



A N N O N O N O

VICTORIÆ REGINÆ.

C A P. LXXIII.

An Act to alter and amend the Act incorporating the Town of Hamilton, and to erect the same into a City.

[9th June, 1846.]

WHEREAS from the increase of the population and commerce of the Town of Hamilton, in the District of Gore, a more efficient system of Police and Municipal Government than that now established therein is required; And whereas it is advisable to extend the limits thereof and to erect the said Town into a City, and to have its affairs managed by a Mayor and Common Council: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That an Act passed by the Parliament of Upper Canada, in the third year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to define the limits of the Town of Hamilton, in the District of Gore, and to establish a Police and Public Market therein*, and all other Acts and parts of Acts repugnant to or inconsistent with the provisions of this Act, be, and the same are hereby repealed: Provided always, that the repeal of the said Acts and parts of Acts shall not be held to revive or give any force or effect to any enactment which has by the said Acts or any of them been repealed or determined.

Preamble.

U. C 3 Will. 4. c. 16, repealed.

Proviso.

II. And be it enacted, That the inhabitants of the City of Hamilton as hereinafter described and their successors, inhabitants within the limits of the same, shall be and they are hereby constituted a body politic in fact and in name, by and under the name of the City of Hamilton, and as such shall have perpetual succession and a common seal, with power to break, renew, change and alter the same at pleasure, and shall be capable of suing and being sued, and of pleading and being impleaded in all Courts of Law and Equity and other places, in all manner of actions, causes and matters whatsoever, and of accepting, taking, purchasing and holding goods and chattels, lands and tenements, real and personal, moveable and immoveable estates, and of granting, selling and alienating, assigning, demising and conveying the same, and of entering into and becoming a party to contracts, and of granting and accepting any bills, bonds, judgments or other instruments or securities for the payment or securing of the payment of any money borrowed or lent, or for the performance or securing the performance of any other duty, matter or thing whatsoever.

Inhabitants of City of Hamilton constituted a body politic. Corporate powers.

III.

Limits of the  
City of Ham-  
ilton.

III. And be it enacted, That the City of Hamilton shall consist of all that part of the District of Gore which lies within the following limits, that is to say: commencing at the north-east corner of Lot Number Twelve, in the Township of Barton, on the waters of Burlington Bay; thence following the line between the said Lots Number Twelve and Number Eleven in a southerly direction to the rear of the third concession of the said Township of Barton; thence along the said concession westerly to the intersection of the line between Lots Numbers Twenty and Twenty-one of the said Township; thence in a northerly direction following the said line between the said Lots Numbers Twenty and Twenty-one until it reaches the marsh at the head of Burlington Bay; thence along the southerly and easterly margin of the said marsh to the waters of Burlington Bay; thence along the southerly margin of Burlington Bay to the place of beginning, including the several Road allowances along the said boundary, and the harbour in front of the said Town.

City divided  
into five  
Wards.

IV. And be it enacted, That the said City shall be, and the same is hereby divided into five Wards, in manner following, that is to say: that the continuation of the street now known in the said Town as King Street to the easterly and westerly limits of the said City, shall, together with the said King Street, be called King Street, and all that part of the said City lying south of King Street and west of John Street shall comprise the first Ward, and shall be called Saint George's Ward; all that part lying south of King Street and east of John Street shall comprise the second Ward, and shall be called Saint Patrick's Ward; all that part lying north of King Street and east of John Street shall comprise the third Ward, and shall be called Saint Lawrence Ward; and all that part lying north of King Street and between John and Macnab Streets shall comprise the fourth Ward, and shall be called Saint Andrew's Ward; and all that part of the said City lying north of King and west of Macnab Streets shall comprise the fifth Ward, and shall be called Saint Mary's Ward, of the said City.

Bay in front of  
the City, vested  
in City  
Council.  
Proviso as to  
works upon the  
Bay.

V. And be it enacted, That all of the Bay to the opposite shore thereof lying in front of the said City shall vest in the City Council of the said City, and their successors legally constituted. Provided always, that it shall not be lawful for the City Council to erect any building or to construct any work whatever within the limits or upon any part of the said Bay so vested in the said City Council, unless the said City Council be authorized so to do by the Governor in Council or by the Commander in Chief of Her Majesty's Forces in this Province, or unless the erection of such building or the construction of such works be consented to by the Principal Officers of Her Majesty's Ordnance.

Mayor and  
Councillors to  
be chosen.

VI. And be it enacted, That there shall be chosen and elected in manner hereinafter mentioned, one fit person who shall be and be called the Mayor of the said City, and a certain number of fit persons who shall be and be called Councillors of the said City, and such Mayor and Councillors for the time being shall be and be called the City Council.

Two Council-  
lors to be elect-  
ed for each  
Ward.

VII. And be it enacted, That for every Ward within the limits of the said City, two Councillors shall be chosen annually, in manner hereinafter mentioned, and the said Councillors so elected shall choose one other fit and proper person duly qualified as Councillor, and in case it shall happen that the votes shall be equally divided in the election of such other Councillor, then that Councillor who shall have been rated on  
the

the assessment list of the City for the previous year for the greatest amount of property, shall give a second or casting vote and determine the election, and upon such choice being made and such Councillor being present, the said Councillors shall proceed to choose from amongst themselves, by vote of a majority of such Councillors, one of their number to be the Mayor of the City, and the said Mayor shall be so chosen on the Saturday next after the Annual Ward Election, and shall hold office for one year, or until his successor be appointed, but may be capable of being re-elected.

VIII. And be it enacted, That no person shall be eligible to be elected Councillor of the City, unless he shall have been a resident householder within the City or such part of the adjacent County of Wentworth as may be distant not more than three miles from the Market Square at the corner of York and James Streets in the said City, for two years next before the election, and being so resident at the time of the election, shall at the time be possessed to his own use and benefit of real property within the City, in freehold, which shall be assessed under the then last assessment list at forty pounds or upwards of annual value, or shall be so possessed of real property, for a term of years, or from year to year, which shall be assessed as aforesaid at fifty pounds or upwards of yearly value, or shall be in the receipt of fifty pounds or upwards of yearly rent or profit accruing from or out of real property within the City.

Qualification  
of Councillors.

IX. And be it enacted, That no person shall be eligible to be elected a Councillor of the said City, or to vote at any Corporation election, who shall not be a natural-born or naturalized subject of Her Majesty, Her Heirs or Successors, and of the full age of twenty-one years at the time of being enregistered as hereinafter mentioned.

Aliens and  
Minors not to  
be Councillors.

X. And be it enacted, That the Councillors of the City shall be elected respectively by the majority of votes of such enregistered male resident inhabitants of the City as shall have actually paid their taxes due at the time of their being enregistered as voters, or have paid the same at least one month before such election, and as shall be possessed three months next before the twenty-fourth day of December, in the year next preceding the election, of a Town lot assessed at the yearly value of five pounds currency, or as shall be possessed as aforesaid, in freehold, or as tenant for a term of years, or from year to year, of a Town lot or dwelling house situate within the ward for which the election shall be holden, assessed at the yearly value of ten pounds currency or upwards, or as shall be *bonâ fide* owners of a dwelling house situated as aforesaid, built upon ground leased for a term of not less than three years, and assessed at the yearly value of ten pounds currency, or as shall be possessed in freehold or as tenants from year to year or for a term of years of any warehouse, counting house, shop, office, or store, situated as aforesaid, assessed in their own name at the yearly value of twenty pounds currency or upwards, or of such enregistered persons as are resident not more than three miles as aforesaid from the Market Square of the said City, who shall be assessed as aforesaid to the amount of fifty pounds currency or upwards: Provided always, that the yearly value and assessment of the premises aforesaid shall be ascertained from the then last Town or City Assessment List; And provided also, that every yearly tenant as aforesaid paying a rent of ten pounds currency per annum for his own use and benefit shall be allowed to vote, whether his premises have separate entrance from or communication to the street or not; And provided also, that no person shall vote at any such election who has not been a resident inhabitant of the City or within the distance of three miles as aforesaid for a period of twelve calendar months

Qualification  
of Voters.

Proviso.

Proviso.

Proviso.

next

*Proviso.* next before the time of his being registered as a voter: Provided always, and it is hereby declared, that it shall not be lawful for any resident inhabitant of the said City of Hamilton to vote at any of the Township elections of the Township of Barton.

*Councillors to be chosen annually on the second Tuesday in January.*  
*Mode of proceeding at elections.*  
*Casting vote of Returning Officer.*  
*Proviso.*

XI. And be it enacted, That the Councillors shall be chosen annually in each of the said Wards on the second Tuesday in January by the qualified registered voters, who shall openly assemble for the purpose, and the name of each elector voting at such election shall be written in a Poll List, to be kept at such election by the Returning Officer or his Clerk, and at the final close of the Poll, the Returning Officer shall declare the number of votes given for each Candidate, and shall also declare those persons having the majority of votes in their favour to be duly elected Councillors as the case may be, and in case of the equality of votes for two or more persons at the close of the Poll, it shall be lawful for the Returning Officer, and he is hereby required whether otherwise qualified or not, to give a casting vote for one of the persons having such equality of votes and so determine the election; and the Poll Lists, so kept, shall by three o'clock in the afternoon of the day after the election be delivered by the Returning Officer, with the return thereon, to the City Clerk: Provided always, that no Returning Officer (except as aforesaid) or his Clerk shall vote at any such election.

