

1st draft - Jan'y 30, 1867 -

13907

(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.”

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 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, the Provinces of Upper Canada and Lower Canada shall be severed, and each Province shall be bounded as as they were bounded before.

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.

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.

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*, *francalleu* 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 nominal 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 Queen, by an instrument under the sign manual, to authorize 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 Member of the Legislative Councils of Canada, Nova Scotia, or New Brunswick who may accept the office of Senator, shall, by his acceptance, be held to have vacated his seat in the Legislative Councils of his Provinces.

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 a tie, *posumitur pro negante*.