

THE CONSTITUTION ACT, 1867

30 & 31 Victoria, c. 3. (U.K.)

(Consolidated with amendments)

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith

(29th March 1867)

WHEREAS the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in Principle to that of the United Kingdom:

And whereas such a Union would conduce to the Welfare of the Provinces and promote the Interests of the British Empire:

And whereas on the Establishment of the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared:

And whereas it is expedient that Provision be made for the eventual Admission into the Union of other Parts of British North America:⁽¹⁾

I. PRELIMINARY

Short title

1. This Act may be cited as the *Constitution Act, 1867*.⁽²⁾
2. Repealed.⁽³⁾

II. UNION

Declaration of Union

3. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that, on and after a Day therein appointed, not being more than Six Months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be One Dominion under the Name of Canada;

⁽¹⁾ **The enacting clause was repealed by the *Statute Law Revision Act, 1893, 56-57 Vict., c. 14 (U.K.)*. It read as follows:**

Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

⁽²⁾ **As enacted by the *Constitution Act, 1982*, which came into force on April 17, 1982. The section, as originally enacted, read as follows:**

1. This Act may be cited as The British North America Act, 1867.

⁽³⁾ **Section 2, repealed by the *Statute Law Revision Act, 1893, 56-57 Vict., c. 14 (U.K.)*, read as follows:**

2. The Provisions of this Act referring to Her Majesty the Queen extend also to the Heirs and Successors of Her Majesty, Kings and Queens of the United Kingdom of Great Britain and Ireland.

and on and after that Day those Three Provinces shall form and be One Dominion under that Name accordingly.⁽⁴⁾

Construction of subsequent Provisions of Act **4.** Unless it is otherwise expressed or implied, the Name Canada shall be taken to mean Canada as constituted under this Act.⁽⁵⁾

Four Provinces **5.** Canada shall be divided into Four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.⁽⁶⁾

⁽⁴⁾ The first day of July, 1867, was fixed by proclamation dated May 22, 1867.

⁽⁵⁾ Partially repealed by the *Statute Law Revision Act, 1893, 56-57 Vict., c. 14 (U.K.)*. As originally enacted the section read as follows:

4. The subsequent Provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the Day appointed for the Union taking effect in the Queen's Proclamation; and in the same Provisions, unless it is otherwise expressed or implied, the Name Canada shall be taken to mean Canada as constituted under this Act.

⁽⁶⁾ Canada now consists of ten provinces (Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, British Columbia, Prince Edward Island, Alberta, Saskatchewan and Newfoundland) and three territories (the Yukon Territory, the Northwest Territories and the territory of Nunavut).

The first territories added to the Union were Rupert's Land and the North-Western Territory, (subsequently designated the Northwest Territories), which were admitted pursuant to section 146 of the *Constitution Act, 1867* and the *Rupert's Land Act, 1868, 31-32 Vict., c. 105 (U.K.)*, by the *Rupert's Land and North-Western Territory Order of June 23, 1870, effective July 15, 1870*. Prior to the admission of those territories the Parliament of Canada enacted *An Act for the temporary Government of Rupert's Land and the North-Western Territory when united with Canada (32-33 Vict., c. 3)*, and the *Manitoba Act, 1870, (33 Vict., c. 3)*, which provided for the formation of the Province of Manitoba

British Columbia was admitted into the Union pursuant to section 146 of the *Constitution Act, 1867*, by the *British Columbia Terms of Union*, being Order in Council of May 16, 1871, effective July 20, 1871.

Prince Edward Island was admitted pursuant to section 146 of the *Constitution Act, 1867*, by the *Prince Edward Island Terms of Union*, being Order in Council of June 26, 1873, effective July 1, 1873.

On June 29, 1871, the United Kingdom Parliament enacted the *Constitution Act, 1871 (34-35 Vict., c. 28)* authorizing the creation of additional provinces out of territories not included in any province. Pursuant to this statute, the Parliament of Canada enacted the *Alberta Act, (July 20, 1905, 4-5 Edw. VII, c. 3)* and the *Saskatchewan Act, (July 20, 1905, 4-5 Edw. VII, c. 42)*, providing for the creation of the provinces of Alberta and Saskatchewan, respectively. Both these Acts came into force on Sept. 1, 1905.

Meanwhile, all remaining British possessions and territories in North America and the islands adjacent thereto, except the colony of Newfoundland and its dependencies, were admitted into the Canadian Confederation by the *Adjacent Territories Order*, dated July 31, 1880.

The Parliament of Canada added portions of the Northwest Territories to the adjoining provinces in 1912 by *The Ontario Boundaries Extension Act, S.C. 1912, 2 Geo. V, c. 40*, *The Quebec Boundaries Extension Act, 1912, 2 Geo. V, c. 45* and *The Manitoba Boundaries Extension Act, 1912, 2 Geo. V, c. 32*, and further additions were made to Manitoba by *The Manitoba Boundaries Extension Act, 1930, 20-21 Geo. V, c. 28*.

The Yukon Territory was created out of the Northwest Territories in 1898 by *The Yukon Territory Act, 61 Vict., c. 6, (Canada)*.

Newfoundland was added on March 31, 1949, by the *Newfoundland Act, (U.K.)*, 12-13 Geo. VI, c. 22, which ratified the Terms of Union of Newfoundland with Canada.

Provinces of Ontario and Quebec

6. The Parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form Two separate Provinces. The Part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the Part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

Provinces of Nova Scotia and New Brunswick

7. The Provinces of Nova Scotia and New Brunswick shall have the same Limits as at the passing of this Act.

Decennial Census

8. In the general Census of the Population of Canada which is hereby required to be taken in the Year One thousand eight hundred and seventy-one, and in every Tenth Year thereafter, the respective Populations of the Four Provinces shall be distinguished.

III. EXECUTIVE POWER

Declaration of Executive Power in the Queen

9. The Executive Government and Authority of and over Canada is hereby declared to continue and be vested in the Queen.

Application of Provisions referring to Governor General

10. The Provisions of this Act referring to the Governor General extend and apply to the Governor General for the Time being of Canada, or other the Chief Executive Officer or Administrator for the Time being carrying on the Government of Canada on behalf and in the Name of the Queen, by whatever Title he is designated.

Constitution of Privy Council for Canada

11. There shall be a Council to aid and advise in the Government of Canada, to be styled the Queen's Privy Council for Canada; and the Persons who are to be Members of that Council shall be from Time to Time chosen and summoned by the Governor General and sworn in as Privy Councillors, and Members thereof may be from Time to Time removed by the Governor General.

All Powers under Acts to be exercised by Governor General with Advice of Privy Council, or alone

12. 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, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exercisable 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 continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exercisable by the Governor General, with the Advice or with the Advice and Consent of or in conjunction with the Queen's Privy Council for Canada, or any Members thereof, or by the Governor General 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 Parliament of Canada.⁽⁷⁾

Nunavut was created out of the Northwest Territories in 1999 by the *Nunavut Act*, S.C. 1993, c. 28.

⁽⁷⁾ See the note to section 129, *infra*.

Application of Provisions referring to Governor General in Council

13. The Provisions of this Act referring to the Governor General in Council shall be construed as referring to the Governor General acting by and with the Advice of the Queen's Privy Council for Canada.

Power to Her Majesty to authorize Governor General to appoint Deputies

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorize the Governor General from Time to Time to appoint any Person or any Persons jointly or severally to be his Deputy or Deputies within any Part or Parts of Canada, and in that Capacity to exercise during the Pleasure of the Governor General such of the Powers, Authorities, and Functions of the Governor General as the Governor General deems it necessary or expedient to assign to him or them, subject to any Limitations or Directions expressed or given by the Queen; but the Appointment of such a Deputy or Deputies shall not affect the Exercise by the Governor General himself of any Power, Authority, or Function.

Command of Armed Forces to continue to be vested in the Queen

15. The Command-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is hereby declared to continue and be vested in the Queen.

Seat of Government of Canada

16. Until the Queen otherwise directs, the Seat of Government of Canada shall be Ottawa.

IV. LEGISLATIVE POWER

Constitution of Parliament of Canada

17. There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

Privileges, etc., of Houses

18. The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities, and powers shall not confer any privileges, immunities, or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the members thereof.⁽⁸⁾

First Session of the Parliament of Canada

19. The Parliament of Canada shall be called together not later than Six Months after the Union.⁽⁹⁾

⁽⁸⁾ Repealed and re-enacted by the *Parliament of Canada Act, 1875, 38-39 Vict., c. 38 (U.K.)*. The original section read as follows:

18. The Privileges, Immunities, and Powers to be held, enjoyed, and exercised by the Senate and by the House of Commons and by the Members thereof respectively shall be such as are from Time to Time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the Members thereof.

⁽⁹⁾ Spent. The first session of the first Parliament began on November 6, 1867.

20. Repealed.⁽¹⁰⁾

The Senate

Number of
Senators

21. The Senate shall, subject to the Provisions of this Act, consist of One Hundred and five Members, who shall be styled Senators.⁽¹¹⁾

Representation
of Provinces in
Senate

22. In relation to the Constitution of the Senate Canada shall be deemed to consist of *Four Divisions*:

1. Ontario;
2. Quebec;
3. The Maritime Provinces, Nova Scotia and New Brunswick, and Prince Edward Island;
4. The Western Provinces of Manitoba, British Columbia, Saskatchewan, and Alberta;

which Four Divisions shall (subject to the Provisions of this Act) be equally represented in the Senate as follows: Ontario by twenty-four senators; Quebec by twenty-four senators; the Maritime Provinces and Prince Edward Island by twenty-four senators, ten thereof representing Nova Scotia, ten thereof representing New Brunswick, and four thereof representing Prince Edward Island; the Western Provinces by twenty-four senators, six thereof representing Manitoba, six thereof representing British Columbia, six thereof representing Saskatchewan, and six thereof representing Alberta; Newfoundland shall be entitled to be represented in the Senate by six members; the Yukon Territory, the Northwest Territories and Nunavut shall be entitled to be represented in the Senate by one member each.

⁽¹⁰⁾ Section 20, repealed by the *Constitution Act, 1982*, read as follows:

20. There shall be a Session of the Parliament of Canada once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Parliament in one Session and its first sitting in the next Session.

Section 20 has been replaced by section 5 of the *Constitution Act, 1982*, which provides that there shall be a sitting of Parliament at least once every twelve months.

⁽¹¹⁾ As amended by the *Constitution Act, 1915*, 5-6 Geo. V, c. 45 (U.K.) and modified by the *Newfoundland Act*, 12-13 Geo. VI, c. 22 (U.K.), the *Constitution Act (No. 2)*, 1975, S.C. 1974-75-76, c. 53, and the *Constitution Act, 1999 (Nunavut)*, S.C. 1998, c. 15, Part 2. The original section read as follows:

21. The Senate shall, subject to the Provisions of this Act, consist of Seventy-two Members, who shall be styled Senators.

The *Manitoba Act, 1870*, added two for Manitoba; the *British Columbia Terms of Union* added three; upon admission of Prince Edward Island four more were provided by section 147 of the *Constitution Act, 1867*; the *Alberta Act* and the *Saskatchewan Act* each added four. The Senate was reconstituted at 96 by the *Constitution Act, 1915*. Six more Senators were added upon union with Newfoundland, and one Senator each was added for the Yukon Territory and the Northwest Territories by the *Constitution Act (No. 2)*, 1975. One Senator was added for Nunavut by the *Constitution Act, 1999 (Nunavut)*.

In the Case of Quebec each of the Twenty-four Senators representing that Province shall be appointed for One of the Twenty-four Electoral Divisions of Lower Canada specified in Schedule A. to Chapter One of the Consolidated Statutes of Canada.⁽¹²⁾

Qualifications of
Senator

23. The Qualifications of a Senator shall be as follows:

- (1) He shall be of the full age of Thirty Years:
- (2) He shall be either a natural-born Subject of the Queen, or a Subject of the Queen naturalized by an 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 One of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the Union, or of the Parliament of Canada after the Union:
- (3) He shall be legally or equitably seised as of Freehold for his own Use and Benefit of Lands or Tenements held in Free and Common Socage, or seised or possessed for his own Use and Benefit of Lands or Tenements held in Franc-alieu or in Roture, within the Province for which he is appointed, of the Value of Four thousand Dollars, over and above all Rents, Dues, Debts, Charges, Mortgages, and Incumbrances due or payable out of or charged on or affecting the same:
- (4) His Real and Personal Property shall be together worth Four thousand Dollars over and above his Debts and Liabilities:
- (5) He shall be resident in the Province for which he is appointed:
- (6) In the Case of Quebec he shall have his Real Property Qualification in the Electoral Division for which he is appointed, or shall be resident in that Division.⁽¹³⁾

Summons of
Senator

24. The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon qualified Persons to the Senate; and, subject to the

⁽¹²⁾ **As amended by the *Constitution Act, 1915*, 5-6 Geo. V, c. 45 (U.K.), the *Newfoundland Act*, 12-13 Geo. VI, c. 22 (U.K.), and the *Constitution Act (No. 2)*, 1975, S.C. 1974-75-76, c. 53 and the *Constitution Act, 1999 (Nunavut)*, S.C. 1998, c. 15, Part 2. The original section read as follows:**

22. In relation to the Constitution of the Senate, Canada shall be deemed to consist of Three Divisions:

1. Ontario;
2. Quebec;

3. The Maritime Provinces, Nova Scotia and New Brunswick; which Three Divisions shall (subject to the Provisions of this Act) be equally represented in the Senate as follows: Ontario by Twenty-four Senators; Quebec by Twenty-four Senators; and the Maritime Provinces by Twenty-four Senators, Twelve thereof representing Nova Scotia, and Twelve thereof representing New Brunswick.

In the case of Quebec each of the Twenty-four Senators representing that Province shall be appointed for One of the Twenty-four Electoral Divisions of Lower Canada specified in Schedule A. to Chapter One of the Consolidated Statutes of Canada.

⁽¹³⁾ **Section 44 of the *Constitution Act, 1999 (Nunavut)*, S.C. 1998, c. 15, Part 2, provided that, for the purposes of that Part, (which added one Senator for Nunavut) the word "Province" in section 23 of the *Constitution Act, 1867*, has the same meaning as is assigned to the word "province" by section 35 of the *Interpretation Act*, R.S.C. 1985, c. I-21, which provides that the term "province" means "a province of Canada, and includes the Yukon Territory, the Northwest Territories and Nunavut".**

Provisions of this Act, every Person so summoned shall become and be a Member of the Senate and a Senator.

25. Repealed.⁽¹⁴⁾

Addition of
Senators in
certain cases

26. If at any Time on the Recommendation of the Governor General the Queen thinks fit to direct that Four or Eight Members be added to the Senate, the Governor General may by Summons to Four or Eight qualified Persons (as the Case may be), representing equally the Four Divisions of Canada, add to the Senate accordingly.⁽¹⁵⁾

Reduction of
Senate to normal
Number

27. In case of such Addition being at any Time made, the Governor General shall not summon any Person to the Senate, except on a further like Direction by the Queen on the like Recommendation, to represent one of the Four Divisions until such Division is represented by Twenty-four Senators and no more.⁽¹⁶⁾

Maximum
Number of
Senators

28. The Number of Senators shall not at any Time exceed One Hundred and thirteen.⁽¹⁷⁾

Tenure of Place
in Senate

29. (1) Subject to subsection (2), a Senator shall, subject to the provisions of this Act, hold his place in the Senate for life.

Retirement upon
attaining age of
seventy-five
years

(2) A Senator who is summoned to the Senate after the coming into force of this subsection shall, subject to this Act, hold his place in the Senate until he attains the age of seventy-five years.⁽¹⁸⁾

Section 2 of the *Constitution Act (No. 2)*, 1975, S.C. 1974-75-76, c. 53, provided that for the purposes of that Act (which added one Senator each for the Yukon Territory and the Northwest Territories) the term “Province” in section 23 of the *Constitution Act, 1867*, has the same meaning as is assigned to the term “province” by section 28 of the *Interpretation Act*, R.S.C. 1970, c. I-23, which provides that the term “province” means “a province of Canada, and includes the Yukon Territory and the Northwest Territories”.

⁽¹⁴⁾ Repealed by the *Statute Law Revision Act, 1893*, 56-57 Vict., c. 14 (U.K.). The section read as follows:

25. Such Persons shall be first summoned to the Senate as the Queen by Warrant under Her Majesty’s Royal Sign Manual thinks fit to approve, and their Names shall be inserted in the Queen’s Proclamation of Union.

