

*Laws of Her Majesty's Province of Newfoundland*, passed in the year 1864. J. C. Withers,  
Queen's Printer, 1864.

27 Victoria – Chapter 4

**An Act for the Amendment of the General Water Company Acts, and also of the Act for the  
Incorporation of the Harbor Grace Water Company. (Passed 13th April, 1864.)**

Whereas doubts have arisen as to the true construction of the Acts relating to the incorporation and  
Management of the General Water Company; and it is therefore expedient to declare the meaning of  
the said Acts in certain particulars, and further to amend the same:

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

I. The Twenty-first, Twenty second, Twenty-third, Twenty fourth, Twenty-fifth, Twenty-sixth, Twenty  
seventh, and Twenty-eighth sections of the Act 22d Victoria, Chapter 7, entitled “An Act to Incorporate  
the General Water Company,” and the First and Fifth Sections of the Twenty-sixth Victoria, Chapter 4,  
in amendment thereof, are hereby Repealed; without, however, in anywise affecting the validity of any  
proceedings had thereunder, and except also in so far as the same may be necessary to sustain the  
imposition, establishment, collection, and recovery, of Water Rates and Assessments for the present  
Year.

II. For the purpose of providing Funds for the payment of Interest on the Capital Stock of the said  
Company, and for defraying its working and other expenses, there shall be paid by the Owners and  
Occupants, respectively, of all Houses and other Buildings along which the Pipes of the Company shall  
or may have been laid, and within Three Hundred Yards of such Pipes, certain Annual Rates and  
Assessments of so much per Cent, to be fixed, established, and imposed, by the authority hereinafter  
mentioned, upon, First, the Ground Rents and Profit Rents of all Houses and Buildings aforesaid, to be  
paid by the Owners of such Rents: Secondly, upon all Insurable Interests in such Houses and Buildings,  
to be paid by the Owners of such Interest, whether Landlords, Tenants, or occupying Owners of such  
Houses and Buildings, such Interests (to become subject to Assessment) to be beyond and besides any  
interest such Owner may have in any Rent aforesaid; and, in the case of an occupying Owner, to be  
computed so as to include therein a fair allowance for Rent of Ground: Thirdly, upon the Rent Values of  
all such Houses and Buildings into which Pipes shall have been introduced from the Company's Mains,  
and which shall be of the annual value of Forty Dollars, to be paid by the Occupants of such Houses and  
Buildings respectively, whether using the Water or not. Provided that the payment of either of the said  
Rates or Assessments shall not exempt the party so paying from liability also for one or both of the said  
other Rates or Assessments, if in other respects liable for the same.

III. For the purpose of providing a basis and means by which to fix, establish and impose such Rates  
and Assessments, it shall be lawful for the Governor in Council to appoint one or more Appraisers, who  
shall be sworn before a Justice of the Peace faithfully to discharge the duties of their office, and a  
Collector, who shall give sufficient security to the like effect; and such Appraisers shall appraise,

determine and return, before the last day of October in this present, and also in every third Year after the present Year, the amount and value of all such Rents and Insurable Interests aforesaid, and the Rent Value of all such Houses and Buildings into which Pipes shall have been introduced as aforesaid; and they shall deposit the Books of such Appraisement, when complete, with the Clerk of the Peace for the Central District.

IV. Such Books shall be open to the examination of all persons desirous of inspecting the same; and any such person may, within one month after such deposit, by a notice in writing to be filed with the Clerk of the Peace and served upon the Appraisers, object to any appraisement therein in which he may be, or may expect to be, interested.

V. Upon the expiration of One Calendar Month after such Books shall have been so deposited, the Court of Sessions of the Central District shall, for One Calendar Month then next following, at such hours as they may notify by advertisement in the Royal Gazette and two other Newspapers, hold a Court for the Revision of such Appraisement, and shall hear and finally determine all such objections as aforesaid, and amend or confirm said Appraisement accordingly; and after the expiration of the period fixed for holding such Court, the said Appraisement shall, for the purposes thereof, be final and binding upon all persons whomsoever for the Three Years next following the making and revision thereof.

