



## CHAPTER 62.

### An Act to authorize certain Dyking and Drainage Works in the District of New Westminster.

[11th April, 1894.]

**W**HEREAS considerable tracts of land situate in Townships numbered sixteen (16) (not including Matsqui Prairie), nineteen (19), twenty (20), twenty-two (22), and twenty-three (23), in the District of New Westminster, are now liable to periodical overflow from the Fraser River at high water, and are lying in a state of comparative unproductiveness for want of dyking against such overflow, and the productiveness and value of such land is capable of being greatly increased by such dyking : Preamble.

And whereas Donald McGillivray, John Luther Atkinson, William S. Maher, and Asa Ackerman, have been duly appointed Commissioners under the provisions of the "Drainage, Dyking and Irrigation Act," for the purpose of enabling them to undertake the drainage of the said lands :

And whereas a petition has been presented by the said Commissioners praying for an Act to give them certain additional powers necessary to carry out the said works, including the draining of Sumas Lake :

And whereas it is expedient to grant the prayer of the said petition :

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows :—

1. The Commissioners shall have, in addition to the powers and authorities contained in the said "Drainage, Dyking and Irrigation Act," and Acts amending the same, power and authority— Commissioners' powers:

(1.) To enter from time to time, and at all times hereafter, into and upon the lands of Her Majesty without previous license therefor, To enter Crownlands and set out parts required for dyking ;

or into or upon the lands of any person or persons, bodies politic or corporate, in the said townships, and to survey, set out and ascertain such parts thereof as they may require for the purposes of dyking or draining, or both dyking and draining, the lands to be benefited by the undertaking, and exercising the powers and authorities conferred by this Act :

To cleanse and repair water-courses, etc. ;

(2.) To widen, straighten, deepen, divert, dam, scour, or cleanse any river, stream, drain, brook, pool, lake or water-course upon or running through such lands, and to make, open and cut in or upon the same any new water-course, side-cut, ditch or drain, and at any time to repair, alter, or remove any bank, sluice, flood-gate, dam, tunnel, or other part of the undertaking :

To build dykes, etc. ;

(3.) To make, erect and construct dykes, banks, sluices, flood-gates, wharves, landing-places, piers, drains, buildings and erections, and all other works requisite or necessary for dyking, draining and reclaiming lands, and to construct and make upon any such land any embankment or dyke against any river, stream, or water-course, and execute all such works as may be necessary or convenient for the purpose of dyking or draining the said lands ; and to enter upon any of the said lands and dig materials, sand, stone, and cut timber, and cut drains, making compensation to all persons for any damage occasioned to them by the exercise of any such powers ; the amount thereof, in case of dispute, to be determined by arbitration as hereinafter mentioned :

To contract with owners ;

(4.) To contract with the owners of the said lands, and those having an interest or right in any such river, stream, drain, brook, pool or water-course, for the purchase thereof, or of any part thereof, or of any privilege that may be required for the purposes of dyking, draining and reclaiming the said lands for either or any of the said purposes, and for the right to take all timber, stone, sand, gravel and materials from the same or adjacent lands for the use and construction of the said dyking, drainage and reclamation works :

Drain Sumas Lake ;

(5.) All the powers hereinbefore given shall be construed so as to enable the Commissioners to drain Sumas Lake :

Acquire voluntary grants, etc.

(6.) To receive, hold, take and acquire all voluntary grants and donations of land or other property made to it, and to purchase, hold, take and acquire of and from the Crown, or any corporation, person or persons, any land or other property, and to mortgage, sell, lease, or otherwise alienate and dispose of such land or other property or any part thereof.

Power to divert Vedder Creek into Luck-a-kuk River.

