



ANNO DECIMO ET UNDECIMO
VICTORIÆ REGINÆ.

CAP. XLVII.

An Act to provide for an Assessment of Real and Personal Property in the Town of Prescott according to the annual value or rental thereof, and for other purposes.

[28th July, 1847.]

WHEREAS it is expedient to repeal the Assessment Laws of the late Province of Upper Canada so far as the same relate to the Town of Prescott—to prevent the operation within the said Town of any Act passed during the present Session of the Provincial Parliament relating to General Assessments—to provide by a special enactment for the Assessment of the said Town—and to amend an Act passed by the Legislature of Upper Canada in the fourth year of the Reign of His late Majesty, King William the Fourth, intituled, *An Act to incorporate the Village of Prescott, and to establish an elective Police therein*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council, and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Assessment Laws of Upper Canada imposing taxes, rates or assessments, and providing for the collection thereof, in so far as the same relate to the said Town of Prescott, be and are hereby repealed; and that any Act of the Provincial Legislature passed during the present Session relating to a General Assessment, shall not have force or operation in the said Town, except in the case mentioned in the twenty-second section of this Act.

Preamble.

Act of U. C.
4 W. 4. c. 27,
cited.

Assessment
Laws of U. C.
repealed in so
far as they re-
late to Brock-
ville.

II. And be it enacted, That all Real and Personal Estate hereinafter designated within the limits of the said Town of Prescott, and not hereinafter exempted from taxation, shall be liable to taxation in the manner hereinafter provided for the purposes of the said Act, intituled, *An Act to incorporate the Village of Prescott, and to establish an elective Police therein*, for the support of Common Schools—for the purposes of this present Act—and for any other purpose now or hereafter authorized by law.

All real and
personal estate
not hereinafter
exempted from
taxation, to be
liable to taxa-
tion as herein
mentioned.

III. And be it enacted, That hereafter the tax year for the said Town shall be held and taken to commence with the first and end with the last day of each calendar year; and that all taxes to be levied and collected for the aforesaid purposes, shall be rated and

Tax year
when to com-
mence.

Amount of taxes limited.

and apportioned upon the said Real and Personal Estate according to the true annual value or rental thereof; and that the whole taxes so rated and apportioned, (exclusive or beyond Common School purposes which shall and may be apportioned and collected in addition to all other taxes,) shall in no one year exceed nine pence in the pound of the amount of such annual rental or value.

Meaning of words "Real Estate."

IV. And be it enacted, That the words "Real Estate," wherever the same occur in this Act, shall be held to mean and include all lands within the said Town, and all buildings, fences, trees and other articles or things erected, being or growing upon, or affixed to the same, not hereinafter exempted from taxation; and that the words "Personal Estate" shall be taken and held to include the following personal property only, that is to say: all horses, mares, geldings, oxen, bulls, cows and horned cattle above three years old; all carriages, phaetons, curricles, gigs, wagons, sleighs, or carioles, kept for pleasure only.

And of the words "Personal Estate."

Certain Real Estates exempted from taxation, as being public property, &c.

V. And be it enacted, That the following Real Estate shall be exempted from taxation, that is to say: all Real Estate belonging or reserved to Her Majesty, or vested in any public body, officer or person in trust for public uses; every place of public religious worship; every church-yard; every burying ground; every building belonging to or used for any academy, seminary of learning, or public school; the District Jail and Court House, with the yards, buildings, and lands appertaining thereto, or on which the same are erected; the Real Estate belonging to the Town; all public squares, public pleasure grounds, streets or highways, market places, and other public buildings; every poor house, alms-house, house of industry, and house for the reformation of offenders; the Real Estate of every public library and of the Mutual Insurance Company of the District of Johnstown: Provided always, that in case any rent or other valuable consideration is reserved or made payable for any Real Estate hereinbefore exempted from taxation to any private person or persons, then such real estate shall not be exempted from taxation, but the same shall be rated to, and the taxes paid by such person or persons according to its annual rental or value to such person or persons as aforesaid.

Proviso if rent be received for the same.

All taxes hereby imposed to be rated to occupant &c., of Personal or Real Estate.

VI. And be it enacted, That all taxes imposed by authority of this Act shall be rated or assessed to the occupant or person or persons in possession of the Personal or Real Estate at the time of assessment, and shall be paid by the occupant or person in possession, or in case of a Bank, shall be rated to such Bank by its name, and shall be paid by the President, Cashier, Teller or person in charge, or conducting the business of any Bank, Branch Bank, Bank Office, or Bank Agency in the said Town, at the time of assessment or collection; or in case of any other incorporated Company shall be rated or assessed to such Incorporated Company by its name, and shall be paid by the President or any Officer, Agent, or other person in charge of any office, place of business, or warehouse of such Company in the said Town at the time of assessment or collection.

Proviso: when taxes are rated to occupant, &c. occupying as tenant or agent and cannot be collected by reason

VII. Provided, however, and be it enacted, That in case any taxes shall be rated or assessed to any occupant or person or persons in possession of any Personal or Real Estate within the said Town, who shall hold or occupy the same as tenant or agent to the owner or special owner for the time being, and it shall really happen that by reason of the actual poverty or removal of such occupant, or person or persons in possession,

beyond

beyond the limits of the District of Johnstown, that such taxes cannot be collected from such occupant or person or persons in possession, then such owner or special owner for the time being shall be liable to pay the same, or so much thereof as shall remain unpaid: and in case the taxes or any part thereof, rated or assessed to any Bank or Incorporated Company shall remain uncollected by reason of the poverty or removal from the District of Johnstown of the person or persons hereinbefore made liable for the payment of the same, then the said Bank or Incorporated Company shall, in like manner, be liable to pay the same.

of poverty, &c. of such occupant, &c., owner to pay the same.

