

Laws of Her Majesty's Province of Newfoundland, passed in the year 1852.

15 Victoria – Chapter 14

An Act to amend the Carbonear Street Act. (Passed 14th June, 1852.)

Whereas it is expedient to repeal an Act passed in the Fifth Year of the Reign of His late Majesty King William the Fourth, entitled “An Act to regulate the Streets of the Town of Carbonear,” and to amend the provisions thereof:

Be it therefore enacted, by the Governor, Council, and Assembly, in Legislative Session convened, that the said recited Act shall be and the same is hereby repealed.

II. And be it enacted, That the Main Street of Carbonear, extending round the Harbour thereof, from the House of Elizabeth Davis, on the South Side, and round the Western side of a certain Pond on the West end of the said Harbor, and thence Eastward to Crocker’s Cove Beach, shall not be less than Fifty Feet in width, in every part thereof, and shall be made to conform to such Line and Plan and Metes and Bounds as shall be fixed, settled, or laid down, concerning the same, by such Commissioners as shall, under and by virtue of this Act, be hereafter for that purpose appointed; and that all and every Houses, Stores, Buildings and Erections whatsoever, which shall at any time or times hereafter be erected or built on the said Street, whether the same be erected on any vacant spot of Ground or upon the site of any former Building, shall be made to conform to the width of the said Street, as the same is hereby established and directed: Provided always, that nothing herein contained shall extend to require the removal of any House or Store which hath been built or erected previously to the passing of this Act: And provided likewise, that the Water-side of the present Line of the said Street or Road shall remain undisturbed, save and except that between the North-west angle of Marshall’s house and the North-west angle of Forward’s Stone Store, the South side or Water-side line of the said Main Street shall be a straight Line.

III. And be it enacted, That it shall and may be lawful for the Governor in Council to appoint Three Commissioners for the purpose of this Act, and their places from time to time to supply, in the event of death, resignation, or absence from the Colony of any One of them for Six Months; and such Commissioners shall be and they are hereby authorized to lay down and mark out the lines of the said Main Street, according to the boundaries as described in the preceding Section; and also to mark out the line and extent of, and to form, at their discretion, a New Street at Carbonear aforesaid, to be Forty Feet wide, and which New Street shall run in a parallel course as near as may be with the aforesaid Main Street; and also to mark out, make and form Four Cross-streets or Fire-breaks; and such Cross-streets shall be at least Sixty feet wide, and shall extend from the Harbour of Carbonear Northerly to such New Street, and shall be laid out as nearly as may be at right angles with the said New Street; and that from and after such time as any of the said Streets and Fire-breaks, which shall first be approved of by the Governor and Council, shall be laid out, and Compensation shall be made or tendered for the Property necessarily appropriated for such purposes, in the manner hereinafter provided, the Ground included in any of the said Streets or Firebreaks shall become and be Public Property, and all Buildings and Erections which then remain or thereafter may be placed or erected on the said Ground, shall be

deemed Public Nuisances and may be abated accordingly by order of any Two or more Justices of the Peace for the District of Conception Bay.

IV. And be it enacted, That it shall not be lawful for any Person or Persons whomsoever to Build, Construct or Erect, or to Excavate or otherwise proceed in the commencement of any Building or Erection within the limits and boundaries of the said Main Street so defined in manner aforesaid, nor within the lines that may be marked out by the said Commissioners, and approved of by the Governor in Council aforesaid, as and for the width of any Street or Fire-break, whether the party or parties owning or claiming an interest in the Ground embraced within the limits of any such Street or Fire-break shall or shall not have been paid or tendered compensation for the same; and all and every such Buildings and Erections which from and after the passing of this Act shall be so erected or constructed, or in any manner commenced to be erected or constructed, shall be and be deemed to be Public Nuisances, and shall be abated accordingly, by order of any Two or more Justices of the Peace for the District of Conception Bay, who, after hearing the party complained of, or in default of his appearance on being summoned for that purpose, if such nuisance be proved, make an order for the abatement thereof, and shall furnish such Constables and others as may be necessary to effect such abatement as aforesaid.

