

Laws of Her Majesty's Province of United Canada, passed in the year 1846. Montreal:
Stewart Derbishire & George Desbarats, 1846.

9 Victoria – Chapter 40

An Act to amend the laws relative to District Councils in Upper Canada. 9th June, 1846.

Whereas it is expedient to amend the Act hereinafter mentioned, establishing Municipal Authorities in and for the several Districts of Upper Canada: 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 for and notwithstanding anything to the contrary in the seventh section or in any other part of the Act passed in the Session Held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to provide for the better internal Government of that part of this Province, which formerly constituted the Province of Upper Canada*, by the establishment of Local or Municipal Authorities therein, the Township meetings for the election of Councillors to represent such Townships respectively, in the District Council, shall open and commence at ten of the clock in the forenoon of the day appointed for such meetings, and the Poll (if a Poll he demanded) shall finally close at four of the clock in the afternoon of the same day.

II. And be it enacted, That for and notwithstanding as aforesaid, and in addition to the purposes for which the District Councils are by the thirty-ninth section of the said Act empowered to make By-laws, each District Council shall have power by a By-law or By-laws to be passed from time to time, to fix the site of a Town Hall and the place for holding the Township meetings in each or any Township in the District; and all Township meetings authorized by law shall thereafter be held at the places so appointed, and not elsewhere.

III. And be it enacted, That for and notwithstanding anything in the twelfth or in the fiftieth section or in any other part of the said Act, it shall be lawful for any District Council, in its discretion, by any By-law, to be passed for that purpose, to allow to each Member of such Council a sum not exceeding six shillings and three pence for each day he shall actually sit in Council, to be paid out of the District Funds in such manner and on such conditions as shall be directed in such By-law; and such By-law may or may not, in the discretion of the Council, be made to apply to the meeting at which it shall be made, but shall not apply to more than four half-yearly meetings after that at which it shall be made, and to such duly authorized extraordinary meetings as shall be held before the last of the half-yearly meetings to which the By-laws shall be made applicable, and which shall be therein clearly stated.

IV. And be it enacted, That for and notwithstanding anything in the fourth section or in any other part of the said Act, the Warden appointed or to be appointed by the Governor for each District, shall go out of office from the time when a Warden shall be appointed for such District under the

provisions of this Act, and thereafter it shall not be lawful for the Governor of this Province to appoint any person to be Warden of such District.

V. And be it enacted. That at the first meeting of each District Council in any year, the Members of such Council shall and may, by a majority of the votes of the whole number of the Councillors present, elect some one of themselves to be the Warden of the District until his successor shall be elected in like manner; and at such election the Warden for the time being shall preside, but shall not vote unless the votes be equally divided, in which case he shall give a casting vote, and may give such vote in his own favour if he be one of the parties having an equal number of votes: And the Warden so elected shall remain Warden and may preside at the election of his successor although he may have gone out of office as a Councillor before such election, but the Warden may always be re-elected if he be a Councillor at the time of the election: Provided always, that the Warden appointed for any District by the Governor, shall, if otherwise qualified, be eligible as a Councillor at or after the annual election of Councillors, in the year one thousand eight hundred and forty-seven.

VI. And be it enacted, That the Warden so elected shall while in office have all the powers and perform all the duties assigned by the Act aforesaid to the Warden appointed by the Governor, and the provisions of the said Act shall apply to the Warden so elected and to all matters relating to his office, in so far as may be consistent with this Act: And if at any time a temporary Chairman shall be appointed under the provisions of the twenty-first section of the said Act, during the absence of the Warden, or in case of a vacancy in that office, such temporary Chairman shall, during such absence or vacancy, have all the powers and perform all the duties of the Warden: And if such vacancy or absence shall occur during the interval between two Meetings, then the District Clerk shall act as Warden, until a Warden or a Temporary Chairman shall be elected.

