

Laws of Her Majesty's Province of Newfoundland, passed in the year 1844.

7 Victoria – Chapter 1

An Act to make provision for the Disposal and Sale of ungranted and unoccupied Crown Lands within the Island of Newfoundland and its Dependencies, and for other purposes. (Passed 29th April, 1844.)

Whereas it is expedient to make provision for the disposal and sale of ungranted and unoccupied Crown Lands within this Colony and its Dependencies, and also to make provision for the appropriation of the Revenues derived from the Sale thereof, and also the Revenues derived from the Rents of Crown Lands within the said Colony and its Dependencies.

- I. Be it therefore enacted, by the Governor, Council and Assembly of Newfoundland, in General Assembly convened, and by the authority of the same, That from and after the passing of this Act, no grant shall be made of any of the said Lands to any Person not being a natural-born Subject of Her Majesty, or a Denizen, or a naturalized Subject of Her Majesty, Her Heirs and Successors.
- II. And be it further enacted, That no ungranted or unoccupied Crown Land shall be disposed of otherwise than by Sale of the same; and that immediately upon such Sale and payment of the Purchase Price, or so soon thereafter as conveniently may be, a Grant of such Land in Fee-simple shall be issued under Letters Patent made and passed under the Great Seal of this Island, in customary form, to the Purchaser or Purchasers, his, her, or their Assigns and Heirs.
- III. And be it further enacted, That from and after the passing of this Act, the Disposal and Sale of all such ungranted and unoccupied Crown Lands as aforesaid shall be effected by Public Auction of the same, at which such Lands shall be set up at a Price to be fixed and appointed by the Governor or Person for the time being administering the Government: Provided that such Upset Price shall in no case be at a lower rate than Two Shillings per Acre.
- IV. And be it further enacted, That all such Sales by Auction shall be made at the Office of the Surveyor General at St. John's, or at the Office of the Deputy Surveyor of the District wherein the Lands to be Sold shall be situate, after due and reasonable notice of the same shall have been published in the Royal Gazette, and also in the principal locations of the District wherein such Lands may be situate; and such notice shall set forth the Quantity of such Land intended to be Sold, and the Situation and Boundaries of the same, together with the Upset Price thereof; and all such Sales shall be made at such times as the Governor, or Person Administering the Government, shall direct and appoint.
- V. And be it further enacted, That all Purchasers of such Land so sold by Auction as aforesaid, shall, at the place and time of such Sale, immediately pay into the hands of the Surveyor General, or the Deputy Surveyor respectively selling such Lands, a Sum or Deposit, after the rate of One Shilling per Acre, upon the whole quantity of Land so Sold and Purchased; and for such Deposit-money the Surveyor General or Deputy Surveyor shall deliver to the Purchaser a Receipt in Writing, specifying the amount or sum paid and date of the day of such payment; and the remainder of such Purchase Price as may be due

and payable thereon, shall be paid by the Purchaser into the Office of the Colonial Secretary within Four Months next after the day of such Sale made at Auction; and in failure of the full payment of such whole Purchase Price, at the same time and manner as aforesaid, the Deposit-money shall become forfeit, and the Purchase and Sale of such Land shall thereupon become null and void.

VI. And be it further enacted, that when and so often as it shall happen that any such Lands as aforesaid shall have been more times than once on different days after such Public Notice as aforesaid exposed to Sale by Public Auction at an Upset Price, without effecting a Sale of the same, it shall be lawful for the Governor, or Person administering the Government for the time being, to Sell and Dispose of the same, without further Public Competition, at the last Upset Price at which such Lands shall have been offered by Public Sale.

VII. And be it further enacted, That it shall and may be lawful for the Governor, or Person administering the Government, from time to time, to reserve, set apart, and appropriate such parts or portions of any unoccupied Land in any of the Districts of this Island, or places within its Government, as he may, by and with the advice and consent of the Council, deem proper and expedient to appropriate, for the purpose of erecting Court Houses, Market Places, Churches, Chapels, or other Places of Public Worship, or for the erection of School-Houses, or for any other Public use or purpose; and also such portions of unappropriated Ships' Room, Beaches and Shores, as may be deemed necessary or convenient to set apart for the General and Public Uses of the Inhabitants within any of the Districts or Places aforesaid.

VIII. And be it further enacted, That it shall and may be lawful for the Governor or Person administering the Government, by and with the consent of the Council, to order the reservation of such and such portion of bogs as may be deemed necessary for the supply of manure or fuel to the Public, and such and such portion of forest as may be necessary for the uses of the Fishery.