VIII. And be it enacted, That all vacant or unoccupied Real Estate within the limits of the said Town liable to assessment as aforesaid shall be assessed to the freehold owner or owners thereof at the time of assessment, if the name or names of such owner or owners is or are known to, or can be truly ascertained by the Assessor or Assessors; and if such owner or owners, or any of them, shall be resident within the said Town or within two miles thereof, it shall be the duty of the Assessor or Assessors to apply to such owner or owners, or some one of them, to return the same for assessment in the same manner as if such owner or owners, or some of them, was or were in the actual occupancy of such Real Estate; and in case such owner or owners of vacant or unoccupied Real Estate cannot be truly ascertained by the Assessor or Assessors at the time of Assessment, then it shall be the duty of such Assessor or Assessors to return such vacant or unoccupied Real Estate for assessment by such particular description as that the same and the whole thereof can be certainly known; and in case the owner or owners, or some one on the behalf of such owner or owners shall not pay the taxes rated for such vacant or unoccupied Real Estate, such taxes as are unpaid shall remain as a charge upon the same, and the owner or owners and any subsequent occupant of the same, or any part thereof, shall be liable to payment of all taxes in arrear on account thereof.

Vacant real estate against whom to be assessed.

If the owner cannot be found, &c.

IX. And be it enacted, That all taxes for the purposes aforesaid, rated or assessed for or on account of any Real or Personal Estate within the said Town, shall and may be levied and collected in the manner prescribed in this Act by any lawfully appointed and authorized Collector or Collectors of the said Town, at any place within the said Town, or within the District of Johnstown, from any person or persons, Bank or Incorporated Company to whom the same were rated or assessed, or who are by this Act declared, required, or made liable, in the manner therein stated, to pay the same.

Taxes how to be levied.

X. And be it enacted, That in case any taxes, rated or assessed according to this Act, shall remain unpaid by reason of the person or persons, Bank or Incorporated Company, to whom the same were assessed or who are liable or required to pay the same, residing, being located or having removed beyond the limits of the said District of Johnstown, then it shall and may be lawful for the President and Board of Police of the Town of Prescott to sue for and collect the same, or so much thereof as shall remain unpaid as a simple contract debt, together with costs from any such person or persons, Bank or Incorporated Company to whom the same were assessed, or who by this Act is or are required or made liable to pay the same, in any Court in this Province, having jurisdiction for debts of the amount sought to be recovered.

When taxes shall remain unpaid by reason of the party owing them being out of the District.

XI. And be it enacted, That if there be no covenant, agreement or understanding to the contrary, then whenever any of the taxes imposed for the purposes aforesaid, shall be

Tenant may in certain cases deduct amount

paid for taxes, from rent payable by him for real or personal estate.

Or recover the same from the owner.

be for Real or Personal Estate held by any tenant paying rent therefor, or held or occupied by any trustee or agent for any person or persons, Bank or Incorporated Company, and such taxes shall be paid by such tenant, trustee or agent, and a receipt of payment in writing obtained therefor, such tenant shall and may deduct the amount so paid for taxes from the rent payable by such tenant for such Real or Personal Estate, or in case no rent shall then or thereafter be payable, may ask, sue for, receive and recover the same from his or her immediate landlord as a simple contract debt; or such agent or trustee may charge against and collect the same from the person or persons, Bank or Incorporated Company for whom he or she is acting as such trustee or agent.

President and Board to appoint Assessors and Collectors.

XII. And be it enacted, That the President and Board of Police of the said Town may and shall, in the month of January in every year hereafter, appoint such and so many competent and trusty persons as they may deem necessary to be Assessor or Assessors, and Collector or Collectors for the said Town, or any part thereof.

Assessors to take an oath.

XIII. And be it enacted, That every person so appointed an Assessor shall, within ten days after he shall receive written notice from the Clerk of the said Board of his appointment, and before entering on the duties of his office, make and subscribe an oath before the President or any other member of the Board, who is hereby authorized and required to administer the same, in the following form :

Form of oath.

“ I do sincerely and solemnly swear that I will, honestly, faithfully, truly and impartially discharge the duty of an Assessor of the Town of Prescott for the year of Our Lord, (*naming the year,*) to the utmost of my skill and ability ; So help me God.”

Which oath shall be forthwith certified by such President or member and delivered to the Clerk of the said Board, who shall record the same in his book of proceedings and file and keep the same among the papers of the said Board.

Clerk of the Board to deliver to Assessor a blank Assessment Book in a certain form.

XIV. And be it enacted, That the Clerk of the said Board shall, within ten days after any Assessor of the said Town shall have taken such oath, prepare and deliver to such Assessor a blank Assessment Book, with columns and headings written or printed in the following form, and of such dimensions as he shall deem sufficient to contain the whole assessment to be made by such Assessor, to which book additions may thereafter be made in case the same shall be found necessary ; and in case any further columns should hereafter be required for showing the amount of any additional assessment for special purposes, the same may be added under the heading “ *Taxes to be levied.*”

(Form of Assessment.)

ASSESSMENT BOOK OF THE TOWN OF PRESCOTT, (OR TOWN OF PRESCOTT as the case may be) FOR THE YEAR 18 WARD OF THE

No.	Names of persons, &c., Assessed.	REAL ESTATE.		PERSONAL ESTATE.		Total Annual Value.	TAXES TO BE LEVIED.		REMARKS.
		Whether held as Freeholder or as Tenant, Trustee or Agent, and to whom.	Annual Value.	Whether held as Owner or as Tenant, Trustee or Agent, and to whom.	Annual Value.		For general purposes at the £	For Common Schools at d. in the £	
		£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.		

[Change the heading of PERSONAL ESTATE, when the entries are to be made at the end of Assessment Book of Vacant Lands, thus :

DESCRIPTION OF VACANT REAL ESTATE ASSESSED.]

Assessor, upon receipt of Book, shall make assessment.

