

*Laws of Her Majesty's Province of United Canada*, passed in the year 1856. Quebec: Stewart Derbyshire and George Desbarts, 1856.

20 Victoria – Chapter 140

**An Act to change the Constitution of the Legislative Council by rendering the same Elective.**

Reserved for the signification of Her Majesty's pleasure 16th May, 1856.

The Royal Assent given by Her Majesty in Council on the 24th June, 1856; and Proclamation thereof made by His Excellency Sir Edmund Walker Head, Governor General, in the Canada Gazette of the 14th July, 1856.

Whereas by an Act of the Parliament of the United Kingdom passed in the seventeenth and eighteenth years of the Reign of Her Most Gracious Majesty, chaptered one hundred and eighteen "to empower the Legislature of Canada " to alter the Constitution of the Legislative Council for that Province, and for other purposes," it is enacted, That the Legislature of this Province may change the Constitution of the Legislative Council of the said Province, and make other provisions relative to the same subject and to other subjects therein mentioned: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

- I. The Legislative Council shall hereafter be composed of the present Members thereof, and of forty-eight Members to be elected, in the proportion and at the times and in the manner hereinafter provided; and to this end, the Province shall be divided into forty-eight Electoral Divisions, twenty-four in Upper Canada and twenty-four in Lower Canada, in the manner set forth in Schedule A.
- II. The present Councillors shall continue to hold their seats as heretofore, subject to the conditions contained in the Imperial Act of the third and fourth Victoria, chapter thirty-five, "to reunite the Provinces of Upper and Lower Canada and for the Government of Canada."
- III. The Elective Members shall be elected for eight years.
- IV. No person shall be eligible or shall sit or vote as a Legislative Councillor unless he be a British Subject by birth or naturalization, resident in Canada, of the full age of thirty-years, and be legally or equitably seized as of freehold, for his own use and benefit, of lands or tenements held in free and common socage, or seized or possessed, for his own use and benefit, of lands or tenements held in fief, *franc-aleu* or *roture* in this Province, of the value of two thousand pounds currency-over and above all debts, charges and dues, nor unless his residence or his lands or tenements as aforesaid to the value aforesaid be within the limits of the Electoral Division for which he shall seek to be, or shall have been, elected.
- V. No person shall be elected a Legislative Councillor who is a public defaulter, or shall have been convicted of felony, or of any infamous crime.

VI. No Member of one House shall be elected a member of the other.

VII. The seal of an Elective Legislative Councillor shall be forfeited in any of the following cases: if he be a public defaulter, or become a Bankrupt, or insolvent, or take the benefit of any law whatsoever in relation to insolvent debtors, or be convicted of felony or of any infamous crime, or shall cease to hold a property qualification required by the fourth clause.

VIII. Upon or before the first day of September next following the day on which this Act shall receive the Royal Assent, the Governor shall issue Writs for the election of twelve Legislative Councillors to represent the twelve Electoral Divisions first entitled to return Members to the Legislative Council as hereinafter provided; and the said Writs shall be transmitted to the Returning Officers by the Clerk of the Crown in Chancery, and be returnable on the first Tuesday of November following: and in every second year thereafter Writs for the periodical elections shall be issued on or before the first day of September, and returnable the first Tuesday of November.

IX. The Writs of Election shall be in the form of Schedule B.

X. The Governor shall appoint the Returning Officers for the Electoral Divisions, from among those persons who might by law be Returning Officers at Elections of Members of the Legislative Assembly for places within the limits of such Divisions.

XI. The Returning Officer for any Electoral Divisions shall fix a place as nearly as may be in the centre of such Division, for the nomination of Candidates and the proclamation of the Candidate elected.

XII. The electors of Legislative Councillors shall, as regards their qualification, be the same as those of Members of the Legislative Assembly, and shall vote at the places at which they ordinarily vote at the election of the latter: The boundaries and extent of the Electoral Divisions are defined by Schedule A.

