



CHAPTER 229.

An Act respecting the Construction of Sewers in Unincorporated Districts.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

Short Title.

1. This Act may be cited as the "Sewerage Act." R.S. 1911, c. Short title. 209, s. 1.

Interpretation.

2. In this Act, unless the context otherwise requires:—

"Execute" shall have such meaning as is proper to describe the performance of the particular works referred to in the context:

"Owner" means any male or female, being a British subject and of the full age of twenty-one years, who is the assessed owner of land or real property within the area of the lands in which the sewerage system is constructed; and shall include any corporation whose name appears on the last Provincial assessment roll as the assessed owner of land or of real property within the boundaries of a district referred to in section 3: Provided that where any individual piece of land or parcel of land within the sewerage district is vested in more than one owner, the vote of the majority in number of such owners shall be held to be the vote representing such piece or parcel of land, and in calculating the number of those entitled to vote under the provisions of this Act such owners shall be counted as only one owner:

"Works" means any excavation and refilling of sewer-trenches, tunnels, sewer-pipe, laying pipe and branches, bends and connections, manholes, culverts, outfalls, and any work

Expressions
Interpreted.

whatever connected with the sewers which the Commissioners appointed hereunder are authorized to construct in connection with the sewerage system in any unincorporated district to which this Act applies. R.S. 1911, c. 209, s. 2.

Sewerage Districts.

Sewerage district,
how constituted.

3. The Lieutenant-Governor in Council, upon receiving a petition signed by what appears to him a representative number of the owners in any district not incorporated into a municipality, the boundaries of which shall be set out in the said petition, praying that the said district be constituted a sewerage district under this Act, may constitute such district under the name of "Sewerage District." R.S. 1911, c. 209, s. 3.

Commissioners of Sewers—Duties and Powers.

Selection of Com-
missioners to carry
on sewerage-work.

4. The majority in number of the owners in a district so constituted by the Lieutenant-Governor in Council may, by themselves, or their agents duly authorized in writing, select, at a public meeting of which due notice at least three weeks before the date fixed therefor has been given, three or more Commissioners to execute any works in connection with sewerage in the district, and they may in like manner add to or diminish the number of Commissioners selected, or supersede any or all of them and select others instead, and the selection and dismissal of any Commissioner for or from the control of any sewerage district shall be made in writing under the hands of a majority of the owners within the district, or their agents authorized as aforesaid: Provided that if the works have been undertaken and any moneys have been borrowed under the powers contained in this Act, the power to add to or diminish the number of Commissioners, or to suspend any or all of them and select and substitute others instead, shall not be exercised against the expressed dissent of the bondholders or any lenders of the moneys aforesaid, or a majority of them or their trustees, and notice of a proposed exercise of any such powers shall be given by advertisement inserted for three weeks in the Gazette or in a newspaper published or circulating in the sewerage district. R.S. 1911, c. 209, s. 4.

Taking oaths of
office.

5. The Commissioners selected by the owners under this Act shall be sworn into office by a Justice of the Peace, according to Form No. 2 in the Schedule, and the appointment or selection or dismissal of a Commissioner and such swearing into office shall be entered by the Commissioners in a book of records to be kept by them, or filed among the records of the Commissioners, which shall be evidence of the said appointment, dismissal, or swearing-in, as the case may be, and their names shall, together with the boundaries for the district for which they are to act, be published in the Gazette, and until such publication of the swearing-in of a Com-

missioner he shall not be competent or qualified to exercise any of the functions of the office. R.S. 1911, c. 209, s. 5.

6. In case any vacancy occurs in the office of Commissioner, it shall be the duty of the remaining Commissioners, if such office had previously been filled by a Commissioner selected under section 4, within fourteen days of the occurrence of such vacancy, by public notice, to call a meeting for the nomination of a Commissioner to fill the vacancy, and any appointment shall be made in the manner provided by section 4; and in case of neglect so to do by the Commissioners, any owner in the district, or any bondholder or creditor of the Commissioners, may take the necessary steps to secure such appointment. R.S. 1911, c. 209, s. 6.

Vacancy in office of Commissioner.

7. The owner of lands in any district for which Commissioners are selected may, at the time of selecting Commissioners as aforementioned, or at any time after such selection, by a majority in number, determine the general extent, scope, and limits of the works with the execution of which the Commissioners shall be entrusted, but the Commissioners shall, subject to the provisions of this Act, have full power in all matters of detail. R.S. 1911, c. 209, s. 7.

Scope and limits of works.

8. The Commissioners may fix by resolution the remuneration to be received by themselves, but such remuneration shall not exceed five dollars per day for each Commissioner when actually employed in official business, nor shall such remuneration in any calendar year exceed one hundred dollars to any Commissioner, nor three hundred dollars to the whole number, unless the payment of the same is sanctioned by a majority of owners present at a meeting called to sanction such payment. R.S. 1911, c. 209, s. 8.

Remuneration of Commissioners.

9. It shall be the duty of the Commissioners forthwith after their appointment and qualification to take all preliminary steps for organization, and for obtaining such of the information required to be shown upon the plan and in the memorandum referred to in section 10, or such further or other information as they may deem advisable in connection with the object of their appointment. R.S. 1911, c. 209, s. 9.

