



# THE ROYAL GAZETTE.

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## A BILL

### To establish a Board of Works in this Province.

**WHEREAS** it is expedient to establish a Board of Works in and for this Province;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That there shall be in and for this Province a Board of Works for the superintendence, management and controul of Public Works therein, which said Board of Works shall consist of such and so many persons, not exceeding five in number, as the Lieutenant Governor or person administering the Government of this Province for the time being shall from time to time appoint, to be members of the said Board, one of whom shall be appointed to be Chairman; and the said Board shall have such powers, authorities and capacities as are provided by this Act, or may hereafter be provided by any Act of the General Assembly of this Province, and no others.

II. And be it enacted, That a fit and proper person shall be appointed in manner aforesaid to be Secretary of the said Board, and that the Lieutenant Governor or person administering the Government of this Province for the time being, may remove the Members of the said Board, or the said Secretary, or any of them, and appoint others in their stead or reinstate those so removed when and so often as he shall deem it expedient.

III. And be it enacted, That the Chairman and the Secretary of the said Board shall respectively receive a yearly salary, and their actual disbursements and travelling expenses when away from their usual places of residence on the business of the said Board, and shall devote their whole time to the business of their respective offices, and shall not exercise any other profession or calling while they shall respectively hold the said offices, and the Members of the Board other than the Chairman shall receive their actual disbursements and travelling expenses when away from their respective places of residence on the business of the Board.

IV. And be it enacted, That the Chairman and Members of the said Board for the time being shall be a Body Politic and Corporate by the name of "The Board of Works of the Province of New Brunswick," and may by that name sue and be sued, and may have a Common Seal, and alter it at pleasure, and may hold Real Property, and shall generally have all the powers and capacities which Bodies Politic and Corporate have by Law.

V. And be it enacted, That the office of the said Board shall be at such place as the Lieutenant Governor or person administering the Government of the Province for the time being shall appoint for that purpose, which shall be the legal office of the Corporation, and the Board shall meet thereat or at such other place as the Lieutenant Governor or person administering the Government for the time being shall appoint at such times as he may direct, and at any time to which it may have adjourned at any previous meeting, and that any three of the Members of which the Chairman to be one, shall be sufficient to form a Board.

VI. And be it enacted, That the Chairman for the time being shall be the legal organ of the Corporation, and all writings and documents signed by him, and sealed with the Seal of the Corporation, and no others, shall be held to be Acts of the Corporation.

VII. And be it enacted, That it shall be the duty of the said Board to examine and report upon all matters which may be referred to it by the Lieutenant Governor or person administering the Government for the time being, connected with the objects for the promotion of which it is constituted as aforesaid, and to obtain all such evidence and information, plans, estimates, drawings or specifications, and to cause such surveys, visits and examinations to be made, and generally to do all such things as may be necessary to enable it to make such reports in manner best adapted to advance the public good: Provided always, That no expense shall be incurred or authorized by the Board with regard to any matter so referred, unless with the sanction and approval of the Lieutenant Governor or person administering the Government for the time being.

VIII. And be it enacted, That the said Board may suggest to the Lieutenant Governor or person administering the Government of the Province for the time being, any Public Works or improvements therein which it may appear to the Board could be undertaken with advantage to the Province, but shall incur no expense relative to the object of such suggestion, unless with the sanction and approval of the Lieutenant Governor or person administering the Government of the Province for the time being.

IX. And be it enacted, That all applications for any grant of public money for any of the objects for the superintendence of which the said Board is constituted as aforesaid, which the Lieutenant Governor or person administering the Government as aforesaid shall think may be undertaken with advantage to the public, or any matter connected with such object which he may himself suggest, shall be referred to the said Board, which shall report thereon in the manner and under the provisions aforesaid.

X. And be it enacted, That the said Board shall in like manner report on any reference which may be made to it with regard to the Tolls and Duties to be collected on or for the use of any Public Works, and may make such regulations for the use of any Public Work of any kind vested in the Board or under its controul, as shall not be inconsistent with the Law or with the purposes of such Works; but such regulations shall impose no fine, unless the power of imposing such fine shall be given to the Board by some law relating to such work.