*Mayor ex officio a Justice of the Peace.*

XII. And be it enacted, That the Mayor of the said City for the time being shall, by virtue of his office, be a Justice of the Peace in and for the said City.

*Salary of Mayor.*

XIII. And be it enacted, That it shall and may be lawful for the Council, if they shall see fit so to do, to give and grant to the Mayor for the time being, in lieu of all fees and perquisites, such salary not exceeding one hundred pounds, as they shall think fit, payable out of the revenues of the City.

*Legislative power of Hamilton vested in Council thereof, and style of enactment of By-laws.*

XIV. And be it enacted, That the Legislative power of the City of Hamilton shall be and is hereby vested in the Council to be composed of the Mayor and Councillors as aforesaid, and every Legislative Act of the said City shall express to be enacted by the *City Council of the City of Hamilton*.

*Majority of members of Council to be a quorum.*  
*Proviso: a smaller number may adjourn, &c.*  
*Proviso.*

XV. And be it enacted, That a majority of the Members of the Council, including the Mayor or presiding Councillor, shall compose a *quorum* for the despatch of business; and that in case of the absence of the Mayor, the assembled Councillors shall choose one of their number to be their Chairman: Provided always, that a smaller number may adjourn from time to time, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as may be provided for by a By-law of the Council: And provided also, that no such *quorum* shall be constituted without the presence of at least four Councillors.

*Registry of Voters provided for.*

XVI. And whereas a provision for the registry of voters has been found equitable and convenient: Be it enacted, That before the first day of November in every year, the Assessor of each Ward shall make out from the last Assessment Roll an alphabetical list of the voters qualified to vote at the election of Councillors in that Ward, to be called the "Voters' List," to which he shall add the names of all such persons not on the said Assessment Roll as he knows are then entitled to vote at such election according to the provisions of this Act; and the said Assessor shall sign such list, certifying that it is correct to the best of his knowledge and belief, (and shall also keep a true

copy thereof,) which list he shall deliver to the City Clerk, to be by him submitted to the Board of Revision.

XVII. And be it enacted, That the said list shall be hung up in the City Hall, or the place where the usual sittings of the City Council shall be held, for the examination of all concerned, at reasonable hours, from the first day of November to the first day of December, of which fact the City Clerk shall give immediate public notice, either by printed placards or by advertisement in not less than three, if there shall be so many, of the City newspapers, and any person who shall claim to be added to the said Voters' List, or any elector who shall desire to have any name expunged therefrom, shall prefer his request in writing signed with his name, stating the Ward to which he belongs, and shall cause the same to be delivered to the City Clerk before the said first day of December.

Voters' lists  
to be hung up  
in City Hall.

XVIII. And be it enacted, That on and before the first Monday in March, in every year, (except the year of the passing of this Act,) the City Council shall choose from among their own number, four Councilmen, who, together with the Mayor for the time being, shall be and constitute a Board of Revisors, any three of whom shall be a *quorum*, to revise the Voters' List as furnished by the Assessors of the various Wards, and decide according to the best of their judgment upon the claims previously made as aforesaid, for the insertion or omission of names in or from the said lists, and which said Board shall, on their first day of meeting, be duly sworn by one Justice of the Peace of the Gore District, well and impartially to perform their duties as such Revisors; and the said Board shall give public notice before their first day of sitting, of the order in which they will take up the Lists of the several Wards, and they shall meet on the first day of December, (or on the day following if that day be a Sunday,) at ten o'clock in the forenoon, for the purpose of hearing persons concerned in making the said claims, and deciding upon them, and shall adjourn from day to day until all the Voters' Lists are revised and settled; and the presiding Officer of the said Board for the time being, shall have power to examine persons upon oath respecting the said claims and all matters connected with the revision of the said Lists; and the said Board, after hearing the best evidence of which the cases will admit, shall and they are hereby required to decide upon, and make the necessary additions or erasures to or from the said Voters' Lists, in relation to the applications before them; and the said Board shall also have power to correct any mistake or supply any accidental omission made by the Assessors in the said Lists; and the said Lists, so revised and settled, shall be signed by the presiding Officer of the said Board, and sealed with the City Seal, and shall be the only correct Voters' List: Provided always, that the said Lists shall be finally completed before the twentieth day of December: And provided also, that no person's name shall be expunged from any of the said Lists without his being informed of the claim to that effect, and having an opportunity to be heard in reference thereto.

Council to ap-  
point Revisors.

Their duties.  
Times of meet-  
ing, &c.

Lists may be  
corrected.

Proviso.

Proviso.

XIX. And be it enacted, That the Voters' Lists for each Ward, when so settled and signed, shall be again hung up in the City Hall, or other places as aforesaid, until the day of election, and then filed in the office of the City Clerk, and certified copies thereof under the City Seal shall be by him transmitted to the Returning Officers of the several Wards in the City, not less than five days before any such election; and that every person whose name shall appear in such Ward List shall be entitled to vote at the election for such Ward, without any further enquiry as to his qualification, and without taking

Voters' lists  
how disposed  
of.

Persons nam-  
ed therein  
may vote with-  
out any oath

but that of  
identity.

taking any oath other than that he is the person named in such List, and has not before voted at such election, which oath the Returning Officer is hereby required and authorized to administer.

Returning  
Officers to be  
appointed  
and sworn.

XX. And be it enacted, That the City Council shall, at least one week before the Annual Ward Elections, appoint under their seal a Returning Officer for each of the Wards, whose duty it shall be to hold the election therein, beginning at ten o'clock in the forenoon, and continuing not later than six o'clock in the afternoon, and who shall give five days previous notice by written or printed placards in at least six different public places in his said Ward of the place where such election is to be held; and the said Returning Officer, previous to the day of the said election, shall be sworn by the Mayor, or any two of the Councilmen, well and faithfully to hold and determine the said election.

Certain per-  
sons disquali-  
fied and others  
exempted from  
serving.

XXI. And be it enacted, That no person being in Holy Orders or being a Minister or Teacher of any Dissenting or Religious Sect or Congregation, nor any Judge or Judges, nor any Ministerial Law Officer of the Crown, nor any Military, Naval or Marine Officer in Her Majesty's Service on full pay, nor any person accountable for the City revenues, or holding office under the Council, nor Returning Officer or his Clerk while so employed, shall be capable of being elected a Councillor, neither shall any practising Physician or Surgeon be compelled to serve in either of those offices.

Vacancies  
how to be filled.

XXII. And be it enacted, That in case any vacancies shall happen among the Councillors, by death, resignation, removal out of the City for a greater distance therefrom than three miles as aforesaid, or other disqualification, within the first six calendar months of any year, it shall be lawful for the City Council to direct an election to supply such vacancy for the Ward in which the same occurs, and to appoint a time and place for holding such election; and the Returning Officer appointed to such election shall conduct the same in manner hereinbefore provided for the holding of the regular annual elections: Provided always, that at such special election, the persons named in the Voters' List, of the then last previous election shall be the proper voters: Provided always, that no Councillor shall resign his office unless approved by the City Council, under a penalty of twenty pounds.

Proviso: Who  
may vote.

Proviso as to  
resignations.

Further provi-  
sions as to va-  
cancies.

XXIII. And be it enacted, That if any of the said vacancies shall occur in the last six months of any calendar year, the vacancy shall be supplied at the regular annual election for that Ward: Provided always, that any person elected to supply the first above mentioned vacancies, shall hold his office only for the residue of the term of office of his immediate predecessor.

Mayor to be  
sworn in and  
by whom.

XXIV. And be it enacted, That on the day of his election, the Mayor shall be sworn into office by the Judge of the District Court of the Gore District, or in his absence by any two of the Justices of the Peace of the said District, who are hereby required to administer the following oath:

“ I do swear that I will well and faithfully discharge the duties of Mayor of the City of Hamilton, to the best of my knowledge and ability.”

XXV. And be it enacted, That the Councillors on their part shall each take an oath that they will faithfully discharge the duties of their respective Offices, which oath shall be administered at the first meeting after their election, by the Mayor or any other Justice of the Peace of the Gore District.

Councillors to be sworn in and by whom.

XXVI. And be it enacted, That in case of any vacancy in the Office of Mayor, by death, removal out of the City, or to a greater distance therefrom than three miles as aforesaid, or other disqualification, it shall be lawful for the remaining members of the City Council at a special meeting to be summoned by the City Clerk for the purpose, to elect from among the Councillors a successor to such Mayor, who shall hold Office for the remainder of the term of service of his immediate predecessor: Provided always, that a continued absence from his duties for a period of three months shall be deemed a disqualification for Office under this section.

Vacancy in the office of Mayor, how declared and supplied.

Proviso as to absence.

XXVII. And be it enacted, That the City Council shall meet at least on the first Monday in every month, and on such other days as they may appoint: and it shall be lawful for the Mayor to call special meetings, whenever urgent business may require.

Meetings of the Council, when to be held.

XXVIII. And be it enacted, That the Mayor shall preside at all meetings of the City Council, (unless when the Council for the convenience of discussion shall resolve itself temporarily into a Committee of the whole) and on all questions in Council, the said Mayor or presiding Councilman shall not be entitled to vote, unless in case the votes of the remainder of the Council shall be equally divided, when he may give a casting vote and determine the question.

