

British Columbia Terms of Union, 1871

(Order of Her Majesty in Council admitting British Columbia into the Union)

At the Court at Windsor, the 16th day of May, 1871

PRESENT

The QUEEN'S Most Excellent Majesty

His Royal Highness Prince ARTHUR

Lord Privy Seal

Earl Cowper

Earl of Kimberley

Lord Chamberlain

Mr. Secretary Cardwell

Mr. Ayrton

Whereas by the British North America Act, 1867 provision was made for the Union of the Provinces of Canada, Nova Scotia and New Brunswick into the Dominion of Canada, and it was (amongst other things) enacted that it should be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and of the Legislature of the Colony of British Columbia, to admit that colony into the said Union on such terms and conditions as should be in the Addresses expressed, and as the Queen should think fit to approve, subject to the provisions of the said Act. And it was further enacted that the provisions of any Order in Council in that behalf should have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

And whereas by Addresses from the Houses of the Parliament of Canada and from the Legislative Council of British Columbia respectively, of which Addresses copies are contained in the Schedule to this Order annexed, Her Majesty was prayed, by and with the advice of Her most Honourable Privy Council, under the one hundred and forty-sixth section of the hereinbefore recited British North America Act, to admit British Columbia into the Dominion of Canada, on the terms and conditions set forth in the said Addresses.

And whereas Her Majesty has thought fit to approve of the said terms and conditions. It is hereby ordered and declared by Her Majesty, by and with the advice of Her Privy

Council, in pursuance and exercise of the powers vested in Her Majesty by the said Act of Parliament, that from and after the twentieth day of July, one thousand eight hundred and seventy-one, the said Colony of British Columbia shall be admitted into and become part of the Dominion of Canada, upon the terms and conditions set forth in the hereinbefore recited Addresses. And, in accordance with the terms of the said Addresses relating to the electoral districts in British Columbia, for which the first election of members to serve in the House of Commons of the said Dominion shall take place, it is hereby further ordered and declared that such electoral districts shall be as follows:--

"New Westminster District" and the "Coast District," as defined in a public notice issued from the Lands and Works Office in the said colony on the fifteenth day of December, one thousand eight hundred and sixty-nine, by the desire of the Governor, and purporting to be in accordance with the provisions of the thirty-ninth clause of the "Mineral Ordinance, 1869," shall constitute one district, to be designated "New Westminster District," and return one member.

"Caribou District" and "Lillooet District," as specified in the said public notice, shall constitute one district, to be designated "Caribou District," and return one member.

"Yale District" and "Kootenay District," as specified in the said public notice, shall constitute one district, to be designated "Yale District," and return one member.

Those portions of Vancouver Island, known as "Victoria District," "Esquimalt District," and "Metchosin District," as defined in the official maps of those districts which are in the Land Office, Victoria, and are designated respectively, "Victoria District Official Map, 1858," "Esquimalt District Official Map, 1858," and "Metchosin District Official Map, A.D. 1858," shall constitute one district, to be designated "Victoria District," and return two members.

All the remainder of Vancouver Island and all such islands adjacent thereto, as were formerly dependencies of the late Colony of Vancouver Island District, shall constitute one district to be designated "Vancouver Island District," and return one Member.

And the Right Honourable Earl of Kimberley, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions therein accordingly.

(Signed) ARTHUR HELPS.

SCHEDULE

Address of the Senate of Canada

To the Queen's Excellent Majesty

Most Gracious Sovereign,

We, your Majesty's most dutiful and loyal subjects, the Senate of Canada in Parliament assembled, humbly approach your Majesty for the purpose of representing:--

That by a despatch from the Governor of British Columbia, dated 23rd January, 1871, with other papers laid before this House by message from his Excellency the Governor-General, of the 27th February last, this House learns that the Legislative Council of that colony, in council assembled, adopted, in January last, an Address representing to your Majesty that British Columbia was prepared to enter into Union with the Dominion of Canada, upon the terms and conditions mentioned in the said Address, which is as follows:--

To the Queen's Most Excellent Majesty

Most Gracious Sovereign,

We, your Majesty's most dutiful and loyal subjects, the Members of the Legislative Council of British Columbia in council assembled, humbly approach your Majesty for the purpose of representing:--

That, during the last session of the late Legislative Council, the subject of the admission of the Colony of British Columbia into the Union or Dominion of Canada was taken into consideration, and a resolution on the subject was agreed to, embodying the terms upon which it was proposed that this colony should enter the Union;

That after the close of the session, Delegates were sent by the Government of this Colony to Canada to confer with the Government of the Dominion with respect to the admission of British Columbia into the Union upon the terms proposed;

That after considerable discussion by the Delegates with the Members of the Government of the Dominion of Canada, the terms and conditions hereinafter specified were adopted by a Committee of the Privy Council of Canada, and were by them reported to the Governor-General for his approval;

That such terms were communicated to the Government of this Colony by the Governor-General of Canada, in a despatch dated July 7th, 1870, and are as follows:--

1. Canada shall be liable for the debts and liabilities of British Columbia existing at the time of the Union.
2. British Columbia not having incurred debts equal to those of the 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 five per cent. per annum

on the difference between the actual amount of its indebtedness at the date of the Union, and the indebtedness per head of the population of Nova Scotia and New Brunswick (27.77 dollars), the population of British Columbia being taken at 60,000.

