

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1864. Fredericton, NB: G. E. Fenety, Printer to the Queen's Most Excellent Majesty, 1864.

27 Victoria – Chapter 49

An Act relating to certain Lands required for Railway purposes in the City of Saint John. Passed 13th April, 1864.

Section.

1. Mayor, &c., when notified by Commissioners, may extend line.
2. Land to be taken; quantity.
3. Mayor, &c. may enter on lands for survey.
4. When survey is made and recorded Commissioners may enter upon lands.
5. Provisions of Act 21 Vic. cap. 18, to apply to this Act.
6. Appraisers, by whom appointed.

Section.

7. Duly of Appraisers.
8. Appraisement, when binding.
9. Appraisement to be filed in officer of Common Clerk; when filed, Mayor, &c. to order assessment.
10. Amount, when collected, to whom paid.
11. Land to be paid for before being taken.
12. Compensation to Appraisers.

Whereas it is highly desirable that a Deep Water Terminus should be established in the City of Saint John, on the eastern side of the Harbour: And whereas the Corporation of the said City, in ease of the establishing such terminus at the Breakwater in Sidney Ward, and granting a right of way for extending the European and North American Railway through as much of the City property as lies between the present line of such Railway near the Aboideau in the County of Saint John, around Courtenay Bay, to said Breakwater, should have authority to enter on and purchase any property not belonging to said Corporation, and that may be required for the fully opening and establishing of such Railway to the Breakwater;—

Be it therefore enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. The Mayor, Aldermen and Commonalty of the City of Saint John are hereby authorized and empowered, whenever and so soon as the Commissioners for the management and construction of Railways appointed or to be appointed under the authority of an Act passed in the nineteenth year of the Reign of Her present Majesty, intituled *An Act to authorize the construction of Railways in this Province*, shall notify the Common Council of said City in writing, of their intention to extend the line of Railway by the eastern bounds of said City to the Breakwater in Sidney Ward, and at all times thereafter, to enter upon and take possession of any lands required for the track of such Railway, and order and direct a survey and plan (of the lines and lands required) to be made, and shall lay off the lands by metes and bounds, and record a description thereof in the office of the Registrar of Deeds for the City and County of Saint John; and the same shall operate as and be a dedication to the Queen for the purposes of such Railway of such lands, whether the same be lands of said Mayor, Aldermen and Commonalty, or any person or persons whomsoever.

2. The lands so taken shall not be more than six rods in breadth for track, beginning at the present line of the European and North American Railway, at such part thereof in the Parish of Portland, in the County of Saint John, as the said Commissioners for the construction of Railways may determine, and extending therefrom to the City of Saint John, and around and within the eastern bounds of said City, near Courtenay Bay, in such direction as may be found by the said Mayor, Aldermen and Commonalty most practicable, to the Breakwater in Sidney Ward, in said City.
3. The said Mayor, Aldermen and Commonalty, by themselves, their servants, and agents, may and are hereby authorized and empowered to enter upon any lands for the purpose of surveying and locating such line of Railway.
4. Upon the survey of such line, and recording of the metes and bounds thereof, as provided for by the first Section of this Act, the said Commissioners for the management and construction of Railways shall and may enter upon the lands so set apart and dedicated to the public for the purposes of such Railway, and shall have upon and over the whole line so established, all the powers and authorities given to said Commissioners by any Act now in force or that may hereafter be enacted and be in force relating to Railways, and land required for Railway purposes.
5. The several provisions of an Act passed in the twenty first year of the Reign of Her present Majesty, intituled *An Act for the regulation of Railways*, shall extend and apply to this Act, and the line of Railway hereby established, as fully and effectually to all intents and purposes as if the several Sections of the said Act, from the first to the sixteenth, both inclusive, had been specially set forth herein.
6. The Governor in Council may appoint not less than three persons to be appraisers for ascertaining and settling the value of any land so taken, and any claim for damages occasioned by the construction of such Railway under the Act; who shall be sworn to the faithful and impartial discharge of their duties, before the Clerk of the Peace for the City and County of Saint John, who is hereby authorized to administer such oath, and forthwith transmit a certificate thereof to the Provincial Secretary.
7. The Appraisers shall examine the said line of Railway and lands entered upon by virtue of this Act, and assess the value of any such lands so taken, not being lands of the said Mayor, Aldermen and Commonalty; and also assess any damages which any lessees or assignees of lands of the said Mayor, Aldermen and Commonalty may sustain by the taking of any land so leased by them; and in assessing the value of any such land, or the damages as aforesaid, the Appraisers shall take into consideration the benefit likely to accrue to the respective proprietors and lessees as aforesaid, from the Railway running through or near their land, and the value or damages shall be reduced or extinguished accordingly.

8. The appraisalment shall be agreed to and signed by a majority of the Appraisers who may make the appraisalment, such majority in no case to be less than two, and the same shall be binding upon all parties.
9. The Appraisers shall file their appraisalment in the office of the Common Clerk of said City, and transmit a copy thereof to the office of the Provincial Secretary; and immediately after the filing of the same in the Common Clerk's Office, it shall be the duty of the said Mayor, Aldermen and Commonalty of the said City of Saint John, and they are hereby authorized and required, by Warrant under the common seal of said City, to order an assessment on the City of Saint John on the eastern side of the Harbour and the inhabitants thereof, for such sum as may be required for the payment of the appraisalment, costs of plan and survey, and remuneration to the appraisers, besides the costs and charges of assessing and collecting, to be assessed, levied and collected in the same manner as any assessment made under the provisions of the "Saint John City Assessment Act of 1859," and the several Acts in amendment thereof.
10. The amounts collected under such assessment shall be paid to and received by the Chamberlain of the City of Saint John, who shall keep separate accounts of the same, and shall be paid out by him to the several parties entitled thereto by virtue of this Act.
11. That nothing in this Act shall authorize the taking and dedicating of any lands as herein provided, until the same have been paid for or otherwise settled for with the owners thereof.
12. The Governor in Council shall determine the amount of remuneration to be paid to the appraisers for their services.