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**S T A T U T E S,**  
**OF HIS MAJESTY'S PROVINCE**

OF

**UPPER CANADA,**

PASSED IN THE

**FIRST SESSION OF THE THIRTEENTH PROVINCIAL PARLIAMENT  
OF UPPER CANADA;**

**BEING RESERVED ACTS,**

**TO WHICH THE ROYAL ASSENT WAS SUBSEQUENTLY PROMULGATED.**

---

**By Authority.**

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**SIR FRANCIS BOND HEAD, K.C.H.  
LIEUTENANT GOVERNOR.**

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**TORONTO:**

PRINTED BY ROBERT STANTON, PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

.....  
1838.



# STATUTES

OF

## Upper Canada,

PASSED IN THE FIRST SESSION OF THE THIRTEENTH PROVINCIAL PARLIAMENT :

MET AT TORONTO, ON THE EIGHTH DAY OF NOVEMBER, 1836, AND PROROGUED ON THE  
FOURTH DAY OF MARCH, 1837, IN THE SEVENTH YEAR OF THE REIGN OF  
WILLIAM IV.

(BEING RESERVED ACTS, TO WHICH THE ROYAL ASSENT WAS SUBSEQUENTLY PROMULGATED.)

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SIR FRANCIS BOND HEAD, K.C.H.

LIEUTENANT GOVERNOR.

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ANNO DOMINO 1837.

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### CHAP. CXIV.

*AN ACT better to secure the independence of the Commons House of  
Assembly of this Province, and for other purposes therein-mentioned.*

[Royal Assent promulgated by Proclamation, 20th April, 1838.]

**W**HEREAS it is expedient that the seats of Members of the House of Assembly should be declared to be vacated in certain cases: *Be it therefore enacted*, by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision

Preamble.

for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province," and by the authority of the same, That if any Member of the House of Assembly now or hereafter to be elected, shall at any time hereafter accept or take any or either of the following Offices under His Majesty's Government of this Province, viz:—Judge of the Court of King's Bench; Judge of the District Court, or of any Court of Record hereafter to be established; the Receiver General; Surveyor General; Inspector General; Member of the Executive Council; Collector of the Customs; Attorney or Solicitor General, or Sheriff, his seat in the said House of Assembly shall be and is hereby declared to be thereby vacated, and thereupon it shall be lawful for the Speaker to issue his warrant in the usual form for the Election of a new Member, in the room of the Member whose seat shall be so vacated: *Provided always nevertheless*, that any such appointment as aforesaid shall be no bar or obstruction to the re-election into the House of Assembly of the person so accepting or holding the same.

Persons who at the time of passing this Act are Members of the House of Assembly, or who shall hereafter be elected, on being appointed to the following offices: Judge of Court of King's Bench; Judge District Court, or any Court of Record hereafter to be established; Receiver General; Surveyor General; Inspector General; Member of the Executive Council; Collector of Customs; Attorney or Solicitor General; or Sheriff, to vacate his seat, and Speaker to issue his warrant for new election. Members may be re-elected.

Judge of the Court of King's Bench not eligible to be elected.

II. *Provided always, and be it further enacted by the authority aforesaid*, That nothing in this Act contained shall extend, or be construed to extend, to authorise the Election of any Judge of the Court of King's Bench as a Member of the Assembly of this Province.

Member removing permanently from the Province, to vacate his seat.

Speaker to order a writ for election of another.

No writ to issue for a new election to fill any vacancy, until House satisfied of necessity, by petition of the Freeholders, or communication by the Member vacating, to the Speaker.

III. *And be it further enacted by the authority aforesaid*, That any Member duly elected to represent any town, county or place, in this Province, who shall, after such election, remove from the Province, and make some other Country his permanent residence, whereby the constituency whom he was elected to represent may be unrepresented, the seat of every Member so removing shall be declared vacant, and the Speaker shall order a writ to issue for the election of another person to serve in the room and place of the Member so vacating his seat: *Provided always*, that no writ shall issue for a new election to fill any vacancy so occurring, until the House of Assembly shall be satisfied of its necessity, either by petition of the Freeholders of the county, town or place, to which it relates, praying that a writ may issue, or by the Member about to vacate his seat according to the provisions of this Act, stating that fact to the House of Assembly, by a communication to the Speaker.

## CHAP. CXV.

*AN ACT to authorise the erection of certain Townships, and other territory heretofore forming part of the Newcastle District, into a new District, by the name of the District of Colborne, with Peterborough for the District Town.*

[Royal Assent Promulgated by Proclamation 20th April, 1838.]

**W**HEREAS from the great extent of the District of Newcastle, the great distance of some parts of it from the District Town, and divers other causes, it is desirable and expedient that certain Townships at present forming a part of the said District, with the unsurveyed lands in rear of the same, should be erected into a separate and distinct District: *Be it therefore enacted*, by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That the Townships of Belmont, Methuen, Burleigh, Dummer, Asphodel, Otanabee, Douro, Smith, Ennismore, Harvey, Verulam, Emily, Ops, Fenelon, Mariposa, Eldon, Bexley, Somerville, and the seven rear Concessions of Monaghan, together with the unsurveyed lands in rear thereof, and the Islands lying wholly or in greater part opposite thereto shall, after the issuing the Proclamation as hereinafter provided, compose the said new District, under the name of the District of Colborne, and that the town of Peterborough shall be the District Town thereof.

II. *And be it further enacted by the authority aforesaid*, That so soon as the several Townships, and other territory hereinbefore mentioned, shall have been formed into and declared a separate and distinct District, by Proclamation as hereinbefore provided, all the Townships and territory comprised within the limits of the said intended District shall form and be called the County of Peterborough, in the District of Colborne.

III. *And be it further enacted by the authority aforesaid*, That so soon as it shall have been ascertained that a good and sufficient Gaol and Court House have been erected therein, for the security of Prisoners,

and for the accommodation of such Courts as shall or may be held within the said new District, it shall and may be lawful to and for the Governor, Lieutenant Governor, or Person Administering the Government for the time being, by and with the advice and consent of His Majesty's Executive Council in this Province, to declare by Proclamation the aforesaid Townships of Belmont, Methuen, Burleigh, Dummer, Asphodel, Otanabee, Douro, Smith, Ennismore, Harvey, Verulam, Emily, Ops, Fenelon, Mariposa, Eldon, Bexley, Somerville, and the seven rear Concessions of Monaghan, together with the unsurveyed lands in rear thereof, and the Islands lying wholly or in greater part opposite thereto, to be a separate and distinct District, by the name of the District of Colborne: *Provided nevertheless*, that nothing in this Act contained shall affect or be construed to affect the jurisdiction of His Majesty's Court of King's Bench in this Province, or to affect the jurisdiction of the Courts of General Quarter Sessions of the Peace, or District Court, within the District of Newcastle: *Provided also*, that if at the time the said Townships before-mentioned shall be set off into a separate District, any action shall have been commenced or be pending for any cause of action arising therein, or any indictment of an indictable offence that may have been committed within the said Townships so to be set off as aforesaid, the said action or indictment shall and may be tried at the next Assizes, or other Court in which the same may be pending, to be held in and for the District of Newcastle, unless all the parties shall agree that the same shall not be tried in that District: *Provided always*, that such Gaol and Court-house shall be erected at or near the Town of Peterborough, on the ground set apart or reserved by His Majesty for that purpose.

Not to effect jurisdiction of Court of King's Bench, Courts of Quarter Sessions, or District Courts.

Provisions made for actions pending.

Gaol and Court House to be erected at or near Peterborough.

Courts and Offices existing at time of Proclamation, to be continued in new District, same as in other Districts;

And also all other jurisdiction, regulation, rule, privilege, &c.

IV. *And be it further enacted by the authority aforesaid*, That the Courts of Oyer and Terminer and General Gaol Delivery, of Assize and Nisi Prius, the Courts of General Quarter Sessions of the Peace, District Court, Surrogate Court, Court of Requests, and every other Court and jurisdiction, with all District Offices whatsoever, held or to be holden, possessed and enjoyed, in and by the other Districts of this Province at the time of such Proclamation as aforesaid, shall from thenceforth, with the like powers and authority, be held and enjoyed in and by the said District to be thereby declared and named by virtue of this Act; and that all and every jurisdiction, regulation, rule, privilege, exemption, matter or thing, which shall or may have been enacted, provided and declared, by any Act or Acts of the Parliament of this Province made or to be made, touching or concerning the said other Districts, and which shall be in force and operation at the time of such Proclamation as aforesaid, shall be and are hereby extended from thenceforth to that District to be thereby de-

clared and named as aforesaid, unless otherwise provided for by this Act, or some other Act or Acts of the Parliament of this Province.