XV. And be it enacted, That every such Assessor upon the receipt of his Assessment Book, shall forthwith proceed to make his assessment according to the provisions of this Act, having regard as far as practicable to the form aforesaid ; and shall fully complete his Assessment and return his Assessment Book, subscribed by him, to the Clerk of the said Board of Police, on or before the first day of April following, in every year, under the penalty of ten pounds, and forfeiture of all compensation as such Assessor.

Assessor shall require from persons, &c. to be assessed, the annual value of Real Estate separate from Personal Estate, and vice versa.

XVI. And be it enacted, That every such Assessor, in making his assessment, shall require from the person to be assessed, or agent or trustee of the person, Bank or Incorporated Company to be assessed, if residing within the said Town or within two miles thereof, a statement of the annual value of the Real Estate separate from the Personal Estate, and of the Personal Estate separate from the Real Estate, liable to assessment according to the provisions of this Act, within the limits of the said Town or portion of the said Town for which such Assessor is appointed ; and shewing whether such Real Estate be held by such person as freeholder, tenant, trustee or agent, and, if as tenant, trustee or agent, to whom ; and shewing whether such Personal Estate be held as owner, trustee, tenant or agent, and if as trustee, tenant or agent, to whom ; and shewing such other particulars as according to the provisions of this Act it shall be necessary for the said Assessor to return or enter upon his Assessment Book ; and in case the person to be assessed, agent or trustee as aforesaid, shall neglect, after reasonable notice, to furnish such statement, such person, agent or trustee, shall be liable to be fined according to the provision for imposing fines hereinafter contained ; and if such Assessor shall consider the statement so furnished him untrue or not embracing the whole Real and Personal Estate for which the person furnishing the same is liable to be assessed or ought to return for assessment, he shall not be bound to adhere to the same, but shall make such an assessment as to him shall appear legal and just, and shall thereupon give notice to the person assessed, or such trustee or agent, (or leave such notice in writing for such person, trustee or agent, at his or her usual place of abode,) of the annual value or rental so assessed for Real and Personal Estate respectively : and in case such Assessor shall alter his assessment before returning his Assessment Book to the Clerk of the said Board, he shall forthwith give notice of such alteration to the person assessed, or liable, as trustee or agent, to pay the taxes on account of such assessment ; and that all assessments of unoccupied or vacant Real Estate assessed to persons, Banks or Incorporated Companies not resident or located within the limits of the said Town, or of which the owner is not known to the Assessor, shall be entered by themselves with the description of the Real Estate assessed, at the end of the Assessment Book ; and the Assessor shall and may make such brief remarks in the column of the Assessment Book headed *Remarks*, as he may deem necessary for elucidation or the proper understanding of the assessment made, but shall make no entry whatever in the columns for shewing the *Taxes to be levied*.

And other particulars.

Penalty for not furnishing the same.

If the Assessor shall think the statement untrue.

Assessments of vacant property.

Remarks.

Duty of Clerk on Assessment Book being returned by Assessor.

XVII. And be it enacted, That upon the Assessment Book being returned by the Assessor to the Clerk of the Board of Police, such Clerk shall, by examination, ascertain whether the sums entered, in the column headed *Total Annual Value*, express the true aggregate of the sums assessed, as the annual value of Real and Personal Estate respectively, and in case any error appear, shall correct such error by an entry in red ink, and shall enter in red ink opposite the name or entry of estate assessed, in the column appropriated to such purpose, the apportionment or share of taxes to be paid by the person, Bank, Company or estate assessed, and on account of such assessment, calculated

calculated at such rate per pound on the annual value or rental (not exceeding the limitation fixed by this Act) as shall be ordered by the said President and Board of Police of the said Town, and shall in the column headed *For Common Schools*, enter the amount to be paid by every resident inhabitant of the said Town for the support of Common Schools; and the said Clerk shall cause a copy of each Assessment Book to be affixed in some conspicuous place in each Market House in the said Town, within one calendar month after the return of the said Assessment Book to him as aforesaid; and shall enter upon such copy a notice of the day the same was so affixed, and specifying that all applications from persons dissatisfied, for the correction of errors or for alterations in the said assessment, must be made to the President and Board of Police of the said Town within thirty days from the date of such copy of the Assessment Book being so affixed.

XVIII. And be it enacted, That it shall be the duty of the President and Board of Police of the said Town forthwith summarily to examine into, in such manner as they shall deem just and proper, and decide upon such applications, and confirm the said Assessment Book, and order their Clerk to amend or alter the same by correcting any error which may be found therein, or by reducing or raising the assessment in any case, such alteration or amendment not being contrary to the provisions of this Act; and such Clerk shall thereupon make, and enter in red ink, the several amendments or alterations so ordered to be made, and the said President and Board of Police shall, within the said thirty days, finally review, correct and approve of the said Assessment Book; and after such amendments, corrections, alterations and approval are made, the said Clerk shall without delay make out a fair copy of such Assessment Book, as amended, altered, corrected and approved, which he shall lay before the President of the said Board of Police, who shall compare and examine the same with the said Clerk, and attach or add thereto a warrant with the seal of the said Corporation, and subscribed by him as such President, to the Collector, (or Collectors, *as the case may be*), authorizing and requiring the Collector thereof to collect the taxes therein mentioned, which warrant shall be so attached or added, and the said copy of the Assessment Book made ready for delivery to the Collector who is to collect the same, on or before the first day of July in each year.

Duty of President and Board with reference to Assessment Book.

XIX. And be it enacted, That every Collector, before entering on the duties of his office, shall enter into a bond, with two or more responsible and sufficient freehold sureties, being inhabitants of the said Town, to the President and Board of Police of the said Town, and to their satisfaction in such penal sum, and conditioned for the faithful collecting, paying over and accounting for the taxes to be collected by him, to the Treasurer of the said Corporation, according to law, in such form as the said President and Board of Police shall from time to time direct; and in case the said bond shall be approved and accepted by the said President and Board of Police, then it shall and may be lawful for the said Collector after the first day of July in each year, and he is hereby required to apply for and receive from the said Clerk, the copy of the Assessment Book for the said Town, or that part thereof for which he is Collector, with the warrant for the collection thereof; and upon receipt thereof, shall proceed to the collection of the same, and shall fully complete the collection thereof so far as the same is capable of collection, pay over the monies collected in full, make his return upon or attached to the said copy of the said Assessment Book, (verified by his oath in a written affidavit sworn before the President, or any member of the said Board of Police,

Collector to give security.

