

*Laws of Her Majesty's Province of Newfoundland, passed in the year 1860.*

23 Victoria – Chapter 6

**An Act for the Prevention of Nuisances in the Towns of St. Johns, Harbor Grace, Carbonear and Brigus. (Passed 14th May, 1860.)**

Whereas it is necessary to provide for the Prevention of Nuisances in the Towns of St. John's, Harbor Grace, Carbonear and Brigus:

Be it therefore enacted by the Governor, Legislative Council and Assembly, in Session convened;

I. Any person who shall commit or be guilty of any of the offences hereinafter specified, in any of the said Towns, shall be subject and liable to such penalties as are hereinafter mentioned.

II. Any person who shall, in or upon any way used, or appointed to be used, as a foot-way or side-walk, in any of the said Towns, draw, drive, or carry any truck, sleigh, wheelbarrow, or other vehicle, except directly across such foot-way or side-walk, on necessary occasions, or shall lead, ride, or drive on any such foot-way or side-walk any Horse or ether beast, except directly across the same, as aforesaid, or shall suffer to stand, or shall tie or fasten any Horse or other beast on or across the same, or who shall in or on any of the streets, squares, lanes or passages of any of the said Towns, use or drive any Horse or other animal in a furious and improper manner, or shall thereon drive, or suffer to proceed, any cart, carriage, slide, or sleigh, without some person leading or guiding with reins the Horse or Horses attached thereunto, and if a slide or sleigh with not less than two bells attached to the harness, or shall place or leave in or on any of such streets, squares, lanes or passages, in such a manner as to obstruct or endanger the passage thereof, any cart, waggon, carriage, sleigh or slide, or shall show or expose any Stallion kept for the purpose of being let to Mares, except in such place as a Magistrate may appoint, and except indirectly proceeding to and returning from such place, or shall in or on any cart, waggon, carriage, slide or sleigh, carry or convey any timber, iron, or other thing, in such a manner as to protrude two feet beyond the wheel of such cart, waggon, carriage, or, if a slide or sleigh, beyond the bars thereof, or shall in or on any such streets, squares, lanes, and passages, place or leave any mortar, lime, sand, bricks, stones, timber, or other materials for building, or shall sift or screen any lime, sand, or other thing, such mortar or other thing being so placed or left, or such sifting or screening being without the permission of a Stipendiary Magistrate of any of the said Towns, or not defended or enclosed within a fence, or shall cast or leave any dung, dirt, rubbish, or other thing, in or upon such streets, squares, lanes and passages, except only in such manner and in such place as a Stipendiary Magistrate in any of the said Towns shall direct and appoint, or shall in any of such streets, lanes and passages, or in any building within the same, kill, slaughter, or scald and dress, any animal for meat, or shall in any of such streets, lanes, or passages, play at any game, or ride upon a slide or other conveyance, to the annoyance or obstruction of passengers, or, shall throw any stone or stones, with or without intent to strike any person or other object, or if any person shall do or commit any act, or shall excavate or build a cellar, or shall leave, or place, or set up, any material or thing whatever which shall cause or create any impediment, obstruction, nuisance, danger, or annoyance in or to the free passage of such streets, squares, lanes, or passages, or shall fail to keep in repair all such cellars as are

now erected or built, every such person shall, for the first offence, forfeit and pay a sum not exceeding Twenty Shillings, and not less than Five Shillings; and for the second offence shall forfeit and pay a sum not exceeding Forty Shillings, and not less than Ten Shillings; and for a third or subsequent offence, shall forfeit and pay a sum not exceeding Five Pounds, and not less than Twenty Shillings.

III. The Court of General Quarter Sessions for the District in which any of the said Towns is situate, shall, by order to be published in the "Royal Gazette," define what shall be considered as foot-ways or sidewalks within the Town for which the said order shall be made.

IV. If any Horse, Cow, Swine, or other beast, shall be found wandering or straying in or about any streets, squares, lanes and passages, in any of the said Towns, it shall and may be lawful for any person whatsoever to impound such Horse, Cow, Swine, or other beast, in the nearest common Pound; and the owner thereof for every such beast so found wandering or straying as aforesaid shall forfeit a sum not exceeding Five Shillings, together with the reasonable charges of impounding and keeping such beast; and such beast shall be detained until the said penalty and charges shall be paid; and if the same be not paid within five days after such beast shall be impounded, it shall be lawful for any Stipendiary Justice of the Peace, resident within the Town in which such beast shall be impounded, to notify in such manner as such Justice shall deem meet a time and place for the sale of such beast; and such time shall not be less than forty-eight hours from the date of the notification thereof, and at the time so appointed and notified such beast shall be sold by public auction, unless the penalty, with all the costs and charges of impounding and advertising such beast, shall be then and thereupon paid; and the money arising from such sale shall be in the first instance applied to the payment of such costs and charges, and the owners of such beast shall be entitled to and receive the balance.