V. *And be it further enacted by the authority aforesaid,* That all and every the provisions, rules and regulations, matters and things, contained in any Act or Acts of the Parliament of this Province, for the regulation of or relating to Gaols, which shall be in force and operation at the time of declaring and naming such new District as aforesaid, shall be and are hereby from thenceforth extended to the said Gaol and Court House; and that the aforesaid Courts of Oyer and Terminer and General Gaol Delivery, Assize and Nisi Prius, General Quarter Sessions of the Peace, Surrogate and every other of the aforesaid Courts, required to be held at a place certain, shall be commenced, and from time to time holden at the aforesaid Court House, or such other Court House as may hereafter be erected for that purpose by virtue of any Act or Acts of the Parliament of this Province.

Acts relating to Gaols in other Districts, to extend to new District.

Courts of Oyer and Terminer, and all other Courts, to be held in new District.

VI. *And be it further enacted by the authority aforesaid,* That from and after the time when the aforesaid Townships, and the unsurveyed lands and Islands appertaining thereto; shall be declared a separate District, the Court of General Quarter Sessions of the Peace, and Sittings of the District Court of the said District, shall be respectively commenced and held at the place hereinbefore appointed for that purpose, on the second Tuesday in the months of January and April, and the fourth Tuesday in the months of July and October, in each and every year; and that the Terms of the said District Court shall respectively commence on the Monday of the week next but one preceding the week in which the Court of Quarter Sessions, and Sitting of the said District Court, are hereby appointed to be held, and such Terms shall respectively end on the following Saturday.

Times of holding Quarter Sessions and District Court.

VII. *And be it further enacted by the authority aforesaid,* That His Majesty's Justices of the Peace, and all other persons holding any Commission, Office, or bearing lawful authority, and who shall be residing within the said Townships, or lands and Islands before-mentioned, at the time the same shall be declared and named a separate District, shall continue to hold and enjoy, and exercise the like commission, office, authority, power and jurisdiction, within that District, in the same manner that they previously held, enjoyed and exercised the same within the District of Newcastle: *Provided,* that the authority, power and jurisdiction, previously exercised by His Majesty's Justices of the Peace, and other persons bearing commission or office, or lawful authority within, or residing within the Townships or lands forming the new District, shall not in any wise be longer exer-

Justices of the Peace, and other Officers residing in new District, to continue to exercise the duties of their offices.

Such persons not to exercise office within District of Newcastle, after new District declared.



Justices, and other Officers residing within limits of District of Newcastle, to continue to fill their respective offices within that District, but no longer to exercise the same in new District.

cised or continued within the District of Newcastle, but that the same within that District shall from thenceforth cease and determine: *Provided*, that after declaring such new District as aforesaid, His Majesty's Justices of the Peace and others, who thenceforward shall continue to hold commission or office, or bear lawful authority within the District of Newcastle, shall cease to hold such commission or office, or to exercise such lawful authority within the said new District, to be declared and named as aforesaid; and that no jurisdiction, power or authority, of whatever nature or kind soever, to the said District of Newcastle, at the time of the formation of such new District as aforesaid, belonging or appertaining, shall longer extend or be construed to extend to the said new District.

Rates levied for current year, when new District declared, to be applied to the uses of the same.

VIII. *And be it further enacted by the authority aforesaid*, That the ordinary rates and assessments levied within the limits of the territory comprising the intended new District, for the current year when the said territory shall be declared a separate District by virtue of this Act, and all future assessments and rates to be levied therein shall be applied and expended for the like purposes within such new District, as they at that time might be expended under and by virtue of any Act or Acts of the Parliament of this Province, in the District of Newcastle, except in so far as the same may be varied by this Act.

Provision made for establishment of Schools, &c.

IX. *And whereas*, it is necessary to make provision for the establishment and support of Schools within the intended new District, when the same shall have been declared a separate District: *Be it therefore further enacted by the authority aforesaid*, That from and after the erection of the Townships hereinbefore mentioned, and the lands and Islands appertaining to the same, into a separate District, by virtue of this Act, there be granted annually to His Majesty, His Heirs and Successors, from and out of the monies now raised, levied and collected, or hereafter to be raised, levied and collected, to and for the uses of this Province, and unappropriated, the sum of one hundred pounds, which said sum of one hundred pounds shall be appropriated, applied and disposed of, in paying the salary of the Teacher of the Public District School, which may hereafter be erected in the said District.

District School to be opened in town of Peterborough.

X. *And be it further enacted by the authority aforesaid*, That the said District School shall be opened and kept in the Town of Peterborough, in the said new District, at such place as the Trustees of the said District School, or a majority of them, may appoint.

District School to be regulated as in other Districts.

XI. *And be it further enacted by the authority aforesaid*, That the said District School shall be established in like manner, and under the same

rules and regulations, and restrictions in every particular, as shall be mentioned and provided in the several Acts of the Parliament of this Province, for the regulation of similar Schools in the other Districts of this Province, in force and operation at the time such School shall be established.

XII. *And be it further enacted by the authority aforesaid,* That after the erection of the said new District as aforesaid, there be granted annually to His Majesty, His Heirs and Successors, out of the monies now raised, levied and collected, or hereafter to be raised, levied and collected, to and for the uses of this Province, and unappropriated, the sum of two hundred and fifty pounds, which sum of two hundred and fifty pounds shall be appropriated, applied and disposed of in the establishment of Common Schools in the said District, in manner and under the same rules, regulations, provisions and restrictions, in every particular mentioned, specified and contained, in the several Acts of Parliament of this Province, for the regulation and support of similar Schools in the other Districts of this Province, which shall be in force and operation at the time such Schools shall be established: *Provided, nevertheless,* that nothing herein-contained shall be construed or taken to destroy or abridge the right of such new District to participate in the monies appropriated to the use of Common Schools in this Province, by a certain Act of Parliament of this Province, passed in the fourth year of His late Majesty's reign, entitled, "An Act to make permanent and extend the provisions of the Laws now in force for the establishment and regulation of Common Schools throughout the Province, and for granting to His Majesty a further sum of money to promote and encourage education within the same," in addition to the above-mentioned sum of two hundred and fifty pounds.

Provision made for establishing and maintaining Common Schools.

Right of new District to participate in monies appropriated for Common Schools, by 4th Geo. IV. reserved.

XIII. *And be it further enacted by the authority aforesaid,* That the monies hereinbefore granted to His Majesty shall be paid by the Receiver General of this Province, in discharge of such Warrant or Warrants as shall for the purposes aforesaid be from time to time issued by the Governor, Lieutenant Governor, or Person Administering the Government of this Province; and the said Receiver General shall account for the same to His Majesty, through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors, may be graciously pleased to direct.

Monies granted to be accounted for through Lords of Treasury.

XIV. *And be it further enacted by the authority aforesaid,* That the said Justices of the Peace within the limits of the said intended new District, shall be authorised, and they are hereby authorised, at a public meeting to be by them holden for that purpose, at some convenient place in the

Measures to be adopted for procuring Plans for Gaol and Court House.

Town of Peterborough, so soon after the passing of this Act as may be convenient, to issue a public notice, signed by two or more of the said Justices, fixing upon the time and place of such meeting, the same having been for three weeks published in some newspaper printed within the said District of Newcastle, previous to such meeting, to procure by such means as to the said Justices shall seem fitting and proper, different plans and elevations of a Gaol and Court House, to be laid before them, for the purpose of selecting and determining upon one by the said Justices, then and there assembled as aforesaid.

Justices to appoint a Building Committee :

Their duties and responsibilities defined.

XV. *And be it further enacted by the authority aforesaid,* That at the said meeting to be held as aforesaid, the Justices may nominate and appoint a Chairman, Treasurer and Clerk, and also three other persons, who, together with the said Chairman and Treasurer, shall compose a Building Committee, who shall be authorised, and they are hereby authorised and empowered, to contract for and superintend the erection and completion of the said Gaol and Court House, under the control of the said Justices, and in the name and on the behalf of the inhabitants of the said intended District, to contract with any person or persons who shall desire to erect and finish the same, according to the plan approved of as aforesaid, upon the site or situation fixed upon by this Act; and for that purpose the plan, elevation and specification, of the said Gaol and Court House, shall continue and remain in the Office of the said Clerk for general inspection; and public notice shall be given to all persons desirous to contract for the building the said Gaol and Court House, to deliver in within a certain limited time, proposals in writing, under seal, of the sum of money for which he or they will engage to build and complete the same, conformably to certain articles and conditions to be agreed upon by the said Committee, or a majority of them; and that the said Committee shall, on a day previously to be fixed for that purpose, examine the said proposals so given in as aforesaid, and if they shall approve thereof, the said Committee shall be empowered, and they are hereby required, to contract with such person or persons as shall offer to undertake and build the said Gaol and Court House for the lowest price: *Provided,* the said person or persons making the said proposals, shall give and enter into good and sufficient security, to be approved of by the said Justices at some one of their meetings, as is hereinafter provided, for the due performance of his or their contract.