Who shall preside.

Casting vote.

XXIX. And be it enacted, That it shall be lawful for the said Council to appoint from and out of the members thereof, such and so many Committees consisting of such number of persons as they may think fit, for the better transaction of the business before the Council, and for the discharge of such duties within the scope of their powers, as may be by the Council prescribed, but subject in all things to the approval, authority and control of the Council.

Committees may be appointed.

XXX. And be it enacted, That the said Council shall be a Court of Record, and shall have the same power to punish for contempt as is by law vested in any other Court of Record: and the said Council shall have authority to punish its members for disorderly or disgraceful behaviour, by fine, and to expel a member convicted of any crime before a legal tribunal, and the member so expelled shall by such expulsion forfeit all his rights and powers as a Councillor.

Council to be and to have certain powers of a Court of Record.

XXXI. And be it enacted, That the said City Council shall determine the rules of its proceedings, and judge of the qualifications, election, and return of its members, and the said Council shall keep a journal of all business transacted, and during its meetings the doors shall always be kept open, except only when the Council are engaged in discussions relative to the mis-conduct of members of their own body, and in that case the doors shall not be closed unless the closing of the same be approved of by three-fourths of the members present.

Powers of the Council as to its own proceedings and members.

Meetings to be open.

Exception:

XXXII. And be it enacted, That all Resolutions, Reports and Drafts of By-laws concerning any specific improvement, or the appropriation of any public money, or the

Drafts of By-laws, &c., to be published be-

fore they are passed.

the taxing or assessing the inhabitants of the said City, shall be published in at least two and not more than three newspapers of the said City, eight days before the same shall be adopted, and whenever the vote is taken on any such Resolution, Report or By-law, the Yeas and Nays shall be recorded on the Journals.

By-laws, &c., to be sealed, enrolled and kept open to the public.

XXXIII. And be it enacted, That immediately after any By-law shall be passed by the City Council, it shall be signed by the Mayor, and sealed with the seal of the City, and enrolled; and such By-law shall thenceforth go into effect as a law of the City of Hamilton; and all such laws, together with this Act, and all other Acts of Parliament particularly relating to the said City, shall be entered *verbatim* in one or more books to be procured and kept for that purpose among the Archives of the said City, and be open to the public for inspection at all reasonable hours.

City accounts to be published yearly.

XXXIV. And be it enacted, That the said Council shall publish annually in the last week of December, in not less than two nor more than three newspapers of the said City, a detailed account of the state of the Finances of the City, and also a detailed account of the receipt and expenditure of all sums of money that may have been paid into and from the City Treasury during the past year.

City Clerk to be appointed.

XXXV. And be it enacted, That it shall be lawful for the City Council from time to time to appoint a fit and proper person, not being a Member of the said Council, to be the City Clerk, with such salary as they shall deem proper, and to remove the said Clerk at their pleasure.

City Treasurer to be appointed.

His duties.

He shall give security.

Penalty for failure to perform his duty.

XXXVI. And be it enacted, That it shall be lawful for the City Council from time to time to appoint a fit and trustworthy person, not being a Member of the City Council or their Clerk, to be the City Treasurer, with such salary or allowance as they shall deem proper, and to remove the said Treasurer at their pleasure; and the said Treasurer shall, at the end of every quarter of the calendar year, render a correct account to the City Council of his receipts and expenditures as Treasurer, showing the balance from the last quarter, and shall give a bond with two sureties conditioned for the due performance of the duties of his Office as required by the said Council, and also that he will publish annually on a day to be fixed by a By-law of the City Council, in all the newspapers of the said City, a detailed account of the state of the Finances of the said City, and also a detailed account of the receipts and expenditures of all sums of money that may have been paid into the Treasurer's hands during the current year; and if the Treasurer shall at any time neglect or refuse so to do, such neglect or refusal shall be held to be a forfeiture of his Office, and to render him incapable of reappointment.

Council to appoint Assessors.

XXXVII. And be it enacted, That it shall be lawful for the City Council to appoint annually such and so many Assessor or Assessors for the said City, not to exceed one for each Ward, as they may consider convenient for the public interests, to prescribe the limits in which they shall perform their duties, the securities which they shall give and the remuneration which they shall receive; and the said Assessor and Assessors shall be sworn by the Mayor or presiding Councillor, well and faithfully to perform the duties of their Office.



XXXVIII. And be it enacted, That it shall be lawful for the City Council to provide by a By-law, that all the taxes to be collected in the said City by virtue of this Act shall be paid directly to the City Treasurer at such days and times as they shall appoint; but no person shall be liable to a distress and sale of his or her goods and chattels in default of payment of such taxes, unless the said Treasurer shall have caused to be left at the present or last place of abode of such person, a written or printed notice stating the amount of such taxes, and demanding payment thereof, fourteen days before the Warrant to distrain for such taxes shall issue.

Council to appoint the time at which taxes shall be paid.

Notice to precede distress for taxes.

XXXIX. And be it enacted, That it shall be lawful for the City Council from time to time to appoint one City Surveyor, one City Bailiff, one City Inspector, one Harbour Master, one or more Inspectors of Lumber, Beef, Pork, Flour, Pot and Pearl Ashes, one Chimney Viewer, one or more Pound Keepers, and one or more Clerks of the Market or Markets, one Chief Constable of Police, and as many sub-Constables or other Constables, as may be necessary, with such salaries, wages and allowances as the said Council shall consider proper, and who shall hold their situations during pleasure, and which City Bailiff, Chief Constable and other Constables may be sworn in by the Mayor or any other Justice of the Peace of the Gore District, and shall by virtue of their Office be Constables of the Gore District.

Council to appoint certain other Officers.

XL. And be it enacted, That every City Clerk, City Treasurer or other Officer appointed by the City Council shall, whenever required at such times during the continuance of his Office or within three months after the expiration thereof, and in such manner as the said Council shall direct, deliver to the Council or such person as they shall authorize for that purpose, a true account in writing of all matters committed to his charge as such Officer, and also of all monies which shall have been by him received as such Officer, or by virtue, or for the purposes of this Act, and how much thereof shall have been paid and disbursed and for what purposes, together with proper vouchers of such payments, and also a list of the names of all such persons as shall not have paid the monies due from them by virtue of and for the purposes of this Act, and of the amount due from each of them; and every such Officer shall pay all such monies as shall remain due from him to the Treasurer for the time being, or to such person as the said Council shall authorize to receive the same; and if such Officer shall refuse or wilfully neglect to deliver such account, or the vouchers relating to the same, or such list as aforesaid, or to make payment as aforesaid, or shall refuse or wilfully neglect to deliver to the said Council, or to such person as they shall authorize, within three days after being thereunto required by notice in writing under the hand of the City Clerk, to be given to, or left at the last place of abode of such Officer, all books, papers, maps, plans and writings in his custody or power, relating to his duties, or the execution of this Act, or to give satisfaction to the said Council, or to such other person as aforesaid, respecting the same, then and in every such case, upon complaint made on behalf of the said Council by such person as they shall authorize for that purpose, of any such refusal or wilful neglect as aforesaid, to any Justice of the Peace, not a Member of the Council, acting for the District or other jurisdiction wherein such Officer so refusing or neglecting shall be or reside, such Justice is hereby authorized and required to issue a Warrant under his hand and seal for bringing such Officer before any two of the Justices of the Peace for such District or jurisdiction, and upon the said Officer appearing or not being found, it shall be lawful for such Justices to hear and determine the matter in a summary way, and if it shall appear to such Justices that

City Officers bound to account to the Council.

And to pay over monies.

Mode of constraining them to do so if they shall neglect or refuse.

any

any monies remain due from such Officer, such Justices may and they are hereby authorized and required upon non-payment thereof, by Warrant under their hands and seals, to cause such monies to be forthwith levied by distress and sale of the goods of such Officer, and if sufficient goods shall not be found to satisfy the said monies and the charges of the distress, or if it shall appear to such Justices that such Officer has refused or wilfully neglected to deliver such account, or the vouchers relating thereto, or such list as aforesaid, or that any books, papers, maps, plans or writings as aforesaid, remain in his hands or in his custody or power, and that he has refused or wilfully neglected to deliver the same or to give satisfaction concerning them, then and in every such case such Justices shall and they are hereby required to commit such offender to the Gaol or House of Correction for the District or jurisdiction where such offender shall be or reside, there to remain without bail until he shall have paid such monies as aforesaid, or until he shall have compounded with the said Council for such monies, and shall have paid such composition in such manner as they shall appoint, (which composition the said Council are hereby empowered to make and receive,) or until he shall have delivered a true account as aforesaid, together with such vouchers and lists as aforesaid, or until he shall have delivered up such books, papers, maps, plans and writings, or have given satisfaction in respect thereof to the said Council, or to such other person as aforesaid, as the case may be: Provided always, that no person so committed shall be detained in prison for want of sufficient distress only, for a longer space of time than three calendar months; Provided also, that nothing in this Act contained shall prevent or abridge any remedy by action against any such Officer so offending as aforesaid, or against any surety for any such Officer, but such Officer shall not be sued by action, and also proceeded against in a summary manner by virtue of this Act for the same cause; And provided also, that the provisions of this section shall be and are hereby made applicable to all the Officers at present serving under the authority of the President and Board of Police of the Town of Hamilton.

