

## CHAP. XVI

*AN ACT to authorise Her Majesty to take Possession of Lands for the erection of Fortifications in this Province, under certain restrictions.*

[Passed 10th February, 1840.]

WHEREAS it is desirable that Her Majesty should have authority to procure ground which may be wanting for erecting Forts and Batteries, and preserving the necessary approaches thereto free from obstruction, as far as may, from time to time, become necessary for the public service and the defence of this Province: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America,' and to make further provision for the Government of the said Province," and by the authority of the same, That it shall and may be lawful for the Governor of this Province to authorise any General Officer or Officers, or other person or persons duly authorised by the Commander-in-Chief, for the time being, of Her Majesty's Forces in this Province, to Survey and mark out any piece of ground which may be required for the erection of any Fort, Barrack, Battery or other Military Work, and for preserving such Work free from obstruction; and to treat and agree with the owner or owners thereof, or any person or persons having any interest therein, for the purchase, possession or use thereof, either in fee or for such time as the exigency of the service shall require; and in case the owner or owners of such ground, or any person or persons having an interest therein, shall refuse or decline to sell or enter into such contract touching the same, as shall be satisfactory to such Officer or Officers, or other person or persons commissioned, as

aforesaid, or shall be unable to do so by reason of infancy, coverture or other disability, it shall be lawful for the Governor to require two or more Justices of the Peace, for the District, City, Town or place, where such piece of ground shall be, to put Her Majesty's Military Officers into immediate possession of such piece of ground, which such Justices shall accordingly do; and shall for that purpose issue their warrant, under their hands and seals, directed to the Sheriff of the District within which such land is; and shall also issue their Warrant to such Sheriff, commanding him to summon a Jury to appear and be on a day and at a place in such Warrant to be mentioned, (the most convenient that may be) to inquire of and ascertain the compensation which ought to be made for the purchase, possession or use, of such piece of ground, accordingly as the same may be required for the public service, in fee or for a limited period, to the several persons interested therein, and to whom the same ought to be paid; and the Sheriff shall have power to administer an oath to the Jury, to render a true verdict on the question submitted to them according to the evidence; and also to administer an oath to all Witnesses produced before such Jury; and the verdict of such Jury shall be certified by such Sheriff to the Governor of this Province, in order that proper compensation and the reasonable expenses of such Sheriff in summoning the Jury, and also of their attendance, may be paid to the persons severally entitled thereto, out of any funds at the disposal of Her Majesty, granted and made applicable to such purpose by the Imperial Parliament of the United Kingdom of Great Britain and Ireland: *Provided always*, that no such piece of ground shall be so taken for the public service without the consent of the owner or owners thereof, unless the necessity for the same shall be first certified by the Commander of Her Majesty's Forces in this Province, or unless the enemy shall have actually invaded this Province, when such piece of ground shall be taken.