

CHAP. XVII.

AN ACT to establish a Police in the Town of Brockville, in the District of Johnstown.

[Passed 28th January, 1832.]

WHEREAS from the great increase of the Population of the Town of Brockville, in the District of Johnstown, it is necessary to make further provision than by Law exists for the internal regulation thereof.—*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 farther provision for the Government of the said Province," and by the authority of the same, That there shall be in the said Town a Board of Police, to be composed and constituted in the manner hereinafter described, which shall be and is hereby declared to be a body Corporate and Politic in fact and in law by the name of the President and Board of Police of Brockville, and by that name they and their successors may have perpetual succession, and be capable of suing and being sued, impleading and being impleaded, in all courts and in all actions, causes and complaints whatsoever, and may have a Common Seal and may alter the same at pleasure, and shall be in law capable of purchasing, holding, and conveying any Estate real or personal for the uses of the said Town.

Preamble.

The President and Board of Police of Brockville incorporated.

Common Seal.

II. *And be it further enacted by the authority aforesaid*, That for the purpose of electing the Members of the said Corporation, the said Town shall be divided into two Wards, to be called the East Ward and West Ward, that part of the said Town lying East of Saint Andrews' Street, on the South side of the King's Highway or Main Street, and also that part lying East of a line commencing at the South-westerly angle of the Court House ground on the North side of the King's Highway, and from thence following the Westerly bounds and limits of the said ground to the North-west angle thereof, thence running upon a line at right angles with the King's Highway or Main Street, until it intersects the rear or Northerly limits of the said Town, together with the small Island in the Harbour in front and adjacent to the said Town shall comprise the East Ward; and that the remainder of the said Town shall comprise the West Ward.

East and West Ward established.

Each Ward to elect two members of the Corporation.

Qualification of Electors.

III. *And be it further enacted by the authority aforesaid,* That each of the said Wards shall elect annually two persons to be Members of the said Corporation from among the inhabitants of the said Town, who being subjects of His Majesty shall be freeholders therein, or who being House-holders shall each within twelve months before every election have paid two pounds or upwards for one years rent of the dwelling house in which they shall have resided, and that the persons entitled to vote at the election of either of the said Wards, shall be the male inhabitant householders resident within such ward respectively, being subjects of His Majesty, rated on the Assessment Roll of the said Town and possessed of a freehold estate within such Ward, or tenants who having been so assessed shall have paid three months rent for the premises within such Ward in which they shall reside at the time of such election, at the rate of three pounds per annum, which residence and payment of rent shall have been for three months immediately preceding such election.

Time and place of holding first Election.

IV. *And be it further enacted by the authority aforesaid,* That the first election of members of the said Corporation shall be holden on the first Monday in the month of April next, at some place within each Ward respectively, to be appointed by the Sheriff of the District of Johnstown, who shall give public notice thereof at least six days before the said election, and that the Sheriff shall preside at the first election for one of the said Wards, and his Deputy or some other person authorised by the said Sheriff shall preside at the first election to be holden in the other of the said Wards, and shall declare the two persons having the greatest number of votes to be duly elected as members of the said Corporation, and shall give notice thereof to the persons so elected within six days after such election.

Time, place and manner of holding subsequent Elections.

V. *And be it further enacted by the authority aforesaid,* That the Members of the said Corporation so chosen, shall serve until the first Monday in April in the next year, and until a new Board shall be chosen and formed as hereinafter mentioned, and that on the first Monday in April in every year an election shall be holden in each Ward for two Members of the said Corporation before the Bailiff of such Ward, who shall be appointed from time to time by the said Corporation, and who shall appoint the place for holding the said election, and shall give notice thereof and proceed in all respects as the Sheriff is hereby required to do at and after the first election to be holden as aforesaid.

Public notice to be given after each Election of the time and place of the first meeting of the persons chosen.

