
L A W S

Passed in the Second Session of the Second Provincial Parliament, which were referred for, and received

HIS MAJESTY'S ASSENT.

21071
An ACT for the better Division of this Province.

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[The Royal Assent to this Act was promulgated by Proclamation, bearing date January 1, in the year of our Lord 1800, and fortieth of his Majesty's reign.]

I. FOR the better division of this Province. Be it 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 Lancaster, Charlottenburg and Kenyon, together with the tract of land claimed by the Saint Regis' Indians, and such of the islands in the River Saint Lawrence as are wholly, or in greater part opposite thereto, shall constitute and form the County of Glengary. *Preamble.*

County of Glengary

II. And be it further enacted by the authority aforesaid, That the Townships of Cornwall, Osnaburg, Finch and Roxburg, together with such of the islands in the River Saint Lawrence as are wholly, or in greater part opposite thereto, shall constitute and form the County of Stormont.

County of Stormont

III. And be it further enacted by the authority aforesaid, That the Townships of Williamsburg, Matilda, Mountain, and Winchester, with such of the islands in the River Saint Lawrence as are wholly, or in greater part opposite thereto, do together, constitute and form the County of Dundas.

County of Dundas

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LAWS OF THE PROVINCE OF UPPER CANADA,

- County of Prescott.* IV. *And be it further enacted by the authority aforesaid,* That the Townships of Hawkbury, Lenouévil with the tract of land in its rear, Alfred, and Plantagenet, with such of the islands in the Ottawa River, as are wholly, or in greater part opposite thereto, shall constitute and form the County of Prescott.
- County of Russell.* V. *And be it further enacted by the authority aforesaid,* That the Townships of Clarence, Cumberland, Gloucester, Osgoode, Russell and Cambridge, with such of the islands in the River Ottawa as are wholly, or in greater part opposite thereto, shall constitute and form the County of Russell.
- Eastern District.* VI. *And be it further enacted by the authority aforesaid,* That the Counties of Glengary, Stormont, Dundas, Prescott and Russell, do constitute and form the Eastern District.
- County of Grenville.* VII. *And be it further enacted by the authority aforesaid,* That the Townships of Edwardsburg, Augusta, Wolford, Oxford on the Rideau, Marlborough, Montague, and Gower, called North and South Gower, together with such of the islands in the River Saint Lawrence as are wholly, or in greater part opposite thereto, shall constitute and form the County of Grenville.
- County of Leeds.* VIII. *And be it further enacted by the authority aforesaid,* That the Townships of Elizabeth Town, Yonge, (including what was formerly called Escot) Lansdown, Leeds, Crosby, Bedford, Burgess, Elmsley and Kitley, together with such of the islands in the River Saint Lawrence as are wholly, or in greater part opposite thereto, do constitute and form the County of Leeds.
- County of Carleton.* IX. *And be it further enacted by the authority aforesaid,* That the Townships of Nepean, with the tract of land to be hereafter laid out into Townships, between Nepean and a line drawn North sixteen degrees West from the North West angle of the Township of Crosby, until it intersects the Ottawa River, with such of the islands in the said river as are wholly, or in greater part opposite thereto, shall constitute and form the County of Carleton.
- District of Johnstown.* X. *And be it further enacted by the authority aforesaid,* That the Counties of Grenville, Leeds and Carleton, do constitute and form the District of Johnstown.
- Township of Pittsburg.* XI. *And be it further enacted by the authority aforesaid,* That Howe Island, and so much of the present County of Ontario, as is wholly, or in greater part opposite to the Township of Pittsburg, be part of the said Township of Pittsburg.
- Township of Wolfe Island.* XII. *And be it further enacted by the authority aforesaid,* That Wolfe Island and Gage Island, and so much of the said County of Ontario as is wholly, or in greater part opposite to the Township of Kingston, do constitute and form the Township of Wolfe Island.

XIII. *And be it further enacted by the authority aforesaid,* That the residue of the said County of Ontario do constitute and form the Township of Amherst Island.

Township of Amherst Island.

