

1980

British North America Act, 1867

Ontario

Statutes published in Appendix B are Imperial Statutes and Statutes of Canada relating to the Constitution and Boundaries of Ontario.

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APPENDIX B

**Certain Imperial Statutes and Statutes of Canada
relating to the Constitution and
Boundaries of Ontario.**

**IMPERIAL, 30-31 VICTORIA, CHAPTER 3
AND AMENDMENTS THERETO**

**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:

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:

Repealed by
the Statute
Law Revision
Act,
1893, 56 V.,
c. 14 (Imp.).

I.—PRELIMINARY

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

Repealed by
the Statute
Law Revision
Act,
1893, 56 V.,
c. 14 (Imp.).

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.*

II.—UNION

Declaration
by proclama-
tion of
Union of
Canada,
Nova Scotia
and New
Brunswick,
into one
Dominion
under name
of Canada.

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; and on and after that day those three Provinces shall form and be one Dominion under that name accordingly.

Words in
italics were
repealed by
Statute Law
Revision Act,
1893, 56 V.,
c. 14 (Imp.).

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.*

Meaning of
Canada
in such
provisions.

5. Canada shall be divided into four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.

[By The Rupert's Land Act, 1868 (31-32 Vict., c. 105 (Imp.)) and The Manitoba Act, 1870 (33 Vict., c. 3 (Can.)) the Province of Manitoba was formed and representation granted to it in the Senate and House of Commons.]

The Province of British Columbia became part of the Union and was admitted to Confederation by order of Her Majesty Queen Victoria in Council dated the 16th day of May, 1871.

The power to establish additional Provinces in the Dominion was conferred by the British North America Act, 1871 (34-35 Vict., c. 28 (Imp.)).

Prince Edward Island was admitted to the Union by Imperial Order-in-Council 1873.

By 4-5 Edw. VII, cc. 3 and 42 (Can.), the Provinces of Alberta and Saskatchewan were respectively established.

By the British North America Act, 1949 (Imp.) and by 13 Geo. VI, c. 1 (Can.), Newfoundland was united with Canada and became the Province of Newfoundland.

Provision was made by these Orders-in-Council and Statutes for the representation of the various Provinces admitted, in the Senate and House of Commons of Canada.]

Four
Provinces.

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
Ontario and
Quebec.

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

Provinces of
Nova Scotia
and New
Brunswick.

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.

Population
of Provinces
to be dis-
tinguished
in decennial
census.

III.—EXECUTIVE POWER

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

Executive
Power to
continue
vested in
the Queen.

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.

Application
of provisions
referring to
Governor-
General.

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.

Constitution
of Privy
Council for
Canada.

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 con-

All powers
under Acts
to be
exercised by
Governor-
General with
advice of
Privy Council
or alone.

tinue 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.

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.

Repealed and new section substituted by 38-39 Vict., c. 38 (Imp.).

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.

[For re-enactment of section 18, see the *Parliament of Canada Act, 1875 (38-39 Vict., c. 38 (Imp.))* at page 53 of this Volume.]

19. The Parliament of Canada shall be called together not later than six months after the Union. First Session of the Parliament of Canada.

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. Yearly Session of the Parliament of Canada.

The Senate

21. The Senate shall, subject to the provisions of this Act, consist of seventy-two members, who shall be styled Senators. Number of Senators.

22. In relation to the constitution of the Senate, Canada shall be deemed to consist of three divisions— Representation of Provinces in Senate.

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.

[See the *British North America Act, 1886 (49-50 Vict. c. 35 (Imp.))* at page 55 of this Volume; the *British North America Act, 1915 (5-6 Geo. V, c. 45 (Imp.))* at page 61 of this Volume; and the *British North America Act (No. 2), 1975 (23-24 Elizabeth II, c. 53 (Canada))* at page 91 of this volume for the division of Canada and representation in relation to the constitution of the Senate.]

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

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-aleu or in roture, within the Province for which he is appointed, of the value of \$4,000, 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 \$4,000 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.

[See the *British North America Act (No. 2), 1975, (23-24 Elizabeth II, c. 53 (Canada)) at page 91 of this Volume, for definition of "Province".]*

Summoning
of Senators.

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 provisions of this Act, every person so summoned shall become and be a member of the Senate and a Senator.

Repealed by
the Statute
Law Revision
Act,
1893, 56 V.,
c. 14 (Imp.).

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.*

Additions of
Senators in
certain cases.

