

Laws of His Majesty's Province of Upper Canada, passed in the year 1838. York: Robert Stanton, 1838.

7 William IV – Chapter 115

An Act to authorise the erection of certain Townships, and other territory heretofore forming part of the Newcastle District, into a new District, by the name of the District of Colborne, with Peterborough for the District Town. Royal Assent Promulgated by Proclamation 20th April, 1838.

Whereas from the great extent of the District of Newcastle, the great distance of some parts of it from the District Town, and divers other causes, it is desirable and expedient that certain Townships at present forming a part of the said District, with the unsurveyed lands in rear of the same, should be erected into a separate and distinct District: 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 Townships of Belmont, Methuen [Havelock-Belmont-Methuen], Burleigh [Burleigh Falls], Douro-Dummer, Asphodel, Otanabee, Douro, Smith, Ennismore, Harvey, Verulam [Verulam Park], Emily, Ops, Fenelon [Fenelon Falls], Mariposa, Eldon, Bexley, Somerville [Kawartha Lakes], and the seven rear Concessions of Monaghan, together with the unsurveyed lands in rear thereof, and the Islands lying wholly or in greater part opposite thereto shall, after the issuing the Proclamation as hereinafter provided, compose the said new District, under the name of the District of Colborne, and that the town of Peterborough shall be the District Town thereof.

II. And be it further enacted by the authority aforesaid, That so soon as the several Townships, and other territory hereinbefore mentioned, shall have been formed into and declared a separate and distinct District, by Proclamation as hereinbefore provided, all the Townships and territory comprised within the limits of the said intended District shall form and be called the County of Peterborough, in the District of Colborne.

III. And be it further enacted by the authority aforesaid, That so soon as it shall have been ascertained that a good and sufficient Gaol and Court House have been erected therein, for the security of Prisoners, and for the accommodation of such Courts as shall or may be held within the said new District, it shall and may be lawful to and for the Governor, Lieutenant Governor, or Person Administering the Government for the time being, by and with the advice and consent of His Majesty's Executive Council in this Province, to declare by Proclamation the aforesaid Townships of Belmont, Methuen [Havelock-Belmont-Methuen], Burleigh [Burleigh Falls], Douro-Dummer, Asphodel, Otanabee, Douro, Smith, Ennismore, Harvey, Verulam [Verulam Park], Emily, Ops, Fenelon [Fenelon Falls], Mariposa, Eldon, Bexley, Somerville [Kawartha Lakes], and the seven rear Concessions of Monaghan, together with the unsurveyed lands in rear thereof, and the

Islands lying wholly or in greater part opposite thereto, to be a separate and distinct District, by the name of the District of Colborne: Provided nevertheless, that nothing in this Act contained shall affect or be construed to affect the jurisdiction of His Majesty's Court of King's Bench in this Province, or to affect the jurisdiction of the Courts of General Quarter Sessions of the Peace, or District Court, within the District of Newcastle: Provided also, that if at the time the said Townships before-mentioned shall be set off into a separate District, any action shall have been commenced or be pending for any cause of action arising therein, or any indictment of an indictable offence that may have been committed within the said Townships so to be set off as aforesaid, the said action or indictment shall and may be tried at the next Assizes, or other Court in which the same may be pending, to be held in and for the District of Newcastle, unless all the parties shall agree that the same shall not be tried in that District: Provided always, that such Gaol and Court-house shall be erected at or near the Town of Peterborough, on the ground set apart or reserved by His Majesty for that purpose.

IV. And be it further enacted by the authority aforesaid, That the Courts of Oyer and Terminer and General Gaol Delivery, of Assize and Nisi Prius, the Courts of General Quarter Sessions of the Peace, District Court, Surrogate Court, Court of Requests, and every other Court and jurisdiction, with all District Offices whatsoever, held or to be holden, possessed and enjoyed, in and by the other Districts of this Province at the time of such Proclamation as aforesaid, shall from thenceforth, with the like powers and authority, be held and enjoyed in and by the said District to be thereby declared and named by virtue of this Act; and that all and every jurisdiction, regulation, rule, privilege, exemption, matter or thing, which shall or may have been enacted, provided and declared, by any Act or Acts of the Parliament of this Province made or to be made, touching or concerning the said other Districts, and which shall be in force and operation at the time of such Proclamation as aforesaid, shall be and are hereby extended from thenceforth to that District to be thereby declared and named as aforesaid, unless otherwise provided for by this Act, or some other Act or Acts of the Parliament of this Province.

