

## HELMCKEN'S DIARY OF THE CONFEDERATION NEGOTIATIONS, 1870.

On May 10, 1870, a delegation of unusual importance left Victoria for San Francisco, *en route* to Ottawa. It was composed of three of the leaders of the political life of the colony of British Columbia: the Hon. J. W. Trutch, Chief Commissioner of Lands and Works; the Hon. R. W. W. Carrall and the Hon. J. S. Helmcken, elected members of the Legislative Council for Cariboo and Victoria City, respectively. To them Governor Anthony Musgrave had entrusted the task of negotiating with the Canadian Government suitable terms for the entry of the Pacific colony into the newly federated Dominion of Canada.

Federation with Canada had been mooted in the colony since 1867, but the supine administration of Governor Frederick Seymour had done little to secure its accomplishment. It remained for his successor to initiate the official action which alone could bring the matter to a successful issue. Upon the opening of the regular session of the Legislative Council on February 15, 1870, Governor Musgrave, referring to the projected union with Canada, had said:—

For my part I am convinced that on certain terms which I believe it would not be difficult to arrange, this Colony may derive substantial benefit from such an union. But the only manner in which it can be ascertained whether Canada will agree to such arrangements as will suit us, is to propose such as we would be ready to accept.<sup>1</sup>

Consequently the Governor, after consultation with his Executive Council, had drawn up a series of proposals for presentation to the Legislative Council. Long and careful consideration by that body resulted in certain amendments to the terms and the addition of some supplementary recommendations. Thus armed, the three delegates travelled to Ottawa to sound out the Canadian Government.

Hitherto a veil of secrecy has shrouded the negotiations which followed. The various occasions upon which the delegates met with representatives of the Canadian Cabinet were, of course,

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(1) *Victoria Daily British Colonist*, February 16, 1870.

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noted in the press; but no details whatever of the proceedings were made public, either then or later. Moreover, careful search in the Archives of the Dominion, and in other collections, has failed to produce any minutes or memoranda, and after a lapse of almost seventy years it still appeared that not one of the participants had left any record of the discussions which took place.

Such a record has now finally come to light. Amongst the papers belonging to the late Dr. J. S. Helmcken, recently transferred to the Provincial Archives by the heirs of his daughter, Mrs. Edith L. Higgins, is a concise, day-to-day account of the eventful negotiations between the British Columbian and Canadian delegates. The diary was kept in an ordinary exercise-book. When Dr. Helmcken refused a senatorship and retired from politics in 1871, he seems to have placed it in a drawer of his secretaire and ignored it thereafter. Possibly he regarded it as a personal and confidential document, as no reference to it has been noticed in any of the reminiscences he contributed in later years to the press.

The historical importance of the diary is obvious. Though relatively brief, it reveals clearly both the general course of the negotiations and the questions upon which discussion centred. Two points are of special interest. The sincerity of Canada's desire to secure the adherence of British Columbia was made patent by the generosity of the final terms offered by the Dominion. Helmcken's journal makes the interesting suggestion that the concessions Canada was prepared to make were limited only by the necessity of carrying the terms through the federal parliament. The reader cannot but be struck by the number of times this matter is referred to in the diary. In the second place, the journal enables us, with some degree of certainty, to account for some of the most important differences between the proposals which the delegates took to Ottawa and the terms of union offered later by the Dominion. It is not necessary here to detail all the changes made, but Helmcken's notes throw much light upon three of the most important alterations—those in the terms relating to subsidies, to communications, and to the form of government. For the sake of clarity these are reproduced in full.

BRITISH COLUMBIA'S PROPOSAL.<sup>2</sup>FINAL TERMS OF UNION.<sup>3</sup>*Subsidies.*

3. The following sums shall be annually paid by Canada to British Columbia, for the support of the Local Government and Legislature, to wit:—

An annual grant of \$35,000, and a further sum equal to 80 cents a head per annum of the population, both payable half-yearly in advance, the population of British Columbia being estimated as aforesaid at 120,000. Such grant equal to 80 cents a head to be augmented in proportion to the increase of population, when such may be shown, until the population amounts to 400,000, at which rate such grant shall thereafter remain.

(Amendment proposed by the Legislative Council:—

That the Governor be respectfully requested to strike out figures "\$35,000," and insert in lieu thereof "\$75,000."