Proviso as to term of imprisonment.

Proviso: other remedies not to be affected.

Proviso: this section to apply to present Officers.

Board of health may be established. Its powers.

Act of U. C. cited.

XLI. And be it enacted, That it shall and may be lawful for the City Council from time to time to appoint so many of the members thereof, or other fit and proper persons, as they shall deem proper, to form a Board of Health to aid and assist the Mayor of the City to carry into effect the provisions of the By-laws which now are or may be passed to preserve the health of the said City, and to prevent the introduction and spreading of infectious and pestilential diseases in the same; and the said Board in conjunction with the Mayor shall have the like power and authority for the purposes aforesaid, as are vested in the Boards of Health established under the provisions of an Act passed in the Parliament of Upper Canada, in the third year of His late Majesty's Reign, intituled, *An Act to establish Boards of Health, and to guard against the introduction of malignant, contagious and infectious diseases in this Province.*

Council may make By-laws for certain purposes.

XLII. And be it enacted, That the said City of Hamilton shall by its representatives, in whom the Legislative power of the City shall be vested as herein mentioned, have full power and authority from time to time to make, revise, alter, amend, administer and enforce such By-laws as they may deem proper for the several purposes following, that is to say:

Streets and public places.

First. For making, levelling, flagging, paving, macadamizing, raising, repairing, lighting, watching, planting and cleaning any of the streets, squares, lanes, walks, side-walks, crossings, roads, bridges wharves, docks, slips, sewers, and shores now laid out and erected,

erected, or being or hereinafter to be laid out and erected within the limits of the City, and to regulate or prevent the encumbering, injuring or fouling of the same by any animals, vehicles, vessels, craft, lumber, building or other materials or things, or in any way whatsoever, and for the establishing, making and regulating public fountains, pumps and wells.

Fountains and wells.

Second. For directing and requiring the removal at any time of any door steps, porches, railings or other erections, projections or obstructions whatsoever, which may project into or over any public street, square or road, at the expense of the proprietors of the real property in or near which such projection or obstruction may be found.

Removing encroachments.

Third. For surveying by competent persons, and fixing, marking, determining, and settling the boundary lines of the various streets, squares and roads of the said City; to give names for the said streets, and to affix boards containing such names on the houses at the corners thereof.

Marking out and naming streets, &c.

Fourth. For defraying out of the funds of the said City, if necessary, the expense of lighting the same or any part thereof with gas, oil or other substances, and the performing of any kind of work required for the purpose, and for obliging the proprietors or occupiers of real property to allow such work to be done and fixtures placed in and about their premises as may be necessary, such work and fixtures to be done at the expense of the City.

Lighting the City.

Fifth. For assessing the proprietors of real property, immediately benefited by such improvements, for such sum or sums as may at any time be necessary to defray the expense of making or repairing any common sewer, drain, flagging, posts or pavement in any public street, square or place, and for regulating the time and manner in which such assessment shall be collected and paid.

Assessment for local improvement.

Sixth. To regulate and manage the present markets, and to establish, regulate and manage any new market, to regulate the place and manner of selling and weighing hay, straw, fodder, wood, lumber and fish; to restrain and regulate the purchase and manner of selling of all vegetables, fruit, country produce, poultry, and all other articles, or things, or animals exposed for sale, or marketed in the open air; to restrain and regulate the purchase of any such things by hucksters and runners within the City, and one mile distant from the outer limits thereof; to regulate the measurement, length and weight of coal, lime, shingles, lath, cord wood, and other fuel, and to impose penalties for light weight, or short count or measurement in any thing marketed; to have the exclusive right of regulating weights and measures in the markets, and within the said City, according to the lawful standard, and to seize and destroy such as are not according to the standard; to regulate all vehicles, vessels and other things in which any thing may be exposed for sale or marketed in any street or public place, and for imposing a reasonable charge or duty thereon, and establishing the mode in which it shall be paid; to seize and destroy all tainted and unwholesome meat, poultry, fish or articles of food, and to distrain butchers' meat for the rent of market stalls, and sell the same after six hours notice.

Markets—and things sold in markets, streets or public places.

Seventh. To regulate the harbour and vessels, craft, and rafts arriving in it; to impose and collect such reasonable harbour dues thereon as may serve to keep the harbour

Regulating and improving the Harbour.

in

in good order, and provide for the payment of a Harbour-Master and the erection and maintenance of a beacon therein; and to regulate and provide for the erection and rent of wharves, piers and docks in the said harbour.

Assize of bread.

Eighth. To regulate the assize and price of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Enforcement of morality, decency and good order, &c.

Ninth. To enforce the due observance of the Sabbath; to prevent vice, immorality and indecency in the streets and other public places, and to preserve peace, health and good order; to prevent the excessive beating or cruel and inhuman treatment of animals; to prevent the sale of any intoxicating drink to children, apprentices or servants without the consent of their legal protectors; to impose penalties on the keepers of low tippling houses, visited by dissolute and disorderly characters; to license and regulate victualling houses or other houses of refreshment where spirituous liquors are not sold; to license, regulate or prevent billiard tables, bowling alleys or other places of amusement; to restrain or suppress gambling houses, and to enter into them and seize and destroy *rouge et noir* and *roulette* tables, and other devices for gambling; to restrain and punish all vagrants, drunkards, mendicants and street beggars; to restrain or regulate the licensing of all exhibitions of natural or artificial curiosities, theatres, circuses or other shows or exhibitions for hire or profit.

Gambling.

Begging.

Public shows.

Pounds.

Tenth. To establish and regulate one or more Pounds and the fees to be taken thereat, and to restrain and regulate the running at large of horses, cattle, swine, goats, dogs, geese and poultry, and to impound the same; to impose a tax on owners or harbourers of dogs; to regulate and prevent dogs running at large, and to kill such as are found running at large contrary to law after public notice given; to abate and cause to be removed all public nuisances; to regulate the construction of privy vaults; to cause vacant lots in central situations, when they become nuisances to be properly enclosed; to regulate and prevent the erection or continuance of slaughter houses, tanneries, distilleries or other manufactories or trades which may prove to be nuisances; to prevent the ringing of bells, blowing of horns, shouting and other unusual noises in the streets and public places; to prevent immoderate riding or driving in the same; to prevent or regulate bathing in any public water in or near the City.

Dogs.

Nuisances.

Slaughter houses, &c.

Odd noises.

Fast driving.

Bathing.

Livery Stables, &c.

Eleventh. To regulate and license owners of livery stables or other owners of horses or carriages letting out the same for hire or profit, carters, porters, butchers or hucksters, and to prevent runners, stage drivers and others in the streets or public places from soliciting and teasing passengers and others to travel in any boat, stage, or vehicle.

Teasing passengers.

Police.

Almshouse, &c.

Work-house, &c.

Twelfth. To establish and regulate a Police for the said City; to establish and regulate one or more Almshouses and Houses of Refuge for the relief of the poor and destitute; to erect and establish and also to provide for the proper keeping of any Work-house, Gaol, Bridewell or House of Correction, that may hereafter be erected in the said City.

Cisterns, &c.

Thirteenth. To erect, preserve and regulate the public cisterns, reservoirs or other conveniences for the supply of good and wholesome water, or for the extinguishment of fires, and to make reasonable charge for the use thereof, and to prevent the waste and fouling of public water.

Fourteenth.

Fourteenth. To prevent or regulate the firing of guns or other fire arms; to prevent or regulate the firing or setting off of fire-balls, squibs, crackers or fire-works; to prevent or regulate the keeping or transporting of gunpowder or other combustible or dangerous materials, and to erect, regulate and provide for the support by fees of a City Magazine for the storing of gunpowder, whether erected within or without the said City; and to compel persons to store therein; to prevent or regulate the use of fire, lights or candles in livery or other stables, cabinet-makers' and carpenters' shops and other combustible places; to prevent or regulate the carrying on of manufactures, or trades dangerous in causing or promoting fire, and to regulate and require the safe keeping of ashes in proper deposits; to make such By-laws as they may deem expedient for the security, safety and advantage of the inhabitants, containing rules, regulations and restrictions to be observed by all persons in the erection of buildings to be built within the said City; to regulate, remove and prevent the construction of any chimney flues, fire place, stove oven, boiler or other apparatus or thing in any house, manufactory or business which may be dangerous in causing or promoting fire; to regulate the construction of chimnies as to dimensions and thickness, and to enforce the proper sweeping and cleaning of the same by licensed chimney sweepers; to guard against the calamities of fire, by regulating and enforcing the erection of party walls, and preventing wooden buildings being erected in the thickly built parts of the City; to compel the owners and occupants of houses to have scuttles in the roofs, and stairs and ladders leading to the same; to require the inhabitants of the said City to provide as many fire buckets in such manner and time as they shall prescribe, and to regulate the examination of them, and the use of them at fires; to regulate the conduct and enforce the assistance of the inhabitants at fires, and the preservation of property thereat; to make regulations for the suppression of fires, and the pulling down or demolishing of adjacent houses; to purchase fire engines, and establish and regulate fire, hook, ladder, and property saving companies subject to the laws of this Province; to provide medals or rewards for any person who shall distinguish himself at a fire, and to assist the widows and orphans of persons who may be killed at fires.

Firing of guns,  
&c.  
And matters  
relative to the  
prevention of  
fires.

