

# John Alexander Macdonald's Efforts to Legislate the Canadian Act of Confederation During the Quebec Convention of 1864.

By

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# Abstract

John Alexander Macdnald is one of the most controversial political figures and still arouses great controversy, as Maconald was not only the first Prime Minister of Canada after the formation of the Canadian Federation in 1867, but he had an important role in formulating many of the early policies and legislation of Canada that are still in effect until Today, he has played a pivotal role in the formation, consolidation and expansion of the Canadian Confederation. MacDonald has been venerated as "the man who made Canada" after dominating Canadian politics for nearly four decades. Charlottetown, which marked the beginning of a series of conferences that were held later, and MacDonald had a pivotal role during the Quebec Conference, during which he worked to promote the project of establishing a federation for all British North America by proposing most of the British North American law legislation, and he was considered one of the most prominent fathers of the Canadian Confederation.

Keywords: Canada, John Alexander Macdonald, Quebec

# Introduction

The study of political personalities comes as an important part in the record of recent studies, and based on that vision, our research attempt came, in which we sought to search for a part of the Canadian historical formation, represented by examining the type of men who ruled the country and the extent to which they had exceptional self-abilities that contributed in one way or another to the progress of that country. Therefore, we put the lens of research and analysis on one of the most important personalities that ruled Canada for a deeper understanding of that complex part of Canadian history over which historians disagreed whether he was the "great man" or the "great villain", and talking here about "John Alexander MacDonald's efforts to legislate the Law of the Union Al-Kindi and pushed the provinces to join him during the Quebec Conference in 1864", through which we tried to find out the role of MacDonald in proposing many bills, and we concluded the research with a set of conclusions that we reached according to the texts and facts we presented.

MacDonald's efforts to legislate the Canadian Act of Confederation during the Quebec Convention of 1864

By the sixth decade of the nineteenth century, the Province of Canada enjoyed a period of great prosperity in the field of work of railway and telegraph companies and opened up prospects for communication between Canada East and Canada West <sup>(1)</sup>, one of the biographers described it as a stage: "In short, Canadians began to transform into one society." However, difficulties continued to face the new administrations. At that time, the administration of the provincial government became increasingly difficult, especially with every law affecting the two Canadians requiring a double majority. (Double Majority) <sup>(2)</sup>. That is, obtaining the votes of the majority of legislators from both sections of the two provinces. Therefore, the logic required that the proposed law be of interest to the two provinces. If this were not achieved, the representatives of this or that province, which created a state of political stalemate, would reject the law. It seemed clear that continuing to rule Canada under the terms of the Act of Confederation of 1840 became impractical. Government officials felt the need for change and began contemplating a plan to create a confederation of British North America <sup>(3)</sup>.

The satisfactory results achieved by the Canadians were in the Charlottetown Conference held in Charlottetown, Prince Edward Island for representatives from the British North American colonies to discuss Canadian Confederation, as the conference took place from 1 to 9 September 1864, as the conference was planned as a meeting of representatives from the Atlantic colonies (Nova Scotia, New Brunswick, and Prince Edward Island, had made it imperative for them to work to consolidate these results by expediting the holding of another conference in Quebec City, where they agreed to hold it with the governors of the Atlantic provinces, before their return from the Charlottetown conference, and as soon as the Canadian delegation arrived in Quebec, Preparations for that conference began, and by September 22, 1864, MacDonald sent a letter to Governor-General Charles Monck asking him to agree to appoint delegates from the three Atlantic provinces, in addition to the Newfoundland Colony <sup>(4)</sup>, Which was not represented at the Charlottetown conference, then MacDonald informed Charles Tapper, Prime Minister of Nova Scotia, that the official invitations to hold the Quebec conference had been sent, and the Province of Canada sent its own ship (Queen Victoria), to transport the delegates to Quebec and most of them were present at the Charlotte conference Town <sup>(5)</sup>.

