

*Laws of His Majesty's Province of Upper Canada*, passed in the year 1834. York: Robert Stanton, 1834.

4 William IV — Chapter 25

**An Act to establish a Police in the Town of Cornwall, in the Eastern District. Passed 6th March, 1834.**

Whereas from the great increase of the population of the Town of Cornwall, in the Eastern District, it is necessary to make further provision than by law exists for the internal regulation thereof: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "*An Act to repeal certain parts of an Act passed in the fourteenth-year of His Majesty's Reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,*" and by the authority of the same, That there shall be in the said Town a Board of Police, to be composed and constituted in the manner hereinafter described, to be a Body Corporate and Politic in fact and in Law, by the name of the President and Board of Police of Cornwall, and by that name they and their successors may have perpetual succession, and be capable of suing and being sued, impleading and being impleaded, in all Courts, and in all actions, causes and complaints whatsoever; and may have a common Seal, and may alter the same at pleasure; and shall be in law capable of purchasing, holding and conveying, any Estate real or personal for the uses of the said Town.

II. And be it further enacted by the authority aforesaid, That the said Town of Cornwall shall be comprised within the limits or boundaries of ground heretofore reserved and set apart by Government as a Town Plot, together with the parcel or tract of ungranted land in front thereof, and the Harbour.

III. And be it further enacted by the authority aforesaid, That for the purpose of electing the Members of the said Corporation, the said Town shall be divided into two Wards in the following manner, that is to say: that part of the Town East of Pitt Street shall comprise the first Ward, and that part West of Pitt Street shall comprise the second Ward.

IV. And be it further enacted by the authority aforesaid, That each of the said Wards shall Elect annually two persons to be Members of the the said Corporation from among the Inhabitants of the said Town, who being Subjects of His Majesty shall be Freeholders therein, and assessed for the previous year at the rate of fifty pounds or upwards; or who being Householders shall each, within twelve months before any election, have paid fifteen pounds or upwards for one years Rent of the dwelling House in which they shall have resided; and that the persons entitled to vote at the said Election for either of the said Wards, shall be the male inhabitant Householders of the said Town resident within such

Ward, being Subjects of His Majesty rated on the Assessment roll of the Town and possessed of a Freehold estate within the same Ward in which they shall so vote, or Tenants who having been so Assessed shall have paid within one year next before the Election one years Rent for the dwelling House, or dwelling Houses, if they shall within one year have changed their place of residence, within the said Ward in which they shall have resided, at the rate of six pounds per annum, or upwards.

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

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

VII. And be it further enacted by the authority aforesaid, That before any person shall proceed to hold an election under this Act he shall take the following oath, which any Justice of the Peace for the Eastern District shall have authority to administer, that is to say:—

“I solemnly swear that I will faithfully and impartially, to the best of my ability, discharge the duty of Presiding Officer at the Election which I am about to hold for a Member of the Board of Police in the Town of Cornwall—so help me God.”

VIII. And be it further enacted by the authority aforesaid, That the Officer presiding at any election under this Act shall have authority, and he is hereby required at the request of any person qualified to vote at such election, to examine on oath, or affirmation, (when the party is allowed to affirm) any Candidate for the office of Member of the said Corporation respecting his qualification to be elected to the said office; and shall also have authority, and is hereby required upon such request as aforesaid, to examine on oath, or affirmation, (when the party is allowed to affirm) any person tendering his vote at any election

respecting his right to vote; and that the oath to be administered for either of the said purposes shall and may be in the form following:—

“You shall true answer make to all such questions as the officer presiding at this election shall put to you respecting your qualification to be elected at this election, or respecting your qualification to vote at this election, (as the case may be) so help you God.”

And the affirmation to be taken shall be according to the common form of an affirmation to the same effect.

IX. And be it further enacted by the authority aforesaid, That if any person, being examined upon oath or affirmation under this Act in regard to his qualification to vote or to be elected, shall wilfully forswear himself, he shall be deemed guilty of wilful and corrupt perjury, and on conviction thereof shall suffer as in other cases of wilful and corrupt perjury.