26. If at any time on the recommendation of the Governor-General the Queen thinks fit to direct that three or six mem-

bers 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.

[The number of persons who may be summoned was increased by the British North America Act, 1915 (5-6 Geo. V, c. 45 (Imp.), from three to six to four to eight representing equally the four divisions of Canada. See page 61 of this Volume.]

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.

Reduction
of Senate to
normal
number.

28. The number of Senators shall not at any time exceed seventy-eight.

Maximum
number of
Senators.

[See the British North America Act (No. 2), 1975 (23-24 Elizabeth II, c. 53 (Canada)) at page 91 of this Volume, which provides that the number of Senators shall not at any time exceed 112. Provision is made for representation of Newfoundland in the Senate and under the Terms of Union confirmed by the British North America Act, 1949 (Imp.) and by 13 Geo. VI, c. 1 (Can.), Newfoundland is to be represented in the Senate by six members.]

29. A Senator shall, subject to the provisions of this Act, hold his place in the Senate for life.

Repealed and
new section
substituted
by 14 Eliz. II,
c. 4, (Can.).

[For the re-enactment of section 29, see the British North America Act, 1965 (Can.) at page 81 of this Volume.]

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.

Resignation
of place in
Senate.

31. The place of a Senator shall become vacant in any of the following cases:

Disqualifica-
tion of
Senators.

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 acknowledgement 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 qualifica-
tions 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.

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 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.

[See note to s. 51, for the present composition of the 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.

Electoral districts of the four Provinces.

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

Senators not to sit in House of Commons.

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:—

Summoning of House of Commons.

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 of 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.

[See note to s. 51, for the present representation in the House of Commons.]

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.

[See R.S.C. 1970, c. 14 (1st Supp.), for qualification of voters at elections to the House of Commons.]

Repealed by
the Statute
Law Revision
Act,
1893, 56 V.,
c. 14 (Imp.).

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.

Repealed by
the Statute
Law Revision
Act,
1893, 56 V.,
c. 14 (Imp.).

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.

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. As to election of Speaker of House of Commons.

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

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 member so elected shall during the continuance of such absence of the Speaker have and execute all the powers, privileges, and duties of Speaker. Provision in case of absence of Speaker.

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. Quorum of 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. Voting in 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. Duration of House of Commons.

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 re-adjusted 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:—* Repealed and new section substituted by 10 Geo. VI. c. 63 (Imp.).

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 pro-*

portion 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.*

[For first re-enactment of section 51 see the British North America Act, 1946 (10 Geo. VI, c. 63 (Imp.)) at page 69 of this Volume. For second re-enactment of section 51, see the British North America Act, 1952 (1 Elizabeth II, c. 15 (Canada)) at page 75 of this Volume. For third re-enactment of subsection 51 (1), see the British North America Act, (No. 2), 1974, (23 Elizabeth II, c. 13 (Canada)) at page 83 of this Volume. For first re-enactment of subsection 51 (2), see the British North America Act, 1975 (23-24 Elizabeth II, c. 28 (Canada)) at page 89 of this Volume. See also 1974-75, c. 13 (Can.), for representation in the House of Commons.]

[Section 51A was added by the British North America Act, 1915 (5-6 Geo. V, c. 45 (Imp.)). See page 61 of this Volume.]

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.

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.

Recommendation of money votes.

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.

Royal assent to bills, etc.

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 the 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.

Disallowance by Order in Council of Act assented to by

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.

Signification of Queen's pleasure on bill reserved.

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.

Governor-General.

V.—PROVINCIAL CONSTITUTIONS

Executive Power

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.

Appointment of Lieutenant-Governors of Provinces.

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 removable 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.

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, within Quebec, the Speaker of the Legislative Council and the Solicitor-General.

[For Ontario, see R.S.O. 1980, c. 147.]

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.

All powers
under Acts
to be
exercised by
Lieutenant-
Governor of
Ontario or
Quebec with
advice of
Executive
Council 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 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 are capable of being exercised after the Union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant-Governor of Ontario and Quebec respectively, with the advice or with the advice and consent of or in conjunction with the respective Executive Councils, or any members thereof, or by the Lieutenant-Governor individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland), to be abolished or altered by the respective Legislatures of Ontario and Quebec.

66. 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.

Application of provisions referring to Lieutenant-Governor in Council.

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.

Administration in absence, etc., of Lieutenant-Governor.

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.

Seats of Provincial Governments.

Legislative Power

1.—ONTARIO

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

Legislature for Ontario.

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.