XIV. *And be it further enacted by the authority aforesaid,* That the Townships of Pittsburg, Kingston, Loughborough, Portland, Hinchinbroke, Bedford, and Wolfe Island, do constitute and form the County of Frontenac.

County of Frontenac

XV. *And be it further enacted by the authority aforesaid,* That the Townships of Ernest Town, Fredericksburg, Adolphustown, Richmond, Camden (distinguished by being called Camden East,) Amherst Island, and Sheffield, do constitute and form the incorporated Counties of Lenox and Addington.

Incorporated counties of Lenox and Addington.

XVI. *And be it further enacted by the authority aforesaid,* That the Townships of Sydney, Thurlow, the tract of land occupied by the Mohawks, Hungerford, Huntingdon, and Rawdon, do constitute and form the County of Hastings.

County of Hastings

XVII. *And be it further enacted by the authority aforesaid,* That the Townships of Ameliasburg, Hallowell, Sophiasburg, and Marysburg, with such of the islands in the Bay of Quinte and Lake Ontario, as are wholly, or in greater part, opposite thereto, and such as were not formerly included in the County of Ontario, do constitute and form the County of Prince Edward.

County of Prince Edward.

XVIII. *And be it further enacted by the authority aforesaid,* That the Counties of Frontenac, the incorporated Counties of Lenox and Addington, Hastings and Prince Edward, with all that tract of country which lies between the District of Johnstown and a line drawn North, sixteen degrees West from the North West angle of the Township of Rawdon till it intersects the Northern limits of the Province, together with all the islands in the Ottawa River wholly, or in greater part opposite thereto, do constitute and form the Midland District.

Midland District.

XIX. *And be it further enacted by the authority aforesaid,* That the Townships of Murray, Cramahé, Haldimand, Hamilton, Elnwick, Percy and Seymour, with the peninsula of Newcastle, do constitute and form the County of Northumberland.

County of Northumberland.

XX. *And be it further enacted by the authority aforesaid,* That the Townships of Hope, Clarke and Darlington, with all the tract of land hereafter to be laid out into Townships, which lies to the Southward of the small lakes above the Rice Lake, and the communication between them and between the Eastern boundary of the Township of Hope, and the Western boundary of the Township of Darlington, produced North, sixteen degrees West, until they intersect either of the said lakes, or the communication between them, shall constitute and form the County of Durham.

County of Durham.

XXI. *And be it further enacted by the authority aforesaid,* That the Townships of Whitby, Pickering, Scarborough, York including its peninsula, Etobicoke, Markham, Vaughan, King, Whitchurch, Uxbridge, Gwillimbury, and the tract of land hereafter

East Riding of the

County of York. to be laid out into Townships, lying between the County of Durham and the Lake Simcoe, do constitute and form the East Riding of the County of York.

West Riding of the County of York. XXII. *And be it further enacted by the authority aforesaid,* That the Townships of Beverly and Flamborough, the latter divided into Flamborough East and West, so much of the tract of land upon the Grand River in the occupation of the Six Nations Indians, as lies to the Northward of Dundas-street, and all the land between the said tract and the East Riding of the County of York, with the reserved lands in the rear of the Townships of Blenheim and Blandford, do constitute and form the West Riding of the County of York.

County of Simcoe. XXIII. *And be it further enacted by the authority aforesaid,* That Matchedash, Gloucester, or Penetanguishine, together with Prince William Henry's Island, and all the land lying between the Midland District and a line produced due North from a certain fixed boundary (at the distance of about fifty miles North West from the outlet of Burlington-Bay) till it intersects the Northern limits of the province, do constitute and form the County of Simcoe.

Home District. XXIV. *And be it further enacted by the authority aforesaid,* That the Counties of Northumberland, Durham, York and Simcoe, do constitute and form the Home District.