⁽¹⁵⁾ As amended by the *Constitution Act, 1915*, 5-6 Geo. V, c. 45 (U.K.). The original section read as follows:

26. If at any Time on the Recommendation of the Governor General the Queen thinks fit to direct that Three or Six Members be added to the Senate, the Governor General may by Summons to Three or Six qualified Persons (as the Case may be), representing equally the Three Divisions of Canada, add to the Senate accordingly.

⁽¹⁶⁾ As amended by the *Constitution Act, 1915*, 5-6 Geo. V, c. 45 (U.K.). The original section read as follows:

27. In case of such Addition being at any Time made the Governor General shall not summon any Person to the Senate except on a further like Direction by the Queen on the like Recommendation, until each of the Three Divisions of Canada is represented by Twenty-four Senators and no more.

⁽¹⁷⁾ As amended by the *Constitution Act, 1915*, 5-6 Geo. V, c. 45 (U.K.), the *Constitution Act (No. 2)*, 1975, S.C. 1974-75-76, c. 53, and the *Constitution Act, 1999 (Nunavut)*, S.C. 1998, c. 15, Part 2. The original section read as follows:

28. The Number of Senators shall not at any Time exceed Seventy-eight.

⁽¹⁸⁾ As enacted by the *Constitution Act, 1965*, S.C., 1965, c. 4, which came into force on June 2, 1965. The original section read as follows:

29. A Senator shall, subject to the Provisions of this Act, hold his Place in the Senate for Life.

Resignation of Place in Senate **30.** A Senator may by Writing under his Hand addressed to the Governor General resign his Place in the Senate, and thereupon the same shall be vacant.

Disqualification of Senators **31.** The Place of a Senator shall become vacant in any of the following Cases:

- (1) If for Two consecutive Sessions of the Parliament he fails to give his Attendance in the Senate:
- (2) If he takes an Oath or makes a Declaration or Acknowledgment of Allegiance, Obedience, or Adherence to a Foreign Power, or does an Act whereby he becomes a Subject or Citizen, or entitled to the Rights or Privileges of a Subject or Citizen, of a Foreign Power:
- (3) If he is adjudged Bankrupt or Insolvent, or applies for the Benefit of any Law relating to Insolvent Debtors, or becomes a public Defaulter:
- (4) If he is attainted of Treason or convicted of Felony or of any infamous Crime:
- (5) If he ceases to be qualified in respect of Property or of Residence; provided, that a Senator shall not be deemed to have ceased to be qualified in respect of Residence by reason only of his residing at the Seat of the Government of Canada while holding an Office under that Government requiring his Presence there.

Summons on Vacancy in Senate **32.** When a Vacancy happens in the Senate by Resignation, Death, or otherwise, the Governor General shall by Summons to a fit and qualified Person fill the Vacancy.

Questions as to Qualifications and Vacancies in Senate **33.** If any Question arises respecting the Qualification of a Senator or a Vacancy in the Senate the same shall be heard and determined by the Senate.

Appointment of Speaker of Senate **34.** The Governor General may from Time to Time, by Instrument under the Great Seal of Canada, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his Stead.⁽¹⁹⁾

Quorum of Senate **35.** Until the Parliament of Canada otherwise provides, the Presence of at least Fifteen Senators, including the Speaker, shall be necessary to constitute a Meeting of the Senate for the Exercise of its Powers.

Voting in Senate **36.** Questions arising in the Senate 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.

The House of Commons

Constitution of House of Commons in Canada **37.** The House of Commons shall, subject to the Provisions of this Act, consist of three hundred and eight members of whom one hundred and six shall be elected for Ontario, seventy-five for Quebec, eleven for Nova Scotia, ten for New Brunswick, fourteen for Manitoba, thirty-six for British Columbia, four for Prince Edward Island, twenty-eight for

⁽¹⁹⁾ **Provision for exercising the functions of Speaker during his absence is made by Part II of the *Parliament of Canada Act*, R.S.C. 1985, c. P-1 (formerly the *Speaker of the Senate Act*, R.S.C. 1970, c. S-14). Doubts as to the power of Parliament to enact the *Speaker of the Senate Act* were removed by the *Canadian Speaker (Appointment of Deputy) Act*, 1895, 2nd Sess., 59 Vict., c. 3 (U.K.), which was repealed by the *Constitution Act*, 1982.**

Alberta, fourteen for Saskatchewan, seven for Newfoundland, one for the Yukon Territory, one for the Northwest Territories and one for Nunavut.⁽²⁰⁾

Summoning of House of Commons

38. The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon and call together the House of Commons.

Senators not to sit in House of Commons

39. A Senator shall not be capable of being elected or of sitting or voting as a Member of the House of Commons.

Electoral districts of the four Provinces

40. Until the Parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia, and New Brunswick shall, for the Purposes of the Election of Members to serve in the House of Commons, be divided into Electoral Districts as follows:

1. ONTARIO

Ontario shall be divided into the Counties, Ridings of Counties, Cities, Parts of Cities, and Towns enumerated in the First Schedule to this Act, each whereof shall be an Electoral District, each such District as numbered in that Schedule being entitled to return One Member.

2. QUEBEC

Quebec shall be divided into Sixty-five Electoral Districts, composed of the Sixty-five Electoral Divisions into which Lower Canada is at the passing of this Act divided under Chapter Two of the Consolidated Statutes of Canada, Chapter Seventy-five of the Consolidated Statutes for Lower Canada, and the Act of the Province of Canada of the Twenty-third Year of the Queen, Chapter One, or any other Act amending the same in force at the Union, so that each such Electoral Division shall be for the Purposes of this Act an Electoral District entitled to return One Member.

3. NOVA SCOTIA

Each of the Eighteen Counties of Nova Scotia shall be an Electoral District. The County of Halifax shall be entitled to return Two Members, and each of the other Counties One Member.

4. NEW BRUNSWICK

Each of the Fourteen Counties into which New Brunswick is divided, including the City and County of St. John, shall be an Electoral District. The City of St. John shall also be a separate Electoral District. Each of those Fifteen Electoral Districts shall be entitled to return One Member.⁽²¹⁾

⁽²⁰⁾ The figures given here result from the application of section 51, as enacted by the *Constitution Act, 1985 (Representation)*, S.C., 1986, c. 8, Part I, and amended by the *Constitution Act, 1999 (Nunavut)*, S.C. 1998, c. 15, Part 2 and readjusted pursuant to the *Electoral Boundaries Readjustment Act*, R.S.C. 1985, c. E-3. The original section (which was altered from time to time as the result of the addition of new provinces and changes in population) read as follows:

37. The House of Commons shall, subject to the Provisions of this Act, consist of one hundred and eighty-one members, of whom Eighty-two shall be elected for Ontario, Sixty-five for Quebec, Nineteen for Nova Scotia, and Fifteen for New Brunswick.

⁽²¹⁾ Spent. The electoral districts are now established by Proclamations issued from time to time under the *Electoral Boundaries Readjustment Act*, R.S.C. 1985, c. E-3, as amended for particular districts by Acts of Parliament, for which see the most recent Table of Public Statutes.

Continuance of existing Election Laws until Parliament of Canada otherwise provides

41. Until the Parliament of Canada otherwise provides, all Laws in force in the several Provinces at the Union 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 House of Assembly or Legislative Assembly in the several Provinces, the Voters at Elections of such Members, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which Elections may be continued, the Trial of controverted Elections, and Proceedings incident thereto, the vacating of Seats of Members, and the Execution of new Writs in case of Seats vacated otherwise than by Dissolution, — shall respectively apply to Elections of Members to serve in the House of Commons for the same several Provinces.

Provided that, until the Parliament of Canada otherwise provides, at any Election for a Member of the House of Commons 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.⁽²²⁾

42. Repealed.⁽²³⁾

43. Repealed.⁽²⁴⁾

As to Election of Speaker of House of Commons

44. The House of Commons on its first assembling after a General Election shall proceed with all practicable Speed to elect One of its Members to be Speaker.

As to filling up Vacancy in Office of Speaker

45. In case of a Vacancy happening in the Office of Speaker by Death, Resignation, or otherwise, the House of Commons shall with all practicable Speed proceed to elect another of its Members to be Speaker.

Speaker to preside

46. The Speaker shall preside at all Meetings of the House of Commons.

Provision in case of Absence of Speaker

47. Until the Parliament of Canada otherwise provides, in case of the Absence for any Reason of the Speaker from the Chair of the House of Commons for a Period of Forty-eight consecutive Hours, the House may elect another of its Members to act as Speaker, and the

⁽²²⁾ **Spent. Elections are now provided for by the *Canada Elections Act, R.S.C. 1985, c. E -2*; controverted elections by the *Dominion Controverted Elections Act, R.S.C. 1985, c. C-39*; qualifications and disqualifications of members by the *Parliament of Canada Act, R.S.C. 1985, c. P-1*. The right of citizens to vote and hold office is provided for in section 3 of the *Constitution Act, 1982*.**

⁽²³⁾ **Repealed by the *Statute Law Revision Act, 1893, 56-57 Vict., c. 14 (U.K.)*. The section read as follows:**

42. For the First Election of Members to serve in the House of Commons the Governor General shall cause Writs to be issued by such Person, in such Form, and addressed to such Returning Officers as he thinks fit.

The Person issuing Writs under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the issuing of Writs for the Election of Members to serve in the respective House of Assembly or Legislative Assembly of the Province of Canada, Nova Scotia, or New Brunswick; and the Returning Officers to whom Writs are directed under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the returning of Writs for the Election of Members to serve in the same respective House of Assembly or Legislative Assembly.

⁽²⁴⁾ **Repealed by the *Statute Law Revision Act, 1893, 56-57 Vict., c. 14 (U.K.)*. The section read as follows:**

43. In case a Vacancy in the Representation in the House of Commons of any Electoral District happens before the Meeting of the Parliament, or after the Meeting of the Parliament before Provision is made by the Parliament in this Behalf, the Provisions of the last foregoing Section of this Act shall extend and apply to the issuing and returning of a Writ in respect of such Vacant District.

Member so elected shall during the Continuance of such Absence of the Speaker have and execute all the Powers, Privileges, and Duties of Speaker.⁽²⁵⁾

Quorum of House of Commons

48. The Presence of at least Twenty Members of the House of Commons shall be necessary to constitute a Meeting of the House for the Exercise of its Powers, and for that Purpose the Speaker shall be reckoned as a Member.

Voting in House of Commons

49. Questions arising in the House of Commons shall be decided by a Majority of Voices other than that of the Speaker, and when the Voices are equal, but not otherwise, the Speaker shall have a Vote.

Duration of House of Commons

50. Every House of Commons shall continue for Five Years from the Day of the Return of the Writs for choosing the House (subject to be sooner dissolved by the Governor General), and no longer.⁽²⁶⁾

Readjustment of representation in Commons

51. (1) The number of members of the House of Commons and the representation of the provinces therein shall, on the coming into force of this subsection and thereafter on the completion of each decennial census, be readjusted by such authority, in such manner, and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules:

Rules

1. There shall be assigned to each of the provinces a number of members equal to the number obtained by dividing the total population of the provinces by two hundred and seventy-nine and by dividing the population of each province by the quotient so obtained, counting any remainder in excess of 0.50 as one after the said process of division.
2. If the total number of members that would be assigned to a province by the application of rule 1 is less than the total number assigned to that province on the date of coming into force of this subsection, there shall be added to the number of members so assigned such number of members as will result in the province having the same number of members as were assigned on that date.⁽²⁷⁾

⁽²⁵⁾ Provision for exercising the functions of Speaker during his absence is now made by Part III of the *Parliament of Canada Act*, R.S.C. 1985, c. P-1.

⁽²⁶⁾ The term of the twelfth Parliament was extended by the *British North America Act, 1916*, 6-7 Geo. V., c. 19 (U.K.), which Act was repealed by the *Statute Law Revision Act, 1927*, 17-18 Geo. V, c. 42 (U.K.). See also subsection 4(1) of the *Constitution Act, 1982*, which provides that no House of Commons shall continue for longer than five years from the date fixed for the return of the writs at a general election of its members, and subsection 4(2) thereof, which provides for continuation of the House of Commons in special circumstances.

⁽²⁷⁾ As enacted by the *Constitution Act, 1985 (Representation)*, S.C. 1986, c. 8, Part I, which came into force on March 6, 1986 (See SI/86-49). The section, as originally enacted, read as follows:

51. On the Completion of the Census in the Year One Thousand eight hundred and seventy-one, and of each subsequent decennial Census, the Representation of the Four Provinces shall be readjusted by such Authority, in such Manner, and from such Time, as the Parliament of Canada from Time to Time provides, subject and according to the following Rules:

(1) Quebec shall have the fixed Number of Sixty-five Members:

(2) There shall be assigned to each of the other Provinces such a Number of Members as will bear the same Proportion to the Number of its Population (ascertained at such Census) as the Number Sixty-five bears to the Number of the Population of Quebec (so ascertained):

(3) In the Computation of the Number of Members for a Province a fractional Part not exceeding One Half of the whole Number requisite for entitling the Province to a Member shall be disregarded; but a fractional Part exceeding One Half of that Number shall be equivalent to the whole Number:

(4) On any such Re-adjustment the Number of Members for a Province shall not be reduced unless the Proportion which the Number of the Population of the Province bore to the Number of the aggregate Population of Canada at the then last preceding Re-adjustment of the Number of Members for the Province is ascertained at the then latest Census to be diminished by One Twentieth Part or upwards:

(5) Such Re-adjustment shall not take effect until the Termination of the then existing Parliament.

The section was amended by the *Statute Law Revision Act, 1893, 56-57 Vict., c. 14 (U.K.)* by repealing the words from “of the census” to “seventy-one and” and the word “subsequent”.

By the *British North America Act, 1943, 6-7 Geo. VI, c. 30 (U.K.)*, which Act was repealed by the *Constitution Act, 1982*, redistribution of seats following the 1941 census was postponed until the first session of Parliament after the war. The section was re-enacted by the *British North America Act, 1946, 9-10 Geo. VI, c. 63 (U.K.)*, which Act was also repealed by the *Constitution Act, 1982*, to read as follows:

51. (1) The number of members of the House of Commons shall be two hundred and fifty-five and the representation of the provinces therein shall forthwith upon the coming into force of this section and thereafter on the completion of each decennial census be readjusted by such authority, in such manner, and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules:

(1) Subject as hereinafter provided, there shall be assigned to each of the provinces a number of members computed by dividing the total population of the provinces by two hundred and fifty-four and by dividing the population of each province by the quotient so obtained, disregarding, except as hereinafter in this section provided, the remainder, if any, after the said process of division.

(2) If the total number of members assigned to all the provinces pursuant to rule one is less than two hundred and fifty-four, additional members shall be assigned to the provinces (one to a province) having remainders in the computation under rule one commencing with the province having the largest remainder and continuing with the other provinces in the order of the magnitude of their respective remainders until the total number of members assigned is two hundred and fifty-four.

(3) Notwithstanding anything in this section, if upon completion of a computation under rules one and two, the number of members to be assigned to a province is less than the number of senators representing the said province, rules one and two shall cease to apply in respect of the said province, and there shall be assigned to the said province a number of members equal to the said number of senators.

(4) In the event that rules one and two cease to apply in respect of a province then, for the purpose of computing the number of members to be assigned to the provinces in respect of which rules one and two continue to apply, the total population of the provinces shall be reduced by the number of the population of the province in respect of which rules one and two have ceased to apply and the number two hundred and fifty-four shall be reduced by the number of members assigned to such province pursuant to rule three.

(5) Such readjustment shall not take effect until the termination of the then existing Parliament.

(2) The Yukon Territory as constituted by Chapter forty-one of the Statutes of Canada, 1901, together with any Part of Canada not comprised within a province which may from time to time be included therein by the Parliament of Canada for the purposes of representation in Parliament, shall be entitled to one member.

The section was re-enacted by the *British North America Act, 1952, S.C. 1952, c. 15*, which Act was also repealed by the *Constitution Act, 1982*, as follows:

51. (1) Subject as hereinafter provided, the number of members of the House of Commons shall be two hundred and sixty-three and the representation of the provinces therein shall forthwith upon the coming into force of this section and thereafter on the completion of each decennial census be readjusted by such authority, in such manner, and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules:

1. There shall be assigned to each of the provinces a number of members computed by dividing the total population of the provinces by two hundred and sixty-one and by dividing the population of each province by the quotient so obtained, disregarding, except as hereinafter in this section provided, the remainder, if any, after the said process of division.

2. If the total number of members assigned to all the provinces pursuant to rule one is less than two hundred and sixty-one, additional members shall be assigned to the provinces (one to a province) having remainders in the computation under rule one commencing with the province having the largest remainder and continuing with the other provinces in the order of the magnitude of their respective remainders until the total number of members assigned is two hundred and sixty-one.