That the figures "400,000" be altered to "1,000,000.")

*Communications.*

8. Inasmuch as no real Union can subsist between this Colony and Canada without the speedy establishment of communication across the Rocky Mountains by Coach Road and Railway, the Dominion shall, within three years from the date of Union, construct and open for traffic such Coach Road, from some point on the line of the Main Trunk Road of this Colony to Fort Garry, of similar character to the said Main Trunk

3. The following sums shall be paid by Canada to British Columbia for the support of its Government and Legislature, to wit, an annual subsidy of 35,000 dollars, and an annual grant equal to 80 cents per head of the said population of 60,000, both half-yearly in advance; such grant of 80 cents per head to be augmented in proportion to the increase of population, as may be shown by each subsequent decennial census, until the population, amounts to 400,000, at which rate such grant shall thereafter remain, it being understood that the first census be taken in the year 1881.

11. The Government of the Dominion undertake to secure the commencement simultaneously, within two years from the date of the Union, of the construction of a Railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains, towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada, and further, to secure the completion of such

(2) British Columbia, Legislative Council, *Debate on the subject of Confederation with Canada*, Victoria, 1913, pp. 162-164.

(3) Howay and Scholefield, *British Columbia*, Vancouver, 1914, II., pp. 696-697.

Road; and shall further engage to use all means in her power to complete such Railway communication at the earliest practicable date, and that Surveys to determine the proper line for such Railway shall be at once commenced; and that a sum of not less than one million dollars shall be expended in every year, from and after three years from the date of Union, in actually constructing the initial sections of such Railway from the Seaboard of British Columbia, to connect with the Railway system of Canada.

(Amendment proposed by the Legislative Council:

That the word "and," between "construct" and "open," be erased, and words "and maintain" be inserted after "traffic". That this Section be altered so that the section of the Main Trunk Road between Yale and New Westminster may be included in the Coach Road which the Dominion Government is to be asked to construct within three years from the date of Union.)

Railway within ten years from the date of the Union.

And the Government of British Columbia agree to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in the furtherance of the construction of the said Railway, a similar extent of public lands along the line of Railway, throughout its entire length in British Columbia, (not to exceed, however, Twenty (20) Miles on each side of the said line,) as may be appropriated for the same purpose by the Dominion Government from the public lands in the North-West Territories and the Province of Manitoba. Provided, that the quantity of lands which may be held under pre-emption right or by Crown grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government shall be made good to the Dominion from contiguous public lands; and, provided, further, that until the commencement within two years, as aforesaid, from the date of the Union, of the construction of the said Railway, the Government of British Columbia shall not sell or alienate any further portions of the public lands of British Columbia in any other way than under right of pre-emption, requiring actual residence of the pre-empter on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said Railway, the Dominion Government agree to pay to British Columbia, from the date of the Union, the sum of 100,000 dollars per annum in half-yearly payments in advance.

*Form of government.*

15. The constitution of the Executive authority and of the Legislature of British Columbia shall, subject to the provisions of "The British North America Act, 1867", continue as existing at the time of Union until altered under the authority of the said Act.

14. The constitution of the Executive Authority and of the Legislature of British Columbia shall, subject to the provisions of the "British North America Act, 1867", continue as existing at the time of Union until altered under the authority of the said Act, it being at the same time understood that the Government of the Dominion will readily consent to the introduction of Responsible Government when desired by the inhabitants of British Columbia, and it being likewise understood that it is the intention of the Government of British Columbia under the authority of the Secretary of State for the Colonies, to amend the existing constitution of the Legislature by providing that a majority of its members shall be elective.

It is now generally conceded that the inclusion of the guarantee of responsible government in the terms was largely the work of H. E. Seelye, the diligent special correspondent of the *Victoria Daily British Colonist*.<sup>4</sup>

WILLARD E. IRELAND.

NEW WESTMINSTER, B.C.

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(4) See Harkin, W. A. (ed.), *Political Reminiscences of the Right Honorable Sir Charles Tupper*, London, 1914, p. 128.