District of Newcastle, to be eventually declared by proclamation. XXV. *Provided always, and it is hereby further enacted,* That when, and so soon as the said Counties of Northumberland and Durham shall make it satisfactorily appear to the Governor, Lieutenant-Governor, or Person administering the government of this province, that there are one thousand souls within the said Counties, and that six of the Townships therein do hold Town Meetings according to Law, then the said Counties, with all the land in their rear, confined between their extreme boundaries, produced North, sixteen degrees West, until they intersect the Northern limits of the province, shall, and are hereby declared to be a separate District, to be called the District of Newcastle. And the Governor, Lieutenant-Governor, or Person administering the government of the province, is hereby authorized upon such proof as aforesaid, to declare the same by Proclamation any time within one year after the same shall be so established, as to him shall seem most fit.

Part of the Township of Glanford added to the Township of Binbrook. XXVI. *And be it further enacted by the authority aforesaid,* That so much of the Township of Glanford as is now comprehended between the Southern boundary of the Township of Binbrook, and the boundary of the Six Nation Indians land, be added to the said Township of Binbrook, and become part thereof.

First Riding of the County of Lincoln. XXVII. *And be it further enacted by the authority aforesaid,* That the Townships of Clinton, Grimsby, Saltfleet, Barton, Ancaster, Glanford, Binbrook, Gainborough, and Caistor, do constitute and form the First Riding of the County of Lincoln.

XXVIII. *And be it further enacted by the authority aforesaid, That the Townships of Newark, Grantham and Louth, do constitute and form the Second Riding of the County of Lincoln. Provided always, That the Town and Township of Newark, now generally called West Niagara, be henceforth declared and called the Town and Township of Niagara respectively.*

Second Riding of the County of Lincoln. The town & township of Newark therein, to be called the Town & Township of Niagara.

XXIX. *And be it further enacted by the authority aforesaid, That the Townships of Stamford, Thorold, and Pelham, do constitute and form the Third Riding of the County of Lincoln.*

Third Riding of the County of Lincoln.

XXX. *And be it further enacted by the authority aforesaid, That the Townships of Bertie, Willoughby, Crowland, Humberstone, and Wainfleet, do constitute and form the Fourth Riding of the County of Lincoln.*

Fourth Riding of the county of Lincoln.

XXXI. *And be it further enacted by the authority aforesaid, That the tract of land on each side of the Grand River, now in the occupation of the Six Nations Indians, and lying to the Southward and South-East of Dundas-street, do constitute and form the County of Haldimand.*

County of Haldimand.

XXXII. *And be it further enacted by the authority aforesaid, That the said Counties of Lincoln and Haldimand, with such of the islands of this province lying in the River Niagara, or Lake Erie, as are wholly or in greater part adjacent thereto, together with the Beach at the head of Lake Ontario, between the outlet of Burlington Bay and the Township of Saltfleet, and together with the promontory between the said Burlington Bay and Coats Paradise, do constitute and form the District of Niagara.*

District of Niagara

XXXIII. *And be it further enacted by the authority aforesaid, That the Townships of Rainham, Walpole, Woodhouse, Charlotteville, Walsingham, Houghton, Middleton, Windham, and Townsend, together with Turkey Point and promontory of Long Point, do constitute and form the County of Norfolk.*

County of Norfolk.

XXXIV. *And be it further enacted by the authority aforesaid, That the triangular tract of land heretofore called Townsend Gore, be added to the Township of Burford, and to become part thereof.*

Addition to the Township of Burford.

XXXV. *And be it further enacted by the authority aforesaid, That the Townships of Burford, Norwich, Dereham, Oxford upon the Thames, Blandford, and Blenheim, do constitute and form the County of Oxford.*

County of Oxford.

XXXVI. *And be it further enacted by the authority aforesaid, That the Townships of London, Westminster, Dorchester, Yarmouth, Southwold, Dunwich, Aldborough, and Delaware, do constitute and form the County of Middlesex.*

County of Middlesex.