3. Notwithstanding anything in this section, if upon completion of a computation under rules one and two the number of members to be assigned to a province is less than the number of senators representing the said province, rules one and two shall cease to apply in respect of the said province, and there shall be assigned to the said province a number of members equal to the said number of senators.

4. In the event that rules one and two cease to apply in respect of a province then, for the purposes of computing the number of members to be assigned to the provinces in respect of which rules one and two continue to apply, the total population of the provinces shall be reduced by the number of the population of the province in respect of which rules one and two have ceased to apply and the number two hundred and sixty-one shall be reduced by the number of members assigned to such province pursuant to rule three.

5. On any such readjustment the number of members for any province shall not be reduced by more than fifteen per cent below the representation to which such province was entitled under rules one to four of this subsection at the last preceding readjustment of the representation of that province, and there shall be no reduction in the representation of any province as a result of which that province would have a smaller number of members than any other province that according to the results of the then last decennial census did not have a larger population; but for the purposes of any subsequent readjustment of representation under this section any increase in the number of members of the House of Commons resulting from the application of this rule shall not be included in the divisor mentioned in rules one to four of this subsection.

6. Such readjustment shall not take effect until the termination of the then existing Parliament.

(2) The Yukon Territory as constituted by chapter forty-one of the statutes of Canada, 1901, shall be entitled to one member, and such other part of Canada not comprised within a province as may from time to time be defined by the Parliament of Canada shall be entitled to one member.

Subsection 51(1) was re-enacted by the *Constitution Act, 1974, S.C. 1974-75-76, c. 13*, to read as follows:

51. (1) The number of members of the House of Commons and the representation of the provinces therein shall upon the coming into force of this subsection and thereafter on the completion of each decennial census be readjusted by such authority, in such manner, and from such time as the Parliament of Canada from time to time provides, subject and according to the following Rules:

1. There shall be assigned to Quebec seventy-five members in the readjustment following the completion of the decennial census taken in the year 1971, and thereafter four additional members in each subsequent readjustment.

2. Subject to Rules 5(2) and (3), there shall be assigned to a large province a number of members equal to the number obtained by dividing the population of the large province by the electoral quotient of Quebec.

3. Subject to Rules 5(2) and (3), there shall be assigned to a small province a number of members equal to the number obtained by dividing

(a) the sum of the populations, determined according to the results of the penultimate decennial census, of the provinces (other than Quebec) having populations of less than one and a half million, determined according to the results of that census, by the sum of the numbers of members assigned to those provinces in the readjustment following the completion of that census; and

(b) the population of the small province by the quotient obtained under paragraph (a).

4. Subject to Rules 5(1)(a), (2) and (3), there shall be assigned to an intermediate province a number of members equal to the number obtained

(a) by dividing the sum of the populations of the provinces (other than Quebec) having populations of less than one and a half million by the sum of the number of members assigned to those provinces under any of Rules 3, 5(1)(b), (2) and (3);

(b) by dividing the population of the intermediate province by the quotient obtained under paragraph (a); and

(c) by adding to the number of members assigned to the intermediate province in the readjustment following the completion of the penultimate decennial census one-half of the difference resulting from the subtraction of that number from the quotient obtained under paragraph (b).

5. (1) On any readjustment,

(a) if no province (other than Quebec) has a population of less than one and a half million, Rule 4 shall not be applied and, subject to Rules 5(2) and (3), there shall be assigned to an intermediate province a number of members equal to the number obtained by dividing

(i) the sum of the populations, determined according to the results of the penultimate decennial census, of the provinces, (other than Quebec) having populations of not less than one and a half million and not more than two and a half million, determined according to the results of that census, by the sum of the numbers of members assigned to those provinces in the readjustment following the completion of that census, and

(ii) the population of the intermediate province by the quotient obtained under subparagraph (i);

(b) if a province (other than Quebec) having a population of

(i) less than one and a half million, or

(ii) not less than one and a half million and not more than two and a half million

does not have a population greater than its population determined according to the results of the penultimate decennial census, it shall, subject to Rules 5(2) and (3), be assigned the number of members assigned to it in the readjustment following the completion of that census.

(2) On any readjustment,

(a) if, under any of Rules 2 to 5(1), the number of members to be assigned to a province (in this paragraph referred to as “the first province”) is smaller than the number of members to be assigned to any other province not having a population greater than that of the first province, those Rules shall not be applied to the first province and it shall be assigned a number of members equal to the largest number of members to be assigned to any other province not having a population greater than that of the first province;

(b) if, under any of Rules 2 to 5(1)(a), the number of members to be assigned to a province is smaller than the number of members assigned to it in the readjustment following the completion of the penultimate decennial census, those Rules shall not be applied to it and it shall be assigned the latter number of members;

(c) if both paragraphs (a) and (b) apply to a province, it shall be assigned a number of members equal to the greater of the numbers produced under those paragraphs.

(3) On any readjustment,

(a) if the electoral quotient of a province (in this paragraph referred to as “the first province”) obtained by dividing its population by the number of members to be assigned to it under any of Rules 2 to 5(2) is greater than the electoral quotient of Quebec, those Rules shall not be applied to the first province and it shall be assigned a number of members equal to the number obtained by dividing its population by the electoral quotient of Quebec;

(b) if, as a result of the application of Rule 6(2)(a), the number of members assigned to a province under paragraph (a) equals the number of members to be assigned to it under any of Rules 2 to 5(2), it shall be assigned that number of members and paragraph (a) shall cease to apply to that province.

Yukon Territory,
Northwest
Territories and
Nunavut

(2) The Yukon Territory as bounded and described in the schedule to chapter Y-2 of the Revised Statutes of Canada, 1985, shall be entitled to one member, the Northwest Territories as bounded and described in section 2 of chapter N-27 of the Revised Statutes of Canada, 1985, as amended by section 77 of chapter 28 of the Statutes of Canada, 1993, shall be entitled to one member, and Nunavut as bounded and described in section 3 of chapter 28 of the Statutes of Canada, 1993, shall be entitled to one member.⁽²⁸⁾

Constitution of
House of
Commons

51A. Notwithstanding anything in this Act a province shall always be entitled to a number of members in the House of Commons not less than the number of senators representing such province.⁽²⁹⁾

Increase of
Number of
House of
Commons

52. The Number of Members of the House of Commons may be from Time to Time increased by the Parliament of Canada, provided the proportionate Representation of the Provinces prescribed by this Act is not thereby disturbed.

Money Votes; Royal Assent

Appropriation
and Tax Bills

53. Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

6. (1) In these Rules,

“electoral quotient” means, in respect of a province, the quotient obtained by dividing its population, determined according to the results of the then most recent decennial census, by the number of members to be assigned to it under any of Rules 1 to 5(3) in the readjustment following the completion of that census;

“intermediate province” means a province (other than Quebec) having a population greater than its population determined according to the results of the penultimate decennial census but not more than two and a half million and not less than one and a half million;

“large province” means a province (other than Quebec) having a population greater than two and a half million;

“penultimate decennial census” means the decennial census that preceded the then most recent decennial census;

“population” means, except where otherwise specified, the population determined according to the results of the then most recent decennial census;

“small province” means a province (other than Quebec) having a population greater than its population determined according to the results of the penultimate decennial census and less than one and half million.

(2) For the purposes of these Rules,

(a) if any fraction less than one remains upon completion of the final calculation that produces the number of members to be assigned to a province, that number of members shall equal the number so produced disregarding the fraction;

(b) if more than one readjustment follows the completion of a decennial census, the most recent of those readjustments shall, upon taking effect, be deemed to be the only readjustment following the completion of that census;

(c) a readjustment shall not take effect until the termination of the then existing Parliament.

⁽²⁸⁾ **As enacted by the *Constitution Act, 1999 (Nunavut)*, S.C. 1998, c. 15, Part 2. Subsection 51(2) was previously amended by the *Constitution Act (No. 1)*, 1975, S.C. 1974-75-76, c. 28, and read as follows:**

(2) The Yukon Territory as bounded and described in the schedule to chapter Y-2 of the Revised Statutes of Canada, 1970, shall be entitled to one member, and the Northwest Territories as bounded and described in section 2 of chapter N-22 of the Revised Statutes of Canada, 1970, shall be entitled to two members.

⁽²⁹⁾ **As enacted by the *Constitution Act, 1915*, 5-6 Geo. V, c. 45 (U.K.).**

Recommendation of Money Votes

54. It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed.

Royal Assent to Bills, etc.

55. Where a Bill passed by the Houses of the Parliament is presented to the Governor General for the Queen's Assent, he shall declare, according to his Discretion, but subject to the Provisions of this Act and to Her Majesty's Instructions, either that he assents thereto in the Queen's Name, or that he withholds the Queen's Assent, or that he reserves the Bill for the Signification of the Queen's Pleasure.

Disallowance by Order in Council of Act assented to by Governor General

56. Where the Governor General assents to a Bill in the Queen's Name, he shall by the first convenient Opportunity send an authentic Copy of the Act to One of Her Majesty's Principal Secretaries of State, and if the Queen in Council within Two Years after Receipt thereof by the Secretary of State thinks fit to disallow the Act, such Disallowance (with a Certificate of the Secretary of State of the Day on which the Act was received by him) being signified by the Governor General, by Speech or Message to each of the Houses of the Parliament or by Proclamation, shall annul the Act from and after the Day of such Signification.

Signification of Queen's Pleasure on Bill reserved

57. A Bill reserved for the Signification of the Queen's Pleasure shall not have any Force unless and until, within Two Years from the Day on which it was presented to the Governor General for the Queen's Assent, the Governor General signifies, by Speech or Message to each of the Houses of the Parliament or by Proclamation, that it has received the Assent of the Queen in Council.

An Entry of every such Speech, Message, or Proclamation shall be made in the Journal of each House, and a Duplicate thereof duly attested shall be delivered to the proper Officer to be kept among the Records of Canada.

V. PROVINCIAL CONSTITUTIONS

Executive Power

Appointment of Lieutenant Governors of Provinces

58. 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.

Tenure of Office of Lieutenant Governor

59. 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.

Salaries of Lieutenant Governors **60.** The Salaries of the Lieutenant Governors shall be fixed and provided by the Parliament of Canada.⁽³⁰⁾

Oaths, etc., of Lieutenant Governor **61.** 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.

Application of Provisions referring to Lieutenant Governor **62.** 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.

Appointment of Executive Officers for Ontario and Quebec **63.** 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.⁽³¹⁾

Executive Government of Nova Scotia and New Brunswick **64.** 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.⁽³²⁾

Powers to be exercised by Lieutenant Governor of Ontario or Quebec with Advice, or alone **65.** 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.⁽³³⁾

⁽³⁰⁾ Provided for by the *Salaries Act*, R.S.C. 1985, c. S-3.

⁽³¹⁾ Now provided for in Ontario by the *Executive Council Act*, R.S.O. 1990, c. E.25, and in Quebec by the *Executive Power Act*, R.S.Q. 1977, c. E-18.

⁽³²⁾ A similar provision was included in each of the instruments admitting British Columbia, Prince Edward Island, and Newfoundland. The Executive Authorities for Manitoba, Alberta and Saskatchewan were established by the statutes creating those provinces. See the notes to section 5, *supra*.

⁽³³⁾ See the notes to section 129, *infra*.

Application of Provisions referring to Lieutenant Governor in Council

66. 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.

Administration in Absence, etc., of Lieutenant Governor

67. 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.

Seats of Provincial Governments

68. 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

Legislature for Ontario

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

Electoral districts

70. 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.⁽³⁴⁾

2. QUEBEC

Legislature for Quebec

71. 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.⁽³⁵⁾

Constitution of Legislative Council

72. 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.

Qualification of Legislative Councillors

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

Resignation, Disqualification, etc.

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

⁽³⁴⁾ **Spent. Now covered by the *Representation Act, 2005*, S.O. 2005, c. 35, Sched. 1.**

⁽³⁵⁾ **The Act respecting the Legislative Council of Quebec, S.Q. 1968, c. 9, provided that the Legislature for Quebec shall consist of the Lieutenant Governor and the National Assembly of Quebec, and repealed the provisions of the *Legislature Act, R.S.Q. 1964, c. 6*, relating to the Legislative Council of Quebec. Now covered by the *Legislature Act, R.S.Q. 1977, c. L-1*. Sections 72 to 79 following are therefore completely spent.**

Vacancies	75. 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.
Questions as to Vacancies, etc.	76. 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.
Speaker of Legislative Council	77. 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.
Quorum of Legislative Council	78. 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.
Voting in Legislative Council	79. 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.
Constitution of Legislative Assembly of Quebec	80. 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. ⁽³⁶⁾

3. ONTARIO AND QUEBEC

	81. Repealed. ⁽³⁷⁾
Summoning of Legislative Assemblies	82. 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.
Restriction on election of Holders of offices	83. 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

⁽³⁶⁾ **An Act respecting the electoral districts, S.Q. 1970, c. 7, s. 1, provides that this section no longer has effect.**

⁽³⁷⁾ **Repealed by the Statute Law Revision Act, 1893, 56-57 Vict., c. 14 (U.K.). The section read as follows:**

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

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.⁽³⁸⁾

Continuance of existing Election Laws

84. 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.⁽³⁹⁾

Duration of Legislative Assemblies

85. 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.⁽⁴⁰⁾

Yearly Session of Legislature

86. 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.⁽⁴¹⁾

Speaker, Quorum, etc.

87. 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

⁽³⁸⁾ Probably spent. The subject-matter of this section is now covered in Ontario by the *Legislative Assembly Act*, R.S.O. 1990, c. L.10, and in Quebec by the *National Assembly Act*, R.S.Q. c. A-23.1.

⁽³⁹⁾ Probably spent. The subject-matter of this section is now covered in Ontario by the *Election Act*, R.S.O. 1990, c. E.6, and the *Legislative Assembly Act*, R.S.O. 1990, c. L.10, in Quebec by the *Elections Act*, R.S.Q. 1977, c. E-3.3 and the *National Assembly Act*, R.S.Q. 1977, c. A-23.1.

⁽⁴⁰⁾ The maximum duration of the Legislative Assemblies of Ontario and Quebec has been changed to five years. See the *Legislative Assembly Act*, R.S.O. 1990, c. L.10, and the *National Assembly Act*, R.S.Q. 1977, c. A-23.1, respectively. See also section 4 of the *Constitution Act, 1982*, which provides a maximum duration for a legislative assembly of five years but also authorizes continuation in special circumstances.

⁽⁴¹⁾ See also section 5 of the *Constitution Act, 1982*, which provides that there shall be a sitting of each legislature at least once every twelve months.

Provisions were here re-enacted and made applicable in Terms to each such Legislative Assembly.

4. NOVA SCOTIA AND NEW BRUNSWICK

Constitutions of
Legislatures of
Nova Scotia and
New Brunswick

88. 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.⁽⁴²⁾

5. ONTARIO, QUEBEC, AND NOVA SCOTIA

89. Repealed.⁽⁴³⁾

6. THE FOUR PROVINCES

Application to
Legislatures of
Provinces
respecting
Money Votes,
etc.

90. 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.

⁽⁴²⁾ **Partially repealed by the *Statute Law Revision Act, 1893, 56-57 Vict., c. 14 (U.K.)*, which deleted the following concluding words of the original enactment:**

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.

A similar provision was included in each of the instruments admitting British Columbia, Prince Edward Island and Newfoundland. The Legislatures of Manitoba, Alberta and Saskatchewan were established by the statutes creating those provinces. See the footnotes to section 5, *supra*.

See also sections 3 to 5 of the *Constitution Act, 1982*, which prescribe democratic rights applicable to all provinces, and subitem 2(2) of the Schedule to that Act, which sets out the repeal of section 20 of the *Manitoba Act, 1870*. Section 20 of the *Manitoba Act, 1870* has been replaced by section 5 of the *Constitution Act, 1982*.

Section 20 reads as follows:

20. There shall be a Session of the Legislature once at least in every year, so that twelve months shall not intervene between the last sitting of the Legislature in one Session and its first sitting in the next Session.

⁽⁴³⁾ **Repealed by the *Statute Law Revision Act, 1893, 56-57 Vict., c. 14 (U.K.)*. The section read as follows:**

5. — Ontario, Quebec, and Nova Scotia.

89. 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.