Fifteenth. To regulate the interment of the dead, and to direct the returning and keeping of Bills of Mortality, and to impose penalties on physicians, sextons and others for default in the premises; to provide and regulate public cemeteries for the interment of the dead.

Interment of  
the dead, &c.,

Sixteenth. To regulate the management, and provide for the security of the public property of the said City of every kind, and to provide for the permanent improvement of the said City in all matters as well ornamental as useful.

Public prop-  
erty of the City,  
&c.

Seventeenth. To license and appoint by Warrant such and so many inferior Officers, other than those already mentioned in this Act, as shall from time to time be found necessary or convenient to enforce and execute such By-laws and Regulations as may hereafter be made by the said City Council, and to displace all or any of them and put others in their room, and to add to or diminish the number of them or any of them as often as the said Council shall see fit.

Inferior Offi-  
cers for en-  
forcement of  
By-laws of  
Council.

Eighteenth. To regulate the bonds, recognizances or other securities to be given by all Municipal Officers for the faithful discharge of their duties; to inflict reasonable penalties for refusing to serve in any Municipal Office, and for the infringement of any and every By-law of the said City.

Bonds, recog-  
nizances, &c.,  
given by Mu-  
nicipal Offi-  
cers.

Nineteenth.

Taxes.

Nineteenth. To impose and provide for the raising, levying and collecting annually, by tax on the real and personal property in the said City made liable to assessment by this Act, a sum of money, the better to enable them to carry fully into effect the powers hereby vested in them; Provided always, that such tax shall never exceed in any one year, one shilling in the pound upon the assessed yearly value of such property, exclusive of the tax to be assessed by law for the support of Common Schools, and the support of a Lunatic Asylum in that part of this Province called Upper Canada, and that from and after the passing of this Act no assessment for Statute Labour shall be made in the said City; Provided always, that nothing in this Act contained shall be construed to authorize the said City Council to take or enter upon any land or real estate, or to tax or assess any property real or personal belonging to Her Majesty, Her Heirs or Successors, or vested in or held in trust by any public body, officer, person or party, in trust for the uses or services of Her Majesty, Her Heirs or Successors; whether such real estate be held in fee simple or for any less estate, during the continuance of such estate, unless such land or real estate be leased to any private person not in the Military or Naval service of Her Majesty, in which case such land or real estate, although not liable to be taken or entered upon as aforesaid, shall be liable to be assessed in the same manner as other land or real estate in the said City may be assessed; but the assessment payable in respect to any such land or real estate shall be payable by the tenant or tenants thereof, and by him or them only.

Proviso.

Proviso—the Council may not take or tax real property held by Her Majesty or in trust for Her Majesty.

Duties of Officers of City Council.

Twentieth. To regulate and prescribe the duties of all Officers acting under the authority of the City Council, and the penalties on their default of duty, and to impose fines upon Jurors refusing to attend the valuation of real property authorized by this Act.

All laws necessary for carrying into execution powers vested in City Council.

Proviso.

Twenty-first. Generally to make all such laws as may be necessary and proper for carrying into execution the powers herein vested or hereafter to be vested in the City Council, or in any department or office thereof for the peace, welfare, safety, and good government of the said City, as they may from time to time deem expedient, such laws not being repugnant to this Act and the general laws of the Province: Provided always, that no person shall be subject to be fined more than five pounds, exclusive of costs, or to be imprisoned more than thirty days for the breach of any By-law or regulation of the said City; and provided also, that no person shall be compelled to pay a greater fine than ten pounds for refusing or neglecting to perform the duties of any Municipal Office when duly elected or appointed thereto.

No person to be an incompetent witness in any trial in which the Council is interested, by reason of his being an inhabitant citizen.

XLIII. And be it enacted, That upon the trial of any issue or taking of any inquisition or judicial investigation whatever, in which the said City or the Mayor, Councillors thereof, or either of them, are a party interested, no person shall be deemed an incompetent witness or Juror by reason of his being an inhabitant citizen; and that if any person shall be sued or impleaded by reason of any thing done by virtue of this Act, it shall be lawful for such person to plead the general issue, and to give this Act and the special matter in evidence.

False swearing or affirming, to be perjury.

XLIV. And be it enacted, That if any person shall knowingly swear or affirm falsely in any examination or evidence taken in any proceeding made by the authority of this Act, he shall be deemed guilty of wilful and corrupt perjury.

XLV. And be it enacted, That it shall be lawful for the Governor General, or person administering the Government of this Province, to appoint a Police Magistrate in and for the said City from among the resident inhabitants thereof, who shall hold office during pleasure, and who shall also be *ex officio* a Justice of the Peace in and for the Gore District, and the said Police Magistrate shall be entitled to receive such fees as are now used and allowed by law in that part of the Province of Canada called Upper Canada, to other Justices of the Peace, which fees together with all fines imposed by him in his proper jurisdiction as such Police Magistrate shall be by him on the first days of January, April, July, and October in each year, paid over and accounted for under oath to be sworn before any Justice of the Peace for the Gore District, to the Treasurer of the said City, to be by him applied to the general funds of the said City, and that the said Police Magistrate shall also have full power and authority to take cognizance of, and punish all offences against the Municipal Laws and Regulations of the City in the same manner as the Mayor or any Councillor thereof, and that the salary of the Police Magistrate shall not be more than two hundred and fifty pounds nor less than one hundred and fifty pounds, to be determined by the said City Council, and such salary shall be paid out of the general revenue of the City.

Governor may  
appoint Police  
Magistrate.

His Fees.

And Salary.

XLVI. And be it enacted, That the penalties which may be imposed under the authority of this Act shall be applied to the uses of the said City, and shall be recoverable with costs on conviction upon the oath of one or more witnesses, or by confession before the Mayor, the Police Magistrate or any one of the Councillors, by distress and sale of the goods and chattels of the offender or offenders, or imprisonment of his or their persons, which Warrant of distress or imprisonment the Mayor or either of the Councillors is hereby empowered to grant.

Penalties to be  
recovered by  
distress.

XLVII. And be it enacted, That the Mayor and Councillors, and Police Magistrate, or any one of them, shall have full power and authority to take up and arrest, or order to be taken up or arrested, all and any rogues, vagabonds, drunkards and loose and disorderly persons and commit them to any Workhouse Gaol, Bridewell or House of Correction which may be established in the said City, there to receive such punishment, not to exceed one month's imprisonment as the said Mayor, Councillor or Police Magistrate shall think fit; Provided always, that the Gaol of the Gore District shall be the Gaol of the said City until another suitable place of confinement is provided by the City Council, and the Sheriff of the said District and his Gaoler shall be bound to receive and safely keep until duly discharged, all persons committed thereto by any competent power or authority of the said City.

Mayor, &c.,  
may arrest  
rogues, vaga-  
bonds, &c.

Proviso.

XLVIII. And be it enacted, That the said City Council shall have full power and authority, notwithstanding any law to the contrary, to purchase and acquire, or to take and enter into after paying, tendering or depositing the value thereof, to be ascertained as hereinafter provided, such land, ground or real property of any description within the said City, as may be by them deemed necessary for opening, lengthening, straightening or enlarging any street, square, market place or other public thoroughfare, or as a site for any public building, to be erected by the City Council, and to pay to or for the use of the proprietor or proprietors of such ground or real property and out of the funds of the said City, such sum of money as may be agreed upon as the value of such ground or property by the party proprietor thereof and the said Council respectively, or as shall be ascertained in the manner hereinafter mentioned in case they shall not so agree upon

Council may  
purchase land  
necessary for  
opening  
streets, &c.



Proviso as to gardens, orchards, pleasure grounds, &c.

upon the same : Provided always, that nothing herein contained shall authorize the said City Council to take or enter into for any of the purposes aforesaid, the house, yard, garden, orchard or pleasure grounds of any person or party, without the consent of such person or party first obtained, or to carry or construct any street, square, market place, thoroughfare or public building through or upon any such property without such consent as aforesaid.

City Council may stop up any street.

Proviso: Notice of their intention must be given.

XLIX. And be it enacted, That it shall and may be lawful for the City Council of the said City in Council assembled, by a Legislative Act or By-law made according to the provisions of the Act of Incorporation of the said City, to stop up, alter or divert any public highway, street or lane, or to lay out any new street or highway, or to extend any street already laid out : Provided always, that before any such Act or By-law shall be passed, it shall be the duty of the said Council, by resolution, to direct a notice of their intention to stop, alter, or divert any such public highway, street or lane, or of their intention to lay out any new street, or to extend any street already laid out, to be given and to be published at least one calendar month, in not more than three nor less than two newspapers of the said City ; and also to hear in person, or by Counsel, or by Attorney, any person through whose land such highway, street or lane, or proposed highway, street or lane shall run, if he claims so to be heard before them at any time before the final passing of any such Act or By-law.

Action at law may be instituted in Q. B. to recover compensation, upon passing of any By-law to open any street, &c.

