

Laws of His Majesty's Province of Upper Canada, passed in the year 1837. York: Robert Stanton, 1837.

7 William IV – Chapter 42

An Act to establish a Police in the Town of Cobourg, and to define the limits of the said Town. Passed 4th March, 1837.

Whereas from the great increase of Population of the Town of Cobourg, in the Newcastle 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, which shall be, and is hereby declared to be a Body Corporate and Politic, in fact and in law, by the name of "The President and Board of Police of Cobourg," and by that name they and their successors may have perpetual succession, and be capable of suing and being sued, pleading 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 Cobourg shall be comprised within the following limits or boundaries, that is to say, commencing on the Lake Shore, at the South East Angle of Lot number Fourteen, in Concession B; thence North, sixteen degrees West, to the centre of the First Concession; thence South, seventy-four degrees West, to the centre of Lot number Twenty-one, in said Concession; thence South, sixteen degrees East, to the Lake Shore; thence along the Water's edge, to the place of beginning.

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 three Wards, in the following manner, that is to say: That part of the Town of Cobourg south of King Street, shall compose the South Ward; all that part of the Town, East of the Centre of the Street between Lots number Sixteen and Seventeen, and North of King Street, shall compose the East Ward; and all that part of the Town, West of the Centre of the Street between Lots number Sixteen and Seventeen, and North of King Street, shall compose the West Ward.

IV. And be it further enacted by the authority aforesaid, That the East and West Wards shall each elect, annually, two Persons, and the South Ward one Person, annually, to be Members of the said Corporation, from among the Inhabitants of the said Town, who, being subjects of His Majesty, shall be Freeholders therein to the assessed value of Sixty Pounds; and that the persons entitled to

vote at the Election of either of the said Wards, shall be subjects of His Majesty, and male inhabitant Householders, resident within such Ward, who shall severally be possessed for their own use and benefit, of a Dwelling-house and Lot of Ground within the Ward in which they shall so vote, such Dwelling-house being by them held in Freehold, or who at the time of such Election shall bona fide have paid, within one year next before the Election, one year's 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 Ten 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 June next, at some place within each Ward respectively, to be appointed by the Sheriff of the District of Newcastle, who shall give public Notice thereof, at least Six Days before the said Election, and who shall preside at the said Election for one of the said Wards, and the Deputy Sheriff and High Constable, or some other person authorised by the said Sheriff, shall preside at the first Election of the other Wards, and shall declare the persons in such other Wards, who shall have the greatest number of votes, to be duly elected Members of the said Corporation, and shall give notice thereof to the persons so elected in the said Wards, as Members of the said Corporation, 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 of June in the next year, and until a new Board shall be chosen and formed as hereinafter mentioned; and that on the first Monday of June, in each year, an Election shall be holden for each Ward in the said Town, for a Member of the said Corporation, before the Bailiff of such Ward, who shall be appointed from time to time by the said Corporation, and who shall appoint the place for holding the said Election, and shall give Notice thereof, and proceed in all respects as the Sheriff is 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 District of Newcastle is hereby authorised to administer. "I do 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 of the Town of Cobourg. 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 aforesaid, to examine upon 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 following form: "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 that the affirmation to be taken shall be in 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 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 Election, to appoint a time and place within the Town or Ward for which the Election was held, for entering into a scrutiny of 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 an 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 for a Member to serve according to this Act; and that if after any Election to be holden after a 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 enquired 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.

XI. And be it further enacted by the authority aforesaid, That before the Sheriff or any Member of the 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 District of Newcastle, that is to say, "I do solemnly swear that I will truly and impartially, to the best of my judgment, try and determine the merits of the complaint against the Election of A. B. So help me God."

XII. 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 upon such Trial or Scrutiny, shall, upon conviction before any one of His Majesty's Justices of the Peace for the District of Newcastle, 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.

XIII. 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 are first to meet, which Meeting shall be within six days after the Election, and at some place within the said Town.

XIV. And be it further enacted by the authority aforesaid, That the said five Members elected as aforesaid, shall, within ten days after their election, 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 June in the ensuing year, and until the election and formation of the new Board.

XV. And be it further enacted by the authority aforesaid, That if either of the Members elected as aforesaid, after notice thereof, shall neglect or refuse for ten days to take the Oath of Office hereinafter contained, which any of the said Members so to be elected, 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 without his knowledge or consent, 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 it shall at any time happen that a vacancy occurs 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, to hold an Election for such Ward of said Town, giving notice of the time and place of holding the said Election, and the Member so elected shall hold his Office until the next Annual Election, or until another is chosen in his place.