VI. *And be it further enacted by the authority aforesaid,* That the person presiding at any such election shall give public notice immediately upon declaring the result of the election of the time and place at which the Members of the Corporation so chosen are first to meet, which meeting shall be within ten days after the election and at some place within

the said Town, and that at such meeting a fifth Member of the said Corporation shall be appointed by the concurrent voice of any three of the Members chosen, which person shall possess the same qualifications as the Act provides with respect to the Members to be elected in each of the said Wards respectively, and in case they cannot agree in the election or appointment of such fifth Member, they shall issue a precept to the Sheriff of the District after the first election, and to any one of the Bailiffs so to be appointed as aforesaid after every subsequent election, requiring him to appoint some proper time and place within the said Town; giving forthwith eight days notice thereof, and then and there proceed to the election of such fifth Member of the Corporation by the electors of the said Town generally without regard to the said division into Wards as aforesaid, at which election the said Sheriff shall preside after the first election of Members by each of the said Wards, and one of the said Bailiffs so to be appointed as aforesaid, to whom the said Precept shall be directed after every subsequent election of Members by each of the said Wards, and shall declare the Member elected who shall have the greatest number of votes of the persons qualified to vote in the said Wards, and shall give notice thereof to the person so elected within six days after such election.

Mode of Electing a fifth member of the Board.

VII. *And be it further enacted by the authority aforesaid,* That the said five Members elected as aforesaid shall, within ten days after the appointment or election of the fifth Member of the said Corporation as aforesaid, appoint one of their number President, and the said President and Members shall form the said Corporation, and shall hold their office until the first Monday in April in the ensuing year, and until the election and formation of the new Board.

One of the five members chosen to be President.

VIII. *And be it further enacted by the authority aforesaid,* That if either of the Members elected or appointed as aforesaid, after notice thereof, shall neglect or refuse for ten days to take the oath of office hereinafter contained, which any one of the said Members so to be elected or appointed as aforesaid is hereby authorised to administer to the others, he shall for such neglect or refusal forfeit the sum of ten Pounds, to be recovered with Costs by information before any Justice of the Peace, who is authorised to proceed in the same manner as hereinafter is provided for the recovery of any penalty for the transgression of any order or regulation of the said Corporation.

Penalty for neglecting to take the Oath of Office.

IX. *And be it further enacted by the authority aforesaid,* That in case any vacancy shall at any time happen among the Members of the said

How vacancies in the Board to be supplied.

Corporation by neglect or refusal to take the oath of office hereinafter contained within the time hereinbefore limited, or by death, removal from the Town, or from any other cause, the Corporation shall issue a Precept to the Bailiff of the Ward for which the Member or Members, (whose office or offices shall have become vacant) was or were chosen, to hold an election for the said Ward, giving notice of the time and place of holding the said election or elections, and the Member or Members so elected shall hold their offices until the next annual election, or until others are chosen in their places; and that if the vacancy shall occur in the office of the Member appointed by the four Members elected as aforesaid, or elected by the Town generally, such vacancy shall be filled by the appointment of the then Members of the said Corporation or a majority of them, and in case they cannot agree, then in the same manner as provided for the election of the fifth Member by the electors of the Town generally; and in case any such vacancy shall happen among the Members elected at the first election of Members of the said Corporation by one of the Members neglecting or refusing to take the oath of office as aforesaid, or in case it shall happen that the Member appointed by the Members elected in the said Wards respectively after this first election, or the Member elected by the Town generally after the first election, shall neglect or refuse to take the oath of office as aforesaid, then the Precept shall issue to the Sheriff of the District as is hereinbefore provided.

X. *And be it further enacted by the authority aforesaid,* That in case it shall at any time happen that an election or appointment of Members of the said Corporation shall not be made on any day when pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but that it shall and may be lawful on any other day to hold and make an election or appointment of Members in such manner as shall have been regulated by the laws and ordinances of the said Corporation.

XI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said Corporation from time to time to establish such ordinances, by-laws and regulations, as they may think reasonable in the said Town, to regulate and License Victualling-houses and Ordinaries, where fruit, victuals and liquors, not distilled, shall be sold, to be eaten or drunk in such houses or groceries; to regulate Wharves and Quays; to regulate the weighing of Hay, measuring of Wood; to regulate Carts and Carmen; to regulate Slaughter-houses; to prevent the firing of any Guns, Muskets, Pistols, Squibs and fire-balls, or injuring or destroying Trees planted or growing for shade or ornament in the said Town; to prevent the pulling down or defacing of Sign-boards, or inscribing or