XI. And be it enacted, That no sum of public money now appropriated or to be hereafter appropriated for any Public Work of the nature of those for the superintendence of which the Board is constituted as aforesaid, and the expenditure of which is not by Law directed to be made under the controul of or by any certain person or persons or officer or body corporate shall be expended, except under the controul and superintendence of the said Board: Provided always, and be it further enacted, That no part of any sum so appropriated shall be expended or advanced until the said Board shall have reported to the Lieutenant Governor or person administering the Government as aforesaid, in detail, the mode in which it is proposed to expend the same, nor until such report shall have been approved by him, nor shall any contract be entered into by the said Board for the performance of any work, except good and sufficient security, to the satisfaction of the said Board and of the Lieutenant Governor or person administering the Government as aforesaid, be given for the performance of the contract, within a time to be specified in the contract.

XII. And be it enacted, That no contract shall be entered into, or any money expended on any work, (excepting the repairing Roads,) for which any public money shall have been or shall be appropriated, unless it shall appear that the works can be completed according to the intention of the Legislature, for the sum appropriated for it, excepting always such preliminary expenses as shall be necessary to ascertain whether it can or cannot be so completed.

XIII. And be it enacted, That the said Board shall, with the approval of the Lieutenant Governor or person administering the Government as aforesaid, employ for the accomplishment of the objects for which it is constituted, such and so many engineers, surveyors, architects, clerks, draughtsmen, superintendents, and other persons, as may be necessary, and allow and pay them a fair and adequate compensation, not exceeding the usual allowances, salary or pay allowed to such persons respectively by other persons.

XIV. And be it enacted, That all Public Works in this Province which are not or shall not hereafter be specially vested in any other particular person or persons, bodies or officers, shall be and are hereby vested in the said Board of Works, and placed under its superintendence, management and controul, excepting always that any tolls, revenue or income derived from any

such Public Works shall be or continue to be received and accounted for by the persons or body appointed or to be appointed for that purpose; but the amount of such tolls, revenue or income, and the expenses of collecting them, and all such other information as the said Board may require from time to time, shall be reported and furnished to it by such persons and bodies on the requisition of the Secretary or Chairman.

XV. And be it enacted, That it shall be lawful for the said Board of Works, their engineers, agents, servants and workmen to enter into and upon any and all lands and grounds to whomsoever belonging, and to survey and take levels of the same or any part thereof, for any or all of the purposes and objects for which the said Board is so constituted as aforesaid, and in and for the execution of the said purposes; and for the attainment of the said objects or any of them, to set out and ascertain such parts of any such lands and grounds as the said Board shall deem necessary and proper, making compensation for all damages which shall be sustained by the owner or occupier of such land or ground, such compensation being ascertained by arbitration, in the manner hereinafter provided, in case the said Board and the party to whom compensation is to be made shall not agree as to the amount thereof.

XVI. And be it enacted, That the said Board shall have power to acquire and hold all such land and real property of any description as may be necessary or useful for the performance of any work directed or to be hereafter directed by the Legislature, and may for that purpose contract and agree with all persons, bodies corporate, guardians, rectors, curators, committees, and trustees whatsoever, not only for and on behalf of themselves, their heirs, successors, and assigns, but also for and on the behalf of those whom they shall represent, whether infants, absentees, lunatics, idiots, femmes covert, or other persons otherwise incapable of contracting, who are or shall be possessed of or interested in such property; and all such contracts and agreements, and all conveyances and other instruments made in pursuance thereof, shall be valid and effectual in Law to all intents and purposes whatever.

