

The Athabaska or Cumberland Election Act

being

Chapter 5 of *The Revised Statutes of Saskatchewan, 1940*
(effective February 1, 1941).

FOR HISTORICAL REFERENCE ONLY

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER 5

An Act respecting the Electoral Divisions of Athabaska and Cumberland

SHORT TITLE

Short title

1 This Act may be cited as *The Athabaska or Cumberland Election Act*.

1938, c.6, s.1; R.S.S. 1940, c.5, s.1.

INTERPRETATION

To be read with *The Saskatchewan Election Act*

2 This Act shall be read with and as part of *The Saskatchewan Election Act* where not inconsistent with or inapplicable to the provisions of this Act, and all the provisions of *The Saskatchewan Election Act* respecting corrupt practices at elections shall apply to elections in the electoral division of Athabaska or Cumberland.

1938, c.6, s.2; R.S.S. 1940, c.5, s.2.

Writ

3(1) Where an election is to be held in the electoral division of Athabaska or Cumberland, as defined in schedule 1 of *The Legislative Assembly Act*, the Lieutenant Governor in Council shall cause a writ to be issued by the Clerk of the Executive Council in such form and addressed to such returning officer as the Lieutenant Governor in Council thinks fit.

(2) Where an election is to be held in the electoral division of Cumberland, as defined in schedule 1 of *The Legislative Assembly Act*, all the provisions of this Act shall apply to such election and to the said electoral division of Cumberland with the substitution herein of the word “Cumberland” for the word “Athabaska”.

1938, c.6, s.3; R.S.S. 1940, c.5, s.3.

QUALIFICATION OF VOTERS

Qualification

4 Except as otherwise provided in *The Saskatchewan Election Act*, every person male or female shall be qualified to vote at an election under this Act, who is a British subject of the full age of twenty-one years and has resided in Saskatchewan for at least twelve months and in the electoral division of Athabaska for at least three months next preceding the date of the writ of election.

1938, c.6, s.4; R.S.S. 1940, c.5, s.4.

QUALIFICATION OF CANDIDATE

Qualification

5(1) Any person male or female of the full age of twenty-one years who is a British subject by birth or naturalization, resident in Saskatchewan, and is not disqualified by *The Legislative Assembly Act* or by any other Act, shall be qualified to be a candidate.

(2) Wherever in this Act, words are used with reference to candidates or voters which support the masculine gender, such words shall include females as well as males.

1938, c.6, s.5; R.S.S. 1940, c.5, s.5.

PROCEDURE

Indorsement of writ

6 On receiving the writ of election the returning officer indorsement shall forthwith indorse thereon the date of its receipt by him.

1938, c.6, s.6; R.S.S. 1940, c.5, s.6.

Appointment of election clerk

7 The returning officer shall forthwith thereafter appoint under his hand an election clerk, and may at any time during the election appoint another election clerk in case the one so appointed proves to be disqualified or refuses or neglects or is unable to perform his duties.

1938, c.6, s.7; R.S.S. 1940, c.5, s.7.

Duties of election clerk

8 The election clerk shall assist the returning officer in the performance of his duties, and, if the returning officer dies or refuses or is unable to perform his duties or is disqualified and has not been replaced by another, shall act in his stead as returning officer.

1938, c.6, s.8; R.S.S. 1940, c.5, s.8.

Officers' voting

9 In no case shall the returning officer or his election clerk vote at an election except in the case hereinafter mentioned.

1938, c.6, s.9; R.S.S. 1940, c.5, s.9.

Polls and proclamation

10 The returning officer shall determine the places in the electoral division at which polls shall be held, and shall, not less than three weeks before the date fixed in the writ for the nomination of candidates, cause to be posted in three conspicuous positions in each of such places a proclamation which shall set forth the place and date named in the writ for the nomination, and shall be in the following form:

PROCLAMATION

Electoral Division of Athabaska *or* Cumberland (*as the case may be*).

To wit:

Public notice is hereby given to the voters of the electoral division aforesaid that in obedience to the writ issued and to me addressed by order of His Honour the Lieutenant Governor in Council of the Province of Saskatchewan and bearing date ____ day of _____, 19____, I require the presence of the said voters at (*here state the place or building in which the nomination is to be held*) in the hamlet of Lac la Ronge (*in the case of Cumberland*) or in the hamlet of Ile a la Crosse (*in the case of Athabaska*) in the Province of Saskatchewan on (*here insert day of week as well as date*) from noon until two o'clock in the afternoon of the said day for the purpose of nominating a person to represent them in the Legislative Assembly of Saskatchewan; and that, in case a poll becomes necessary, such poll will be open on ____ day of _____ and during the time prescribed by law at the following places: of which all persons are hereby required to take notice and govern themselves accordingly.

