

Laws of Her Majesty's Province of Newfoundland, passed in the year 1861.

24 Victoria – Chapter 1 (Session 1)

An Act to Repeal the Carbonear Street Act, and to make other Provisions in lieu thereof. (Passed 7th March, 1861.)

Whereas it is expedient to repeal an Act passed in the Fifteenth Year of the Reign of Her Majesty Queen Victoria, entitled “An Act to amend the Carbonear Street Act,” and to make other provisions in lieu thereof:

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

That the said Act, passed in the Fifteenth Year of the Reign of Her Majesty, entitled “An Act to amend the Carbonear Street Act,” be and the same is hereby repealed: Provided always, that the several orders, awards, matters and things whatsoever, made, done, or committed, by the Commissioners or Arbitrators appointed under the provisions of the said Act, and all payments made, or Treasury Notes issued or granted in discharge of any Warrant or Warrants for compensation, shall be and the same are hereby respectively confirmed and made valid, to all intents and purposes: Provided further, that nothing herein contained shall exempt any party from any penalty or forfeiture incurred for any breach or violation of the provisions of any of the said Act.

II. All orders made by the Governor in Council, in pursuance of any of the provisions of the said Act, so far as the same have been acted on, shall be and such orders are hereby respectively confirmed and made valid, to all intents and purposes.

III. The Main Street of Carbonear shall extend round the Harbour thereof from Taylor's Beach, on the South Side, round the Pond Head on the West end of the said Harbour, and thence Eastward to Crocker's Cove Bridge, and shall be Sixty Feet wide in every part thereof; that the South Side or Water Side line of the said Main Street shall be and run as follows – that is to say: between the North-east angle of James Kough's House and the North-west angle of Forward's Stone Store the said line shall run straight; between the North-east angle of the said Stone Store and the North-west angle of John Connelly's House the said line shall run in such a direction as the Surveyor General of this Island shall determine; and between the North-east angle of Casey's House and the North-west angle of Israel L. McNeil's house the said line shall run straight; and all other parts of the said South or Water Side line shall remain unaltered and as they were previously to the Fire which happened at Carbonear on the fifth day of November, Anno Domini One Thousand Eight Hundred and Sixty; and that all houses, stores, buildings and erections whatsoever, which shall at any time hereafter be erected or built on or near 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 defined: Provided always, that nothing herein contained shall make it compulsory to remove any house or store which hath been built or erected before the passing of this Act.

IV. It shall and may be lawful for the Surveyors General of this Island, for the purposes of this Act, and he shall be and is hereby authorized to lay down and mark out the lines of the said Street according to the boundaries defined in the third Section of this Act, and also to mark out the line and extent of, and to form, at his discretion, a new Street, at Carbonear aforesaid, to be Fifty 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, three Cross Streets or Fire-breaks; and such cross Streets shall be at least Seventy Feet wide, and shall extend from the Harbour of Carbonear, Northwardly, 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 Firebreaks 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 hereafter may be placed or erected on the said Ground, shall be deemed public nuisances, and may be abated accordingly, by order of any Stipendiary Magistrate.

V. It shall not be lawful for any person 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 Surveyor General, and approved of by the Governor in Council aforesaid, as and for the width of any Street or Firebreak, whether the party or parties owning or claiming an interest in the Ground embraced within the limits of any such Street or Firebreak 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 so erected or constructed, shall be deemed to be public nuisances, and shall be abated accordingly, by order of any Stipendiary Magistrate, who, after hearing the party complained of, or, in default of his appearance on being summoned for that purpose, if such nuisance be proved, shall make an order for the abatement thereof, which order shall be carried into effect by such means as any stipendiary Magistrate may deem expedient.

VI. All owners or occupiers of Lands and Tenements within the said Town, whose interests shall be in any way affected by the carrying of the provisions of this Act into operation, 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, it shall be lawful for the party interested in the property affected to name an Arbitrator, and the Governor in Council 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 a third Arbitrator, in either case it shall be lawful for the Governor in Council to nominate and appoint a third Arbitrator; and the award of any two such Arbitrators shall be binding between all parties to such Arbitration; and the said Arbitrators so to be appointed under this Act shall be sworn before a Magistrate to do justice between the parties, and shall have power to summon and require the attendance before them of all parties interested in the property to be appraised by them, or the Agents of such parties respectively, and also all Witnesses or other persons, and to require the production before them of all Deeds and Papers requisite to establish the title or interest of any party

claiming in manner hereinbefore mentioned; and shall have power to examine on Oath (to be administered by any one of such Arbitrators) all such parties or their agents, and all such Witnesses or other persons, touching the matters to be enquired into by such Arbitrators; and in estimating the damage which may be occasioned to any property under this Act, the said Arbitrators shall always take into account any additional value or advantage which may accrue to the several proprietors and occupants from the convenience and security afforded by the widening or opening of the said Streets or Firebreaks: Provided always, that no expenditure whatever shall be incurred for carrying this Act into operation until an estimate of the whole cost of the improvements herein contemplated shall first have been prepared and submitted by the Surveyor General 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.

VII. It shall be lawful for the Governor to draw Warrants on the Receiver General for the payment of compensation to be awarded under this Act; and that in discharge of such Warrant, 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, it shall be lawful for the Receiver General to pay such parties in whose favour such Warrants shall be drawn, the amount of compensation to which they may be entitled, by Debentures, payable within Ten Years from the date thereof, and bearing Interest at the rate of Five per Centum per Annum, which Debentures shall be redeemable on Three Months' Notice being given in the Royal Gazette; at the expiration of which Notice all Interest on all such Debentures mentioned therein shall cease; and all Interest payable upon sums for which such Debentures shall be issued as aforesaid shall be payable half-yearly, at the Office of the Receiver General, on the production of such Debentures before him, on the last days of June and December in each year, and such Debentures so to be issued shall be assignable and according to the form in the Schedule to this Act annexed.

VIII. If the said Arbitrators so to be appointed as aforesaid shall be of opinion that any proprietor of any Lands required for any Street or Firebreak aforesaid, may be indemnified at less expense to the Public by having an equal portion of Ground assigned to him 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 Arbitrators 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 as aforesaid 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 Firebreak, 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 dedicated.

IX. All Houses and Buildings of every description hereafter to be built or erected on the South Side of the said Main Street shall be roofed with unflammable materials.

SCHEDULE
COLONY OF NEWFOUNDLAND

No.

By virtue of an Act of the Legislature, passed in the Twenty-fourth Year of the Reign of Her Majesty Queen Victoria, entitled "An Act to repeal the Carbonear Street Act," and to make other provisions in lieu thereof, the bearer hereof is entitled to receive at the Office of the Receiver General of this Colony, within Ten Years from the date hereof, the Sum of _____ Pounds Sterling, and also Interest on the same at the rate of Five Pounds Sterling per Centum per Annum yearly, on the last days of June and December in each year, on the production of this Debenture at the Office of the said Receiver General.

Dated at St. John's, Newfoundland, the ____ day of _____ A. D. 18__.

Receiver General

Colonial Secretary.