L. And be it enacted, That upon the passing of any Act or By-law of the said Council for the purpose of authorizing the opening of any street or other public thoroughfare, or of changing or diverting any street or public thoroughfare, or of extending the same so as to cause the same or any part thereof to go through or to be placed upon the land or other real property of any person or persons, it shall and may be lawful for the person or persons who shall own such property to institute a special action on the case at law in Her Majesty's Court of Queen's Bench for Upper Canada against the said City of Hamilton, to recover compensation, and such action shall be sustainable whether any entry shall be made under such Act or By-law or not, and if no such entry or use other than an entry for the purpose of survey shall be proved at the trial of any such action, the Judge who shall try the same shall certify the want of such proof upon the Record, and in such case it shall and may be lawful for the said Council at any time after such trial, and until three calendar months after the rendering judgment upon such verdict, to repeal such By-law, and to tender and pay to the Plaintiff in such action, or to the Plaintiff's Attorney, the taxed costs of the said Plaintiff in such action, and from and after such tender or payment the City of Hamilton shall be discharged from the damages which shall be assessed in such action ; and the land or other real property which shall be proposed to be taken by any such Act or By-law shall be and remain as if no such Act or By-law had been passed, and no entry or other use of such land or real property for the purposes of such Act or By-law shall be lawful after the assessment of such damages by the Jury until the amount of damages assessed, and the costs of the Plaintiff in such action shall have been levied by the Sheriff, or paid or discharged, or lawfully tendered to the Plaintiff or the Attorney of the Plaintiff in such action.

If tender be proved, costs to fall on the plaintiff.

LI. And be it enacted, That if a tender shall be pleaded, and if upon the trial of any such action it shall be proven to the satisfaction of the Jury, that a lawful tender shall have been made to the Plaintiff or to the Plaintiff's Attorney of a compensation, or

sum



sum equal to or greater than the amount of the damages assessed by such Jury, the said Jury shall find such tender by their verdict, and in case of such finding, the costs of the Defendant in such action incurred after such tender shall be borne by the Plaintiff, and the Plaintiff in such case shall receive no costs for any proceedings subsequent to such tender.

LII. And be it enacted, That the Jury in estimating the damages or compensation in any such action, shall take into consideration any benefit or advantage which shall or may be derived from the opening or diverting or extending any such street or other public thoroughfare, and deduct the same from the damages or compensation, and in case the said benefit to be derived from the said opening, diverting or extending such street or public thoroughfare shall be greater than the damages which shall be found to arise from the taking of such land or other real property, the verdict shall be for the defendant; Provided always, that it shall not be competent for the said Council to pass any Act or By-law for stopping up any original allowances for road within the said City.

In estimating damages, Jury to take into consideration advantage to be derived from opening of any new street.

Proviso.

LIII. And be it enacted, That in lieu of the payment of any part of the rates or assessments heretofore payable to the general funds of the Gore District, the Treasurer of the said City shall, some time in the month of January in each and every year, out of the monies in his hands of the said City, pay to the Treasurer of the Gore District, for the general uses of the said District, the yearly sum of two hundred pounds, the first payment thereof to begin and be made in the month of January, one thousand eight hundred and forty-eight; Provided always, that nothing in this Act shall be construed to prevent or excuse the said City from paying to the general funds of the Gore District all such sum and sums of money as are or hereafter may be collected within the said City for or on account of the assessment already imposed by the general assessment law of this Province, due and payable by the inhabitants of the said City, for the year one thousand eight hundred and forty-six.

Treasurer of City to pay annual sum to Treasurer of Gore District in lieu of rates heretofore payable to funds in that District.

Proviso.

LIV. And be it enacted, That the said Corporation may, within five years after it shall be ascertained by the annual census of the said City that the said City contains ten thousand inhabitants, build or cause to be built at the expense of the said Corporation, on some convenient site to be by them procured for that purpose, within the said City, a good, sufficient and secure Gaol and House of Correction, for the confinement and imprisonment of all offenders, who shall at any time after the completion of such Gaol and House of Correction be committed or adjudged to be imprisoned under any Order or Warrant of the Mayor or any Councillor, or the Police Magistrate of the said City, and from and immediately after the completion of such Gaol and House of Correction, no person adjudged to be imprisoned as aforesaid, shall be committed to the Gaol of the Gore District, except in cases of parties charged with offences which, from their nature require to be tried before a Superior Court; Provided always, that so soon as such Gaol and House of Correction shall be built and finished as aforesaid, the payment of the said sum of two hundred pounds to the Treasurer of the Gore District shall cease and determine.

Corporation after certain period may build gaol and house of correction.

Proviso.

LV. And be it enacted, That the better to enable the said Corporation to build such Gaol and House of Correction, it shall and may be lawful for them to borrow for a term not exceeding twelve years, a sufficient sum of money for that purpose not exceeding

For that purpose Corporation may borrow a sum not

five

exceeding  
£5,000.

five thousand pounds, from any person or persons or company willing to advance the same, at a rate of interest not exceeding that fixed by law.

Certain rates  
and assess-  
ments to be  
levied, &c.

LVI. And be it enacted, That for carrying the several purposes of this Act into execution, and for the securing, raising and paying any monies which shall or may be borrowed under the authority thereof, and the interest of such monies, there shall be made, assessed and levied under the authority of the City Council at yearly periods, not later than the first day of April in each year, a certain rate and assessment upon all and every person who shall inhabit, hold, use and occupy any house, shop, warehouse, manufactory, building, or piece or parcel of land being a separate tenement, situate, lying and being within the said City, according to the yearly value thereof, respectively, to be ascertained in manner hereinafter mentioned; and the time for which the first yearly rate or assessment under this Act shall be held to begin, shall be the first day of January, one thousand eight hundred and forty-seven, and shall end on the last day of that year, and the Assessor and Assessors of the said City, in addition to the duties devolving upon them by any Act of the Parliament of this Province, shall make a fair return of the Assessment Roll of their respective Wards to the said City Clerk on or before the first day of August in each year, who shall furnish to the Treasurer a true copy duly certified.

Annual value  
of houses,  
shops, &c.,  
to be settled  
according to  
real rack-rent:

LVII. And be it enacted, That except as respects vacant grounds or other property hereinafter specially mentioned and provided for, the annual value of all such houses, shops, warehouses, manufactories, buildings, gardens, grounds, lands, tenements, and parts and portions thereof, being separate tenements as aforesaid, so as to be rated and assessed as aforesaid, shall be settled according to the real rack-rent or full yearly value, which said rent or yearly value shall be ascertained by the said Assessor or Assessors once in each year; Provided always, that the said Assessor or Assessors shall in every instance, wherever they can truly ascertain the same, assess the said yearly value at the annual rent actually and *bonâ fide* charged or paid for such premises, and no more.

Proviso.

The said rates  
to be also le-  
vied upon  
owners of  
chattel prop-  
erty in this  
section men-  
tioned.  
Proviso.

LVIII. And be it enacted, That the rate or rates aforesaid shall also be raised, assessed and levied upon the owners or possessors of the following chattel property, that is to say: Stallions (kept for covering mares,) horses and horned cattle, as hereinafter mentioned, coaches, phaetons, curricles, gigs, wagons, sleighs, and other carriages kept for pleasure only, or for hire, according to the yearly value thereof, as ascertained as hereinafter mentioned; Provided always, that nothing in this Act contained shall extend or be construed to extend to any house, lands, property, goods or effects herein enumerated, which shall belong to or be in the sole and actual possession, control or occupation of Her Majesty, Her Heirs or Successors, and shall not be leased to individuals, nor to any churches, chapels, places of public Divine Worship, school-houses, (when not used as dwellings) or burying grounds.

Lots of land to  
be valued with  
houses thereon  
in certain  
cases.

LIX. And be it enacted, That every lot and parcel of ground whereon any house or other building, or houses or buildings to be valued as aforesaid, are situate and being held therewith as the same tenement, when such lot of ground is not above half an acre in extent, and to the amount of half an acre thereof, shall be assessed and valued with the house or building, houses or buildings thereon, and the overplus, if any, over half an acre, shall be valued as a separate tenement and vacant ground.

LX. And be it enacted, That the possessors or owners of all cultivated, vacant or unoccupied ground, farms, gardens and other lands not valued with any house or building as above mentioned, situate or partly situate within the said City, and also the said horses, cattle and carriages heretofore mentioned, shall not be rated in respect thereof as hereinbefore mentioned, but the same shall be valued according to the certain fixed rates, that is to say : lots or pieces of ground being separate tenements, as follows : Under half an acre, five pounds ; over half an acre and under an acre, ten pounds ; over an acre and under two acres, twenty pounds ; and every lot or piece of land as aforesaid of two acres and upwards, ten pounds for the first acre above the said two acres, five pounds for the second, and one pound ten shillings for every subsequent acre : Provided always, that town lots lying together and owned by the same person not having a separate or more than one dwelling house or store or other building for separate occupation or use, shall not be taken as separate lots, but shall be taxed by the quantity of land they collectively contain according to the above rate : every stallion, kept for covering mares, for hire or gain, at forty pounds of yearly value ; every other horse, mare or gelding, three pounds ; every head of cows, and other horned cattle, one pound ; on each of the following vehicles, kept for pleasure only, as follows : every close four wheeled carriage, fifty pounds of yearly value ; every phaeton or other open four wheeled carriage, thirty pounds ; every pleasure wagon or other carriage, buggy or gig, twelve pounds ten shillings : on each of the following vehicles kept for conveying passengers for hire or gain only : every four wheeled carriage, twelve pounds ; every two wheeled carriage, eight pounds ; for every two horse sleigh kept for pleasure only, at twenty-five pounds yearly value, and every one horse sleigh kept for pleasure only, at twelve pounds ten shillings of yearly value ; for every two horse sleigh kept for conveying passengers for hire or gain only, ten pounds of yearly value.