The delegations arrived on October 8, 1864 in Quebec, and Newfoundland sent two people as observers, Frederic Carter <sup>(6)</sup>, Shea Ambrose <sup>(7)</sup>, In addition to the representatives of the Province of Canada, the most important representatives of Eastern Canada were the coprime minister Etienne Paschal-Atashi who presided over the conference, and Georges-Etienne Cartier, while Upper Canada was represented by John A. MacDonald Co-Prime Minister, and George Brown plus all members of the Executive Council (Cabinet members) <sup>(8)</sup>. The Itachi-McDonald government worked on preparing bills and organizing the daily agenda for the conference. The purpose of the Quebec conference was to simplify reaching an agreement. The delegates worked out many bills, what order and government would be like under the federation, and how powers would be shared among the provinces and central government <sup>(9)</sup>.

The Quebec Conference was held on the morning of October 10, 1864, in the Legislative Assembly building on the St. Lawrence River. The conference opened its first session and the conference president began to welcome the attendees <sup>(10)</sup>, then MacDonald presented the first proposal through a lengthy speech containing key observations, including the union model that could be followed, and between that, saying: "The need to take the British Constitution as a model, as far as circumstances permit in forming the proposed union." In addition, during his speech he was insisting on avoiding the mistakes of the union. The American explained this: "We must avoid the great 'mistake' made by the American founding fathers when they reserved to the different states all the powers that should have been delegated to the central government, and thus left sovereignty to the states instead of the center."<sup>(11)</sup> and MacDonald saw, "Imitating the British model will help connect the provinces with the mother country" MacDonald adhered to the need to follow the British model and believed that it would achieve future prosperity for British North America, and warned against following the American federal model and the civil war that followed. American <sup>(12)</sup>. The main constitutional

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section at the Quebec conference was related to the distribution of powers, and MacDonald raised several questions regarding the form of the system, including: "Should the new state have a strong government or one central government? Or should it be a more cooperative federal system with powers divided between governments?" National and provincial governments? <sup>(13)</sup>, MacDonald called for a dominant central government and expressed this by saying: "Legislative union would be the best. We have always maintained that if we could agree to the existence of one government that legislates for all these peoples, then it will be the best and strongest system of government that we can adopt."<sup>(14)</sup>, but during the continuous discussion of the subject with the desire to reach a satisfactory result for all parties, it was found that the legislative system was impractical, so it did not win the approval of the representatives of Lower Canada, especially Georges-Etienne Cartier, and the naval leaders also feared the dominance of Central Canada, the most populous <sup>(15)</sup>, and MacDonald explained this after a while on the reason for rejecting the legislative union, saying: "When discussing the matter, we found that the legislative union was impractical, in the first place, did not get the consent of the people of Lower Canada, because they felt that their special situation would make them a minority, and language, nationality and religion differ in the majority, and, in the case of a crossroads with other provinces, their institutions and laws may be attacked, as well as the Atlantic provinces, though their people speak the same language and enjoy the same legal system in Upper Canada, a system established by common law in England, yet there was a great difference by the inhabitants of the Atlantic provinces to lose their individuality as separate political organisations, we were therefore compelled to conclude that we must either abandon the idea of union altogether, or devise a federal system in which to some degree separate provincial organizations would be preserved, even those who, like me, were in favor of legislative union, They were forced to modify their views, and to accept the project of federation as the only feasible scheme even for the Atlantic provinces. <sup>(16)</sup>, it seemed clear that conditions in British North America required some kind of federation, and that measure was adopted in the second section of the Quebec conference resolutions <sup>(17)</sup>.

