

Laws of Her Majesty's Province of United Canada, passed in the year 1847. Montreal:
Stewart Derbishire & George Desbarats, 1847.

10 & 11 Victoria – Chapter 39

An Act to divide the Western District of the Province of Canada, and for other purposes therein mentioned. 9th July, 1847.

Whereas from the increase of the population of the Western District, its geographical position and its vast resources in fertility of soil and inland navigation, and the great distance of many parts thereof from the District Town, it is expedient to erect the County of Kent in the said District into a separate District, and to make other changes with regard to the said District hereinafter mentioned, and for which the inhabitants thereof have by petition prayed: 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 Township of West Tilbury shall from and after the passing of this Act be united to and form part of the County of Essex to and for all intents and purposes whatsoever.

II. And be it enacted, That so soon as the 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 Chatham, in the County of Kent, for the security of prisoners, and for accommodating such Courts as shall or may be held within the said County of Kent, it shall and may be lawful for the Governor, or Person administering the Government of this Province for the time being, by and with the advice and consent of Her Majesty's Executive Council in this Province, to declare by Proclamation the said County of Kent to be detached from and to cease to be part of the Western District, and to be a separate and distinct District, by the name of "The District of Kent": Provided nevertheless, that nothing in this Act contained shall affect or be construed to affect the jurisdiction of Her Majesty's Court of Queen's Bench in Upper Canada, or to affect the jurisdiction of the Courts of General Quarter Sessions of the Peace, or District Court within the Western District, until the issuing of the Proclamation aforesaid: Provided also, that if at the time the said County shall be set off into a separate District, any suit or action shall have been commenced or be pending for any cause of action arising therein, or any indictment for any indictable offence that has been committed within the said County, 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 Western District, unless all the parties shall agree that the same shall be tried in the said District of Kent: Provided also, that such Gaol and Court House shall be erected in the Town of Chatham.

III. And be it enacted, That the District Councillors for the Townships in the said County of Kent, shall and they are hereby authorized, at a Public meeting to be by them holden for that purpose, at some convenient place, within the said Town of Chatham, so soon after the passing of this Act

as may be convenient, (a notice signed by a majority of the said Councillors calling such meeting and fixing upon the time and place thereof having been served at least ten days before that fixed for the meeting, on each of the Councillors entitled to attend the same,) to procure by such means as to the said Councillors, or the major part of them present at such meeting, or at any adjourned meeting of the said Councillors, shall seem fitting and proper, plans and elevations of a Gaol and Court House, to be laid before them for the purpose of thereafter selecting and determining upon one by the Councillors then and there assembled as aforesaid.

IV. Provided always, and be it enacted, That such Gaol and Court House for the said District of Kent shall be erected on the ground reserved as a site for a Gaol and Court House in the said Town of Chatham, which ground and the said Court House and Gaol shall be from and after the Proclamation aforesaid, vested in the District Council of the said District of Kent, until which time the same shall be and are hereby vested in the Building Committee hereinafter mentioned.

V. And be it enacted, That at the said meeting as aforesaid, the Councillors 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 authorized, and they are hereby authorized and empowered to contract for and superintend the erection and completion of such Gaol and Court House, under the control of the Councillors for the time then being, 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 furnish 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 such 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 building such 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 to build such Gaol and Court House for the lowest price; Provided the said person or persons making the said proposals shall give and enter into good and sufficient security, to be approved of by the said Councillors at some one of the meetings as is herein provided, for the due performance of his or their contract.

VI. And be it enacted, That the said Councillors so assembled as aforesaid, shall have the like power and authority within the said County of Kent, as the District Councils in the several Districts of Upper Canada duly assembled, have by law, so far as relates to building Gaols and Court Houses in their respective Districts, and no further, unless provided for in this Act; and that they be authorized to adjourn the said meeting, from time to time, and assemble again as often as the business relating to the building of such Gaol and Court House shall seem to require: that the said Building Committee shall be under their control and direction, and that the Clerk shall record all the Resolutions, Rules and Orders of the said meetings in a book to be kept by him for that purpose; and if any vacancy or vacancies shall occur of Chairman, Treasurer or Clerk, or of any

Member of the said Building Committee, before the said County of Kent shall have been declared a separate District, by death, resignation or removal, the Councillors for the time then being shall be authorized to supply the vacancy, so often as it may occur, by other appointments.

VII. And whereas it is expedient, that until the said County of Kent shall be declared a separate District, the said County shall bear and contribute a just portion of certain expenses of the Western District: Be it therefore enacted, That from and out of the rates and assessments raised, levied and collected in the said County of Kent, it shall and may be lawful for the Treasurer of the Western District annually to retain for the purpose aforesaid, such a sum as shall bear the same proportion to the total sum raised for defraying the expenses of the administration of Justice in the Western District, as the population of the County of Kent according to the then last census, shall bear to the whole population of the Western District by the same census, which proportion is only to extend to the Administration of Justice; and it shall be the duty of the said Treasurer of the Western District, after deducting such sum, and such sums as may have been raised for Common School purposes, or for any special local purpose in any Township or Townships or place, 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 County of Kent, and the same shall be applicable to the general benefit of the said intended District, and may be applied by the Councillors for the Townships in the said County of Kent towards erecting and building a Gaol and Court House therein; and the Treasurer of the Western District shall take receipts for the same, as the money shall be paid over, which receipts shall be allowed by the Auditors of the said Western District in their settlement with him.

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

IX. And be it enacted, That the said Building Committee shall keep faithful and correct accounts of alimonies 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 shall also keep an account of all monies which may from time to time come into their hands, applicable or available for building the said Gaol and Court House, and that they shall exhibit a detailed statement both in debtor and creditor, to the District Council of the said intended District at their first quarterly meeting to be holden therein, after the same shall have been declared a separate District.