Power of Justices with respect to building Gaol and Court House.

XVI. *And be it further enacted by the authority aforesaid,* That the said Justices so assembled as aforesaid, shall have the like power and authority within the said intended new District, as the Justices of the Peace in other Districts of this Province, in General Quarter Sessions assembled,

have by law, so far as relates to building Gaols and Court Houses in their respective Districts, and no further, unless expressly provided for by this Act; and that they be authorised to adjourn the said meeting, from time to time, and assemble again as often as the business relating to the building of the said Gaol and Court House shall seem to require; that the said Building Committee be under their control and direction, and that the Clerk record all the resolutions, rules and orders, of the said meetings in a book to be kept for that purpose; and if any vacancies shall occur of Chairman, Treasurer, Clerk, or other appointments of the said Committee, before the said new District is declared and named a separate District, either by death, resignation or removal, the said Justices shall be authorised to supply the vacancy so often as it may occur by other appointments.

Building Committee to be under their control, &c.;

Clerk to record resolutions, rules and orders;

Justices to fill up vacancies in Building Committee and Officers.

XVII. *And whereas*, it is just and expedient that until the said contemplated District shall be declared a separate District, the territory comprising the same should bear and contribute a just proportion of the ordinary expenses of the District: *Be it therefore further enacted by the authority aforesaid*, That from and out of the rates and assessments raised, levied and collected, within the territory comprising the said new District of Colborne, or which may hereafter be levied and collected within the same, it shall and may be lawful for the Treasurer of the District of Newcastle, annually to retain for the purposes aforesaid, such a sum as the majority of the Magistrates, in General Quarter Sessions assembled, in the month of April next, shall ascertain and determine to be the just and equitable proportion of such expenses, to be borne and paid by the said new intended District; and it shall be the duty of the Treasurer of the District of Newcastle, after deducting such sum, to pay over to the Treasurer, to be appointed as hereinbefore directed, the balance of all rates and assessments raised, levied and collected, or which may hereafter be raised, levied and collected, in the said territory, and shall be applicable to the general benefit of the said intended District, and may be applied by His Majesty's Justices of the Peace, residing within the said District, towards the erecting and building a Gaol and Court House therein; and the said Treasurer of the District of Newcastle shall take receipts for the same, as the money shall be paid over, which receipts shall be allowed by the Justices of the District in their settlement with him.

Until new District declared, contribution towards expenses of District of Newcastle.

Amount to be ascertained by Justices.

Residue to be applied in aid of erecting and building Gaol and Court House in new District.

XVIII. *And be it further enacted by the authority aforesaid*, That the said Building Committee shall and may apply the said monies so received by the Treasurer, to be appointed as aforesaid, from the Treasurer of the District of Newcastle, from time to time, towards the payment of any contract that they may make with any person or persons whatever, for the

Building Committee to apply such monies in payment of Contracts, &c.

building of the said Gaol and Court House, in conformity to the intentions of this Act.

Committee to keep accounts, and submit the same to Justices at first Quarter Sessions.

*XIX. And be it further enacted by the authority aforesaid,* That the said Committee shall keep faithful and correct accounts of all monies expended by them in the erection of the said Gaol and Court House, and shall exhibit a detailed statement, both in debtor and creditor, to the Justices of said District, at their first General Quarter Sessions of the Peace to be holden therein, after the same shall have been declared a separate District.

Magistrates of new District authorised to contract for loan.

*XX. And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Magistrates of the said new District, so assembled as aforesaid, and they are hereby empowered by an order of such meeting, to authorise and direct the Treasurer, to be appointed as aforesaid, to raise, by loan, from such person or persons, bodies politic or corporate, who may be willing to lend the same on the credit of the rates and assessments to be raised, levied and collected, in the said intended District, a sum not exceeding six thousand pounds, to be applied in defraying the expenses of building the said Court House and Gaol.

At an interest not exceeding six per cent.

Treasurer to retain £200 annually, besides interest on loan, to be applied in discharge of the same.

*XXI. Provided always, and be it further enacted by the authority aforesaid,* That the money so borrowed, under the authority of this Act, shall not bear a greater interest than six per cent per annum; and that the Treasurer of the said intended District for the time being, shall annually, until the loan so raised, with the interest accruing thereon, shall be paid and discharged, apply towards the payment of the same a sum not less than two hundred pounds, together with the lawful interest on the whole sum which may from time to time remain due, from and out of the rates and assessments so coming into his hands for the use of the said intended District.

Treasurer not to be entitled to poundage on money raised by loan under this Act.

*XXII. And be it further enacted by the authority aforesaid,* That no Treasurer hereafter to be appointed, either by the said meeting or by the Magistrates of the said intended District, shall be entitled or authorised to receive any poundage or per centage upon any sum or sums of money which shall or may be loaned under the authority of this Act, or which may come into his or their hands, or for paying out any sum or sums of money in discharging and liquidating such loan, with the interest thereon, as aforesaid.

*XXIII. And whereas,* it is expedient that a tax should be levied on the property of the inhabitants of the intended new District, for the purpose

of defraying the expense of erecting a Court House and Gaol in the said District: *Be it therefore further enacted by the authority aforesaid,* That the Magistrates of and residing within the limits of the same, shall have power, and they are hereby authorised, at a meeting to be convened for that purpose, to resolve, that an increased tax, not exceeding one penny in the pound over and above the ordinary assessment on all ratable property within the said territory, shall be levied and collected for a term of time not exceeding four years, which resolution shall be adopted by a majority of at least two-thirds of the Magistrates of and residing within the said intended District; and a copy of such resolution shall be transmitted to the Clerk of the Peace of the District of Newcastle, signed by the Chairman of said meeting.

Magistrates of new District authorised to levy additional assessment.

XXIV. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Clerk of the Peace for the District of Newcastle to add to the assessment list for the several Townships of the intended new District, the increased tax, according to the resolution furnished him by the Chairman of the said meeting.

Clerk of Peace for District of Newcastle to add increased tax to assessment lists.

XXV. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Collectors of the several Townships of which the new District is to be formed, and they are hereby required, to collect the monies authorised to be raised by this Act, and to pay the same over to the Treasurer of the Newcastle District, in the same way and manner as the ordinary assessments of the District have been heretofore paid.

Additional assessments to be collected by Collectors in Townships of new District, and pay same to Treasurer of District of Newcastle.

XXVI. *And be it further enacted by the authority aforesaid,* That the Magistrates of and residing within the limits of the intended new District, shall expend the monies levied and collected, as hereinbefore directed, in defraying the expenses of building the said Gaol and Court House, for the use of the contemplated new District of Colborne.

Additional assessment to be applied to building Gaol and Court House.

XXVII. *And be it further enacted by the authority aforesaid,* That no per centage be allowed to the Treasurer of the District of Newcastle, nor to any Assessor or Collector for the monies raised and collected under the provisions of this Act.

No per centage allowed to Collector or Treasurer upon monies collected under this Act.

XXVIII. *And be it further enacted by the authority aforesaid,* That the Courts of Assize and Nisi Prius, of Oyer and Terminer and General Gaol Delivery, shall not be held in said District, until an increase be made to the number of the Judges of His Majesty's Court of King's Bench in this Province, nor until provision has been made by law for securing the payment by the said District of Colborne, of a just proportion of the debt con-

Courts of Assize and Nisi Prius, Oyer and Terminer, &c. not to be held in new District, until provision is made for additional Judges, nor until provision be made to secure payment by new District of a proportion of debt contracted by District of Newcastle, for building Gaol, &c.

tracted on the credit of the Newcastle District, for building the Gaol and Court House within that District.

## CHAP. CXVI.

*AN ACT erecting certain parts of the Counties of Halton and Simcoe into a new District, by the name of the District of Wellington.*

[Royal Assent promulgated by Proclamation, 20th April, 1836.]

Preamble.