The conference discussed the question of the distribution of powers under the federation and reached the final formula, which was fixed by the conference in the Quebec Resolutions, which stipulated the following: "In the union of the British provinces in North America, the system of government will be most adapted under the present circumstances to protect the diverse interests of the many provinces, and to ensure efficiency and the harmony and permanence of the work of the Federation, a general government, charged with matters of common interest to the whole country; and the local governments of each of Canada, and of the provinces of Nova Scotia, New Brunswick, and Prince Edward Island, charged with the control of local affairs in their departments. Arrangements are being made for the entry of Newfoundland, the Northwest Territory, British Columbia and Vancouver, on equitable terms to the union  $^{(18)}$ , through the federation, the two conferences reached a balance in the division of powers between the central parliament and the regional legislatures, and this would create a federation in which the interests of regions and minorities could be defended, and through which the provinces would have control over education, language, and municipal matters, in addition to other local powers. It was raised as a complementary group, and we will come to talk about it. As for the authority of the federal government, it has control over the currency, international trade, and criminal law, in addition to some common matters such as immigration and taxes  $^{(19)}$ .

As a result of the issue of working according to the federal federation of British North America, it deviated from the British legislative model that had long been favoured by John MacDonald, because he believed that strengthening the powers of the centre at the expense of the provincial government, he did not think that applying British constitutional principles to the special requirements of the type of federal government of British North America The special requirements of the type of federal government for British North America might create new problems for him, and he did not realize that, in adopting federation, he had to make amendments to other bills to be more consonant with the federation <sup>(20)</sup>, these problems reached

their climax when discussing the formation of the Federal Legislative Council (the Senate), and due to the importance of that body, they suggested the necessity of obtaining a royal qualification that would allow him to obtain a seat in the Legislative Council. At least four thousand dollars, excluding Prince Edward Island and Newfoundland from real estate ownership. As for the appointment of members of the Legislative Assembly, they reached an agreement that they were appointed for life by the British crown with a local recommendation <sup>(21)</sup>, and as stated in the twelfth clause of the resolutions of the Quebec Conference: "Members of the Legislative Council shall be British subjects by birth or naturalization, and shall be thirty years of age, and shall possess a continuous property ownership qualification of four thousand dollars above all offices, and shall to be and to continue in that amount on top of their debts and liabilities but in the case of Newfoundland and Prince Edward Island the property may be either real or personal." <sup>(22)</sup>, the part that caused much controversy within the Quebec Convention was the numerical distribution of the members of the Legislative Assembly <sup>(23)</sup>.

The delegates to the Quebec Convention, especially those from Prince Edward Island, looked to the Legislative Assembly as the federal body responsible for protecting the rights of the provinces, and believed that political equilibrium would be achieved through it.<sup>(24)</sup> However, the Canadians were aware of the fact that the number of members of the Atlantic provinces combined in the Federal Assembly would greatly outnumber them, so they proposed dividing British North America into three sections, and giving each section an equal number of representation in the Legislative Assembly. The other section is Lower Canada, while the other four provinces (New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland) deal as one section, and each section has twenty-four members represented in the Legislative Assembly.<sup>(25)</sup>, the final text of the resolution included the following: "For the purpose of forming the Legislative Council, the Unified Provinces shall be deemed to be made up of three divisions: Upper Canada I, Lower Canada II, Nova Scotia III, New Brunswick and Prince Edward Island. Each division shall have equal representation in the Legislative Council."<sup>(26)</sup> prince Edward Island representatives argued that each county should have an equal number of representation, since each county would give up the same amount of local self-government, and since representation in the House of Representatives would be on the basis of population, the smaller counties should be represented equally in the Legislative Assembly, for it will be the guardian of their rights and privileges (27), Therefore, they objected to MacDonald's proposal, describing it as "unacceptable." Prince Edward Island's opposition was based on what is called "sectoral equality," and because the proposal gave each section twenty-four members, this means that Canadians will be represented by forty-eight members in the Legislative Assembly, compared to twenty-four members for the provinces. The other combined, that matter does not achieve sectoral equality, so they demanded a greater representation that is close to the number of members of the Province of Canada, MacDonald tried to bring the views closer to reach satisfactory solutions for all, and the discussion continued on that issue until October 17, 1864, but to no avail.<sup>(28)</sup>.