X. And be it enacted, That it shall and may be lawful for the Councillors for the Townships in the said County of Kent, so assembled as aforesaid, and they are hereby empowered by an order of such meeting, to authorize and direct the Treasurer so to be appointed as aforesaid, to raise by loan, from such person or persons, bodies corporate or politic, as 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 Three thousand pounds, to be applied in defraying the expense of building the said Court House and Gaol.

XI. Provided always, and be it enacted, That the money so borrowed under the authority of this Act shall not be at a higher rate of interest than six per centum per annum; and the Treasurer for 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 one hundred pounds, together with the lawful interest upon 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.

XII. And be it enacted, That no Treasurer hereafter to be appointed, either by the said meeting, or by the Councillors of the said intended District, shall be entitled or authorized 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 hands, or for paying out any sum or sums of money, in discharging and liquidating such loan with the interest thereon as aforesaid.

XIII. And be it enacted, That Courts of Oyer and Terminer and General Gaol Delivery, of Assize and *Nisi Prius*, Courts of General Quarter Sessions of the Peace, District Court, Surrogate Court, Division Courts, and every other Court and Jurisdiction, with all District Offices and Municipal rights whatsoever, held or to be held, possessed and enjoyed, in and by the other Districts in that part of this Province called Upper Canada, 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 of Kent constituted by such Proclamation; and that all and every jurisdiction, regulations, 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, or of the late Province of Upper Canada, 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 from thenceforth extended to the said District of Kent, unless otherwise provided for by this Act or any other Act or Acts of the Parliament of this Province.

XIV. And be it enacted, That all and every the provisions, rules, regulations, matters and things contained in any Act or Acts of Parliament of this Province, or of the late Province of Upper Canada, for the regulation of or relating to Gaols and Court Houses, which shall be in force and operation in that part of the Province aforesaid, at the time of declaring such new District as aforesaid, shall be and are hereby from thenceforth extended to the Gaol and Court House in the said District of Kent; and that the aforesaid Courts of Oyer and Terminer and General Gaol Delivery, Assize and *Nisi Prius*, General Quarter Sessions of the Peace, Surrogate Court, 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 in the said District of Kent, by virtue of any Act or Acts of the Parliament of this Province.

XV. And be it enacted, That from and after the declaring of the said County of Kent to be a separate District as aforesaid, the Court of General Quarter Sessions of the Peace, and sittings of the District Court of such District, shall be respectively commenced and held at the place

hereinbefore appointed for that purpose, and the said Quarter Sessions shall commence on the first Tuesday in the months of January, April and July, and on the third Tuesday in the month of November, in each and every year; and that the Terms of such District Court shall respectively commence on the Monday of the week next but three preceding the week in which the Court of General 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.

XVI. And be it enacted, That Her 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 County of Kent, at the time the same shall be declared a separate District as aforesaid, shall continue to hold and enjoy and exercise the like commission, office, authority, power and jurisdiction within the said District of Kent, in the same manner that they previously held, enjoyed and exercised the same within the Western District: Provided, that the authority, power and jurisdiction, previously exercised by Her Majesty's Justices of the Peace and other persons bearing commission or office or lawful authority within, or residing within the said District of Kent, shall not in any wise be longer exercised or continued within the Western District, but the same within that District shall from thenceforth cease and determine: Provided that after the declaring of such new District as aforesaid, Her Majesty's Justices of the Peace, and others who thenceforth continue to hold commission or office or bear lawful authority within the Western District shall cease to hold such commission or office, or to exercise such lawful authority within such new District to be declared as aforesaid; and that no jurisdiction, power or authority, of whatever nature or kind soever, to the said Western District at the time of the formation of such new District as aforesaid belonging or appertaining, shall longer extend or be construed to extend to such new District.

XVII. And be it enacted, That the ordinary assessments and rates levied within the said County of Kent for the then current year, at the time the said County shall be declared a separate District by virtue of this Act, and all future assessments and rates to be levied therein, shall be applied and expended for the like purposes within the said new District, as they at that time might be applied and expended for, under or by virtue of any Act or Acts of the Parliament of this Province, or of the late Province of Upper Canada, in the Western District, except in so far as the same may be varied by this Act, or by any other Act or Law.

XVIII. And whereas it is necessary to make provision for the establishment and support of Schools within the said County of Kent when the same shall be declared a separate District by virtue of this Act: Be it therefore enacted, That from and after the erection of the said County of Kent into a separate District by virtue of this Act, there shall be granted annually to Her Majesty, Her Heirs and Successors, from and out of the monies raised, levied and collected, or hereafter to be raised, levied and collected, to and for the uses of this Province, and unappropriated, a sum not exceeding one thousand pounds for the said intended District, which said sum of one thousand pounds shall be appropriated, applied and disposed of, in paying the salaries of the Teachers of the Public District Schools which may be hereafter erected in the said intended District.

XIX. And be it enacted, That one District School shall be opened and kept in the Town of Chatham, in the said District of Kent, at such place as the Trustees of the District Schools of the said District or a majority of them may appoint.

XX. And be it enacted, That the said District Schools shall be established in like manner, and under the same rules, regulations and restrictions in every particular, as are or shall be mentioned and provided in the several Acts of the Parliament of this Province, or of the late Province of Upper Canada, for the regulation of similar Schools in the other Districts of that part of the Province called Upper Canada.

XXI. And be it enacted, That from and after the erection of the said County of Kent into a separate District as aforesaid, such new District shall be entitled to a proportionate allowance out of the Common School Fund, in the same manner and on the same terms and conditions as other Districts are so entitled.