VI. It shall be lawful for the Directors of the said Company, from time to time as they may find necessary, but subject to the approval of the Governor in Council to fix, establish and impose Annual Rates and Assessments, of so much per Cent., upon all such Rents, Interests, and Rent values aforesaid, to be paid by the parties hereinbefore made liable in that behalf; and in addition to any general Rates and Assessments, but subject as aforesaid, to fix, establish, and impose further and additional Rates upon such Occupants as aforesaid where an unusual quantity of Water may be taken by them for Trading, Manufacturing, or other especial purposes; Provided that the Minute of Council confirming such Rates and Assessments shall be published in the Royal Gazette, and laid before the Legislature at its then next sitting.

VII. All such Rates and Assessments shall be payable Half-yearly in advance, and shall become due on the First days of January and July, in each and every Year, and shall be collected by the Collector, to be appointed as aforesaid, from the parties respectively liable for the same.

VIII. Should any Person so liable as aforesaid neglect or refuse to pay any Rate or Assessment, the same may be recovered with costs in an action to be brought, heard and determined in a summary manner in the said Court of Sessions, in the name of the said Collector; in which Action, service of the Summons at the Office or Dwelling-House, or upon the Agent of a non-resident or absent Defendant, shall be deemed good service; and the said Court shall have exclusive jurisdiction to hear and determine all Actions for the recovery of such Rates and Assessments, and, for the purpose of such Actions, all matters incidentally arising in the same; and no such Action, and no Writ, Order or Judgment, or proceeding therein, shall be removable by certiorari or otherwise; Provided that in any action for a Rate or Assessment above Forty Dollars, it shall be competent for the Court of Sessions, upon the application of either party, to be made at the hearing, to state a case for the opinion of the

Supreme Court upon any question of law arising upon the trial, and the opinion of the Supreme Court shall govern the determination of the Court of Sessions.

IX. For the purposes of this and the said recited Acts, the introduction of One Service Pipe from the Company's Mains into any one Building of two or more Buildings held in one and the same occupancy, and whether one or more of such Buildings shall be joined or disconnected, (provided no holding of a second occupant intervene between such disconnected Buildings) shall be sufficient to render the Occupier liable for the Occupier's Rate upon all such Buildings; and this Enactment shall apply to past as well as to future Rates.

X. Government Buildings, Churches, Public School Houses, and Buildings belonging to Charitable Bodies, shall not be subject to Rate or Assessment; but Government Buildings shall pay such reasonable sum for Protection and Water, as the Governor in Council, subject to the approval of the Legislature, may determine. The Insurable Interest in property under mortgage shall be appraised as if such property were unincumbered, and the Assessment, thereon shall be paid by the Mortgagor. In estimating the Rent Value of any Houses or Buildings, the situation and other conditions thereof, as, for example, the fact of such House or Building being Water-side or eligible as a place of Business, and such like, and also the quantity and value of Trade Stock from time to time contained therein and protected by the Water, shall be taken into account by the Appraisers.

XI. The Assessment to be raised under the Act 26 Victoria, Cap. 6, to provide for the Sewerage of the Town of Saint John's, shall, after the present year, be imposed and recovered in conformity with the provisions of this and of the last mentioned Act; and in fixing on Ground Rents a Rate towards the support of the Water Company, the Directors shall make a fair allowance for the Rate for Sewerage.

XII. The Appraisements heretofore made, by or under the said Water Company, and the revisions thereof, are hereby confirmed, and shall be held and determined, and are hereby declared to be legal, valid, sufficient and obligatory, as well as Appraisements and Revisions for the fixing, establishment, and recovery of Occupiers' or Consumers' Rates as of Owners Assessments. The Rates and Assessments fixed and declared by the Directors of the said Company, and mentioned and approved in the Minutes of the Governor in Council made on the 11th day of April, A.D , 1863, and published in the Royal Gazette, shall be paid by the Owners and Consumers therein mentioned, and the same, together with the Resolution of the Directors, declaring the said Rates and Assessments, and the Minute of Council aforesaid, shall be held and determined, and are hereby declared, to be legal, valid, sufficient, and obligatory, for the fixing, establishment, payment, and recovery of the said Rates and Assessments upon, by, and from, all such Owners, Consumers, and Occupiers. All Judgments, Orders and proceedings of the Court of Sessions for the Central District, heretofore made for the recovery of alleged Water Rates and Assessments, shall be held and determined, and are hereby declared, to be legal, valid, and obligatory upon the parties to such judgments. All payments made to the said Company, their Collector, or any of their Agents or Servants, or to the Clerk of the Peace for the Central District, of any alleged Water Rates, Assessments or Costs, shall be held and determined, and are hereby declared to be, legal, valid and obligatory upon the parties making the same, and no action, suit, or other proceeding whatsoever, shall be maintainable against the said Company or the said Collector, or the said Clerk of the Peace, or any of their Servants or Agents, or against any Magistrate or

other person, for the recovery of any Moneys paid to or received by them, or any of them, as or for such Water Rates or Assessments, or for or on account of any claim for the same.

