

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

7 William IV – Chapter 116

An Act erecting certain parts of the Counties of Halton and Simcoe into a new District, by the name of the District of Wellington. Royal Assent promulgated by Proclamation, 20th April, 1838.

Whereas from the increase of the population of the County of Halton, in the Gore District, and the great distance from the District Town, it is expedient to provide under certain conditions for erecting part of the said County of Halton, in the Gore District, and part of the County of Simcoe, in the Home District, into a separate District, with the Town of Guelph for the District Town: And whereas the Townships of Proton [Proton Station], Luther [Luther Marsh], Melancthon and Amaranth, from the County of Simcoe, and Garafraxa [East Garafraxa Township], Erin, Eramosa, Guelph, Nichol, Waterloo, Wilmot, Woolwich, and reserved lands west of Woolwich and Nichol, the triangular piece of land adjoining the said tract in the proposed District of Huron, part of the late purchase from the Indians from Gore, and part of Indian lands do form the said new District, to be named the District of Wellington: 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 so soon as the Governor, Lieutenant Governor, or Person Administering the Government of this Province, for the time being, shall be satisfied that a good and sufficient Gaol and Court-house has been erected in the Town of Guelph aforesaid, 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 for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, for the time being, by and with the advice and consent of His Majesty's Executive Council, to declare by Proclamation the aforesaid Townships in the Counties of Halton and Simcoe, and other territory aforementioned, a separate and distinct District, by the name of the District of Wellington: 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 Court of General Quarter Sessions of the Peace or District Courts within the Home and Gore Districts: Provided also, that if at the time the said Townships in the Counties of Halton and Simcoe, and other territory aforementioned, 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 any indictable offence that has been committed within the said Counties, or either of them, 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 Home or Gore Districts, unless all the parties shall agree that the same be not tried in the aforementioned Districts: Provided always, that such Gaol and Court House shall be erected in the Town of Guelph.

II. 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 Court of General Quarter Sessions of the Peace, District Court, Surrogate Court, Courts of Request, 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 any other Act or Acts of the Parliament of this Province.

III. 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 shall hereafter be erected for that purpose by virtue of any Act or Acts of the Parliament of this Province.

IV. And be it further enacted by the authority aforesaid, That from and after the declaring and naming the said new District as aforesaid, the Court of General Quarter Sessions of the Peace, and sittings of the District Courts 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 sittings of the said District Court, are hereby appointed to be held, and such Terms shall respectively end on the following Saturday.

V. And be it further enacted by the authority aforesaid, That His Majesty's Justices of the Peace, and other persons holding any Commission or Office, or bearing lawful authority, and who shall be residing within the said Counties of Halton and Simcoe, at the time the Townships hereinbefore mentioned in the said Counties shall be declared and named a separate District as aforesaid, shall continue to hold, 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, within the Home and Gore Districts: 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 said Townships, forming or

hereafter to form such new District, shall not in any wise be longer exercised or continued within the Home and Gore Districts, but that the same within those Districts shall from thenceforth cease and determine: Provided, that after naming and declaring such new District as aforesaid, His Majesty's Justices of the Peace, and others, who thenceforward continue to hold Commission or Office, or bear lawful authority, within the Home and Gore Districts, 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 Home and Gore Districts, at the time of the formation of such new District as aforesaid, belongings or appertaining, shall longer extend, or be construed to extend, to the said new District.

VI. And be it further enacted by the authority aforesaid, That the ordinary assessments and rates levied within the Townships forming the new District as aforesaid, in the Counties of Halton and Simcoe, for the current year at the time the same shall be declared and named 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 applied and expended under and by virtue of any Act or Acts of the Parliament of this Province, in the Home and Gore Districts, except in so far as the same may be varied by this Act.

VII. And whereas, it is expedient to make provision for the establishment and support of Schools within the said intended District: Be it therefore further enacted by the authority aforesaid, That from and after the erection of the aforesaid Townships, or parts of the Counties of Halton and Simcoe, 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 be hereafter erected in the said District.

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

IX. 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.

X. And be it further enacted by the authority aforesaid, That from and after the erection of the Townships hereinbefore mentioned into a separate District, there shall 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 use of this Province, and unappropriated, the sum of two hundred and fifty pounds, which said 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 the 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 this Province, and for granting to His Majesty a further sum of money to promote and encourage education within the same," in addition to the above-mentioned sum of two hundred and fifty pounds.

XI. Provided always, 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 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, shall be graciously pleased to direct.

XII. And be it further enacted by the authority aforesaid, That the said Justices of the Peace within the parts of the said Counties aforementioned, 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 Guelph, so soon after the passing of this Act as may be convenient, a notice signed by two or more of the said Justices, fixing upon the time and place of such meeting, having been three weeks published in some newspaper or newspapers within the Home and Gore Districts, previous to such meeting, to procure by such means as to the said Justices, or the greater part of them present at the said meeting, 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.

XIII. And be it further enacted by the authority aforesaid, That at the said meeting 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 controul 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 of 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 for that purpose previously to be fixed, openly 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: Prodded, 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 some one of their meetings, as is hereinafter provided for the due performance of his or their contracts.

XIV. 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 Townships, in the Counties of Halton and Simcoe, by this Act to form the said 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 in this Act; and that they be authorised to adjourn the said meeting from time to time, and assemble again so 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 controul and direction, and that the Clerk record all the resolutions, roles and orders, of the said meeting in a book to be kept by him for that purpose; and if any vacancies shall occur of Chairman, Treasurer, Clerk or other appointments of the said Committee, before the parts of said Counties are 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.

