

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

7 William IV – Chapter 44

An Act to Incorporate the Villages of Hallowell and Picton, by the name of the Town of Picton, and establish a Police therein. Passed 4th March, 1837.

Whereas from the great increase of Population of the Villages of Hallowell and Picton, in the District of Prince Edward, it is necessary for the better internal regulation thereof, that the two Villages be Incorporated together, and that further provision be made therefor than by law now exists: 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 the said Villages of Hallowell and Picton be Incorporated in one Town, under the name of the Town of Picton; and that there be in the said Town of Picton a Board of Police, to be composed and constituted in the manner hereinafter described, which shall be and is hereby declared a Body Corporate and Politic, in fact and in law, by the name of the "President and Board of Police of Picton," and that 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 shall be, in law, capable of purchasing, holding, and conveying any Estate, real or personal, for the uses of the said Town; and may have a Common Seal, and may alter the same at pleasure.

II. And be it further enacted by the authority aforesaid, That the said Town of Picton shall be comprised within the following limits or boundaries, that is to say: commencing on the side line on the South side of Lot letter A, fifty chains from the front; thence at a right angle, across Lot letter A and Lot number One, in the First Concession, North of the Carrying-place, in the Township of Hallowell; thence in a Southeasterly direction, along the side line between said Lot number One and Lot number Two, twenty-five chains; thence at a right angle, across said Lot number Two, number Three, and number Four; thence on the side line, between said Lot number Four and Lot number Five, to the Water's edge; thence across the Bay to the line between Lots number Seventeen and Eighteen, in the Concession South-east of the Carrying-place; thence along the Water's edge to the limits between Lots number Nineteen and Twenty, in the said Concession; thence along the line between the said Lots number Nineteen and Twenty, fifty-five chains; thence at right angles, across Lots number Twenty, Twenty-one, and Twenty-two, in the last mentioned Concession; thence along the line of the South-west side of said Lot number Twenty-two, to the front of the Lot; thence along the line on the East side of Lot number Twenty-four, in the Third Concession of the Military Tract, in a Southerly direction, twenty-five chains; thence, at a right angle, across the said Lot number Twenty-four and Lots numbered Twenty-three and

Twenty-two; thence along the Westerly side of said Lot number Twenty-two to Lot letter A, including the Harbour in the above-mentioned boundaries.

III. And be it further enacted by the authority aforesaid, That all the persons entitled to vote for Members of the said Corporation shall be subjects of His Majesty, and shall be male inhabitant householders or leaseholders of a shop or other tenement within the said Town, who shall severally be possessed, for their own use and benefit, of a Dwelling-house, Shop, Store, or other tenement therein, such Dwelling-house, Shop, Store, or other tenement being by them held in Freehold or Leasehold, or who, being subjects of His Majesty, and male inhabitants of the said Town at the time of such Election, shall bona fide, for one year next before the Election, have paid one year's Rent on a Dwelling-house, Shop, Store, or other tenement, at the rate of Ten Pounds per annum or upwards: Provided always, that if they shall within the year have changed their place of residence within the said Town, or occupied a different Shop, Store, or other tenement, they shall not thereby be disqualified from voting.

IV. And be it further enacted by the authority aforesaid, That no person shall be qualified or eligible to be elected a Member of the said Board of Police, unless he be a subject of His Majesty, and shall have been a resident Freeholder in the said Town of Picton to the assessed value of Sixty Pounds or upwards, for the space of one year previous to the said Election: Provided always, that no person shall be capable of serving as a Member of the said Board who shall be a Minister, Priest, Ecclesiastic, or Teacher under any form or profession of Religious faith or worship.

V. And be it further enacted by the authority aforesaid, That for the purpose of electing the Members of the said Corporation, the said Town of Picton shall be divided into three Wards, in the following manner, that is to say: all that part of the said Town of Picton situated West of Elizabeth Street, shall be and compose the First Ward; and that part of the Town lying East of the said Elizabeth Street and North of the Bay, shall be and compose the Second Ward; and all that part of said Town lying on the South side of the Bay, shall be and compose the Third Ward; and that each of the said Wards shall elect, annually, one Member.

VI. And be it further enacted by the authority aforesaid, That the first Election of Members of the said Corporation, under this Act, shall be holden on the first Monday in June next, at some place within each Ward respectively, to be appointed by the Sheriff of the District for the time being, who shall give public Notice thereof at least Six Days previous to the Election; and that the said Sheriff shall appoint a fit and proper person to preside at the first Election for each of the said Wards, which persons so appointed shall hold the said Election for each Ward respectively, and shall declare the person in each Ward, who shall have the greatest number of votes, duly elected Members of the said Corporation, and shall give Notice thereof to the persons so elected, within Six Days after such Election.

VII. 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 March in the next year, and until a new Board shall be chosen and formed, as hereinafter mentiond; and that on the first Monday in March, in every year, an Election shall be holden in each Ward of the said Town of Picton, for

choosing Members of said Corporation, before the Bailiff of such Ward, who shall be appointed, from time to time, by the Corporation, and who shall appoint the place of holding the said Election, and shall give notice thereof, and proceed in all respects according to the general provisions of this Act.

VIII. 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 Prince Edward may administer:—

“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 Picton—So help me God.”

IX. 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, where the party is allowed to affirm,) which Oath or Affirmation the said Officer presiding at such Election is hereby authorised to administer to 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, where such party is allowed to affirm,) any person tendering his vote at any Election, respecting his right to vote at such Election; and that the Oath or Affirmation to be administered for either of the said purposes, shall and may be in the following form:—“You shall well and truly answer 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 in the common form of an Affirmation to the same effect.

X. And be it further enacted by the authority aforesaid, That if any person being examined on Oath or Affirmation, under this Act, touching his qualification to vote, or 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.

XI. And be it further enacted by the authority aforesaid, That if the Election of any Member of the Board of Police aforesaid, 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 person appointed by the Sheriff of the District to preside at the Election for the Ward in which such person or persons, against whose return such complaint shall have been made, may have been elected after the first Election, to take place after the passing of this Act, upon receiving, within forty-eight hours after the termination of the Election, a written requisition signed by three inhabitants of the Town, having a right to vote at such Election, to appoint a time and place within the Town 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 that such person, so appointed as aforesaid, shall have power to summon Witnesses,

and take evidence, under oath, respecting the matters to be enquired 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 for any cause, to amend the Return by substituting the name of any 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 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 said 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 question to be determined, shall have power to summon Witnesses, and 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, and it shall not appear proper, for any cause, to amend the Return or substitute 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 person Presiding at such Election, 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 District of Prince Edward, 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. as a Member of the Board of Police of the Town of Picton—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, shall, upon conviction before any one of His Majesty's Justices of the Peace for the District of Prince Edward, having been 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 or she shall be deemed guilty of wilful and corrupt Perjury.

XIV. And be it further enacted by the authority aforesaid, That the three Members elected as aforesaid, shall, within ten days after their election or appointment 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 March 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, shall neglect or refuse, after ten days notice thereof, to take the Oath of Office hereinafter contained, which any of the said Members, so to be elected or appointed, 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 for the District of Prince Edward, who is hereby authorised to proceed in the same manner as is hereinafter 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 said Corporation during his absence from said Town, or who, at the time of the Election, shall openly give notice to the Presiding Officer 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 remaining Members shall, under their hands, within ten days after notice of such vacancy, appoint a person duly qualified, according to the provisions of this Act, to fill such vacancy; and in case the said remaining Members cannot agree on such appointment, then, and in such case, the Corporation shall issue a Precept to the Bailiff to hold such Election, giving notice of the time and place of holding each Election; and the Member so appointed or elected, shall hold his Office until the next Annual Elections; and in case any such vacancy shall happen amongst 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 otherwise, then the Precept from the remaining Members shall be issued to either of the persons appointed by the Sheriff of the said District, as hereinbefore 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 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 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 Victualling-houses and Ordinaries, where fruit and victuals shall be sold; to regulate Wharves and Quays; to regulate the weighing of Hay and 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 growing for shade or ornament in said Town; to prevent the pulling down or defacing of sign-boards, or inserting 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 said Town; to enter into and examine all Dwelling-houses, Warehouses, Shops, Yards, and Outhouses, to ascertain whether any such places are 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 on any side walk, or riding or driving immoderately in any street, or to inflict fines for any such offence; to prevent and abate and remove any Nuisance; to prevent or license the public exhibition of any Shew-men or Mountebanks; to regulate the weight of Bread; to restrain or prevent any Cattle, Horses or Swine, from running at large; to prevent and remove encroachments in any Street; and to make such Rules and Regulations for the improvement, good order, and government of the said Town, as the said Corporation may deem expedient, not repugnant to the Laws of this Province, except in so far as the same may be virtually repealed by this Act; and to enforce the due observance thereof, by inflicting penalties on any person for the violation of any By-laws or Ordinances of the said Corporation, not exceeding One Pound Ten Shillings, Currency; and to fix upon and appoint such days and hours for the purpose of selling Butcher's Meat, Butter, Eggs, Poultry, Fish and Vegetables; and to make such other orders and regulations relative thereto as they may deem expedient.

XIX. And be it further enacted by the authority aforesaid, That for the purpose of raising a fund to provide for the procuring of Fire Engines, Aqueducts, and a supply of pure and wholesom Water, for lighting, paving and 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 on any Assessment for Property in said Town, not exceeding Two Pence in the Pound, exclusive of the sum such person may be rated for in and upon any other Assessment of this Province; and it shall be the duty of the Clerk of the Peace of said District, to select from a General Assessment of the Township of Hallowell, 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.

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 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, an Assessor or Assessors, a Bailiff or Bailiffs, a Collector, a Treasurer, and so many and such other Officers as they may require, and assign the duty and services to be performed by each, with such salaries or allowances as to them may seem meet, and may take such reasonable

Security for the due performance of the duties assigned to any Officer or Servant, as they shall think proper.

XXII. And be it further enacted by the authority aforesaid, That any Rule or Regulation of said Corporation, for the infraction of which any penalty is inflicted, before it shall have effect, shall be published in one or more of the Newspapers published within the District, and shall be affixed in four public places in said Town of Picton; and that in like manner shall be published, in each and every year, before the Annual Election, an Account of all Monies received into the Treasury, and the amount expended, and for what purpose.

XXIII. 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 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 term not exceeding Thirty Days, 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 a resident of said town: Provided always, that the Information and Complaint for any breach of any Order or Regulation of the said Corporation, shall be made within Fifteen Days after the time of the offence committed.

XXIV. 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, for the public uses of the said Town.

XXV. And be it further enacted by the authority aforesaid, That the said Corporation shall and may, in the said Town of Picton, perform all the duties of, and exercise the authority now by law given to Justices of the Peace and Township Commissioners, with respect to making or amending any street, highway, or road within the said Town.

XXVI. And be it further enacted by the authority aforesaid, That in case an equality of Votes shall 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 that, except in cases of the Votes being equal, it shall not be lawful for the person presiding at any Election under this Act, to Vote at any such Election.

XXVII. 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 matter or 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 Actions or Suits may plead the General Issue only, and give this Act and the special matter in evidence on the trial.

XXVIII. And be it further enacted by the authority aforesaid, That it shall not be lawful, after the passing of this Act, to alter the width of any Street already laid out in the said Town of Picton, or in the protraction of any Street or Streets, to vary from the width already established in those parts of any such Street or Streets, which shall have been already laid out: Provided always, that every new Street shall be laid out under the direction of the said Board of Police, and shall in no case be less than forty feet in width.

XXIX. And be it further enacted by the authority aforesaid, That the said Corporation shall hold their Sittings in the Court House of the said District of Prince Edward, in the said Town of Picton; and the Sheriff and Gaoler of the said District shall be bound, and they are hereby authorised and required to receive and safely keep, until duly discharged, all persons lawfully committed thereto by the said Corporation, or under the authority thereof.

XXX. And be it further enacted by the authority aforesaid, That each Lot, piece or parcel of Land, in the said Town of Picton, held by Lease or otherwise, on which a Dwelling-house or Shop has been erected, shall be taken and considered to be a Town Lot, and be rated at the valuation of twenty-five pounds.

Form of Oath:

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