V. On information being given to any Justice of the Peace of any building, wherein there is any dangerous chimney, stove, stove-pipe or funnel, the said Justice of the Peace shall direct the Inspector of Police in St. John's, or Chief Constable in other Towns, to proceed to the said building and examine the same, and if he shall report to the said Justice that any repairs, alteration, or removal, be necessary the said Justice shall give an order for such repairs, alteration, or removal, to be made, and if such order shall not be complied with, such Justice shall cause such removal or alteration to be made at the expense of the occupant or owner of the building; and if any person shall refuse admittance to such Constable while acting under this Section, or shall not make the removal or alteration so ordered, he shall forfeit a sum not exceeding Forty Shillings, to be recovered, together with the expenses of removal or alteration, in the name of such Inspector of Police or Constable, and, in default of payment, the offender may be imprisoned for a period not exceeding Ten Days.

VI. Penalties and forfeitures imposed by this Act shall be recovered in a summary way by the order and adjudication of any one Stipendiary Justice of the Peace resident in the Town in which the offence shall be committed, on complaint to him for that purpose exhibited and proved, and shall be levied, as well as the costs of such proceedings, in case of nonpayment, by distress and sale of the goods and chattels of the offender, liable to pay the same by warrant under the hand and seal of such Justice; and such Justice is hereby authorised and required to summon before him any witnesses and to examine such witnesses upon oath of and concerning all or any such offences, matters, or things, and to hear and determine the same; and the overplus, if any, of the money so levied or received, after discharging

the fine, penalty, or forfeiture, for which such warrant shall be issued, and the costs and expenses of recovering and levying the same, shall be returned, upon demand, to the owner of the goods or chattels so seized or distrained; and in case such penalties or forfeitures shall not be forthwith paid, upon conviction, then it shall be lawful for such Justice to order the offender so convicted to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless such offender shall give sufficient security to the satisfaction of such Justice for his appearance before such Justice on such day as shall be appointed for the return of such warrant of distress, such day not being more than two days from the time of taking any such security, and which security the said Justice is hereby empowered to take by way of recognizance or otherwise; but if, upon the return of such warrant, it shall appear that no sufficient distress can be had thereupon, then it shall be lawful for such Justice, and he is hereby authorized and required, by warrant under his hand and seal, to cause such offender to be committed to Gaol, there to remain, without bail or mainprize, for any time not exceeding One Month, if the conviction be for a first offence, and not exceeding Two Months, if the conviction be for a second offence, and not exceeding Three Months, if the conviction be for a third or any subsequent offence, unless such penalties or forfeitures, respectively, and all costs, shall be sooner paid and satisfied, and one moiety of such penalties or forfeitures, when so levied, shall be paid to the person who shall sue or prosecute for the same, and the other moiety shall be paid into the Receiver General's hands for the use of the Colony.

VII. All the unrepealed sections and parts of an Act passed in the third year of the Reign of His late Majesty King William the Fourth, entitled "An Act for the more speedy abatement of Nuisances," also the Seventeenth Section of an Act passed in the sixth year of the Reign of Her Majesty, entitled "An Act for granting to Her Majesty a Sum of Money for making and constructing and repairing Roads, Streets, and Bridges in this Colony, and for regulating the expenditure of the same," and also an Act passed in the ninth year of the Reign of Her Majesty, entitled "An Act to amend an Act passed in the third year of His late Majesty's reign, entitled 'An Act for the more speedy abatement of Nuisances,'" and also so much of the Second Section of an Act passed in the Reign of Her Majesty, entitled "An Act for the regulation and management of the Public Market House in the Town of St. John's, as prohibiting the slaughtering of Cattle, Sheep, and Pigs in the Town of St. John's," be and the same are hereby respectively repealed.

VIII. All building lots and improved or occupied lands fronting any public road, street, lane, or cove, within this Colony, and dangerous to passengers, shall be protected with a sufficient fence along such frontage.

IX. If the owner or occupier of any building lots, improved or occupied lands, shall neglect, after receiving notice to protect the same with such fence, the Surveyor General of the Colony or his deputy may erect or repair the same, and shall thereupon recover from such owner or occupier, before any Justice, in a summary way, or any Court of Record, the expenses incurred by him in such erection and reparation of such fences, together with costs of suit.

X. In any action the Surveyor General or his deputy shall bring for such expenses the costs against any such owner or occupier of such building lots, improved or occupied lands, who shall be absent from this Colony, service of a copy of the writ or summons in such ease upon the agent of the owner

therein, or on the occupier of such building lots, improved or occupied lands, shall be deemed sufficient service for the purposes of this Act.

XI. The Governor in Council shall, when it may be deemed necessary, extend the operation of this Act, by proclamation, to any town within this Colony other than the towns already mentioned and provided for in this Act.

XII. This Act shall continue in force for Two Years from the passing thereof, and thence until the end of the then next Session of the Legislature.