X. And be it further enacted by the authority aforesaid, That the person presiding at any such election shall give public notice, immediately upon declaring the result of the election, of the time and place at which the Members of the Corporation so chosen are first to meet, which meeting shall be within ten days after the election, and at such time and place within the said Town as the Sheriff of the District shall appoint; and that at such meeting a fifth Member of the said Corporation shall be appointed by the concurrent voice of any three Members chosen, which person shall possess the same qualifications as the Act provides with respect to the other Members to be chosen; and in case they cannot agree in the election or appointment of such fifth Member they shall issue a Precept to the said Sheriff after the first election, and to the Deputy Sheriff or one of the Bailiffs, so to be appointed as aforesaid, after every subsequent election, requiring him to appoint some proper time and place within the said Town, giving forthwith eight days notice thereof, and then and there proceed to the election of such fifth Member of the Corporation by the Electors of the Town generally; at which election the said Sheriff of the Eastern District shall preside after the first election of Members, and the said Bailiff, so to be appointed as aforesaid, to whom the said precept shall be directed after every subsequent election; and the Sheriff, his Deputy or Bailiff, (as the case may be) shall declare the Member elected who shall have the greatest number of votes of the persons present qualified to vote, and shall give notice thereof to the person so elected within six days after such election.

XI. And be it further enacted by the authority aforesaid, That if the election of any Member of the Board of Police aforesaid shall be complained of, either on the ground of want of qualification in the person returned, or on the ground that such person had not a majority of legal votes at such election, it shall be the duty of the Sheriff after the first elections to take place under this Act, upon receiving within forty-eight hours after the termination of the election a written requisition signed by any three Inhabitants of the Town having a right to vote at such elections, to appoint a time and place within the Town or Ward for which the election was held for entering upon a Scrutiny into the matters complained of, and that such time shall be within six days after the election, and the Sheriff shall have power to summon

Witnesses and to take evidence on oath respecting the matters to be inquired into, and shall determine upon the validity of the election or return as shall appear to him to be right according to the evidence; and in case the election shall be declared void but it shall not appear proper to the Sheriff for any cause to amend the return by substituting the name of any other person as entitled to have been returned at such election, then he shall, after giving eight days notice thereof, hold a new election of a Member to serve according to this Act; and that if after any election to be holden after the Board of Police under this Act shall have been completely organized a requisition signed as aforesaid shall, within forty-eight hours after the termination of such election, be served upon the President or any other Member of the Corporation, it shall be lawful for the said Corporation and they are hereby required to appoint a time for entering upon a Scrutiny of the matters complained of at any place within the said Town, which time shall be within six days after the election; and the Corporation, or such Member or Members thereof as shall not be individually concerned in the questions to be determined, shall have power to Summon Witnesses and to take evidence on oath respecting the matters to be inquired into, and shall determine upon the validity of the election or return as shall appear to be right according to the evidence; and in case an election shall be declared void but it shall not appear proper for any cause to amend the return by substituting the name of any other person as entitled to have been returned at such election, then the Corporation shall issue their precept for a new election as in other cases under this Act.

XII. And be it further enacted by the authority aforesaid, That before the Sheriff or any Member of the said Corporation shall enter upon any such trial or scrutiny as aforesaid he shall take an oath in the following form, before some one of the Justices of the Peace for the Eastern District, that is to say:—

“I do solemnly swear that I will truly and impartially, to the best of my knowledge, try and determine the merits of the complaint against the election of A.B.—so help me God.”

XIII. And be it further enacted by the authority aforesaid, That any Witness who being duly summoned to attend upon such trial or scrutiny shall wilfully neglect or refuse to attend, shall on conviction before any one of His Majesty's Justices of the Peace for the Eastern District, having been duly summoned to answer such complaint, be liable to be imprisoned, on the commitment of such Justice, in the Common Gaol of the District for a time not exceeding one month; and if any Witness shall upon any trial or scrutiny wilfully and corruptly swear falsely, he shall be guilty of wilful and corrupt perjury.

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

XV. And be it further enacted by the authority aforesaid, That if either of the Members elected or appointed as aforesaid, after notice thereof, shall neglect or refuse for ten days to take the oath of office hereinafter contained, whinch any of the said Members so to be elected or appointed as aforesaid is hereby authorised to administer to the others, he shall for such neglect or refusal forfeit the sum of Ten Pounds, to be recovered with costs by information before any Justice of the Peace, who is authorised to proceed in the same manner as hereinafter is provided for the recovery of any penalty for the transgression of any order or regulation of the said Corporation: Provided, that no person having been elected a Member of the said Corporation during his absence from the said Town, or who at the time of the election shall openly give notice to the officer presiding that he will not accept the office, shall be subject to the penalty hereinbefore stated for his refusal to act as a Member of the said Corporation.

