



British North America Act 1867

1867 CHAPTER 3

V.—PROVINCIAL CONSTITUTIONS

Executive Power

58 Appointment of Lieutenant Governors of Provinces.

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

59 Tenure of Office of Lieutenant Governor.

A Lieutenant Governor shall hold Office during the Pleasure of the Governor General; but any Lieutenant Governor appointed after the Commencement of the First Session of the Parliament of *Canada* shall not be removeable within Five Years from his Appointment, except for Cause assigned, which shall be communicated to him in Writing within One Month after the Order for his Removal is made, and shall be communicated by Message to the Senate and to the House of Commons within One Week thereafter if the Parliament is then sitting, and if not then within One Week after the Commencement of the next Session of the Parliament.

60 Salaries of Lieutenant Governors.

The Salaries of the Lieutenant Governors shall be fixed and provided by the Parliament of *Canada*.

61 Oaths, &c. of Lieutenant Governor.

Every Lieutenant Governor shall, before assuming the Duties of his Office, make and subscribe before the Governor General or some Person authorized by him Oaths of Allegiance and Office similar to those taken by the Governor General.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

62 Application of Provisions inferring to Lieutenant Governor.

The Provisions of this Act referring to the Lieutenant Governor extend and apply to the Lieutenant Governor for the Time being of each Province, or other the Chief Executive Officer or Administrator for the Time being carrying on the Government of the Province, by whatever Title he is designated.

63 Appointment of Executive Officers for Ontario and Quebec.

The Executive Council of *Ontario* and of *Quebec* shall be composed of such Persons as the Lieutenant Governor from Time to Time thinks fit, and in the first instance of the following Officers, namely,—the Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, with in *Quebec* the Speaker of the Legislative Council and the Solicitor General.

64 Executive Government of Nova Scotia and New Brunswick.

The Constitution of the Executive Authority in each of the Provinces of *Nova Scotia* and *New Brunswick* shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act.

65 Powers to be exercised by Lieutenant Governor of Ontario or Quebec with Advice, or alone.

All Powers, Authorities, and Functions which under any Act of the Parliament of *Great Britain*, or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*, or of the Legislature of *Upper Canada*, *Lower Canada*, or *Canada*, were or are before or at the Union vested in or exerciseable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice or with the Advice and Consent of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same are capable of being exercised after the Union in relation to the Government of *Ontario* and *Quebec* respectively, be vested in and shall or may be exercised by the Lieutenant Governor of *Ontario* and *Quebec* respectively, with the Advice or with the Advice and Consent of or in conjunction with the respective Executive Councils, or any Members thereof, or by the Lieutenant Governor individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of *Great Britain*, or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*,) to be abolished or altered by the respective Legislatures of *Ontario* and *Quebec*.

66 Application of Provisions referring to Lieutenant Governor in Council,

The Provisions of this Act referring to the Lieutenant Governor in Council shall be construed as referring to the Lieutenant Governor of the Province acting by and with the Advice of the Executive Council thereof.

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67 Administration in Absence, &c. of Lieutenant Governor.

The Governor General in Council may from Time to Time appoint an Administrator to execute the Office and Functions of Lieutenant Governor during his Absence, Illness, or other Inability.

68 Seats of Provincial Governments.

Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the Seats of Government of the Provinces shall be as follows, namely,—of *Ontario*, the City of Toronto; of *Quebec*, the City of *Quebec*; of *Nova Scotia*, the City of *Halifax* ; and of *New Brunswick*, the City of Fredericton.

Legislative Power

1.—*ONTARIO*

69 Legislature for Ontario.

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

70 Electoral Districts.

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

2.—*QUEBEC*

71 Legislature for Quebec.

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

72 Constitution of Legislative Council.

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

73 Qualification of Legislative Councillors.

The Qualifications of the Legislative Councillors of *Quebec* shall be the same as those of the Senators for *Quebec*.

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74 Resignation, Disqualification, &c.

The Place of a Legislative Councillor of *Quebec* shall become vacant in the Cases, mutatis mutandis, in which the Place of Senator becomes vacant.

75 Vacancies.

When a Vacancy happens in the Legislative Council of *Quebec* by Resignation, Death, or otherwise, the Lieutenant Governor, in the Queen's Name, by Instrument under the Great Seal of *Quebec*, shall appoint a fit and qualified Person to fill the Vacancy.

76 Questions as to Vacancies, &c.

If any Question arises respecting the Qualification of a Legislative Councillor of *Quebec*, or a Vacancy in the Legislative Council of *Quebec*, the same shall be heard and determined by the Legislative Council.

77 Speaker of Legislative Council.

The Lieutenant Governor may from Time to Time, by Instrument under the Great Seal of *Quebec*, appoint a Member of the Legislative Council of *Quebec* to be Speaker thereof, and may remove him and appoint another in his Stead.

78 Quorum of Legislative Council.

Until the Legislature of *Quebec* otherwise provides, the Presence of at least Ten Members of the Legislative Council, including the Speaker, shall be necessary to constitute a Meeting for the Exercise of its Powers.

79 Voting in Legislative Council.

Questions arising in the Legislative Council of *Quebec* shall be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote; and when the Voices are equal the Decision shall be deemed to be in the Negative.