**WHEREAS** from the increase of the population of the County of Halton, in the Gore District, and the great distance from the District Town, it is expedient to provide under certain conditions for erecting part of the said County of Halton, in the Gore District, and part of the County of Simcoe, in the Home District, into a separate District, with the Town of Guelph for the District Town: *And whereas* the Townships of Proton, Luther, Melancthon and Amaranth, from the County of Simcoe, and Garafraxa, Erin, Eramosa, Guelph, Nichol, Waterloo, Wilmot, Woolwich, and reserved lands west of Woolwich and Nichol, the triangular piece of land adjoining the said tract in the proposed District of Huron, part of the late purchase from the Indians from Gore, and part of Indian lands do form the said new District, to be named the District of Wellington: *Be it therefore enacted*, by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That so soon as the Governor, Lieutenant Governor, or Person Administering the Government of this Province, for the time being, shall be satisfied that a good and sufficient Gaol and Court-house has been erected in the Town of Guelph aforesaid, for the security of Prisoners, and for the accommodation of such Courts as shall or may be held within the said new District, it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, for the time being, by and with the advice and consent of His Majesty's Executive Council, to declare by Proclamation the aforesaid Townships in the Counties of Halton and Simcoe, and other territory aforementioned, a separate and distinct District, by the name of

As soon as a Gaol and Court House is erected in the Town of Guelph, the Governor, with the advice of the Executive Council, may, by Proclamation, declare certain Townships and territory a separate District;

the District of Wellington : *Provided nevertheless*, that nothing in this Act contained shall affect or be construed to affect the jurisdiction of His Majesty's Court of King's Bench in this Province, or to affect the jurisdiction of the Court of General Quarter Sessions of the Peace or District Courts within the Home and Gore Districts : *Provided also*, that if at the time the said Townships in the Counties of Halton and Simcoe, and other territory aforementioned, shall be set off into a separate District, any action shall have been commenced, or be pending for any cause of action arising therein, or any indictment of any indictable offence that has been committed within the said Counties, or either of them, the said action or indictment shall and may be tried at the next Assizes, or other Court, in which the same may be pending, to be held in and for the Home or Gore Districts, unless all the parties shall agree that the same be not tried in the aforementioned Districts : *Provided always*, that such Gaol and Court House shall be erected in the Town of Guelph.

by the name of the District of Wellington.

Nothing in this Act to affect the jurisdiction of the Court of King's Bench, or of the General Quarter Sessions, or District Courts, of the Home or Gore Districts ;

and if at the time of the erection of the new District, any action or indictment be pending, the same may be tried either in the Home or Gore Districts, according to circumstances, unless all parties agree that it shall not be there tried.

Gaol and Court House to be in the Town of Guelph.

II. *And be it further enacted by the authority aforesaid*, That the Courts of Oyer and Terminer, and General Gaol Delivery, of Assize and Nisi Prius, the Court of General Quarter Sessions of the Peace, District Court, Surrogate Court, Courts of Request, and every other Court and jurisdiction, with all District Offices whatsoever, held or to be holden, possessed and enjoyed, in and by the other Districts of this Province, at the time of such Proclamation as aforesaid, shall from thenceforth, with the like powers and authority, be held and enjoyed in and by the said District, to be thereby declared and named by virtue of this Act ; and that all and every jurisdiction, regulation, rule, privilege, exemption, matter or thing, which shall or may have been enacted, provided and declared, by any Act or Acts of the Parliament of this Province, made or to be made touching or concerning the said other Districts, and which shall be in force and operation at the time of such Proclamation as aforesaid, shall be and are hereby extended from thenceforth to that District, to be thereby declared and named as aforesaid ; unless otherwise provided for by this Act, or any other Act or Acts of the Parliament of this Province.

Courts and District Offices with like powers and jurisdiction as possessed and enjoyed in other Districts, to be held and enjoyed in the new District after Proclamation.

All regulations and matters declared by Act of Parliament respecting other Districts, to be in force in the new District ;

unless otherwise provided for.

III. *And be it further enacted by the authority aforesaid*, That all and every the provisions, rules and regulations, matters and things, contained in any Act or Acts of the Parliament of this Province, for the regulation of or relating to Gaols, which shall be in force and operation at the time of declaring and naming such new District as aforesaid, shall be and are hereby from thenceforth extended to the said Gaol and Court House ; and that the aforesaid Courts of Oyer and Terminer, and General Gaol Delivery, Assize and Nisi Prius, General Quarter Sessions of the Peace, Surrogate, and every other of the aforesaid Courts, required to be held at a

Rules and regulations contained in Acts relating to Gaols in other Districts, to be in force.

Courts to be held as in other Districts.



place certain, shall be commenced, and from time to time holden at the aforesaid Court House, or such other Court House as shall hereafter be erected for that purpose by virtue of any Act or Acts of the Parliament of this Province.

Courts of Quarter Sessions, and sittings of the District Court, to be held at times and places specified.

IV. *And be it further enacted by the authority aforesaid,* That from and after the declaring and naming the said new District as aforesaid, the Court of General Quarter Sessions of the Peace, and sittings of the District Courts of the said District, shall be respectively commenced and held at the place hereinbefore appointed for that purpose, on the second Tuesday in the months of January and April, and the fourth Tuesday in the months of July and October, in each and every year; and that the Terms of the said District Court shall respectively commence on the Monday of the week next but one preceding the week in which the Court of Quarter Sessions, and sittings of the said District Court, are hereby appointed to be held, and such Terms shall respectively end on the following Saturday.

Authority of Justices, and others holding offices, who reside within new District, to continue.

V. *And be it further enacted by the authority aforesaid,* That His Majesty's Justices of the Peace, and other persons holding any Commission or Office, or bearing lawful authority, and who shall be residing within the said Counties of Halton and Simcoe, at the time the Townships hereinbefore mentioned in the said Counties shall be declared and named a separate District as aforesaid, shall continue to hold, enjoy and exercise, the like Commission, Office, authority, power and jurisdiction, within that District, in the same manner that they previously held, enjoyed and exercised, within the Home and Gore Districts: *Provided,* that the authority, power and jurisdiction, previously exercised by His Majesty's Justices of the Peace, and other persons bearing Commission or Office, or lawful authority within or residing within the said Townships, forming or hereafter to form such new District, shall not in any wise be longer exercised or continued within the Home and Gore Districts, but that the same within those Districts shall from thenceforth cease and determine: *Provided,* that after naming and declaring such new District as aforesaid, His Majesty's Justices of the Peace, and others, who thenceforward continue to hold Commission or Office, or bear lawful authority, within the Home and Gore Districts, shall cease to hold such Commission or Office, or to exercise such lawful authority within the said new District, to be declared and named as aforesaid; and that no jurisdiction, power or authority, of whatever nature or kind soever, to the said Home and Gore Districts, at the time of the formation of such new District as aforesaid, belonging, or appertaining, shall longer extend, or be construed to extend, to the said new District.

Such authority not to be exercised within the Home or Gore Districts, after the new District is declared by Proclamation.

Justices and other Officers continuing after the erection of the new District, to hold authority in the Home or Gore Districts, to have no jurisdiction in the new District.

VI. *And be it further enacted by the authority aforesaid,* That the ordinary assessments and rates levied within the Townships forming the new District as aforesaid, in the Counties of Halton and Simcoe, for the current year at the time the same shall be declared and named a separate District by virtue of this Act, and all future assessments and rates to be levied therein, shall be applied and expended for the like purposes within such new District, as they at that time might be applied and expended under and by virtue of any Act or Acts of the Parliament of this Province, in the Home and Gore Districts, except in so far as the same may be varied by this Act.

Rates to be levied and expended in the new District, in like manner as authorised by law in the Home and Gore Districts, unless varied by this Act.

VII. *And whereas,* it is expedient to make provision for the establishment and support of Schools within the said intended District: *Be it therefore further enacted by the authority aforesaid,* That from and after the erection of the aforesaid Townships, or parts of the Counties of Halton and Simcoe, into a separate District, by virtue of this Act, there be granted annually to His Majesty, His Heirs and Successors, from and out of the monies now raised, levied and collected, or hereafter to be raised, levied and collected, to and for the uses of this Province, and unappropriated, the sum of one hundred pounds, which said sum of one hundred pounds shall be appropriated, applied and disposed of, in paying the salary of the Teacher of the Public District School, which may be hereafter erected in the said District.

Provision made for support and establishment of Schools.

VIII. *And be it further enacted by the authority aforesaid,* That the said District School shall be opened and kept in the Town of Guelph, in the said District, at such place as the Trustees of the said District School, or a majority of them, may appoint.

District School to be held in the Town of Guelph.

IX. *And be it further enacted by the authority aforesaid,* That the said District School shall be established in like manner, and under the same rules and regulations, and restrictions in every particular, as shall be mentioned and provided in the several Acts of the Parliament of this Province, for the regulation of similar Schools in the other Districts of this Province, in force and operation at the time such School shall be established.

District School to be under the same regulations as in other Districts.