Given under my hand at _____ this ____ day of _____, 19____.

A. B.,
Returning Officer.

1938, c.6. s.10; R.S.S. 1940, c.5, s.10.

Unforeseen delays

11 If from unforeseen delays, accidents or otherwise the proclamation cannot be posted so as to leave the required time between the posting and the nomination day appointed by the Lieutenant Governor in Council, or in case of the death of any candidate after the time fixed for receiving nominations has elapsed but before the closing of the polls, the returning officer may fix another day for the nomination of candidates, such day being not later than is necessary to allow three weeks between the posting of the proclamation and the day named therein for the nomination; and in every such case the returning officer shall, with his return, make to the Clerk of the Executive Council a special report of the causes which occasioned the postponement of the election.

1938, c.6, s.11; R.S.S. 1940, c.5, s.11.

NOMINATIONS AND WITHDRAWALS

Nominations and deposits

12(1) At any time after the date of the proclamation and before two o'clock in the afternoon of nomination day, any two or more voters may nominate a candidate by signing before a justice of the peace, a commissioner for oaths, or notary public, or before the returning officer, and causing to be filed with the returning officer, a nomination paper in the following form; and any vote given at the election for any person other than a candidate shall be null and void:

NOMINATION PAPER

We, the undersigned voters of the electoral division of Athabaska hereby nominate (*here insert name, residence and condition of the person nominated sufficiently to establish his identity*) as a candidate at the election now about to be held of a member to represent the said electoral division in the Legislative Assembly of Saskatchewan; and we hereby affirm that the said (*name the candidate*) is duly qualified to be nominated as a candidate at the said election and that he has consented (*or in case of his absence from the division, we fully believe that he will consent*) to this nomination.

Witness our hands this ____ day of _____, 19 ____.

(*Signatures or marks of the voters with the residence and occupation of each.*)

Signed by the above subscribing voters before me.

(*Signature*) A. B.,
Justice of the Peace, Commissioner for
Oaths, Notary Public or Returning
Officer, (*as the case may be*).

(2) Every nomination paper shall be accompanied by a deposit of \$100 which may be paid in gold coin, in Dominion of Canada notes, in the bills of any chartered bank doing business in Canada or by a cheque drawn upon and accepted by the said bank, or partly in one and partly in another of the said descriptions of money.

(3) In the event of a candidate withdrawing after nomination or not receiving a number of votes at least equal to one-half the number of votes polled in favour of the candidate elected, the said deposit shall after the final count be transmitted by the returning officer to the Clerk of the Executive Council and be by him deposited to the credit of the consolidated fund; otherwise the said deposit shall be returned to the candidate.

1938, c.6, s.12; R.S.S. 1940, c.5, s.12.

Indorsement by returning officer

13 The returning officer, on receiving a nomination paper fulfilling the essential conditions hereinbefore specified, shall officer indorse thereon the date and the hour at which it was received by him; and if a paper purporting to be a nomination paper which he regards as informal is placed in his hands he shall immediately return it to the person delivering the same and state to him the informality.

1938, c.6, s.13; R.S.S. 1940, c.5, s.13.

Withdrawal of candidate

14 Any candidate nominated may withdraw at any time after his nomination and before the closing of the poll on polling day, by filing with the returning officer a declaration in writing to that effect, signed by himself in the presence of the returning officer or a justice of the peace, commissioner for oaths or notary public; and any votes cast for a candidate who so withdraws shall be null and void.

1938, c.6, s.14; R.S.S. 1940, c.5, s.14.

Procedure where only one candidate nominated

15 If at the expiration of the time fixed for the nomination only one candidate has been nominated, or if then or before the closing of the poll by the withdrawal of any other person or persons nominated only one candidate remains in nomination, the returning officer shall forthwith make his return to the Clerk of the Executive Council that such candidate has been elected, of which return he shall send without delay a certified copy to the person elected; and such return shall be in the following form:

I hereby certify that the member elected for the electoral division of Athabaska in pursuance of the annexed writ is _____ (*as in the nomination paper*), no other candidate having been nominated (*or, the other candidate or candidates having withdrawn, as the case may be*).

(Signature)

A. B.,
Returning Officer.

1938, c.6, s.15; R.S.S. 1940, c.5, s.15.