V. And be it enacted, That all Persons Proprietors of Lands and Tenements within the said Town, whose interests shall be in any way affected by the carrying into operation the provisions of this Act, shall, before such Lands or Tenements shall be appropriated for the uses aforesaid, be paid Compensation for any damage they may sustain in that behalf; and that for the purpose of ascertaining the amount of Compensation to be made in any case wherein the said Proprietors and Commissioners shall not agree, it shall be lawful for the party or parties interested in the Property affected to name One Arbitrator, and the said Commissioners to name another Arbitrator, and such Two Arbitrators shall name a Third, and in case any party interested in such Property as aforesaid shall refuse or neglect to appoint an Arbitrator within Seven Days after Notice so to do, or in case the Arbitrators shall disagree in the choice of such Third Arbitrator, in either case it shall be lawful for the Stipendiary Magistrates at Harbour Grace and Carbonear, or a majority of them, to nominate and appoint an Arbitrator, and the award of any Two of such Arbitrators shall be of the like effect as if One of the Arbitrators had been appointed by the party, and the Third had been chosen by such Arbitrators: Provided always, that no expenditure whatsoever shall be incurred for carrying this Act into operation until an Estimate of the whole cost of the improvement therein contemplated shall first have been prepared and submitted, by the Commissioners, to the Governor and Council, and the consent of the Governor and Council to such expenditure, and to the time or times when such improvements shall be made, shall first have been obtained.

VI. And be it enacted, That it shall be lawful for the Governor or Administrator of the Government for the time being to draw Warrants on the Colonial Treasurer for the payment of Compensation to be awarded under this Act, which Compensation shall not exceed in the whole the sum of Two Thousand One Hundred and Fifty Pounds; and that in discharge of such Warrants for any amount not less than Twenty-five Pounds, as may from time to time be drawn upon him for such purpose by the Governor for the time being, it shall be lawful for the Treasurer to pay such parties in whose favour such Warrants shall be drawn, the amount of compensation to which he, she, or they, may be respectively

entitled, by Treasury Notes, payable within. Ten Years from the date thereof, and bearing Interest at the rate of Five per Centum per Annum, which shall be redeemable at Three Months' Notice being given in the Royal Gazette, at the expiration of which notice all Interest on all such Notes mentioned therein shall cease.

VII. And be it enacted, That if the said Commissioners or Arbitrators so to be appointed as aforesaid, shall be of opinion that any Proprietor or Proprietors of any Ground required for any Street or Fire-break aforesaid, may be indemnified at a less expense to the public by having an equal portion of Ground assigned to him, her, or them, from any Ground adjoining, and that such adjoining Ground may be taken without material injury to the Proprietor thereof, it shall be lawful for the said Commissioners to mark off so much of the adjoining Ground as they shall think sufficient to replace the Ground required for such Street or Firebreak, and the same so marked off shall belong to the first mentioned Proprietor, and shall be instead and in lieu of all indemnity whatever; and the value of the same, to be ascertained by Arbitration in the manner aforesaid, shall be paid to the Proprietor from whom the same was taken, and shall be a full satisfaction and release of the same and all right and title thereto : Provided that if the Land so to be taken shall not be deemed an equivalent for the Land dedicated to the Street or Fire-break, it shall be lawful to pay the said Proprietor such sum as may be, with the Land so to be given, a full satisfaction for the Land so dedicated.

VIII. And be it enacted, That the Persons to be appointed Commissioners as aforesaid, shall have full power and authority to Contract for and Superintend the Erection of a Public Wharf at Carbonear aforesaid, and shall select the most eligible place for such purpose; and a sum not exceeding Three Hundred Pounds shall be appropriated out of the sum hereinbefore granted, towards defraying the expense of the said work : Provided that Four Weeks' Notice in Two of the Newspapers of this Colony shall be given for Tenders for the said work, and the Lowest Tender, accompanied with proper Securities, shall be accepted: and provided further that the sum of One Hundred and Fifty Pounds granted towards the Erection of a Public Wharf at Carbonear aforesaid, by an Act passed in the Eighth Year of the Reign of Her Majesty, entitled "An Act for granting to Her Majesty a sum of Money for Defraying the Expenses of the Civil Government of this Colony for the Year ending Thirtieth June A. D. One Thousand Eight Hundred and Forty-six," having been unexpended, shall revert to the Colony.