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(Confidential.)

WHEREAS the Provinces of CANADA, NOVA SCOTIA, and NEW BRUNSWICK have expressed their desire to form a Federal Union under the British Crown, for the purposes of Government and Legislation, based upon the principles of the British Constitution.

BE IT THEREFORE ENACTED BY THE QUEEN'S MOST EXCELLENT MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, as follows:—

1.—This Act may be cited as "The British North American Act, 1867."

INTERPRETATION CLAUSE.

2.—

REPEALING CLAUSE.

3.—

4.—It shall be lawful for the Queen with the advice of her Privy Council, to declare by proclamation that the said Provinces of Canada, Nova Scotia, and New Brunswick upon, from, and after a certain day in such proclamation to be appointed, which day shall be within

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calendar months next after the passing of this Act, shall form and be one united dominion, under the name of the Kingdom of Canada, and thenceforth the said Provinces shall constitute and be one kingdom under the name aforesaid, upon, from, and after the day so appointed as aforesaid.

5.—From and after the Union, Upper Canada and Lower Canada shall be severed, and each shall form a separate Province.

6.—From and after the said Union, Upper Canada shall be named and known as the Province of Ontario, and Lower Canada shall be named and known as the Province of Quebec.

THE EXECUTIVE POWER.

7.—The Executive Government and authority is and shall be vested in Her Majesty the Queen.

8.—The Queen has and shall have the Command-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces whatsoever.

8a.—The Governor-General may, by instrument under the Great Seal of Canada, constitute an Executive Council, which shall be called the Privy Council of Canada, and from time to time appoint and remove Members thereof.

8b.—All powers, authorities and functions which by any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or by any Act of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick respectively, are vested in, or are authorised or required to be exercised by the respective Governors or Lieutenant-Governors of the said Provinces, with the advice, or with the advice and consent, of the Executive Council of such Provinces respectively, or in conjunction with such Executive Council, or with any number of the

Members thereof, or by the said Governors or Lieutenant-Governors individually and alone, shall, in so far as the same are not repugnant to or inconsistent with the provisions of this Act, be vested in and may be exercised by the Governor of the Kingdom of Canada, with the advice, or with the advice and consent of, or in conjunction, as the case may require, with the Privy Council, or any Members thereof, as may be appointed by the Queen for the affairs of the Kingdom of Canada, or by the Governor of the Kingdom of Canada individually and alone, where the advice, consent, or concurrence of the Privy Council is not required.

THE LEGISLATIVE POWER.

9.—From and after the Union, there shall be within the Kingdom of Canada, one General Parliament, which shall be composed of the Queen, an Upper Chamber to be called the Senate, and a House of Commons.

SENATE.

10.—For the purpose of forming the Senate the Kingdom of Canada shall be considered as consisting of three Divisions—

- (1.) Ontario.
- (2.) Quebec.
- (3.) The Maritime Provinces of Nova Scotia and New Brunswick;

And each Division shall have an equal representation in the Senate.

11.—Ontario shall be represented in the Senate by twenty-four Members, Quebec by twenty-four Members, and the Maritime Provinces by twenty-four Members, of which Nova Scotia shall have twelve Members, and New Brunswick twelve Members.

11a.—For the purpose of composing the Senate, it shall be lawful for the Governor, before the

time to be appointed for the first meeting of the Parliament of Canada, by an instrument or instruments under the Great Seal of Canada, to summon to the Senate such persons as Her Majesty may think fit, subject to the provisions of this Act; and it shall also be lawful for the Governor in like manner to summon to the Senate such other person or persons as Her Majesty shall think fit, subject to the provisions of this Act, and every person who shall be so summoned shall thereby become a Member of the Senate.

QUALIFICATION FOR SENATE.

12.—The Senators shall each be of the full age of thirty years, shall each be a natural born subject of the Queen, or her subject naturalised by Act of the Parliament of the United Kingdom of Great Britain and Ireland, or by an Act of any or either or one of the Legislatures of the Provinces of Canada, Upper Canada, Lower Canada, Nova Scotia, or New Brunswick, or by an Act of the Parliament of Canada hereby created, and shall each be legally or equitably seised or entitled as of freehold for his own use and benefit of lands or tenements held in free and common socage, or seised and possessed for his own use and benefit of lands or tenements held in *fief*, *franc-alten* or *roture*, in the Province for which he shall be appointed, of the value of four thousand dollars over and above all debts, charges, dues, and incumbrances thereon, and shall each be and continue to be worth the sum last aforesaid over and above his debts and liabilities; and shall each also possess a continuous residence in the Province for which he is appointed, except during the time that he shall hold an office under the Government, the duties of which will require his continuous attendance at the seat of Government of Canada.