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

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

XVIII. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said Corporation from time to time to establish such Ordinances, By-Laws and Regulations as they may think reasonable in the said Town; to regulate and license victualing houses, and ordinaries where fruit, victuals and liquors, not distilled, shall be sold to be

eaten or drunk in such houses or groceries; to regulate wharves and quays; to regulate the weighing of hay and measuring of wood; to regulate carts and carmen; to regulate slaughterhouses; to prevent the firing of any guns, pistols, squibs and fireballs, or injuring or destroying trees growing or planted for shade or ornament in the said Town; to prevent the pulling down or defacing of sign-boards, or inscribing or drawing any indecent words, figures or pictures, on any building, wall or fence, or other public place, and generally to prevent vice and preserve good order in the said Town; to enter into and examine all dwelling-houses, warehouses, shops, yards, and out-houses, to ascertain whether such places are in a dangerous state with respect to fires, and to direct them to be put in a safe and secure condition; to appoint fire wardens and fire Engineers; to appoint and remove Firemen; to make such rules and by-laws as may be thought expedient for the conduct of such Fire Companies as may be raised with the sanction of the said Corporation; to compel any person to aid in the extinguishment of any fire; to require the Inhabitants to provide and keep fire-buckets and scuttles, and ladders to their houses; to stop, or authorise any other person to stop, any one riding or driving immoderately in any street, or riding or driving on any sidewalk, or to inflict fines for any such offence; to regulate the assize of bread; to prevent and abate and remove any nuisances; to prevent and restrain any horses, cattle or swine, from running at large; to prevent and remove encroachments in any streets; and to make such rules and regulations for the improvement of good order and government of the said Town as the said Corporation may deem expedient, not repugnant to the Laws of this Province, except in so far as the same may be virtually repealed by virtue of this Act, and to enforce the due observance thereof by inflicting penalties on any person for the violation of any by-law or ordinance of the said Corporation, not exceeding the sum of one pound ten shillings; and to fix upon and appoint such days and hours for the purpose of selling Butchers meat, butter, eggs, poultry, fish and vegetables, and to make such other orders and regulations relative thereto as they shall deem expedient.

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

XX. And be it further enacted by the authority aforesaid, That if any person shall refuse to pay the sum or rate for which he or she stands rated in manner aforesaid, for the space of ten days after demand duly made of the same by the Collector, to be appointed by the said

Corporation for that purpose, the said Collector shall and he is hereby required to levy the same by distress and sale of the goods and chattels of the person so neglecting or refusing to pay, after having obtained a warrant for that purpose from some one of His Majesty's Justices of the Peace, who is hereby authorised to grant the same upon information made on oath before him of the neglect or refusal to pay the said Assessment, and to render the overplus, if any there shall be over and above the said rate to the owner thereof, after deducting the legal charges of the distress and sale.

XXI. And be it further enacted by the authority aforesaid, That it shall and may be lawful, to and for the said Corporation of the said Town to borrow, upon the security of the Assessments to be raised under the authority of this Act, of and from any person or persons, body politic or corporate, willing to lend the same, the sum of One Thousand Pounds, upon such terms and conditions as it shall deem proper, and to repay the same at such time and place as it shall think expedient, for the purpose of building a Market-house, and purchasing one or more Fire Engine or Engines, and for such other purposes for the benefit of the said Town as may be deemed necessary.

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

XXIII. And be it further enacted by the authority aforesaid, That any rule or regulation of the said Corporation, for the infraction of which any penalty is inflicted, before it shall have any effect, shall be published in one or more of the Newspapers of the said Town, or on the Courthouse and three of the most public places within the said Town, in the event of there being no Newspaper therein, or the proprietor thereof refusing to publish the same; and that in like manner shall be published in each and every year, before the annual election, an account of all monies received, and in the Treasury, and the amount expended, and for what purpose.

