

Anexo 3.

The British North American Act, 1867

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith...

I. PRELIMINARY.

1. This Act may be cited as the Constitution Act, 1867.

II. UNION.

3. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that, on and after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be One Dominion under the Name of Canada; and on and after that Day those Three Provinces shall form and be One Dominion under that Name accordingly.

4. Unless it is otherwise expressed or implied, the Name Canada shall be taken to mean Canada as constituted under this Act.

5. Canada shall be divided into Four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.

6. The Parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Province of Upper Canada and Lower Canada shall be deemed to be severed, and shall form Two separate Provinces. The Part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the Part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

7. The Provinces of Nova Scotia and New Brunswick shall have the same Limits as at the passing of this Act.

8. In the general Census of the Population of Canada which is hereby required to be taken in the Year One Thousand eight hundred and seventy-one, and every Tenth Year thereafter, the respective Populations of the Four Provinces shall be distinguished.

III. EXECUTIVE POWER.

9. The Executive Government and Authority of and over Canada is hereby declared to continue and be vested in the Queen.

10. The Provisions of this Act referring to the Governor General extend and apply to the Governor General for the Time being of Canada, or other the Chief Executive Officer or Administrator for the Time being carrying on the Government of Canada on behalf and in the Name of the Queen, by whatever Title he is designated.

11. There shall be a Council to aid and advise in the Government of Canada, to be styled the Queen's Privy Council for Canada; and the Persons who are to be Members of that Council shall be from Time to Time chosen and summoned by the Governor General and sworn in as Privy Councilors, and Members thereof may be from Time to Time removed by the Governor General.

12. All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exercisable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice, or with the Advice and Consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exercisable by the Governor General with the Advice, or with the Advice and Consent of or in conjunction with the Queen's Privy Council for Canada, or any Member thereof, or by the Governor General individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be established or altered by the Parliament of Canada.

13. The provisions of this Act referring to the Governor General in Council shall be construed as referring to the Governor General acting by and with the Advice of the Queen's Privy Council for Canada.

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorize the Governor General from Time to Time appoint any Person or any Persons jointly or severally to be his Deputy or Deputies within any Part or Parts of Canada, and in that Capacity exercise during the Pleasure of the Governor General such of the Powers, Authorities, and Functions of the Governor General as the Governor General deems it necessary or expedient to assign to him or them, subject to any Limitations or Directions expressed or given by the Queen; but the Appointment of such a Deputy or Deputies shall not affect the Exercise by the Governor General himself of any Power, Authority, or Function.

15. The Command-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is hereby declared to continue to be vested in the Queen.

16. Until the Queen otherwise directs, the Seat of Government of Canada shall be Ottawa.

IV. LEGISLATIVE POWER

17. There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

18. The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the Members thereof respectively, shall

be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities, and powers shall not confer any privileges, immunities, or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof.

19. The Parliament of Canada shall be called together not later than Six Months after the Union.

The Senate

21. The Senate shall, subject to the Provisions of this Act consist of One Hundred and five Members, who shall be styled Senators.

22. In relation to the Constitution of the Senate Canada shall be deemed to consist of Four Divisions:--

1. Ontario;

2. Quebec;

3. The Maritime Provinces, Nova Scotia, and New Brunswick, and Prince Edward Island;

4. The Western Provinces of Manitoba, British Columbia, Saskatchewan, and Alberta;

which Four Divisions shall (subject to the Provisions of this Act) be equally represented in the Senate as follows: Ontario by twenty-four senators; Quebec by twenty-four senators; the Maritime Provinces and Prince Edward Island by twenty-four senators, ten thereof representing Nova Scotia, ten thereof representing New Brunswick, and four thereof representing Prince Edward Island; the Western Provinces by twenty-four senators, six thereof representing Manitoba, six thereof representing British Columbia, six thereof representing Saskatchewan, and six thereof representing Alberta; Newfoundland shall be entitled to be represented in the Senate by six members; the Yukon Territory and the Northwest Territories shall be entitled to be represented in the Senate by one member each.

In the case of Quebec each of the Twenty-four Senators representing that Province shall be appointed for one of the Twenty-four Electoral Divisions of Lower Canada specified in Schedule A. to Chapter One of the Consolidated Statutes of Canada.

The House of Commons.

37. The House of Commons shall, subject to the Provisions of this Act, consist of two hundred and eighty-two members of whom ninety-five shall be elected for Ontario, seventy-five for Quebec, eleven for Nova Scotia, ten for New Brunswick, fourteen for Manitoba, twenty-eight for British Columbia, four for Prince Edward Island, twenty-one for Alberta, fourteen for Saskatchewan, seven for Newfoundland, one for the Yukon Territory and two for the Northwest Territories.

