigning the federal government jurisdiction over “unincorporated and Indian territories.” G. E. Cartier, J. J. Ross, and M. East [A. T. Galt] to Sir Edward Bulwer Lytton, 25 October 1858, in *Documents on the Confederation of British North America*, ed. G. P. Browne (Toronto: McClelland and Stewart, 1969), 18.
- 3 Hewitt Bernard's Minutes of the Quebec Conference, 10–29 October 1864, in Browne, *Documents on the Confederation*, 85.
- 4 Christopher Moore, *Three Weeks in Quebec City: The Meeting That Made Canada* (Toronto: Allen Lane, 2015), 179.
- 5 The Quebec Resolutions, October 1864, in Browne, *Documents on the Confederation*, 159.
- 6 Brian Gettler, “Indigenous Policy and Silence at Confederation”, *Earlycanadianhistory.ca*, <https://earlycanadianhistory.ca/2017/06/26/indigenous-policy-and-silence-at-confederation/>.
- 7 Donald B. Smith, “Macdonald's Relationship with Aboriginal People,” in *Macdonald at 200: New Reflections and Legacies*, eds. Patrice Dutil and Roger Hall (Toronto: Dundurn Press, 2014), 58–93; J.R. Miller, “Macdonald as Minister of Indian Affairs: the Shaping of Canadian Indian Policy,” in Dutil and Hall, *Macdonald at 200*, 311–40.
- 8 Robert C. Vipond, “1787 and 1867: The Federal Principle and Canadian Confederation Reconsidered,” *Canadian Journal of Political Science / Revue canadienne de science politique* 22, no. 1 (1989): 3–25.
- 9 The Quebec Resolutions, October 1864, in Browne, *Documents on the Confederation*, 154; see Phillip Buckner, “L'élaboration de la constitution canadienne au sein du monde britannique,” in *La Conférence de Québec de 1864: 150 ans plus tard. Comprendre l'émergence*

de la fédération canadienne, eds. Eugénie Brouillet, Alain-G. Gagnon and Guy Laforest (Québec: Presses de l'Université Laval, 2016), 84–85 and David E. Smith, *Federalism and the Constitution of Canada* (Toronto: University of Toronto Press, 2010), 48–49.

- 10 *Parliamentary Debates on the Subject of the Confederation of the British North American Provinces, 3rd Session, 8th Provincial Parliament of Canada* (Quebec: Hunter, Rose & Co Parliamentary Printers, 1865), reproduced by *The Confederation Debates*, <http://hcmc.uvic.ca/confederation/en/lgPCLAssem.html> and <http://hcmc.uvic.ca/confederation/en/lgPCLCoun.html>.
- 11 Province of Canada, Legislative Assembly, 7 February 1865, 60, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-02-07.html.
- 12 Province of Canada, Legislative Council, 3 February 1865, 9, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLC_1865-02-03.html.
- 13 Province of Canada, Legislative Assembly, 21 February 1865, 368, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-02-21.html.
- 14 Province of Canada, Legislative Assembly, 7 February 1865, 60, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-02-07.html.
- 15 François Rocher, “Sur les opposants au projet de Confédération de 1864: critiques sur la finalité du régime,” in Brouillet, Gagnon and Laforest, *La conférence de Québec de 1864*, 221–24; Stéphane Kelly, “L’argumentaire économique des opposants québécois,” in Brouillet, Gagnon, and Laforest, *La conférence de Québec de 1864*, 255.
- 16 Province of Canada, Legislative Assembly, 16 February 1865, 258, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-02-16.html.
- 17 Province of Canada, Legislative Assembly, 16 February 1865, 246, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-02-16.html.
- 18 Province of Canada, Legislative Assembly, 16 February 1865, 255, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-02-16.html.
- 19 Michel Seymour, “Le Canada reconnaît-il l’existence des droits collectifs linguistiques du peuple québécois?” in *Légiférer en matière linguistique*, eds. Marcel Martel and Martin Pâquet (Québec: Les Presses de l’Université Laval, 2008), 426–28; Marcel Martel, “Ils n’étaient pas à la table de négociations: les francophones en milieu minoritaire et leur expérience concernant le pacte confédératif,” in *Le Canada français et la Confédération: Fondements critiques*, eds. Jean-François Caron and Marcel Martel (Québec: Les Presses de l’Université Laval, 2016), 71–79.
- 20 His remarks in the Legislative Assembly were reprinted in a pamphlet.
- 21 J. I. Little, *Patrician Liberal. The Public and Private Life of Sir Henri-Gustave Joly de Lotbinière, 1829–1908* (Toronto: University of Toronto Press, 2013), 103.
- 22 Province of Canada, Legislative Assembly, 20 February 1865, 362, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-02-20.html.
- 23 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), 154–56; Kelly, “L’argumentaire économique des opposants québécois,” 247–48.
- 24 The double mandate was abolished in 1874.