VII. And be it enacted, That at the first meeting of District or Municipal Councils after the passing of this Act, a District Treasurer shall be selected by the majority of the votes of any District or Municipal Council, any thing in the twenty-ninth section of the before recited Act to the contrary notwithstanding, and shall be subject to re-election at the expiration of every three years; and such Treasurer so selected shall have all rights and powers which by any enactments now in force might appertain to any District Treasurer appointed before the passing hereof, in so far as the same may not be inconsistent with the provisions of this Act; And at the expiration of three years as aforesaid, the Council, if they see fit for the public interests, may select any other person to discharge the duty of Treasurer other than the one first selected: And it is hereby provided, that on any vacancy in the office of District Treasurer by death or otherwise during the recess of the Council, the Warden may and shall summon an extra meeting of the Council, for the purpose of selecting a Treasurer as aforesaid.

VIII. And be it enacted, That any Treasurer selected by the provisions of this Act shall, before he enters on the duty of the said office, give security for the safe keeping and the lawful application of all monies which may come into his hands by virtue of any enactment of the Legislature of the late Province of Upper Canada, or of the Legislature of the Province of Canada, or of any By-laws of the Municipal or District Council: And such security shall be such Treasurer in the sum of Two

Thousand Pounds, and two sufficient sureties to be approved of by the District Council, in the sum of One Thousand Pounds each.

IX. And be it enacted, That for and notwithstanding any thing in the twenty-eighth section or in any other part of the said Act, the District Clerk appointed or to be appointed by the Governor in each District, shall go out of office from the time his successor shall be appointed under this Act, and thereafter no District Clerk shall be appointed by the Governor in such District.

X. And be it enacted, That at their first meeting in the year one thousand eight hundred and forty-seven, each District Council shall appoint a proper person to be the District Clerk, and may from time to time remove him, and appoint another in his stead, or may replace him; and the District Clerk so appointed shall have all the powers and perform all the duties assigned to the District Clerk by the Act aforesaid, and shall be subject to all the provisions thereof in so far as may be consistent with this Act: Provided always, that the Clerk of the Peace for the District shall always be eligible as District Clerk; and that in case of any vacancy occurring in the office of District Clerk during the interval between two meetings of the Council, the Clerk of the Peace for the District shall be ex officio the District Clerk until another shall be appointed as aforesaid.

XI. And be it enacted, That for and notwithstanding any thing in the twenty-second section or in any other part of the said Act, there shall only be two ordinary meetings of each District Council in each year, which shall be held in the months of February and October, in each year; and the said half-yearly meetings shall commence on the first Tuesday in each of the months of February and October, respectively, and shall not be held for a longer period than nine successive days, (Sundays excepted;) and all the provisions of the said Act as to the quarterly meetings therein mentioned shall apply to the half-yearly meetings appointed by this Act or by any By-law made under the authority thereof, in so far as may be consistent with this Act; and any thing which, by the said Act or by the By-laws of any District Council, shall have been appointed to be done at the quarterly meeting which without this Act would have been held in the month of August or of November., shall and may be done at the half-yearly meeting to be held in the month of October of the same year.

XII. Provided always, and be it enacted, That any District Council may, by By-laws to be from time to time made in that behalf, and expressly approved by the Governor in Council, alter the period hereinbefore fixed for the ordinary half-yearly meetings of such District Council and the duration of such meetings, so that no more than two such meetings be appointed to be held in any year, and that no such meeting be held for a longer period than nine successive days, Sundays and Good Friday excepted.

XIII. And be it enacted, That the forty-second section of the Act of the Legislature of Upper Canada, passed in the first year of Her Majesty's Reign, and intituled, *An Act to alter and amend sundry Acts, regulating the appointment and duties of Township Officers*, and so much of the twenty-third section of the said Act as enables any party to compound for Statute labour, or fixes the rate of composition, or the officer to whom the composition money shall be paid, or the manner in which it shall be employed, shall be repealed; and that for and notwithstanding

anything in the Act first above cited and hereby amended, it shall be lawful for the district Council by any By-law, to empower the landholders in the District to compound for the Statute labour by them respectively performable, for any term not exceeding five years, at any rate not exceeding two shillings and six pence for each day's labour, and at any time before the labour compounded, for ought to be performed, and by such By-law to direct to what officer in each Township such composition money shall be paid, and how such money shall be applied and accounted for, and to regulate by By-law the manner and the divisions in which the Statute labour shall be performed, or to empower the respective Township Councillors to direct the laying out and performance thereof.