XIII. The Appraisement made for the said Company for this present Year, and the Revision thereof, shall be held and determined, and are hereby declared, to be legal, valid, sufficient and obligatory, as well for the fixing, establishment and recovery of Water Rates of Occupiers or Consumers as of Owners' Assessments. The Resolution of the Directors of the said Company, and the Minute of Council hereinbefore mentioned, shall be held and determined, and are hereby declared, to be legal, valid, sufficient and obligatory for the fixing, establishment, payment and recovery of the Rates and Assessments therein mentioned or referred to, for this present year; and until such Rates and Assessments are altered or repealed in the manner prescribed in this or the said first mentioned Acts, the said Rates and Assessments shall be payable by all Owners, Occupiers and Consumers, whose Rent Interests or Rent Values are therein referred to; and the provisions of this and the said first mentioned Acts shall be available and operative for the collection and recovery of the same. The said Court of Sessions shall have exclusive jurisdiction to hear and determine all actions for the recovery of such Rates and Assessments, and, for the purposes of such Actions, all matters incidentally arising in the same; and no Writ, Judgment, Order or Proceeding of the said Court of Sessions, made or had in any Suit or Action for the recovery of such Rates or Assessments, shall be removable by certiorari or otherwise; Provided that in any Action for a Rate or Assessment above Forty Dollars, it shall be competent for the Court of Sessions, upon the application of either party, to be made at the hearing, to state a case for the opinion of the Supreme Court upon any question of law arising upon the trial, and the opinion of the Supreme Court shall govern the determination of the Court of Sessions.

XIV. It shall be lawful for the said Directors, in the interval between the said Tri-Yearly Appraisements, to cause Special Appraisements and Returns to be made of any Rent, Insurable Interest, or Rent Value, of or in any House or Building newly erected within the limits aforesaid, or then recently supplied with Service Pipes, or then recently arising by expiry of Lease or otherwise; and such Appraisements and Return shall, after Revision by the Court of Sessions to be made upon hearing, or after notice to all parties interested, be binding on such parties until the next general Appraisement.

XV. It shall be lawful for the Governor in Council to direct the appropriation to the purposes of the said Company of the proceeds of any Duty that may be laid upon Coal imported into St. John's.

XVI. The following Rates shall be paid by all Vessels entering and clearing at the Custom House, at the port of St. John's, and the proceeds applied to the support of the Company—namely:—

1. By all Vessels Entering or Clearing at the Custom House upon, or from, Foreign Voyages, a Rate of Five Cents per Ton, of their Register Tonnage, to be paid at the time of their first Entry or Clearance.
2. By all Vessels Clearing at the Custom House for the Sealing Voyage, a Rate of Five Cents per Ton, of their Register Tonnage, to be paid at the time of such Clearance.

3. By all Vessels engaged in Coasting Voyage, or Voyages to the Labrador, a Rate of Five Cents per Ton, of their Registered Tonnage, to be paid at their first Entry or Clearance at the said Custom House, in each year.

XVII. Such Rates shall be paid at the times aforesaid by the Masters or Owners of such Vessels, and shall be collected and recovered in the same manner and by the like means as Light Dues are now collected and recovered in the said Port; Provided that no Vessel shall be compelled to pay Water-Rate oftener than once in one year, nor to a greater amount, whatever their Tonnage may be, than Twenty Dollars.

XVIII. In consideration of the payment of such Rates, the Vessels paying the same shall be entitled to receive from the hose of the Company, at any wharf within reach from the Hydrant at which such Vessel may lie, a full supply of Water, upon each occasion of such payment, without further charge; and the Master shall also be at liberty, upon all other occasions, to take water from any of the Public Fountains.

And whereas it is also necessary to alter and amend certain portions of the Act 26 Victoria, Cap. 5, entitled "An Act to incorporate the Harbor Grace Water Company."

XIX. Be it therefore further enacted, that the Twelfth, Twenty-first, Twenty-second, Twenty-third, and Twenty-fourth Sections of the said Act are hereby repealed, without, however, in anywise affecting the validity of any matters done, or proceedings had, thereunder, and except so far as the same may be necessary to sustain the imposition, collection, and recovery of Water Rates, and Assessments, under this and the said Act, or either of them.

XX. For the purpose of ascertaining the amount of Water Rates and Assessments under the said last mentioned Act, it shall be lawful for the Governor in Council, from time to time as may be necessary, to appoint one or more Appraisers, who shall be sworn, before a Justice of the Peace, faithfully to discharge the duties of their office; and it shall be the duty of such Appraisers to Appraise the Ground Rents of all Houses and other Buildings along which the Pipes of the said Company shall have been laid, and within Two Hundred Yards of such Pipes; also the Profit Rent of such Houses and Buildings, and also the rent value of the same, at such time and times, as may be deemed necessary, by the Governor in Council, during the continuance of the said Act; and when such Appraisalment shall be completed, they shall deposit the Book or Books of such Appraisalment with the Clerk of the Peace for Harbor Grace.

XXI. Such Book or Books of Appraisalment shall be open to the examination of all parties interested therein; and after the expiration of Fourteen Days after it, or they, shall have been so deposited, the Court of Sessions at Harbor Grace shall, at certain times within Fourteen Days thence following, to be notified in a Public Newspaper in St. John's or Harbor Grace, hold a Court for the Revision of such Appraisalment; and it shall be competent for any person therein interested, by a notice in writing to be filed in the Office of the said Court, and served on the said Appraisers, or two of them, within the Fourteen Days first mentioned, to object to the amount for which his or her property or interest therein may have been Appraised, which objection the said Court shall hear and determine, and

amend or confirm the Appraisement accordingly; and after the expiration of the times fixed for holding such Court, the said Appraisement shall be final and binding on all parties until a new Appraisement and Revision shall have been made.

XXII. The Secretary of the said Company shall be Collector, and shall give sufficient security faithfully to discharge the duties of his office as such Collector, and shall, after the completion of such Appraisement, and as soon as the Directors of the said Company shall have ascertained the amounts to which the several parties mentioned or interested therein shall be liable to pay towards the said Water Rates and Assessments, which they are hereby authorised to do, collect from the parties respectively liable in that behalf their contributions towards such Water Rates and Assessments; and in case any person so liable shall neglect or refuse to pay such contribution, the same may be recovered, with Costs, in a summary manner, by a Suit in the Court of Sessions at Harbor Grace, to be brought in the name of the said Collector; Provided that service of Process upon the Agent of any absent or non-resident defendant shall be service upon the principal, and also that in any action it shall be deemed good service of Process upon the defendant if the same be left at the residence of the defendant.

XXIII. The Appraisement already made for the said Harbor Grace Water Company, and the Revision thereof, are hereby confirmed, and shall be held and determined, and are hereby declared, to be legal, valid, and obligatory, as well for the ascertaining, fixing, establishing and recovering of Water Rates of Occupiers of such Houses and Buildings, as of Owners' Assessments; and the said Rates and Assessments shall be payable by all Owners and Occupiers referred to in the said Appraisement; and the provisions of this and the said Apt, 26 Victoria, Cap 5, shall be available and operative for the collection and recovery of the said Water Rates and Assessments from the persons named or interested in the said Appraisement; and the Collector of the said Company may take the like proceedings for the recovery of all Water Rates and Assessments due by any person named or interested in the said first Appraisement, and shall recover the same in like manner as is prescribed by the Twenty-second Section of this Act.

XXIV. All Judgments, Orders, or Proceedings in the said Court of Sessions hereafter to be made, or had, in any suit or action for the recovery of such Water Rates or Assessments, or either of them, and whether imposed by this or the said last mentioned Apt, shall be final and binding upon the parties thereto; and no such suit, action, judgment, order, or proceeding, shall be removable from such Court by certiorari or otherwise; Provided that in any Action for a Rate or Assessment above Forty Dollars, it shall be competent for the Court of Sessions, upon the application of either party, to be made at the hearing, to state a case for the opinion of the Supreme Court, upon any question of law arising upon the trial, and the opinion of the Supreme Court, shall govern the determination of the Court of Sessions.