Electoral districts.

[The number of members is now one hundred and twenty-five, see R.S.O. 1980, c. 450, s. 2.]

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.

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,
disqualifica-
tion, 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.

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.

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 bills unless an address has been presented by the Legislative Assembly to the Lieutenant-Governor stating that it has been so passed.

Constitution
of Legislative
Assembly of
Quebec.

3.—ONTARIO AND QUEBEC

81. *The Legislatures of Ontario and Quebec respectively shall be called together not later than six months after the Union.*

Repealed by
the Statute
Law Revision
Act,
1893, 56 v.,
c. 14 (Imp.).

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.

Summoning
of Legislative
Assemblies.

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 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.

Restriction
on election
of holders
of offices.

[*Acts have since been passed with the view of further securing the independence of the Legislative Assembly of Ontario. See now R.S.O. 1980, c. 235.*]

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

Continuance
of existing
election laws.

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.

[Legislation in Ontario respecting these matters will be found in R.S.O. 1980, cc. 133, 235 and 450.]

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.

[By R.S.O. 1980, c. 235, s. 3, the Legislative Assembly of Ontario may continue for five years.]

Yearly
sessions 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.

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 provisions were here re-enacted and made applicable in terms to each such Legislative Assembly.

4.—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; *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.*

Constitutions of Legislatures of Nova Scotia and New Brunswick. Words in italics were repealed by the Statute Law Revision Act, 1893, 56 V., c. 14 (Imp.).

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 address 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.*

Repealed by the Statute Law Revision Act, 1893, 56 V., c. 14 (Imp.).

6.—THE FOUR PROVINCES

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.

Application to Legislatures of provisions respecting money votes, etc.

VI.—DISTRIBUTION OF LEGISLATIVE POWERS

Powers of the Parliament

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 any-

Legislative authority of Parliament of Canada.

thing 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:—

[By the British North America (No. 2) Act, 1949 (Imp.) class 1 was renumbered as class 1A and a new class 1 was added to section 91 dealing with the amendment of the Constitution of Canada. See page 71 of this Volume.]

1. The public debt and property.
2. The regulation of trade and commerce.

[By the British North America Act, 1940 (Imp.) a new class 2A was added to section 91 dealing with Unemployment Insurance. See page 67 of this Volume.]

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.
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.

Exclusive Powers of Provincial Legislatures

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,—

Subjects of
exclusive
provincial
legislation.

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.

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.
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 licenses 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.

Education

93. In and for each Province the Legislature may exclusively make laws in relation to education, subject and according to the following provisions:— Legislation
respecting
education.

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 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.

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

Legislation
for uniformity
of laws in
the three
Provinces.

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.

[By the *British North America Act, 1951 (Imp.)*, section 94A was added dealing with old age pensions. See page 73 of this Volume. By the *British North America Act, 1964 (Imp.)*, section 94A was re-enacted. See page 79 of this Volume.]

Agriculture and Immigration

Concurrent
powers of
legislation
respecting
agriculture
and immi-
gration.

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.

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 Ontario, etc.

98. The judges of the courts of Quebec shall be selected from the Bar of that Province.

Selection of judges in Quebec.

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.*

Repealed and new section substituted by 9 Eliz. II, c. 2 (Imp.).

[For the re-enactment of section 99 see the *British North America Act, 1960 (Imp.)* at page 77 of this Volume.]

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 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.

Salaries, etc., of judges.

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.

General court of appeal, etc.

VIII.—REVENUES; DEBTS; ASSETS; TAXATION

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.

Creation of Consolidated Revenue Fund.

103. The Consolidated Revenue Fund of Canada shall be permanently charged with the costs, charges, and expenses

Expenses of collection, etc.

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.

Appropriation
of fund
subject to
charges.

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 to
Canada of
stocks, etc.,
belonging
to two
Provinces

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.

Lands,
mines, etc.,
belonging to
Provinces to
belong to
them.

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 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 of the Province in the same.

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.

Liability of
Ontario and
Quebec to
Canada.

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 \$62,500,000, and shall be charged with interest at the rate of five per centum per annum thereon.

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. Assets of Ontario and Quebec.

114. Nova Scotia shall be liable to Canada for the amount (if any) by which its public debt exceeds at the Union \$8,000,000, and shall be charged with interest at the rate of five per centum per annum thereon. Liability of Nova Scotia to Canada.

