



British North America Act 1867

1867 CHAPTER 3

IV.—LEGISLATIVE POWER

The House of Commons

37 Constitution of House of Commons in Canada.

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*.

38 Summoning of House of Commons.

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.

39 Senators not to sit in House of Commons.

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

40 Electoral Districts of the Four Provinces.

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*.

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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.

41 Continuanace of existing Election Laws until Parliament of Canada otherwise provides.

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.

42 Writs for First Election.

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

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.

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43 As to Casual Vacancies.

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 As to Election of Speaker of House of Commons.

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.

45 As to filling up Vacancy in Office of Speaker.

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.

46 Speaker to preside.

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

47 Provision in case of Absence of Speaker.

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.

48 Quorum of House of Commons.

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.

49 Voting in House of Commons.

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.

50 Duration of House of Commons.

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.

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51 Decennial Re-adjustment of Representation.

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.

52 Increase of Number of House of Commons.

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.