Preliminary steps for organization.

10. (1.) The Commissioners shall not have power to proceed to execute any of the works where it is proposed to extend the payment therefor over a term of years, until there has been filed in the Land Registry Office for the district in which the lands affected are situate:—

Steps necessary for Commissioners in case of extended payment for works.

- (a.) A plan prepared by the engineer of the Commissioners and approved by the Provincial Board of Health, showing the contours of the ground, the location of the proposed works,

and the lands to be benefited thereby, thereon coloured green:

- (b.) A memorandum under the hand of the engineer of the Commissioners, approved of by the Minister of Public Works, containing an estimate of the cost of the intended works, countersigned by all the Commissioners:
- (c.) An assessment roll showing the amount which it is intended to assess against the respective lots or sections of land coloured green as aforesaid, and the intended mode of payment of the costs of the works, with the amounts to be raised annually, both to pay off the interest on the cost and to form a sinking fund to pay the principal at maturity, signed by all the Commissioners:
- (d.) A copy of the minute of the public meeting at which Commissioners were selected under section 4, certified as correct by the clerk of the Commissioners:
- (e.) A list of the names of all dissentients under section 11, certified as correct by the clerk of the Commissioners.

Case where portion shown on plan has not been represented in selection.

(2.) Where the plan above mentioned shows any land which it is proposed to assess, but which was not represented in the selection of the Commissioners, and that the Commissioners selected do not represent a majority of the total owners of lands within the sewerage district, as required by section 4, such land shall be excluded from the plan of the works, unless the selection of the Commissioners is ratified and confirmed by so many of the owners of the total quantity of land affected as is necessary to make up the required majority.

Assessment in case of small works.

(3.) Where the works are of small extent and it is proposed to meet the cost thereof by assessments levied and collected from time to time as the work progresses, the Commissioners may proceed forthwith to execute the works determined upon, in accordance with section 7, and any assessment levied shall become a charge upon the lands, so soon as a statement thereof, signed by the Commissioners, is filed in the proper Land Registry Office. R.S. 1911, c. 209, s. 10.

Dissent of owner.

11. Any owner may, at any time before the expiry of the time limited for appealing from the proposed assessment to the Court of Revision, notify the Commissioners of his dissent from the proposal to go on with the works; and if a majority in interest and number of the owners so notify the Commissioners, the Commissioners shall not be at liberty to go on with the works until the carrying-on of the works has been assented to in writing by a majority in number of the owners. R.S. 1911, c. 209, s. 11.

Notice of filing of plan.

12. The Commissioners shall give at least four weeks' notice to each owner of a lot or parcel coloured green as aforesaid whose address is known of the filing of such plan and memorandum and

assessment roll, and a copy of so much of the assessment roll as refers to his land, with a notice of the date and place at which a meeting of the Commissioners as a Court of Revision will be held, and shall advertise, for at least four weeks, in the Gazette and in a newspaper circulating in the neighbourhood of the district affected, that such plan and memorandum and assessment roll have been filed, and appoint a time, not less than one month after the date of the first advertisement, and a place for a meeting at which all complaints against the assessment shall be heard, and may at such meeting, or at any adjournment thereof, alter, amend, or confirm the assessment, as may seem to them just. A statement of any alteration so made (or made under the provisions of section 62, by a Judge on appeal from the Commissioners, and, in the latter case, upon production of the Judge's order) shall be signed by the Commissioners and deposited in the Land Registry Office in which the original plan and memorandum and assessment roll were filed. R.S. 1911, c. 209, s. 12.

13. If it is deemed necessary at any time to alter the location of any of the sewers or extent thereof after the filing of the plan, assessment roll, and certificates as aforesaid, the plan, assessment roll, and certificates, or either of them if necessary, may be altered upon the engineer for the Commissioners certifying that such change of location is necessary for the proper carrying-on of the work in the manner indicated by his certificate, or that further subdivision of the lands affected has been made; and upon such certificate and an amended assessment roll, signed by all the Commissioners, being filed, such filing shall have the same force and effect as if the alteration in the assessment had been made by the Court of Revision or a Judge: Provided that in the case of an increase in the assessment of any lot exceeding five per cent. of the assessment already charged against such lot, the certificate shall not be filed until a Court of Revision, as provided by the last preceding section, or a Judge, as provided by section 62, has first approved of the proposed alteration. R.S. 1911, c. 209, s. 13.

Alteration of location of works after filing of plan.