VI. DISTRIBUTION OF LEGISLATIVE POWERS

Powers of the Parliament

Legislative
Authority of
Parliament of
Canada

91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say, —

1. Repealed.⁽⁴⁴⁾
- 1A. The Public Debt and Property.⁽⁴⁵⁾
2. The Regulation of Trade and Commerce.
- 2A. Unemployment insurance.⁽⁴⁶⁾
3. The raising of Money by any Mode or System of Taxation.
4. The borrowing of Money on the Public Credit.
5. Postal Service.
6. The Census and Statistics.
7. Militia, Military and Naval Service, and Defence.
8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.
9. Beacons, Buoys, Lighthouses, and Sable Island.
10. Navigation and Shipping.
11. Quarantine and the Establishment and Maintenance of Marine Hospitals.
12. Sea Coast and Inland Fisheries.

⁽⁴⁴⁾ **Class I was added by the *British North America (No. 2) Act, 1949, 13 Geo. VI, c. 81 (U.K.)*. That Act and class I were repealed by the *Constitution Act, 1982*. The matters referred to in class I are provided for in subsection 4(2) and Part V of the *Constitution Act, 1982*. As enacted, class I read as follows:**

1. The amendment from time to time of the Constitution of Canada, except as regards matters coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the provinces, or as regards rights or privileges by this or any other Constitutional Act granted or secured to the Legislature or the Government of a province, or to any class of persons with respect to schools or as regards the use of the English or the French language or as regards the requirements that there shall be a session of the Parliament of Canada at least once each year, and that no House of Commons shall continue for more than five years from the day of the return of the Writs for choosing the House: provided, however, that a House of Commons may in time of real or apprehended war, invasion or insurrection be continued by the Parliament of Canada if such continuation is not opposed by the votes of more than one-third of the members of such House.

⁽⁴⁵⁾ **Re-numbered by the *British North America (No. 2) Act, 1949*.**

⁽⁴⁶⁾ **Added by the *Constitution Act, 1940, 3-4 Geo. VI, c. 36 (U.K.)*.**

13. Ferries between a Province and any British or Foreign Country or between Two Provinces.
14. Currency and Coinage.
15. Banking, Incorporation of Banks, and the Issue of Paper Money.
16. Savings Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.
20. Legal Tender.
21. Bankruptcy and Insolvency.
22. Patents of Invention and Discovery.
23. Copyrights.
24. Indians, and Lands reserved for the Indians.
25. Naturalization and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance, and Management of Penitentiaries.
29. Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.⁽⁴⁷⁾

⁽⁴⁷⁾ **Legislative authority has been conferred on Parliament by other Acts as follows:**

1. The *Constitution Act, 1871, 34-35 Vict., c. 28 (U.K.)*.

2. The Parliament of Canada may from time to time establish new Provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any Province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such Province, and for the passing of laws for the peace, order, and good government of such Province, and for its representation in the said Parliament.

3. The Parliament of Canada may from time to time, with the consent of the Legislature of any province of the said Dominion, increase, diminish, or otherwise alter the limits of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any Province affected thereby.

4. The Parliament of Canada may from time to time make provision for the administration, peace, order, and good government of any territory not for the time being included in any Province.

Exclusive Powers of Provincial Legislatures

Subjects of
exclusive
Provincial
Legislation

92. In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say, —

1. Repealed.⁽⁴⁸⁾
2. Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes.
3. The borrowing of Money on the sole Credit of the Province.
4. The Establishment and Tenure of Provincial Offices and the Appointment and Payment of Provincial Officers.
5. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.

5. The following Acts passed by the said Parliament of Canada, and intituled respectively, — “An Act for the temporary government of Rupert’s Land and the North Western Territory when united with Canada”; and “An Act to amend and continue the Act thirty-two and thirty-three Victoria, chapter three, and to establish and provide for the government of “the Province of Manitoba”, shall be and be deemed to have been valid and effectual for all purposes whatsoever from the date at which they respectively received the assent, in the Queen’s name, of the Governor General of the said Dominion of Canada.

6. Except as provided by the third section of this Act, it shall not be competent for the Parliament of Canada to alter the provisions of the last-mentioned Act of the said Parliament in so far as it relates to the Province of Manitoba, or of any other Act hereafter establishing new Provinces in the said Dominion, subject always to the right of the Legislature of the Province of Manitoba to alter from time to time the provisions of any law respecting the qualification of electors and members of the Legislative Assembly, and to make laws respecting elections in the said Province.

The *Rupert’s Land Act, 1868, 31-32 Vict., c. 105 (U.K.) (repealed by the *Statute Law Revision Act, 1893, 56-57 Vict., c. 14 (U.K.)*) had previously conferred similar authority in relation to Rupert’s Land and the North Western Territory upon admission of those areas.*

2. The *Constitution Act, 1886, 49-50 Vict., c. 35 (U.K.)*.

1. The Parliament of Canada may from time to time make provision for the representation in the Senate and House of Commons of Canada, or in either of them, of any territories which for the time being form part of the Dominion of Canada, but are not included in any province thereof.

3. The *Statute of Westminster, 1931, 22 Geo. V, c. 4 (U.K.)*.

3. It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra-territorial operation.

4. Under section 44 of the *Constitution Act, 1982*, Parliament has exclusive authority to amend the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons. Sections 38, 41, 42 and 43 of that Act authorize the Senate and House of Commons to give their approval to certain other constitutional amendments by resolution.

⁽⁴⁸⁾ Class I was repealed by the *Constitution Act, 1982*. As enacted, it read as follows:

1. The Amendment from Time to Time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant Governor.

Section 45 of the *Constitution Act, 1982* now authorizes legislatures to make laws amending the constitution of the province. Sections 38, 41, 42 and 43 of that Act authorize legislative assemblies to give their approval by resolution to certain other amendments to the Constitution of Canada.

6. The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province.
7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.
8. Municipal Institutions in the Province.
9. Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.
10. Local Works and Undertakings other than such as are of the following Classes:
 - (a) Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province:
 - (b) Lines of Steam Ships between the Province and any British or Foreign Country:
 - (c) Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces.
11. The Incorporation of Companies with Provincial Objects.
12. The Solemnization of Marriage in the Province.
13. Property and Civil Rights in the Province.
14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.
15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.
16. Generally all Matters of a merely local or private Nature in the Province.

Non-Renewable Natural Resources, Forestry Resources and Electrical Energy

Laws respecting
non-renewable
natural
resources,
forestry
resources and
electrical energy

- 92A.** (1) In each province, the legislature may exclusively make laws in relation to
- (a) exploration for non-renewable natural resources in the province;
 - (b) development, conservation and management of non-renewable natural resources and forestry resources in the province, including laws in relation to the rate of primary production therefrom; and
 - (c) development, conservation and management of sites and facilities in the province for the generation and production of electrical energy.

Export from provinces of resources

(2) In each province, the legislature may make laws in relation to the export from the province to another part of Canada of the primary production from non-renewable natural resources and forestry resources in the province and the production from facilities in the province for the generation of electrical energy, but such laws may not authorize or provide for discrimination in prices or in supplies exported to another part of Canada.

Authority of Parliament

(3) Nothing in subsection (2) derogates from the authority of Parliament to enact laws in relation to the matters referred to in that subsection and, where such a law of Parliament and a law of a province conflict, the law of Parliament prevails to the extent of the conflict.

Taxation of resources

(4) In each province, the legislature may make laws in relation to the raising of money by any mode or system of taxation in respect of

(a) non-renewable natural resources and forestry resources in the province and the primary production therefrom, and

(b) sites and facilities in the province for the generation of electrical energy and the production therefrom,

whether or not such production is exported in whole or in part from the province, but such laws may not authorize or provide for taxation that differentiates between production exported to another part of Canada and production not exported from the province.

“Primary production”

(5) The expression “primary production” has the meaning assigned by the Sixth Schedule.

Existing powers or rights

(6) Nothing in subsections (1) to (5) derogates from any powers or rights that a legislature or government of a province had immediately before the coming into force of this section.⁽⁴⁹⁾

Education

Legislation respecting Education

93. In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:—

(1) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union:

(2) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen’s Roman Catholic Subjects shall be and the same are hereby extended to the Dissentient Schools of the Queen’s Protestant and Roman Catholic Subjects in Quebec:

(3) Where in any Province a System of Separate or Dissentient Schools exists by Law at the Union or is thereafter established by the Legislature of the Province, an Appeal shall lie to the Governor General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen’s Subjects in relation to Education:

(4) In case any such Provincial Law as from Time to Time seems to the Governor General in Council requisite for the due Execution of the Provisions of this Section is not

⁽⁴⁹⁾ Added by the *Constitution Act, 1982*.

made, or in case any Decision of the Governor General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far only as the Circumstances of each Case require, the Parliament of Canada may make remedial Laws for the due Execution of the Provisions of this Section and of any Decision of the Governor General in Council under this Section.⁽⁵⁰⁾

⁽⁵⁰⁾ **An alternative was provided for Manitoba by section 22 of the *Manitoba Act, 1870, 33 Vict., c. 3 (Canada)*, (confirmed by the *Constitution Act, 1871*), which section reads as follows:**

22. In and for the Province, the said Legislature may exclusively make Laws in relation to Education, subject and according to the following provisions:

(1) Nothing in any such Law shall prejudicially affect any right or privilege with respect to Denominational Schools which any class of persons have by Law or practice in the Province at the Union:

(2) An appeal shall lie to the Governor General in Council from any Act or decision of the Legislature of the Province, or of any Provincial Authority, affecting any right or privilege, of the Protestant or Roman Catholic minority of the Queen's subjects in relation to Education:

(3) In case any such Provincial Law, as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section, is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper Provincial Authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial Laws for the due execution of the provisions of this section, and of any decision of the Governor General in Council under this section.

An alternative was provided for Alberta by section 17 of the *Alberta Act, 4-5 Edw. VII, c. 3, 1905 (Canada)*, which section reads as follows:

17. Section 93 of the *Constitution Act, 1867*, shall apply to the said province, with the substitution for paragraph (1) of the said section 93 of the following paragraph:

(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the Ordinances of the Northwest Territories, passed in the year 1901, or with respect to religious instruction in any public or separate school as provided for in the said ordinances.

2. In the appropriation by the Legislature or distribution by the Government of the province of any moneys for the support of schools organized and carried on in accordance with the said chapter 29 or any Act passed in amendment thereof, or in substitution therefor, there shall be no discrimination against schools of any class described in the said chapter 29.

3. Where the expression "by law" is employed in paragraph 3 of the said section 93, it shall be held to mean the law as set out in the said chapters 29 and 30, and where the expression "at the Union" is employed, in the said paragraph 3, it shall be held to mean the date at which this Act comes into force.

An alternative was provided for Saskatchewan by section 17 of the *Saskatchewan Act, 4-5 Edw. VII, c. 42, 1905 (Canada)*, which section reads as follows:

17. Section 93 of the *Constitution Act, 1867*, shall apply to the said province, with the substitution for paragraph (1) of the said section 93, of the following paragraph:

(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the Ordinances of the Northwest Territories, passed in the year 1901, or with respect to religious instruction in any public or separate school as provided for in the said ordinances.

2. In the appropriation by the Legislature or distribution by the Government of the province of any moneys for the support of schools organized and carried on in accordance with the said chapter 29, or any Act passed in amendment thereof or in substitution therefor, there shall be no discrimination against schools of any class described in the said chapter 29.

3. Where the expression "by law" is employed in paragraph (3) of the said section 93, it shall be held to mean the law as set out in the said chapters 29 and 30; and where the expression "at the Union" is employed in the said paragraph (3), it shall be held to mean the date at which this Act comes into force.

An alternative was provided for Newfoundland by Term 17 of the Terms of Union of Newfoundland with Canada (confirmed by the *Newfoundland Act*, 12-13 Geo. VI, c. 22 (U.K.)). Term 17 of the Terms of Union of Newfoundland with Canada, set out in the penultimate paragraph of this footnote, was amended by the *Constitution Amendment, 1998 (Newfoundland Act)*, (see SI/98-25) and the *Constitution Amendment, 2001 (Newfoundland and Labrador)*, (see SI/2001-117), and now reads as follows:

17. (1) In lieu of section ninety-three of the *Constitution Act, 1867*, this term shall apply in respect of the Province of Newfoundland and Labrador.

(2) In and for the Province of Newfoundland and Labrador, the Legislature shall have exclusive authority to make laws in relation to education, but shall provide for courses in religion that are not specific to a religious denomination.

(3) Religious observances shall be permitted in a school where requested by parents.

Prior to the *Constitution Amendment, 1998 (Newfoundland Act)*, Term 17 of the Terms of Union of Newfoundland with Canada had been amended by the *Constitution Amendment, 1997 (Newfoundland Act)*, (see SI/97-55) to read as follows:

17. In lieu of section ninety-three of the *Constitution Act, 1867*, the following shall apply in respect of the Province of Newfoundland:

In and for the Province of Newfoundland, the Legislature shall have exclusive authority to make laws in relation to education but

(a) except as provided in paragraphs (b) and (c), schools established, maintained and operated with public funds shall be denominational schools, and any class of persons having rights under this Term as it read on January 1, 1995 shall continue to have the right to provide for religious education, activities and observances for the children of that class in those schools, and the group of classes that formed one integrated school system by agreement in 1969 may exercise the same rights under this Term as a single class of persons;

(b) subject to provincial legislation that is uniformly applicable to all schools specifying conditions for the establishment or continued operation of schools,

(i) any class of persons referred to in paragraph (a) shall have the right to have a publicly funded denominational school established, maintained and operated especially for that class, and

(ii) the Legislature may approve the establishment, maintenance and operation of a publicly funded school, whether denominational or non-denominational;

(c) where a school is established, maintained and operated pursuant to subparagraph (b) (i), the class of persons referred to in that subparagraph shall continue to have the right to provide for religious education, activities and observances and to direct the teaching of aspects of curriculum affecting religious beliefs, student admission policy and the assignment and dismissal of teachers in that school;

(d) all schools referred to in paragraphs (a) and (b) shall receive their share of public funds in accordance with scales determined on a non-discriminatory basis from time to time by the Legislature; and

(e) if the classes of persons having rights under this Term so desire, they shall have the right to elect in total not less than two thirds of the members of a school board, and any class so desiring shall have the right to elect the portion of that total that is proportionate to the population of that class in the area under the board's jurisdiction.

93A. Paragraphs (1) to (4) of section 93 do not apply to Quebec.⁽⁵¹⁾

Uniformity of Laws in Ontario, Nova Scotia, and New Brunswick

94. Notwithstanding anything in this Act, the Parliament of Canada may make Provision for the Uniformity of all or any of the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and of the Procedure of all or any of the Courts in those Three Provinces, and from and after the passing of any Act in that Behalf the Power of the Parliament of Canada to make Laws in relation to any Matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making Provision for such Uniformity shall not have effect in any Province unless and until it is adopted and enacted as Law by the Legislature thereof.

Prior to the *Constitution Amendment, 1997 (Newfoundland Act)*, Term 17 of the Terms of Union of Newfoundland with Canada had been amended by the *Constitution Amendment, 1987 (Newfoundland Act)*, (see SI/88-11) to read as follows:

17. (1) In lieu of section ninety-three of the *Constitution Act, 1867*, the following term shall apply in respect of the Province of Newfoundland:

In and for the Province of Newfoundland the Legislature shall have exclusive authority to make laws in relation to education, but the Legislature will not have authority to make laws prejudicially affecting any right or privilege with respect to denominational schools, common (amalgamated) schools, or denominational colleges, that any class or classes of persons have by law in Newfoundland at the date of Union, and out of public funds of the Province of Newfoundland, provided for education,

(a) all such schools shall receive their share of such funds in accordance with scales determined on a non-discriminatory basis from time to time by the Legislature for all schools then being conducted under authority of the Legislature; and

(b) all such colleges shall receive their share of any grant from time to time voted for all colleges then being conducted under authority of the Legislature, such grant being distributed on a non-discriminatory basis.

(2) For the purposes of paragraph one of this Term, the Pentecostal Assemblies of Newfoundland have in Newfoundland all the same rights and privileges with respect to denominational schools and denominational colleges as any other class or classes of persons had by law in Newfoundland at the date of Union, and the words "all such schools" in paragraph (a) of paragraph one of this Term and the words "all such colleges" in paragraph (b) of paragraph one of this Term include, respectively, the schools and the colleges of the Pentecostal Assemblies of Newfoundland.

Term 17 of the Terms of Union of Newfoundland with Canada (confirmed by the *Newfoundland Act, 12-13 Geo. VI, c. 22 (U.K.)*), which Term provided an alternative for Newfoundland, originally read as follows:

17. In lieu of section ninety-three of the *Constitution Act, 1867*, the following term shall apply in respect of the Province of Newfoundland:

In and for the Province of Newfoundland the Legislature shall have exclusive authority to make laws in relation to education, but the Legislature will not have authority to make laws prejudicially affecting any right or privilege with respect to denominational schools, common (amalgamated) schools, or denominational colleges, that any class or classes of persons have by law in Newfoundland at the date of Union, and out of public funds of the Province of Newfoundland, provided for education,

(a) all such schools shall receive their share of such funds in accordance with scales determined on a non-discriminatory basis from time to time by the Legislature for all schools then being conducted under authority of the Legislature; and

(b) all such colleges shall receive their share of any grant from time to time voted for all colleges then being conducted under authority of the Legislature, such grant being distributed on a non-discriminatory basis.