XIII. The laws relating to the election of Members of the Legislative Assembly, as regards the qualification of Electors, — the issue and return of Writs of Election, — Returning Officers, — the powers and duties of Returning Officers and of Deputy Returning Officers, and of Election and Poll Clerks, — the prevention or punishment of offences committed at elections or with respect to elections, — to controverted elections, — and to all matters connected with or incidental to elections, — shall, except where such laws may be inconsistent with this Act, apply in analogous cases to elections of Legislative Councillors.

XIV. Every candidate for election to the Legislative Council shall, if thereunto required by another candidate, or by an elector, or by the Returning Officer, make in person a written declaration in the form of Schedule C; and the provisions of the election laws which prior to the passing of this Act related to the declaration of qualification of candidates for election to the Legislative Assembly, shall, with the exception of the amount of property qualification, apply in a precisely

similar manner to the declaration of qualification of the candidate for election to the Legislative Council.

XV. The period for which the Legislative Councillors shall serve shall commence on the day of, the return of the Writs, and shall end upon the day next preceding the return day of the Writs for the election of their successors.

XVI. Every Legislative Councillor shall, before taking his seat, take the oath in the Schedule D. before the Clerk of the said Council.

XVII. The order in which the Electoral Divisions shall be entitled to return Members to the Legislative Council shall be determined by lot, as soon as possible after the commencement of this Act, in the manner provided in the Schedule E, and shall forthwith be made known by Proclamation.

XVIII. For the purpose of such determination by lot, the electoral divisions shall be united in groups of four each, as in Schedule F.

XIX. Periodical Elections of Legislative Councillors to re-present the several electoral divisions shall take place in the order determined by lot and made known by Proclamation as aforesaid; the twelve Electoral Divisions named in the List of the "First Drawing" being those first entitled to return Members to the said Council, those named in the List of the "Second Drawing" being those next entitled to return Members to the said Council, and so on.

XX. An Elective Councillor may resign his seat in the same manner and under the same circumstances as a member of the Legislative Assembly; and he may hold his seat until the day next preceding that of the return of the Writ of Election of his successor. In case of his resigning or going out at the expiration of the period for which he is elected, he may be re-elected subject to the conditions contained in this Act.

XXI. Elective Legislative Councillors shall, under the same circumstances as Members of the Legislative Assembly, be subject to the laws for securing the independence of the Legislative Assembly of this Province.

XXII. The acceptance by a Councillor of the Office of the Speaker of the Legislative Council shall not, however, vacate his seat.

XXIII. In cases of accidental vacancy provided for by Sections twenty and twenty-one the Speaker of the Legislative Council, the Legislative Council and the several Members thereof, shall have the same powers and duties as the Speaker of the Legislative Assembly, the Legislative Assembly and the several Members thereof; and the Writs shall be made returnable within fifty days at furthest from the issue thereof.

XXIV. An accidental vacancy of the seat for any Electoral Division happening within the three months next before the regular periodical vacancy of such seat, shall not be filled until the time appointed for filling such periodical vacancy.

XXV. In case of any accidental vacancy of the seat for any electoral division, not provided for by the next preceding section, the period of service of the Councillor elected to fill such vacancy shall be that at which his predecessor would regularly have gone out.

XXVI. The Speaker of the Legislative Council shall, as heretofore, be appointed by the Governor, and shall be selected from amongst the Members of the said Council.

XXVII. The Councillor who shall be Speaker at the time of the passing of this Act shall continue to be so until he be replaced by another.

XXVIII. Each General Election of Members of the Legislative Assembly shall make a new Parliament, as heretofore.

## Lower Canada.

### Schedule A.

Names of Electoral Divisions.	Limits of Electoral Divisions.
Gulf . . . . .	The Counties of Gaspé, Bonaventure and Rimouski.
Grandville . . . . .	The Counties of Temiscouata and Kamouraska, the Parishes of St. Roch des Aulnets and St. Jean Port Joli, and the prolongation thereof in a straight line to the Province Line in the County of L'Islet.
De la Durantaye . . . . .	The remainder of the County of L'Islet, the Counties of Montmagny and Bellechasse and the Parishes of St. Joseph, St. Henri and Notre Dame de la Victoire, in the County of Lévi.
Lauzon . . . . .	The remainder of the County of Lévi, the Counties of Dorchester and Beauce.
Kennebec . . . . .	The Counties of Lotbinière, Megantic and Arthabaska.