Returning officer's return

16 The returning officer shall accompany his return to the Clerk of the Executive Council with a report of his proceedings.

1938, c.6, s.16; R.S.S. 1940, c.5, s.16.

Procedure where more than one candidate in nomination

17 If at the close of the time fixed for receiving nominations there remain more than one candidate in nomination, the returning officer shall grant a poll for taking the votes of the voters.

1938, c.6, s.17; R.S.S. 1940, c.5, s.17.

PROCEEDINGS AFTER NOMINATION

Certified list of candidates

18 As soon as the time for receiving nominations has elapsed or at any time thereafter, the returning officer shall if required deliver free to every candidate or to the person who files the nomination paper on his behalf a certified list of the candidates nominated.

1938, c.6, s.18; R.S.S. 1940, c.5, s.18.

Polling place selected

19 The returning officer shall select a suitable polling place at or near each of the places determined in accordance with section 10.

1938, c.6, s.19; R.S.S. 1940, c.5, s.19.

Poll

20(1) When a poll has been granted it shall be held on the same day of the week as the nomination and in the fourth week thereafter, and shall be open at the hour of nine o'clock in the forenoon and kept open until five o'clock in the afternoon of the said day; and the votes at the several polling places shall be given between the said hours of that day.

(2) A poll shall be held at each of the places determined in accordance with section 10 in a suitable and conveniently situated building to be described in the election notice.

1938, c.6, s.20; R.S.S. 1940, c.5, s.20.

Election notice

21 Immediately after granting a poll, and at least week before the polling day, the returning officer shall cause to be posted, at all places where the proclamation for the election was posted, an election notice in the following form.

ELECTION NOTICE

Electoral Division of Athabaska.

To wit:

Public notice is hereby given to the voters of the electoral division aforesaid that a poll has been granted for the election now about to be held of a member to represent the said electoral division in the Legislative Assembly of Saskatchewan, and that such poll will be open on *(here insert day of the week)* the _____ day of _____, 19____, from nine o'clock in the morning till five o'clock in the afternoon at each of the following polling places, that is to say: *(here insert the description of the polling places)*;

Further that the persons duly nominated and for whom only votes will be received are:

1. *(Insert the name and additions of each candidate as given in the nomination paper.)*

2.

3.

And further that, unless the election is otherwise terminated before the time above named for closing the poll I shall on the _____ day of _____ at *(here insert the name of the building)* in the hamlet of Lac La Ronge *(in the case of the electoral division of Cumberland)* or in the hamlet of Ile a la Crosse *(in the case of the electoral division of Athabaska)*, all in the Province of Saskatchewan, open the poll books, sum up the votes given for the several candidates and return as elected the one having the largest number of votes.

Of which all persons are hereby required to take notice and govern themselves accordingly.

Given under my hand at _____ in the Province of Saskatchewan this _____ day of _____, 19____.

(Signature)

A. B.,
Returning Officer.

1938, c.6, s.21; R.S.S. 1940, c.5, s.21.

Information to voters

22 It shall be the duty of the returning officer to cause to be posted with the election notice a notice in the following form:

INFORMATION TO VOTERS

The following is the qualification of voters as prescribed by *The Athabaska or Cumberland Election Act* (here insert section 4 of this Act and sections 12 and 14 of *The Saskatchewan Election Act*). (Here insert qualification.)

Each voter may vote at any polling place in the electoral division, but shall vote once only.

The voter is to vote for only one candidate.

The voter shall go into one of the compartments and with the black lead pencil provided place a cross within the white space containing the name of the candidates for whom he votes (thus **X**).

The voter shall then fold the ballot paper so that the initials and stamp on the back and the number of the counterfoil can be seen without opening it; he shall then return the ballot paper so folded to the deputy returning officer who shall in full view of those present, including the voter, remove the counterfoil, destroy the same and place the ballot paper in the ballot box; the voter shall then forthwith leave the polling place.

If a voter inadvertently spoils a ballot paper so that he cannot conveniently use it as he desires he may return it to the deputy returning officer who will give him another.

If the voter votes for more candidates than he is entitled to vote for or places any mark on the ballot paper by which he can be identified his vote will be void and will not be counted.

If the voter fraudulently takes a ballot paper out of the polling place or fraudulently delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot paper given him by the deputy returning officer he will be liable to imprisonment for one year.

In the following form of ballot paper, given for illustration, the candidates are Wm. R. Brown, Jane O'Neil, Frank Hamon and Alice Smith and the voter has marked his ballot paper in the favour of Alice Smith and the counterfoil has been detached.