- District of London.* XXXVII. *And be it further enacted by the authority aforesaid, That the counties of Norfolk, Oxford and Middlesex with so much of this province as lies to the Westward of the Home District, and the District of Niagara to the Southward of Lake Huron, and between them and a line drawn due North from a fixed boundary (where the Easternmost limit of the Township of Oxford intersects the River Thames) till it arrives at Lake Huron, do constitute and form the District of London.*
- County of Kent.* XXXVIII. *And be it further enacted by the authority aforesaid, That the Townships of Dover, Chatham, Camden, distinguished by being called Camden West, the Moravian tract of land, called Orford, distinguished by Orford North and South, Howard, Harwich, Raleigh, Romney, Tilbury, divided into East and West, with the Township on the River Sinclair, occupied by the Shawney Indians, together with the islands in the Lakes Erie and Sinclair wholly or in greater part opposite thereto, do constitute and form the County of Kent.*
- County of Essex.* XXXIX. *And be it further enacted by the authority aforesaid, That the Townships of Rochester, Mersea, Gosfield, Maidstone, Sandwich, Colchester, Malden, and the tracts of land occupied by the Huron and other Indians upon the Strait, together with such of the islands as are in Lakes Erie, Sinclair, or the Straits, do constitute and form the County of Essex.*
- Western District.* XL. *And be it further enacted by the authority aforesaid, That the counties of Essex and Kent, together with so much of this province as is not included within any other district thereof, do constitute and form the Western District.*
- Period, &c.* XLI. *And be it further enacted by the authority aforesaid, That this act, nor any part thereof, shall take effect until from and after the fourteenth day of February next.*

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C H A P. II.

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An ACT to amend part of an act passed in the thirty-fourth year of the reign of his Majesty, entitled, "An Act to establish a Superior Court of Civil and Criminal Jurisdiction, and to regulate the Court of Appeals," and also to amend and repeal part of an act passed in the thirty seventh year of the reign of his Majesty, entitled, "An Act for regulating the Practice of the Court of King's Bench," and to make further provision respecting the same.

[The Royal Assent to this Act was promulgated by Proclamation, bearing date January 1, in the year of our Lord 1800, and fortieth of his Majesty's reign.]

I. WHEREAS by an act passed in the thirty-fourth year of the reign of his Majesty, entitled, "An Act to establish a Superior Court of Civil and Criminal Jurisdiction, and to regulate the Court of Appeals," it is enacted, That no person shall be arrested or holden to bail upon any process issuing out of the Court of King's Bench in a civil suit, unless an affidavit be first made by the plaintiff, that the defendant is justly and truly indebted to him in a sum certain, which together with the account for which it became due, shall be specified, and also that the deponent verily believes the defendant is about to leave the province, with an intent to defraud his creditors; and whereas many persons having contracted debts in this province, have fraudulently left the same before their creditors can have sufficient knowledge of their intention, so as safely to make the affidavit by the said act required; for remedy thereof, Be it 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 in order to hold any person to bail in any civil suit in the said court of King's Bench, it shall be sufficient that the said affidavit (which may be made by the plaintiff, his servant or agent) besides stating the cause of action in the manner in the said act mentioned, do also state that the deponent is apprehensive that the defendant will leave the province without paying his debts.

Affidavit for holding to bail.

II. And for the more effectual prevention of such fraudulent practices as aforesaid, be it enacted by the authority aforesaid, That in case the plaintiff in any action now pending, or hereafter to be brought in the said Court, his servant,

Ca. ad resp. may be sued out after action brought.

or agent shall, at any time after action brought and before final judgment, be apprehensive that the defendant will leave the province without paying his debts it shall and may be lawful to and for the said plaintiff, his servant, or agent, having made and filed such affidavit as aforesaid, to sue out a writ of *capias ad respondendum*, and to cause the said defendant to be thereupon arrested and holden to bail, which bail if the said writ shall have been sued out after appearance made, shall be bail to the action.

Without, &c.

III. *Provided nevertheless, and be it enacted by the authority aforesaid,* That the suing out of such writ shall not be taken or construed in any manner to affect any proceedings theretofore had in the said action; but the same shall continue in like manner as if the said writ had been sued out at the commencement thereof, any law to the contrary notwithstanding.

Condition of the recognizance.

IV. *And be it further enacted by the authority aforesaid,* That the condition of every recognizance of bail to the action shall be such that the cognizers thereof shall not become liable unless the defendant shall leave the province without having paid the debts for which such action shall have been brought.

Affidavit on taking out Ca. Sa.