## DIARY OF THE CONFEDERATION NEGOTIATIONS, 1870.

*Friday, June 3rd.*<sup>5</sup>

We arrived at Ottawa City at 1 o'clock to day from Prescott; would have been in yesterday had we not missed the train.<sup>6</sup> Mr. Trutch sent in a note stating we had arrived. The Governor General summoned us to his presence at 3 o'clock.<sup>7</sup> We were received courteously; after a few minutes Sir G[eorge] Cartier made his appearance and we were introduced to him and very shortly after conducted and inducted by him to the Privy Council and presented to all the Members—a Council being at that time held.<sup>8</sup> After an ordinary conversation, we were informed that we should be made acquainted with the time when our presence would be required and then the Hon. J[oseph] Howe [President of the Privy Council] volunteered to shew us the City. He did so and we dined with him in the evening, Sir F[rancis] Hincks [Minister of Finance] being present and Honble. Mr. Tilley [Minister of Customs]. We subsequently learned that on Monday next we were required to meet the P[ri]vy Council at 2 P.M.

*Monday. [June 6.]*

According to appointment we proceeded to the Govt. Buildings and met Sir G. Cartier, whom we found in his shirt sleeves, hard at work. He, as usual, was exceedingly pleasant, gave us sherry, and introduced us into the Privy Council, Mr. Trutch

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(5) Contrary to the general acceptance of June 4th as the date for the arrival of the delegates (*see* Howay and Scholefield, *op. cit.*, II., p. 293), the date here mentioned is correct. Compare telegraphic message in the *Victoria Daily British Colonist*, June 5, 1870.

(6) The *Toronto Globe*, June 10, 1870, states quite definitely that the delegates arrived in Ottawa on the 28th of May, and H. E. Seelye, special correspondent of the *Victoria Colonist*, in Toronto on the 27th. Presumably they made a short visit out of the capital before undertaking to contact the Government, for this same issue of the newspaper quotes at length from a speech made by Dr. Helmcken at a dinner in honour of R. W. W. Carrall, in his native city of Woodstock, Ontario.

(7) Sir John Young, later Baron Lisgar, Governor-General of Canada, 1868-72.

(8) The reference here is to a meeting of the cabinet. It is to be remembered that the Prime Minister, Sir John A. Macdonald, was seriously ill at the time. Consequently the responsibility for the negotiations fell upon Sir George Cartier, Minister of Militia and Defence, the acting prime minister.

being told to occupy the Gov. General [*sic*] seat, I upon his right and Carrall the left.<sup>9</sup> We were informed that the Council had agreed to appoint a deputation from their body to confer with the delegates and discuss the various points submitted by/from the Govt. of B.C. Mr. Tilley explained to the Council, that the Delegates considered they were here to give every information and explanation required or desired, 2nd to support the terms of their own Govt., 3rd That they had no power whatever to bind the Colony to any terms, but that the terms as agreed upon would be submitted to the people as proposed and already determined upon by the Governor of B[ritish] Columbia. From the remarks of various members of Council, it appeared as tho the Govt. of Canada would grant everything they possibly could or that they could get the parliament to agree to. Sir Francis Hincks thought the 120,000 population clause a very ingenious manipulation of figures, and advised that we should bring all the information upon which it was based. After conversing generally and pleasantly it was agreed that we should meet the committee at 3 o'clock to-morrow to proceed to business. The Committee being Sir George Cartier, Honble. Mr. Tilley, and Sir Francis Hincks. We have every reason to be pleased with our reception—the cordial feeling exhibited towards us—the plainness & simplicity of manner and the studied endeavour to be agreeable and to conduct the business in a fair, plain and upright manner.

*Tuesday. [June 7.]*

We attended at 3 o'clock but found Sir G. Cartier engaged and continued so for half an hour longer. He then excused himself in a most merry way, took us to wine and himself to a sandwich likewise, he not having had time to take anything before. It is astounding how Sir G. works—morning, noon, night, brings no cessation. Of course the first thing entered upon in Council

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(9) This was in reality the first business meeting of the negotiation. An endorsation by Sir John Young on the dispatch of Governor Musgrave introducing the delegates reads: "6 June, 1870. Acknowledge receipt and say I have placed these gentlemen in communication with the Council of the Dominion. They are to have their first meeting this morning." Musgrave to Young, May 7, 1870. *Canada Public Letters Received, G series, no. 1493* (Public Archives, Ottawa).