drawing any indecent words, figures or pictures, on any building, wall, fence or other public place; and generally to prevent vice and preserve good order in the said Town; to enter into and examine all dwelling-houses, Ware-houses, Shops, Yards and out-houses, to ascertain whether any such places are in a dangerous state with respect to fires, and to direct them to be put in a safe and secure condition; to appoint Fire-Wardens and Fire Engineers; to appoint and remove Fire Men; to make such rules and by-laws as may be thought expedient for the conduct of such Fire Companies as may be raised with the sanction of the said Corporation; to compel any person to aid in the extinguishment of any Fire; to require the Inhabitants to provide and keep fire-buckets and scuttels, and ladders to their houses; to stop, or authorise any other person to stop, any one riding or driving immoderately in any Street, or riding or driving on any Side-walk, or to inflict fines for any such offence; to regulate the Assize of Bread; to prevent and abate and remove any nuisances; to restrain and prevent any horses, cattle or swine, from running at large; to prevent and remove encroachments in any Streets, and to make such rules and regulations for the improvement, good order and government of the said Town as the said Corporation may deem expedient, not repugnant to the Laws of this Province, except in so far as the same may be virtually repealed by this Act, and to enforce the due observance thereof by inflicting penalties on any person for the violation of any By-Law or Ordinance of the said Corporation, not exceeding One Pound Ten Shillings.

Penalties may be inflicted for the non observance of the By-Laws.

XII. *And be it further enacted by the authority aforesaid,* That for the purpose of raising a fund to provide for the purchasing any Real Estate for the use of the said Town, to procure Fire-Engines, Aqueducts, and a supply of pure and wholesome water; for lighting, paving, flagging and repairing the Streets, and for all other purposes deemed expedient and necessary by the said Corporation for the welfare and improvement of the said Town, it shall and may be lawful for the said Corporation to lay an Assessment annually upon the persons rated or liable to be rated upon any Assessments for Property in the said Town, not exceeding Two Pence on the Pound, exclusive of the sum such persons may be rated for in and upon any other Assessments of this Province; and it shall be the duty of the Clerk of the Peace for the said District to select from the General Assessment of the Township of Elizabethtown, a List or Assessment of the Rateable Property that every person owns or possesses in the said Town, and lay the same before the Corporation annually, upon its organization after any General Election.

Corporation may levy Assessments not exceeding two pence in the pound annually.

Clerk of the Peace to prepare Assessment Roll for the Town of Brockville.

Persons refusing to pay Assessments to the Collector to be appointed by the Corporation, subject to distress for levying the same.

XIII. *And be it further enacted by the authority aforesaid,* That if any person shall refuse to pay the sum or rate for which he or she stands rated in manner aforesaid, for the space of ten days after demand duly made of the same by the Collector to be appointed by the said Corporation for that purpose, the said Collector shall, and he is hereby required, to levy the same by Distress and Sale of the Goods and Chattels of the person so neglecting or refusing to pay, after having obtained a Warrant for that purpose from some one of His Majesty's Justices of the Peace, who is hereby authorised to grant the same, upon information made on oath before him of the neglect or refusal to pay the said Assessment, and to render the overplus, if any there shall be over and above the said Rate, to the owner thereof, after deducting the legal charges of the distress and sale.

Overplus of distress to be rendered to the owner.

Corporation may appoint and remove Officers.

XIV. *And be it further enacted by the authority aforesaid,* That the said Corporation may from time to time appoint, and at their discretion remove and reappoint a Surveyor of Streets for the said Town; a Clerk and Assessor, or Assessors; a Bailiff, or Bailiffs; a Collector, or Collectors; a Treasurer, and as many and such other Officers as they may require, and assign the duty or services to be performed by each, with such salaries or allowances as to them may seem meet, and may take such reasonable security for the due performance of the duties assigned to any Officer or Servant as they shall think proper.

Powers of Corporation with regard to naming and laying out Streets.

XV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said Corporation to alter the names of the Streets of the said Town, and to direct the Street Surveyor to lay out, mark and open any Street of such width as they may deem proper in any part of the said Town, and cause any Street already laid out to be opened, altered or extended, whenever they shall deem the public good to require it: in doing which it shall and may be lawful for the said Corporation to remove and pull down any Dwelling-House, Out-House, Shop, Store, or any other Building, Fence, Wall or Erection whatsoever, and the owners of any Lands over which such Street shall be laid out or altered, shall be paid a reasonable compensation for such damages as they shall sustain by reason thereof, the claim for such compensation being made to the said Corporation within thirty days after public notice of the new Street having been laid out or the alteration made, in one or more of the Newspapers of the said Town, and upon the door of the Court House of the said District, and also by a notice duly served on the person whose Property is affected; and in case no voluntary agreement shall be made as to the amount of compensation to be paid for damages as aforesaid, the said Corporation, upon request in writing to

