



British North America Act 1867

1867 CHAPTER 3

IX.—MISCELLANEOUS PROVISIONS

General

127 As to Legislative Councillors of Provinces becoming Senators.

If any Person being at the passing of this Act a Member of the Legislative Council of *Canada*, *Nova Scotia*, or *New Brunswick*, to whom a Place in the Senate is offered, does not within Thirty Days thereafter, by Writing under his Hand, addressed to the Governor General of the Province of *Canada* or to the Lieutenant Governor of *Nova Scotia* or *New Brunswick* (as the Case may be), accept the same, he shall be deemed to have declined the same; and any Person who, being at the passing of this Act a Member of the Legislative Council of *Nova Scotia* or *New Brunswick*, accepts a Place in the Senate, shall thereby vacate his Seat in such Legislative Council.

128 Oath of Allegiance, &c.

Every Member of the Senate or House of Commons of *Canada* shall before taking his Seat therein take and subscribe before the Governor General or some Person authorized by him, and every Member of a Legislative Council or Legislative Assembly of any Province shall before taking his Seat therein take and subscribe before the Lieutenant Governor of the Province or some Person authorized by him, the Oath of Allegiance contained in the Fifth Schedule to this Act; and every Member of the Senate of *Canada* and every Member of the Legislative Council of *Quebec* shall also, before taking his Seat therein, take and subscribe before the Governor General, or some Person authorized by him, the Declaration of Qualification contained in the same Schedule.

129 Continuance of existing Laws, Courts, Officers, &c.

Except as otherwise provided by this Act, all Laws in force in *Canada*, *Nova Scotia*, or *New Brunswick* at the Union, and all Courts of Civil and Criminal Jurisdiction,

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and all legal Commissions, Powers, and Authorities, and all Officers, Judicial, Administrative, and Ministerial, existing therein at the Union, shall continue in *Ontario, Quebec, Nova Scotia, and New Brunswick* respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of *Great Britain* or of the Parliament of the United Kingdom of *Great Britain and Ireland*.) to be repealed, abolished, or altered by the Parliament of *Canada*, or by the Legislature of the respective Province, according to the Authority of the Parliament or of that Legislature under this Act.

130 Transfer of Officers to Canada.

Until the Parliament of *Canada* otherwise provides, all Officers of the several Provinces having Duties to discharge in relation to Matters other than those coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be Officers of *Canada*, and shall continue to discharge the Duties of their respective Offices under the same liabilities, Responsibilities, and Penalties as if the Union had not been made.

131 Appointment of new Officers.

Until the Parliament of *Canada* otherwise provides, the Governor General in Council may from Time to Time appoint such Officers as the Governor General in Council deems necessary or proper for the effectual Execution of this Act.

132 Treaty Obligations.

The Parliament and Government of *Canada* shall have all Powers necessary or proper for performing the Obligations of *Canada* or of any Province thereof, as Part of the *British Empire*, towards Foreign Countries, arising under Treaties between the Empire and such Foreign Countries.

133 Use of English and French Languages.

Either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of *Canada* and of the Houses of the Legislature of *Quebec*; and both those Languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or Process in or issuing from any Court of *Canada* established under this Act, and in or from all or any of the Courts of *Quebec*.

The Acts of the Parliament of *Canada* and of the Legislature of *Quebec* shall be printed and published in both those Languages.

Ontario and Quebec

134 Appointment of Executive Officers for Ontario and Quebec.

Until the Legislature of *Ontario* or of *Quebec* otherwise provides, the Lieutenant Governors of *Ontario* and *Quebec* may each appoint under the Great Seal of the Province the following Officers, to hold Office during Pleasure, that is to say,—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

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and Public Works, and in the Case of *Quebec* the Solicitor General, and may, by Order of the Lieutenant Governor in Council, from Time to Time prescribe the Duties of those Officers, and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof, and may also appoint other and additional Officers to hold Office during Pleasure, and may from Time to Time prescribe the Duties of those Officers, and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof.