was the 120,000 population. The ministry knew of course this to be a fictitious number and stated they could not propose it to parliament,<sup>10</sup> but Sir Francis Hincks observed that he saw that we must have the \$150,000. Yet the puzzle was how to get it. It could not be done by real population and real debt even supposing the allowance for the debt to be increased. We made no objection to our population being put down at its real number provided that the money could be obtained. We consented to [*sic*; too] that our Tariff should remain in force, but suggested that it might be improved for B[ritish] Columbia as well as themselves. Sir F. Hincks believed that under present circumstances the tariff could be different in the two countries for some time to come at all events. Tilley differed, but bowed to Sir F. Hincks. They both saw that if they did not maintain the B.C. Tariff the income of the Dominion would not be the same as that set down. However much they could get over our fictitious population they could not support our mode of calculating the debt.<sup>11</sup> It was not logical and could not go down. When we were at a non-plus as to how it was to be done, viz., the money we demanded, obtained, Sir George conceived the brilliant idea of our giving up lands for the Railway and for the Govt. to compensate the colony therefore and in this way make up the sum

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(10) Governor Musgrave explained the method of computing the population at 120,000 as follows: "It is proposed therefore that for the purposes of an arrangement with Canada our Population should be estimated from the amount of Revenue contributed to the general fund of the Dominion, from the sources which would be transferred. On a moderate computation the Customs and Excise duties are estimated for this year at \$350,000. This sum is more than is raised from 120,000 of the population of Canada, . . . British Columbia claims accordingly to come into the Union with the privileges, as she relinquishes the Revenues, of 120,000 of the population of the Dominion." Musgrave to Young, 20 February, 1870, *Canada Public Letters Received, G series*, no. 1359.

(11) The debt clause of the terms proposed by British Columbia read as follows: "British Columbia not having incurred debts equal to those of other Provinces, now constituting the Dominion, shall be entitled to receive, by half-yearly payments in advance from the General Government, interest at the rate of 5 per cent. per annum on the difference between the actual amount of its indebtedness at the date of Union and the proportion of the Public Debt of Canada for 120,000 of the population of Canada at the time of Union." British Columbia, Legislative Council, *Debate on the subject of Confederation*, p. 162.



specified. Every one was taken by surprise and all conceived the idea to be good. The ruling idea was however that they must obtain as much money from the B.C. tariff as B.C. now does, that they could not go to Parliament without that, because all the other Provinces would oppose or all would require to be put upon the same footing as B[ritish] Columbia. They could understand our wish to gain as much as we could, but at the same time it must be recollected that they could not give us more than parliament would allow. They would give us everything they could possibly ask of parliament.

*Wednesday. [June 8.]*

I saw Sir F. Hincks to-day upon the subject of the Tariff and recommended that our tariff should be altered so that Silks, Satins and such articles should be admitted duty free. He replied that there would be a loss of Revenue and what they had granted had been granted upon the condition of our Tariff being maintained. He asked would we allow our duty upon Sugar to be increased equal to that of Canada? I told him that a reduction of from 12 down to 5 per cent. would not be a loss to the Govt., because the trade in those articles with foreign parts would increase to that extent. He did not believe it. I told him, if he would allow us to alter our tariff to that extent, we could then go in under that tariff. He would not go in for Free Trade in V[ancouver] I[sland]<sup>12</sup> because in the first place the same amount of Revenue could not be obtained from direct taxation; secondly, smuggling could not be prevented; thirdly, it was doubtful whether people wanted it. I pointed out to him that the B.C. tariff and and (*sic*) the Dominion Excise Laws could not go on together, that if we kept our Tariff we could not have the Dominion Excise at the same time, that it would be increasing our taxation and giving apparently a larger revenue than we proposed, but at the same time it would not be really so because the introduction of the Excise Laws would prevent

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(12) At the time of the union of the colonies of Vancouver Island and British Columbia in 1866, Victoria had lost the free port privileges granted to her by proclamation in 1860. The restoration of that system was frequently mooted and assumed considerable proportions in the editorial discussions of the *Victoria Daily British Colonist* during February and March, 1870.

brewing altogether and ruin the Brewers and react upon the farmers. It is true that more beer might be imported but that would not be beneficial to the country. Sir F. Hincks would maintain that my proposition would diminish the revenue. He did not believe in the increase by increased trade. He would think over the matter. Other people came in to see see (*sic*) Sir Francis and then I had to leave.