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.

4. The Dominion will provide an efficient mail service, fortnightly, by steam communication between Victoria and San Francisco, and twice a week between Victoria and Olympia; the vessels to be adapted for the conveyance of freight and passengers

5. Canada will assume and defray the charges for the following services:--

- A. Salary of the Lieutenant-Governor;
- B. Salaries and allowances of the Judges of the Superior Courts and the County or District Courts;
- C. The charges in respect to the Department of Customs;
- D. The Postal and Telegraphic Services;
- E. Protection and Encouragement of Fisheries;
- F. Provision for the Militia;
- G. Lighthouses, Buoys, and Beacons, Shipwrecked Crews, Quarantine and Marine Hospitals, including a Marine Hospital at Victoria;
- H. The Geological Survey;
- I. The Penitentiary;

And such further charges as may be incident to and connected with the services which by the "British North America Act of 1867" appertain to the General Government, and as are or may be allowed to the other Provinces.

6. Suitable pensions, such as shall be approved of by Her Majesty's Government, shall be provided by the Government of the Dominion for those of Her Majesty's servants in the Colony whose position and emoluments derived therefrom would be affected by political changes on the admission of British Columbia into the Dominion of Canada.

7. It is agreed that the existing Customs tariff and Excise duties shall continue in force in British Columbia until the railway from the Pacific coast and the system of railways in Canada are connected, unless the Legislature of British Columbia should sooner decide to accept the Tariff and Excise Laws of Canada. When Customs and Excise duties are, at the time of the union of British Columbia with Canada, leviable on any goods, wares, or merchandizes in British Columbia, or in the other Provinces of the Dominion, those goods, wares, and merchandizes may, from and after the Union, be imported into British

Columbia from the Provinces now composing the Dominion, or into either of those Provinces from British Columbia, on proof of payment of the Customs or Excise duties leviable thereon in the Province of exportation, and on payment of such further amount (if any) of Customs or Excise duties as are leviable thereon in the Province of importation. This arrangement to have no force or effect after the assimilation of the Tariff and Excise duties of British Columbia with those of the Dominion.

8. British Columbia shall be entitled to be represented in the Senate by three members, and by six members in the House of Commons. The representation to be increased under the provisions of the "British North America Act, 1867"

9. The influence of the Dominion Government will be used to secure the continued maintenance of the naval station at Esquimalt.

10. The provisions of the "British North America Act, 1867" shall (except those parts thereof which are in terms made, or by reasonable intendment may be held to be specially applicable to and only affect one and not the whole of the Provinces now comprising the Dominion, and except so far as the same may be varied by this Minute) be applicable to British Columbia in the same way and to the like extent as they apply to the other Provinces of the Dominion, and as if the colony of British Columbia had been one of the Provinces originally united by the said Act.

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 railway within ten years from the date of the Union.

And the Government of British Columbia agrees to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in 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 said line, as may be appropriated for the same purpose by the Dominion Government from the public lands in the northwest territories and the Province of Manitoba. Provided that the quantity of land 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 preemptor 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.

12. The Dominion Government shall guarantee the interest for ten years from the date of the completion of the works, at the rate of five per centum per annum, on such sum, not exceeding £100.000 sterling, as may be required for the construction of a first class graving dock at Esquimalt.

13. The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union.

To carry out such policy, tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose, shall from time to time be conveyed by the Local Government to the Dominion Government in trust for the use and benefit of the Indians on application of the Dominion Government; and in case of disagreement between the two Governments respecting the quantity of such tracts of land to be so granted, the matter shall be referred for the decision of the Secretary of State for the Colonies.

14. The Constitution of the Executive Authority and Or the Legislature of British Columbia shall, subject to the provisions of "The British North America Act, 1867", continue as existing at the time of the 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 Governor 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.

The Union shall take effect according to the foregoing terms and conditions on such day as Her Majesty by and with the advice of Her Most Honourable Privy Council may appoint (on addresses from the Legislature of the Colony of British Columbia and of the Houses of Parliament of Canada in the terms of the 146th section of "The British North America Act, 1867" and British Columbia may in its address specify the electoral districts for which the first election of members to serve in the House of Commons shall take place.

