

and by him annually, along with the composition monies to the receiver general, to satisfy the salary of the adjutant general, and other purposes of the militia.

the several sums of money by them received by way of composition from the persons permitted by virtue of this act to make such composition, and the said receiver general shall out of the monies aforesaid, pay to the said adjutant general upon his producing a warrant for such purpose, to be signed by the governor, lieutenant governor or person administering the government, the sum herein before directed to be paid. And in case any surplus of such monies shall remain in the hands of the said receiver general after making such payment as aforesaid, such surplus shall be disposed of as the governor, lieutenant governor, or person administering the government shall direct, to purposes only that shall respect the said militia, and the other fines, forfeitures and penalties, shall be appropriated to the purchase of such necessaries as may be requisite towards the establishing of and better providing for the militia aforesaid.

Limitation of actions, within 6 months, for things done by virtue of this act.

XXV. *And be it further enacted by the authority aforesaid,* That if any action shall be brought against any lieutenant or deputy lieutenant, or against any deputy lieutenant and justice of any county or riding, or against any justice or justices of the peace, for any thing done by virtue of this act, that such action or suit shall be commenced within six months next after the fact has been committed, and not afterwards, and shall be laid in the district, county or place where the cause of complaint did arise, and not elsewhere, and the defendant or defendants in such action or suit shall and may plead the general issue, and give the special matters and this act in evidence, and where the plaintiff or plaintiffs shall be non-suited or discontinue his or their action, after the defendant or defendants shall have appeared, and if upon any demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and have the like remedy for the same as the defendant hath in other cases to recover costs by law.

Plaintiffs if non-suited, to pay treble costs.

C H A P. II.

*An ACT to provide for the Nomination and Appointment of Parish and Town Officers within this Province.*

Preamble.

**W**HEREAS it is requisite for the maintenance of good order and the regular execution of the laws, that proper officers should be appointed to superintend the observance thereof; Be it enacted by the kings 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 it shall and may be lawful as soon as conveniently may be after the passing of this act, for any two of his majesty's justices of the peace, acting within the division in which any parish, township, reputed township or place may be, to issue their warrant giving eight days previous notice to the constable of such parish, township, reputed township, or place, authorizing him on a day to be fixed by the said justices in the present year, and on the first Monday in the month of March in every ensuing year, to assemble the inhabitant householders, paying or liable to pay, to any public assessment or rate of such parish, township, reputed township, or place, in the parish church or chapel, or in some convenient place within the said parish, township, reputed township, or place, for the purpose of choosing and nominating the parish or town officers herein after mentioned to serve in their respective offices for the year next ensuing, at which meeting the constable shall preside.

Annual town meetings to be holden, assembled by warrant of two magistrates.

When,

II. *And be it enacted by the authority aforesaid,* That it shall and may be lawful for the said inhabitant householders, or the greater part of them so assembled, to choose one fit and proper person from among the inhabitants to be clerk of the said parish, town or township, who shall

for the purpose of choosing parish or town officers.

Election of a parish or town clerk,

and is hereby required to make a true and complete list of every male and female inhabitant within the limits of his parish, town or township, and return the same to the justices acting as aforesaid, so as they may produce the said list at the general quarter sessions in the month of April to be holden, and the said clerk shall and is hereby required to enter and record all such matters, as shall relate to the said parish, town or township, and shall appertain to his office, which records shall be faithfully and carefully kept and preserved by such clerk, and by him delivered to his successor duly nominated and appointed.

duties of his office.

III. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said inhabitant householders, in manner aforesaid, to choose two fit and proper persons from among the said inhabitants to serve the office of assessors for the said parish, township, reputed township or place, who shall assess all such rates and taxes, as shall be imposed by any acts of the legislature of this province, and be payable by the inhabitants thereof.

Election and duties of assessors.

IV. And also to choose and nominate in manner aforesaid, one fit and proper person to serve the office of collector for such parish, township, reputed township, or place, who shall and may, and is hereby authorized, from time to time, to demand and receive from the inhabitant householders, under the said assessment, such monies as may be due and payable from the said inhabitants in respect of the matters aforesaid, which collector shall account for and pay over the monies so received by him, in such manner as shall be directed by any act or acts of the said legislature, that may authorize the imposing and levying such rates and taxes respectively.