14. The plan and memorandum and assessment roll, when so filed as aforesaid, shall, subject to such alteration as may be made by the Commissioners, or by a Judge, as above provided, be registered as a first charge on or against each separate lot or parcel of land, or portion thereof, so shown on the said plan or amended plans deposited from time to time and coloured as aforesaid, to the extent of the sums payable by or under this Act, by or in respect of the said lot or parcel or portion thereof, and whether the assessment is for the cost of the works, including engineering and supervision charges, or for maintenance or repairs, or other purpose; and such sums so made payable as hereinbefore provided shall be payable to the said Commissioners, and shall be vested in them, and they shall be the owners of the said charge on the said lands hereby created for

Plan and memorandum shall be a first charge on land for sum payable.

the purposes of carrying out the provisions of this Act. The fee for filing and registering the said plan or any memorandum shall be the same fee as for a single registration. The aforesaid lands or any part thereof shall not stand charged with any money made payable by or under this Act, but not specified in the memorandum aforementioned, until a memorandum under the hands of the Commissioners, showing the amount of the assessment for the time being made chargeable against each such lot or parcel, or portion thereof respectively, so shown and coloured as aforesaid, has been filed in the said Land Registry Office. R.S. 1911, c. 209, s. 14.

Sewer connections.

15. Every house with outbuildings and offices appertaining thereto situate on any portion of the land coloured green as aforesaid which exists at the time of the organization of the district under this Act, and all houses, outbuildings, and offices appertaining thereto erected thereafter, shall connect with the sewers constructed under the Commissioners; and the Commissioners shall have power under this Act to formulate and promulgate rules and regulations, subject to the approval of the Provincial Board of Health, governing connections with sewers, together with all the plumbing and fixtures within the buildings aforesaid, as they may deem expedient, and shall have power to fix fines and penalties for refusing or omitting to comply within a reasonable time with the aforementioned rules and regulations, after due notice in writing under the hand of the engineer of the Commissioners has been served upon the owner or occupier of any such building. R.S. 1911, c. 209, s. 15.

Cost of sewer connections.

16. The cost of the connection with the sewer within the boundaries of the lot or parcel of land upon which any building referred to in the last preceding section stands, as well as the cost of the plumbing and fixtures inside the building, shall be borne by the owner or occupier thereof. R.S. 1911, c. 209, s. 16.

Collection of costs of sewer connections.

17. If the owner of a building referred to in the last two preceding sections fails to comply with the terms of the written notice referred to therein, the Commissioners shall have power to enter upon the premises and perform the necessary work at the cost of the owner. The cost of the work so done shall be a debt due from the owner to the Commissioners, and shall also constitute a lien upon the property benefited until fully paid. R.S. 1911, c. 209, s. 17.

Further powers and duties of Commissioners.

18. The Commissioners shall have power to construct, build, dig, make, lay, and maintain such sewers and all appurtenances of and adjuncts thereto, or improvements, as they may deem necessary for the efficient disposal of sewage in the district for which they are appointed. It shall be their duty to execute or cause to be executed the works shown upon the plan referred to in the preceding sections

hereof, or decided upon in accordance with the provisions of section 7, and to see that the same are duly performed and maintained in a proper state of repair. It shall also be their duty to attend to the making, levying, and collecting of assessments, and to the proper application of sums collected, and generally to carry out all the provisions of this Act. R.S. 1911, c. 209, s. 18.

19. Any act, matter, or thing required to be done by the Commissioners may, when there are more than two, and in the absence of express provision to the contrary, be done by the majority of them; and if there be a recital in any deed, contract, or other document or instrument that the Commissioners who executed it form all or a majority, as the case may be, of those entitled to act, or if any such document or instrument purports to be executed by the Commissioners, the same shall, prima facie, be deemed to be the act, deed, or instrument of the Commissioners. R.S. 1911, c. 209, s. 19.

Majority of Commissioners.

Expropriation of and Damage to Lands.

20. The Commissioners shall have power, and are hereby authorized, to enter into and upon any lands of any person or persons, bodies politic or corporate, and to survey, set out, take, expropriate, hold, and acquire any lands that may in their opinion be necessary to have and to hold for the purpose of the construction, operation, maintenance, or repair of any works authorized by this Act, and shall pay such compensation therefor as may, in default of an agreement being arrived at, be decided by arbitration, pursuant to the provisions of the "Arbitration Act," by three arbitrators; one of the arbitrators to be appointed by each party, and the third by the two arbitrators so appointed; and the compensation paid hereunder shall be regarded as portion of the cost of the works, and be assessed and levied accordingly. R.S. 1911, c. 209, s. 20.

Expropriation and compensation for damage done.

21. Public highways, lanes, and private roads may be entered upon and opened up for the purposes of the works within the meaning of this Act. It shall, however, be the duty of the Commissioners to leave and maintain the highway, lane, or private road at a constant level, and repair all injury directly or indirectly caused by the works carried on under this Act. R.S. 1911, c. 209, s. 21.

Public highway or private road.

22. Where the buildings, land, or fences of any owner within the sewerage district have been injured by the execution of works authorized by this Act, the damage shall be valued, assessed, and paid in the same manner as directed for the cost of the works. R.S. 1911, c. 209, s. 22.

Assessment for damage done to others than applicants.

Engineers, Collectors, and Clerks.

23. The Commissioners may appoint an engineer and assistants and inspectors, a clerk, and assessor and collector, to assist them in the performance of their duties. To each of such officers an oath of

Appointment and oath of office.

office shall be administered by one of the Commissioners, by whom an entry thereof shall be made in the Commissioners' book of record, which entry shall be evidence of the fact of administration of the said oath. R.S. 1911, c. 209, s. 23.