115. New Brunswick shall be liable to Canada for the amount (if any) by which its public debt exceeds at the Union \$7,000,000, and shall be charged with interest at the rate of five per centum per annum thereon. Liability of New Brunswick to Canada.

116. In case the public debts of Nova Scotia and New Brunswick do not at the Union amount to \$8,000,000 and \$7,000,000 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. Payment of interest to Nova Scotia and New Brunswick.

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. Provincial public property.

118. The following sums shall be paid yearly by Canada to the several Provinces for the support of their Governments and Legislatures:— Grants to Provinces.

| | | | | | | 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 1861, and in 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.

[NOTE: *These provisions have been superseded. See the British North America Act, 1907 (7 Edw. VII, c. 11 (Imp.)) at page 57 of this Volume, for grants paid yearly by Canada to the several Provinces.*]

Further
grant to New
Brunswick
for ten years.

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 \$63,000 per annum; but as long as the public debt of that Province remains under \$7,000,000, a deduction equal to the interest at five per centum per annum on such deficiency shall be made from that allowance of \$63,000.

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.

Manufac-
tures, etc.,
of one
Province to
be admitted
free into the
others.

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.

Exportation
and importa-
tion 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.

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, 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 subjected to such dues.

125. No lands or property belonging to Canada or any Province shall be liable to taxation.

Exemption of public lands, etc., from taxation.

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.

Provincial consolidated revenue funds.

IX.—MISCELLANEOUS PROVISIONS

General

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.*

Repealed by the Statute Law Revision Act, 1893, 56 V., c. 14 (Imp.).

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 of 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.

Oath of allegiance, 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

Continuance of existing laws, courts, officers, etc.

all legal commissions, powers and authorities, and all officers, judicial, administrative and ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia and New Brunswick respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland), to be repealed, abolished or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the authority of the Parliament or of that Legislature under this Act.

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.

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.

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.

[See R.S.O. 1980, c. 147, for *Executive Council of Ontario*.]

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.

Powers,
duties, etc.,
of executive
officers.

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.

Great Seal.

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

Construction
of temporary
Acts.

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.

As to issue
of Proclama-
tions 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.

As to issue
of Proclama-
tions after
Union under
authority of
Acts before
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.

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.

[See *R.S.C. 1970, c. P-6, for penitentiaries in Canada.*]

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.

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 henceforth be the property of that Province; and any copy thereof or extract therefrom duly certified by the officer having charge of the original thereof shall be admitted as evidence.

144. 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.

Constitution
of townships
in Quebec.

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.*

Repealed by
the Statute
Law Revision
Act,
1893, 56 V.,
c. 14 (Imp.).

XI.—ADMISSION OF OTHER COLONIES

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 Northwestern 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.

Power to
admit New-
foundland,
Prince
Edward
Island,
etc., into the
Union.

147. In case of the admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a

As to repre-
sentation of
Newfound-
land and
Prince
Edward
Island in
Senate.

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.

[See the *British North America Act, 1915 (Imp.)*, the *British North America Act, 1949 (Imp.)*, and 13 Geo. VI, c. 1 (Can.) as to representation of Newfoundland in the Senate.

The Parliament of Canada may provide for representation in the Senate and House of Commons, or in either of them of any territories which are not included in any Provinces. See the British North America Act, 1886 (49-50 Vict., c. 35 (Imp.)) at page 55 of this Volume.]

SCHEDULES

FIRST SCHEDULE

Electoral Districts of Ontario

[NOTE:—The division of Ontario into electoral districts has been altered by subsequent Dominion and Provincial legislation. See R.S.C. 1970, c. E-2, for representation in the House of Commons; and R.S.O. 1980, c. 450, for representation in the Legislative Assembly of the Province.]

SECOND SCHEDULE

Electoral Districts of Quebec specially fixed

COUNTIES OF—

Pontiac.
Ottawa.
Argenteuil.
Huntingdon.

Brome.
Shefford.
Stanstead.
Missisquoi.

Compton.
Wolfe and Richmond.
Megantic.

Town of Sherbrooke.

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.

FOURTH SCHEDULE

Assets to be the Property of Ontario and Quebec conjointly

Upper Canada Building Fund.
Lunatic Asylums.
Normal School.

| | | |
|--------------------------|---|---------------|
| Court Houses | } | Lower Canada. |
| in | | |
| 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.
Tamisconata Advance Account.
Quebec Turnpike Trust.
Education—East.
Building and Jury Fund, Lower Canada.
Municipalities Fund.
Lower Canada Superior Education Income Fund.

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 aleu 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.