And shall then enter upon his duty, and complete the same by a certain time.

Provision for enforcing payment from a Collector in default.

Proviso.

Police, who is hereby authorized and required to administer such oath, and shewing in such return the amount collected and the amount in arrear, with a statement in detail of such arrears, from whom or on what account due, and why the same remains uncollected,) and deliver such return to, and finally settle with the said Treasurer on or before the first day of December in the year for which he is appointed Collector; and in case such Collector shall neglect to make his return and final settlement as aforesaid by the time aforesaid, then it shall and may be lawful for the President and Board of Police of the said Town to issue a warrant requiring the officer or person to whom the same shall be directed to levy the amount of taxes, which shall appear not to have been paid over or accounted for to the said Treasurer, by such Collector, from the goods and chattels of the said Collector and of his sureties, together with five shillings to the Clerk of the said Board for drawing up such warrant; upon which warrant the officer or person to whom the same shall be directed, shall proceed in the same manner, and be entitled to the same fees, as if the same were a Writ of *Fieri Facias* issued out of the Court of Queen's Bench, and shall make his return, and pay over the amount collected to the said Treasurer, within the time specified in such warrant: Provided always, that the said Corporation may make such deductions from the amount appearing due for sums uncollectable as shall be considered just.

Manner in which Collector shall demand payment of taxes.

How the Collector shall proceed if the Taxes be not paid.

XX. And be it enacted, That every Collector aforesaid shall personally, or by a written notice to be left at the usual place of residence of the person liable to the payment of taxes, demand from the person taxed or liable to the payment of taxes, if resident within the District of Johnstown, payment of the amount (specifying the same) for which he or she is taxed or is liable to pay; and if the same shall remain unpaid for the space of ten days after the day of such demand, or leaving of such demand, the said Collector shall and may make oath of such default before the President, or any Member of the said Board of Police, (who is hereby authorized and required to administer the same,) and such President or Member shall thereupon issue his warrant to the said Collector, or any Constable he may name, (and for the performance of whose duty such Collector shall be responsible and answerable,) requiring such Collector or Constable to levy the taxes in arrear, with one shilling to the said Clerk for preparing such warrant, from the goods and chattels of the person in default, or who may be liable to pay the same, with costs, which costs and the proceedings upon such warrant shall be the same as upon a Writ of Execution issued out of any Division Court of the said District of Johnstown.

Penalty on Assessor, &c. making fraudulent assessment, &c.

Proviso.

XXI. And be it enacted, That if any Assessor, Collector or Constable, under this Act, shall knowingly make any unjust or fraudulent assessment, or exact more taxes or fees than are lawfully due or allowed, or shall wilfully omit any duty required of him by this Act, he shall be liable to a fine not exceeding twenty-five pounds, nor less than one pound, which may be recovered with costs before the said President and Board of Police of the said Town, and the collection enforced in the same manner as is in this Act provided in regard to other fines: Provided always, that such fine shall not hinder, impede or bar any other remedy in this Act provided against any Collector or his sureties.

After 1st January, 1848, no taxes to be collected by any Township Collector, &c.

XXII. And be it enacted, That from and after the first day of January, in the year of Our Lord one thousand eight hundred and forty-eight, no taxes, rates, or assessments, shall be collected by any Township Collector, or District Officer, for or on account of any property real or personal within the limits of the said Town of Prescott, and

and that in lieu of any taxes, rates, or assessments, heretofore, now or hereafter by law payable to the District Treasurer of the said District of Johnstown on account of such Real or Personal Estate, an equivalent shall annually be paid by the Treasurer of the said Town to the District Treasurer on or before the first day of November next after the amount of such equivalent shall be ascertained by the award of the Warden of the District Council of the said District and President of the Board of Police of the said Town, with such other person consenting to act as they shall choose as Umpire, or any two of them, which award the said Warden, President and Umpire are hereby required to make during the month of January in each year; And provided also, that the discharge of the duties hereby imposed on the said Warden and President and Umpire consenting to act, and the performance of any award made as aforesaid, may in the discretion of the Court of Queen's Bench of Upper Canada, be enforced by Mandamus from such Court, and the usual proceedings thereon; And provided also, that in the event of no award being made, or payment of the sum awarded being neglected or refused, the Treasurer of the said Town shall pay to the Treasurer of the said District the amount of taxes which would have been levied and assessed for District purposes in the said Town had not this Act passed.

on account of property within limits of Prescott. Provision in lieu thereof.

Proviso.

XXIII. And be it enacted, That any rate now imposed or hereafter to be imposed in Upper Canada by any Act of the Legislature of the late Province of Upper Canada, or of this Province, in aid of the Provincial Lunatic Asylum, shall be levied and raised in the said Town in addition to all other rates and assessments imposed by this Act, and shall be paid by the Town Treasurer to the District Treasurer, to be paid and applied in the same manner as the said rate is now or may be hereafter paid or applied by law.

Provision with regard to rates imposed for the Lunatic Asylum.

XXIV. And be it enacted, That the General Census and Property Return required or hereafter required by the laws of this Province to be made once in five years, or as may be hereafter provided by law, shall be made by the Assessors of the said Town of Prescott, and returned to the Clerk of the Peace of the said District or to such person as such return should be made; and for which such Assessors shall receive such extra compensation as shall be ordered by the said President and Board of Police, upon being satisfied that the said Assessors have performed such duty.

General Census Return to be made by Assessors, and returned to Clerk of Peace of District.