MacDonald then proposed a compromise to reach an agreement, which stipulated that Newfoundland be removed from the list of provinces that make up the third section, and it was granted four additional seats in the Legislative Assembly in its own capacity. The final solution stipulated the following: "Upper Canada will be represented in the Legislative Council by 24 members Lower Canada with 24 members, the three Atlantic provinces with 24 members, including Nova Scotia with 10 members, New Brunswick with 10, and Prince Edward Island with 4 members.<sup>(29)</sup> The Newfoundland Resolution stated: "The Colony of Newfoundland shall be entitled to enter the proposed Federation, with representation in the Legislative Council of 4 members."<sup>(30)</sup>, However, that solution did not satisfy all the delegates, as the delegates opposed Prince Edward Island and voted against it, because when dividing the seats of the third section between the three provinces, New Brunswick will get ten seats, while Nova Scotia will get ten seats as well, and the share of Prince Edward Island will be only four seats. , on the basis that this distribution is proportional to the numerical compatibility between the three

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provinces <sup>(31)</sup>, this was considered very bad for Prince Edward Island, which began to complain about MacDonald's proposals, and also objected to the decision proposed by the latter, which provided for the appointment of members of the Legislative Assembly by the government of the Crown and the Great Seal of the General Government, and justified their objection that the Legislative Assembly works As an advocate of territorial rights, not to mention the rights of the provinces, they demanded instead that the members of the Federal Legislative Assembly (the upper house) be chosen by the provincial legislature. <sup>(32)</sup>, MacDonald adopted the last proposal and stipulated that all political parties should be fairly represented, and it was approved on October 19, 1864, and the text of the resolution came: "The first choice of members of the legislature, except as pertaining to Prince Edward Island, shall be made from the legislatures of the various provinces, so long as A sufficient number have been found qualified and ready to serve; such members shall be appointed by the Crown on the recommendation of the executive-general, on the nomination of the local governments concerned, and in such nomination shall account be given to the claims of the members of the opposition legislature in each county, so that all may be represented political parties as fairly as possible." <sup>(33)</sup>, MacDonald was aware of the fact that giving the powers to select members of the Legislative Assembly based on the nomination of local governments would lead to political party competition and would generate another problem, so he stipulated that all political parties should be equally represented within the Legislative Assembly <sup>(34)</sup>.

The conference moved on to discuss another project, which is a proposed resolution for representation in the Federal House of Commons. MacDonald suggested that representation in the Federal House of Commons be based on population, and the number of members at the beginning would be 194 members distributed as follows: 82 members for Upper Canada, and 65 members for Lower Canada. 19 for Nova Scotia, 15 for New Brunswick, 8 for Newfoundland and 5 for Prince Edward Island<sup>(35)</sup>, the draft resolution was met with opposition by the representatives of Prince Edward Island as well, and they were not satisfied with obtaining 5 seats out of 194 seats, and they felt that they were wronged in representation in the Legislative Assembly, and they demanded the addition of at least one more seat in the House of Commons. <sup>(36)</sup>. However, their demand was rejected, especially by George Brown, who was determined that representation should be based on population <sup>(37)</sup>, and MacDonald insisted on avoiding any problems that might arise in the formation of the House of Commons in the future, by developing radical solutions and taking into account the ratio and the principle of representation by the population in the event of an increase in the number of the population in the future, as evidenced by the population census that takes place every ten years. The draft resolution came as follows: The basis of representation in the House of Commons shall be the population, as determined by the official census every ten years. The number of members at the beginning shall be 194, distributed as follows: Upper Canada 82, Lower Canada 65, Nova Scotia 19, New Brunswick 15, Newfoundland 8, Prince Edward Island 5" <sup>(38)</sup>, and he stressed that these percentages cannot be changed except after ten years, and as indicated in the text of the decision: "Until the official census of 1871 is conducted, there will be no change in the number of deputies from several sections, immediately after the completion of the population census of 1871, and immediately after each Decimal census Thereafter, the representation of each section of the House of Commons shall be readjusted on the basis of population <sup>(39)</sup>, McDonald succeeded in passing the draft resolution forming the Federal House of Commons after the approval of the provinces of Nova Scotia and New Brunswick<sup>(40)</sup>.