X. *And be it further enacted by the authority aforesaid,* That from and after the erection of the Townships hereinbefore mentioned into a separate District, there shall be granted annually to His Majesty, His Heirs and Successors, from and out of the monies now raised, levied and collected, or hereafter to be raised, levied and collected, to and for the use of this Province, and unappropriated, the sum of two hundred and fifty

Provision made for the establishment of Common Schools.

pounds, which said sum of two hundred and fifty pounds shall be appropriated, applied and disposed of, in the establishment of Common Schools in the said District, in manner and under the same rules, regulations, provisions and restrictions, in every particular mentioned, specified and contained, in the several Acts of the Parliament of this Province, for the regulation and support of similar Schools in the other Districts of this Province, which shall be in force and operation at the time such Schools shall be established: *Provided nevertheless*, that nothing herein-contained shall be construed or taken to destroy or abridge the right of such new District, to participate in the monies appropriated to the use of Common Schools in this Province, by a certain Act of Parliament of this Province, passed in the fourth year of His late Majesty's reign, entitled, "An Act to make permanent and extend the provisions of the Laws now in force for the establishment and regulation of Common Schools throughout this Province, and for granting to His Majesty a further sum of money to promote and encourage education within the same," in addition to the above-mentioned sum of two hundred and fifty pounds.

Right to participate in monies granted by statute passed in the 4th year of His late Majesty's reign, not abridged.

Monies granted to be paid by Warrant or Receiver General.

How accounted for.

Justices authorised to obtain plans and estimates for a Gaol and Court House.

XI. *Provided always, and be it further enacted by the authority aforesaid*, That the monies hereinbefore granted to His Majesty, shall be paid by the Receiver General of this Province, in discharge of such Warrant or Warrants as shall, for the purposes aforesaid, be from time to time issued by the Governor, Lieutenant Governor, or Person Administering the Government of this Province; and the Receiver General shall account for the same to His Majesty, through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors, shall be graciously pleased to direct.

XII. *And be it further enacted by the authority aforesaid*, That the said Justices of the Peace within the parts of the said Counties aforesaid, be authorised, and they are hereby authorised, at a public meeting to be by them holden for that purpose at some convenient place in the Town of Guelph, so soon after the passing of this Act as may be convenient, a notice signed by two or more of the said Justices, fixing upon the time and place of such meeting, having been three weeks published in some newspaper or newspapers within the Home and Gore Districts, previous to such meeting, to procure by such means as to the said Justices, or the greater part of them present at the said meeting, shall seem fitting and proper, different plans and elevations of a Gaol and Court House to be laid before them, for the purpose of selecting and determining upon one by the said Justices, then and there assembled as aforesaid.

XIII. *And be it further enacted by the authority aforesaid,* That at the said meeting as aforesaid, the Justices may nominate and appoint a Chairman, Treasurer and Clerk, and also three other persons, who, together with the said Chairman and Treasurer, shall compose a Building Committee, who shall be authorised, and they are hereby authorised and empowered, to contract for and superintend the erection and completion of the said Gaol and Court House, under the controul of the said Justices, and in the name and on the behalf of the inhabitants of the said intended District, to contract with any person or persons who shall desire to erect and finish the same, according to the plan approved of as aforesaid, upon the site or situation fixed upon by this Act; and for that purpose the plan, elevation and specification, of the said Gaol and Court House, shall continue and remain in the Office of the said Clerk for general inspection, and public notice shall be given to all persons desirous to contract for the building of the said Gaol and Court House, to deliver in, within a certain limited time, proposals in writing, under seal, of the sum of money for which he or they will engage to build and complete the same, conformably to certain articles and conditions, to be agreed upon by the said Committee, or a majority of them; and that the said Committee shall, on a day for that purpose previously to be fixed, openly examine the said proposals so given in as aforesaid; and if they shall approve thereof, the said Committee shall be empowered, and they are hereby required, to contract with such person or persons as shall offer to undertake and build the said Gaol and Court House for the lowest price: *Provided*, the said person or persons making the said proposals, shall give and enter into good and sufficient security, to be approved of by the said Justices, at some one of their meetings, as is hereinafter provided for the due performance of his or their contracts.

Justices to appoint persons, with whom Contracts for the erection of Gaol and Court House may be entered into.

Duties, and manner of proceeding of persons so appointed.

Contractors to give security for the performance of their Contract.

XIV. *And be it further enacted by the authority aforesaid,* That the said Justices so assembled as aforesaid, shall have the like power and authority within the Townships, in the Counties of Halton and Simcoe, by this Act to form the said new District, as the Justices of the Peace in other Districts of this Province, in General Quarter Sessions assembled, have by law, so far as relates to building Gaols and Court Houses in their respective Districts, and no further, unless expressly provided for in this Act; and that they be authorised to adjourn the said meeting from time to time, and assemble again so often as the business relating to the building of the said Gaol and Court House shall seem to require; that the said Building Committee be under their controul and direction, and that the Clerk record all the resolutions, rules and orders, of the said meeting in a book to be kept by him for that purpose; and if any vacancies shall occur of Chairman, Treasurer, Clerk or other appointments of the said

Justices to have the powers possessed by Justices in other Districts, quoad erection of Gaols, &c.

Proceedings of Building Committee to be recorded.

Vacancies of Building Committee, how filled.

Committee, before the parts of said Counties are declared and named a separate District, either by death, resignation or removal, the said Justices shall be authorised to supply the vacancy so often as it may occur by other appointments.

XV. *And whereas*, it is just and expedient, that until the said parts of the said Counties of Halton and Simcoe be declared a separate District, the same shall bear and contribute a just proportion of the ordinary expenses of the District: *Be it therefore further enacted by the authority aforesaid*, That from and out of the rates and assessments raised, levied and collected, in the said parts of the Counties of Halton and Simcoe, it shall and may be lawful for the Treasurers of the Home and Gore Districts annually to retain for the purposes aforesaid, such a sum or sums of money as the majority of the Magistrates, in General Quarter Sessions assembled in the month of April next, shall ascertain and determine to be the just and equitable proportion of such expenses, to be borne and paid by the parts of the said Counties of Halton and Simcoe, intended by this Act to form the new District; and it shall be the duty of the said Treasurers of the Home and Gore Districts, after deducting such sum to pay over to the Treasurer, to be appointed as hereinbefore directed, the balance of all rates and assessments raised, levied and collected, or which may hereafter be imposed, raised, levied and collected, in the said parts of the Counties of Halton and Simcoe, and shall be applicable to the general benefit of said intended District; and may be applied by His Majesty's Justices of the Peace residing within the parts of the said Counties, towards the erecting and building a Gaol and Court House, in the Town of Guelph; and the said Treasurers of the Home and Gore Districts shall take receipts for the same as the money shall be paid over by them, which receipts shall be allowed by the Justices of the Home and Gore Districts, in their settlement with them.

Proportion of the rates levied within the limits of the new District to be retained by the Treasurers of the Home and Gore Districts.

Balance to be paid over to the Treasurer of new District.

How to be applied.

Monies so received to be paid to Contractors for building Gaol and Court House.

XVI. *And be it further enacted by the authority aforesaid*, That the said Building Committee shall and may apply the said monies so received by the Treasurer, to be appointed as aforesaid, from the Treasurers of the Home and Gore Districts, from time to time, towards the payment of any contract that they may make with any person or persons whatsoever, for the building of the said Gaol and Court House, in conformity to the intentions of this Act.

Building Committee to render detailed accounts of their expenditure.

XVII. *And be it further enacted by the authority aforesaid*, That the said Committee shall keep faithful and correct accounts of all monies expended by them in the erection of the said Gaol and Court House, and shall take vouchers for the same from the contractor or contractors, and

also shall keep an account of all monies which may, from time to time, come into their hands, applicable or available for the building said Gaol and Court House; and that they shall exhibit a detailed statement, both in debtor and creditor, to the Justices of said intended District, at their first General Quarter Sessions of the Peace to be holden therein, after the same shall have been declared and named a separate District.

XVIII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Magistrates within the Townships forming the said Counties of Halton and Simcoe, forming the said intended new District, so assembled as aforesaid, and they are hereby empowered by an order of such meeting, to authorise and direct the Treasurer, so to be appointed as aforesaid, to raise, by loan, from such person or persons, bodies politic or corporate, who may be willing to lend the same on the credit of the rates and assessments to be raised, levied and collected, in the said intended District, a sum not exceeding six thousand pounds, to be applied in defraying the expenses of building the said Court House and Gaol.

Justices to raise by loan  
a sum not exceeding  
£6,000.

XIX. *Provided always, and be it further enacted by the authority aforesaid,* That the money so borrowed, under the authority of this Act, shall not bear a greater interest than six per cent per annum; and that the Treasurer of the said intended District for the time being, shall annually, until the loan so raised, with the interest accruing thereon, shall be paid and discharged, apply towards the payment of the same a sum not less than two hundred and fifty pounds, together with the lawful interest on the whole sum which may from time to time remain due, from and out of the rates and assessments so coming into his hands for the use of the said intended District.