De la Vallière . . . . .	The Counties of Nicolet and Yamaska, the Townships of Wendover, Grantham, and that part of Upton which lies in the County of Drummond.
Wellington . . . . .	The remainder of the County of Drummond, the County of Richmond, the Town of Sherbrooke, the Counties of Wolfe, Compton and Stanstead.
Saurel . . . . .	The Counties of Richelieu and Bagot, the Praishes of St. Denis, La Présentation, St. Barnabé, and St. Jude, in the County of St. Hyacinth.
Bedford . . . . .	The Counties of Missisquoi, Brome and Shefford.
Rougemont . . . . .	The remainder of the County of St. Hyacinth, the Counties of Rouville and Iberville.
Montarville . . . . .	The Counties of Verchères, Chambly and Laprairie.
De Lorimier . . . . .	The Counties of St. John's and Napierville; St. Jean Chrysostôme and Russeltown in the County of Chateauguay; Hemmingford in the County of Huntingdon.
The Laurentides . . . . .	The Counties of Chicoutimi, Charlevoix, Saguenay and Montmorency, the Seigniory of Beauport, the Parish of Charlesbourg, the Townships of Stoneham and Tewkesbury, in the County of Quebec.
La Salle . . . . .	The remainder of the County of Quebec, the County of Portneuf, and all that part of the <i>Banlieue</i> of Quebec which lies within the Parish of <i>Notre Dame de Quebec</i> .
Stadacona . . . . .	The remainder of the City and <i>Banlieue</i> of Quebec.
Shawinegan . . . . .	The Counties of Champlain and St. Maurice, the Town of Three Rivers, the Parishes of River <i>du Loup</i> , St. Léon, St. Paulin, and the Township of Hunterstown and its augmentation, in the County of Maskinongé.
De Lanaudière . . . . .	The remainder of the County of Maskinongé, the Counties of Berthier and Joliette, with the exception of the Parish of St. Paul, the Township of Kildare and its augmentation, and the Township of Cathcard.

Repentigny . . . . .	The Parish of St. Paul, the Township of Kildare and its augmentation, and the Township of Cathcart, in the County of Joliette, the Counties of L'Assomption and Montcalm.
Mille Isles . . . . .	The Counties of Terrebonne and Two Mountains.
Inkerman . . . . .	The Counties of Argenteuil, Ottawa and Pontiac.
Alma . . . . .	The Parishes of Long Point, <i>Pointe aux Trembles</i> , <i>River des Prairies</i> , <i>Sault aux R écollets</i> , in the County of Hochelaga, and that part of the Parish of Montreal which lies to the East of the prolongation of St. Denis Street; the County of Laval, that part of the City of Montreal which lies to the East of Bonsecours and St. Denis Streets, and their prolongation.
Victoria . . . . .	The remainder of the City of Montreal exclusive of the Parish.
Rigaud . . . . .	The remainder of the City of Montreal, and the Counties of Jacques Cartier, Vaudreuil and Soulanges.
De Salaberry . . . . .	The remainder of the County of Chateauguay, the remainder of the County of Huntingdon, and the County of Beauharnois.