<div style="background-color: black; height: 30px; width: 100%;"></div>		
1	WM. R. BROWN of Township _____ Range _____ West of _____ Meridian, Farmer.	
<div style="background-color: black; height: 30px; width: 100%;"></div>		
2	JANE O'NEIL of the City of Regina, Spinster.	
<div style="background-color: black; height: 30px; width: 100%;"></div>		
3	FRANK HAMON of the City of Regina, Gentleman.	
<div style="background-color: black; height: 30px; width: 100%;"></div>		
4	ALICE SMITH of the City of Regina, Married Woman.	X
<div style="background-color: black; height: 30px; width: 100%;"></div>		

(Signature)

A. B.,
Returning Officer.

Dated _____, 19____.

1938, c.6, s.22; R.S.S. 1940, c.5, s.22.

Polling places accommodation

23 It shall be the duty of the returning officer to secure at each polling place a room, building or other convenient place for the officers employed at the poll with a window or door opening to the outside, and in winter if possible two rooms, one for the officers and the other for the voters while voting.

1938, c.6, s.23; R.S.S. 1940, c.5, s.23.

Ballot voting

24 The vote shall be taken by ballot, and all the provisions of *The Saskatchewan Election Act* relevant to a vote by ballot shall, so far as applicable, apply to the preliminary proceedings, the poll, and the proceedings subsequent to the poll, in elections held hereunder.

1938, c.6, s.24; R.S.S. 1940, c.5, s.24.

DEPUTY RETURNING OFFICERS

Appointment

25 The returning officer shall under his hand appoint one deputy returning officer for each polling place; but if the returning officer shall see fit to act in the capacity of deputy returning officer for any polling place he may dispense with appointing a deputy for such polling place and may himself perform the duties of deputy returning officer therein.

1938, c.6, s.25; R.S.S. 1940, c.5, s.25.

Forms, etc. to be supplied

26 The returning officer shall furnish each deputy returning officer with a poll book, three copies of the proclamation referred to in section 10 and five copies of the election notice referred to in section 21.

1938, c.6, s.26; R.S.S. 1940, c.5, s.26.

Agents

27 Any person producing to the deputy returning officer at any time a written authority from a candidate to represent him as an agent or a poll clerk at a polling place shall be recognized as such by the deputy returning officer; and if no such agent or poll clerk be nominated, two voters may at their request be recognized as the agents of such candidate.

1938, c.6, s.27; R.S.S. 1940, c.5, s.27.

Persons entitled to be present place at polling place

28 In addition to the deputy returning officer the poll clerk, a constable or constables, an interpreter or interpreters, each candidate and his agent or in such candidate's absence his two agents and poll clerk and no others shall be permitted to remain in the room or place or that part thereof of where the votes are recorded.

1938, c.6, s.28; R.S.S. 1940, c.5, s.28.

Duties of deputy returning officer

29 It shall be the duty of the deputy returning officer:

1. To appoint in writing a poll clerk;
2. To post on polling day before nine o'clock in the morning at least three of the notices referred to in section 22 (Information to Voters) in conspicuous places near the polling place;
3. To see that the poll clerk is put in possession of the poll book in time for polling;
4. To open the poll on polling day at nine o'clock in the morning and to keep it open until five o'clock in the afternoon of the same day;
5. To administer the oath hereinafter mentioned to every voter;
6. When the poll is declared by him to be closed, immediately to sum up with the poll clerk the votes received by each candidate and to sign on the poll book with the poll clerk the certificate hereinafter mentioned;
7. When the said certificate is signed, to seal up the poll book and to forward it to the returning officer as he may direct.

1938, c.6, s.29; R.S.S. 1940, c.5, s.29.

OATHS TO BE TAKEN BY VOTERS

Oaths

30 Every deputy returning officer shall administer to voters the following oath:

You swear:

1. That you are of the full age of twenty-one years and are a British subject by birth or naturalization, that you are not an Indian or a Chinaman and are not a citizen of any foreign country;
2. That you are in good faith a resident of and have had your fixed habitation in the Electoral Division of Athabaska for the three months next preceding the date of the issue of the writ for this election;
3. That you have resided within the Province of Saskatchewan for the twelve months next preceding the date of the issue of the said writ for this election;
4. That you have not received any money or other reward nor have you accepted any promise made to you directly or indirectly to induce you to vote at this election and that you have not before voted at this election either at this or any other polling place. So help you God.

1938, c.6, s.30; R.S.S. 1940, c.5, s.30.