IX. And be it further enacted, that the Governor or Person administering the Government for the time being, may and shall make and issue Grants of Crown Lands to Officers of the Army and Navy, under such regulations and may from time to time be established or prescribed by Her Majesty, and signified to the Governor or Person administering the Government of this Island, by Her Majesty's Secretary of State for the Colonies.

X. And be it further enacted, That it shall be lawful for the Governor or Person administering the Government, by and with the advice and consent of the Council, from time to time to order and direct Surveys to be made of any portions Of Crown Lands that may be open to the selection Of Purchasers, and to pay out of such disposable monies as may be in the hands of the Colonial Treasurer, and have been appropriated by the Legislature to such service, such sum or sums of money as may from time to time be requisite and necessary to pay and defray the charges and expenses of such surveys and the costs incurred in the construction Of such maps or plans as may be required therein; and such surveys, maps and plans, shall be deposited in the Office of the Surveyor General, and be open at all reasonable hours to the free inspection of any person requiring to view the same, and Public Notice thereof shall be duly given by the Surveyor General.

XI. And be it further enacted, That when and so often as any person shall be desirous to obtain a grant of such unoccupied Lands he shall deliver into the office of the Surveyor General of Crown Lands at St. John's a petition or application for the same, either in writing or printed, addressed to the Governor or Person administering the Government, and signed by the applicant with his or her name or on his or her behalf by his or her authorized Agent, add such Petition shall contain and set forth all such particulars and be in such form as the Governor or Person administering the Government for the time being, by and with the advice and consent of the Council, shall direct and appoint; and the Surveyor General shall immediately, on receipt by him of every such Petition, endorse thereon the date of the day whereon he shall receive the same, and also record, in a book to be kept for such purpose, the particulars of such Petition in due and regular order, according to the time when such Petition shall have been received by him, and such Book shall be kept in all particulars as the Governor or Person administering the Government shall direct and appoint, and shall be free to the inspection of any person who may require to view the same, on application to the Surveyor General, at his Office, at all reasonable hours; and all such Petitions so received by the Surveyor General shall, without delay, be laid before the Governor or Person administering the Government for the time being, who is hereby authorized, if he shall deem fit and proper, to direct the Surveyor General to set up at Public Competition such Lands, or any portion thereof, for Sale in manner hereinbefore provided.

XII. And be it further enacted, That for the greater convenience of persons who may be desirous to obtain Grants of Land, printed forms of Petitions for the same shall be supplied to the Offices of the Surveyor General and his Deputies, for the use of such Persons, who on application at the said Offices at all reasonable hours shall be entitled to have and receive the same.

XIII. And be it further enacted, That in any case wherein any person or persons shall, since the first day of January in the Year One Thousand Eight Hundred and Forty, and before the passing of this Act, have intruded upon or taken possession of any Crown Land without lawful authority for so doing, it shall and may be lawful for the Governor or Person administering the Government for the time being, upon the Petition of the Person or Persons so intruding as aforesaid, and upon payment by him or them of such Purchase price per Acre for the said Land so intruded upon as may be the upset price at which other like Land in the same District shall be offered for Sale by public competition, to issue a Grant in usual form to him or them in Fee-Simple of the said Land or such portion thereof as the Governor or Person administering the Government for the time being may, according to the circumstances of the case, deem just and expedient; and if such person or persons shall not apply by Petition as aforesaid within the period of Twelve Months next after the passing of this Act, or having so petitioned shall not accede to, and comply with, such terms as are herein prescribed, such Land so intruded upon shall, after Twelve Months' notice from the Surveyor General or his Deputy to the party in possession of the same, be deemed to be unoccupied Land and be subject and liable to be sold and granted to any person or persons desirous to purchase the same, under the general provisions of this Act. Provided nevertheless that in particular cases wherein such Persons so intruding as aforesaid shall, since their intrusion, have made considerable and meritorious improvements upon such Land, it shall be lawful for the Governor or Person administering the Government, by and with the advice and consent of the Council, to impose any lower rate or price per Acre in payment for the said Land than the price above mentioned, or to give a Free Grant thereof, according to the circumstances and merits of the case.

XIV. And be it further enacted, That all persons who previous to the 1st January 1840, had been by themselves or their Tenants and since then and until the passing of this Act shall have continued to be in the bona fide occupation of any ungranted Land—and who shall have made improvements thereon, and who shall, within the period of Four years from and after the time of the passing of this Act, apply to have the same surveyed by the proper Officer appointed by the Government for that purpose, shall be entitled to hold the same, and they are hereby confirmed in the possession thereof, and shall upon application be further entitled to receive a Grant for the same, subject only to the charge named in the 16th Section of this Act: Provided always that the Quantity of Land so to be given as aforesaid, shall not in the case of any one Person be permitted to exceed Twenty Acres, unless the same shall have been brought into a state of Cultivation: Provided that nothing herein contained shall affect the interest of parties disputing the right to the possession of any such Land as aforesaid; and provided further, that unless the parties occupying such Land as aforesaid, shall within the period of Eight years from the passing of this Act, apply for and take up such Grant as aforesaid, it shall be lawful for the Crown to resume possession of the said Land, upon giving to the Occupant or Person claiming possession thereof, Twelve months' notice in writing of the intention to resume such possession.