Rates to be levied on cultivated ground, farms, &c., horses, cattle and carriages, &c.

Proviso as to Town lots.

Values at which certain personal property shall be assessable.

LXI. And be it enacted, That it shall be the duty of the Assessors of the said City to make such valuation as aforesaid when required by the City Council, and to complete the same on or before the first day of August in each year ; and also to leave at the residence of every person so rated, whenever residing in the said City, a notice of the yearly rent or value of the property in respect whereof he, she, or they shall be so rated, and in case any person shall think himself or herself over-rated, in his or her assessment, it shall and may be lawful for such person at any time before the tenth day of August to give notice in writing to the City Clerk of the over charge complained of, and the same shall be examined into and tried by a Court of five members of the said Council, to be appointed by the Council for the purpose by ballot (of whom three shall be a *quorum*) at such time and place as the Council may direct, reasonable notice thereof being given to the party complaining and to the Assessor making the rate : and the Court, after hearing the complaining party, and his or her witnesses on oath, shall finally decide and determine upon such complaint, and affirm and amend the return of the Assessor accordingly : Provided always, that if the said complaining party shall neglect to appear at such meeting of the said Court, he or she having had reasonable notice thereof as aforesaid, the said Court shall proceed to make their final decision, without hearing such party ; and in case it shall appear to any two or more members of the said Court that the rent or yearly value has been in any case returned by the Assessor at too low a value, they shall cause the said Clerk to give to the person or persons rated as aforesaid, and to the Assessor who shall have made such rate, notice of the time of meeting of the Court aforesaid at which the same matter shall be heard, and the same shall be finally determined by the said Court in like manner as aforesaid,

Assessors to make valuation when required by City Council.

Persons aggrieved may appeal.

Proviso for cases where parties shall neglect to appear.

after

Proviso. after hearing the said parties and witnesses on oath, or in default of their appearance as aforesaid : Provided always, that the said Court shall have power to adjourn from time to time as they shall see fit.

Mayor or any of the Councillors may issue summonses for witnesses.

LXII. And be it enacted, That the Mayor or any one of the Councillors of the said City shall have full power and authority (if required) to issue a Summons for each witness whose evidence may be required by the said Court, and if any person shall neglect or refuse to obey such Summons, upon being tendered a reasonable remuneration for his services, not exceeding two shillings and six pence per day, he shall be liable to such fine, and in default of payment, such imprisonment as is authorized by this Act to be imposed for violating the By-laws of the said City Council.

Court may hear on memorial cases of persons assessed on houses vacant for more than four months.

LXIII. And be it enacted, That it shall be lawful for the said Court constituted as aforesaid to hear, on Memorial or Petition, the cases of such persons as during that year have been assessed for any house or part of a house which has been vacant for more than four calendar months, and also the cases of such persons who from sickness or extreme poverty shall be unable to pay any rate by this Act imposed, and on hearing such cases it shall and may be lawful for the said Court to compound for or remit the whole or any part of such rate or rates.

Penalty on persons granting receipt for a less sum than rent paid for premises referred to herein.

LXIV. And be it enacted, That every landlord, proprietor, factor or agent, who shall wilfully grant a certificate or receipt which contains a less sum than the rent really paid or payable for the premises therein mentioned or referred to, and every tenant who shall present to the Assessor aforesaid, or otherwise alter or publish such certificate or receipt in order to procure a lessening or abatement of such rate or assessment, shall be liable to such fine, and in default of payment, to such imprisonment as may be imposed by any By-law of the City Council to that effect.

Penalty on persons refusing to pay assessments.

LXV. And be it enacted, That if any person or persons rated or assessed as in manner herein directed shall refuse or neglect to pay the rates or assessment charged upon him, her or them, for the space of fourteen days next after such rates shall be due and demanded by the Treasurer of the City, it shall and may be lawful for the said Treasurer to apply to the Mayor, or, in his absence or illness, to the presiding Councillor, for a Warrant to the High Bailiff, or any Constable of the said City, to enter into the house or houses, other dwellings or premises of such person or persons, and to seize and take possession of his, her or their goods and effects, (whether in the Ward in which the assessed property is situated, or elsewhere in the said City,) which Warrant the said Mayor or Councillor is hereby authorized to grant upon a certificate signed by the Treasurer, and an affidavit sworn by the Constable making the demand, of such rate having been made and of such person or persons being in arrear to the amount stated in such certificate, and if such rate or assessment shall not be paid within five days next after such seizure, the City Council is hereby authorized to sell by public auction at such place as may be proper, such part of the said goods and effects as shall be sufficient to pay the said rates and assessments, with the costs and charges attending such seizure and sale, returning the overplus, if any there be, to the owner or owners : Provided always, that the costs and charges of any such seizure and sale shall not exceed those authorized by a certain Act of the Parliament of Upper Canada, passed in the first year of Her present Majesty's Reign, and intituled, *An Act to regulate the costs of levying distresses for small rents and penalties.*

Proviso.

Act of U. C. 1 Vict. c. 16.

LXVI. And be it enacted, That all proprietors, lessees and others, who shall let for rent premises within the said City for a space less than one year, shall themselves, as well as the occupiers of such premises, be liable and responsible for the rates and assessments aforesaid, and assessments and rates shall and may be recovered from the proprietors, lessees and others, or from the occupiers, as the City Treasurer shall judge convenient.

Proprietors letting premises for less than one year, to be liable as well as occupiers, for rates, &c.

LXVII. And be it enacted, That every tenant for a term of years, or of one year, or of any shorter period, commencing after the passing of this Act, who shall pay any rates, levies or assessments under the authority of this Act, shall, when such rate or assessment shall be paid and discharged, be at liberty to deduct the amount of such rate or assessment out of the rent due, or to fall due next after the payment of such rate or assessment, excepting always when there shall be any covenant, stipulation or agreement between the landlord and the tenant for the payments of rates or taxes by the tenant, or for the payment of the rent by such tenant without abatement for or on account of such rates or taxes.

Tenants in certain cases paying rates, &c., to deduct amount of rates out of rent due next after payment of rate.

LXVIII. And be it enacted, That in all cases where the person or persons who shall be rated, in respect of any vacant ground or other real property within the said City, shall not reside therein, and the rates and assessments payable in respect of such vacant ground or other property shall remain unpaid, the rates or assessments payable in respect of such property shall remain charged against the same, and shall be paid by any future occupier of the same, or by any proprietor thereof, who shall reside within the said City at any time after the said rates and assessments shall be due and in arrear, together with interest on the sum and sums so in arrear, from the time at which they shall respectively become payable, after the rate of six per centum per annum, and the said sum and sums so in arrear, with interest, shall be recovered in like manner as is hereinbefore provided for the recovery of other rates and assessments.

In cases where persons rated in respect of any property shall not reside thereon, rate to be paid by future occupier, &c.

LXIX. And be it enacted, That each male inhabitant of the said City, of the age of twenty-one years and upwards, and not above the age of sixty years, not otherwise rated under the authority of this Act, and who by the present laws would be liable to perform Statute Labour, shall be rated and assessed in the sum of two shillings and six pence yearly, which said sum, with a list of persons liable to pay it, shall be added to the City Assessment List by the Assessor, and collected by the Treasurer, for the general uses of the said City, in like manner as other rates are levied and raised under the authority of this Act.

Male inhabitants between 21 and 60 to be assessed in a certain sum annually instead of statute labour.

LXX. And be it enacted, That all and every the Rules, Orders, Regulations, and Acts of Authority for, touching or concerning the affairs of the Town of Hamilton, which may be in force at the time of the passing of this Act, shall continue, be and remain in full force and virtue until the same be rescinded, repealed or altered by the City Council of the City of Hamilton, or other competent legal authority, and all Officers of the Town of Hamilton, appointed by the present competent authorities of the said Town, shall continue to act in the same capacity as heretofore, and with the same remuneration for their services, until removed by the City Council, or re-appointed under the provisions of this Act.

Rules, &c., of Town of Hamilton to remain in force until repealed by City Council.

Present President and Board to remain in Office until City Council be appointed.

LXXI. And be it enacted, That until the first City Council of the City of Hamilton shall be constituted under the provisions of this Act, the President and Board of Police of the Town of Hamilton shall remain in office, and when the said City Council shall be constituted, they shall go out of office, and their whole duties and powers shall cease; but nothing in this Act shall prevent any member of the Board of Police of the said Town from being a Candidate at the first election for Councillors for the City of Hamilton.

President and Board to take means for holding first election of Councillors for City of Hamilton.