See also sections 23, 29 and 59 of the *Constitution Act, 1982*. Section 23 provides for new minority language educational rights and section 59 permits a delay in respect of the coming into force in Quebec of one aspect of those rights. Section 29 provides that nothing in the *Canadian Charter of Rights and Freedoms* abrogates or derogates from any rights or privileges guaranteed by or under the Constitution of Canada in respect of denominational, separate or dissentient schools.

⁽⁵¹⁾ Added by the *Constitution Amendment, 1997 (Quebec)*. See SI/97-141.

Old Age Pensions

Legislation respecting old age pensions and supplementary benefits

94A. The Parliament of Canada may make laws in relation to old age pensions and supplementary benefits, including survivors' and disability benefits irrespective of age, but no such law shall affect the operation of any law present or future of a provincial legislature in relation to any such matter.⁽⁵²⁾

Agriculture and Immigration

Concurrent Powers of Legislation respecting Agriculture, etc.

95. In each Province the Legislature may make Laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada may from Time to Time make Laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any Law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

VII. JUDICATURE

Appointment of Judges

96. The Governor General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

Selection of Judges in Ontario, etc.

97. Until the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and the Procedure of the Courts in those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor General shall be selected from the respective Bars of those Provinces.

Selection of Judges in Quebec

98. The Judges of the Courts of Quebec shall be selected from the Bar of that Province.

Tenure of office of Judges

99. (1) Subject to subsection (2) of this section, the judges of the superior courts shall hold office during good behaviour, but shall be removable by the Governor General on address of the Senate and House of Commons.

Termination at age 75

(2) A judge of a superior court, whether appointed before or after the coming into force of this section, shall cease to hold office upon attaining the age of seventy-five years, or upon the coming into force of this section if at that time he has already attained that age.⁽⁵³⁾

Salaries, etc., of Judges

100. The Salaries, Allowances, and Pensions of the Judges of the Superior, District, and County Courts (except the Courts of Probate in Nova Scotia and New Brunswick), and of

⁽⁵²⁾ **Added by the *Constitution Act, 1964, 12-13 Eliz. II, c. 73 (U.K.)*. As originally enacted by the *British North America Act, 1951, 14-15 Geo. VI, c. 32 (U.K.)*, which was repealed by the *Constitution Act, 1982, section 94A* read as follows:**

94A. It is hereby declared that the Parliament of Canada may from time to time make laws in relation to old age pensions in Canada, but no law made by the Parliament of Canada in relation to old age pensions shall affect the operation of any law present or future of a Provincial Legislature in relation to old age pensions.

⁽⁵³⁾ **Repealed and re-enacted by the *Constitution Act, 1960, 9 Eliz. II, c. 2 (U.K.)*, which came into force on March 1, 1961. The original section read as follows:**

99. The Judges of the Superior Courts shall hold Office during good Behaviour, but shall be removable by the Governor General on Address of the Senate and House of Commons.

the Admiralty Courts in Cases where the Judges thereof are for the Time being paid by Salary, shall be fixed and provided by the Parliament of Canada.⁽⁵⁴⁾

General Court of Appeal, etc. **101.** The Parliament of Canada may, notwithstanding anything in this Act, from Time to Time provide for the Constitution, Maintenance, and Organization of a General Court of Appeal for Canada, and for the Establishment of any additional Courts for the better Administration of the Laws of Canada.⁽⁵⁵⁾

VIII. REVENUES; DEBTS; ASSETS; TAXATION

Creation of Consolidated Revenue Fund **102.** All Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick before and at the Union had and have Power of Appropriation, except such Portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special Powers conferred on them by this Act, shall form One Consolidated Revenue Fund, to be appropriated for the Public Service of Canada in the Manner and subject to the Charges in this Act provided.

Expenses of Collection, etc. **103.** The Consolidated Revenue Fund of Canada shall be permanently charged with the Costs, Charges, and Expenses incident to the Collection, Management, and Receipt thereof, and the same shall form the First Charge thereon, subject to be reviewed and audited in such Manner as shall be ordered by the Governor General in Council until the Parliament otherwise provides.

Interest of Provincial Public Debts **104.** The annual Interest of the Public Debts of the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union shall form the Second Charge on the Consolidated Revenue Fund of Canada.

Salary of Governor General **105.** Unless altered by the Parliament of Canada, the Salary of the Governor General shall be Ten thousand Pounds Sterling Money of the United Kingdom of Great Britain and Ireland, payable out of the Consolidated Revenue Fund of Canada, and the same shall form the Third Charge thereon.⁽⁵⁶⁾

Appropriation from Time to Time **106.** Subject to the several Payments by this Act charged on the Consolidated Revenue Fund of Canada, the same shall be appropriated by the Parliament of Canada for the Public Service.

Transfer of Stocks, etc. **107.** All Stocks, Cash, Banker's Balances, and Securities for Money belonging to each Province at the Time of the Union, except as in this Act mentioned, shall be the Property of Canada, and shall be taken in Reduction of the Amount of the respective Debts of the Provinces at the Union.

Transfer of Property in Schedule **108.** The Public Works and Property of each Province, enumerated in the Third Schedule to this Act, shall be the Property of Canada.

Property in Lands, Mines, etc. **109.** All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all Sums then due or payable

⁽⁵⁴⁾ Now provided for in the *Judges Act*, R.S.C. 1985, c. J-1.

⁽⁵⁵⁾ See the *Supreme Court Act*, R.S.C. 1985, c. S-26, the *Federal Courts Act*, R.S.C. 1985, c. F-7 and the *Tax Court of Canada Act*, R.S.C. 1985, c. T-2.

⁽⁵⁶⁾ Now covered by the *Governor General's Act*, R.S.C. 1985, c. G-9.

for such Lands, Mines, Minerals, or Royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick in which the same are situate or arise, subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same.⁽⁵⁷⁾

Assets connected with Provincial Debts **110.** All Assets connected with such Portions of the Public Debt of each Province as are assumed by that Province shall belong to that Province.

Canada to be liable for Provincial Debts **111.** Canada shall be liable for the Debts and Liabilities of each Province existing at the Union.

Debts of Ontario and Quebec **112.** Ontario and Quebec conjointly shall be liable to Canada for the Amount (if any) by which the Debt of the Province of Canada exceeds at the Union Sixty-two million five hundred thousand Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.

Assets of Ontario and Quebec **113.** The Assets enumerated in the Fourth Schedule to this Act belonging at the Union to the Province of Canada shall be the Property of Ontario and Quebec conjointly.

Debt of Nova Scotia **114.** Nova Scotia shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Eight million Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.⁽⁵⁸⁾

Debt of New Brunswick **115.** New Brunswick shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Seven million Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon.

Payment of interest to Nova Scotia and New Brunswick **116.** In case the Public Debts of Nova Scotia and New Brunswick do not at the Union amount to Eight million and Seven million Dollars respectively, they shall respectively receive by half -yearly Payments in advance from the Government of Canada Interest at Five per Centum per Annum on the Difference between the actual Amounts of their respective Debts and such stipulated Amounts.

Provincial Public Property **117.** The several Provinces shall retain all their respective Public Property not otherwise disposed of in this Act, subject to the Right of Canada to assume any Lands or Public Property required for Fortifications or for the Defence of the Country.

⁽⁵⁷⁾ **Manitoba, Alberta and Saskatchewan were placed in the same position as the original provinces by the *Constitution Act, 1930, 20-21 Geo. V, c. 26 (U.K.)*.**

These matters were dealt with in respect of British Columbia by the *British Columbia Terms of Union* and also in part by the *Constitution Act, 1930*.

Newfoundland was also placed in the same position by the *Newfoundland Act, 12-13 Geo. VI, c. 22 (U.K.)*.

With respect to Prince Edward Island, see the Schedule to the *Prince Edward Island Terms of Union*.

⁽⁵⁸⁾ **The obligations imposed by this section, sections 115 and 116, and similar obligations under the instruments creating or admitting other provinces, have been carried into legislation of the Parliament of Canada and are now to be found in the *Provincial Subsidies Act, R.S.C. 1985, c. P-26*.**

118. Repealed.⁽⁵⁹⁾

⁽⁵⁹⁾ Repealed by the *Statute Law Revision Act, 1950, 14 Geo. VI, c. 6 (U.K.)*. As originally enacted the section read as follows:

118. The following Sums shall be paid yearly by Canada to the several Provinces for the Support of their Governments and Legislatures:

	Dollars.
Ontario.....	Eighty thousand.
Quebec.....	Seventy thousand.
Nova Scotia.....	Sixty thousand.
New Brunswick.....	Fifty thousand.

Two hundred and sixty thousand;

and an annual Grant in aid of each Province shall be made, equal to Eighty Cents per Head of the Population as ascertained by the Census of One thousand eight hundred and sixty-one, and in the Case of Nova Scotia and New Brunswick, by each subsequent Decennial Census until the Population of each of those two Provinces amounts to Four hundred thousand Souls, at which Rate such Grant shall thereafter remain. Such Grants shall be in full Settlement of all future Demands on Canada, and shall be paid half-yearly in advance to each Province; but the Government of Canada shall deduct from such Grants, as against any Province, all Sums chargeable as Interest on the Public Debt of that Province in excess of the several Amounts stipulated in this Act.

The section was made obsolete by the *Constitution Act, 1907, 7 Edw. VII, c. 11 (U.K.)* which provided:

1. (1) The following grants shall be made yearly by Canada to every province, which at the commencement of this Act is a province of the Dominion, for its local purposes and the support of its Government and Legislature:

(a) A fixed grant

where the population of the province is under one hundred and fifty thousand, of one hundred thousand dollars;

where the population of the province is one hundred and fifty thousand, but does not exceed two hundred thousand, of one hundred and fifty thousand dollars;

where the population of the province is two hundred thousand, but does not exceed four hundred thousand, of one hundred and eighty thousand dollars;

where the population of the province is four hundred thousand, but does not exceed eight hundred thousand, of one hundred and ninety thousand dollars;

where the population of the province is eight hundred thousand, but does not exceed one million five hundred thousand, of two hundred and twenty thousand dollars;

where the population of the province exceeds one million five hundred thousand, of two hundred and forty thousand dollars; and

(b) Subject to the special provisions of this Act as to the provinces of British Columbia and Prince Edward Island, a grant at the rate of eighty cents per head of the population of the province up to the number of two million five hundred thousand, and at the rate of sixty cents per head of so much of the population as exceeds that number.

(2) An additional grant of one hundred thousand dollars shall be made yearly to the province of British Columbia for a period of ten years from the commencement of this Act.

(3) The population of a province shall be ascertained from time to time in the case of the provinces of Manitoba, Saskatchewan, and Alberta respectively by the last quinquennial census or statutory estimate of population made under the Acts establishing those provinces or any other Act of the Parliament of Canada making provision for the purpose, and in the case of any other province by the last decennial census for the time being.

(4) The grants payable under this Act shall be paid half-yearly in advance to each province.

(5) The grants payable under this Act shall be substituted for the grants or subsidies (in this Act referred to as existing grants) payable for the like purposes at the commencement of this Act to the several provinces of the Dominion under the provisions of section one hundred and eighteen of the *Constitution Act, 1867*, or of any Order in Council establishing a province, or of any Act of the Parliament of Canada containing directions for the payment of any such grant or subsidy, and those provisions shall cease to have effect.

Further Grant to
New Brunswick

119. New Brunswick shall receive by half-yearly Payments in advance from Canada for the Period of Ten Years from the Union an additional Allowance of Sixty-three thousand Dollars per Annum; but as long as the Public Debt of that Province remains under Seven million Dollars, a Deduction equal to the Interest at Five per Centum per Annum on such Deficiency shall be made from that Allowance of Sixty-three thousand Dollars.⁽⁶⁰⁾

Form of
Payments

120. All Payments to be made under this Act, or in discharge of Liabilities created under any Act of the Provinces of Canada, Nova Scotia, and New Brunswick respectively, and assumed by Canada, shall, until the Parliament of Canada otherwise directs, be made in such Form and Manner as may from Time to Time be ordered by the Governor General in Council.

Canadian
Manufactures,
etc.

121. All Articles of the Growth, Produce, or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.

Continuance of
Customs and
Excise Laws

122. The Customs and Excise Laws of each Province shall, subject to the Provisions of this Act, continue in force until altered by the Parliament of Canada.⁽⁶¹⁾

Exportation and
Importation as
between Two
Provinces

123. Where Customs Duties are, at the Union, leviable on any Goods, Wares, or Merchandises in any Two Provinces, those Goods, Wares, and Merchandises may, from and after the Union, be imported from one of those Provinces into the other of them on Proof of Payment of the Customs Duty leviable thereon in the Province of Exportation, and on Payment of such further Amount (if any) of Customs Duty as is leviable thereon in the Province of Importation.⁽⁶²⁾

Lumber Dues in
New Brunswick

124. Nothing in this Act shall affect the Right of New Brunswick to levy the Lumber Dues provided in Chapter Fifteen of Title Three of the Revised Statutes of New Brunswick,

(6) The Government of Canada shall have the same power of deducting sums charged against a province on account of the interest on public debt in the case of the grant payable under this Act to the province as they have in the case of the existing grant.

(7) Nothing in this Act shall affect the obligation of the Government of Canada to pay to any province any grant which is payable to that province, other than the existing grant for which the grant under this Act is substituted.

(8) In the case of the provinces of British Columbia and Prince Edward Island, the amount paid on account of the grant payable per head of the population to the provinces under this Act shall not at any time be less than the amount of the corresponding grant payable at the commencement of this Act, and if it is found on any decennial census that the population of the province has decreased since the last decennial census, the amount paid on account of the grant shall not be decreased below the amount then payable, notwithstanding the decrease of the population.

See the *Provincial Subsidies Act*, R.S.C. 1985, c. P-26 and the *Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act*, R.S.C. 1985, c. F-8.

See also Part III of the *Constitution Act, 1982*, which sets out commitments by Parliament and the provincial legislatures respecting equal opportunities, economic development and the provision of essential public services and a commitment by Parliament and the government of Canada to the principle of making equalization payments.

⁽⁶⁰⁾ Spent.

⁽⁶¹⁾ Spent. Now covered by the *Customs Act*, R.S.C. 1985, c. 1 (2nd Supp.), the *Customs Tariff*, S.C. 1997, c. 36, the *Excise Act*, R.S.C. 1985, c. E-14, the *Excise Act, 2001*, S.C. 2002, c. 22 and the *Excise Tax Act*, R.S.C. 1985, c. E-15.

⁽⁶²⁾ Spent.

or in any Act amending that Act before or after the Union, and not increasing the Amount of such Dues; but the Lumber of any of the Provinces other than New Brunswick shall not be subject to such Dues.⁽⁶³⁾

Exemption of
Public Lands,
etc.

125. No Lands or Property belonging to Canada or any Province shall be liable to Taxation.

Provincial
Consolidated
Revenue Fund

126. Such Portions of the Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick had before the Union Power of Appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all Duties and Revenues raised by them in accordance with the special Powers conferred upon them by this Act, shall in each Province form One Consolidated Revenue Fund to be appropriated for the Public Service of the Province.

IX. MISCELLANEOUS PROVISIONS

General

127. Repealed.⁽⁶⁴⁾

Oath of
Allegiance, etc.

128. 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.

Continuance of
existing Laws,
Courts, Officers,
etc.

129. 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, 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

⁽⁶³⁾ These dues were repealed in 1873 by 36 Vict., c. 16 (N.B.). Also, see *An Act respecting the Export Duties imposed on Lumber, etc.* (1873) 36 Vict., c. 41 (Canada), and section 2 of the *Provincial Subsidies Act, R.S.C. 1985, c. P-26*.

⁽⁶⁴⁾ Repealed by the *Statute Law Revision Act, 1893, 56-57 Vict., c. 14 (U.K.)*. The section read as follows:

127. 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.

respective Province, according to the Authority of the Parliament or of that Legislature under this Act.⁽⁶⁵⁾

Transfer of
Officers to
Canada

130. 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.⁽⁶⁶⁾

Appointment of
new Officers

131. 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.

Treaty
Obligations

132. 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.