After the rejection of their demand, the delegates of Prince Edward Island adhered to the position of permanent opposition within the conference, and they objected to most of the proposals for subsequent laws <sup>(41)</sup>, after the conference neared the end of its second week, the opportunity to establish a comprehensive British federation in North America was slowly progressing, because the delegation of the province of Newfoundland did not participate in an actual and formal legal manner, because the present delegation were observers and did not obtain official authorization at the time, because the Governor-General was At the time of the

delegation's departure, its mission had ended and it had left for Britain, and the new ruler had not yet arrived, and that the process of selecting delegates and preparing their credentials was carried out by the colonial secretary, and although they attended the conference from the first day, they did not have an official status until the 17th. October 1864, when the new ruler signed their credentials <sup>(42)</sup>, so he did not count on her much to join the federation <sup>(43)</sup>, and Prince Edward Island is also one that turned into a state of negative opposition, after which they realized that it would remain far from the union, but that matter did not fail the union plan for the presence of the main important Atlantic provinces, namely Nova Scotia and New Brunswick, which agreed to the compromise proposed by MacDonald regarding the Legislative Assembly, And they supported the Province of Canada in the controversy which took place concerning representation on the basis of population in the House of Commons chiefly and as MacDonald wanted, yet the division of the legislative powers and the settlement of the principal principles of union which was considered the most important part of the cause of union <sup>(44)</sup>.

The conference discussed a complementary set of decisions regarding the powers of the local legislatures, and during the discussion, the Prince Edward Island delegation tried to confuse the conference's procedures and demanded, "The local legislature have the power to issue all the laws that this conference did not grant to the legislature."<sup>(45)</sup>, considering that one of the most serious matters that oppose the MacDonald principle regarding not granting great powers to the regional governments at the expense of the central government, the latter saw that his sacred principle was in danger, and late in the evening of October 26, 1864, MacDonald got up to respond and was very serious and she was there Signs of fury and extreme violence in his expressions he said before the conference: "To grant complementary powers to local legislatures would be to adopt the worst error in the American Constitution and to introduce a source of radical weakness into the new Constitution of British North America, and categorically declare that It will ruin us in the eyes of the civilized world."<sup>(46)</sup>, MacDonald succeeded in the end, and no delegation voted against MacDonald's principle, not even the Prince Edward Island delegation, and that was a great victory for him in the conference <sup>(47)</sup>.

The process of building up the judicial system was proceeding smoothly during the convention, perhaps because MacDonald, who had served for a term as Attorney General in Upper Canada, was an expert in that field, and on his proposal that all judges except those appointed by the municipality be appointed by the Governor-General in Council Their salaries are also paid by the general government <sup>(48)</sup>, while the enactment of all criminal laws and the regulation of proceedings in criminal cases was the prerogative of the federal legislature; While the formation, maintenance, and organization of courts of civil and criminal jurisdiction, including the regulation of procedures in civil cases, was the prerogative of regional governments, the federal government was, however, supposed to have the power to establish other special courts including the Supreme Court <sup>(49)</sup>.

After the conference was nearing its end, MacDonald was preoccupied with the delicate problems of unifying the common law with eastern Canada and its completely different legal traditions, but he was able to settle that problem easily without any disagreement by agreeing on the following resolution proposal: "Until the laws of Upper Canada and New York are unified." Brunswick, Nova Scotia, Newfoundland, and Prince Edward Island, the judges of these provinces appointed by the Government at-large shall be chosen from among their deputies', except for Lower Canada, whose proposal states: 'Judges of the Courts of Lower Canada shall be chosen from the Bar of Lower Canada' <sup>(50)</sup>, went, along with the right to maintain the civil law in Lower Canada, the right to use the French language in the courts as well as in the legislature of Lower Canada, as well as in the General Parliament remarkably silent, they said nothing but support for the ideas MacDonald put forward at the time <sup>(51)</sup>.