Interest on loan not to  
exceed 6 per cent.

£250 to be annually  
applied in payment of  
the loan, besides paying  
the interest.

XX. *And be it further enacted by the authority aforesaid,* That no Treasurer hereafter to be appointed, either by the said meeting, or by the Magistrates of the said intended District, shall be entitled or authorised to receive any poundage or per centage upon any sum or sums of money which shall or may be loaned under the authority of this Act, or which may come into his or their hands, or for paying out any sum or sums of money in discharging and liquidating such loan, with the interest thereon, as aforesaid.

Treasurer of the District  
to retain no poundage  
on the loan.

XXI. *And whereas,* the inhabitants of the said Townships of the Counties of Halton and Simcoe, forming the said intended new District, are willing that a tax be levied on the property of the said inhabitants for the purpose of defraying the expenses of erecting a Court House and Gaol

Justices of the new District may levy an additional rate of one penny in the pound, for four years. ;

Two-thirds of the Justices concurring.

Copy of resolution to be sent to Clerks of the Peace of the Home and Gore Districts.

Clerks of the Peace to add such increased rate to the Assessment lists.

Such rates to be levied and paid by Collectors to the Treasurers of the Home and Gore Districts respectively.

Justices of new District to expend such rates in building Gaol and Court House.

No poundage allowed on rates collected under this Act.

Justices of the District of Gore to declare the boundaries of the Town of Guelph.

in the Town of Guelph aforesaid : *Be it therefore further enacted by the authority aforesaid,* That the Magistrates of and residing within the aforementioned Townships of the said Counties, shall have power, and they are hereby authorised, at a meeting convened for that purpose, to resolve, that an increased tax, not exceeding one penny in the pound over and above the ordinary assessment, on all ratable property within the limits of the said intended District, shall be levied and collected for a term of time not exceeding four years, which resolution shall be adopted by a majority of at least two-thirds of the Magistrates of and residing within the aforementioned Townships of the said Counties; and copies of such resolution shall be transmitted to the Clerk of the Peace of the Home and Gore Districts, signed by the Chairman of said meeting.

XXII. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Clerks of the Peace of the Home and Gore Districts, to add to the assessment list for the several Townships mentioned in this Act, the increased tax, according to the resolution furnished him by the Chairman of the said meeting.

XXIII. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Collectors of the several Townships within the parts of the Counties of Halton and Simcoe hereinbefore mentioned, and included within the intended District of Wellington, and they are hereby required, to collect the monies authorised to be raised by the authority of this Act, and shall pay the same over to the Treasurer of the Home and Gore Districts, in the same way and manner as the ordinary assessments of the Districts have been heretofore paid.

XXIV. *And be it further enacted by the authority aforesaid,* That the Magistrates of and residing within the parts of the said Counties intended to form the new District of Wellington, shall expend the money raised by the authority of this Act, towards defraying the expenses of building a Gaol and Court House, for the use of the same, as provided for by this Act.

XXV. *And be it further enacted by the authority aforesaid,* That no percentage be allowed to the Treasurers of the Home and Gore Districts, nor to any Assessor or Collector, for the monies raised and collected by the provisions of this Act.

XXVI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Magistrates of the District of Gore, in General Quarter Sessions assembled, on the third day of the next General Quar-

ter Sessions to be holden after the passing of this Act, to define, extend and declare, the boundary lines of the Town of Guelph; and to direct a plan of the same to be made and filed in the Office of the Clerk of the Peace for the District of Wellington, and a copy thereof to be filed in the Office of the Surveyor General, at the expense and cost of the said District of Wellington; and that such boundary shall be deemed and taken to be, to all intents and purposes of this Act, the boundary lines of the said Town.

A plan thereof to be filed in the Office of the Clerk of the Peace for the new District.

XXVII. *And be it further enacted by the authority aforesaid,* That this Act shall not take effect until provision shall be made by law for increasing the number of Judges in His Majesty's Court of King's Bench in this Province, and for defraying such contingent charges of the Circuits, in respect of the new District intended to be formed by this Act, as were accustomed to be paid before the surrender, by the Crown, of the duties levied under a certain Act of the Parliament of Great Britain, passed in the fourteenth year of the reign of His late Majesty King George the Third, entitled, "An Act to establish a fund towards further defraying the charges of the Administration of Justice, and support of the Civil Government within the Province of Quebec, in America"; nor until provision has been made by law for securing the payment, by the County of Halton, of a just proportion of the debt contracted on the credit of the Gore District, for building the Gaol and Court House.

This Act not to take effect till certain provisions are made respecting the Judges of the Court of King's Bench;

nor till provision is made respecting payment of a proportion of the expense of the Gaol and Court House of the Gore District.

XXVIII. *And be it further enacted by the authority aforesaid,* That so soon as the said parts of the said Counties of Halton and Simcoe, and other territory aforementioned, shall have been formed and declared a separate and distinct District, by Proclamation, as hereinbefore provided, all the Townships and territory comprised within the limits of the said intended District, shall form and be called the County of Waterloo, in the said District of Wellington; and the residue of the said County of Halton shall, from thenceforth, be and remain the County of Halton, in the District of Gore; and the residue of the said County of Simcoe shall, from thenceforth, be and remain the County of Simcoe.

As soon as the Proclamation creating the new District issues, the territory comprised therein to constitute the County of Waterloo.



## CHAP. CXVII.

### *AN ACT to Naturalize certain persons therein named.*

[Royal Assent promulgated by Proclamation, 20th April, 1838.]

Preamble.

**WHEREAS** Orson Kellog, John George Leavitt, Robert Bell, Samuel B. Whiting, Chester Gurney, Richard Wilkins, Gardner Warren, have by their several petitions prayed to be by law naturalized as Subjects of His Majesty: *Be it therefore enacted*, by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That the titles of the said Orson Kellog, John George Leavitt, Robert Bell, Samuel B. Whiting, Chester Gurney, Richard Wilkins, Gardner Warren, or either of them, or their heir or heirs, or either of them respectively, to any real estate in this Province, shall not be impeached or held invalid, or such estate held liable to be resumed by His Majesty, His Heirs or Successors, on account of his or their being an alien or aliens, but all and every of the persons hereinbefore mentioned shall be deemed, adjudged and taken, so far as respects their capacity at any time heretofore, or now, or hereafter, to take, hold, possess, enjoy, claim, recover, convey, demise, impart or transmit, any real estate in this Province, or any right, title, privilege or appurtenances thereto, or any interest therein, to be and to have been natural-born Subjects of His Majesty, to all intents, constructions and purposes whatsoever, as if they and every of them had been born in this Province.

Orson Kellog, John George Leavitt, Robert Bell, Samuel B. Whiting, Chester Gurney, Richard Wilkins, and Gardner Warren, to be adjudged capable of holding real estate, as if natural-born Subjects.

After seven years residence, and taking the oath of allegiance, the same persons to be admitted to all the privileges of British birth within this Province.

**II.** *And be it further enacted by the authority aforesaid*, That after a residence of seven years in this Province, without being absent therefrom more than two months at any one time during the said seven years, so soon as the persons hereinbefore mentioned shall respectively have taken and subscribed the oath hereinafter inserted, or being of the persons allowed to affirm, have made the affirmation hereinafter mentioned, before some person duly authorised to administer the oath contained in an Act of the Parliament of this Province, passed in the ninth year of His late Majesty's reign, entitled, "An Act to secure and confer upon certain inhabitants of this Province, the civil and political rights of natural-born

Subjects," they, the persons hereinbefore mentioned, shall be, and are hereby admitted and confirmed in all the privileges of British birth within this Province.

III. *And be it further enacted by the authority aforesaid,* That the persons hereinbefore mentioned, shall severally take and subscribe the following oath or affirmation—"I, A. B., do sincerely promise and swear (or affirm, as the case may be,) that I will be faithful, and bear true allegiance to the Sovereign of the United Kingdom of Great Britain and Ireland, and of this Province, as dependant thereon.—So HELP ME GOD!" Oath to be taken

## CHAP. CXVIII.

*AN ACT to provide for the disposal of the Public Lands in this Province, and for other purposes therein-mentioned.*

[Royal Assent promulgated by Proclamation, 17th May, 1838.]

**W**HEREAS it is expedient to provide greater facilities for the disposal of the Public Lands in this Province, and for the issuing of Patent Deeds for the same: *Be it therefore enacted,* by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That from and after the passing of this Act, no free grant shall be made of any of the Public Lands in this Province, to any person or persons whomsoever, except U. E. Loyalists and their children, and such other persons as are now entitled to a free grant of Public Land, under or by virtue of any Order in Council, or other regulation of Government now in force and effect. Preamble.  
  