XVII. And be it enacted, That whenever the owner or person so representing as aforesaid the owner of any such land or real property shall refuse to agree for the sale and conveyance thereof, it shall be lawful for the said Board of Works to make a legal tender to him or to her of the probable and reasonable value of such land or real property, and the damage the owner will sustain by its being so taken from him, with a notification that the said Board of Works will submit the settlement of such value and damage to arbitration, and upon such tender and notification having been so made, it shall be lawful for the said Board of Works to enter upon and take possession of the land and real property to which such tender shall relate; provided always, that the said Board of Works shall within three days after taking such possession, name an arbitrator, and the owner or persons representing the owner of the land or real property so taken possession of, shall within three days from such nomination, also name an arbitrator, and the two arbitrators so named shall before proceeding, name a third arbitrator, and the said three arbitrators shall inquire of and they or any two of them shall award and adjudge upon the value of such lands and real property, and the damage the owners will sustain by the same being so taken by the said Board of Works for the purposes for which the same may be wanted, and shall signify their award and judgment to the parties interested within a period not exceeding ten days next after the appointment of the said third arbitrator; and the said Board of Works shall, upon the signification of any such award and judgment, forthwith tender to the owner or person representing the owner of such land or real property the sum so awarded and adjudged; and if the same exceed the sum originally tendered, the Board of Works shall pay the cost of arbitration, but if not, the costs shall be paid by the person so refusing the tender so made by the said Board of Works as aforesaid.

XVIII. And be it enacted, That any award made under this Act concerning the value of land or real property, and the damage done to the owner or occupier thereof, shall be subject to be set aside on application to the Supreme Court of the Province, in the same manner and on the same grounds as in ordinary cases of submission to arbitration by the parties, and in every case where such award shall be so set aside, it shall be in the discretion of such Court either to proceed at once upon affidavits of the facts to adjudicate and determine what shall be the amount to be paid by the said Board of Works to the owner or representative of the owner of such land or real property, or to refer the matter back again to the same or new arbitrators to be chosen as aforesaid for another arbitration; provided always, that in every case after decision either by the Court or arbitration, the said Board of Works shall forthwith tender to the owner or person representing the owner of such land or real property, the amount so decided to be paid; provided always, that no such award shall be set aside in any case, unless the application to the Court shall be made within six months from the date of such award.

XIX. And be it enacted, That if the said Board shall neglect in any way to comply with any of the requirements of this Act, touching the appointment of an arbitrator, or the tender required, or if no award shall be made within the period herebefore prescribed for making the same, then the party to whom the compensation is due shall have an action against the Board for the amount of such compensation, which shall then be ascertained as to law may appertain, saving the right of the Board to plead any tender made of the amount of such compensation; provided always, that nothing herein contained shall prevent the parties from agreeing to the extension of the period for making any such award, and such period shall in any such case be extended accordingly for all the purposes of this Act.

XX. And be it enacted, That the arbitrators so appointed as aforesaid shall have power to examine any person on Oath, touching the value of the property or the amount of any compensation which they shall be required to ascertain, and they or any of them are hereby authorized to administer such Oath, and the said arbitrators shall themselves be sworn to the due performance of their duties before some Judge or Justice of the Peace, before they shall proceed to perform such duties.

XXI. And be it enacted, That it shall be the duty of the Secretary of the said Board (with such assistance as may be found necessary,) to keep a separate account of the monies appropriated for and expended on each Public Work, to have charge of and keep all plans, contracts and estimates and documents, models or other things relative to any such works, to keep regular accounts with each contractor or other person employed by the Board, to see that all contracts made with the Board are properly drawn and prepared, to draw out all certificates upon which any warrant is to issue as hereinafter mentioned, to prepare all reports to be submitted to the Board for its adoption, and to receive and answer according to the instructions he may receive from the Board, all letters to or from the Board, and to or from the members thereof or other persons in the business thereof, to notify the members of all meetings of the Board which may be called at any time other than that to which the Board may have adjourned at its then last meeting, to keep Minutes of its proceedings at all meetings, and to proceed to any place in the Province at which any Public Work may be undertaken if directed to do so by the Board, to have the general superintendence of all other matters which he may be instructed to superintend by the Board, and generally to do all ministerial acts connected with the business of the Board which it may direct him to do or which may devolve upon him by a fair construction of the meaning and intent of this Act in all cases not expressly provided for.

XXII. And be it enacted, That it shall be lawful for the Lieutenant Governor or person administering the government as aforesaid, to require any person or persons whomsoever having in their possession any instruments, plans, papers, books, drawings, models, estimates or documents relative to any Public Works and belonging to the Province, to deliver the same to the Chairman of the said Board, and also from time to time to place in his charge and keeping for the said Board, any instruments, books, drawings, models or documents relative to the objects