Records to be kept by clerk.

24. The clerk of the Commissioners shall keep a record of all their proceedings, an account of all labour and materials purchased, and of all moneys received and expended by the Commissioners, and of all investments of sinking funds, all of which records shall be open to the inspection of all persons interested therein, on payment for each search and examination of the books at one time of twenty-five cents; and a copy of any entries shall be furnished to every person interested, when demanded, on payment of twenty-five cents for every folio of one hundred words. R.S. 1911, c. 209, s. 24.

Custody of moneys.

25. The clerk shall have custody of all moneys of the Commissioners, which shall be kept in some chartered bank, and shall be withdrawn only on the cheque of the Commissioners, countersigned by the clerk. The collector shall collect all assessments and moneys, and shall deposit the same weekly, or as soon as the amount exceeds one hundred dollars, in the regular bank account of the Commissioners. The offices of clerk and collector may be held by the same person. R.S. 1911, c. 209, s. 25.

Bonds and securities of collector and clerk.

26. The collector shall furnish a bond to the Commissioners, with two sufficient sureties, or a guarantee bond of an insurance company to be approved of by the Commissioners, in the amount of five hundred dollars, or such larger amount as the Commissioners may require, for the due accounting for and paying over by him to the account of the Commissioners of all moneys collected by him, and for the faithful performance of the duties of his office; and the clerk shall furnish a like bond for the performance of the duties of his office. R.S. 1911, c. 209, s. 26.

Commissioner not to receive emolument for being clerk or collector.

27. No Commissioner shall receive any emolument for holding the office of clerk or collector. R.S. 1911, c. 209, s. 27.

Commissioners may carry on work by day-labour or contract.

28. The Commissioners may, at their discretion, carry on the works by day-labour or by contract, as the occasion may require or as they deem expedient. R.S. 1911, c. 209, s. 28.

Procedure where work to be carried on by contract.

29. If the works are to be carried on by contract, the Commissioners shall cause to be prepared, by the engineer of the Commissioners, plans, profiles, detail drawings, specifications, and forms of tender for the works in whole or part which it is proposed to carry out, and shall, by advertisement in daily newspapers published in the principal cities of the Province or elsewhere, as may be deemed expedient, invite sealed tenders for the proposed works. The notice shall appear daily in each newspaper as aforesaid for at least four weeks before the date for receiving tenders as mentioned in the

advertisement above referred to. Upon receipt of each tender, the clerk of the Commissioners shall endorse on the sealed envelope the time of day and the date of the receipt of the tender, and tenders shall be kept until the time of opening in the safe of the clerk of the Commissioners, and shall be opened in public, of which forty-eight hours' notice shall be given to the owners of the lands affected by the sewerage scheme, in the presence of at least two of the Commissioners and the clerk of the Commissioners, within two hours of the time fixed for the receipt of the tenders, and the time and date of opening each shall be endorsed on the envelopes and on the tenders, and this endorsement shall be signed by the Commissioners present and their signatures witnessed by the clerk. The Commissioners shall not be bound to accept the lowest or any tender, but shall, within one week from the time appointed for opening the same, announce their decision regarding either the acceptance or refusal of any of the tenders received. R.S. 1911, c. 209, s. 29.

30. The Commissioners may enter into contracts for any works for which public tenders have been invited, and all such contracts may be made subject to and contain such powers, conditions, and agreements as may be agreed upon, and shall be signed by all the Commissioners. R.S. 1911, c. 209, s. 30.

Public tenders to precede contracts.

31. The Commissioners shall have a plan of the land within the area of the sewerage district showing the several lots and parcels and boundaries and the names of owners prepared by the engineer of the Commissioners from actual personal survey in the field, and order the expense thereof to be included in the cost of the works as other charges, and may require the owners or their agents to point out to the engineer the boundaries of their respective lots or parcels of land, and the owners and agents so called upon shall, for all purposes of this Act, be bound by such survey and plan and by any amended plan which further subdivision of land within the sewerage district may demand from time to time. R.S. 1911, c. 209, s. 31.

Plan of land in sewerage district.

Assessment.

32. The Commissioners shall assess each lot or parcel of land coloured green as aforesaid at a rate per foot of frontage of the lot or parcel in question; but corner lots shall only be assessed on two frontages if sewer connections are made in both. R.S. 1911, c. 209, s. 32.

Rate of assessment.

33. The Commissioners shall assess the said lots and parcels in the manner set forth in the last preceding section within the district for which they are appointed, for the costs of the works, including preliminary expenses and engineering and office expenses, discounts on bonds or debentures issued for moneys borrowed, and any other

Amount of assessment.

expenses incurred by them, whether preliminary to or subsequent to the filing of the plan and memorandum and assessment roll above referred to, and whether the plan and memorandum and assessment roll are filed and the works undertaken or not, and also including a sum not exceeding five dollars per day for each Commissioner while actually employed, and a reasonable sum for the payment of the engineer, his assistant, inspectors, clerk, and collector. In addition to the assessment made for the first cost of the works, supplementary estimates may be made from time to time for expenses of operation, maintenance, and management, and for such extensions or repairs as may be required, which estimates shall be distributed over all lands coloured green as aforesaid in the district in the same proportion as the original assessment. R.S. 1911, c. 209, s. 33.