### Upper Canada.

Names of Electoral Divisions.	Limits of Electoral Divisions.
Western . . . . .	The Counties of Essex and Kent.
St. Clair . . . . .	The County of Lambton and the West Riding of Middlesex and the City of London

Malahide . . . . .	The East and West Ridings of Elgin, the East Riding of Middlesex and City of London.
Tecumseth . . . . .	The Counties of Huron and Perth.
Saugeen . . . . .	The Counties of Bruce and Grey and the North Riding of Simcoe.
Brock . . . . .	The North and South Ridings of Wellington and the North Riding of Waterloo.
Gore . . . . .	The South Riding of Waterloo and the North Riding of Oxford.
Thames . . . . .	The South Riding of Oxford and the County of Norfolk.
Erie . . . . .	The East and West Ridings of Brant and the County of Haldimand.
Niagara . . . . .	The Counties of Lincoln and Welland and the Town of Niagara.
Burlington . . . . .	The North and South Ridings of Wentworth and the City of Hamilton.
Home . . . . .	The Counties of Halton and Peel.
Midland . . . . .	The North Riding of York and the South Riding of Simcoe.
York . . . . .	The City of Toronto and the Township of York.
King's . . . . .	The East and West Ridings of York (except the Township of York) and the South Riding of Ontario.
Queen's . . . . .	The North Riding of Ontario, the County of Victoria and the West Riding of Durham.
Newcastle . . . . .	The East Riding of Durham and the East and West Ridings of Northumberland.
Trent . . . . .	The County of Peterborough, the North Riding of Hastings and the County of Lennox.

Quinté . . . . .	The South Riding of Hastings and the County of Prince Edward.
Cataraque . . . . .	The Counties of Addington and Frontenac, and the City of Kingston.
Bathurst . . . . .	The South Riding of Leeds and North and South Ridings of Lanark.
Rideau . . . . .	The Counties of Renfrew and Carleton and the City of Ottawa.
St. Lawrence . . . . .	The Town of Brockville and the Township of Elizabethtown, the South Riding of Grenville, the North Riding of Leeds and Grenville and the County of Dundas.
Eastern . . . . .	The Counties of Stormont, Prescott, Russell, Glengarry and the Town and Township of Cornwall.

Schedule B.

Province of Canada.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To the Returning Officer of \_\_\_\_\_ Greeting:

Whereas

We therefore command you, firmly enjoining that having first made Proclamation in the said Electoral Division of \_\_\_\_\_, immediately after the receipt of this our Writ, and thereby notified (giving not less than eight days' notice thereof) a day and place for electing a Legislative Councillor to serve for the said Electoral Division of \_\_\_\_\_, in our Legislative Council, you cause on the said day and place a Legislative Councillor, the most fit and discreet, to be freely and indifferently chosen to represent the said Electoral Division of \_\_\_\_\_, in our Legislative Council, by those who shall be present at the day of election to be fixed by such Proclamation as aforesaid, and the name of such Legislative Councillor so chosen, in certain Indentures between you and those who shall be present at such election (whether the person so chosen shall be present or absent) you cause to be inserted, and cause the said person so chosen as aforesaid to come to the said Legislative Council, so that the said Legislative Councillor have full and sufficient power for himself and the commonalty of the said Electoral Division of \_\_\_\_\_, severally



from them to do and consent to those things which then and there by the favor of God shall happen to be ordained by the Common Council of our said Province, upon the said affairs, so that for default of such powers or through improvident election of such Legislative Councillor, the said affairs remain not undone in any wise.

And we will not that any minister of the Churches of England or Scotland, or a Minister, Priest, Ecclesiastic or Teacher, either according to the rites of the Church of Rome or under any other form or profession of religious faith or worship, by any means be chosen. And that you certify forthwith unto us, into our Chancery at the City of \_\_\_\_\_, the said election so made, distinctly and openly, under your seal and the seals of those who shall be present at such election, sending unto Us one part of the said Indentures annexed to these presents, together with this Our Writ.

In testimony whereof, We have caused these Our Letters to be made Patent, and the Great Seal of Our said Province of Canada to be hereunto affixed.

Witness,

At Our Government House, at the City of \_\_\_\_\_ in Our said Province of Canada, the \_\_\_\_\_ day of \_\_\_\_\_ in the year of Our Lord One Thousand Eight Hundred and \_\_\_\_\_ and in the \_\_\_\_\_ year of Our Reign.

By Command,

A. B.,

Clerk of the Crown in Chancery.