13.—In the case of Quebec, each of the twenty-four Senators representing such Province shall be appointed to represent one of the twenty-

four Electoral Divisions mentioned in Schedule A of Chapter First of the Consolidated Statutes of Canada, and such Senator shall reside or possess his qualification in the Division he is appointed to represent.

14.—If any Money Bill passed by the House of Commons is rejected by the Senate for any one Session, or if any other Bill passed by the House of Commons is rejected by the Senate on three consecutive occasions, and if in such case or cases the Governor shall ascertain that such Bill or Bills has or have been carried by the majority of voices from two out of the three Provinces, then and in such case it shall be lawful for Her Majesty to create additional Members of the Senate, preserving the rule of equality between the three sections of Upper Canada, Lower Canada, and the Maritime Provinces.

15.—In case of such increase beyond the normal number of seventy-two on such vote, no additions shall be made until each section shall be represented by twenty-four Members and no more.

16.—Whenever after the first appointment a vacancy in the Senate shall take place, it shall be lawful for the Governor-General, in the Queen's name, by an instrument under the Great Seal of Canada, to summon to the said Senate a person duly qualified according to the provisions of this Act to fill such vacancy.

17.—Every Senator shall hold his seat in the Senate for the term of his life, subject to the provisions of this Act.

18.—If any Senator shall, for two successive Sessions of Parliament, fail to give his attendance in the Senate, or if he shall take any oath or make any declaration or acknowledgment of allegiance, obedience, or otherwise, to any foreign Prince or Power, or shall do, concur in, or adopt any act whereby he may become a subject or a

citizen of any foreign state or power, or whereby he may become entitled to the rights, privileges, or immunities of a subject or citizen of any foreign State or Power, or shall cease to have any of the qualifications required by this Act, or shall become bankrupt or take the benefit of any Act relating to insolvent debtors, or become a defaulter, or be attainted of treason, or be convicted of felony or of any infamous crime, his seat in the Senate shall thereby become vacant.

19.—Every Senator shall, before taking his seat, take the oath or make a declaration in Schedule A mentioned.

20.—Any person who at the time of the Union is a Member of the Legislative Council of Canada, or of Nova Scotia, or of New Brunswick, and who may accept the office of Senator, shall, by his acceptance, be held to have vacated his seat in such Legislative Council.

21.—Any Senator may, by writing under his hand, addressed to the Governor-General, resign his seat in the Senate, and thereupon such seat shall become vacant.

22.—If any question respecting a vacancy in the Senate shall arise, the same shall be heard and determined by the Senate.

23.—The Governor-General shall have power, by an instrument under the Great Seal of the Kingdom, to appoint one Member of the Senate to be Speaker thereof, and to remove him and appoint another in his stead.

24.—Subject to alteration by the Parliament of Canada, the presence of at least fifteen Members of the Senate, including the Speaker, shall be necessary to constitute a Meeting for the exercise of its powers.

25.—The Speaker shall vote as other Members, and in case of an equality of votes, it shall be held that the decision is in the negative.

HOUSE OF COMMONS.

26.—For the purpose of constituting the House of Commons of the Kingdom of Canada, it shall be lawful for the Governor within months after the Union, and thereafter from time to time, as occasion shall require, in Her Majesty's name and by an instrument or instruments under the Great Seal of Canada to summon and call together a House of Commons in and for Canada.

27.—The House of Commons shall consist of one hundred and eighty-one members, of whom eighty-two members shall be elected for Ontario, sixty-five for Quebec, nineteen for Nova Scotia and fifteen for New Brunswick.

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32.—There shall be a General Census of the people of the Kingdom of Canada taken in the year One thousand eight hundred and seventy-one, and decennially afterwards; and immediately after the said census, and immediately after

every decennial census thereafter, the representation in the House of Commons from each Province shall be re-adjusted by such authority in such manner, and from such time, as any Act of the Parliament of Canada from time to time directs, according to the following rules. But such re-adjustment shall not take effect until after the termination of the then existing Parliament.