*Wednesday afternoon. [June 8.]*

Had to wait as usual for half an hour. The ministers seem overworked.<sup>13</sup> Sir G. said the same thing occurred with every province, but the peculiarity of our case was that our tariff was in reality higher than theirs. After due consideration there seemed to them two simple courses to pursue, either to take the Canadian Customs Act and Excise or to keep our own Act and Excise. To make a special tariff for B.C. would look very bad and indeed they could hardly face the Commons with it, because each province would then want something for itself specially and lead to great trouble, besides they could hardly propose a diminution of the revenue, because our whole scheme was based upon possessing so much revenue. After some general debate, the conclusion come to, seemed to be, to allow our own tariff to continue until the Railway was built or until the legislature petitioned for the adoption of the Canadian Tariff and Excise. With regard to the Railway the Committee the committee (*sic*) were enthusiastically in favor thereof. They do not consider that they can hold the country without it. It was a condition of union with the provinces<sup>14</sup> and they could not see any reason why if agreed upon it should not be made a condition with us. They agreed that a railway was necessary to Red River, ours or that of B.C. would only be an extension of the Railway from Red River. The Committee seemed to agree to put the railway in as part of the

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(13) It should be remembered that the Red River difficulties were approaching a crisis at this time. The expeditionary force under Colonel Wolseley sent to suppress Riel and his associates was *en route* to Fort Garry

(14) The idea here conveyed is that as the Intercolonial Railway had been a *sine qua non* of union between the Maritimes and Canada, so the Pacific Railway should be the *sine qua non* for the admission of British Columbia.

terms. They then had a long conversation about the Railway and country and Mr. Trutch proposed a plan for advertising, so as to obtain tenders for the construction of the road. With regard to the Dry Dock<sup>15</sup> [at Esquimalt] they did not see much difficulty in that, it was to guarantee interest upon a certain sum. It was a purely local work and Quebec and Ontario would object, but in such a case a similar guarantee might be given to those provinces for a similar work. The Committee thought they now had all the information required and they would report to the Privy Council. In the meantime we were to go to Montreal to see the Prince installed into various orders,<sup>16</sup> having received an invitation from the Gov[ernor] General so to do. Mr. Tilley said he would go with us by steamer down the St. Lawrence to Montreal, and probably we would be asked to go to Quebec.

[Negotiations were not resumed until June 25, and in the interval the delegates visited Montreal and Quebec. The following paragraph in the dispatch by H. E. Seelye which was printed in the *Victoria Colonist* for July 8, 1870, is of interest:—

“At the investiture of the Prince at Montreal our Delegates were honored with seats among the Cabinet Ministers of the Dominion. Hon Mr Trutch dined with the Prince, and in the evening the three Delegates attended a party given by His Royal Highness, by whom they were treated with marked attention, the Prince assuring them that he would visit Victoria as soon as the railroad was completed to the Pacific over British soil.”

Presumably the Canadian Cabinet next proceeded to consider the question of union in the light of the information garnered from the discussions with the representatives of British Columbia. The visit made meanwhile by the delegates themselves to Montreal and Quebec seems to have assumed the character of a “stumping tour” in the interests of confederation and the construction of the transcontinental railroad.

The two paragraphs which immediately follow are clearly an interjection into the regular diary. Upon his return to Ottawa, Dr. Helmcken evidently jotted down, in the notes which follow, his recollections of certain conversations relating to the question of union which he had had in the course of the journey.]

Proceeded to-day by steamer to Montreal, Mr. Tilley and Mr. Mitchell [Minister of Marine and Fisheries] accompanying. We had long conversations upon the subject of our mission. Mr.

(15) The fourth term proposed by B.C. asked the guarantee of 5 per cent. on a loan of £100,000 to build a dry-dock at Esquimalt.

(16) H.R.H. Prince Arthur of Connaught, third son of Queen Victoria, was then serving in Canada. The ceremony mentioned was his investiture as K.C.M.G.

Tilley said the Govt. wished to grant all they possibly could, but we must recollect that they had the Parliament to deal with and that they could only grant such things as they were able to carry through the House. He spoke very favorably about steamboat communication with Puget Sound,<sup>17</sup> but he could not advise to allow the Govt. of B.C. to alter the tariff. He made various enquiries about the colony. Mr. Mitchell said that he would do all he could to promote our wishes. At Montreal we saw various Senators, Governors and other influential people to whom we talked railway and confederation. All appeared to be impressed with the necessity of a Railway to connect the Colonies.