2. The Commissioners shall, subject to the provisions hereinafter provided, have full power and authority to stop up and divert the

waters known as the Vedder Creek, by changing the course of the waters of said Vedder Creek (as at present flowing) into that of the channel of the Luck-a-kuk River, emptying into the Fraser River, the said Vedder Creek and Luck-a-kuk River being in the Municipality of Chilliwack; and in the carrying out of the said power shall be entitled to make and construct all such dams, weirs, raceways, dykes, or other necessary works to fully complete the undertaking as aforesaid; provided, that in the carrying on of the said work the course of the Luck-a-kuk and Chilliwack, below its junction with the Luck-a-kuk, is to be straightened, in so far as is practicable and advisable, to the full end and purpose that the waters of the said Vedder Creek be permanently turned into the channel of the said Luck-a-kuk River.

3. The powers and authorities hereby conferred shall be exercisable by any Commissioner or Commissioners for the time being appointed in addition to or in substitution for the said Commissioners or any of them.

Powers exercisable by all Commissioners appointed.

4. If on account of a sum being on hand from a previous year or years, or from the investment of the sinking fund, or from sale of lands, it is found to be unnecessary to levy the full rate imposed in order to raise the instalment of the sinking funds and interest required to be raised for any year, or to raise such instalments for any future years of the then unexpired time which the debentures have to run, the Commissioners may reduce the rate for such year or for any such future years, so that no more money may be collected than the amount required. No such reduction shall be made unless, having regard to the time the debentures have to run, a proper proportion of sinking fund and interest has been levied.

Where sum on hand makes it unnecessary to levy full rate, Commissioners may reduce interest.

5. No reduction made under the preceding section shall be valid unless after it is made it is approved by the Lieutenant-Governor in Council; and the facts which authorized the making thereof shall, on submission for approval, be verified by solemn declaration by the Commissioners, or such of them whose declaration the Lieutenant-Governor in Council may accept.

Reduction to be approved by Lieut.-Governor.

6. The Commissioners shall have full power and authority to divert the waters known as the Chilliwack River, by changing the course of the said waters (as at present flowing) so as to cause the same to flow from a point at or near Summit Lake into the Fraser River above Cheam.

Diversion of Chilliwack River.

7. The Commissioners are hereby authorized and empowered to take and divert, at such point or points on the Chilliwack River as they may judge suitable and proper, and to appropriate and use for the purpose of generating electricity, so much of the waters of the stream as to the Commissioners may seem necessary for the purpose of the works, or for any purpose connected with the works hereby

Diversion of Chilliwack River for electricity.

authorized, with power to the Commissioners to construct and maintain all erections, weirs, wheels, dams, raceways, flumes, or other works necessary for making the water power available, with the right to improve and increase the same.

Before turning Vedder Creek, certain things to be done.

Completion of works to satisfaction of C. C. L. & W.

Indemnity to owners

Rebuilding of bridges.

8. The Commissioners, before turning the waters of Vedder Creek into the Luck-a-kuk, shall make, erect and build all such works or things as in the opinion of the Chief Commissioner of Lands and Works, or some engineer appointed by him in that behalf, shall be necessary to secure the lands and every portion of said lands, viz.: Sections twelve (12), thirteen (13), fourteen (14), twenty-three (23), twenty-four (24), and twenty-five (25), of Township twenty-three; sections seven (7), eighteen (18), nineteen (19), and thirty (30); and the west halves of sections seventeen (17) and twenty (20), respectively, in Township twenty-six (26), from any damage resulting from such diversion, whether such damage shall be caused by the washing away of the banks, or by overflowing the banks, or by the backing up of water on the said lands, or by any of the said causes. And the Commissioners shall complete the said works to the satisfaction of the Chief Commissioner, and shall maintain the said works for a period of four years after the erection and acceptance thereof by the Chief Commissioner, so as to protect during the erection thereof, and for the said period of four years after the same shall have been accepted as aforesaid, the said lands in this section mentioned from such damages. And the Commissioners shall, and this Act is passed on the express understanding that the Commissioners will, indemnify the owners or occupiers of the lands in this section mentioned for all or any damages sustained or suffered during the periods above mentioned by them or any of them from any of the causes aforesaid. The true intent and meaning of this section being that the Commissioners shall build and erect, and for the said period of four years mentioned maintain, at the expense of the Commissioners, all works necessary to prevent the said Luck-a-kuk from overflowing its banks, or washing away, or backing up on the lands in this said section mentioned; and that in the event of the owner or occupier of the said lands suffering or being occasioned any damages from any of the above causes, then the Commissioners will indemnify and make good to the owner or occupiers so damaged as aforesaid all damages occasioned to him or them.