- (1.) Lower Canada shall have the fixed Number of *Sixty-five* Representatives :
- (2.) There shall be assigned to each of the other Provinces such a Number of Representatives as will bear the same Proportion to the Number of its Population (ascertained at such Census) as the Number *Sixty-five* bears to the Number of the Population of Lower Canada (so ascertained).
- (3.) In the computation of the Number of Representatives for a Province a fractional part less than one-half of the whole number requisite for entitling the Province to a Representative shall be disregarded; but a fractional part exceeding one-half of that number shall be equivalent to the whole number.
- (4.) On any such Re-adjustment the Number of Representatives of a Province shall not be reduced unless the Proportion which the number of the Population of the Province bore to the Number of the aggregate Population of the United Colony at the then last preceding Re-adjustment of the Number of Representatives of the Province is ascertained at the then latest Census to be diminished by *One Twentieth* Part or upwards.

33.—The Number of Members of the House of Commons may be from Time to Time increa-

sed by Act of the Parliament of Canada, provided the proportionate Representation of the several Provinces prescribed by this Act is not thereby disturbed.

34.—Every House of Commons shall continue for *five* Years from the Day of the Return of the Writs for choosing the House (subject to be sooner prorogued or dissolved by the Governor-General), and no longer.

35.—For the purpose of such Readjustments, Quebec shall always be assigned sixty-five Members, and each of the other Provinces shall, at each Re-adjustment, receive for the ten years then next succeeding, the number of Members to which it will be entitled on the same ratio of representation to population as Quebec will enjoy, according to the census then last taken by having sixty-five Members.

36.—No reduction shall be made in the number of Members returned by any Province, unless its population shall have decreased relatively to the population of the whole of Canada, to the extent of five per centum.

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

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

39.—Until provisions are made by the Parliament of Canada, all the laws which at the date of the Proclamation constituting the Union are in force in the Provinces respectively relating to the qualification and disqualification of any person to be elected, or to sit or vote as a Member of the House of Assembly in the respective Provinces, and relating to the qualification or

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disqualification of voters, and to the oaths to be taken by voters, and to Returning Officers, and their powers and duties, and relating to the proceedings at elections, and to the period during which such elections may be continued, and relating to the trial of controverted elections, and the proceedings incident thereto, and relating to the vacating of seats of Members, and to the execution of new writs in case of any seat being vacated otherwise than by a dissolution, shall respectively apply to Elections of Members to serve in the House of Commons of Canada.

40. The Senate and House of Commons of Canada, shall be called together for the first time at some period, not later than calendar months after the time of the Union.

41. The House of Commons shall, upon its first assembling, after every general election, proceed forthwith to elect one of its number to be Speaker, and in case of his death, resignation, or removal by a vote of the Commissioners, the said House of Commons shall forthwith proceed to elect another of their Members to be Speaker: and the Speaker so elected shall preside at all Meetings of the Commons.

42. The presence of at least twenty Members of the House of Commons, including the Speaker, shall be necessary to constitute a Meeting of the House of Commons for the exercise of its powers, and all questions which shall arise in the Commons shall be decided by the majority of voices of such Members as shall be present, other than the Speaker; and when the voices shall be equal, the Speaker shall have the casting vote.

43. No Senator shall be capable of being elected, or of sitting or voting as a Member of the House of Commons.

MONEY.

44.—Bills for appropriating any part of the Public Revenue of Canada or for imposing any Tax or Impost shall originate in the House of Commons.

45.—It shall not be lawful for the House of Commons to adopt or pass any vote, resolution, address, or bill for the appropriation of any part of the Public Revenue, or of any Tax or Impost, to any purpose that has not been first recommended to that House by message of the Governor General in the Session in which such vote, resolution, address, or bill is proposed to be adopted or passed.

ROYAL ASSENT, &c.

46.—Where a Bill passed by the Houses of Parliament of Canada is presented to the Governor General for Her Majesty's assent, he shall declare according to his discretion, but subject to the provisions of this Act and to Her Majesty's instructions, either that he assents thereto in Her Majesty's name, or that he withholds Her Majesty's assent, or that he reserves the Bill for the signification of Her Majesty's pleasure.