After the settlement of judicial questions, the conference moved on to the financial arrangements proposed and advocated by Alexander Galt, which were based on two basic principles. The first was that, on the completion of the union, the general government would at

once take over the general debts of all the provinces up to a certain ceiling, calculated based on the average per capita debt of the provinces. According to that calculation, Canada would have an allowable joint debt of \$62.5 million, Nova Scotia \$8 million, and New Brunswick \$7 million, if the public debt of any province at the time of Confederation fell below the permissible limit, as is certainly the case in the case of Prince Edward Island and Newfoundland, the central government will pay the province 5% interest on the difference <sup>(52)</sup>, while Galt's second principle was that, in order to meet its financial obligations, the federal government would not only take over the bank balances of the provinces and all public property such as military installations and railroad property; but it shall also have the exclusive right to collect indirect taxes, such as customs and excise duties, which have hitherto supplied most of their revenue for the Atlantic provinces, and the general government undertakes to give each province an annual grant of eighty cents to each of its inhabitants, as the delegates have agreed, however, the new federal government would help finance and finish the construction of the anticolonial railway, and finally Gallet could settle all other financial issues with the rest of the provinces without much trouble <sup>(53)</sup>.

The conference drew to a close, and on the afternoon of October 27, 1864, the delegates met to ratify the decisions of the conference. All the provinces agreed except Prince Edward Island, and there were ambitious plans for the delegates that the union would not be limited to the existing provinces, but would include all of British North America, so during the last hours he announced Conference on contacts with the Northwest Territory, for the development of its trade with the coast, and considered it one of the subjects of the utmost importance for the united provinces, and they agreed to approach it as soon as possible that the financial condition of the new federation would permit <sup>(54)</sup>, and the agreement stipulated that British Columbia and Vancouver Island, as well as the Northwest, must be accepted into the union on terms acceptable to all parties, amid a flurry of discussions the conference actually ended <sup>(55)</sup>. The delegates introduced on October 27, 1864, seventy-two resolutions, which were adopted by a majority of the provinces, and became the basis of the Canadian constitution, and the proceedings of the conference were to be ratified by the signatures of the delegates, and each delegation submitted them to his government, and the president was empowered to present a copy to the governor-general for transmission to the secretary of state for colonies <sup>(56)</sup>, these resolutions, later known as the Quebec Resolutions and also known as the Seventv-Two Resolutions, were penned by John A. MacDonald passed 50 of them, and was one of the few delegates who had received legal and constitutional training. "I have no help," said MacDonald to Sir James Gowan. or bad in the constitution is mine" <sup>(57)</sup>, the decisions of the Quebec Conference represented the first structure of the Canadian constitution and represented the basis on which the British North America law was based, which quoted all its decisions and made only minor amendments and additions, those decisions, most of which were drafted by John MacDonald, who was known as (the engineer of the Canadian Federation), and his efforts did not end there. Rather, he had to complete his federal project by obtaining the legislation of the British North American Union Act and making great political efforts for that.

### Conclusion

It seems that the political difficulties experienced by the province of Canada during the forties and fifties of the nineteenth century, and the political chaos marred by partisan differences, made MacDonald think of the need for change, and the implementation of a plan to create a confederation for British North America. The decisions of the Quebec Conference represented the first structure of the Canadian constitution and represented The basis on which the British North America Act was based, which quoted all its decisions and made only minor amendments and additions, those decisions, most of which were formulated by John McDonald, who was known as (the engineer of the Canadian Federation).

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- Newfoundland Colony: It was an English colony, established in the year 1610 on an Island of the same name on the Atlantic coast of Canada, and after a series of first colonial campaigns, the royal colony was established in 1854 under the rule of the British Empire in 1907, American forces occupied a large part of the colony in World War II and prosperity returned to it, the colony voted in 1949 in favor of joining Canada as the province of Newfoundland, to officially change its name in 2001 and become Newfoundland and Labrador, for more see: Joseph Hatton and Moses Harery, Newfound: The oldest British colony, University of Michigan, Librarie, 1817.
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