

DEBATE ON RESOLUTIONS

RELATIVE TO

REPEAL OF THE "BRITISH NORTH AMERICA ACT,"

IN THE

HOUSE OF ASSEMBLY OF NOVA SCOTIA,

SESSION 1868.

Hon. Mr. WILKINS, Attorney General, moved the following Resolutions on the subject of Confederation, in the House of Assembly, on the 5th February:—

"That the members of the Legislative Assembly of this Province, elected in 1862 simply to legislate under the Colonial Constitution, had no authority to make or consent to any material change of such Constitution, without first submitting the same to the people at the polls

"That the resolution of the 10th April, which preceded the enactment of the British North America Act, is as follows

"Whereas in the opinion of this House it is desirable that a Confederation of the British North American Provinces should take place

"Resolved therefore, That His Excellency the Lieutenant Governor be authorized to appoint Delegates to arrange with the Imperial Government a scheme of Union which will effectually ensure just provision for the rights and interests of this Province, each Province to have an equal voice in such delegation, Upper and Lower Canada being for this purpose considered as separate Provinces

"This was the only authority possessed by the Delegates who procured the enactment of the Act for the Union of Canada, Nova Scotia and New Brunswick

"That even if the House of Assembly had the constitutional power to authorize such delegation, which is by no means admitted, the foregoing resolution did not empower the Delegates to arrange a Federal Union of Canada, Nova Scotia and New Brunswick, without including in such Confederation the Colonies of Newfoundland and Prince Edward Island.

"That no delegates from the two last named Colonies having attended, and an unequal number from each of the others being present, the delegation was not legally constituted, and had no authority to act under the said Resolution, which expressly required each of the Colonies to be represented by an equal number of delegates

"That the delegates did not ensure just provision for the rights and interests of this Province, as they were by the express terms of such Resolution bound to do in arranging a scheme of Union, but on the contrary they entirely disregarded those rights and interests, and the scheme by them consented to would if finally confirmed, deprive the people of this Province of their rights, liberty, and independence, rob them of their revenues, take from them the regulation of their trade, commerce and taxes, the management

of their railroads and other public property, expose them to arbitrary and excessive taxation by a Legislature over which they can have no adequate control, and reduce this free, happy and self-governed Province to the degraded condition of a dependency of Canada.

"That no fundamental or material change of the Constitution of the Province can be made in any other constitutional manner than by a statute of the Legislature, sanctioned by the people, after the subject matter of the same has been referred to them at the polls, the Legislature of a colonial dependency having no power or authority implied from their relation to the people as their legislative representatives to overthrow the Constitution under which they were elected and appointed.

"That the scheme of confederating Canada, New Brunswick and Nova Scotia was never submitted to the people of this Province at the polls before the 18th day of September last, upwards of two and a half months after the British North America Act was, by the Queen's Proclamation, declared to be in force, when the people were thereby informed that they had been subjected without their consent to the absolute dominion of more populous and more powerful colonies, and had lost their liberty.

"That there being no statute of the Provincial Legislature confirming or ratifying the British North America Act, and the same never having been consented to, or authorized by the people at the Polls, nor the consent of this Province in any other manner, the preamble of the act reciting that this Province had expressed a desire to be confederated with Canada and New Brunswick is untrue, and when the Queen and the Imperial Legislature were led to believe that this Province had expressed such a desire a fraud and imposition were practised upon them.

"That the truth of the Preamble of the British North America Act, reciting the desire of Nova Scotia to be confederated is essential to the constitutionality of the Statute, and if the same is false the Statute is defective, because a Statute cannot be rendered constitutional by assuming as true the condition which is indispensable to its constitutionality.

"That from the time the scheme of Confederation was first devised in Canada until it was consummated by the Imperial Act in London, it was systematically