47.—Where the Governor General assents to a Bill in Her Majesty's name, he shall by the first convenient opportunity send an authentic copy of the Act to one of Her Majesty's principal Secretaries of State, and if Her Majesty in Council within *two* years after receipt thereof by the Secretary of State thinks fit to disallow the Act, such disallowance (with a certificate of the Secretary of State of the day on which the Act was received by him) being signified by the Governor General, by speech or message to the Houses of Parliament of Canada, or by proclamation, shall annul the Act from and after the day of such signification.

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48.—A Bill reserved for the signification of Her Majesty's pleasure shall not have any force unless and until within *two* years from the day on which it was presented to the Governor General for Her Majesty's assent; the Governor General signifies, by speech or message to each of the Houses of Parliament of Canada, or by proclamation that it has received the assent of Her Majesty in Council.

An entry of every such speech, message, or proclamation shall be made in the Journal of each House, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the records of Canada.

ANNUAL SESSION.

49.—There shall be a Session of the Parliament of Canada once at least in every year, so that a period of twelve months shall not intervene between the last sitting of the Parliament in one Session, and the first sitting thereof in the next Session.

POWERS OF PARLIAMENT.

50.—It shall be lawful for the Queen, by and with the advice and consent of the Houses of Parliament of Canada, to make laws for the peace, order, and good government of the Kingdom, and of the several Provinces, in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to Provincial Legislation; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this Section, it is hereby declared that the Legislative Authority of the Parliament of the United Colony extends to all matters coming within the classes of subjects next hereinafter enumerated, that is to say:—

1. The Public Debt and Property.
2. The Regulation of Trade and Commerce.

3. The raising of money by all or any mode or system of Taxation.
4. The borrowing of money on the Public Credit.
5. Postal Service.
6. Lines of Steam or other Ships, Railways, Canals, and other works connecting any two or more of the Provinces together, or extending beyond the limits of any Province.
7. Lines of Steamships between Canada and other countries.
8. Telegraphic Communication and the incorporation of Telegraph Companies.
9. All such works as shall, although lying wholly within any Province, be specially declared by the Acts authorising them to be for the general advantage.
10. The Census and Statistics.
11. Militia—Military and Naval Service and Defence.
12. Beacons, Buoys, Light Houses, and Sable Island.
13. Navigation and Shipping.
14. Quarantine.
15. Sea Coast and Inland Fisheries.
16. Ferries between any Province and a Foreign Country, or between any two Provinces.
17. Currency and Coinage.
18. Banking—Incorporation of Banks and the issue of paper money.
19. Savings Banks.
20. Weights and Measures.
21. Bills of Exchange and Promissory Notes.
22. Interest.
23. Legal Tender.
24. Bankruptcy and Insolvency.
25. Patents of Invention and Discovery.
26. Copy Rights.
27. Indians and Lands reserved for the Indians.
28. Naturalisation and Aliens.
29. Marriage and Divorce.
30. The Criminal Law, excepting the Constitution of Courts of Criminal Jurisdiction

but including the procedure on Criminal matters.

31. The establishment, maintenance, and management of Penitentiaries,
32. Rendering uniform all or any of the laws relative to property and civil rights in Upper Canada, Nova Scotia, and New Brunswick, and rendering uniform the procedure of all or any of the Courts in these provinces; but any Statute for this purpose shall have no force or authority in any Province until sanctioned by the Legislature, and when so sanctioned the power of amending, altering, or repealing such laws shall thenceforward be vested in the Parliament only.
33. Immigration.
34. Agriculture.
35. To establish a General Court of Appeal, and in order to the due execution of the Laws of Parliament additional Courts, when necessary.
36. To fix and provide for the salaries and allowances of the Governors of the several Provinces, and of the Judges and all other Officers of the Union, and of the Judges of the Superior, District, County, and Recorder's Courts, and of the Admiralty Courts, in cases where the Judges thereof are paid by salaries.
37. And also for the peace, welfare and good government of the Union respecting all matters of a general character, not specially and exclusively herein reserved for the Legislatures; and such laws shall control and supersede any laws in any use repugnant thereto or inconsistent therewith which may have been made prior thereto; and any law made by any Legislature in pursuance of the authority hereby conferred upon it in regard to matters and subjects in which concurrent jurisdiction is hereby given to the Parliament shall, so far as the same is repugnant to or inconsistent with any Act passed by the Parliament, be null and void.

LOCAL CONSTITUTIONS.

