

*Laws of Her Majesty's Province of Newfoundland, passed in the year 1850.*

13 Victoria – Chapter 10

**An Act in further amendment of the Saint John's Rebuilding Acts. (Passed 30th April, 1850.)**

Whereas by a certain Act of the General Assembly passed in the ninth and tenth years of Her Majesty's reign, entitled "An Act to regulate the re-building of the town of Saint John's, and the drainage and sewerage of the same, and to repeal certain Acts therein mentioned," and by a certain other Act passed in the tenth year of Her said Majesty's reign, entitled "An Act to amend an Act passed in the ninth and tenth years of the reign of Her present Majesty, entitled 1 An Act to regulate the rebuilding of the town of Saint John's, and the drainage and sewerage of the same, and to repeal certain Acts therein mentioned," provision is made for prohibiting, and for authorizing the Governor and Council to prohibit, the erection of any houses or buildings within certain distances from the centre of certain streets, lanes and firebreaks: And Whereas by reason of the expense of making compensation for the ground which may be required to be taken for making, altering and widening such streets, lanes, or firebreaks, or for damage in any way occasioned by carrying the provisions of the said in part recited Acts into effect, it is expedient to repeal certain parts of the said Acts, and also to amend the same:

Be it therefore enacted, by the Governor, Council and Assembly of Newfoundland, in Legislative Session convened, that the ninth, tenth, eleventh and thirteenth sections of the said last in part recited Act shall be and the same are hereby repealed.

II. And be it further enacted, That it shall be lawful for the Governor, or person administering the Government for the time being, by and with the advice of Her Majesty's Council, by any order or orders from time to time to be made and published in the Royal Gazette, or by proclamation, to suspend, for such time or times as he shall think fit, or altogether to dispense with, the opening, making, widening, or altering, of any firebreak, street, or lane, in the said in part recited Acts, or either of them, mentioned or referred to, or any part or parts of any such firebreak, street, or lane, and to prescribe the width or widths of all such firebreaks, streets and lanes in their several parts, and the same from time to time to vary; and any person who shall, after the publication of such order or orders, conform to the same, shall be exempt from any penalty or forfeiture in any such case provided by the said Acts, or either of them, for the neglect or breach of the said Acts touching such firebreak, street, or lane; or for or concerning any matter or thing altered or varied by such order or orders.

III. And be it further enacted, That for the purpose of ascertaining the damage that has been or may be occasioned to any person or persons whose interests in any lands or tenements have been or may be in any way affected under the provisions of this or the said Acts, in cases not already determined by the appraisers appointed under the last mentioned in part recited Act, it shall be lawful for the Governor, or person administering the Government, to nominate and appoint two persons, and the party or parties interested in any such property to appoint a third, which three persons, or any two of them, shall determine the amount of compensation, if any, to be paid to such party or parties, according to his or their respective interests therein: And in case such party or parties, as aforesaid, shall refuse or neglect to appoint an arbitrator within three days after notice, in writing, so to do, it shall

be lawful for the other two arbitrators to name a third arbitrator, and the award of any two of them shall be final and binding; and the amount therein awarded shall be paid in manner prescribed by the eleventh section of the last in part recited Act; and the said arbitrators so to be appointed by this Act shall be sworn before a magistrate to do justice between the parties, and shall have and exercise the same power and authority in appropriating adjoining land towards compensating such claimants, and in all other respects, as the appraisers appointed under the said last in part recited Act, tenth Victoria, chapter the first, had or might or could exercise.

IV. And be it further enacted, That the several orders, awards, matters and things whatsoever, made, done or committed by the said appraisers, or by their direction, in pursuance of the provisions of the said last mentioned Act, shall be and the same are hereby respectively confirmed and made valid, to all intents and purposes.

V. And be it enacted, That from and after the time limited by the said Acts for the continuance of the office of Supervisor, as therein mentioned, it shall be lawful for the Governor for the time being, to authorise and direct the Surveyor General of the Colony to discharge the duties of such office; and the said Surveyor General shall, when so authorized, possess the like powers, and perform the said duties, in all respects, as the Supervisor under the said Acts, and shall perform such duties gratuitously.

VI. And be it enacted, That all notices by the said Acts, or either of them, directed to be given to the Supervisor, shall, after the expiration of the period aforesaid, be given to the Surveyor General; and on failure or neglect to give such notices, every party offending shall be liable to the penalty, forfeiture and punishment prescribed or imposed for neglect or failure in giving such notice or notices to the Supervisor in the said Acts mentioned; and all prosecutions by the said Acts, or either of them, directed to be commenced by, or in the name of the Supervisor, shall, after the expiration of the period aforesaid, be commenced by, or in the name of, the person filling the office of Surveyor General for the time being.