Where supplementary estimate made memo. to be filed in Land Registry Office.

34. Where it becomes necessary to make a supplementary estimate, the payment of which is to be spread over a number of years, a memorandum under the hands of the Commissioners showing the total sum required to be raised by assessment, and the amount to be assessed against each lot or parcel per foot of frontage, shall be filed in the proper Land Registry Office as required by section 12. Preliminary expenses, where the works are not undertaken, shall be borne by the parties assenting to the appointment of Commissioners; but where the Commissioners have complied with the requirements of sections 12, 13, and 14 the expenses they incur shall be charged against all the lands assessable. R.S. 1911, c. 209, s. 34.

Rate for house connections.

35. The Commissioners may, in addition to the assessments provided for in this and the last three preceding sections, levy a rate for each house connection with the sewer to cover the cost of all material and labour entailed thereby between the sewer and the boundary of the lot or parcel. R.S. 1911, c. 209, s. 35.

Assessment of alienated Crown lands.

36. Lands in respect of which no Crown grant has been issued, but which are held by pre-emption or lease, or agreed to be sold, granted, or conveyed, shall be liable while so held, or during the existence of such agreement, to be assessed for the purposes of this Act as aforesaid notwithstanding that the consent of the Governor-General in Council or Lieutenant-Governor in Council, as the case may be, has not been obtained thereto; but such assessment shall not, in the absence of such consent, affect the rights of His Majesty in the lands. R.S. 1911, c. 209, s. 36.

Assessment for amount exceeding estimated cost.

37. The Commissioners may, in addition to any other assessment authorized to be made under this Act, assess the aforesaid land so shown and coloured as aforesaid for any additional sum or sums, not exceeding one-fourth of the amount of the estimated cost of the works, as shown by the memorandum referred to in section 14, as a

margin to ensure the prompt payment into the sinking fund for the repayment of any money which may have been borrowed, or be proposed to be borrowed, of the annual amounts due thereto, and of the interest on moneys so borrowed, and the additional assessments made against each lot or parcel, respectively, as aforesaid, shall be in proportion to the portion of the amount of the estimated cost of the works assessed against the same property. R.S. 1911, c. 209, s. 37.

38. Every assessment made by the authority of any of the preceding sections shall be absolutely binding, and the security given for the repayment of any moneys borrowed by the Commissioners on such assessment and upon the sinking fund under the powers contained in this Act shall be absolutely valid and binding on all parties interested therein according to the terms thereof, and shall not be quashed or set aside on any ground whatsoever, unless upon an application or in an action made or commenced in some Court of competent jurisdiction within two weeks after the last day upon which the Commissioners met to hear complaints against such assessment. R.S. 1911, c. 209, s. 38. Assessment binding.

39. All rates and assessments may be recovered by and in the name of the Commissioners, with costs, as if the same were private debts; and a copy of the assessment, or of such part as may relate to the particular rate sued for, shall be sufficient proof of the assessment having been made and of the liability of the owner or occupier of the land in question to pay the same; and no rate or assessment shall be subject to any set-off of a private nature, or be joined with any private claim on the part of the Commissioners. R.S. 1911, c. 209, s. 39. Recovery and proof of assessment.

40. All assessments due under this Act shall bear interest from the time when the same are due and payable at the rate of six per centum per annum, and the interest thereon shall be collectable as the original assessment. R.S. 1911, c. 209, s. 40. Interest on assessments due.

41. Any deficiency in the amount of the rate may be levied and collected as an original rate. R.S. 1911, c. 209, s. 41. Deficiency of rate.

42. (1.) In addition to all other remedies for the recovery of rates or assessments, the Sheriff or his deputy, at the request of the Commissioners and upon receipt of a warrant under their hands, shall sell the lands assessed, or so much thereof as is necessary to pay the rate and expenses, having given three months' previous notice of the time and place of such sale in the Gazette and in two daily newspapers circulating in the sewerage district in which the lands lie, and by handbills posted in at least three of the most public places in the said district; and shall execute and deliver to the purchaser a valid deed of such lands in fee-simple and free from all Recovery by sale of lands.

encumbrances, save and except their proportional share of any assessments for ensuing years theretofore made; such lands being also still liable for their share of future assessments; for which deed and his attention about the sale he shall be entitled out of the proceeds to three per cent. A recital in the deed of such advertisement and handbills having been duly made and posted shall be presumptive evidence of the fact.

Form of warrant
to sell lands.

(2.) The Commissioners' warrant to the Sheriff may be in Form No. 1 in the Schedule. R.S. 1911, c. 209, s. 42.

Liability where
owner has not
agreed to execution
of works.

43. Where the person who, at the time of the filing of the memorandum referred to in section 10, was the owner or occupier of any land, or his known agent, or his successor in title, has not agreed to the execution of the works, the land only shall be liable for the rate assessed. R.S. 1911, c. 209, s. 43.

Borrowing-powers.

Borrowing-powers.