No free grant of public lands to be made except to U. E. claimants or others entitled under orders and regulations now in force.

II. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Surveyor General, so soon as conveniently may be after an Order in Council shall have been issued for the allowance of any claim for a free grant of land, to locate the party or parties entitled thereto, or the assignee or assignees of such party or parties, his, her or their heirs or assigns, on such lands open for location in any District within this Pro- Party entitled to free grant, or his assignee, to be located on any open lands he may select :

Patent to issue free ;

Exception.

Claims allowed in Council to be assignable ;

Assignee may locate and obtain patent in his own name.

Claims for free grant how to be made.

Crown Lands Commissioner to keep a book for entries of assignments of claims ;

Assignments to be produced with affidavit of execution ;

Assignments to be registered ;

Certificate to be endorsed ;

Assignment first registered to be valid against others.

vince, under the authority of the Government, as he, she or they, shall think proper to select, and as shall not have been previously located to any other person or persons, or shall not have been otherwise specially reserved ; and the patent Deed or patent Deeds of the lands so located, shall be issued to the parties free of expense, or upon the payment of such patent fees only as are now payable under any present regulation respecting grants of a similar nature.

III. *And be it further enacted by the authority aforesaid,* That after the allowance of any such claims, under or by virtue of any order in Council to be issued in respect thereof, such claims shall be assignable and transferable by the parties entitled thereto, to any purchaser or purchasers thereof, and such purchaser or purchasers his, her or their, heirs or assigns, shall be entitled to locate in respect thereof, and to have the patent Deed or patent Deeds of the same to be issued in his, her or their, name or names.

IV. *And be it further enacted by the authority aforesaid,* That all claims for free grants of public lands shall, after the passing of this Act, be made and set forth by memorial or petition to the Governor, Lieutenant Governor, or Person Administering the Government of this Province, in Council, and shall be accompanied by the requisite documentary proofs and evidence, and shall be signed by the claimant or claimants, his, her or their, attorney or agent, and shall be duly considered and disposed of in Council only, and in no other manner, (except as is hereinafter provided.)

V. *And be it further enacted by the authority aforesaid,* That it shall be the duty of His Majesty's Commissioner for the sale of Crown Lands, for the time being, to keep a book for the entry (at the option of the parties interested) of the particulars of any assignment made by as well the original nominee or locatee, as also by any subsequent assignee or assignees, of any such claims on the lands located in respect thereof, such assignment or assignments being first produced and exhibited to the Commissioner aforesaid, together with an affidavit of the due execution thereof, sworn before any Justice of the Peace, who is hereby fully authorised to administer the oath in this behalf, and such affidavit shall truly express the time of the execution of such assignment or assignments, and thereupon it shall be the duty of the said Commissioner to cause the material parts of every such assignment to be entered or registered in such book of entry or registry, and to endorse on every such assignment a certificate of such entry or registration ; and every such assignment so entered and registered, shall be valid against any other of a previous date or execution, but not then entered or registered, except in cases of express notice.

VI. *And be it further enacted by the authority aforesaid,* That after any Order in Council shall be made in respect to free grants of land as aforesaid, the party or parties interested therein, or the assignee or assignees of such party or parties, and the heirs or assigns of such assignee or assignees, shall, at their option, be entitled to locate lands in respect thereof, or to claim an allowance in lieu thereof, at the rate of four shillings per acre, in the purchase of any other public lands, upon the sale thereof, under the provisions of this Act, and whether the same consist of Crown Lands, Clergy Reserves, School Lands or other public lands.

After parties obtain the order in Council, they, or their assignees, may locate land, or be allowed four shillings per acre in the purchase of other public lands.

VII. *And be it further enacted by the authority aforesaid,* That any Military or Naval Officer, or other person entitled to an allowance in money in lieu of lands, under any existing order or regulation, shall be entitled to purchase any of the public lands aforesaid, and shall receive credit upon any such purchase to the full extent of the said allowance.

Officers or others entitled to an allowance in money in lieu of land may receive credit therefor in the purchase of public lands.

VIII. *And be it further enacted by the authority aforesaid,* That in case of the sale of any Clergy Reserves, or other lands, appropriated for a specific public purpose, to any person or persons entitled under the provisions of this Act to purchase the same, in lieu of locating or purchasing other lands as aforesaid, the proper funds to which the proceeds of the lands so sold shall belong, shall be re-imbursed the full amount of such sale from and out of the proceeds of the sale of Crown Lands, not so appropriated to any specific purpose, and it shall be the duty of the Commissioner of Crown Lands to regulate his accounts accordingly.

If lands specifically appropriated be sold, the amount of the purchase money shall be credited to the proper fund by the Commissioner of Crown Lands.

IX. *And be it further enacted by the authority aforesaid,* That except as aforesaid, and as hereinafter is further provided, none of the public lands aforesaid shall be sold by private sale, unless the same shall have been first offered at public auction for sale at an upset price; after which it shall be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, for the time being, to direct the sale of such lands at the upset price thereof named at such public auction, to any person willing to purchase the same by private contract.

Under certain exceptions no public lands to be sold by private sale until they have been offered at public auction;

After which they may be sold at the upset price by private contract.

X. *And be it further enacted by the authority aforesaid,* That the upset price of such public lands shall be from time to time fixed by the Governor, Lieutenant Governor, or Person Administering the Government of this Province, in Council only, and not otherwise, as also the terms and conditions of sale, and such other regulations respecting the same, not contrary to the provision of this Act, as shall be deemed necessary.

Upset price, conditions, &c. to be fixed by Governor in Council.

Commissioner of Crown Lands to manage sales, subject to orders in Council;

Proceeds of sales to be paid to Receiver General.

Governor may direct reservations of lands adjoining to those intended for immediate sale;

Purchasers may receive a free grant of lands reserved;

Not to exceed fifty acres;

On condition of five years actual residence;

And making improvements;

Reservation so granted not to exceed the quantity purchased;

Whole residence to be within ten years from the time of the purchase.

Governor in Council to appoint an agent in each District for the sale of public lands.

Duty of such resident agents.

XI. *And be it further enacted by the authority aforesaid,* That the management of such public sales, and the time and place of holding the same, shall be under the control and direction of the Commissioner of Crown Lands, subject to any general or special order in Council that shall from time to time be made to regulate the same; and the proceeds of such sales, as also of sales by private contract, shall be received by the Commissioner of Crown Lands, and be duly accounted for, and paid over by him to the Receiver General of the Province.

XII. *And for the purpose of encouraging actual settlement on the lands purchased from the Crown, under the provisions of this Act: Be it further enacted by the authority aforesaid,* That it shall be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, to order and direct reservations to be made of such portions of land adjoining or adjacent to lands intended for immediate sale, as the Governor, Lieutenant Governor, or the Person Administering the Government of this Province, by and with the advice and consent of the Executive Council, shall deem requisite and advisable to order and direct; and the land so reserved shall, upon application, be granted free of expense to the purchaser or purchasers of the adjoining or adjacent lot so sold: *Provided,* the quantity in no case shall exceed fifty acres, upon its appearing, upon inspection and other sufficient proof, that such purchaser or purchasers, his, her or their assignee or assignees, shall have been bona fide settled and resident upon the land so purchased for the space of five years, and shall have made such improvements thereon as shall be required by any order in Council respecting the same: *Provided always,* that such reservation shall not in any case exceed in quantity the lot or parcel of purchased land, in respect of which such reserved land shall have been made; and also, that the whole of such residence shall have been within ten years from the time of such original purchase.

XIII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, by and with the consent of the Executive Council, to nominate and appoint fit and proper persons in each District in the Province to be resident Agents of the Commissioner of Crown Lands, for the sale of public lands, in the manner hereinafter provided; and also to appoint the time and place in each District where such Agents shall keep their offices.

XIV. *And be it further enacted by the authority aforesaid,* That it shall be the duty of such resident Agents, and they are hereby authorised and empowered, under the direction of the Commissioner of Crown Lands, to

make sales, as well by auction as also by private contract, of the public lands within their respective divisions, at such upset prices as shall have been, under the provisions of this Act, duly fixed and ascertained.

XV. *And be it further enacted by the authority aforesaid,* That every such District Agent shall be furnished by the Commissioners of Crown Lands with correct lists and maps of the lands for sale, from time to time, in his division, and with such other means as may be necessary to enable him to give full and requisite information to purchasers; and the division allotted to each District Agent shall be assigned and limited by the Commissioner of Crown Lands, and such District Agent shall not have any power to act out of such division, and shall keep regular accounts of sales, and make the same distinctly to appear on his plan or map.