XIV. And be it enacted, That in addition to the purposes for which the District Councils are empowered by the Act first above cited to make By-laws, it shall be lawful for any District Council to make By-laws for providing that on each side of any highway which shall pass through a wood, the timber shall be cut down for a space not exceeding twenty-five feet on each side of such highway, by the proprietor of the land on which such timber shall be, or in his default by the Overseer of Highways in whose division such land shall lie; such timber to be removed by the proprietor within a time to be appointed by the By-law, or in his default by such Overseer of Roads, in which last mentioned case it may be used by the Overseer for any purpose connected with the improvement of the highways and bridges in his division, or sold by him to defray the expenses incurred in carrying the By-law into effect: Provided always, that no such By-law shall authorize or compel the cutting down of any orchard or shrubbery, or of any trees planted expressly for ornament or shelter.

XV. And be it enacted, That for and notwithstanding anything in the thirty-seventh or in the forty-sixth section, or in any other, part of the Act first above cited, it shall be discretionary with each District Council to employ the District Surveyor to prepare, examine or report upon the estimate for any work upon which the sum to be expended shall not exceed fifty pounds, or for any other purpose relative to such work.

XVI. And be it enacted, That in addition to the purposes for which the District Councils are empowered by the forty-eighth section of the Act first above cited to make By-laws, it shall be lawful for any District Council, on the application of a majority of the persons qualified to vote at the election of Township Officers in any Township in the District, to authorize and direct by By-law, the raising by assessment on the taxable property in such Township, of such sum as may be required for the purpose of affording relief to indigent, sick or infirm persons in the Township, in such manner and under such regulations as may be provided in any By-law to be made in that behalf.

XVII. And be it enacted, That all the provisions of the forty-seventh section of the Act first above cited, and all other provisions of the said Act, shall apply to the By-laws to be made and other proceedings to be had under this Act, in so far as may be consistent with this Act.

XVIII. And be it enacted, That for and notwithstanding any thing in the eleventh section of the said recited Act, it shall and may be lawful for the inhabitants of any Township or reputed Township to

elect any person or persons to be a District Councillor or Councillors, although such person or persons may not be resident within the Township or reputed Township for which he or they may be elected.

XIX. And be it enacted, That for and notwithstanding any thing in the thirty-seventh section of the said first recited Act, the District Surveyor, appointed by the Warden of any District, shall go out of office from the time his successor shall be appointed under this Act, and thereafter no District Surveyor shall be appointed by the Warden of any. District: Provided always, that any present District Surveyor may be appointed to perform the duties of that office by the District Council.

XX. And be it enacted, That at their first meeting, in the year one thousand eight hundred and forty-seven, the District Council shall appoint a proper person to be District Surveyor, and may, from time to time remove him and appoint another in his stead, or may replace him; and the District Surveyor so appointed shall have all the powers and perform all the duties assigned to the said District Surveyor by the Act aforesaid, and shall be subject to all the provisions thereof, in so far as may be consistent with this Act.

XXI. And be it enacted, That this Act shall come into effect upon, from and after the third Monday in August next, and shall apply solely to that part of this Province which formerly constituted the Province of Upper Canada.

XXII. And be it enacted, That the word "Governor," wherever it occurs in this Act, shall be construed as including the Lieutenant-Governor, or Person administering the Government of this Province; and that the words "Governor in Council" shall be construed as meaning the Governor acting by and with the advice of the Executive Council of this Province.