80 Constitution of Legislative Assembly of Quebec.

The Legislative Assembly of *Quebec* shall be composed of Sixty-five Members, to be elected to represent the Sixty-five Electoral Divisions or Districts of *Lower Canada* in this Act referred to, subject to Alteration thereof by the Legislature of *Quebec*: Provided that it shall not be lawful to present to the Lieutenant Governor of *Quebec* for Assent any Bill for altering the Limits of any of the Electoral Divisions or Districts mentioned in the Second Schedule to this Act, unless the Second and Third Readings of such Bill have been passed in the Legislative Assembly with the Concurrence of the Majority of the Members representing all those Electoral Divisions or Districts, and the Assent shall not be given to such Bill unless an Address has been presented by the Legislative Assembly to the Lieutenant Governor stating that it has been so passed.

3.—*ONTARIO and QUEBEC*

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

81 First Session of Legislatures.

The Legislatures of *Ontario* and *Quebec* respectively shall be called together not later than Six Months after the Union.

82 Summoning of Legislative Assemblies.

The Lieutenant Governor of *Ontario* and of *Quebec* shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province.

83 Restriction on Election of Holders of Offices.

Until the Legislature of *Ontario* or of *Quebec* otherwise provides, a Person accepting or holding in *Ontario* or in *Quebec* any Office, Commission, or Employment, permanent or temporary, at the Nomination of the Lieutenant Governor, to which an annual Salary, or any Fee, Allowance, Emolument, or Profit of any Kind or Amount whatever from the Province is attached, shall not be eligible as a Member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this Section shall make ineligible any Person being a Member of the Executive Council of the respective Province, or holding any of the following Offices, that is to say, the Offices of Attorney General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, and Commissioner of Agriculture and Public Works, and in *Quebec* Solicitor General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such Office.

84 Continuance of existing Election Laws.

Until the Legislatures of *Ontario* and *Quebec* respectively otherwise provide, all Laws which at the Union are in force in those Provinces respectively, relative to the following Matters, or any of them, namely,—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the Assembly of *Canada*, the Qualifications or Disqualifications of Voters, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which such Elections may be continued, and the Trial of controverted Elections and the Proceedings incident thereto, the vacating of the Seats of Members and the issuing and execution of new Writs in case of Seats vacated otherwise than by Dissolution,—shall respectively apply to Elections of Members to serve in the respective Legislative Assemblies of *Ontario* and *Quebec*. Provided that, until the Legislature of *Ontario* otherwise provides, at any Election for a Member of the Legislative Assembly of *Ontario* for the District of *Algoma*, in addition to Persons qualified by the Law of the Province of *Canada* to vote, every Male *British* Subject, aged Twenty-one Years or upwards, being a Householder, shall have a Vote.

85 Duration of Legislative Assemblies.

Every Legislative Assembly of *Ontario* and every Legislative Assembly of *Quebec* shall continue for Four Years from the Day of the Return of the Writs for choosing the same (subject nevertheless to either the Legislative Assembly of *Ontario* or the Legislative Assembly of *Quebec* being sooner dissolved by the Lieutenant Governor of the Province), and no longer.

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86 Yearly Session of Legislature.

There shall be a Session of the Legislature of *Ontario* and of that of *Quebec* once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Legislature in each Province in one Session and its first Sitting in the next Session.

87 Speaker, Quorum, &c.

The following Provisions of this Act respecting the House of Commons of *Canada* shall extend and apply to the Legislative Assemblies of *Ontario* and *Quebec*, that is to say,—the Provisions relating to the Election of a Speaker originally and on Vacancies, the Duties of the Speaker, the Absence of the Speaker, the Quorum, and the Mode of voting, as if those Provisions were here re-enacted and made applicable in Terms to each such Legislative Assembly.

4.—NOVA SCOTIA AND NEW BRUNSWICK

88 Constitutions of Legislatures of Nova Scotia and New Brunswick.

The Constitution of the Legislature of each of the Provinces of *Nova Scotia* and *New Brunswick* shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act; and the House of Assembly of *New Brunswick* existing at the passing of this Act shall, unless sooner dissolved, continue for the Period for which it was elected.

5.—ONTARIO, QUEBEC, AND NOVA SCOTIA.

89 First Elections.

Each of the Lieutenant Governors of *Ontario*, *Quebec*, and *Nova Scotia* shall cause Writs to be issued for the First Election of Members of the Legislative Assembly thereof in such Form and by such Person as he thinks fit, and at such Time and addressed to such Returning Officer as the Governor General directs, and so that the First Election of Member of Assembly for any Electoral District or any Subdivision thereof shall be held at the same Time and at the same Places as the Election for a Member to serve in the House of Commons of *Canada* for that Electoral District.

6.—THE FOUR PROVINCES.

90 Application to Legislatures of Provisions respecting Money Votes.

The following Provisions of this Act respecting the Parliament of *Canada*, namely,—the Provisions relating to Appropriation and Tax Bills, the Recommendation of Money Votes, the Assent to Bills, the Disallowance of Acts, and the Signification of Pleasure on Bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those Provisions were here re-enacted and made applicable in Terms to the respective Provinces and the Legislatures thereof, with the Substitution of the Lieutenant Governor of the Province for the Governor General, of the Governor General for the Queen and for a Secretary of State, of One Year for Two Years, and of the Province for *Canada*.