XXIV. And be it further enacted by the authority aforesaid, That if any person shall transgress the orders or regulations made by the said Corporation under the authority of this Act, such person shall, for every such offence, forfeit the sum which in every such order, rule or regulation shall be specified, with costs, to be recovered by information before the said Corporation, to be levied of the goods and chattels of such offender, and in default of such goods and chattels, the offender shall be liable to be committed to the common Gaol of the District, for a time not exceeding one month, in the discretion of the said Corporation, before whom such offender shall have been convicted, and that no person shall be deemed an incompetent Witness upon any information under this Act, by reason of his being an Inhabitant of the said Town of Cornwall: Provided always, that the information and

complaint for a breach of any orders or regulations of the said Corporation shall be made within fifteen days of the time of the offence committed.

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

XXVI. And be it further enacted by the authority aforesaid, That the said Corporation shall and may, in the said Town of Cornwall, perform all the functions and exercise all the authority now by law given to Justices of the Peace acting within their Divisions, with respect to making of amending any street, or highway or road within the said Town.

XXVII. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said Corporation to fix upon a site for a Market in the said Town, and to enter into and make such arrangements or agreements in behalf of the said Town for the purchase of such site, or for procuring the same from Government, as shall to them or a majority of them appear just and reasonable, and the said Corporation shall give at least six weeks notice in some Newspaper published in the said Town of Cornwall, (or on the Court-house and three most public places within the said Town, in the event of there being no Newspaper therein, or the proprietor thereof refusing to publish the same,) of the site intended for such Market, and if any objection, in writing, to such site shall within the said period of six weeks be presented or declared to the said Corporation, or any Member thereof, signed by twelve persons entitled to vote within the said Town, a public meeting of the Inhabitants shall be called, and a time and place for such meeting shall be fixed by the said Corporation, who shall give at least six days notice thereof, and a majority of the persons present at such meeting, entitled to vote under this Act, shall decide whether such proposed site shall be confirmed or not, and the Sheriff of the said District shall preside at such meeting, and conduct the proceedings thereof, and that when the site for the said Market shall be established, it shall then and in such case be the Marketplace of said Town, any thing herein contained to the contrary in any wise notwithstanding.

XXVIII. And be it further enacted by the authority aforesaid, That the said Corporation, when such site shall have been obtained and confirmed, shall have full power and authority to establish a Market thereon, for the sale of such commodities as may be deemed necessary, and shall also have power to make and establish such Rules, By-laws and Regulations, for the good order and government of the said Market, and the buildings, avenues, passages and appurtenances thereto belonging, as may to them appear necessary: Provided always, nevertheless, that such Rules, By-laws and Regulations shall have no force or effect whatever, until the same shall be examined and approved of by the General Quarter Session of the Peace, in and for the said District, and signed in testimony thereof by the Chairman of the said Court.



XXIX. And be it further enacted by the authority aforesaid, That in case an equality of votes should happen at any election for the Members of the said Corporation, it shall and may be lawful for the person presiding at the said election to give a casting vote, and he shall not be required to be possessed of the qualifications necessary to enable him to vote at the said Elections for the said Town, and that except in case of the votes being equal, it shall not be lawful for the person presiding at any election under this Act to vote at such election.

Form of Oath.

“I, A.B. do swear, that I will faithfully discharge the duty of a Member of ‘The Board of Police of the Town of Cornwall,’ to the best of my skill and knowledge.”

XXX. And be it further enacted by the authority aforesaid, That it shall be the duty of the Sheriff of the Eastern District to preside at all elections under the authority of this Act, so long as he shall reside within the limits of the said Town of Cornwall, any thing in this Act to the contrary in anywise notwithstanding.

XXXI. And be it further enacted by the authority aforesaid, That if any action or suit shall be brought against any person or persons, for any thing done in pursuance of this Act, such action or suit shall be brought within six calendar months next after the fact committed, and not afterwards, and the Defendant or Defendants in such action or suit, may plead the general issue only, and give this Act and the special matter in evidence on the trial.

XXXII. And be it further enacted by the authority aforesaid, That a certain Act passed in the fifty-ninth year of the reign of His Majesty, King George the Third, entitled “*An Act to empower the Commissioners of the Peace for the Eastern District in their Court of General Quarter Sessions assembled, to establish and regulate the time for holding a Market in the Town of Cornwall, in the said District be, and the same is hereby repealed.*”