Use of English
and French
Languages

133. 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.⁽⁶⁷⁾

⁽⁶⁵⁾ The restriction against altering or repealing laws enacted by or existing under statutes of the United Kingdom was removed by the *Statute of Westminster, 1931*, 22 Geo. V., c. 4 (U.K.) except in respect of certain constitutional documents. Comprehensive procedures for amending enactments forming part of the Constitution of Canada were provided by Part V of the *Constitution Act, 1982*, (U.K.) 1982, c. 11.

⁽⁶⁶⁾ Spent.

⁽⁶⁷⁾ A similar provision was enacted for Manitoba by section 23 of the *Manitoba Act, 1870*, 33 Vict., c. 3 (Canada), (confirmed by the *Constitution Act, 1871*). Section 23 read as follows:

23. Either the English or the French language may be used by any person in the debates of the Houses of the Legislature, and both these 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 the British North America Act, 1867, or in or from all or any of the Courts of the Province. The Acts of the Legislature shall be printed and published in both those languages.

Sections 17 to 19 of the *Constitution Act, 1982* restate the language rights set out in section 133 in respect of Parliament and the courts established under the *Constitution Act, 1867*, and also guarantees those rights in respect of the legislature of New Brunswick and the courts of that province.

Section 16 and sections 20, 21 and 23 of the *Constitution Act, 1982* recognize additional language rights in respect of the English and French languages. Section 22 preserves language rights and privileges of languages other than English and French.

Ontario and Quebec

Appointment of
Executive
Officers for
Ontario and
Quebec

134. 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 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. ⁽⁶⁸⁾

Powers, Duties,
etc. of Executive
Officers

135. 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. ⁽⁶⁹⁾

Great Seals

136. 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.

Construction of
temporary Acts

137. 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 defined by this Act.

As to Errors in
Names

138. 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.

⁽⁶⁸⁾ Spent. Now covered in Ontario by the *Executive Council Act*, R.S.O. 1990, c. E.25 and in Quebec by the *Executive Power Act*, R.S.Q. 1977, c. E-18.

⁽⁶⁹⁾ Probably spent.

As to issue of Proclamations before Union, to commence after Union

139. 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 Things therein proclaimed, shall be and continue of like Force and Effect as if the Union had not been made.⁽⁷⁰⁾

As to issue of Proclamations after Union

140. 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.⁽⁷¹⁾

Penitentiary

141. 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.⁽⁷²⁾

Arbitration respecting Debts, etc.

142. 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.⁽⁷³⁾

Division of Records

143. 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.⁽⁷⁴⁾

Constitution of Townships in Quebec

144. 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.

⁽⁷⁰⁾ **Probably spent.**

⁽⁷¹⁾ **Probably spent.**

⁽⁷²⁾ **Spent. Penitentiaries are now provided for by the *Corrections and Conditional Release Act*, S.C. 1992, c. 20.**

⁽⁷³⁾ **Spent. See pages (xi) and (xii) of the *Public Accounts, 1902-03*.**

⁽⁷⁴⁾ **Probably spent. Two orders were made under this section on January 24, 1868.**

X. INTERCOLONIAL RAILWAY

145. Repealed.⁽⁷⁵⁾

XI. ADMISSION OF OTHER COLONIES

Power to admit
Newfoundland,
etc., into the
Union

146. It shall 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 from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-western Territory, or either of them, into the Union, on such Terms and Conditions in each Case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the Provisions of this Act; and the Provisions of any Order in Council in that Behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.⁽⁷⁶⁾

As to
Representation
of
Newfoundland
and Prince
Edward Island in
Senate

147. In case of the Admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a Representation in the Senate of Canada of Four Members, and (notwithstanding anything in this Act) in case of the Admission of Newfoundland the normal Number of Senators shall be Seventy-six and their maximum Number shall be Eighty-two; but Prince Edward Island when admitted shall be deemed to be comprised in the third of the Three Divisions into which Canada is, in relation to the Constitution of the Senate, divided by this Act, and accordingly, after the Admission of Prince Edward Island, whether Newfoundland is admitted or not, the Representation of Nova Scotia and New Brunswick in the Senate shall, as Vacancies occur, be reduced from Twelve to Ten Members respectively, and the Representation of each of those Provinces shall not be increased at any Time beyond Ten, except under the Provisions of this Act for the Appointment of Three or Six additional Senators under the Direction of the Queen.⁽⁷⁷⁾

⁽⁷⁵⁾ Repealed by the *Statute Law Revision Act, 1893, 56-57 Vict., c. 14, (U.K.)*. The section read as follows:

X. Intercolonial Railway

145. Inasmuch as the Provinces of Canada, Nova Scotia, and New Brunswick have joined in a Declaration that the Construction of the Intercolonial Railway is essential to the Consolidation of the Union of British North America, and to the Assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that Provision should be made for its immediate Construction by the Government of Canada; Therefore, in order to give effect to that Agreement, it shall be the Duty of the Government and Parliament of Canada to provide for the Commencement, within Six Months after the Union, of a Railway connecting the River St. Lawrence with the City of Halifax in Nova Scotia, and for the Construction thereof without Intermission, and the Completion thereof with all practicable Speed.

⁽⁷⁶⁾ All territories mentioned in this section are now part of Canada. See the notes to section 5, *supra*.

⁽⁷⁷⁾ Spent. See the notes to sections 21, 22, 26, 27 and 28, *supra*.

SCHEDULES

THE FIRST SCHEDULE⁽⁷⁸⁾

Electoral Districts of Ontario

A.

EXISTING ELECTORAL DIVISIONS.

COUNTIES

- | | |
|---------------|-------------------|
| 1. Prescott. | 6. Carleton. |
| 2. Glengarry. | 7. Prince Edward. |
| 3. Stormont. | 8. Halton. |
| 4. Dundas. | 9. Essex. |
| 5. Russell. | |

RIDINGS OF COUNTIES

10. North Riding of Lanark.
11. South Riding of Lanark.
12. North Riding of Leeds and North Riding of Grenville.
13. South Riding of Leeds.
14. South Riding of Grenville.
15. East Riding of Northumberland.
16. West Riding of Northumberland (excepting therefrom the Township of South Monaghan).
17. East Riding of Durham.
18. West Riding of Durham.
19. North Riding of Ontario.
20. South Riding of Ontario.
21. East Riding of York.
22. West Riding of York.
23. North Riding of York.
24. North Riding of Wentworth.
25. South Riding of Wentworth.
26. East Riding of Elgin.
27. West Riding of Elgin.
28. North Riding of Waterloo.
29. South Riding of Waterloo.
30. North Riding of Brant.

⁽⁷⁸⁾ *Spent. Representation Act, R.S.O. 1990, c. R.26.*

31. South Riding of Brant.
32. North Riding of Oxford.
33. South Riding of Oxford.
34. East Riding of Middlesex.

CITIES, PARTS OF CITIES, AND TOWNS

35. West Toronto.
36. East Toronto.
37. Hamilton.
38. Ottawa.
39. Kingston.
40. London.
41. Town of Brockville, with the Township of Elizabethtown thereto attached.
42. Town of Niagara, with the Township of Niagara thereto attached.
43. Town of Cornwall, with the Township of Cornwall thereto attached.

B.

NEW ELECTORAL DIVISIONS

44. The Provisional Judicial District of Algoma.

The County of BRUCE, divided into Two Ridings, to be called respectively the North and South Ridings:—

45. The North Riding of Bruce to consist of the Townships of Bury, Lindsay, Eastnor, Albermarle, Amable, Arran, Bruce, Elderslie, and Saugeen, and the Village of Southampton.
46. The South Riding of Bruce to consist of the Townships of Kincardine (including the Village of Kincardine), Greenock, Brant, Huron, Kinloss, Culross, and Carrick.

The County of HURON, divided into Two Ridings, to be called respectively the North and South Ridings:—

47. The North Riding to consist of the Townships of Ashfield, Wawanosh, Turnberry, Howick, Morris, Grey, Colborne, Hullett, including the Village of Clinton, and McKillop.
48. The South Riding to consist of the Town of Goderich and the Townships of Goderich, Tuckersmith, Stanley, Hay, Osborne, and Stephen.

The County of MIDDLESEX, divided into three Ridings, to be called respectively the North, West, and East Ridings:—

49. The North Riding to consist of the Townships of McGillivray and Biddulph (taken from the County of Huron), and Williams East, Williams West, Adelaide, and Lobo.
50. The West Riding to consist of the Townships of Delaware, Carradoc, Metcalfe, Mosa and Ekfrid, and the Village of Strathroy.
[The East Riding to consist of the Townships now embraced therein, and be bounded as it is at present.]
51. The County of LAMBTON to consist of the Townships of Bosanquet, Warwick, Plympton, Sarnia, Moore, Enniskillen, and Brooke, and the Town of Sarnia.

52. The County of KENT to consist of the Townships of Chatham, Dover, East Tilbury, Romney, Raleigh, and Harwich, and the Town of Chatham.
53. The County of BOTHWELL to consist of the Townships of Sombra, Dawn, and Euphemia (taken from the County of Lambton), and the Townships of Zone, Camden with the Gore thereof, Orford, and Howard (taken from the County of Kent).

The County of GREY divided into Two Ridings to be called respectively the South and North Ridings:—

54. The South Riding to consist of the Townships of Bentinck, Glenelg, Artemesia, Osprey, Normanby, Egremont, Proton, and Melancthon.
55. The North Riding to consist of the Townships of Collingwood, Euphrasia, Holland, Saint-Vincent, Sydenham, Sullivan, Derby, and Keppel, Sarawak and Brooke, and the Town of Owen Sound.

The County of PERTH divided into Two Ridings, to be called respectively the South and North Ridings:—

56. The North Riding to consist of the Townships of Wallace, Elma, Logan, Ellice, Mornington, and North Easthope, and the Town of Stratford.
57. The South Riding to consist of the Townships of Blanchard, Downie, South Easthope, Fullarton, Hibbert, and the Villages of Mitchell and Ste. Marys.

The County of WELLINGTON divided into Three Ridings to be called respectively North, South and Centre Ridings:—

58. The North Riding to consist of the Townships of Amaranth, Arthur, Luther, Minto, Maryborough, Peel, and the Village of Mount Forest.
59. The Centre Riding to consist of the Townships of Garafraxa, Erin, Eramosa, Nichol, and Pilkington, and the Villages of Fergus and Elora.
60. The South Riding to consist of the Town of Guelph, and the Townships of Guelph and Puslinch.

The County of NORFOLK, divided into Two Ridings, to be called respectively the South and North Ridings:—

61. The South Riding to consist of the Townships of Charlotteville, Houghton, Walsingham, and Woodhouse, and with the Gore thereof.
62. The North Riding to consist of the Townships of Middleton, Townsend, and Windham, and the Town of Simcoe.
63. The County of HALDIMAND to consist of the Townships of Oneida, Seneca, Cayuga North, Cayuga South, Raynham, Walpole, and Dunn.
64. The County of MONCK to consist of the Townships of Canborough and Moulton, and Sherbrooke, and the Village of Dunnville (taken from the County of Haldimand), the Townships of Caister and Gainsborough (taken from the County of Lincoln), and the Townships of Pelham and Wainfleet (taken from the County of Welland).
65. The County of LINCOLN to consist of the Townships of Clinton, Grantham, Grimsby, and Louth, and the Town of St. Catherines.
66. The County of WELLAND to consist of the Townships of Bertie, Crowland, Humberstone, Stamford, Thorold, and Willoughby, and the Villages of Chippewa, Clifton, Fort Erie, Thorold, and Welland.
67. The County of PEEL to consist of the Townships of Chinguacousy, Toronto, and the Gore of Toronto, and the Villages of Brampton and Streetsville.

68. The County of CARDWELL to consist of the Townships of Albion and Caledon (taken from the County of Peel), and the Townships of Adjala and Mono (taken from the County of Simcoe).

The County of SIMCOE, divided into Two Ridings, to be called respectively the South and North Ridings:—

69. The South Riding to consist of the Townships of West Gwillimbury, Tecumseth, Innisfil, Essa, Tosorontio, Mulmur, and the Village of Bradford.
70. The North Riding to consist of the Townships of Nottawasaga, Sunnidale, Vespra, Flos, Oro, Medonte, Orillia and Matchedash, Tiny and Tay, Balaklava and Robinson, and the Towns of Barrie and Collingwood.

The County of VICTORIA, divided into Two Ridings, to be called respectively the South and North Ridings:—

71. The South Riding to consist of the Townships of Ops, Mariposa, Emily, Verulam, and the Town of Lindsay.
72. The North Riding to consist of the Townships of Anson, Bexley, Carden, Dalton, Digby, Eldon, Fenelon, Hindon, Laxton, Lutterworth, Macaulay and Draper, Sommerville, and Morrison, Muskoka, Monck and Watt (taken from the County of Simcoe), and any other surveyed Townships lying to the North of the said North Riding.

The County of PETERBOROUGH, divided into Two Ridings, to be called respectively the West and East Ridings:—

73. The West Riding to consist of the Townships of South Monaghan (taken from the County of Northumberland), North Monaghan, Smith, and Ennismore, and the Town of Peterborough.
74. The East Riding to consist of the Townships of Asphodel, Belmont and Methuen, Douro, Dummer, Galway, Harvey, Minden, Stanhope and Dysart, Otonabee, and Snowden, and the Village of Ashburnham, and any other surveyed Townships lying to the North of the said East Riding.

The County of HASTINGS, divided into Three Ridings, to be called respectively the West, East, and North Ridings:—

75. The West Riding to consist of the Town of Belleville, the Township of Sydney, and the Village of Trenton.
76. The East Riding to consist of the Townships of Thurlow, Tyendinaga, and Hungerford.
77. The North Riding to consist of the Townships of Rawdon, Huntingdon, Madoc, Elzevir, Tudor, Marmora, and Lake, and the Village of Stirling, and any other surveyed Townships lying to the North of the said North Riding.
78. The County of LENNOX to consist of the Townships of Richmond, Adolphustown, North Fredericksburg, South Fredericksburg, Ernest Town, and Amherst Island, and the Village of Napanee.
79. The County of ADDINGTON to consist of the Townships of Camden, Portland, Sheffield, Hinchinbrooke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Effingham, Abinger, Miller, Canonto, Denbigh, Loughborough, and Bedford.

80. The County of FRONTENAC to consist of the Townships of Kingston, Wolfe Island, Pittsburg and Howe Island, and Storrington.

The County of RENFREW, divided into Two Ridings, to be called respectively the South and North Ridings:—

81. The South Riding to consist of the Townships of McNab, Bagot, Blithfield, Brougham, Horton, Admaston, Grattan, Matawatchan, Griffith, Lyndoch, Raglan, Radcliffe, Brudenell, Sebastopol, and the Villages of Arnprior and Renfrew.
82. The North Riding to consist of the Townships of Ross, Bromley, Westmeath, Stafford, Pembroke, Wilberforce, Alice, Petawawa, Buchanan, South Algona, North Algona, Fraser, McKay, Wylie, Rolph, Head, Maria, Clara, Haggerty, Sherwood, Burns, and Richards, and any other surveyed Townships lying North-westerly of the said North Riding.

Every Town and incorporated Village existing at the Union, not especially mentioned in this Schedule, is to be taken as Part of the County or Riding within which it is locally situate.

THE SECOND SCHEDULE

Electoral Districts of Quebec specially fixed

COUNTIES OF—

Pontiac.	Missisquoi.	Compton.
Ottawa.	Brome.	Wolfe and
Argenteuil.	Shefford.	Richmond.
Huntingdon.	Stanstead.	Megantic.
	Town of Sherbrooke.	

THE THIRD SCHEDULE

Provincial Public Works and Property to be the Property of Canada

1. Canals, with Lands and Water Power connected therewith.
2. Public Harbours.
3. Lighthouses and Piers, and Sable Island.
4. Steamboats, Dredges, and public Vessels.
5. Rivers and Lake Improvements.
6. Railways and Railway Stocks, Mortgages, and other Debts due by Railway Companies.
7. Military Roads.
8. Custom Houses, Post Offices, and all other Public Buildings, except such as the Government of Canada appropriate for the Use of the Provincial Legislatures and Governments.

9. Property transferred by the Imperial Government, and known as Ordnance Property.
10. Armouries, Drill Sheds, Military Clothing, and Munitions of War, and Lands set apart for general Public Purposes.

THE FOURTH SCHEDULE

Assets to be the Property of Ontario and Quebec conjointly

Upper Canada Building Fund.
 Lunatic Asylums.
 Normal School.
 Court Houses in } Lower Canada
 Aylmer.
 Montreal.
 Kamouraska.
 Law Society, Upper Canada.
 Montreal Turnpike Trust.
 University Permanent Fund.
 Royal Institution.
 Consolidated Municipal Loan Fund, Upper Canada.
 Consolidated Municipal Loan Fund, Lower Canada.
 Agricultural Society, Upper Canada.
 Lower Canada Legislative Grant.
 Quebec Fire Loan.
 Temiscouata Advance Account.
 Quebec Turnpike Trust.
 Education—East.
 Building and Jury Fund, Lower Canada.
 Municipalities Fund.
 Lower Canada Superior Education Income Fund.