#### Schedule C.

#### Declaration of Qualification.

I, A. B., declare and testify that I am of the full age of thirty years, that I am a British subject, and that I am a resident in (here insert name of Electoral Division in which Candidate resides), that I am duly seized at law (or in equity) as of freehold for my own use and benefit, of the following lands (or tenements) held in free and common soccage, (or duly seized and possessed for my own use and benefit of lands) (or tenements) held *en fief* or *en roture* or *en franc-aleu* (as the case may be) that is to say, of (here insert a correct and clear description of the lands or tenements forming the property qualifications the candidate and of their local situation,) which said lands (or tenements) I declare to be of the full value of two thousand pounds currency, over and above all rents, mortgages, charges and incumbrances charged upon or due or payable out of or affecting the same: and I further declare that I have not collusively or colourably obtained a title to or become possessed of the said lands (or tenements) or any part thereof, for the purpose of qualifying or enabling me to be returned as a Member of the Legislative Council of this Province.

#### Schedule D.

##### Oath of Allegiance.

I, A. B., do sincerely promise and swear that I will be faithful and bear true Allegiance to Her Majesty Queen *Victoria*, as lawful Sovereign of the United Kingdom of *Great Britain and Ireland*, and of this Province of *Canada* dependent on and belonging to the said United Kingdom; and that I will defend Her to the utmost of my power against all traitorous conspiracies and attempts whatever, which shall be made against Her Person, Crown and Dignity; and that I will do my utmost endeavour to disclose and make known to Her Majesty, Her Heirs and Successors, all treasons and traitorous conspiracies and attempts which I shall know to be against Her or any of them; and all this I do swear without any equivocation, mental evasion or secret reservation, and renouncing all pardons and dispensations from any person or persons whatever to the contrary: — So help me God.

#### Schedule E.

##### Drawing by Lot.

1. The Speaker of the Legislative Council shall cause to be placed before the Governor in Council twelve boxes marked respectively 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12.
2. The names of the forty-eight Electoral Divisions shall be plainly written separately, upon a like number of pieces of paper of the same shape and size.
3. The Clerk of the Legislative Council shall place these papers in the boxes, one by one, having first shewn them and then folded them so as to conceal the writing.
4. He shall place in each box the names of the Electoral Divisions which form the group in Schedule F, corresponding in number to such box.
5. Having shaken the boxes, he shall four several times withdraw one piece of paper from each box in succession, unfold each piece of paper in turn as it is withdrawn, exhibit it, and declare aloud and write down on a list the name written thereon.
6. Four lists of names of Electoral Divisions shall in this way be made by the Clerk of the Legislative Council, on four separate pieces of paper previously headed respectively "First Drawing" "Second Drawing" "Third Drawing" and "Fourth Drawing" in each of which lists there will be twelve names.
7. These lists shall be then and there authenticated by the signatures of the Executive Councillors present and the counter-signature of the Clerk of the Legislative Council, and shall remain of record in the office of the Executive Council.

8. The result of the drawing shall be embodied in a Minute of Council and communicated without delay to the Governor.

Schedule F.

Groups of Electoral Divisions.

Lower Canada,

Group 1.

Gulf, Grandville, De la Durantaye and Lauzon.

Group 2.

The Laurentides, La Salle, Stadacona and Shawinigan.

Group 3.

Kennebec, De la Valliere, Wellington and Saurel.

Group 4.

De Lanaudiere, Repentigny, Mille-Isles and Inkerman.

Group 5.

Bedford, Rougemont, Montarville and De Lorimier.

Group 6.

Alma, Victoria, Rigaud and De Salaberry.

Upper Canada.

Group 7.

Western, St. Clair, Malahide and Teeumseth.

Group 8.

Saugeen, Brock, Gore and Thames.

Group 9.

Erie, Niagara, Burlington and Home.

Group 10.

Midland, York, King's and Queen's.

Group 11.

Newcastle, Trent, Quinté and Cataraque.

Group 12.

Bathurst, St. Lawrence, Rideau and Eastern.