VII. And be it further enacted, That it shall be lawful for the Governor or person administering the Government, and Council, whensoever and wherever they shall think fit, to permit the erection of external wooden steps to stores and other buildings, in such parts of the town where buildings of unflammable materials are required to be erected; and also of winter porches, between the first of November and the first day of May, and railings, entablatures and pilasters, and other erections of the like kind, upon any of the streets and lanes of Saint John's, of such size and dimensions, and on such terms, and subject to such regulations, as the Governor and Council shall prescribe.

VIII. And be it further enacted, That wherever by the making, altering or widening any street, lane, or firebreak, any portion of such street, lane, or firebreak, hath been, or may hereafter be, exchanged for other ground, it shall be lawful for the Governor, or person administering the Government for the time being, to grant such portion of such street, lane, or firebreak, to the party or parties to whom the same hath been or may be assigned.

IX. And be it further enacted, That it shall be lawful for the Governor or person administering the Government for the time being, by and with the advice of Her Majesty's Council, to regulate, from time

to time, by certain rules and orders to be by him made, and published in the Royal Gazette, the width of all new streets or lanes hereafter to be opened, and the level upon which all streets, lanes, and firebreaks, and the foot-paths of and upon such, shall be made; and also to regulate, alter and adjust all the levels of all foot-paths or side-walks heretofore made or laid down in the said town.

X. And be it further enacted, That any person or persons infringing the provisions of this or of any of the said hereinbefore in part recited Acts, or any order or orders so to be made by the Governor in Council, as aforesaid, shall be subject and liable to a penalty not exceeding ten pounds, to be recovered in a summary way, before any one or more Justices of the Peace for the district of Saint John's, and to be recovered by distress and sale of the offender's goods and chattels, or, in case of non-payment, by imprisonment for any period not exceeding two months; and all buildings in contravention of the said in part recited Acts, or of any Act or Acts in amendment thereof, and of such orders respectively, shall be deemed and taken to be public nuisances, and shall be abated in the manner provided by the eighth section of the said recited Act passed in the tenth year of Her Majesty's reign, with respect to the nuisances therein mentioned.

XI. And be it further enacted, That where, by the alteration of any street, lane, or firebreak, any portion of ground not embraced within the new line of such street, lane, or firebreak, shall be adjoining to, or extending along the frontage of any proprietor, such portion of ground shall be set off to and shall be taken by such adjoining proprietor to the extent of his frontage, at a valuation to be ascertained by two arbitrators, one to be named by the proprietor or proprietors, and one by the Governor for the time being, and in case of disagreement by an umpire to be chosen by the two arbitrators; but should the said proprietor or proprietors neglect to appoint such arbitrator after six days' notice to be given by the said Supervisor or Surveyor General, or should such arbitrators refuse or neglect to concur in the appointment of an umpire, or to act, the said Supervisor or Surveyor General shall appoint an umpire, and the amount awarded by such arbitrators or umpire shall be deducted from the compensation now or hereafter to be payable to any such proprietor or proprietors; and in case the compensation has been made, or no compensation shall be payable to him or them, such amount shall, in case of refusal to pay the same, (if the Governor and Council, upon hearing the proprietor or proprietors, or his, her, or their agent, and upon consideration of the award, and of all the circumstances of the case, shall think fit so to order,) be levied by warrant of distress and sale of the lands, goods or chattels of such proprietor or proprietors, to be issued by a stipendiary Justice of the Peace for Saint John's, upon the production before him of the said award; and the said land so to be set off and to be taken or purchased, shall be conveyed by grant to the purchaser or purchasers thereof, or to the party or parties to whom the same shall be so assigned as aforesaid.

XII. And be it further enacted, That the person or persons at whose expense any party-wall shall be built, agreeably to the directions of the said recited Acts, shall be reimbursed a reasonable proportion, to be ascertained by an action as hereinafter mentioned, of the expense incurred in such party-wall, by the owner or owners of the adjoining property, or any tenant or tenants thereof who shall make use of the said wall; and such proportion may be recovered, together with full costs of suit, by action of debt or assumpsit, in any of Her Majesty's Courts of Record in this Island.

XIII. And be it further enacted, That so much of the street known as Church Hill, and which is situate between the old Church Yard and property in the possession of Charles Henry Renouf, John Boyd, and James Tubrid, shall be bounded as follows; that is to say, its western boundary line shall be as it now exists, that its eastern boundary shall be a line commencing on the north side of Duckworth Street, at a point fifty-three feet easterly from the south-east angle of a house in the occupation of the said Charles Henry Renouf, and sixty-one feet from the north-west angle of the market house; thence running northerly in a straight line to a point sixty feet from the south-east angle of a house in the occupation of John Hiscock Cozens, and thence running in a straight line to the north-west angle of the Old Church Yard.