XXV. And be it enacted, That the annual election of members of the said Board of Police of the said Town, shall, on and after the first day of January, in the year of Our Lord one thousand eight hundred and forty-nine, be held on the first Monday in the month of January in every year, and the members so chosen, and the President of the Board, shall serve until the next annual election of members, and until a new Board shall be chosen and organized; and that until the first day of January, in the year of Our Lord one thousand eight hundred and forty-nine, the annual election shall be held at the time fixed by the said Act establishing a Board of Police in the said Town.

Annual election of members of Board.

XXVI. And be it enacted, That from and after the first day of January, in the year of Our Lord one thousand eight hundred and forty-eight, so much of the third section of the said Act, intituled, *An Act to incorporate the Village of Prescott, and to establish an elective Police therein*, as relates to the qualification of members and election of members of the said Board of Police, shall be and the same is hereby repealed; and that thenceforth the members of the said Corporation shall be chosen from those male subjects

After 1st January, 1848, part of sect. 3 of U. C. 4 Will. 4. c. 27. repealed. Other provision made in lieu thereof.

subjects of Her Majesty of the full age of twenty-one years, whose names shall be entered, and who shall severally be rated or assessed on the last Assessment Book or Books of the said Town as freeholders or tenants, or as freeholders and tenants for Real Estate of the annual rental or value of twenty-five pounds, and in case of a tenant, shall have paid all rent due for the estate on which he claims to be qualified; and that the electors of such members shall be those male subjects of Her Majesty of the full age of twenty one years, whose names shall be entered, and who shall be severally assessed on the said last Assessment Book or Books as freeholders, tenants, agents or trustees of Real Estate, of the annual value or rental of three pounds, who shall have paid their taxes in the said Town for the previous year, and, in case of a tenant, shall have paid all rent for the estate so qualifying him to vote, due prior to the time of voting; and no person shall vote in more than one Ward, or more than once at any election, and every person shall vote in the Ward in which his estate or greater part of his estate is situated on which he is qualified to vote; and the person presiding at any Ward election, shall have power, and he is hereby authorized and required, if thereto requested by any elector of the said Town, to examine on oath any candidate for the office of member of the said Board of Police, or person offering to vote for any such member, touching his qualification for such office, or for voting at such election, as the case may be, and shall decide as to such qualification of any candidate or elector at such election.

Persons presiding at election of members of Board of Police, to take the oath herein prescribed.

XXVII. And be it enacted, That every Bailiff or other person presiding at any election of a member or members of the said Board of Police, shall, before he proceeds to hold such election, take and subscribe before some one of the members of the said Board (which he is hereby authorized and required to administer and certify, and which such person presiding shall return with his return of such election) the following oath, that is to say:

Form of oath

“ I do solemnly and sincerely 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 the election of a member (*or members, as the case may be*) of the Board of Police of the Town of Prescott, and make a true return thereof; and that I will, during the continuance of such election, use reasonable endeavours to preserve peace and order thereat, and to afford each elector free access to and from the place of voting; So help me God.”

And to appoint and swear a competent Clerk.

XXVIII. And be it enacted, That the person presiding at any such election of a member or members of the said Board, may, and he is hereby required to appoint a competent clerk to record the votes at such election, and swear such clerk faithfully, truly and impartially to record the votes given at such election, and discharge his duty as such clerk.

And may preserve peace at election.

XXIX. And be it enacted, That every Presiding Officer at any such election of a member or members shall have power, and he is hereby required to keep peace and order at such election, and for such purpose shall and may commit during its continuance to the Lock-up-House hereinafter mentioned, any person making or creating any disturbance, fighting or rioting at such election, practising any malicious mischief or using any threats or violence to deter any elector from coming forward to vote, retiring from voting or remaining quietly at such election; and shall and may require and command the assistance of all persons present at such election, or any constable or other

other peace officer in the said Town, who are hereby required to give such assistance in apprehending and committing the person making or creating any such noise, interruption, disturbance or disorder aforesaid: Provided always, that no such committal shall extend beyond the termination of such election.

XXX. And be it enacted, That every person who shall neglect or violate any of the provisions of this Act, or of the said Act establishing a Board of Police in the said Town, or any By-law lawfully enacted by the said President and Board of Police, shall for every such neglect or violation be liable to such fine or penalty as is provided in this Act, or if no such fine or penalty is provided by this Act, then to such fine or penalty, not exceeding one pound and ten shillings currency, as shall be fixed by any By-law of the said President and Board of Police of the said Town.

Penalty on persons violating provisions of this Act, &c.

XXXI. And be it enacted, That every fine or penalty to which any person may lawfully become liable according to the provisions of this Act, or the said Act of Incorporation, intituled, *An Act to incorporate the Village of Prescott, and to establish an elective Police therein*, or of any By-law lawfully passed or to be passed by the President and Board of Police of the said Town, shall be recoverable with costs (the party charged having been summoned to answer thereto) before the said President and Board of Police of the said Town, or any two members thereof (unless otherwise provided in this Act) who shall and may enforce the collection thereof by warrant against the goods and chattels of the person convicted, and in default of such goods and chattels, by committal to the Lock-up-House hereinafter mentioned, or to the Common Jail of the District of Johnstown, (the expense of maintenance during such committal to be borne by the said Town,) for any time not exceeding thirty days, unless the fine and costs shall be more than five pounds, and if more than five pounds, then not exceeding three calendar months, or until (within such limitation as to time of committal) the fine or penalty and costs be paid, and the fees and proceedings as to goods and chattels upon such warrant, if the fine or penalty imposed exceed ten pounds, shall be the same as upon a Writ of *Fieri Facias* issued out of the District Court, or if under ten pounds, the same as upon a like Writ issued out of any Division Court of the District of Johnstown.

Fines, &c., how recoverable.

How enforced if not paid on conviction.