THE FIFTH SCHEDULE

OATH OF ALLEGIANCE

I A.B. do swear, That I will be faithful and bear true Allegiance to Her Majesty Queen Victoria.

Note.—The Name of the King or Queen of the United Kingdom of Great Britain and Ireland for the Time being is to be substituted from Time to Time, with proper Terms of Reference thereto.

DECLARATION OF QUALIFICATION

I *A.B.* do declare and testify, That I am by Law duly qualified to be appointed a Member of the Senate of Canada [*or as the Case may be*], and that I am legally or equitably seised as of Freehold for my own Use and Benefit of Lands or Tenements held in Free and Common Socage [*or seised or possessed for my own Use and Benefit of Lands or Tenements held in Franc-allevu or in Roture (as the Case may be),*] in the Province of Nova Scotia [*or as the Case may be*] of the Value of Four thousand Dollars over and above all Rents, Dues, Debts, Mortgages, Charges, and Incumbrances due or payable out of or charged on or affecting the same, and that I have not collusively or colourably obtained a Title to or become possessed of the said Lands and Tenements or any Part thereof for the Purpose of enabling me to become a Member of the Senate of Canada [*or as the Case may be*], and that my Real and Personal Property are together worth Four thousand Dollars over and above my Debts and Liabilities.

THE SIXTH SCHEDULE⁽⁷⁹⁾

Primary Production from Non-Renewable Natural Resources and Forestry Resources

1. For the purposes of section 92A of this Act,

(a) production from a non-renewable natural resource is primary production therefrom if

(i) it is in the form in which it exists upon its recovery or severance from its natural state, or

(ii) it is a product resulting from processing or refining the resource, and is not a manufactured product or a product resulting from refining crude oil, refining upgraded heavy crude oil, refining gases or liquids derived from coal or refining a synthetic equivalent of crude oil; and

(b) production from a forestry resource is primary production therefrom if it consists of sawlogs, poles, lumber, wood chips, sawdust or any other primary wood product, or wood pulp, and is not a product manufactured from wood.

⁽⁷⁹⁾ As enacted by the *Constitution Act, 1982*.

CONSTITUTION ACT, 1982⁽⁸⁰⁾

SCHEDULE B

CONSTITUTION ACT, 1982

PART I

CANADIAN CHARTER OF RIGHTS AND FREEDOMS

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law:

Guarantee of Rights and Freedoms

Rights and freedoms in Canada

1. The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Fundamental Freedoms

Fundamental freedoms

2. Everyone has the following fundamental freedoms:

- (a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

⁽⁸⁰⁾ Enacted as Schedule B to the *Canada Act 1982, (U.K.) 1982, c. 11, which came into force on April 17, 1982. The Canada Act 1982, other than Schedules A and B thereto, reads as follows:*

An Act to give effect to a request by the Senate and House of Commons of Canada

Whereas Canada has requested and consented to the enactment of an Act of the Parliament of the United Kingdom to give effect to the provisions hereinafter set forth and the Senate and the House of Commons of Canada in Parliament assembled have submitted an address to Her Majesty requesting that Her Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for that purpose.

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. The *Constitution Act, 1982* set out in Schedule B to this Act is hereby enacted for and shall have the force of law in Canada and shall come into force as provided in that Act.

2. No Act of the Parliament of the United Kingdom passed after the *Constitution Act, 1982* comes into force shall extend to Canada as part of its law.

3. So far as it is not contained in Schedule B, the French version of this Act is set out in Schedule A to this Act and has the same authority in Canada as the English version thereof.

4. This Act may be cited as the *Canada Act 1982*.

Democratic Rights

Democratic rights of citizens	3. Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.
Maximum duration of legislative bodies	4. (1) No House of Commons and no legislative assembly shall continue for longer than five years from the date fixed for the return of the writs of a general election of its members. ⁽⁸¹⁾
Continuation in special circumstances	(2) In time of real or apprehended war, invasion or insurrection, a House of Commons may be continued by Parliament and a legislative assembly may be continued by the legislature beyond five years if such continuation is not opposed by the votes of more than one-third of the members of the House of Commons or the legislative assembly, as the case may be. ⁽⁸²⁾
Annual sitting of legislative bodies	5. There shall be a sitting of Parliament and of each legislature at least once every twelve months. ⁽⁸³⁾

Mobility Rights

Mobility of citizens	6. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.
Rights to move and gain livelihood	(2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right <i>(a)</i> to move to and take up residence in any province; and <i>(b)</i> to pursue the gaining of a livelihood in any province.
Limitation	(3) The rights specified in subsection (2) are subject to <i>(a)</i> any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence; and <i>(b)</i> any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.
Affirmative action programs	(4) Subsections (2) and (3) do not preclude any law, program or activity that has as its object the amelioration in a province of conditions of individuals in that province who are socially or economically disadvantaged if the rate of employment in that province is below the rate of employment in Canada.

Legal Rights

Life, liberty and security of person	7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.
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⁽⁸¹⁾ See section 50 and the footnotes to sections 85 and 88 of the *Constitution Act, 1867*.

⁽⁸²⁾ Replaces part of Class 1 of section 91 of the *Constitution Act, 1867*, which was repealed as set out in subitem 1(3) of the Schedule to this Act.

⁽⁸³⁾ See the footnotes to sections 20, 86 and 88 of the *Constitution Act, 1867*.

Search or seizure	8. Everyone has the right to be secure against unreasonable search or seizure.
Detention or imprisonment	9. Everyone has the right not to be arbitrarily detained or imprisoned.
Arrest or detention	<p>10. Everyone has the right on arrest or detention</p> <p>(a) to be informed promptly of the reasons therefor;</p> <p>(b) to retain and instruct counsel without delay and to be informed of that right; and</p> <p>(c) to have the validity of the detention determined by way of <i>habeas corpus</i> and to be released if the detention is not lawful.</p>
Proceedings in criminal and penal matters	<p>11. Any person charged with an offence has the right</p> <p>(a) to be informed without unreasonable delay of the specific offence;</p> <p>(b) to be tried within a reasonable time;</p> <p>(c) not to be compelled to be a witness in proceedings against that person in respect of the offence;</p> <p>(d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;</p> <p>(e) not to be denied reasonable bail without just cause;</p> <p>(f) except in the case of an offence under military law tried before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment;</p> <p>(g) not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general principles of law recognized by the community of nations;</p> <p>(h) if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again; and</p> <p>(i) if found guilty of the offence and if the punishment for the offence has been varied between the time of commission and the time of sentencing, to the benefit of the lesser punishment.</p>
Treatment or punishment	12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.
Self-crimination	13. A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence.
Interpreter	14. A party or witness in any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf has the right to the assistance of an interpreter.

Equality Rights

Equality before and under law and equal protection and benefit of law

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Affirmative action programs

(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.⁽⁸⁴⁾

Official Languages of Canada

Official languages of Canada

16. (1) English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada.

Official languages of New Brunswick

(2) English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick.

Advancement of status and use

(3) Nothing in this Charter limits the authority of Parliament or a legislature to advance the equality of status or use of English and French.

English and French linguistic communities in New Brunswick

16.1 (1) The English linguistic community and the French linguistic community in New Brunswick have equality of status and equal rights and privileges, including the right to distinct educational institutions and such distinct cultural institutions as are necessary for the preservation and promotion of those communities.

Role of the legislature and government of New Brunswick

(2) The role of the legislature and government of New Brunswick to preserve and promote the status, rights and privileges referred to in subsection (1) is affirmed.⁽⁸⁵⁾

Proceedings of Parliament

17. (1) Everyone has the right to use English or French in any debates and other proceedings of Parliament.⁽⁸⁶⁾

Proceedings of New Brunswick legislature

(2) Everyone has the right to use English or French in any debates and other proceedings of the legislature of New Brunswick.⁽⁸⁷⁾

Parliamentary statutes and records

18. (1) The statutes, records and journals of Parliament shall be printed and published in English and French and both language versions are equally authoritative.⁽⁸⁸⁾

⁽⁸⁴⁾ **Subsection 32(2) provides that section 15 shall not have effect until three years after section 32 comes into force. Section 32 came into force on April 17, 1982; therefore, section 15 had effect on April 17, 1985.**

⁽⁸⁵⁾ **Section 16.1 was added by the *Constitution Amendment, 1993 (New Brunswick)*. See SI/93-54.**

⁽⁸⁶⁾ **See section 133 of the *Constitution Act, 1867*, and the footnote thereto.**

⁽⁸⁷⁾ ***Id.***

⁽⁸⁸⁾ ***Id.***

New Brunswick
statutes and
records

(2) The statutes, records and journals of the legislature of New Brunswick shall be printed and published in English and French and both language versions are equally authoritative.⁽⁸⁹⁾

⁽⁸⁹⁾ *Id.*

Proceedings in courts established by Parliament **19.** (1) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by Parliament⁽⁹⁰⁾

Proceedings in New Brunswick courts (2) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court of New Brunswick.⁽⁹¹⁾

Communications by public with federal institutions **20.** (1) Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or government of Canada in English or French, and has the same right with respect to any other office of any such institution where

(a) there is a significant demand for communications with and services from that office in such language; or

(b) due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French.

Communications by public with New Brunswick institutions (2) Any member of the public in New Brunswick has the right to communicate with, and to receive available services from, any office of an institution of the legislature or government of New Brunswick in English or French.

Continuation of existing constitutional provisions **21.** Nothing in sections 16 to 20 abrogates or derogates from any right, privilege or obligation with respect to the English and French languages, or either of them, that exists or is continued by virtue of any other provision of the Constitution of Canada.⁽⁹²⁾

Rights and privileges preserved **22.** Nothing in sections 16 to 20 abrogates or derogates from any legal or customary right or privilege acquired or enjoyed either before or after the coming into force of this Charter with respect to any language that is not English or French.

Minority Language Educational Rights

Language of instruction **23.** (1) Citizens of Canada

(a) whose first language learned and still understood is that of the English or French linguistic minority population of the province in which they reside, or

(b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province,

have the right to have their children receive primary and secondary school instruction in that language in that province.⁽⁹³⁾

⁽⁹⁰⁾ *Id.*

⁽⁹¹⁾ *Id.*

⁽⁹²⁾ See, for example, section 133 of the *Constitution Act, 1867*, and the reference to the *Manitoba Act, 1870*, in the footnote thereto.

⁽⁹³⁾ Paragraph 23(1)(a) is not in force in respect of Quebec. See section 59 *infra*.

Continuity of language instruction

(2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school instruction in the same language.

Application where numbers warrant

(3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province

(a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and

(b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.

Enforcement

Enforcement of guaranteed rights and freedoms

24. (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

Exclusion of evidence bringing administration of justice into disrepute

(2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

General

Aboriginal rights and freedoms not affected by Charter

25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including

(a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and

(b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired.⁽⁹⁴⁾

Other rights and freedoms not affected by Charter

26. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.

Multicultural heritage

27. This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.

⁽⁹⁴⁾ Paragraph 25(b) was repealed and re-enacted by the *Constitution Amendment Proclamation, 1983*. See SI/84-102.

Paragraph 25(b) as originally enacted read as follows:

“(b) any rights or freedoms that may be acquired by the aboriginal peoples of Canada by way of land claims settlement.”

Rights guaranteed equally to both sexes

28. Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.

Rights respecting certain schools preserved

29. Nothing in this Charter abrogates or derogates from any rights or privileges guaranteed by or under the Constitution of Canada in respect of denominational, separate or dissentient schools.⁽⁹⁵⁾

Application to territories and territorial authorities

30. A reference in this Charter to a province or to the legislative assembly or legislature of a province shall be deemed to include a reference to the Yukon Territory and the Northwest Territories, or to the appropriate legislative authority thereof, as the case may be.

Legislative powers not extended

31. Nothing in this Charter extends the legislative powers of any body or authority.

Application of Charter

Application of Charter

32. (1) This Charter applies

(a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and

(b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province.

Exception

(2) Notwithstanding subsection (1), section 15 shall not have effect until three years after this section comes into force.

Exception where express declaration

33. (1) Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2 or sections 7 to 15 of this Charter.

Operation of exception

(2) An Act or a provision of an Act in respect of which a declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration.

Five year limitation

(3) A declaration made under subsection (1) shall cease to have effect five years after it comes into force or on such earlier date as may be specified in the declaration.

Re-enactment

(4) Parliament or the legislature of a province may re-enact a declaration made under subsection (1).

Five year limitation

(5) Subsection (3) applies in respect of a re-enactment made under subsection (4).

Citation

Citation

34. This Part may be cited as the *Canadian Charter of Rights and Freedoms*.

⁽⁹⁵⁾ See section 93 of the *Constitution Act, 1867*, and the footnote thereto.

PART II

RIGHTS OF THE ABORIGINAL PEOPLES OF CANADA

Recognition of existing aboriginal and treaty rights **35.** (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

Definition of “aboriginal peoples of Canada” (2) In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit and Métis peoples of Canada.

Land claims agreements (3) For greater certainty, in subsection (1) “treaty rights” includes rights that now exist by way of land claims agreements or may be so acquired.

Aboriginal and treaty rights are guaranteed equally to both sexes (4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.⁽⁹⁶⁾

Commitment to participation in constitutional conference **35.1** The government of Canada and the provincial governments are committed to the principle that, before any amendment is made to Class 24 of section 91 of the “*Constitution Act, 1867*”, to section 25 of this Act or to this Part,

(a) a constitutional conference that includes in its agenda an item relating to the proposed amendment, composed of the Prime Minister of Canada and the first ministers of the provinces, will be convened by the Prime Minister of Canada; and

(b) the Prime Minister of Canada will invite representatives of the aboriginal peoples of Canada to participate in the discussions on that item.⁽⁹⁷⁾

PART III

EQUALIZATION AND REGIONAL DISPARITIES

Commitment to promote equal opportunities **36.** (1) Without altering the legislative authority of Parliament or of the provincial legislatures, or the rights of any of them with respect to the exercise of their legislative authority, Parliament and the legislatures, together with the government of Canada and the provincial governments, are committed to

(a) promoting equal opportunities for the well-being of Canadians;

(b) furthering economic development to reduce disparity in opportunities; and

(c) providing essential public services of reasonable quality to all Canadians.

Commitment respecting public services (2) Parliament and the government of Canada are committed to the principle of making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation.⁽⁹⁸⁾

⁽⁹⁶⁾ Subsections 35(3) and (4) were added by the *Constitution Amendment Proclamation, 1983*. See SI/84-102.

⁽⁹⁷⁾ Section 35.1 was added by the *Constitution Amendment Proclamation, 1983*. See SI/84-102.

⁽⁹⁸⁾ See the footnotes to sections 114 and 118 of the *Constitution Act, 1867*.

PART IV

CONSTITUTIONAL CONFERENCE

37. Repealed.⁽⁹⁹⁾

PART IV.I

CONSTITUTIONAL CONFERENCES

37.1 Repealed.⁽¹⁰⁰⁾

PART V

PROCEDURE FOR AMENDING CONSTITUTION OF CANADA⁽¹⁰¹⁾

General
procedure for
amending
Constitution of
Canada

38. (1) An amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by

(a) resolutions of the Senate and House of Commons; and

⁽⁹⁹⁾ Section 54 provided for the repeal of Part IV one year after Part VII came into force. Part VII came into force on April 17, 1982 thereby repealing Part IV on April 17, 1983.

Part IV, as originally enacted, read as follows:

37. (1) A constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada within one year after this Part comes into force.

(2) The conference convened under subsection (1) shall have included in its agenda an item respecting constitutional matters that directly affect the aboriginal peoples of Canada, including the identification and definition of the rights of those peoples to be included in the Constitution of Canada, and the Prime Minister of Canada shall invite representatives of those peoples to participate in the discussions on that item.

(3) The Prime Minister of Canada shall invite elected representatives of the governments of the Yukon Territory and the Northwest Territories to participate in the discussions on any item on the agenda of the conference convened under subsection (1) that, in the opinion of the Prime Minister, directly affects the Yukon Territory and the Northwest Territories.

⁽¹⁰⁰⁾ Part IV.1, which was added by the *Constitution Amendment Proclamation, 1983* (see SI/84-102), was repealed on April 18, 1987 by section 54.1.