LXXII. And be it enacted, That the President and Board of Police in the Town of Hamilton, shall and they are hereby authorized and required to take the necessary means, by preparing and revising the Voters' Lists and otherwise, for holding the first election of Councillors for the City of Hamilton under this Act, and according to the spirit, intention and meaning thereof, which said election, the qualification and registry of persons voting thereat, the manner and time of holding the same, and all things therein concerning, shall be held, governed and done by and in accordance with the provisions of this Act, relative to the Annual Ward Elections, as near as may be; and for the purpose of making out the necessary Voters' Lists for the said first election, the Assessment Lists for the year one thousand eight hundred and forty-six shall be used, and all persons qualified under this Act, being entered on the said Lists, shall be voters in the various Wards respectively, at the said first election, and such first election so held, and all the proceedings growing thereout necessary to constitute the said City Council, and to give effect to its powers and proceedings, shall be valid to all intents and purposes. Provided always, that the yearly value of any property for the purpose of making such Voters' Lists shall be taken at ten per cent on the absolute assessed value thereof on the Assessment Lists for the said year one thousand eight hundred and forty-six; and the said Voters' Lists shall include the proprietors or tenants of property of the required value which under this Act shall be within the said City, although before the passing thereof it was without the limits thereof, and such proprietors or tenants shall vote at the first election of Councillors in the year one thousand eight hundred and forty seven.

Proviso as to the mode of determining the yearly value of property in the first instance, and as to voters on lands not heretofore in the City.

Certain Magistrates only may vote on applications for licenses within the City.

LXXIII. And be it enacted, That from and after the passing of this Act, at any Adjourned General Sessions held in the Gore District, for the purpose of receiving applications and granting certificates to Inn-keepers for license, only those Magistrates who may be resident inhabitants of the said City shall vote on any application for a license from an Inn-keeper whose house shall be situate within the said City.

Certain words explained.

LXXIV. And be it enacted, That whenever the word "Oath" is used in this Act, it shall be held to comprehend an affirmation if legally made, and the words "Presiding Councillor" to mean that Councillor who shall be named and appointed by the City Council to preside over the Council in the absence of the Mayor, and the word "Person" or "Persons" shall be taken to comprehend a body politic or corporate, as well as an individual; and every word importing the singular number shall, when necessary, be deemed to extend to several persons or things, and every word importing the masculine gender shall when necessary extend to a female as well as a male.

Council may receive License of Occupation from

LXXV. And be it enacted, That the said City Council shall have full power to take and receive a License of Occupation from Her Majesty, Her Heirs or Successors, or from the Gore District Municipal Council, or from any other person or persons or bodies

bodies corporate of any lands lying within the said City on such terms as may be agreed upon between the parties, and that it shall and may be lawful for the said City Council to purchase lands for the use of the said City either for use or ornament, and to make such terms with regard to the payment of the purchase money of the same as may be agreed upon between the parties, so that the aggregate amount of the purchase money of such purchase over and above that already contracted for, shall not exceed the sum of seven thousand five hundred pounds, and that the said City Council shall have full power to make such Rules and By-laws for the improving and taking care of all such lands as they may deem from time to time advisable, and to enforce the observance of such Rules and By-laws in the same manner as is hereinbefore authorized in other matters.

any party, of lands lying within the City.

LXXVI. And be it enacted, That the said City Council shall have full power to purchase over and above such land as is hereinbefore mentioned, a tract of land for the purpose of a Cemetery, and to lay out and improve the same, and to sell or lease such portions thereof as they may think proper, and to declare in the conveyance thereof to the purchasers or lessees, the terms on which such portions are to be held, and to make such By-laws for the improvement and protection of the said Cemetery as they may think necessary and proper, and to alter and amend the same, provided that the purchase money of such Cemetery shall not exceed three thousand five hundred pounds.

City may purchase land for Cemetery.

LXXVII. And be it enacted, That it shall be lawful for the said City Council to pay and satisfy all such debts and liabilities as are or have been already contracted by any former or the present President and Board of Police of the said Town, which may not have been legally contracted, but which notwithstanding should appear to be just and fair demands, and for that purpose the said City Council are hereby authorized to loan a sum not exceeding the sum of four thousand pounds, or to issue bonds under the seal of the said City to that extent, bearing legal interest of six per cent. per annum; and it shall also be lawful for the said City Council to borrow or loan a sum not exceeding five thousand pounds, to be applied by the said City Council towards the general improvement of the said City.

Council may pay liabilities of present Board of Police.

Further loan authorized.

LXXVIII. And be it enacted, That it shall and may be lawful for the said City Council to contract for and purchase in each Ward of the said City, one lot of land not exceeding one acre in quantity for the purpose of constructing thereon a Common School House and such other buildings connected therewith as they may think advisable; Provided that, in no case the cost of such piece of land, and the erection of such suitable building shall exceed the sum of one thousand pounds for each Ward, respectively.

Council may purchase lot of land for School house, &c.

Proviso.

LXXIX. And for the protection of persons acting in the execution of this Act, Be it enacted, That all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be laid and tried in the Gore District, and shall be commenced within six calendar months after the fact was committed, and not afterwards or otherwise; and notice in writing of such action, and of the cause thereof shall be given to the City Clerk, or his substitute two calendar months at least before the commencement of the action, and no Plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if after action brought a sufficient sum of money shall have been paid into Court, with costs, by or on behalf of the Defendant.

Limitation of Actions.



Property of Board of Police of Hamilton to vest in City Council.

LXXX. And be it enacted, That all the property, real and personal, in the possession of or belonging to the President and Board of Police of the Town of Hamilton, shall vest in and belong to the City Council of the City of Hamilton and their successors; and all sums of money which are due or are to be raised under the authority of the above cited Act, or which may be raised under the authority of this Act, shall be paid and applied by the said City Council.

Monies in possession or due to Board to be chargeable with debts contracted by the said Council, and with debts to be contracted by the City Council.

LXXXI. And be it enacted, That all the monies in the possession of the President and Board of Police of the Town of Hamilton, or which are due or are to be raised under the authority of the Act incorporating the said Town, or which may be raised under the authority of this Act, shall be charged and chargeable with the debts which have been legally contracted by the said President and Board of Police, and remain due and unpaid, and with the debts that may be contracted by the City Council of the City of Hamilton, but nothing in this Act shall prevent the said City Council from recovering any loans which have been legally heretofore made by the President and Board of Police of the Town of Hamilton.

Words "Town of Hamilton" in any Act, &c., to apply to City of Hamilton.

LXXXII. And be it enacted, That whenever in any Act of Parliament, Proclamation, Letters Patent, Record, Writ or other legal proceedings, Deed, Will, Instrument or Writing of any kind or description, the name of the Town of Hamilton is or shall be used with intention to apply it to the place heretofore called the Town of Hamilton as mentioned in this Act, or to any part of the Township of Barton, included by this Act within the said City, it shall, according to locality, be taken to have been meant and intended, and shall, to all intents and purposes whatever, apply to the said City of Hamilton, and shall be so understood and applied by all Courts, Judges and Justices, and by all persons concerned in any public act or duty.

Boundaries of the City under this Act to be those for the purposes of representation in the Assembly.

LXXXIII. And be it enacted, That the boundaries and limits of the said City of Hamilton, as hereinbefore ascertained and fixed, shall be those by which it shall hereafter be deemed to be bounded and limited for the purpose of electing the Representative thereof in the Legislative Assembly of this Province; any thing in any Act, Law or Proclamation to the contrary notwithstanding.

Right of the Crown, and others saved where not expressly affected.

LXXXIV. And be it enacted, That nothing herein contained shall affect or be construed to affect, in any manner or way whatsoever, the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any bodies politic, corporate or collegiate, such only excepted as are herein mentioned.

Public Act.

LXXXV. And be it enacted, That this Act shall be taken and held to be a public Act, and shall be judicially taken notice of by all Judges, Justices and others, without being specially pleaded.



## SCHEDULE.

## FORM OF COLLECTOR'S CERTIFICATE FOR PROCURING A DISTRESS WARRANT.

I \_\_\_\_\_ City Treasurer for the City of Hamilton,  
do hereby certify that the sum of \_\_\_\_\_ rated against  
\_\_\_\_\_ an inhabitant of the said City, in respect of rateable  
property in \_\_\_\_\_ Ward (or, not assessed in respect of  
rateable property in the said City) is now in arrear and unpaid.  
\_\_\_\_\_  
*Treasurer.*

## FORM OF ATTESTATION.

I \_\_\_\_\_ one of the Constables of the City of  
Hamilton, do swear that I did, on the \_\_\_\_\_ day of  
duly demand the above named taxes from the above named  
\_\_\_\_\_ by delivering a notice of such demand,  
according to law, at the place of abode of the said  
(or, by delivering a notice of such demand to him the said  
\_\_\_\_\_).

Sworn before me at the City of Hamilton, }  
this \_\_\_\_\_ day of } (Signed)  
18: \_\_\_\_\_

## FORM OF A WARRANT OF DISTRESS.

To \_\_\_\_\_ High Bailiff (or, one of the Constables  
of the City of Hamilton, *as the case may be*):  
You are hereby authorized and required to distrain the goods and chattels and effects  
of \_\_\_\_\_ which you will find upon the  
premises of the said \_\_\_\_\_ in the City,  
for the sum of \_\_\_\_\_ rated against him (or her)  
and now in arrear and in default of payment of such rate (or rates) and the lawful costs  
and expenses of the said Distress (or Distresses), and to sell and dispose of the said  
Distress (or Distresses) according to law, for the recovery of the said rate (or rates)  
together with the said costs and expenses according to law, and for your so doing this  
shall be your sufficient Warrant.

Given under my hand and seal at the City of Hamilton aforesaid,  
this \_\_\_\_\_ day of  
in the year of our Lord, one thousand eight hundred  
and \_\_\_\_\_

(Signed)

[L. S.]