Penalty for refusing to swear

31 No person who refuses to take the said oath shall be permitted to vote; and if the name of any such person has been entered in the poll book it shall be struck out and the words "refused to be sworn" written thereafter.

1938, c.6, s.31; R.S.S. 1940, c.5, s.31.

Interpreter

32 When the deputy returning officer does not understand the language of a person claiming to vote, he may swear an interpreter to interpret between himself and such person with reference to all matters required to enable such person to vote.

1938, c.6, s.32; R.S.S. 1940, c.5, s.32.

POLL CLERKS

Poll clerk acts as deputy returning officer

33 If the deputy returning officer is unable or fails to perform his duties the poll clerk shall act in his place and appoint another poll clerk.

1938, c.6, s.33; R.S.S. 1940, c.5, s.33.

Entries in poll book

34 The poll clerk shall write in the poll book the full name, occupation and the residence of each voter.

1938, c.6, s.34; R.S.S. 1940, c.5, s.34.

Entries in poll book

35 The poll clerk shall make such entries in the poll book as the deputy returning officer may direct him to make or as may be required under the provisions of this Act.

1938, c.6, s.35; R.S.S. 1940, c.5, s.35.

CLOSE OF THE POLL

Close of poll

36 At five o'clock on polling day the deputy returning officer shall declare the poll closed.

1938, c.6, s.36; R.S.S. 1940, c.5, s.36.

FINAL SUMMING UP OF VOTES

Duties of returning officer

37 The returning officer shall in the hamlet of Lac la Ronge, in the case of the electoral division of Cumberland, and in the hamlet of Ile a la Crosse in the case of the electoral division of Athabaska, at the hour of ten o'clock in the forenoon on the day and at the place appointed by his election notice, proceed to open the ballot boxes, add up the votes given for each candidate and declare the candidate having the largest number of votes elected as required by section 128 of *The Saskatchewan Election Act*.

1938, c.6, s.37; R.S.S. 1940, c.5, s.37.

Declaration of election

38 The candidate who shall on the final summing up of the votes be found to have the largest number of votes shall be then declared elected.

1938, c.6, s.38; R.S.S. 1940, c.5, s.38.

Casting vote

39 When, on the final addition of votes by the returning officer, an equality of votes is found to exist between any of the candidates, and the addition of a vote would entitle any of such candidates to be declared elected the returning officer shall give such additional or casting vote.

1938, c.6, s.39; R.S.S. 1940, c.5, s.39.

Return to Clerk of Executive Council

40 The returning officer after such verifications shall forthwith transmit his return to the Clerk of the Executive Council and such return shall be in the form following:

I hereby certify that tile member elected for the electoral division of Athbaska in pursuance of the within writ as having the largest number of votes lawfully given is (*name as in nomination paper*).

Dated at _____ in the Province of Saskatchewan, this ____ day of _____, 19____.

(Signature)

A. B.,
Returning Officer.

1938, c.6, s.40; R.S.S. 1940, c.5, s.40.

Copy to candidates

41 The returning officer shall forward to each of the respective candidates a copy of his return to the Clerk of the Executive Council.

1938, c.6, s.41; R.S.S. 1940, c.5, s.41.

Report

42 The returning officer shall accompany his return to the Clerk of the Executive Council with a report of his proceedings including the numbers shown in his final summing up of the votes; he shall also forward to the Clerk of the Executive Council all the poll books of the several polling places.

1938, c.6, s.42; R.S.S. 1940, c.5, s.42.

GENERAL PROVISIONS**Stationery, etc.**

43 It shall be the duty of the Clerk of the Executive Council to transmit with the writ of election to the returning officer blank poll books or forms for the same as may be prescribed by the Lieutenant Governor in Council.

1938, c.6, s.43; R.S.S. 1940, c.5, s.43.

Posting notices

44 The proclamation and other notices required by this Act to be posted at any election may be either printed or written or partly printed and partly written.

1938, c.6, s.44; R.S.S. 1940, c.5, s.44.

Regulations

45 The Lieutenant Governor in Council may make such regulations as he may deem necessary for giving effect to this Act and for carrying out the provisions thereof according to its intent and meaning.

1938, c.6, s.45; R.S.S. 1940, c.5, s.45.

Forms

46 The Lieutenant Governor in Council may from time to time, whenever it is necessary so to do, vary any of the forms in this Act or cause to be adopted any other form or forms which he considers applicable to any special case or class of cases by which a form has not been provided in this Act.

1938, c.6, s.46; R.S.S. 1940, c.5, s.46.