XXXII. And be it enacted, That the salary, compensation or allowance to every Assessor, Collector, Treasurer, Clerk, and other officer appointed by the said Corporation, and the fees to be paid, allowed or taken for costs in any prosecution or proceeding authorized by this Act, or the said Corporation Act, or any By-law, lawfully passed, or to be passed by the said Corporation, shall, in cases not provided for in this Act, be regulated, fixed and declared from time to time, by By-law of the said Corporation.

Salary, &c. of Assessors, &c. to be regulated by By-Law of Corporation.

XXXIII. And be it enacted, That in every case where an oath is required or may become necessary to be administered by or under the provisions of this Act, the said Corporation Act or any legal By-law of the said Corporation, an affirmation may be substituted where the person to be sworn is one of those persons allowed by law to affirm; and that any person knowingly swearing or affirming falsely in any matter or thing wherein an oath or affirmation instead of an oath is or may be required or allowed according to the provisions of this Act, or the said Corporation Act, or any lawful By-law of the said Corporation, shall be deemed guilty of wilful and corrupt perjury, and

"Oath" to mean "Affirmation" in certain cases.

False swearing or affirming to be perjury.

and shall and may be prosecuted and punished therefor as in other cases of wilful and corrupt perjury.

Persons assessed to be competent witnesses upon any prosecution for fine or penalty.

XXXIV. And be it enacted, That no person rated, assessed or taxed upon any Assessment Book of the said Town, shall by reason thereof be deemed an incompetent witness upon any prosecution for any fine or penalty, or in any matter or thing in which the said Corporation, or the inhabitants of the said Town, or any of them, may be interested.

Proceedings in case of sickness, &c. of President.

XXXV. And be it enacted, That in all cases in which the President of the said Board shall be absent, sick, or unable, or shall neglect to attend to the duties assigned to him in this Act, the said Corporation Act or any By-law of the said Corporation, the majority of the said Board of Police shall and may meet and appoint an Acting President to the Board, who shall and may discharge each and every duty which ought to be performed by the President, and with the same effect as if performed by the said President, until the said President shall attend a meeting of the said Board, and resume his duties as such.

Laws providing for Statute Labour to be repealed in so far as regards Prescottt.

Provision in lieu thereof.

XXXVI. And be it enacted, That so much of the general laws of this Province as provides or declares, and so far only as the same provides and declares the number of days of statute or road labour which every inhabitant or person shall perform, or be liable to perform, shall, from and after the first day of January in the year of Our Lord one thousand eight hundred and forty-eight, as far as regards the Town of Prescottt, be repealed, and the same is hereby repealed; and thenceforth each and every inhabitant of the said Town shall be liable, and shall do and perform, or commute for in money, or cause to be done and performed, or commuted for in money, in the manner now or hereafter provided for by Statute Law, or as is now or may be hereafter provided for by any By-law of the said Corporation, the following number of days of statute or road labour, that is to say:

Rates imposed.

Every male inhabitant above the age of twenty-one years, when not assessed on any Assessment Book last taken for the said Town..... one day.

Every inhabitant, male or female, assessed on any assessment last taken for the said Town for Real or Personal Estate, or both, to an annual rental or value, as follows, that is to say:

- For the first ten pounds and under..... two days.
- If over ten pounds and not exceeding fifteen pounds..... three days.
- If over fifteen pounds and not exceeding twenty pounds..... four days.
- If over twenty pounds and not exceeding thirty pounds..... five days.
- If over thirty pounds and not exceeding forty pounds..... six days.
- If over forty pounds and not exceeding fifty pounds..... seven days.
- And for every fifteen pounds thereafter..... one day.

Majority of members of the Board of Police to be quorum.

XXXVII. And be it enacted, That a majority of the members of the said Board of Police of the said Town shall be a Quorum or Board for the despatch or transaction of any business appertaining to the said Corporation: Provided always, that a smaller number

number may adjourn from time to time, and may enforce the attendance of absent members in such manner as may be provided by any By-law, Regulation or Ordinance of the said Corporation.

XXXVIII. And be it enacted, That every By-law, Regulation or Ordinance of the said Corporation for the violation or non-observance of which a fine or penalty may be imposed, or which may affect the interest of the inhabitants of the said Town, shall be published in one or more of the newspapers of the said Town, or in case there be no newspaper published in the said Town, the same shall be published by written or printed hand-bills to be affixed in some conspicuous place in the said Town; and that the said Corporation shall in like manner cause to be published in each year, one week at least before the annual election of members of the said Board, on account of all monies received in and paid out of the Treasury of the said Town, and for what; and in like manner on account of all statute or road labour and commutation monies therefor, and all other monies of the said Town, received and expended by or through any officer of the said Corporation.

By-Laws, &c. to be published in newspapers of Prescott.

And also accounts.

XXXIX. And be it enacted, That if the election of any member of the said Board of Police 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 the majority of legal voters at such election, and a written requisition signed by ten Electors having a right to vote in the Town or Ward for which such member is returned, shall, within seven days after the termination of such election, have been served on the President or any other member of the said Board, requiring the said Corporation to appoint a time and place within the Town or Ward for which the election was held, for entering upon a scrutiny into the matters complained of, it shall be lawful for the said Corporation upon service of such requisition as aforesaid, and they are hereby required to appoint a time and place within the said Town or Ward for entering upon a scrutiny of the matters complained of, which time shall be within ten days after such election; and the Members of such Corporation, whose election may not, by such requisition, be complained of, shall form a tribunal for the trial of such matters, and shall severally take and subscribe the following oath, to be administered by any other member of the said tribunal, which oath every such member is hereby authorized and required to administer, that is to say:

Proceedings on contested elections of members of the Board.

Members trying the same to be sworn.

“I, (*name the member sworn,*) do solemnly swear that I will truly and impartially, “to the best of my knowledge and ability, try and determine the merits of the complaint against the election of (*naming the person whose election is to be tried,*) as a “member of the Board of Police of the Town of Prescott.”