Election and duties of collector.

V. And also to choose and nominate in manner aforesaid, not less than two or more than six persons, as shall be specified in the warrant to be issued by the said justices, to serve the office of overseers of highways and roads, to oversee and perform such things as shall be directed by any act to be passed touching or concerning the highways and roads in this province, which said overseers shall also serve the office of fence-viewers, and are hereby authorized and required upon receiving proper notice, to view and determine upon the height and sufficiency of any fence or fences within their respective parish, township, reputed township, or place, conformably to any resolutions that may be agreed upon by the said inhabitants at such meeting to be holden, under and by virtue of such warrant as aforesaid.

Election and duties of the overseers of the highways

the sufficiency of fences to be within their cognizance.

VI. And also to choose and nominate in manner aforesaid, a person or persons to serve the office of pound keeper, who is hereby authorized to impound all cattle, and each and every horse, sheep and hog that shall trespass on the lands of any person, having inclosed the same by such high and sufficient fence, as shall have been agreed on in manner aforesaid, and also to impound any stoned horse, more than one year old, that shall be running at large upon the highways or commons, and to detain such horse until the owner thereof shall have paid the sum of twenty shillings, one half to be paid to the person taking such horse, the other half thereof to the collector towards the public stock of the district.

Nomination of a pound keeper and duties incident to his office.

VII. And also to choose and nominate in manner aforesaid, two fit and discreet persons to serve the office of town wardens for such parish, township, reputed township, or place; but as soon as there shall be any church built for the performance of divine service, according to the use of the church of England, with a parson or minister duly appointed thereto, then the said inhabitant householders shall choose and nominate one person, and the said parson or minister shall nominate one other person, which persons shall jointly serve the office of church warden, and that such town wardens or church wardens and their successors duly appointed, shall be as a corporation to represent the whole inhabitants of the township or parish, and as such may have a property in goods or chattels of or belonging to the said parish, and shall and may sue, prosecute or defend in all presentments, indictments or actions, for, and on the behalf of the inhabitants of the said parish.

Nomination of town wardens.

Provision in behalf of parish churches when built.

Powers vested in town wardens.

A list of persons nominated at such meeting shall forth with be communicated to a magistrate of the division.

Whom may swear the same into office.

Oath.

Persons sworn shall be held lawfully appointed.

Penalty for neglecting or refusing to be sworn into office after nomination.

Application of such penalties.

Magistrates to name other persons into offices vacant by refusal.

penalty for refusing such office.

Nomination of a high constable annually, for each district,

and of constables for each township, &c.

Oath.

Period of exemption from an office after serving the same.

VIII. *And be it further enacted*, That the constable presiding at such meeting, shall and is hereby required to cause a list to be made out, containing the names of the persons chosen and nominated to serve and execute the several offices herein before mentioned in manner aforesaid, which list shall be signed by the said constable, who shall forthwith communicate the same to either of the justices, having signed the warrant by virtue of which such meeting was holden, and it shall and may be lawful for either of the said justices, or for any justice of the peace, acting within the division, and he is hereby authorized and empowered to administer an oath of office, to each and every person or persons so chosen and nominated as aforesaid, within seven days after such meeting as aforesaid, in the following form :

“ You A. B. do promise and swear, that you will faithfully, diligently and justly serve and perform the office and duties of \_\_\_\_\_ for \_\_\_\_\_ according to the best of your abilities, so help you God.”

And that every person having taken such oath, shall be held to be lawfully appointed to such office for which he shall have been chosen and nominated as aforesaid.

IX. *Provided always*, that any person so chosen and nominated to serve any of the offices herein before mentioned in manner aforesaid; who shall refuse or neglect to signify his consent to enter upon such service, and to take the oath herein before set forth by the space of seven days after such nomination as aforesaid, shall forfeit and pay the sum of forty shillings for every such neglect or refusal, to be recovered upon proof thereof on confession, or by the oath of one credible witness, before any one justice of the peace, acting within the said division, to be levied by warrant of distress, and sale of the goods and chattels of the party so neglecting or refusing ; and to be paid into the hands of the treasurer, towards the public stock of the district, except in the case of forfeiture of any person or persons nominated to be overseers of the high ways and roads, and refusing to act, whose penalties shall be paid into the hands of the commissioners of the high ways and roads, and that it shall and may be lawful, in case of refusal as aforesaid, for any two of his majesty's justices acting within the said division to hold a special session for the purpose of naming one or more person or persons to serve the office, that may have been refused by the party chosen to serve the same and fined in manner aforesaid, and if the person or persons so named by the said justices upon being served with due notice thereof, which notice the constable is hereby required to serve upon the person, or leave the same at his usual place of abode, shall neglect or refuse by the space of seven days after the service of such notice to accept the said office, and take the oath herein before prescribed, he shall for every such neglect or refusal forfeit the sum of forty shillings, to be levied by distress and sale and paid over in manner herein before mentioned.

X. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the justices of the peace, within the respective limits of their commissions at their general quarter sessions in the month of April assembled, or the greater part of them, to nominate and appoint yearly and every year, a sufficiently discreet and proper person to serve the office of high constable in each and every district, and also to nominate and appoint such a sufficient number of persons as in their discretion will be necessary to serve the office of constable in each and every parish, township, reputed township, or place, and the said constable and constables before they enter upon their office, shall severally take the following oath, which it shall and may be lawful for any justice of the peace to administer,

“ You shall well and truly serve our sovereign lord the king, in the office of \_\_\_\_\_ for the \_\_\_\_\_ of \_\_\_\_\_ for the year ensuing according to the best of your skill and knowledge, so help you God.”

XI. *Provided always and be it further enacted by the authority aforesaid*, That no person having been appointed and served any of the offices mentioned in this act, shall be liable to be appointed

ted, or serve the same office, within three years from such appointment and service, unless he shall consent thereto.

XII. *Provided also*, That when any township, or reputed township, shall not contain thirty inhabitant householders, it shall not be lawful for the said justices to issue their warrant for calling a meeting therein, but the said inhabitant householders shall be joined to, and be reputed and taken as inhabitants of the township adjacent thereto, which shall contain the smallest number of inhabitants.

provision for townships, &c. thinly inhabited.

XIII. *And be it enacted*, That it shall and may be lawful for the justices of the peace within the respective limits of their commissions, at the general quarter sessions in the month of April to be holden, assembled, or the greater part of them, to limit and appoint such fees and perquisites as to them shall appear reasonable to be demanded and taken by every town clerk, and pound keeper of the several parishes or townships within their respective districts.

Fees and perquisites of the town clerks & pound keepers to be regulated in the April sessions.

SCHEDULE.

Justice's warrant to assemble the inhabitants.

To the Constable for the township of \_\_\_\_\_ in the said district.

HOME DISTRICT. } BY virtue of a power for such purpose granted by a certain act of the legislature of this province, made and passed in the thirty-third year of his present majesty's reign, to us A. B. esquire, and C. D. esquire, two of his majesty's justices of the peace in and for the said district, these are to authorize and require you, giving eight days previous notice, to assemble the inhabitant householders, paying or liable to pay to any public assessment or rate living within your parish or township, to meet at \_\_\_\_\_ on \_\_\_\_\_ for the purpose of choosing and nominating certain fit and proper persons to serve the offices herein specified for the ensuing year, that is to say, one town clerk, two assessors, one collector, two or more overseers of the high ways and roads, one or two pound keepers, two town wardens, according to the directions in the said act contained, and for so doing this shall be a sufficient warrant.

Form of a warrant for a town meeting.

Given under our hands and seals at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ year of the reign of \_\_\_\_\_

Constable's notice to be given on a nomination to an office by the justices.

HOME DISTRICT } WHEREAS at a special session for that purpose holden on the \_\_\_\_\_ day of \_\_\_\_\_ Township of \_\_\_\_\_ by A. B. esquire, and C. D. esquire, two of his majesty's justices of the peace for the said district, you were by the said justices nominated and appointed to serve the office of \_\_\_\_\_ for the township of \_\_\_\_\_ for the year next ensuing, by virtue of a power to them for that purpose granted by a certain act of the legislature of this province. These are therefore to notify unto you, that unless you accept the said office and take the oath prescribed, within seven days from the receipt of this notice, you shall for such neglect or refusal, forfeit and pay the sum of forty shillings, as by the said act is directed.

Form of notice on a nomination by the justices.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ in the year,

To Mr. L. M.

G. H. constable.