51. For each Province of Upper Canada, Lower Canada, Nova Scotia, and New Brunswick, there shall be an officer, styled the Lieutenant-Governor, appointed by the Governor-General in Council, under the great seal of Canada.

52. A Lieutenant-Governor shall hold office during the pleasure of the Governor-General in Council, but any Lieutenant-Governor appointed after the commencement of the first Session of the Parliament of Canada, shall be not be removable within five years from his appointment, except for cause assigned, which shall be communicated to him in writing within one month after the order for his removal is made, and shall be communicated by message to each of the Houses of Parliament within one week thereafter, if the Parliament is then sitting, and if not, then within one week after the commencement of the next sitting of the Parliament.

53. The salaries of Lieutenant-Governors shall be fixed and provided by an Act of the Parliament of Canada.

54. In each Province, the Lieutenant-Governor may, by and with the advice and consent of the Legislature, make Laws in relation to matters coming within the classes of subjects next hereinafter enumerated :—

- (1.) The amendment from time to time of their Constitutions except as relates to the office of Lieutenant-Governor :
- (2.) Direct Taxation within the Province in order to the raising of a revenue for Provincial Purposes, including in the case of New Brunswick the levying, by the mode and to the extent (if any) established by Law at the Union, Dues on Timber, not being the produce of any of the Provinces other than New Brunswick :
- (3.) The borrowing of money on the sole credit of the Province for Provincial Purposes :

- (4.) The establishment and tenure of Provincial offices, and the appointment and payment of Provincial officers :
- (5.) The management and sale of the public lands belonging to the Province :
- (6.) The establishment, maintenance, and management of public and reformatory prisons in and for the Province :
- (7.) The establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions in and for the Province (other than marine hospitals):
- (8.) Municipal institutions in the Province :
- (9.) Shop, saloon, tavern, auctioneer, and other licences, in order to the raising of a revenue for provincial, local, or municipal purposes :
- (10.) All works and undertakings :
- (11.) The incorporation of Companies with exclusively Provincial objects.
- (12.) The solemnisation of marriage in the Province.
- (13.) Property and Civil Rights.
- (14.) The administration of justice in the Province, including the constitution, maintenance, and organisation of Provincial Courts, both of Civil and Criminal Jurisdiction, and including procedure in Civil Matters in those Courts.
- (15.) The imposition of punishment by fine, penalty, or imprisonment for enforcing any Provincial Law made in relation to any matter coming within any of the classes of subjects enumerated in this section.

LEGISLATURE OF NOVA SCOTIA.

55.—There shall be two chambers as at present styled respectively, the Legislative Council and the House of Assembly.

56.—The Legislative Council shall consist of

57.—The Legislative Assembly shall consist of

NEW BRUNSWICK.

58.—There shall be two chambers as at present styled respectively, the Legislative Council and the House of Assembly.

The Legislative Council shall consist of—

59.—The Legislative Assembly shall consist of—

LOWER CANADA.

60.—There shall be two chambers as at present, styled respectively The Legislative Council and the House of Assembly.

61.—The Legislative Council shall consist of—

62.—The Legislative Assembly shall consist of—

UPPER CANADA.

63.—There shall be one Chamber, to be styled—

MISCELLANEOUS.

64.—Any Act of the Parliament of Canada may, notwithstanding anything in this Act, from time to time, provide for the constitution, maintenance, and organisation of a General Court of Appeal, and of such Courts as may be deemed necessary by the Parliament of Canada.

65.—Notwithstanding anything in this Act, any Act of the Parliament of Canada may from time to time make provision in relation to:—

- (1.) Agriculture in all or any of the Provinces.
- (2.) Immigration into all or any of the Provinces.
- (3.) All works and and undertakings.

And in each Province provincial laws may make provision in relation to:—

- (1.) Agriculture in the Provinces.
- (2.) Immigration into the Provinces.
- (3.) All works and undertakings in the Province:

But any such Provincial Law shall have the force of law in and for the Province as long and so far only as it is not repugnant to any Act of the Parliament of Canada.

66.—Either the English or the French language may be used by any person in the Debates of the Houses of Parliament of Canada, and of the Houses of Parliament of Lower Canada, and both of these languages shall be used in the respective records and journals of those Houses, and either of those languages may be used by any person or in any pleading or process in or issuing from any Court of Canada, and in or from all or any of the Provincial Courts of Lower Canada.