XL. And be it enacted, That such tribunal shall have power to summon witnesses, and require the production of written instruments, and take evidence on oath respecting the matters to be enquired into; and shall determine upon the validity of such election or return, and amend or make void the same, as shall appear to be right, and according to law and the evidence; and in case the 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 said tribunal, through their Chairman, shall forthwith issue a precept for a new election, which shall be held at the time to be named in the said precept, within five

Witnesses may be summoned, &c.

five days after the decision of the said trial, in the like manner as in other cases of election of members of the said Corporation.

Penalty on witnesses refusing to attend.

XXI. And be it enacted, That any witness who, being duly summoned, neglects or refuses to attend before the President and Board of Police of the said Town, or any of the members of such Board upon any trial, matter or proceeding authorized by law, shall, upon conviction before any two of Her Majesty's Justices of the Peace for the said District of Johnstown, or the said Board, having been duly summoned to answer for such neglect or refusal, be liable to and may be imprisoned on the commitment of such Justices, or the said Board, in the Common Jail of the said District, or to the Lock-up-House hereinafter mentioned (as the case may be,) for a term not exceeding thirty days, the expense of maintenance during such imprisonment to be paid by the said Corporation.

Duty of Sheriff and Jailer with respect to parties committed by Corporation.

XLII. And be it enacted, That it shall and may be lawful, and the Sheriff and Jailer of the said District and the keeper of the said Lock-up-House are hereby authorized and required to receive and safely keep until duly discharged, or the terms of committal are performed, all persons lawfully committed to their or either of their custody by the said Corporation or any of its members.

President and members to be *ex officio* Justices of the Peace for Town of Prescott.

Proviso: this shall not entitle them to sit in Quarter Sessions.

Appeals.

Protection of Members acting as Justices.

They must have the property qualification and take the oath of office

XLIII. And be it enacted, That the President and every member of the said Board of Police shall, by virtue of his office be a Justice of the Peace in and for the said Town; and when acting as such shall affix to his signature the words *Police Justice for Prescott*, and shall and may within the limits of the said Town exercise all and every lawful authority, jurisdiction and power now or hereafter exercised by Justices of the Peace, subject to the same responsibilities and liabilities, and in the same manner: Provided always, that nothing in this Act shall extend or be construed to extend to give to the said President or any member of the said Board of Police, any right or authority to sit, vote, act or in anywise interfere in any Court of General Quarter Sessions or Adjourned Quarter Sessions of the said District of Johnstown: and provided, that it shall and may be lawful for any person or persons to appeal to the said General Quarter Sessions in the same manner as is now or may hereafter be provided for by law, from any conviction had or made by the said President or any member or members of the Board of Police when exercising the said office of Justice of the Peace respectively, but not from any conviction made by them or any of them as a Board of Police or as members thereof, when not acting as Justices of the Peace: and provided, also, that the said President and every such member of the said Board of Police, when acting as such Justice of the Peace, shall be entitled to and receive the same protection in law and to the same notice of action before action brought, for any matter or thing done by them or any of them as such Justice or Justices of the Peace, as is allowed or required to be given to any Justice of the Peace by law: and provided also, that no member of the said Board of Police shall be authorized to act or shall act as a Justice of the Peace as aforesaid, unless he shall be possessed of the like property qualification as, and shall take the same oath as to such qualification as is required to be taken by Justices of the Peace by the Statute Law of this Province; which oath may and shall be administered to any such member desirous of taking the same, by the person now or hereafter authorized by law to administer such property qualification oath to Justices of the Peace; and every affidavit of such qualification of a member of the said Board,

Board,

Board, shall be fyled and kept by the Clerk of the Peace of the District of Johnstown, in the same manner as other qualification oaths of Justices of the Peace.

XLIV. And be it enacted, That the limits of the said Town of Prescott shall be as follows : Commencing at the south-eastern angle of the Township of Augusta, thence north twenty-four degrees west to the rear of the first Concession of the said Township, thence south-westerly along the said Concession line to the limit between the east and west half of lot number five in the first Concession of Augusta aforesaid, thence south twenty-four degrees east to the River Saint Lawrence, thence north-easterly along the water's edge to the south-eastern angle of the said Township to the place of beginning, and shall take in so much of the waters of the River St. Lawrence and the land under the wharves and buildings built in such waters, as lie within three hundred yards in every direction of the water's edge in front of the present limits of the said Town.

Limits of Prescott extended and defined.

XLV. And be it enacted, That the said Act, intituled, *An Act to incorporate the Village of Prescott, and to establish an elective Police therein*, except such parts thereof as are repealed, contrary to, inconsistent with or clearly superseded by the provisions of this Act, shall be taken and construed, and shall have the same effect and operation as if the same had been embodied in this Act, and expressly re-enacted.

Parts of U. C. 4 Will 4, c. 27, which are not herein repealed, to have effect as if embodied in this Act.

XLVI. And be it enacted, That in addition to or confirmation of the powers conferred by the said Act establishing a Police in the said Town, it shall and may be lawful for the President and Board of Police of the said Town from time to time to pass By-laws, Regulations or Ordinances, to have force and operation within the limits of the said Town only, and not being contrary to law and this Act, to alter, amend or repeal any By-law, Regulation or Ordinance, heretofore made or hereafter to be made by the Corporation of the said Town ; for making, preserving, planking, flagging, gravelling, macadamizing, paving, raising or lowering, levelling, mending, repairing, cleansing, watching or lighting any street, alley, lane, highway, road, bridge, side-walk, cross-walk or other walk, public squares or grounds, public wharves, slips, docks, market-houses and market-places, shores, gutters, and sewers, and for the prevention, abatement or removal of any nuisance, incumbrance or obstruction, in, to, upon or affecting the same respectively ; for enforcing the performance of statute or road labour, or payment of the commutation money therefor ; for the restraining or regulating the running or being at large of any geese, turkeys and other poultry, goats, rabbits, sheep, dogs or other animals ; to regulate, license or prevent the selling of meat, vegetables, cakes, fruit, beer or any other beverage, in the public streets or public grounds ; to prevent or regulate fishing with fire-lights, or bathing and swimming in the waters of the St. Lawrence within the limits of the said Town ; to prevent any indecent public exposure of the person, or other indecent exhibitions whatever ; to prevent profane swearing, and the use of blasphemous, obscene or indecent language ; to license, prevent or regulate all public theatrical performances, shows or exhibitions of wild animals, wax-figures, puppet shows, wire-dancers, circus riders, jugglers, mountebanks or other showmen ; to prevent the excessive beating or other inhuman treatment of horses, cattle or other beasts ; to suppress all tippling-houses and houses of ill-fame, and restrain or punish all persons for keeping or resorting to the same ; to prevent the sale or giving to drink of any strong or intoxicating drink to any child, servant or apprentice, without the consent of his or her master, employer or protector ; to regulate or suppress all