From Montreal we went to Quebec and there saw many influential people likewise. The general character of our conversation was the same, and the wishes and desires of the people there in regard to Railways and other matters seemed to be about the same.

[The narrative diary resumes.]

*Saturday. [June 25.]*

Met the Council to-day. The Honble. Mr. Tilley read over the draught of the Resolutions which the Government were prepared to adopt. The population to be 60,000, they could not give the 120,000 for reasons before asked. The debt to be allowed to be at the rate of \$27.77 per head, 5 per cent to be allowed upon the smaller amount of indebtedness of the Colony.

The Council would not agree to increase the rate of \$35,000. If they did the other colonies or provinces would require the same, besides we, they conceived, had a very good bargain without, always remembering that we were to have \$100,000 per annum for roads.

The Council would not accede to the desire to increase the 400,000 to 1,000,000 people. There was no reason why they should do so, if they did the other provinces would complain, and the Govt. could not probably carry it through the house.

With regard to the Dry Dock, they did not wish to grant it, because it was purely a local work. If they granted it to B.C. every other province would require the same thing. It was not

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(17) Assistance in maintaining communication with Puget Sound and San Francisco was another of the requests included in the proposed Terms of Union.

the amount they dreaded so much as facing parliament with so unusual a demand. They understood the whole subject of the benefit to be conferred upon the Colony and through it upon the Dominion. After long argument on both sides and cold determination on ours, a modification of the clause was agreed to, making the limit of the guarantee ten years, and that being considered preferable to the indefinite period "the completion of the Railway."

Court of Appeal was struck out because the Judges must be paid by the General Government, but the local Government establishes the Court.

A very long discussion took place about the Telegraph service but Sir George Cartier decided it, by saying the Telegraph would be valuable and fall in with the plan of the Govt to build a Telegraph to Red River, from there to B.C. would follow, so the Telegraph was taken over.

With regard to Steamboats we reminded them that they had previously agreed to allow us mail communication with Puget Sound; so they consented to put it in altho at the same time demurring very much.

Of course the Railway had been previously agreed upon by the Govt., who still seem enthusiastic upon the matter. The resolution was drawn up by Mr. Trutch to-day, and was considered the best that could be had under the circumstances.

The Waggon road could not be allowed, could not be carried either in the Council or the House. Having granted the Railway the other must be considered a local work. We should not attempt to press the govt. too much.

The erection of Lunatic Asylums did not belong to the Dominion, but they had no objection to a ward of the hospital being appropriated thereto if found advisable, but with regard to the Marine Hospital they did not wish to stipulate to build one specially, as the organic act<sup>18</sup> provided for it. They might put their seamen in an ordinary hospital and pay for them. We told them this was the very thing we did not want, but exactly vice versa and moreover we wished to establish a Med[ical] and Surgical school in connection therewith. It was promised that a resolution should be drafted conveying the obligation to build.

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(18) That is, the British North America Act, 1867.

The penitentiary was also in a similar category. They had to build it in accordance with the terms of [the] Organic Act and no doubt would do so.

Coast mail service, after various explanations, granted.

Sec[ti]on 11 not considered applicable to B.C. altho it was to Newfoundland, therefore expunged.<sup>19</sup>

12. The Govt. had nothing to do with immigration, but the Provinces had, the clause must be expunged.<sup>20</sup>

With regard to Senators, it was agreed that they might be taken from any place or places in B.C. With regard to the qualifications of members of the Commons it was left to the local Govt., because the General Govt. had no law upon the subject.

Clause about volunteers considered unnecessary.

With regard to Tariff the draught was read and thought to answer, it being in accordance with the Terms previously agreed upon, but it was decided that all domestic productions must be admitted duty free.

The Fishery laws of the Dominion would not apply to B.C. until made to do so by an order in Council.<sup>21</sup>

The laws in force in B.C. would continue until altered by the Govt of [the] Dominion.

The subject of tariff I broached again but there is an evident reluctance to grant the request.