135 Powers, Duties, &c. of Executive Officers.

Until the Legislature of *Ontario* or *Quebec* otherwise provides, all Rights, Powers, Duties, Functions, Responsibilities, or Authorities at the passing of this Act vested in or imposed on the Attorney General, Solicitor General, Secretary and Registrar of the Province of *Canada*, Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works, and Minister of Agriculture and Receiver General, by any Law, Statute, or Ordinance of *Upper Canada*, *Lower Canada*, or *Canada*, and not repugnant to this Act, shall be vested in or imposed on any Officer to be appointed by the Lieutenant Governor for the Discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the Duties and Functions of the Office of Minister of Agriculture at the passing of this Act imposed by the Law of the Province of *Canada*, as well as those of the Commissioner of Public Works.

136 Great Seals.

Until altered by the Lieutenant Governor in Council, the Great Seals of *Ontario* and *Quebec* respectively shall be the same, or of the same Design, as those used in the Provinces of *Upper Canada* and *Lower Canada* respectively before their Union as the Province of *Canada*.

137 Construction of temporary Acts.

The Words "and from thence to the End of the then " next ensuing Session of the Legislature," or Words to the same Effect, used in any temporary Act of the Province of *Canada* not expired before the Union, shall be construed to extend and apply to the next Session of the Parliament of *Canada* if the Subject Matter of the Act is within the Powers of the same as defined by this Act, or to the next Sessions of the Legislatures of *Ontario* and *Quebec* respectively if the Subject Matter of the Act is within the Powers of the same as denned by this Act.

138 As to Errors in Names.

From and after the Union the Use of the Words "*Upper Canada*" instead of "*Ontario*," or "*Lower Canada*" instead of "*Quebec*," in any Deed, Writ, Process, Pleading, Document, Matter, or Thing, shall not invalidate the same.

139 As to Issue of Proclamations before Union, to commence after Union.

Any Proclamation under the Great Seal of the Province of *Canada* issued before the Union to take effect at a Time which is subsequent to the Union, whether relating to that Province, or to *Upper Canada*, or to *Lower Canada*, and the several Matters and

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Things therein proclaimed, shall be and continue of like Force and Effect as if the Union had not been made.

140 As to Issue of Proclamations after Union.

Any Proclamation which is authorized by any Act of the Legislature of the Province of *Canada* to be issued under the Great Seal of the Province of *Canada*, whether relating to that Province, or to *Upper Canada*, or to *Lower Canada*, and which is not issued before the Union, may be issued by the Lieutenant Governor of *Ontario* or of *Quebec*, as its Subject Matter requires, under the Great Seal thereof; and from and after the Issue of such Proclamation the same and the several Matters and Things therein proclaimed shall be and continue of the like Force and Effect in *Ontario* or *Quebec* as if the Union had not been made.

141 Penitentiary.

The Penitentiary of the Province of *Canada* shall, until the Parliament of *Canada* otherwise provides, be and continue the Penitentiary of *Ontario* and of *Quebec*.

142 Arbitration respecting Debts, &c.

The Division and Adjustment of the Debts, Credits, Liabilities, Properties, and Assets of *Upper Canada* and *Lower Canada* shall be referred to the Arbitrament of Three Arbitrators, One chosen by the Government of *Ontario*, One by the Government of *Quebec*, and One by the Government of *Canada*; and the Selection of the Arbitrators shall not be made until the Parliament of *Canada* and the Legislatures of *Ontario* and *Quebec* have met; and the Arbitrator chosen by the Government of *Canada* shall not be a Resident either in *Ontario* or in *Quebec*.

143 Division of Records.

The Governor General in Council may from Time to Time order that such and so many of the Records, Books, and Documents of the Province of *Canada* as he thinks fit shall be appropriated and delivered either to *Ontario* or to *Quebec*, and the same shall thenceforth be the Property of that Province; and any Copy thereof or Extract therefrom, duly certified by the Officer having charge of the Original thereof, shall be admitted as Evidence,

144 Constitution of Townships in Quebec.

The Lieutenant Governor of *Quebec* may from Time to Time, by Proclamation under the Great Seal of the Province, to take effect from a Day to be appointed therein, constitute Townships in those Parts of the Province of *Quebec* in which Townships are not then already constituted, and fix the Metes and Bounds thereof.