President and Board may establish By-laws, &c. for certain purposes.

Highways &c. and public places.

Statute labour
Animals running at large.

Licensing persons exercising certain callings.
Bathing or fishing.
Indecency.
Swearing, &c.
Shows and Theatres.

Cruelty to animals.
Tippling houses, &c.
Sale of Liquor to children, &c.

all

all billiard-tables, roulette-tables, faro-banks or games, as well as any other species of gambling or gambling apparatus ; to regulate the market-houses and places, the selling of fish, meats, vegetables and other articles thereat, and the licensing of butchers, butchers' stalls and other stalls in such market-houses and market-places for vending meats, eatables, fruits and other articles ; to regulate any tavern or house for vending or keeping for sale any ale, beer, cider, spirituous liquors or other fermented drinks, to limit their number, and provide for the proper licensing of the same at such rates as to the said Corporation may seem expedient, the proceeds of such licenses (excepting tavern licenses) to form part of the public funds of the said Town, and to be disposed of as the said Corporation may consider advisable, any law of this Province to the contrary notwithstanding ; to prevent the forestalling, regrating or monopoly of market grains, meats, fish, fruits, roots and vegetables ; to regulate or prevent the selling or purchasing for sale of fresh fish and butchers' meat by hucksters and persons called runners ; to regulate and require chimneys and smoke flues hereafter to be built to be of suitable materials, and not under certain dimensions, to be securely built, and carried to a proper height above roofs of buildings ; to regulate, remove or prevent the construction of any chimney, fire-place, hearth, stove-pipe, smoke flue or fire arch, or place for using fire therein, which is or shall be dangerous, and tend to promote the firing or burning of houses, and other buildings in the said Town ; to regulate and require the construction of safe deposits for fire ashes, and regulate the mode of removing, depositing and keeping of the same ; to regulate the keeping and removal of gun-powder or other explosive or dangerous combustible or material, and the manner of using candles, lanterns and lights in livery and other stables, and out-buildings containing shavings or other combustible materials ; to regulate the conduct of inhabitants at fires ; to prevent fires and the extension thereof by the necessary pulling down of adjacent buildings or otherwise, and to provide for the prevention of stealing or purloining of goods and the preservation of property thereat ; for the erection, preservation and regulation of public cisterns, pumps, wells, and other conveniences for the stopping or prevention of fires or supplying the said Town with good and wholesome water ; to provide for managing, keeping and preserving the public property of the said Town ; to provide and regulate one or more pound or pounds, and appoint one or more pound-keeper or pound-keepers to the same, and declare and limit the fees and allowances to be taken by each pound-keeper ; to provide a public and general burying-ground for the use of the said Town, and the fencing, enclosing and regulating the same ; to require and enforce the keeping and returning bills of mortality by physicians, sextons and others ; to regulate and prescribe the oaths to be taken, and bonds, recognizances and securities to be given by all municipal officers of the said Town, in cases not provided by the Public Statutes ; for establishing, maintaining and regulating a public Lock-up-House in and for the said Town, for the detention and imprisonment of all persons sentenced under any of the provisions of this Act, by any member of the Board of Police to imprisonment not exceeding ten days, or arrested in the said Town on suspicion of any offence and detained for examination before a Magistrate prior to his discharge or committal for trial, and for appointing and remunerating the keeper of such Lock-up-House, and generally to make and enact all such By-laws, Regulations and Ordinances as may be necessary and proper for carrying into effect the powers hereby vested, or which may be hereafter vested in the said Corporation, or any department or office thereof, and for the peace, safety, order and good government of the said Town, not being repugnant to the laws of this Province, except in so far as the same may be expressly or virtually repealed by this Act, and to enforce the

Gambling.
Markets.
Butchers, &c.

Taverns, &c.

Forestalling
regrating, &c.

Precautions
for preventing
or extinguish-
ing fires.

Supply of
water.

Public proper-
ty.
Pounds.

Burial ground,
&c.

Bonds.

Lock-up-
house.

General pro-
vision.

the observance of the provisions of this Act or of any By-law, Regulation or Ordinance which may lawfully be made by the said Corporation by the infliction of penalties or fines, in cases not already provided for by this Act, for every violation or non-observance thereof, to be recovered in the manner hereinbefore provided: Provided always, that no fine or penalty imposed by any By-law, Regulation or Ordinance of the said Corporation shall (except in those cases already provided for in this Act or the said Act, intituled, *An Act to incorporate the Village of Prescott, and to establish an elective Police therein,*) exceed the sum of two pounds and ten shillings.

Proviso: fines limited.

XLVII. And be it enacted, That this Act shall be and is hereby declared to be a Public Act, and as such shall be judicially noticed by all Courts of Law and Equity, Judges, Justices of the Peace, and other persons, without being specially pleaded.

Public Act.

XLVIII. And be it enacted, That this Act shall commence and have force and effect on and after the first day of January, in the year of Our Lord one thousand eight hundred and forty-eight, and not before.

Commencement of this Act.

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