Mr. Tilley now informed us that the Council would privately consider the resolutions arrived at. On Monday we should be furnished with a clear copy and probably on that day we should be called together and the government or rather privy Council (*sic*) would make a minute upon their journal of the whole transaction.

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(19) This clause asked that the Dominion Government extend "in similar proportion to British Columbia" whatever "encouragement, advantages, and protection" it afforded to the fisheries of any of its Provinces.

(20) A similar request that British Columbia should participate in any measures or funds appropriated by the Dominion for the encouragement of immigration.

(21) The final Terms of Union stated that Canada would "assume and defray the charges for" certain stated services, including "Protection and encouragement of fisheries." No attempt was made to define either Dominion or Provincial responsibility or jurisdiction, and fisheries questions have since been taken to the Privy Council at least twice.

The Council have sat four hours then adjourned, but not before the subject of Govt. Resp[onsibility; i.e., Responsible Government] had been talked over, but we were obliged to wait for telegram from Governor.<sup>22</sup>

With regard to the million dollars for the Railway. The Govt. did not intend to do the work so could not agree to the item, as they could hardly make a contract to that effect even with contractors. The Government of [the] Dom[inion] was quite as much interested in this question and as anxious for the completion of [the] Railway as the Delegates, as something must be trusted to their honor.

With regard to material guarantee of money. The Delegates thought that the first thing to be kept in remembrance was to have the Railway commenced from B[ritish] Columbia. Whilst the agreement considered it would be a breach of honor and of the agreement not to carry it out, if not carried out the people of B.C. had just cause of complaint, even for asking separation, and no doubt the Dominion Govt. would do something for them in compensation for the injury resulting from the non-commencement of the Railway. On the other hand to put in a forfeiture, which, however, the Govt. would not agree to, was to offer an inducement not to commence the road on the Pacific coast, at all events it might so happen that a few thousand dollars forfeiture per annum would be rather borne than carry out the agreement. On the other hand it would be very easy to commence the work on the Pacific and do very little. What is a commencement and continuous working. It might mean anything. Considering then that the first object to be held in view was the commencement of [the] Railway on [the] Pacific, we considered it more advisable to rely upon the honor of [the] Govt to fulfill the treaty and secondly if for some cause it was not, to leave it to the people of the time to decide for themselves what demand they would make or what steps take in the matter.

*June 27th. [Monday.]*

Met the council at 4 o'clock. The subject of Railway and Dry Dock was again gone over and Railway and Dock resolutions finally agreed to. Of course much of the old ground was gone

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(22) No explanation of this reference seems to be available.

over again. The Govt. wanted to diminish the amount for dry dock but had to give in, which they gracefully did but considered that it was the hardest thing they had to swallow as it would open so many questions in the House.

The whole of the Resolutions were gone over again. Clause 5. The District Judges would be paid by Govt but their services would be also utilized in other ways, probably as Indian agents and so forth. With regard to Court of Appeal the Council promised not to oppose a Bill to that effect in any way.

A promise was made to build the Marine Hospital at Victoria and to admit other patients upon making reasonable allowance. Langevin could not make any stipulation as to the time. He would probably visit Victoria beforehand.<sup>23</sup>

With regard to penitentiary. The Govt. could not take in prisoners sentenced for short periods. It had been tried and people had very much complained that small criminals should be mixed up with great ones. Such had been the case in Nova Scotia, where the Govt. had now to build a penitentiary or make arrangements with the local government. We must remember that the local govt. could oblige the Dominion to build a penitentiary, because when there were any prisoners sentenced for long periods the general govt. must have a place to keep them in and therefore the local government could if it thought fit compel them to do so.

Lunatic Asylums the Govt. has nothing to do with.

With regard to Pensions.<sup>24</sup> The resolution was agreed to, but the ministry said they meant to make such arrangements as would suit and be agreed to by Gov[ernor] Musgrave. Perhaps give them appointments or get appointments for them from H.M. Govt. With regard to Attorney General [the Hon. H. P. P. Crease] he might be made a judge and thus settle [the question of a] court of appeal and an official at once. Pensions they did

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(23) The reference is to H. L. Langevin, Minister of Public Works. He visited British Columbia in 1872 and his *Report* appears in the *Canada Sessional Papers*, 1872, V., no. 6, paper 10.