the Clerk by the person so claiming damages, or his Agent legally authorised, shall appoint an Arbitrator, who, at a day to be named in such notice, shall attend upon the premises in question, to meet the Arbitrator to be appointed by such claimant, and such two Arbitrators shall, before proceeding to consider the claim, appoint a third Arbitrator, which three Arbitrators, not being inhabitants of the said Town or paying any Assessment levied therein, being first sworn by some member of the said Corporation, who is hereby authorised to administer the said oath, to give a just and true award upon the claim submitted to them, shall, upon the statement of the parties and view of the premises, and upon the testimony of Witnesses to be examined upon oath or affirmation, if either party shall require it, (which oath or affirmation any one of the said Arbitrators is hereby authorised to administer) make the award in writing, under their hands, or the hands of any two of them, of the amount of damages to be paid to such claimant.

Damages how ascertained and compensated.

Awards to be made in writing.

XVI. *And be it further enacted by the authority aforesaid,* That if either the said Corporation or the party claiming damages as aforesaid, shall decline to abide by any such award, such refusal shall be declared in writing within ten days after such award, and damages upon such claim shall be thereafter assessed in manner hereinafter mentioned, but at the sole expense of the party refusing to abide by such award.

Either party declining to abide by award must notify the other of his refusal to abide thereby.

XVII. *And be it further enacted by the authority aforesaid,* That in all cases where awards shall be made to which either party shall refuse to conform as aforesaid, it shall and may be lawful for the party dissenting from such award to serve on the other party a notice in writing, appointing a day not less than thirty days from the time of serving such notice, for having the damages for which he is entitled to claim compensation according to this Act assessed in the manner hereinafter provided, and that the party giving such notice shall also specify some day therein which shall be at least ten days before the day appointed for such assessment, and not less than two days from the time of serving such notice, at which he will attend at the Office of the Sheriff of the District of Johnstown, for the purpose of striking a Jury to assess the damages so claimed as aforesaid.

In cases of refusal to abide by award, damages to be assessed by a Jury.

XVIII. *And be it further enacted by the authority aforesaid,* That on the day so appointed as last aforesaid, the Corporation, by some one of their members, and the other party, or their Attornies or Agents, shall attend at the Sheriff's Office, and that the Sheriff shall at or about the hour of one o'clock in the afternoon, proceed in the presence of the parties, or such of them, their Attorney or Agent, as may be present, to

Mode of striking Jury to assess damages.

select the names of twenty-one persons from among those qualified to serve on Special Juries, and in the manner directed by Law for selecting Special Juries, and that the names of such twenty-one persons so chosen being fairly written out by such Sheriff, each party, his Attorney or Agent attending for that purpose, shall alternately strike off one, that party beginning at whose instance such Jury is struck, until the whole number shall be reduced to Seven, and that such Seven persons shall be a Jury for Assessing the damages to be paid to such claimant as aforesaid; *Provided always*, that in case either party shall omit to attend personally or by Agent at the time appointed, the Sheriff or his Deputy shall strike in behalf of such person not attending.

Seven Jurors for
assessing damages
to be selected.

Jurors and Sheriff
to attend and view
Premises, and the
first five Jurors called
to be the Jury to
determine the matter.

Oath of Jurors.

XIX. *And be it further enacted by the authority aforesaid*, That the Seven persons so struck to serve as aforesaid, shall be Summoned by the Sheriff to attend upon the premises in respect to which the damages are claimed as aforesaid, giving not less than two days notice of such attendance, and that the Sheriff or his Deputy shall also attend at the time so appointed, and shall administer to the five persons who shall first answer upon being called in the order upon which they shall stand upon the original list the oath following, that is to say:—"I, A. B. do swear that I will well and truly assess the damages upon the claim of C. D. according to the Act in that behalf," and thereupon the said Jury having viewed the Premises, and received the testimony upon oath or affirmation of such Witnesses as shall be brought before them, (which oath or affirmation the said Sheriff or his Deputy is hereby authorised to administer,) shall deliver their verdict by the opinion of the majority of such Jury, of the amount of damages to be paid to such Claimant, which verdict shall be final and conclusive between the parties.