44. The Commissioners may borrow upon security of the rates and assessments, or any of them, or any part thereof respectively, made payable under this Act, and upon such terms as they may think fit, from any person willing to lend the same, any sum of money not exceeding the amount specified in a memorandum, filed in pursuance of section 10 or 12, and may execute to the lender a deed specifying the objects for which the money is alleged to be borrowed, the terms of repayment, and the lands in respect of which the rates and assessments given as security may be recoverable; and the said deed may be made subject to and contain such powers, conditions, and agreements as the Commissioners and the lender may mutually agree on. And the Commissioners may, in respect of the moneys so borrowed or of other obligations incurred, issue bonds or debentures, either at par or at a premium or discount, payable to bearer, at such time, within forty years of the date thereof, and place, and for such amounts and bearing such rate of interest as the Commissioners may determine, collateral to which said bonds or debentures the Commissioners may execute a deed in trust of such rates and assessments or any of them, and of the sinking fund created thereout, in favour of such persons or corporations as may be agreed upon by the Commissioners and the lender, which said deed shall specify the objects for which the money is alleged to be borrowed, the terms of repayment, the lands in respect of which the rates and assessments given as security may be recoverable, the extent to which the lands shall be separately charged in respect of the loan, and otherwise subject to and contain such powers, conditions, and agreements as the Commissioners and the lender may mutually agree upon. R.S. 1911, c. 209, s. 44.

Validation of
debentures and
memoranda.

45. Where bonds or debentures are issued by the Commissioners for any sewerage district under the authority of this Act, or issued

in intended compliance with the powers conferred by this Act, the bonds or debentures shall be valid according to the terms thereof, notwithstanding any want of substance or form either in the bonds or debentures themselves or in the issue of the same, or in the proceedings required by this Act to be taken by the Commissioners before the issue thereof, or in the authority of the Commissioners in respect thereof, or otherwise; and the memorandum or memoranda, or amended memorandum or memoranda, filed in the Land Registry Office for the district in which the lands affected are situate by the Commissioners, providing for the assessment of the lands for securing the repayment of the loan represented or intended to be represented by the bonds or debentures, shall be valid, according to the terms thereof for the purpose aforesaid, notwithstanding any want of form or substance therein or in the said proceedings, or in the authority of the Commissioners or otherwise. R.S. 1911, c. 209, s. 45.

46. All moneys borrowed by the Commissioners shall be expended in the execution, maintenance, operation, and management of the works for executing which they were borrowed. R.S. 1911, c. 209, s. 46.

Moneys to be expended in execution of works.

47. (1.) The Commissioners shall hold and invest in their own names all assessments collected on sinking fund account for the payment of any indebtedness at maturity. The provisions of the "Municipal Act," "Revised Statutes of British Columbia, 1911," chapter 170, in relation to investments of sinking funds by district municipalities shall apply to sinking funds created under this Act, the Commissioners exercising the powers of the Council in that behalf. In estimating the amount to accrue on any sinking fund, no higher rate than five per cent. on investments shall be calculated upon.

Investment of sinking funds.

(2.) In addition to the investments of the sinking funds hereinbefore authorized, the same may be invested in the repurchase of the bonds of the Commissioners. R.S. 1911, c. 209, s. 47.

48. In case the office of Commissioner becomes vacant, and is not filled up, and in case of failure to secure an appointment under section 6, while any moneys borrowed by virtue of this Act are unpaid, the lenders or their assignees, or a majority of them, or the trustees for the bond or debenture holders may, by writing under their hands and seals, appoint some person to act as a Commissioner, and thereupon all the powers and authorities vested in any Commissioner or Commissioners by this Act shall vest in such Commissioner so appointed. R.S. 1911, c. 209, s. 48.

Lenders of moneys appoint Commissioners in case of vacancy.

49. In case the Commissioners neglect to enforce the payment of the moneys so borrowed under the powers vested in them

Powers of lender in case Commissioners refuse to enforce payment.

in accordance with the conditions on which the same were borrowed, the Sheriff or his deputy, on the application of the lender or his assigns, shall forthwith apply to the owners or occupiers of the lands for all moneys due; and in case of non-payment of the amount so due, the Sheriff or his deputy, upon receiving a warrant under the hands and seals of the creditor and due indemnity, shall proceed to sell, and shall sell, the lands in respect of which any fine, rate, assessment, or part thereof respectively may be due and unpaid, or so much thereof as may be necessary to pay the moneys so due and unpaid, and expenses, in like manner as if he were acting at the request of the Commissioners, and shall execute and deliver to the purchaser a valid deed of such lands of such effect as is specified in section 42, for which deed and his attendance about the sale he shall be entitled out of the proceeds to three per cent. A recital in the deed of the advertisement inserted in the Gazette and two newspapers and of the handbills referred to in section 42 having been duly posted shall be accepted as evidence of the fact. R.S. 1911, c. 209, s. 49.

Registration of deed.

50. The Registrar of Titles for the land registration district in which the lands are situate, upon production of the deed executed by the Sheriff under section 42 or the last preceding section, and application in the usual form, shall register the same in the usual manner. R.S. 1911, c. 209, s. 50.