XV. And be it further enacted, that a Copy of this Act, and of all further Rules and Regulations established under its provisions, shall be deposited in the Office of the Surveyor General, and also in the respective Offices of his Deputy Surveyors, and that the same shall be open at all reasonable hours to the free inspection of the Public.

XVI. And be it further enacted, that in all cases where, in accordance with the thirteenth and fourteenth Sections of this Act, Grants of Land are directed to be issued and the necessary Surveys shall be made to perfect the same, the parties for whom such Surveys shall be made, shall pay towards defraying the expense attending the same, the Sum of Five Shillings for every Grant of any quantity of Land not exceeding Five Acres; and for every Grant of Land exceeding Five Acres in quantity, the sum of One Shilling per Acre.

XVII. And be it further enacted, That the Surveyor General shall, every year, furnish to the Governor or Person administering the Government for the time being, for the purpose of being laid before the General Assembly, a detailed Return of all Lands Sold or Granted within the year ending on the first day of October then last past—of the sums received for the same—the names of the parties to whom sold or granted—the date of Sale- and all expenses attendant upon the transfer of the said Land.

XVIII. And be it further enacted, That the said Surveyor General shall have and receive, as the Salary of his Office, the Sum of Five Hundred Pounds per annum, in lieu of all Fees of Office, to be paid to him Quarterly: and that there shall be allowed and paid to the Chainman employed or; to be employed by the said Surveyor General, the sum of Forty Pounds per annum in lieu of all Fees of Office, to be paid to him quarterly: and that the sum of Fifty Pounds per annum be paid to the Colonial Secretary, in lieu of all Fees of Office payable to him upon Grants of Land hereafter to be issued: and the said Sums shall severally be paid out of the General Revenues of the Colony, by Warrant of the Governor, made in usual form, upon the Colonial Treasurer.

XIX. And be it further enacted, That from and after the passing of this Act, the whole of the general and casual Revenues that are now derived, or that may hereafter be derived, from and out of the Sale and Rentals of all Crown Lands and Ships' Rooms within this Colony or its Dependencies, together with the surplus or balance remaining in the hands of the Receiver thereof, shall, deducting thereout a sum not exceeding Five Pounds for every One Hundred Pounds, towards defraying all customary charges, expenses, and allowances, incident to the collection and receipt of the same, be annually accounted for and paid over by the Receiver of the said Revenues into the hands of the Colonial Treasurer, to be appropriated and applied to the general uses and purposes of the Colony.

XX. And whereas the Revenues derived from the Crown Lands of this Colony have been heretofore made chargeable with divers annual payments and sums of money, which, after the passing of this Act, will become chargeable upon the General Revenues of the Colony, and it is requisite and necessary to make provision for the future due payment of such annual charges:

Be it further enacted, that from and after the passing of this Act, the following subjects of charge and expense shall be borne and annually paid by and out of the General Revenues of this Colony; that is to say:—

All charges and expenses that may be incurred for the requisite repair and due maintenance of Government House and the Buildings, Offices, and Fences enclosing the same; Provided that all such charges and expenses as aforesaid, shall be incurred under the direction and superintendance of a Committee of Four Persons to be appointed by the Governor for that purpose, which Committee shall be composed of Two Members of the Legislative Council and Two Members of the Assembly of the Colony, and that such Committee be appointed annually.

The cost and charges for Printing and Stationery for the Surveyor General's Office, and Fuel and Light for the same.

The payment of the Salary of Fifty Pounds to the Superintendent of Colonial Buildings.

The payment of the annual Pension of Thirty Pounds to Mrs. Westcott, payable in England.

All which Sums of Money, charges and expenses, the Governor or Person administering the Government is hereby authorized and empowered to pay and defray at the times and in manner accustomed, by his Warrant, in usual form, made upon the Colonial Treasurer.

XXI. And be it further enacted, that no Lot of Land, offered for Sale under this Act, shall exceed in quantity One Hundred Acres: and that every Grant issued under this Act shall be conditioned for the cultivation, within the period of Five Years from the date thereof, of a proportion of Five per Cent, on the whole amount of Land contained in such Grant.