District agents to be furnished with lists and maps of lands for sale in his division ;  
Divisions to be assigned ;  
No agent to act out of his division.

XVI. *And be it further enacted by the authority aforesaid,* That no sale of public lands, by auction or otherwise, shall be effected out of the District and division in which such lands are situate, unless under a special order in Council.

No sale by auction but in the district where the lands lie.

XVII. *And be it further enacted by the authority aforesaid,* That the purchase money upon the sale of any such public lands, shall, in the first instance, be paid to the resident District Agent, who shall transmit the same to the Commissioner of Crown Lands, whenever the same shall amount to the sum of twenty-five pounds, deducting therefrom his percentage, as hereinafter provided; and in default of such remittance, shall be liable to be charged penalty thereon, at the rate of fifteen per cent for the time he shall retain the same in his hands after the amount shall become remittable as aforesaid; and upon the receipt of any such purchase monies by the District Agent, such District Agent shall give the purchaser or purchasers a receipt for the same, specifying therein the number of the lot, or quantity of land purchased, and otherwise sufficiently describing the same, which receipt shall bear date the day on which it was actually signed; and the receipts so given shall authorise the purchaser to take immediate possession of the lot so sold, and to maintain actions of ejectment, or for trespass, against any wrongful possessor or trespasser thereon, in his own name, as fully and effectually as if the Patent Deed had been issued to such purchaser.

Purchase money to be paid to resident agent ;  
And transmitted to Commissioner of Crown lands ;  
Fifteen per cent penalty for not transmitting ;  
Receipts to be given to purchaser ;  
Particulars of receipt ;  
Purchaser may take immediate possession, and may maintain ejectments, &c.

XVIII. *And be it further enacted by the authority aforesaid,* That so soon as the purchase money of any particular lot or quantity of land shall have been paid up in the manner aforesaid; the purchaser or purchasers thereof shall thereupon become entitled to have and receive a free grant of the same, by His Majesty's Letters Patent, under the Great Seal of the

Purchasers entitled to receive patent when purchase money paid up, free ;

Province, granting the same to such purchaser or purchasers, his, her or their heirs and assigns, in free and common soccage, and subject only to such reservations as are now usually reserved in Letters Patent of the same description; and such Letters Patent shall be transmitted by the Commissioner of Crown Lands, to the District Agent of the division in which the lands are situate, within the space of thirty days after the whole of the purchase money shall have been paid, and duly notified to the Commissioner of Crown Lands, unless by any unforeseen event or unavoidable necessity the same cannot be transmitted; and it shall be the duty of the District Agent, upon the receipt of such Letters Patent, to deliver the same to the owner or owners, upon demand, without charge.

Patent to be transmitted to the resident agent within thirty days after purchase money shall have been paid;

District agent to deliver patent without charge.

District agent to have a list of lands open for location in his district;

District Agent to receive and transmit applications for location;

And to receive and distribute free of expense, location tickets, &c.

*XIX. And be it further enacted by the authority aforesaid,* That it shall also be the duty of the Commissioner of Crown Lands to furnish every District Agent with a correct list of all lands which shall be, from time to time, open for location within his division, to any claimant or claimants entitled to free grants; and it shall be the duty of such District Agent to afford the requisite information to any such claimant or claimants, and also to receive and transmit to the Office of the Commissioner of Crown Lands, any petition or application for location, to be laid before the Executive Government; and such District Agent shall also receive and distribute to the parties concerned, the necessary location tickets, orders in Council, Letters Patent, and other documents relative to grants of land, free of expense.

Governor, with advice of Executive Council, may direct the expenditure of £1,000 in any township,

in the erection of a grist-mill and saw-mill.

Money to be paid by Commissioner of Crown Lands.

Grist and saw-mill to be afterwards sold.

Proceeds to be paid to the Commissioner of Crown Lands.

*XX. And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of the Province, by and with the advice and consent of the Executive Council, to authorise and direct the expenditure, by the Commissioner of Crown Lands, of any sum not exceeding one thousand pounds, in each Township in which the same shall be considered necessary and advisable, in the erection of one grist-mill, and one saw-mill, or either of them, at such place in the Township as shall be deemed most advisable and beneficial, and the money expended in the building of the same shall be paid by the Commissioner of Crown Lands, out of the proceeds of the sales of Crown Lands in his hands, and shall be allowed in the accounts of the said Commissioner; and such saw-mill and grist-mill, or either of them, shall afterwards be disposed of and sold, at such time, and upon such terms and conditions, as the Governor, Lieutenant Governor, or Person Administering the Government for the time being, shall, by and with the advice and consent of the Executive Council, authorise and approve; and the proceeds of any such sale shall be paid to

the Commissioner of Crown Lands direct, and be accounted for by him in the same manner as the proceeds of sales of Crown Lands.

**XXI.** *And be it further enacted by the authority aforesaid,* That the Commissioner for the sale of Crown Lands, for the time being, as also every District Agent, shall, before entering upon the duties of their respective offices, give good and sufficient security, to the satisfaction of the Executive Government, for the faithful discharge of their respective duties, and for the due payment of all public monies that shall come into their hands respectively, that is to say—For the payment of such monies that shall come into the hands of the District Agent, to the Commissioner for the sale of Crown Lands, and for the payment of such monies that shall be received by such Commissioner of Crown Lands, or the balance remaining unexpended in his hands, to the Receiver General of the Province.

Commissioner of Crown Lands and District Agents to give security, for discharge of their duties, and for the due payment of public monies.

**XXII.** *And be it further enacted by the authority aforesaid,* That each of the District Agents shall receive such a per centage on the sale of lands made by them, under the authority of this Act, as the Governor, Lieutenant Governor, or Person Administering the Government of this Province for the time being, with the advice of the Executive Council, shall think reasonable for the service so performed.

District Agent to receive a per centage.

**XXIII.** *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Commissioner for the sale of Crown Lands, to render his account, in writing, to the Receiver General every three months, of all public monies in hand, or received or paid by him, in which account shall be included the amount paid to District Agents for their services, and for the inspection and sale of lands, and locating lands; and the said Commissioner shall pay over to the Receiver General the balance of all public monies remaining in his hands at the time of rendering such half-yearly account, after retaining thereout a sufficient amount to meet contingent expenses of the Crown Land Department, not exceeding the sum of five hundred pounds.

Commissioner of Crown Lands to render an account in writing every three months, to the Receiver General;

And pay over the balance of all public monies, retaining £500 to meet contingent expenses.

**XXIV.** *And be it further enacted by the authority aforesaid,* That it shall be the duty of the said Commissioner of Crown Lands, once in every year, within ten days after the meeting of any Session of the Legislature, to transmit to the Governor, Lieutenant Governor, or Person Administering the Government of the Province, a true copy or copies of the accounts or lists of all sales and expenditure respecting the public lands of the Province under his control or management, and of all monies in hand; such accounts being brought up to within thirty days of the delivery of the same, in order that such accounts may be laid before Parliament.

Commissioner of Crown Lands to make an annual statement of sales &c. of public lands.



List of district agents, and of lands for sale and location, to be published in the U. C. Gazette.

**XXV.** *And be it further enacted by the authority aforesaid,* That it shall also be the duty of the said Commissioner of Crown Lands to cause a correct list and description of the names and residences of the District Agents throughout the Districts, as also a list of all lands intended to be offered for sale and location, with the upset prices and conditions of sale, to be published in the Upper Canada Gazette, and in one newspaper of the District in which the lands are situate.

Governor, with advice of Executive Council, may direct Commissioner of Crown Lands to make private sales, under particular circumstances.

**XXVI.** *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Governor, Lieutenant Governor, or other Person Administering the Government of the Province, by and with the advice and consent of the Executive Council, to authorise and direct the Commissioner of Crown Lands, from time to time, to make private sales, at a fair valuation, to any lessee or occupant of Crown Lands, or to other individuals, who, from the peculiar situation of the property applied for, may be liable to injury by the disposal thereof to any other person or persons than such lessees or occupants, or other individuals interested as aforesaid.

Taking swearing under this Act perjury.

**XXVII.** *And be it further enacted by the authority aforesaid,* That if any person shall make oath or affirmation, under the provisions of this Act, and such oath or affirmation shall be wilfully false, he shall be deemed guilty of wilful and corrupt perjury, and on conviction thereof, shall suffer as in other cases of wilful and corrupt perjury.

Act to continue in force two years.

**XXVIII.** *And be it further enacted by the authority aforesaid,* That this Act shall continue in force for two years, and from thence to the end of the then next Session of the Provincial Parliament, and no longer.

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