That such terms have proved generally acceptable to the people of this Colony.

That this Council is, therefore, willing to enter into Union with the Dominion of Canada upon such terms, and humbly submit that, under the circumstances, it is expedient that the admission of this Colony into such Union, as aforesaid, should be affected at as early a date as may be found practicable under the provisions of the 146th section of "The British North America Act, 1867"

We, therefore, humbly pray that Your Majesty will be graciously pleased, by and with the advice of Your Majesty's Most Honourable Privy Council, under the provisions of the 146th section of "The British North America Act, 1867" to admit British Columbia into the Union or Dominion of Canada, on the basis of the terms and conditions offered to this Colony by the Government of the Dominion of Canada, hereinbefore set forth; and inasmuch as by the said terms British Columbia is empowered in its address to specify the electoral districts for which the first election of members to serve in the House of Commons shall take place, we humbly pray that such electoral districts may be declared, under the Order in Council, to be as follows:--

That "New Westminster District," and the "Coast District", as defined in a public notice issued from the Lands and Works Office on the 15th day of December, 1869, by the desire of the Governor, and purporting to be in accordance with the provisions of the 39th clause of the "Mineral Ordinance, 1869," shall constitute one district, to be designated "New Westminster District," and return one member.

That "Caribou District," and "Lillooet District," as specified in the said public notice shall constitute one district, to be designated "Caribou District," and return one Member.

That "Yale District," and "Kootenay District," as specified in the said public notice, shall constitute one district, to be designated "Yale District," and return one Member.

That those portions of Vancouver Island known as "Victoria District," "Esquimalt District," and "Metchosin District," as defined in the official maps of those districts in the Land Office, Victoria, and which maps are designated respectively, "Victoria District Official Map, 1858," "Esquimalt District Official Map, 1858," and "Metchosin District Official Map, 1858." shall constitute one district. to be designated "Victoria District," and return two Members.

And that all the remainder of Vancouver Island and all such islands adjacent thereto as were formerly dependencies of the late colony of Vancouver Island District shall constitute one district, to be designated "Vancouver Island District," and return one Member.

We further humbly represent that the proposed terms and conditions of Union of British Columbia with Canada, as stated in the said Address, are in conformity with those preliminarily agreed upon between delegates from British Columbia and the Members of the Government of the Dominion of Canada, and embodied in a Report of a Committee of the Privy Council approved by His Excellency the Governor-General in Council on the 1st July, 1870, which approved Report is as follows:--

Copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council, on the 1st of July, 1870.

The Committee of the Privy Council have had under consideration a Despatch, dated the 7th May, 1870, from the Governor of British Columbia, together with certain

resolutions submitted by the Government of that colony to the Legislative Council thereof--both hereunto annexed--on the subject of the proposed union of British Columbia with the Dominion of Canada; and after several interviews between them and the Honourable Messrs. Trutch, Helmcken, and Carrall, the Delegates from British Columbia and full discussion with them of the various questions connected with that important subject, the Committee now respectfully submit for your Excellency's approval the following terms and conditions to form the basis of a political union between British Columbia and the Dominion of Canada

[Here follow the terms of Union as stated supra, in the Address of the Legislative Council of British Columbia]

(Certified) WM. H. LEE,
Clerk Privy Council.

We further humbly represent that we concur in the terms and conditions of Union set forth in the said Address, and approved Report of the Committee of the Privy Council above mentioned; and most respectfully pray that your Majesty will be graciously pleased, by and with the advice of your Majesty's most Honourable Privy Council, under the 146th clause of "The British North America Act, 1867" to unite British Columbia with the Dominion of Canada, on the terms and conditions above set forth.

The Senate, Wednesday, April 5, 1871.

(Signed) JOSEPH CAUCHON, Speaker.

Address of the Commons of Canada

To the Queen's Most Excellent Majesty

Most Gracious Sovereign,

We, your Majesty's most dutiful and loyal subjects, the Commons of Canadian Parliament assembled, humbly approach your Majesty for the purpose of representing:--

[The balance of the Address is identical inform with the Address of the Senate and is omitted for that reason.]

JAMES COCKBURN, Speaker.

House of Commons,

Saturday, 1st April, 1871.

Address of the Legislative Council of British Columbia

To the Queen's Most Excellent Majesty

Most Gracious Sovereign,

We, your Majesty's most dutiful and loyal subjects, the Members of the Legislative Council of British Columbia in Council assembled, humbly approach your Majesty for the purpose of representing:--

[The balance of the Address is set forth at length in the Address of the Senate.]

(Signed) PHILIP J. HANKIN, Speaker.