Crown Lands.

Assessment of Provincial Crown lands.

51. Where Crown lands, or lands held under pre-emption right, are included in the sewerage district and will be benefited by the execution of the works, the said lands, or such of them as may be specified in any Order in Council, may, if the consent of the Lieutenant-Governor in Council is obtained thereto, be assessed for their proportion of the cost of execution of the works and for all other expenses, upon the same principles and subject to the same conditions as the lands of private proprietors, and all assessments shall either be paid out of such moneys as are voted by the Legislature from time to time for that purpose, or, in case of pre-empted lands, by the pre-emptor, or the said assessment shall stand charged against the lands and shall be a charge upon the same when pre-empted or otherwise alienated from the Crown; but the total amount charged against any lot or parcel of land shall not, upon pre-emption or alienation, be then immediately payable, but the same shall be distributed over a term of like length as were the original assessments, the beginning of said term being the date of pre-emption or other alienation. R.S. 1911, c. 209, s. 51.

Assessment of Dominion Government lands.

52. Lands belonging to the Dominion Government, or the territorial revenues whereof belong to the Dominion Government, which are held under pre-emption or under agreement to sell or lease, shall be liable to assessment for the purposes of this Act, but the

consent of the Governor-General in Council shall be first had and obtained, and the pre-emptors, holders, or lessees of such lands shall be deemed owners for the purposes of this Act; and with the like consent of the Dominion Government and subject to arrangements to be concluded between the Dominion and Provincial Governments, Dominion lands may be assessed, although not held under pre-emption or under agreement to sell or lease. R.S. 1911, c. 209, s. 52.

53. In order to meet the deficiency in the amount of any assessment caused by the assessment on the Crown lands not being immediately payable, the Commissioners may, if they are of opinion that this contingency is not sufficiently provided for by any extra rate assessed under the provisions of section 38, assess the other lands in the district for their proportion of the deficiency thereby created. The Commissioners may also reduce the rate upon such other lands from time to time as the Crown lands become liable to assessment and the said assessments are paid. R.S. 1911, c. 209, s. 53.

Deficiency caused by assessment on Crown lands not being immediately met.

Procedure on Claims against Commissioners.

54. All claims on behalf of or against the Commissioners may be enforced by action brought by or against the Commissioners holding office at the time of the bringing of such action, whether the cause of action arose during the time when such Commissioners held office or during the terms of office of their predecessors as Commissioners. R.S. 1911, c. 209, s. 54.

Enforcement of claims against Commissioners.

55. Any writ of execution against the Commissioners may be endorsed with a direction to the Sheriff, in case of a judgment recovered therein, to levy the amount thereof by rate, and the proceedings thereon shall be the following. R.S. 1911, c. 209, s. 55.

Execution against Commissioners.

56. The Sheriff shall deliver a copy of the writ and endorsement to the clerk of the Commissioners, or leave a copy at the office or dwelling-house of that officer, with a statement in writing of the Sheriff's fees, and of the amount required to satisfy the execution, including in such amount the interest calculated to some day as near as is convenient to the day of the service. R.S. 1911, c. 209, s. 56.

Service.

57. In case the amount, with interest thereon from the day mentioned in the statement, is not paid to the Sheriff within one month after the service, the Sheriff shall examine the plan or memorandum filed, and shall, in like manner as assessments are made by the Commissioners for general purposes, strike a rate sufficient in the dollar to cover the amount due on the execution, with such addition to the same as the Sheriff deems sufficient to cover the interest, his own fees, and the collector's percentage up to the time when such rate will probably be available. R.S. 1911, c. 209, s. 57.

In case of non-payment Sheriff may strike a rate.

Sheriff to issue precept.

58. The Sheriff shall thereupon issue a precept under his hand and seal of office, directed to the clerk of the Commissioners, and shall annex to the precept the roll of such rate, and shall by the precept, after reciting the writ, and that the Commissioners had neglected to satisfy the same, and referring to the plan and memorandum, command the clerk to levy such rate forthwith. R.S. 1911, c. 209, s. 58.

Clerk's duties.

59. In case, at the time of levying such rate, the clerk has a general rate roll delivered to him, he shall add a column thereto, headed "Execution Rate in A. B. v. Commissioners," and shall insert therein the amount in the precept required to be levied on each person respectively, and shall levy the amount of such execution rate as aforesaid, and shall, with all reasonable expedition, return to the Sheriff the precept with the amount levied thereon, after deducting the percentage for collection. R.S. 1911, c. 209, s. 59.

Surplus.

60. The Sheriff shall, after satisfying the execution and all fees thereon, pay any surplus, within ten days after receiving the same, to the clerk for the general purposes of the Commissioners. R.S. 1911, c. 209, s. 60.

Clerk, assessors, officers of Court.

61. The clerk, assessors, and collectors of the Commissioners shall, for all purposes connected with carrying into effect, or permitting or assisting the Sheriff to carry into effect, the provisions of this Act with respect to any execution, be deemed to be officers of the Court out of which the writ of execution was issued, and as such shall be amenable to the Court, and may be proceeded against by attachment, or otherwise, to compel them to perform their duties hereby imposed upon them; and any Judge of the Court out of which the writ of execution was issued may make such order as may seem necessary for carrying out the provisions aforesaid. R.S. 1911, c. 209, s. 61.