By-Laws to be
published.

XX. *And be it further enacted by the authority aforesaid*, That any Rule or Regulation of the said Corporation, for the infraction of which any penalty is inflicted, before it shall have any effect shall be published in one or more of the Newspapers of the said Town, and that in like manner shall be published in each and every year, before the annual Election, an account of all monies received and in the Treasury, and the amount expended, and for what purpose.

Tendency for infringing
By-Laws to be
recovered by infor-
mation before the
Corporation.

XXI. *And be it further enacted by the authority aforesaid*, That if any person shall transgress the Orders or Regulations made by the said Corporation under the authority of this Act, such person shall for every such offence forfeit the sum which in every such Order, Rule or Regulation shall be specified, with costs, to be recovered by information before the said Corporation, to be levied of the Goods and Chattels of

such offender; and in default of such Goods and Chattels the offender shall be liable to be committed to the Common Gaol of the District for a time not exceeding one Month, in the discretion of the said Corporation before whom such offender shall have been convicted, and that no person shall be deemed an incompetent Witness upon any information under this Act by reason of his being an Inhabitant of the said Town of Brockville: *Penalties how levied.*
Provided always, that the information and complaint for a breach of any orders or regulations of the said Corporation must be made within fifteen days of the time of the offence committed. *Limitation of Prosecutions for Penalties.*

XXII. *And be it further enacted by the authority aforesaid,* That all penalties recovered under the provisions of this Act shall be paid into the Treasury of the said Corporation, and applied in the same manner that other monies coming into the said Treasury may be applied for the public uses of the said Town. *Penalties how to be applied.*

XXIII. *And be it further enacted by the authority aforesaid,* That the said Corporation shall and may in the said Town of Brockville perform all the functions and exercise the authority now by Law given to Justices of the Peace acting within their divisions, with respect to making or amending any Street or Highway or Road within the said Town. *Authority of Corporation with respect to the Streets.*

XXIV. *And be it further enacted by the authority aforesaid,* That this Act shall be, and is hereby declared to be, a Public Act, and as such shall be Judicially noticed by all Judges, Justices of the Peace, and other persons, without being specially pleaded. *Public Act.*

XXV. *And be it further enacted by the authority aforesaid,* That in case an equality of votes should happen at any Election for the members of the said Corporation in either of the said Wards, it shall and may be lawful for the person presiding at the said Election to give a casting vote, and he shall not be required to be possessed of the qualifications necessary to enable him to vote at the said Elections for the said Wards respectively. *Presiding Officer at Elections to have a casting vote.*

XXVI. *And be it further enacted by the authority aforesaid,* That this Act shall not extend or be construed to extend to authorise the said Board of Police for the said Town of Brockville to purchase any Lands for a Market in the said Town, or to fix upon any site for a Market in the said Town. *Corporation not to purchase Lands for a Market.*

FORM OF OATH.

Oath of Members of
the Corporation.

I, A. B. do swear, that I will faithfully discharge the duties of a member of "The President and Board of Police of the Town of Brockville," to the best of my skill and knowledge.

CHAP. XVIII.

AN ACT to repeal part of an Act passed in the Fourth year of His late Majesty's Reign, entitled "An Act to divide the County of Carleton, in the Bathurst District."

[Passed 23th January, 1832.]

Preamble.

WHEREAS by an Act passed in the Fourth year of His late Majesty's Reign, entitled "An Act to divide the County of Carleton, in the Bathurst District," it was among other things provided, that nothing in the said Act contained should extend or be construed to extend to give to the Counties of Lanark and Carleton a greater increase of Representation in the House of Assembly of this Province than by Law these Counties would have been entitled to if the said District had not been divided into two Counties: *And whereas* the Population of these Counties renders it necessary that they should be represented in the House of Assembly by more than one Member each: *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 much of the said recited Act as limits the Representation of the Counties of Lanark and Carleton be, and the same is hereby repealed.

So much of 1 Geo. 4,
Chap. 5, as limits the
Representation of
Carleton and Lanark
repealed.

Writs to be issued
for the return of an
additional Member
for Lanark and
Carleton.

H. And be it further enacted by the authority aforesaid, That after the passing of this Act it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, to issue Writs for the Return of One Member for each of the said Counties, in addition to the Members now serving, in the same manner as the Governor, Lieutenant Governor or Person Administering the