XV. And whereas, it is just and expedient, that until the said parts of the said Counties of Halton and Simcoe be declared a separate District, the same shall 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, in the said parts of the Counties of Halton and Simcoe, it shall and maybe lawful for the Treasurers of the Home and Gore Districts annually to retain for the purposes aforesaid, such a sum or sums of money 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 parts of the said Counties of Halton and Simcoe, intended by this Act to form the new District; and it shall be the duty of the said Treasurers of the Home and Gore Districts, 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 imposed, raised, levied and collected, in the said parts of the Counties of Halton and Simcoe, and shall be applicable to the general benefit of said intended District; and may be applied by His Majesty's Justices of the Peace residing within the parts of the said Counties, towards the erecting and building a Gaol and Court House, in the Town of Guelph; and the said Treasurers of the Home and Gore Districts shall take receipts for the same as the money shall be paid over by them, which receipts shall be allowed by the Justices of the Home and Gore Districts, in their settlement with them.

XVI. 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 Treasurers of the Home and Gore Districts, from time to time, towards the payment of any contract that they may make with any person or persons whatsoever, for the building of the said Gaol and Court House, in conformity to the intentions of this Act.

XVII. 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 take vouchers for the same from the contractor or contractors, and also shall keep an account of all monies which may, from time to time, come into their hands, applicable or available for the building said Gaol and Court House; and that they shall exhibit a detailed statement, both in debtor and creditor, to the Justices of said intended District, at their first General Quarter Sessions of the Peace to be holden therein, after the same shall have been declared and named a separate District.

XVIII. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Magistrates within the Townships forming the said Counties of Halton and Simcoe, forming the said intended new District, so assembled as aforesaid, and they are hereby empowered by an order of such meeting, to authorise and direct the Treasurer, so 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.

XIX. Provided always, and be it further enacted by the authority afore-said, 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 and fifty 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.

XX. 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.

XXI. And whereas, the inhabitants of the said Townships of the Counties of Halton and Simcoe, forming the said intended new District, are willing that a tax be levied on the property of the said inhabitants for the purpose of defraying the expenses of erecting a Court House and Gaol in the Town of Guelph aforesaid: Be it therefore further enacted by the authority aforesaid, That the

Magistrates of and residing within the afore-mentioned Townships of the said Counties, shall have power, and they are hereby authorised, at a meeting 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 limits of the said intended District, 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 aforementioned Townships of the said Counties; and copies of such resolution shall be transmitted to the Clerk of the Peace of the Home and Gore Districts, signed by the Chairman of said meeting.

XXII. And be it further enacted by the authority aforesaid, That it shall be the duty of the Clerks of the Peace of the Home and Gore Districts, to add to the assessment list for the several Townships mentioned in this Act, the increased tax, according to the resolution furnished him by the Chairman of the said meeting.

XXIII. And be it further enacted by the authority aforesaid, That it shall be the duty of the Collectors of the several Townships within the parts of the Counties of Halton and Simcoe hereinbefore mentioned, and included within the intended District of Wellington, and they are hereby required, to collect the monies authorised to be raised by the authority of this Act, and shall pay the same over to the Treasurer of the Home and Gore Districts, in the same way and manner as the ordinary assessments of the Districts have been heretofore paid.

XXIV. And be it further enacted by the authority aforesaid, That the Magistrates of and residing within the parts of the said Counties intended to form the new District of Wellington, shall expend the money raised by the authority of this Act, towards defraying the expenses of building a Gaol and Court House, for the use of the same, as provided for by this Act.

XXV. And be it further enacted by the authority aforesaid, That no per centage be allowed to the Treasurers of the Home and Gore Districts, nor to any Assessor or Collector, for the monies raised and collected by the provisions of this Act.

XXVI. And be it further enacted by the authority aforesaid, That it shall and maybe lawful for the Magistrates of the District of Gore, in General Quarter Sessions assembled, on the third day of the next General Quarter Sessions to be holden after the passing of this Act, to define, extend and declare, the boundary lines of the Town of Guelph; and to direct a plan of the same to be made and filed in the Office of the Clerk of the Peace for the District of Wellington, and a copy thereof to be filed in the Office of the Surveyor General, at the expense and cost of the said District of Wellington; and that such boundary shall be deemed and taken to be, to all intents and purposes of this Act, the boundary lines of the said Town.

XXVII. And be it further enacted by the authority aforesaid, That this Act shall not take effect Until provision shall be made by law for increasing the number of Judges in His Majesty's Court of King's Bench in this Province, and for defraying such contingent charges of the Circuits, in respect of the new District intended to be formed by this Act, as were accustomed to be paid before the surrender, by the Crown, of the duties levied under a certain Act of the Parliament of Great Britain,

passed in the fourteenth year of the reign of His late Majesty King George the Third, entitled, "An Act to establish a fund towards further defraying the charges of the Administration of Justice, and support of the Civil Government within the Province of Quebec, in America"; nor until provision has been made by law for securing the payment, by the County of Halton, of a just proportion of the debt contracted on the credit of the Gore District, for building the Gaol and Court House.

XXVIII. And be it further enacted by the authority aforesaid, That so soon as the said parts of the said Counties of Halton and Simcoe, and other territory aforementioned, shall have been formed 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 Waterloo, in the said District of Wellington; and the residue of the said County of Halton shall, from thenceforth, be and remain the County of Halton, in the District of Gore; and the residue of the said County of Simcoe shall, from thenceforth, be and remain the County of Simcoe.