Part IV.1, as originally enacted, read as follows:

37.1 (1) In addition to the conference convened in March 1983, at least two constitutional conferences composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada, the first within three years after April 17, 1982 and the second within five years after that date.

(2) Each conference convened under subsection (1) shall have included in its agenda constitutional matters that directly affect the aboriginal peoples of Canada, and the Prime Minister of Canada shall invite representatives of those peoples to participate in the discussions on those matters.

(3) The Prime Minister of Canada shall invite elected representatives of the governments of the Yukon Territory and the Northwest Territories to participate in the discussions on any item on the agenda of a conference convened under subsection (1) that, in the opinion of the Prime Minister, directly affects the Yukon Territory and the Northwest Territories.

(4) Nothing in this section shall be construed so as to derogate from subsection 35(1).

⁽¹⁰¹⁾ Prior to the enactment of Part V certain provisions of the Constitution of Canada and the provincial constitutions could be amended pursuant to the *Constitution Act, 1867*. See the footnotes to section 91, Class 1 and section 92, Class 1 thereof, *supra*. Other amendments to the Constitution could only be made by enactment of the Parliament of the United Kingdom.

(b) resolutions of the legislative assemblies of at least two-thirds of the provinces that have, in the aggregate, according to the then latest general census, at least fifty per cent of the population of all the provinces.

Majority of members

(2) An amendment made under subsection (1) that derogates from the legislative powers, the proprietary rights or any other rights or privileges of the legislature or government of a province shall require a resolution supported by a majority of the members of each of the Senate, the House of Commons and the legislative assemblies required under subsection (1).

Expression of dissent

(3) An amendment referred to in subsection (2) shall not have effect in a province the legislative assembly of which has expressed its dissent thereto by resolution supported by a majority of its members prior to the issue of the proclamation to which the amendment relates unless that legislative assembly, subsequently, by resolution supported by a majority of its members, revokes its dissent and authorizes the amendment.

Revocation of dissent

(4) A resolution of dissent made for the purposes of subsection (3) may be revoked at any time before or after the issue of the proclamation to which it relates.

Restriction on proclamation

39. (1) A proclamation shall not be issued under subsection 38(1) before the expiration of one year from the adoption of the resolution initiating the amendment procedure thereunder, unless the legislative assembly of each province has previously adopted a resolution of assent or dissent.

Idem

(2) A proclamation shall not be issued under subsection 38(1) after the expiration of three years from the adoption of the resolution initiating the amendment procedure thereunder.

Compensation

40. Where an amendment is made under subsection 38(1) that transfers provincial legislative powers relating to education or other cultural matters from provincial legislatures to Parliament, Canada shall provide reasonable compensation to any province to which the amendment does not apply.

Amendment by unanimous consent

41. An amendment to the Constitution of Canada in relation to the following matters may be made by proclamation issued by the Governor General under the Great Seal of Canada only where authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province:

(a) the office of the Queen, the Governor General and the Lieutenant Governor of a province;

(b) the right of a province to a number of members in the House of Commons not less than the number of Senators by which the province is entitled to be represented at the time this Part comes into force;

(c) subject to section 43, the use of the English or the French language;

(d) the composition of the Supreme Court of Canada; and

(e) an amendment to this Part.

Amendment by general procedure

42. (1) An amendment to the Constitution of Canada in relation to the following matters may be made only in accordance with subsection 38(1):

(a) the principle of proportionate representation of the provinces in the House of Commons prescribed by the Constitution of Canada;

- (b) the powers of the Senate and the method of selecting Senators;
- (c) the number of members by which a province is entitled to be represented in the Senate and the residence qualifications of Senators;
- (d) subject to paragraph 41(d), the Supreme Court of Canada;
- (e) the extension of existing provinces into the territories; and
- (f) notwithstanding any other law or practice, the establishment of new provinces.

Exception (2) Subsections 38(2) to (4) do not apply in respect of amendments in relation to matters referred to in subsection (1).

Amendment of provisions relating to some but not all provinces **43.** An amendment to the Constitution of Canada in relation to any provision that applies to one or more, but not all, provinces, including

- (a) any alteration to boundaries between provinces, and
- (b) any amendment to any provision that relates to the use of the English or the French language within a province,

may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies.

Amendments by Parliament **44.** Subject to sections 41 and 42, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons.

Amendments by provincial legislatures **45.** Subject to section 41, the legislature of each province may exclusively make laws amending the constitution of the province.

Initiation of amendment procedures **46.** (1) The procedures for amendment under sections 38, 41, 42 and 43 may be initiated either by the Senate or the House of Commons or by the legislative assembly of a province.

Revocation of authorization (2) A resolution of assent made for the purposes of this Part may be revoked at any time before the issue of a proclamation authorized by it.

Amendments without Senate resolution **47.** (1) An amendment to the Constitution of Canada made by proclamation under section 38, 41, 42 or 43 may be made without a resolution of the Senate authorizing the issue of the proclamation if, within one hundred and eighty days after the adoption by the House of Commons of a resolution authorizing its issue, the Senate has not adopted such a resolution and if, at any time after the expiration of that period, the House of Commons again adopts the resolution.

Computation of period (2) Any period when Parliament is prorogued or dissolved shall not be counted in computing the one hundred and eighty day period referred to in subsection (1).

Advice to issue proclamation **48.** The Queen's Privy Council for Canada shall advise the Governor General to issue a proclamation under this Part forthwith on the adoption of the resolutions required for an amendment made by proclamation under this Part.

Constitutional
conference

49. A constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces shall be convened by the Prime Minister of Canada within fifteen years after this Part comes into force to review the provisions of this Part.

PART VI

AMENDMENT TO THE CONSTITUTION ACT, 1867

50. ⁽¹⁰²⁾

51. ⁽¹⁰³⁾

PART VII

GENERAL

Primacy of
Constitution of
Canada

52. (1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.

Constitution of
Canada

(2) The Constitution of Canada includes

(a) the *Canada Act 1982*, including this Act;

(b) the Acts and orders referred to in the schedule; and

(c) any amendment to any Act or order referred to in paragraph (a) or (b).

Amendments to
Constitution of
Canada

(3) Amendments to the Constitution of Canada shall be made only in accordance with the authority contained in the Constitution of Canada.

Repeals and new
names

53. (1) The enactments referred to in Column I of the schedule are hereby repealed or amended to the extent indicated in Column II thereof and, unless repealed, shall continue as law in Canada under the names set out in Column III thereof.

Consequential
amendments

(2) Every enactment, except the *Canada Act 1982*, that refers to an enactment referred to in the schedule by the name in Column I thereof is hereby amended by substituting for that name the corresponding name in Column III thereof, and any British North America Act not referred to in the schedule may be cited as the *Constitution Act* followed by the year and number, if any, of its enactment.

Repeal and
consequential
amendments

54. Part IV is repealed on the day that is one year after this Part comes into force and this section may be repealed and this Act renumbered, consequentially upon the repeal of Part IV and this section, by proclamation issued by the Governor General under the Great Seal of Canada.⁽¹⁰⁴⁾

⁽¹⁰²⁾ The amendment is set out in the Consolidation of the *Constitution Act, 1867*, as section 92A thereof.

⁽¹⁰³⁾ The amendment is set out in the Consolidation of the *Constitution Act, 1867*, as the Sixth Schedule thereof.

⁽¹⁰⁴⁾ Part VII came into force on April 17, 1982. See SI/82-97.

54.1 Repealed.⁽¹⁰⁵⁾

French version of Constitution of Canada

55. A French version of the portions of the Constitution of Canada referred to in the schedule shall be prepared by the Minister of Justice of Canada as expeditiously as possible and, when any portion thereof sufficient to warrant action being taken has been so prepared, it shall be put forward for enactment by proclamation issued by the Governor General under the Great Seal of Canada pursuant to the procedure then applicable to an amendment of the same provisions of the Constitution of Canada.

English and French versions of certain constitutional texts

56. Where any portion of the Constitution of Canada has been or is enacted in English and French or where a French version of any portion of the Constitution is enacted pursuant to section 55, the English and French versions of that portion of the Constitution are equally authoritative.

English and French versions of this Act

57. The English and French versions of this Act are equally authoritative.

Commencement

58. Subject to section 59, this Act shall come into force on a day to be fixed by proclamation issued by the Queen or the Governor General under the Great Seal of Canada.⁽¹⁰⁶⁾

Commencement of paragraph 23(1)(a) in respect of Quebec

59. (1) Paragraph 23(1)(a) shall come into force in respect of Quebec on a day to be fixed by proclamation issued by the Queen or the Governor General under the Great Seal of Canada.

Authorization of Quebec

(2) A proclamation under subsection (1) shall be issued only where authorized by the legislative assembly or government of Quebec.⁽¹⁰⁷⁾

Repeal of this section

(3) This section may be repealed on the day paragraph 23(1)(a) comes into force in respect of Quebec and this Act amended and renumbered, consequentially upon the repeal of this section, by proclamation issued by the Queen or the Governor General under the Great Seal of Canada.

Short title and citations

60. This Act may be cited as the *Constitution Act, 1982*, and the Constitution Acts 1867 to 1975 (No. 2) and this Act may be cited together as the *Constitution Acts, 1867 to 1982*.

References

61. A reference to the “*Constitution Acts, 1867 to 1982*” shall be deemed to include a reference to the “*Constitution Amendment Proclamation, 1983*”.⁽¹⁰⁸⁾

⁽¹⁰⁵⁾ Section 54.1, which was added by the *Constitution Amendment Proclamation, 1983* (see SI/84-102), provided for the repeal of Part IV.1 and section 54.1 on April 18, 1987.

Section 54.1, as originally enacted, read as follows:

“54.1 Part IV.1 and this section are repealed on April 18, 1987.

⁽¹⁰⁶⁾ The Act, with the exception of paragraph 23(1)(a) in respect of Quebec, came into force on April 17, 1982 by proclamation issued by the Queen. See SI/82-97.

⁽¹⁰⁷⁾ No proclamation has been issued under section 59.

⁽¹⁰⁸⁾ Section 61 was added by the *Constitution Amendment Proclamation, 1983*. See SI/84-102.

See also section 3 of the *Constitution Act, 1985 (Representation)*, S.C. 1986, c. 8, Part I and the *Constitution Amendment, 1987 (Newfoundland Act)* SI/88-11.

SCHEDULE
to the
CONSTITUTION ACT, 1982
MODERNIZATION OF THE CONSTITUTION

Item	Column I Act Affected	Column II Amendment	Column III New Name
1.	British North America Act, 1867, 30-31 Vict., c. 3 (U.K.)	(1) Section 1 is repealed and the following substituted therefor: “1. This Act may be cited as the <i>Constitution Act, 1867.</i> ” (2) Section 20 is repealed. (3) Class 1 of section 91 is repealed. (4) Class 1 of section 92 is repealed.	Constitution Act, 1867
2.	An Act to amend and continue the Act 32-33 Victoria chapter 3; and to establish and provide for the Government of the Province of Manitoba, 1870, 33 Vict., c. 3 (Can.)	(1) The long title is repealed and the following substituted therefor: “ <i>Manitoba Act, 1870.</i> ” (2) Section 20 is repealed.	Manitoba Act, 1870
3.	Order of Her Majesty in Council admitting Rupert’s Land and the North-Western Territory into the union, dated the 23rd day of June, 1870		Rupert’s Land and North-Western Territory Order
4.	Order of Her Majesty in Council admitting British Columbia into the Union, dated the 16th day of May, 1871.		British Columbia Terms of Union
5.	British North America Act, 1871, 34-35 Vict., c. 28 (U.K.)	Section 1 is repealed and the following substituted therefor: “1. This Act may be cited as the <i>Constitution Act, 1871.</i> ”	Constitution Act, 1871
6.	Order of Her Majesty in Council admitting Prince Edward Island into the Union, dated the 26th day of June, 1873.		Prince Edward Island Terms of Union
7.	Parliament of Canada Act, 1875, 38-39 Vict., c. 38 (U.K.)		Parliament of Canada Act, 1875
8.	Order of Her Majesty in Council admitting all British possessions and Territories in North America and islands adjacent thereto into the Union, dated the 31st day of July, 1880.		Adjacent Territories Order
9.	British North America Act, 1886, 49-50 Vict., c. 35 (U.K.)	Section 3 is repealed and the following substituted therefor:	Constitution Act, 1886

Item	Column I Act Affected	Column II Amendment	Column III New Name
		“3. This Act may be cited as the <i>Constitution Act, 1886.</i> ”	
10.	Canada (Ontario Boundary) Act, 1889, 52-53 Vict., c. 28 (U.K.)		Canada (Ontario Boundary) Act, 1889
11.	Canadian Speaker (Appointment of Deputy) Act, 1895, 2nd Sess., 59 Vict., c. 3 (U.K.)	The Act is repealed.	
12.	The Alberta Act, 1905, 4-5 Edw. VII, c. 3 (Can.)		Alberta Act
13.	The Saskatchewan Act, 1905, 4-5 Edw. VII, c. 42 (Can.)		Saskatchewan Act
14.	British North America Act, 1907, 7 Edw. VII, c. 11 (U.K.)	Section 2 is repealed and the following substituted therefor: “2. This Act may be cited as the <i>Constitution Act, 1907.</i> ”	Constitution Act, 1907
15.	British North America Act, 1915, 5-6 Geo. V, c. 45 (U.K.)	Section 3 is repealed and the following substituted therefor: “3. This Act may be cited as the <i>Constitution Act, 1915.</i> ”	Constitution Act, 1915
16.	British North America Act, 1930, 20-21, Geo. V, c. 26 (U.K.)	Section 3 is repealed and the following substituted therefor: “3. This Act may be cited as the <i>Constitution Act, 1930.</i> ”	Constitution Act, 1930
17.	Statute of Westminster, 1931, 22 Geo. V, c. 4 (U.K.)	In so far as they apply to Canada, (a) section 4 is repealed; and (b) subsection 7(1) is repealed.	Statute of Westminster, 1931
18.	British North America Act, 1940, 3-4 Geo. VI, c. 36 (U.K.)	Section 2 is repealed and the following substituted therefor: “2. This Act may be cited as the <i>Constitution Act, 1940.</i> ”	Constitution Act, 1940
19.	British North America Act, 1943, 6-7 Geo. VI, c. 30 (U.K.)	The Act is repealed.	
20.	British North America Act, 1946, 9-10 Geo. VI, c. 63 (U.K.)	The Act is repealed.	
21.	British North America Act, 1949, 12-13 Geo. VI, c. 22 (U.K.)	Section 3 is repealed and the following substituted therefor: “3. This Act may be cited as the <i>Newfoundland Act.</i> ”	Newfoundland Act
22.	British North America (No. 2) Act, 1949, 13 Geo. VI, c. 81 (U.K.)	The Act is repealed.	
23.	British North America Act, 1951, 14-15 Geo. VI, c. 32 (U.K.)	The Act is repealed.	

Item	Column I Act Affected	Column II Amendment	Column III New Name
24.	British North America Act, 1952, 1 Eliz. II, c. 15 (Can.)	The Act is repealed.	
25.	British North America Act, 1960, 9 Eliz. II, c. 2 (U.K.)	Section 2 is repealed and the following substituted therefor: “2. This Act may be cited as the <i>Constitution Act, 1960.</i> ”	Constitution Act, 1960
26.	British North America Act, 1964, 12-13 Eliz. II, c. 73 (U.K.)	Section 2 is repealed and the following substituted therefor: “2. This Act may be cited as the <i>Constitution Act, 1964.</i> ”	Constitution Act, 1964
27.	British North America Act, 1965, 14 Eliz. II, c. 4, Part I (Can.)	Section 2 is repealed and the following substituted therefor: “2. This Part may be cited as the <i>Constitution Act, 1965.</i> ”	Constitution Act, 1965
28.	British North America Act, 1974, 23 Eliz. II, c. 13, Part I (Can.)	Section 3, as amended by 25-26 Eliz. II, c. 28, s. 38(1) (Can.), is repealed and the following substituted therefor: “3. This Part may be cited as the <i>Constitution Act, 1974.</i> ”	Constitution Act, 1974
29.	British North America Act, 1975, 23-24 Eliz. II, c. 28, Part I (Can.)	Section 3, as amended by 25-26 Eliz. II, c. 28, s. 31 (Can.), is repealed and the following substituted therefor: “3. This Part may be cited as the <i>Constitution Act (No. 1), 1975.</i> ”	Constitution Act (No. 1), 1975
30.	British North America Act (No. 2), 1975, 23-24 Eliz. II, c. 53 (Can.)	Section 3 is repealed and the following substituted therefor: “3. This Act may be cited as the <i>Constitution Act (No. 2), 1975.</i> ”	Constitution Act (No. 2), 1975