Miscellaneous.

Appeal from proceedings of Commissioners.

62. If any owner or occupier of land, or any bondholder or creditor of the Commissioners, thinks himself aggrieved by the proceeding or by any omission or default of the Commissioners, or of any person acting under this Act or liable to be prejudiced thereby, he may appeal to any Judge of the Supreme Court, in a summary manner upon a summons to be granted, if deemed expedient, by the Judge, and such order may be made as to the Judge may seem just and proper, and such determination made as is proper; but sufficient security shall be first given by the applicant to the District Registrar of the Supreme Court for payment of costs to be awarded and taxed; but no appeal shall be taken after the expiration of twenty-one days from the date of the proceeding complained of, or of a continuance of the omission or default, nor without notice being

first given to one of the Commissioners of the intention to appeal. R.S. 1911, c. 209, s. 62.

63. Every notice required to be given, unless herein otherwise directed, shall be a written notice to be served upon the parties in person, or left at their last-known place of residence, or by registered letter mailed to their last-known address, and in the last-mentioned case the notice shall be deemed to have been given on the day on which, in the ordinary course of post, the letter containing the notice would be delivered. R.S. 1911, c. 209, s. 63. Notices, how given

64. Where assessments levied under the provisions of this Act have been paid and the works for which the assessments were levied have been completed, it shall be the duty of the Commissioners for the sewerage district to deposit with the Registrar of Titles for the land registration district in which the lands are situate, within one year from time of the completion of the works, a statement signed by the Commissioners showing that such assessments have been paid; and it shall be the duty of the Registrar of Titles to cancel the charges entered against the lands in the said district by reason of such assessments. The fee for cancelling such charges shall be the same as for a single cancellation. R.S. 1911, c. 209, s. 64. Registration of statement showing assessments paid.

Penalties.

65. If any sewer or other portion of any works executed hereunder is injured by any act or default of any owner or occupier of lands within the sewerage district, the Commissioners may make an order on such person as often as occasion may require for repairing the injury forthwith or by a certain day to be named therein; and in case of refusal of obedience to such order, or of sudden emergency, the Commissioners shall cause the injury to be repaired, and the person disobeying the order shall forfeit for every offence a sum not exceeding fifty dollars, which, with the costs of repair, may be recovered and applied as other sewerage rates, and a certificate of the forfeiture or assessment under the hands of the Commissioners shall be conclusive evidence of the fact. R.S. 1911, c. 209, s. 65. Penalty for not repairing works when ordered by Commissioners.

66. (1.) If any person in any manner wilfully injures any works executed hereunder, or any portion thereof, he shall forfeit for every offence a sum not exceeding fifty dollars, which, with the costs of repair, may be recovered on summary conviction. Penalty for injuring works.

(2.) The penalty for disobeying an order of the Commissioners to repair an injury other than wilful, and the costs of repairing such injury, may also be similarly recovered. R.S. 1911, c. 209, s. 66.

67. No Commissioner shall be liable for any act of his predecessors in office about any work in which the Commissioner is engaged, unless for money he might or could have collected on account of work done by his predecessors. R.S. 1911, c. 209, s. 67. Commissioners not liable for acts of predecessors.

Penalty for neglect
of duties.

68. All clerks, collectors, overseers, and Commissioners who neglect or refuse to duly perform their duties under this Act shall be liable, on summary conviction, to a fine of a sum not exceeding fifty dollars for each offence, to be appropriated as other fines under this Act. R.S. 1911, c. 209, s. 68.

SCHEDULE.

FORM No. 1.
(Section 42.)

WARRANT TO SELL.

PROVINCE OF BRITISH COLUMBIA. }
SEWERAGE DISTRICT. } "Sewerage Act." Warrant to sell.
To Wit: }

Whereas the lands hereinafter described in the Schedule hereto following have been assessed in the amounts set opposite their respective descriptions under the provisions of the said Act; and whereas default has been made in the payment of such assessments, and there are now due and owing the amounts as set forth on account of the said lands respectively: Now, these presents are to authorize you, and you are hereby authorized, to sell the lands assessed, which are more particularly described in the Schedule hereto annexed, or so much thereof as are necessary to pay the rate, as shown in the Schedule, and expenses.

SCHEDULE REFERRED TO IN THE FOREGOING.

Description of Land.	Owner.	Amount of Assessment owing.	Expenses.

FORM No. 2.
(Section 5.)

OATH OF OFFICE.

I, A. B., do solemnly promise and swear that I will truly, faithfully, and impartially, to the best of my knowledge and ability, execute the office of a Commissioner of Sewers for the Sewerage District of ; and that I have not received and will not receive any payment or reward, or promise of such, for the exercise of any partiality or malversation or other undue execution of the said office.

Sworn by the above-named
at this day of ,
19 , before me—
..... }

R.S. 1911, c. 209, Sch.

VICTORIA, B.C.: