

Laws of Her Majesty's Province of Newfoundland, passed in the year 1865. J. C. Withers,
Queen's Printer, 1865.

28 Victoria – Chapter 15

**An Act to regulate the making and repairing of Roads, Streets, and Bridges, within this Colony.
(Passed 7th April, 1865.)**

Whereas it is expedient to regulate the making and repairing of Roads, Streets, and Bridges, within this Colony:

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

I. All sums of money, in this or any subsequent Act of the Legislature, appropriated for the making or repairs of Roads, shall, in the several Outport Electoral Districts of this Island, be applied and expended by the respective Boards of Road Commissioners appointed, or to be appointed, under the Act of the Legislature of this Colony, passed in the Nineteenth year of the Reign of Her Majesty, entitled "An Act for the Establishment of a Board of Works," (except in all such cases as are otherwise provided for); and in the Electoral District of St. John's shall be applied and expended therein, for the purposes of this Act, by the said Board of Works; and all such moneys shall be expended in the manner herein provided.

II. It shall not be lawful for the said respective Boards to proceed in the construction, repair, or improvement of any Roads, Street or Bridges, otherwise than by tender or contract, or by auction, to the lowest bidder, in such allotments as may be marked off, after a careful examination by the respective Boards, or under their Inspectors; and in all such cases of let-ting by auction, such Boards respectively are hereby required to put up a sufficient number of notices, not less than ten days previous to such sale, in three or more of the public places in the neighbourhood where the work is to be done; which notice shall specify and describe the work to be performed, and also the place, day and time, when and where, the same will be let by auction as aforesaid; and it shall be the duty of the Inspectors of the respective Boards to attend at the time and place so appointed, and then to let, to the lowest bidder, such allotments; and the purchaser shall immediately thereafter enter into written contracts, with sufficient sureties for the faithful performance of the work, in time and manner set forth in such contracts: Provided that it shall be lawful for the governor in Council to authorize the expenditure, in exceptional cases, of part of such moneys in the employment of daily or time labour.

III. It shall be lawful for the respective Boards to divide and apportion the work to be performed on any road, street or bridge aforesaid, into small contracts or allotments, to meet the exigencies of the people of the several districts.

IV. The said respective Boards, before entering into any such contracts, shall take security, as is hereinbefore provided, for the due performance of the same; and upon the production of a certificate from the Board, of one half of the amount of work contracted for being completed, such contractor shall be entitled to receive a half part of the amount of his contract; and such Boards shall so frame

their contracts that the same be finished within a limited time, and payment of one third of the full amount thereof respectively shall always be withheld until the work contracted for shall appear, by the solemn declaration, in writing, of the Inspector or Surveyor of such Boards respectively, specifying the particulars and measurement of such work to have been fully completed, examined and passed, agreeably to contract; and every such Inspector or Surveyor, who shall knowingly make a false declaration as aforesaid, shall be subject to the same punishment in Law as in case of wilful perjury.

V. Previously to any sum of money being expended in opening or making of any new road, the proposed line of road shall be first surveyed by, or under, the directions of the respective Boards, and approved by them.

VI. Whenever it shall become necessary for the opening, making or widening any road, street or other work, to appropriate any piece or parcel of land, being private property, it shall and may be lawful for the Board of Works, or any other Board, to pay out of such moneys as shall be at their disposal for the purpose of making such respective roads, streets or other work, a fair and reasonable compensation to every person having any interest in the land so intended to be appropriated, and also to compensate any person for any damage which may be occasioned to his property by the making, opening or widening such roads, streets or other works; and if the said Board and the owner of such property cannot agree upon the amount of compensation to be paid, such amount shall be ascertained by the Chairman of such Board, and two other assessors—one of whom shall be nominated by the said Board, and the other by the owner of the land, and who shall assess and award the amount of compensation (if any) that shall be paid for the Value of the said land, and for damage occasioned, together with all reasonable costs incurred by the attendance of witnesses, which award shall be final; and if the owner of the land shall neglect to nominate an assessor, within five days after being thereto required, the Chairman of such Board shall nominate an assessor on behalf of the owner; and the Chairman and the two assessors shall be paid a sum of Two Dollars each, for their services in that behalf: Provided that every such award shall be made in writing, within ten days after any day that may be appointed for the hearing of the case; but before payment, or tender to the parties interested, of the sum awarded for compensation, it shall be lawful for the said Boards respectively, or any person authorized by them, to enter into and upon, and take possession of any land so to be appropriated for any road, street or lane as aforesaid.

VII. In all cases where any sums of money appropriated in and by any Act of the Legislature, to any road, street or bridge shall be found to be more than sufficient for making, constructing, or repairing the same, as the case may be, it shall be lawful for the said Boards respectively to appropriate and apply such surplus money to the making, constructing, or repairing any other road, street or bridge within the District for which such money shall have been granted: Provided always, that when any sum of money, granted for any particular part of any main road, shall be found more than sufficient for the purpose of such grant, the surplus thereof shall be expended on such other parts of the same line of road, within the District, as may require the same.

VIII. No road, to be hereafter opened or made, shall be gravelled to a greater width than seven feet, or shall have a base of less width, from drain to drain, than fourteen feet, when such road shall be situate more than five miles from St. John's, or four miles from Harbor Grace, Carbonear or Brigus,

respectively; and that when any land within thirty-three feet of the centre of any road now laid out, remains unappropriated, and where any land within thirty-three feet of the centre of any road hereafter to be laid out, shall, at the time of any such road being laid out, be unappropriated, such shall not be granted, conveyed or appropriated to any private purpose. All main line of roads, hereafter to be opened, shall be one hundred feet wide.