V. PROVINCIAL CONSTITUTIONS

Executive Power

58. For each Province there shall be an Officer, styled the Lieutenant Governor, appointed by the Governor General in Council by Instrument under the Great Seal of Canada.

Legislative Power

1. ONTARIO.

69. There shall be a Legislature for Ontario consisting of the Lieutenant Governor and of One House, styled the Legislative Assembly of Ontario.

70. The Legislative Assembly of Ontario shall be composed of Eighty-two Members, to be elected to represent the Eighty-two Electoral Districts set forth in the First Schedule to this Act.

2. QUEBEC

71. There shall be a Legislature for Quebec consisting of the Lieutenant Governor and of Two Houses, styled the Legislative Council of Quebec and the Legislative Assembly of Quebec.

72. The Legislative Council of Quebec shall be composed of Twenty-four Members, to be appointed by the Lieutenant Governor, in the Queen's Name, by Instrument under the Great Seal of Quebec, One being appointed to represent each of the Twenty-four Electoral Divisions of Lower Canada in this Act referred to, and each holding Office for the Term of his Life, unless the Legislature of Quebec otherwise provides under the Provisions of this Act.

VI. DISTRIBUTION OF LEGISLATIVE POWERS

Powers of the Parliament

91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say:

1A. The Public Debt and Property.

2. The Regulation of Trade and Commerce.

2A. Unemployment insurance.

3. The raising of Money by any Mode or System of Taxation.
4. The borrowing of Money on the Public Credit.
5. Postal Service.
6. The Census and Statistics.
7. Militia, Military and Naval Service, and Defense.
8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.
9. Beacons, Buoys, Lighthouses, and Sable Island.
10. Navigation and Shipping.
11. Quarantine and the Establishment and Maintenance of Marine Hospitals.
12. Sea Coast and Inland Fisheries.
13. Ferries between a Province and any British or Foreign Country or between Two Provinces.
14. Currency and Coinage.
15. Banking, Incorporation of Banks, and the Issue of Paper Money.
16. Savings Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.
20. Legal Tender.
21. Bankruptcy and Insolvency.
22. Patents of Invention and Discovery.
23. Copyrights.
24. Indians, and Lands reserved for the Indians.
25. Naturalization and Aliens.
26. Marriage and Divorce.

27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.

28. The Establishment, Maintenance, and Management of Penitentiaries.

Exclusive Powers of Provincial Legislatures.

92. In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subject next hereinafter enumerated; that is to say,--

2. Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes.

3. The borrowing of Money on the sole Credit of the Province.

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 and of the Timber and Wood thereon.

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. Local Works and Undertakings other than such as are of the following Classes:

(a) Lines of Steam or other Ships, Railways, Canals, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province;

(b) Lines of Steam Ships between the Province and any British or Foreign Country;

(c) Such Works as, although wholly situate within the Province, are before or after the Execution declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces.

11. The Incorporation of Companies with Provincial Objects.

12. The Solemnization of Marriage in the Province.

13. Property and Civil Rights in the Province.

14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.

15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.

16. Generally all Matters of a merely local or private Nature in the Province.

Education.

93. In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:--

(1) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons has by Law in the Province at the Union:

(2) All the Powers, Privileges and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dissentient Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec:

(3) Where in any Province a System of Separate or Dissentient Schools exists by Law at the Union or is thereafter established by the Legislature of the Province, an Appeal shall lie to the Governor General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education:

(4) In case any such Provincial Law as from Time to Time seems to the Governor General in Council requisite for the Execution of the Provisions of this Section is not made, or in case any Decision of the Governor General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far as the Circumstances of each Case require, the Parliament of Canada may make remedial Laws for the due Execution of the Provisions of this Section and of any Decision of the Governor General in Council under this Section.

93A. Paragraphs (1) to (4) of section 93 do not apply to Quebec.

VII. JUDICATURE

96. The Governor General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

97. Until the laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and the Procedure of the Courts in those Provinces, are made uniform,

the Judges of the Courts of those Provinces appointed by the Governor General shall be selected from the respective Bars of those Provinces.

98. The Judges of the Courts of Quebec shall be selected from the Bar of that Province.

IX. MISCELLANEOUS PROVISIONS

General.

133. Either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those 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 established under this Act, and in or from all or any of the Courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those Languages:

Fuente: Canadian Constitutional Documents dabatase:
http://www.solon.org/Constitutions/Canada/English/ca_1867.html