V. And be it further enacted by the authority aforesaid, That all and every the provisions, rules and regulations, matters and things, contained in any Act or Acts of the Parliament of this Province, for the regulation of or relating to Gaols, which shall be in force and operation at the time of declaring and naming such new District as aforesaid, shall be and are hereby from thenceforth extended to the said Gaol and Court House; and that the aforesaid Courts of Oyer and Terminer and General Gaol Delivery, Assize and Nisi Prius, General Quarter Sessions of the Peace, Surrogate and every other of the aforesaid Courts, required to be held at a place certain, shall be commenced, and from time to time holden at the aforesaid Court House, or such other Court House as may hereafter be erected for that purpose by virtue of any Act or Acts of the Parliament of this Province.

VI. And be it further enacted by the authority aforesaid, That from and after the time when the aforesaid Townships, and the unsurveyed lands and Islands appertaining thereto, shall be declared a separate District, the Court of General Quarter Sessions of the Peace, and Sittings of the District Court of the said District, shall be respectively commenced and held at the place hereinbefore appointed for that purpose, on the second Tuesday in the months of January and April, and the

fourth Tuesday in the months of July and October, in each and every year; and that the Terms of the said District Court shall respectively commence on the Monday of the week next but one preceding the week in which the Court of Quarter Sessions, and Sitting of the said District Court, are hereby appointed to be held, and such Terms shall respectively end on the following Saturday.

VII. And be it further enacted by the authority aforesaid, That His Majesty's Justices of the Peace, and all other persons holding any Commission, Office, or bearing lawful authority, and who shall be residing within the said Townships, or lands and Islands before-mentioned, at the time the same shall be declared and named a separate District, shall continue to hold and enjoy, and exercise the like commission, office, authority, power and jurisdiction, within that District, in the same manner that they previously held, enjoyed and exercised the same within the District of Newcastle: Provided, that the authority, power and jurisdiction, previously exercised by His Majesty's Justices of the Peace, and other persons bearing commission or office, or lawful authority within, or residing within the Townships or lands forming the new District, shall not in any wise be longer exercised or continued within the District of Newcastle, but that the same within that District shall from thenceforth cease and determine: Provided, that after declaring such new District as aforesaid, His Majesty's Justices of the Peace and others, who thenceforward shall continue to hold commission or office, or bear lawful authority within the District of Newcastle, shall cease to hold such commission or office, or to exercise such lawful authority within the said new District, to be declared and named as aforesaid; and that no jurisdiction, power or authority, of whatever nature or kind soever, to the said District of Newcastle, at the time of the formation of such new District as aforesaid, belonging or appertaining, shall longer extend or be construed to extend to the said new District.

VIII. And be it further enacted by the authority aforesaid, That the ordinary rates and assessments levied within the limits of the territory comprising the intended new District, for the current year when the said territory shall be declared a separate District by virtue of this Act, and all future assessments and rates to be levied therein shall be applied and expended for the like purposes within such new District, as they at that time might be expended under and by virtue of any Act or Acts of the Parliament of this Province, in the District of Newcastle, except in so far as the same may be varied by this Act.

IX. And whereas, it is necessary to make provision for the establishment and support of Schools within the intended new District, when the same shall have been declared a separate District: Be it therefore further enacted by the authority aforesaid, That from and after the erection of the Townships hereinbefore mentioned, and the lands and Islands appertaining to the same, into a separate District, by virtue of this Act, there be granted annually to His Majesty, His Heirs and Successors, from and out of the monies now raised, levied and collected, or hereafter to be raised, levied and collected, to and for the uses of this Province, and unappropriated, the sum of one hundred pounds, which said sum of one hundred pounds shall be appropriated, applied and disposed of, in paying the salary of the Teacher of the Public District School, which may hereafter be erected in the said District.

X. And be it further enacted by the authority aforesaid, That the said District School shall be opened and kept in the Town of Peterborough, in the said new District, at such place as the Trustees of the said District School, or a majority of them, may appoint.

XI. And be it further enacted by the authority aforesaid, That the said District School shall be established in like manner, and under the same rules and regulations, and restrictions in every particular, as shall be mentioned and provided in the several Acts of the Parliament of this Province, for the regulation of similar Schools in the other Districts of this Province, in force and operation at the time such School shall be established.

XII. And be it further enacted by the authority aforesaid. That after the erection of the said new District as aforesaid, there be granted annually to His Majesty, His Heirs and Successors, out of the monies now raised, levied and collected, or hereafter to be raised, levied and collected, to and for the uses of this Province, and unappropriated, the sum of two hundred and fifty pounds, which sum of two hundred and fifty pounds shall be appropriated, applied and disposed of in the establishment of Common Schools in the said District, in manner and under the same rules, regulations, provisions and restrictions, in every particular mentioned, specified and contained, in the several Acts of Parliament of this Province, for the regulation and support of similar Schools in the other Districts of this Province, which shall be in force and operation at the time such Schools shall be established: Provided, nevertheless, that nothing herein-contained shall be construed or taken to destroy or abridge the right of such new District to participate in the monies appropriated to the use of Common Schools in this Province, by a certain Act of Parliament of this Province, passed in the fourth year of His late Majesty's reign, entitled, "An Act to make permanent and extend the provisions of the Laws now in force for the establishment and regulation of Common Schools throughout the Province, and for granting to His Majesty a further sum of money to promote and encourage education within the same," in addition to the abovementioned sum of two hundred and fifty pounds.

XIII. And be it further enacted by the authority aforesaid, That the monies hereinbefore granted to His Majesty shall be paid by the Receiver General of this Province, in discharge of such Warrant or Warrants as shall for the purposes aforesaid be from time to time issued by the Governor, Lieutenant Governor, or Person Administering the Government of this Province; and the said Receiver General shall account for the same to His Majesty, through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors, may be graciously pleased to direct.

XIV. And be it further enacted by the authority aforesaid, That the said Justices of the Peace within the limits of the said intended new District, shall be authorised, and they are hereby authorised, at a public meeting to be by them holden for that purpose, at some convenient place in the Town of Peterborough, so soon after the passing of this Act as may be convenient, to issue a public notice, signed by two or more of the said Justices, fixing upon the time and place of such meeting, the same having been for three weeks published in some newspaper printed within the said District of Newcastle, previous to such meeting, to procure by such means as to the said Justices shall seem fitting and proper, different plans and elevations of a Gaol and Court House, to be laid before

them, for the purpose of selecting and determining upon one by the said Justices, then and there assembled as aforesaid.

XV. And be it further enacted by the authority aforesaid, That at the said meeting to be held as aforesaid, the Justices may nominate and appoint a Chairman, Treasurer and Clerk, and also three other persons, who, together with the said Chairman and Treasurer, shall compose a Building Committee, who shall be authorised, and they are hereby authorised and empowered, to contract for and superintend the erection and completion of the said Gaol and Court House, under the control of the said Justices, and in the name and on the behalf of the inhabitants of the said intended District, to contract with any person or persons who shall desire to erect and finish the same, according to the plan approved of as aforesaid, upon the site or situation fixed upon by this Act; and for that purpose the plan, elevation and specification, of the said Gaol and Court House, shall continue and remain in the Office of the said Clerk for general inspection; and public notice shall be given to all persons desirous to contract for the building the said Gaol and Court House, to deliver in within a certain limited time, proposals in writing, under seal, of the sum of money for which he or they will engage to build and complete the same, conformably to certain articles and conditions to be agreed upon by the said Committee, or a majority of them; and that the said Committee shall, on a day previously to be fixed for that purpose, examine the said proposals so given in as aforesaid, and if they shall approve thereof, the said Committee shall be empowered, and they are hereby required, to contract with such person or persons as shall offer to undertake and build the said Gaol and Court House for the lowest price: Provided, the said person or persons making the said proposals, shall give and enter into good and sufficient security, to be approved of by the said Justices at someone of their meetings, as is hereinafter provided, for the due performance of his or their contract.

XVI. And be it further enacted by the authority aforesaid, That the said Justices so assembled as aforesaid, shall have the like power and authority within the said intended new District, as the Justices of the Peace in other Districts of this Province, in General Quarter Sessions assembled, have by law, so far as relates to building Gaols and Court Houses in their respective Districts, and no further, unless expressly provided for by this Act; and that they be authorised to adjourn the said meeting, from time to time, and assemble again as often as the business relating to the building of the said Gaol and Court House shall seem to require; that the said Building Committee be under their control and direction, and that the Clerk record all the resolutions, rules and orders, of the said meetings in a book to be kept for that purpose; and if any vacancies shall occur of Chairman, Treasurer, Clerk, or other appointments of the said Committee, before the said new District is declared and named a separate District, either by death, resignation or removal, the said Justices shall be authorised to supply the vacancy so often as it may occur by other appointments.

XVII. And whereas, it is just and expedient that until the said contemplated District shall be declared a separate District, the territory comprising the same should bear and contribute a just proportion of the ordinary expenses of the District: Be it therefore further enacted by the authority aforesaid, That from and out of the rates and assessments raised, levied and collected, within the territory comprising the said new District of Colborne, or which may hereafter be levied and collected within the same, it shall and may be lawful for the Treasurer of the District of

Newcastle, annually to retain for the purposes aforesaid, such a sum as the majority of the Magistrates, in General Quarter Sessions assembled, in the month of April next, shall ascertain and determine to be the just and equitable proportion of such expenses, to be borne and paid by the said new intended District; and it shall be the duty of the Treasurer of the District of Newcastle, after deducting such sum, to pay over to the Treasurer, to be appointed as hereinbefore directed, the balance of all rates and assessments raised, levied and collected, or which may hereafter be raised, levied and collected, in the said territory, and shall be applicable to the general benefit of the said intended District, and maybe applied by His Majesty's Justices of the Peace, residing within the said District, towards the erecting and building a Gaol and Court House therein; and the said Treasurer of the District of Newcastle shall take receipts for the same, as the money shall be paid over, which receipts shall be allowed by the Justices of the District in their settlement with him.

XVIII. And be it further enacted by the authority aforesaid, That the said Building Committee shall and may apply the said monies so received by the Treasurer, to be appointed as aforesaid, from the Treasurer of the District of Newcastle, from time to time, towards the payment of any contract that they may make with any person or persons whatever, for the building of the said Gaol and Court House, in conformity to the intentions of this Act.

XIX. And be it further enacted by the authority aforesaid, That the said Committee shall keep faithful and correct accounts of all monies expended by them in the erection of the said Gaol and Court House, and shall exhibit a detailed statement, both in debtor and creditor, to the Justices of said District, at their first General Quarter Sessions of the Peace to be holden therein, after the same shall have been declared a separate District.

XX. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Magistrates of the said new District, so assembled as aforesaid, and they are hereby empowered by an order of such meeting, to authorise and direct the Treasurer, to be appointed as aforesaid, to raise, by loan, from such person or persons, bodies politic or corporate, who may be willing to lend, the same on the credit of the rates and assessments to be raised, levied and collected, in the said intended District, a sum not exceeding six thousand pounds, to be applied in defraying the expenses of building the said Court House and Gaol.

XXI. Provided always, and be it further enacted by the authority aforesaid, That the money so borrowed, under the authority of this Act, shall not bear a greater interest than six per cent per annum; and that the Treasurer of the said intended District for the time being, shall annually, until the loan so raised, with the interest accruing thereon, shall be paid and discharged, apply towards the payment of the same a sum not less than two hundred pounds, together with the lawful interest on the whole sum which may from time to time remain due, from and out of the rates and assessments so coming into his hands for the use of the said intended District.

XXII. And be it further enacted by the authority aforesaid, That no Treasurer hereafter to be appointed, either by the said meeting or by the Magistrates of the said intended District, shall be entitled or authorised to receive any poundage or per centage upon any sum or sums of money

which shall or may be loaned under the authority of this Act, or which may come into his or their hands, or for paying out any sum or sums of money in discharging and liquidating such loan, with the interest thereon, as aforesaid.

XXIII. And whereas, it is expedient that a tax should be levied on the property of the inhabitants of the intended new District, for the purpose of defraying the expense of erecting a Court House and Gaol in the said District: Be it therefore further enacted by the authority aforesaid, That the Magistrates of and residing within the limits of the same, shall have power, and they are hereby authorised, at a meeting to be convened for that purpose, to resolve, that an increased tax, not exceeding one penny in the pound over and above the ordinary assessment on all ratable property within the said territory, shall be levied and collected for a term of time not exceeding four years, which resolution shall be adopted by a majority of at least two-thirds of the Magistrates of and residing within the said intended District; and a copy of such resolution shall be transmitted to the Clerk of the Peace of the District of Newcastle, signed by the Chairman of said meeting.

XXIV. And be it further enacted by the authority aforesaid, That it shall be the duty of the Clerk of the Peace for the District of Newcastle to add to the assessment list for the several Townships of the intended new District, the increased tax, according to the resolution furnished him by the Chairman of the said meeting.

XXV. And be it further enacted by the authority aforesaid, That it shall be the duty of the Collectors of the several Townships of which the new District is to be formed, and they are hereby required, to collect the monies authorised to be raised by this Act, and to pay the same over to the Treasurer of the Newcastle District, in the same way and manner as the ordinary assessments of the District have been heretofore paid.

XXVI. And be it further enacted by the authority aforesaid, That the Magistrates of and residing within the limits of the intended new District, shall expend the monies levied and collected, as hereinbefore directed, in defraying the expenses of building the said Gaol and Court House, for the use of the contemplated new District of Colborne.

XXVII. And be it further enacted by the authority aforesaid, That no per centage be allowed to the Treasurer of the District of Newcastle, nor to any Assessor or Collector for the monies raised and collected under the provisions of this Act.

XXVIII. And be it further enacted by the authority aforesaid, That the Courts of Assize and Nisi Prius, of Oyer and Terminer and General Gaol Delivery, shall not be held in said District, until an increase be made to the number of the Judges of His Majesty's Court of King's Bench in this Province, nor until provision has been made by law for securing the payment by the said District of Colborne, of a just proportion of the debt contracted on the credit of the Newcastle District, for building the Gaol and Court House within that District.