XVII. And be it further enacted by the authority aforesaid, That in case it shall at any time happen, that an Election of Members of the said Corporation shall not be made, on any day when pursuant to this Act it ought to have been made, the said Corporation shall not, for that cause, be deemed to be dissolved, but it shall and may be lawful, on any other day, to hold and make an Election 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, for the said Town, as they may think reasonable, to regulate Victualling Houses and Ordinaries, where Fruit and Victuals shall be sold; to regulate the Weighing of Hay; Measuring of Wood; to regulate Carts and Carmen; to regulate Slaughter Houses; to prevent the Firing of any Guns, Muskets, Pistols, Squibs, and Fire Balls; or injuring or destroying Trees, planted or growing for Shade or Ornament in the said Town; to prevent the pulling down or defacing of any Sign-Boards; or inscribing or drawing any Indecent Words or Figures, or Pictures, on any Building, Wall, Fence, or other Public Place; and generally, to prevent vice, and preserve good order in the said Town; to enter into and examine all Dwelling-Houses, Ware-Houses, Shops, Yards, and Out-Houses, to ascertain whether any such places are in a dangerous state with respect to Fires, and to direct them to be put in a safe and secure condition; to appoint Fire Wardens, and Fire Engineers; to appoint and remove 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 Side-walk, and to inflict Fines for any such offence; to regulate the Assize of Bread; to prevent, and abate, and remove any Nuisances; to restrain and prevent any Horses, Cattle or Swine, from running at large; to prevent and remove encroachments in any Streets; and to make such Rules and Regulations for the improvement, order, and good government of the said Town, as the said Corporation may deem expedient, the same not being repugnant to the Laws of this Province, except in so far as the same may be virtually repealed by this Act; and to enforce the due observance thereof, by inflicting penalties on any person for the violation of any By-Law or Ordinance of the said Corporation, not exceeding One Pound Ten Shillings; and to fix upon and to 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 any Rule or Regulation of the said Corporation, for the infraction of which any penalty is inflicted, before it shall have any effect, shall be published in one or more of the Newspapers of the said Town; and that in like manner shall be published, in each and every year, before the Annual Election, an account of all Monies received and in the Treasury, and the amount expended, and for what purpose.

XX. And be it further enacted by the authority aforesaid, That for the purpose of raising a Fund to provide for purchasing any Real Estate for the use of the said Town; to procure Fire Engines, Aqueducts, and a supply of pure and wholesome Water; for Lighting, Paving, Flagging, and repairing the Streets; and for all other purposes deemed expedient and necessary by the said Corporation, for the welfare and improvement of the said Town, it shall and may be lawful for the said Corporation to lay an Assessment, annually, upon the persons rated or liable to be rated upon any Assessment for Property in the said Town, not exceeding Three Pence in the Pound, exclusive of the sum such persons may be rated for upon any other Assessment of this Province; and it shall be the duty of the Clerk of the Peace of the said District, to select from a General Assessment of

the Township of Hamilton, a List or Assessment of the Ratable 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.

XXI. And be it further enacted by the authority aforesaid, That every Town Lot in the said Town of Cobourg shall be rated upon the Assessment Roll at Twenty-five Pounds, and that every Lot or portion of a Lot on which a House shall be built, shall be deemed and taken to be a Town Lot.

XXII. 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 as aforesaid, for the space of Ten Days after demand duly made of the same by the Collector, to be appointed by the 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 authorized 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.

XXIII. And be it further enacted by the authority aforesaid, That the said Corporation may from time to time appoint, and at their discretion remove and reappoint, a Surveyor of Streets for the said Town, a Clerk and three 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.

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 be 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 Cobourg: Provided always, that the information and complaint for the breach of any Orders or Regulations of the said Corporation, shall be made within Fifteen Days of the time when the offence was 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 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 Cobourg, perform all the functions and exercise the authority, now by law given to the Board of Police, in other Police Towns within this Province, with respect to making or amending any Street or Highway, or Road, within the said Town: Provided always, that it shall not be lawful for the said Board of Police, to lay out, open or establish, any new Street which might interfere with the powers conferred upon the Cobourg Harbor Company, by the third clause of an Act passed in the tenth year of the reign of His late Majesty George the Fourth, entitled "*An Act to improve the Navigation of Lake Ontario, by authorizing the construction of a Harbor at Cobourg, by a Joint Stock Company.*"

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, as to them or a majority of them appear just and reasonable; and the said Corporation shall give at least Six Weeks' Notice in the Newspapers, published in the said Town of Cobourg, of the site intended for such Market, and if any objection in writing to such site shall, within the 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 President of such Corporation shall preside at such Meeting, and conduct the proceedings thereof; and that when the site for the said Market shall be confirmed, or in case of its being rejected, then when any other site which may be afterwards proposed shall be agreed to, or if objected to in like manner, shall be confirmed, such site shall be the Market Place of the said Town, any thing herein contained to the contrary in any wise notwithstanding.

XXVIII. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the said Corporation to borrow the sum of One Thousand Pounds, of or from any person or persons, body politic or corporate, willing to lend the same, for the purpose of building a Market House, and for purchasing one or more Fire Engine or Fire Engines, as may be deemed necessary, and to provide some fit and proper place where the same may be kept.

XXIX. And be it further enacted by the authority aforesaid, That the Corporation shall set apart so much of the Assessments as are authorised by this Act, to be raised for the use of the said Town, as will be sufficient to pay the yearly Interest of the said sum of One Thousand Pounds, and to liquidate the principal in a term not longer than Ten Years from and after the time such Loan shall have been made.

XXX. And be it further enacted by the authority aforesaid, That in case an equality of Votes shall happen at any Election for Members of the said Corporation, in any of the said Wards, it shall and may be lawful for the person presiding at the said Election to give a casting Vote, and he shall not be required to be possessed of the qualifications necessary to enable him to vote at the said Election for the said Wards respectively.

Form of Oath.

I, A. B., do swear, that I will faithfully discharge the duties of a Member of the Police of the Town of Cobourg, to the best of my skill and knowledge—So help me God.