IX. The Chairman of the Board of Works of this Island shall be Supervisor-General of all roads, streets and bridges therein; and all orders for the payment of moneys from the said respective Roads, shall be certified by the Financial Secretary of this Colony, before payment, so as to confine the expenditure within the Respective appropriations. The Chairman of the Board of Works, or his Officers, shall inspect Outport road work, and make yearly report thereon, and estimate the probable amount yet required; and the Chairman of each Board, within the respective Districts, shall, on or before the first day of December, and oftener, if required, transmit to the Supervisor-General correct statements of all works done, and moneys paid on such roads, streets and bridges as may be within his said District, together with an estimate of the probable amount which may be necessary to complete the same; and such returns shall be digested and reduced into order by the said Supervisor-General; and a consolidated printed report thereof be laid before the Governor in Council, to be laid before the Legislature within ten days after the opening of the Session.

X. For the purposes of this Act, the District of Saint John's shall comprehend all roads, streets and bridges within the Electoral District of St. John's, and also the main road between St. John's and the Goulds; the District of Conception Bay shall comprehend all roads, streets and bridges within the Electoral District of Conception Bay, including Holyrood; the District of Trinity Bay South shall comprehend all roads, streets and bridges within the Electoral District of Trinity Bay, from Dildo Cove to Split Point; the District of Trinity Bay North shall comprehend all roads, streets and bridges from Bonaventure to and in Bagged Harbor; Trinity Bay East to continue from Bagged Harbor to, in and about, Bird Island Cove; the District of Bonavista shall comprehend all roads, streets and bridges within the Electoral District of Bonavista; the District of Fogo shall comprehend all roads, streets and Bridges within the Electoral District of Fogo; the District of Burin shall comprehend all roads, streets and bridges within the Electoral District of Burin; the District of Fortune Bay shall comprehend all roads, streets and bridges within the Electoral District of Fortune Bay; the District of Burgeo and LaPoile shall comprehend all roads, streets and bridges within the Electoral District of Burgeo and LaPoile; the District of Placentia and St. Mary's shall comprehend all roads, streets and bridges within the Electoral District of Placentia and St. Mary's; and the District of Ferryland shall comprehend all roads, streets and bridges within the Electoral District of Ferryland, South of the Goulds and inclusive thereof.

XI. No action shall be commenced against any Board, Commissioners, Surveyors, Contractors, or other person, for anything done by them or him in pursuance of the provisions of this Act, until one calendar month after notice in writing shall have been delivered to them or him, or left at their or his usual place of abode, by the party who intends to institute such action, his Attorney or Agent, in which notice shall be clearly and explicitly contained, the cause of action, the name, place of abode of the person who is to bring the same, and the name and place of abode of his Attorney or Agent.

XII. It shall be lawful for any such Board, Commissioners, Surveyors, Contractors, or other persons, at any time, within one calendar month after such notice shall have been given, to tender amends to the party complaining, or to his Agent or Attorney; and in case such amends be not accepted, or in case no tender has been made, to plead the general issue to any action to be hereafter brought, and to give such tender, if any, or any other special matter in evidence; and if the plaintiff in any such action shall not, at the trial thereof, recover a verdict for more than the amount of such tender, if any, the defendant in such action shall be entitled to his costs of suit, and to the like remedy for the recovery thereof, as though a verdict had passed against the plaintiff.

XIII. If in any case such Board, Commissioners, Surveyors, Contractors, or other persons, shall neglect to tender any amends, or shall have tendered insufficient amends, before action brought, it shall be lawful for them or him respectively, by leave of the Court wherein such action shall be brought, at any time before the trial thereof, to pay into Court such money as they shall see fit; whereupon such proceedings, orders and judgments, shall be had, made or given to and by such Court, as in other actions where the defendant is allowed to pay money into Court.

XIV. Within six days after any Contractor, for any road, street or bridge, shall have given notice to any Board, Surveyor, or inspector, in the District where such road, street or bridge may be situated, of the completion of his contract therein, it shall be the duty of such Surveyor or Inspector to inspect such road, street or bridge, and if the contract be completed, forthwith to grant a negotiable certificate accordingly; and it shall be lawful for the Chairman of the said respective Boards, on receiving such certificate, to grant a negotiable order, under his hand, to the Contractor, to receive payment, by warrant of the Governor, on the Receiver General.

XV. It shall be lawful for the Governor in Council to increase the number of the said Boards, and the members thereof, when necessary.

XVI. The Governor in Council shall be at liberty to sub-divide the several Districts of the Island, for the purpose of the appointment of Road Boards therein, and for expenditure of moneys that may be granted within their respective limits.

XVII. It may be lawful for the Governor in Council to enter into any arrangements for the construction of suitable dwellings on such parts of main lines of roads as may be found most suitable for location, and for letting out the said roads by annual contract for the repairs thereof: Provided always that the cost of the erection of such dwellings shall be deducted from the sum appropriated for the said main roads.

XVIII. It shall be lawful for the Governor in Council to appropriate a sum, not exceeding in the whole Ten per Cent, upon the amount granted in any Act for making, repairing, and improving roads, streets, and bridges; towards defraying all expenses attendant upon the expenditure of such amount, that is to say:—The expenses of Surveying, Inspecting and Overseeing—the remuneration of Chairmen, Secretaries and all other necessary Officers,—Printing, Stationery and Postage.

XIX. If at any time during the intervals between the meetings of the Legislature, any Bridge should require repairs, of renewal, and no vote of the Legislature be available for such purpose, it shall be lawful for the Governor in Council to authorise and direct the repairs or renewal of such bridge, and to charge the expense necessarily incurred for such service, against any moneys that may thereafter be appropriated by any Act of the Legislature for road service in the District, or for the road on which such bridge may be situated.