- 25 Waite, *The Life and Times of Confederation*, 147.
- 26 Waite, *The Life and Times of Confederation*, 148 (quotation).
- 27 Rocher, “Sur les opposants au projet de Confédération de 1864,” 221–24.
- 28 *La Minerve*, 9 September 1864, quoted in Arthur I. Silver, *The French-Canadian Idea of Confederation, 1864–1900* (Toronto: University of Toronto Press, 1982), 33.
- 29 Eric Bédard, “Éviter ce ‘gouffre d’inique liberté’: Le fédéralisme centralisateur de Joseph-Édouard Cauchon,” in Brouillet, Gagnon, and Laforest, *La conférence de Québec de 1864*, 109–22.
- 30 Joseph Cauchon, *The Union of the Provinces of British North America*, trans. George Henry Macaulay (Québec, Hunter, Rose & Co., 1865), 42–43.
- 31 Silver, *The French-Canadian Idea of Confederation*, 41.
- 32 Province of Canada, Legislative Assembly, 8 March 1865, 778, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-03-08.html.
- 33 Province of Canada, Legislative Assembly, 8 March 1865, 778, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-03-08.html.
- 34 Biography of Edouard Rémillard, Assemblée nationale du Québec, <http://www.assnat.qc.ca/fr/deputes/remillard-edouard-5055/biographie.html>.
- 35 Province of Canada, Legislative Assembly, 8 March 1865, 786, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-03-08.html.
- 36 Province of Canada, Legislative Assembly, 9 March 1865, 842–43, reproduced by *The Confederation Debates*, http://hcmc.uvic.ca/confederation/en/lgPCLA_1865-03-09.html.
- 37 Yvan Lamonde, *The Social History of Ideas in Quebec, 1760–1896*, trans. Phyllis Aronoff and Howard Scott (Montreal: McGill-Queen’s University Press, 2013), 303.
- 38 Marcel Bellavance, *Le Québec et la Confédération: un choix libre ? Le clergé et la constitution de 1867* (Québec: Septentrion, 1992), 82–92, 122–24.
- 39 Some paragraphs of this sub-section were published by Marcel Martel, “An Example for the World? Confederation and French Canadians,” in “Debating the Confederation Debates of 1865,” eds. Colin M. Coates and Philip Girard, *Canada Watch* (Spring 2016): 7–8.
- 40 Waite, *The Life and Times of Confederation*, 117, 179, 195, 229.
- 41 Silver, *The French-Canadian Idea of Confederation*.
- 42 David B. Flemming, “Thomas Louis Connolly,” in *Dictionary of Canadian Biography*, vol. 10 University of Toronto/Université Laval, 2003, accessed 10 March 2017, http://www.biographi.ca/fr/bio/connolly_thomas_louis_10E.html; Marcel Martel and Martin Pâquet, *Speaking Up: A History of Language and Politics in Canada and Quebec* (Toronto: Between the Lines, 2012), 52.
- 43 Silver, *The French-Canadian Idea of Confederation*, 56.