V. *And be it further enacted by the authority aforesaid,* That no writ of *Capias ad satisfaciendum*, shall issue in any action now pending or hereafter to be brought in the said court, unless an affidavit be first made and filed by the plaintiff, his servant, or agent, in the manner herein above directed, with respect to holding to bail, that he is apprehensive that the defendant will leave the province without paying his debts, or that he hath reason to believe that the defendant hath secreted or removed his effects, or hath made some secret and fraudulent conveyance thereof in order to prevent the same from being taken in execution.

VI. *Provided nevertheless, and be it further enacted by the authority aforesaid,* That nothing herein contained shall be construed or taken in any manner to affect the right of the bail to take and surrender the defendant in discharge of themselves.

Provisional arrest of debtors by warrant from any justice of the peace.

VII. *And be it further enacted by the authority aforesaid,* That in case the plaintiff in any action now pending or hereafter to be brought in the said court, his servant, or agent, at any time before or after final judgment, and before the debt for which such action shall have been brought is paid or satisfied, shall be apprehensive that the defendant will leave the province without paying his debts, and that he may leave the same before he can be arrested and holden to bail, or taken in execution as aforesaid, it shall and may be lawful to and for any of his Majesty's Justices of the Peace upon oath thereof made before him, by the said plaintiff, his servant, or agent, to issue his warrant, and cause the said defendant to be arrested and detained, until he can be served with the

proper process of the said court: *Provided nevertheless*, That the time of such detention shall in no case exceed the space of eight days.

VIII. *And be it further enacted by the authority aforesaid*, that so much of an act passed in the thirty-seventh year of the reign of his present Majesty, entitled, "An Act for regulating the practice of the Court of King's Bench," as enacts that the parties may plead to issue in the office of the Clerk of the Crown and Pleas of this province, in and for the several districts thereof, and also that every Monday in the course of the year, except Easter Monday and Christmas Day, in case it shall happen on a Monday, shall be a return day for the return of writs issuing out of the said court of King's Bench, and also that the plaintiff shall cause the defendant to be served with the writ of summons and that no mileage shall be allowed for the same, shall be, and the same is hereby repealed.

Recital 37 Geo. 3d cap. 4.

Repeal thereof in respect to pleading in the District offices; the return of writs out of term; and mileage.

IX. *Provided nevertheless, and be it further enacted by the authority aforesaid*, That the said office of the Clerk of the Crown and Pleas shall be an office for issuing the original process of the said Court, and also for issuing writs of capias and satisfaciendum.

But original process and writs of ca. ja. to issue still out of the District offices.

C H A P. III.

An Act to alter the method of performing statute duty on the Highways and Roads within this Province.

The Royal Assent to this Act was promulgated by Proclamation, bearing date January 1, in the year of our Lord 1800, and fortieth of his Majesty's reign.

I. WHEREAS by an act passed in the thirty-third year of his Majesty's reign, it is enacted, that the highways and roads in, and through every Parish, Township, or reputed Township, shall be cleared, repaired and maintained by the inhabitants thereof; and whereas it is expedient that the proportions of labour to be performed under the said statute should be altered, Be it 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 first day of March next, so much of the aforementioned act as enacts that every person being a householder, or freeholder, shall be obliged to work on the roads for, and during the space of twelve days shall be, and the same is hereby repealed.

*Preamble.
Recital 33d Geo. 3d cap. 4.*

Repeal of so much thereof as respects the extent of yearly statute labour on the highways.

II. *And be it further enacted by the authority aforesaid*, That from and after the day aforesaid, every inhabitant householder included, or inserted in or upon the assessment roll of any Parish, Township, reputed Township or place, shall (in proportion to the estimate of his real and personal property thereon) be taken, rated and held liable to work on the highways and roads in each, and every year, as follows: that is to say, if his property be rated at not more than one hundred pounds, then his proportion of labor on the highways shall not exceed six days; if at more than one hundred pounds and not more than two hundred pounds, eight days; if at more than two hundred and not more than three hundred pounds, ten days; if at more than three hundred pounds, twelve days.

Rates of yearly statute labour in future thereon.

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