(24) Under the terms proposed by British Columbia, pensions were to be provided for those executive officials of the colony whose services were dispensed with as a result of confederation. The inclusion of this clause had influenced not a little the change in attitude of the officials towards the question of confederation.



not like to go before parliament with, they did not like them and were afraid of them. As few officials as possible would be interfered with.

With regard to the Addresses to be presented to the Queen,<sup>25</sup> the forms would be found in the journals of the House of Commons, copies of which would be sent to Victoria.

The section about Responsible Govt. would be put in and speaks for itself. The Govt. are not particularly anxious about Responsible Govt. but will put no objection in its way. It would perhaps be advisable to let confederation come first and settle the responsible govt. afterwards.

The clause about Indians was very fully discussed. The Ministers thought our system better than theirs in some respects, but what system would be adopted remained for the future to determine. I asked about Indian Wars and Sir G. Cartier said that it depended upon the severity, as a rule the expense would have to be borne by the Dominion Govt.

The Laws of B[ritish] Columbia would remain in force until altered by the Dominion Parliament.

There was some probability of a Reciprocity Treaty,<sup>26</sup> in which case B[ritish] Columbia would have to be included. This was considered certain.

It was likewise determined that all produce and manufacture of the Dominion or of B[ritish] Columbia should be admitted free from Customs Dues, each being a portion of the same country. It was decided that the clause mean this.

Mr. Tilley likewise said that if the Governor determined to or desired the Tariff to be slightly modified, if he would show the alterations, the Dominion Govt. would consider and most likely agree to them, but the Dominion could not invite such a request.<sup>27</sup>

(25) The reference is to the Addresses necessary in the admission of a new Province as laid down in the British North America Act, 1867.

(26) The original reciprocity treaty of 1854 had been abrogated in 1866 although considerable opinion favourable to the negotiation of a new treaty existed. The signs were particularly hopeful at the close of 1869 and during the early months of 1870. See Shippee, L. B., *Canadian-American Relations, 1849-1874*, New Haven, 1939, pp. 304-321.

(27) Such a request for tariff adjustment was made early in 1871 (see Musgrave to Lisgar, February 10, 1871, *Canada Public Letters Received, G series*, no. 1879), but it was not acceded to, for it was considered inadvisable to make any changes prior to the consummation of the union.

The Council desired the Resolutions to be kept quiet until the Governor choose to make them public,<sup>28</sup> the fact being that a Minister was about to proceed to Ontario to get lands there for the Railway and if Sand[field] McDonald [Premier of Ontario] got wind of it beforehand, he would not give up the lands.<sup>29</sup> This was understood to be the reason.

Sir G. Cartier considered that Lower Canada and B.C. would be the most important of the divisions of the Dominion, that the former would be the manufacturing part of the Dominion, B.C. had a great commercial future before it. That in the Dominion Parl[iamen]t the Maritime Members of the Atlantic would always be with the B.C. Members in matters relating to shipping, &c., whilst the interior would also have a policy for its own interest supported by its own Members. That the Dominion would ever act kindly by B[ritish] Columbia and that her Members would be as much listened to as those from other places. That all the provinces would act for the public good and the greatest goodwill existed among all.

I am to tell from Sir George Cartier that it is necessary to be Anti-Yankee. That we have to oppose their damned system—that we can and will build up a northern power, which they cannot do with their principles, that the Govt. of Ontario or rather of the Dominion is determined to do it.

(28) The reference is to Governor Musgrave. A postscript marked private to Young to Granville, July 5, 1870, reads as follows: "Sir G. Cartier desires me to add that it was understood between the Canadian ministers and the delegates from British Columbia that the publication of the terms of the agreement should first be made by Governor Musgrave in British Columbia." *C.O.* 42/687.

(29) The terms were made public in British Columbia on August 31, 1870. It is interesting to note that the *Toronto Leader*, July 7, 1871, mentions the arrival of a deputation of the Canadian Privy Council, composed of the Hon. Sir Francis Hincks, the Hon. Alexander Morris, and the Hon. J. C. Aikins, to wait on Sandfield McDonald to secure his assistance in building the Pacific railroad, a scheme which is heartily endorsed by the newspaper. From a previous article on July 4, 1870, it is apparent that while the newspaper was aware that British Columbia was making a grant of land, it did not know of the indemnity awarded for that grant.