(1.) Provided that any existing bridge which may be rendered useless by reason of any increased volume of water in the Luck-a-kuk River, caused by the waters of Vedder Creek being turned into the said river, shall be rebuilt to suit the changed conditions, by and at the cost of the Commissioners, and the Commissioners shall also carry out at their own cost any repairs or alterations of line or grade in any existing road which may be rendered necessary, as aforesaid, by the increased volume of water in the Luck-a-kuk River.

(2.) Notwithstanding anything in this section contained, the Commissioners may, on receiving the sanction of the Chief Commissioner of Lands and Works, and under such conditions as he may impose, turn the waters of Vedder Creek, or part of them, into the channel of the Luck-a-kuk before all the works necessary for the protection of the lands on the said Luck-a-kuk are completed, if in his opinion such diversion is necessary or advisable for carrying out the work of protection: Provided, however, that the dam across the head of Vedder Creek shall not be closed until the works on the Luck-a-kuk, considered by the Chief Commissioner of Lands and Works to be necessary for the protection of the land along its banks, are completed.

Chief Commissioner may sanction turning of Vedder Creek before above works completed.

9. After the expiration of the period of four years hereinbefore mentioned, three Commissioners shall be appointed, whose duty it shall be to keep the channel of the Luck-a-kuk clear, and also to keep in repair the works necessary for the protection of the lands in the eighth section mentioned, so as to cover all the works erected by the Commissioners on the Luck-a-kuk River.

Appointment of Commissioners.

10. The Commissioners shall be appointed as follows:—The owners of the lands mentioned in the eighth section shall appoint one, and the owners of such lands as are subject to periodical overflow by the Fraser River, being in the Sumas Dyking District, and being parts of Townships sixteen (16) (not including Matsqui District), nineteen (19), twenty (20), twenty-two (22), and twenty-three (23), in New Westminster District, shall appoint a second, and the Lieutenant-Governor in Council shall appoint a third.

How appointed.

11. The Commissioners may enter into contracts and do all things necessary for keeping the works of the Luck-a-kuk in repair, so as to protect the lands mentioned in section eight from being overflowed or washed away, and may, subject to the proviso hereinafter contained, assess the owners or occupiers of the lands for any expenses incurred by the Commissioners in so doing; and in making such assessment the Commissioners shall have regard to the benefit to be by the owner or occupier received: Provided, always, that the total amount to be assessed for such expenses in any one year against the lands in the eighth section mentioned shall not exceed one-fourth, and that the total amount to be assessed against the lands to be reclaimed by the Commissioners shall not exceed three-fourths.

Commissioners may contract,

And assess owners.

12. In case the Chief Commissioner of Lands and Works shall object to perform any of the duties cast upon him by this Act, such duties and the powers by this Act conferred upon him shall vest in some person to be appointed by the Lieutenant-Governor in Council in the place and stead of the said Chief Commissioner of Lands and Works; and in case the Lieutenant-Governor in Council shall object

If Chief Commissioner objects to perform duties, what to be done.

to appoint such person, it shall be lawful for any person interested in this Act to apply in a summary way to a Judge of the Supreme Court for the appointment of a person to act in the place and stead of the said Chief Commissioner of Lands and Works, and upon the person appointed by such Court shall devolve, and in him shall vest, all the powers and duties conferred and cast upon the Chief Commissioner of Lands and Works by this Act.

Recovery of rates.

**13.** The assessments and rates in section 11 provided for may be recovered by and in the name of the Commissioners, with costs, as if the same were private debts; and the production of the resolution of the Commissioners fixing the assessment 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 connected with any private claim on the part of the plaintiffs:

Rules and regulations.

(a.) And it shall be lawful for the Chief Commissioner, or such other person as may be appointed under the provisions of section 9 to act in his stead, to make such rules and regulations as may be necessary for the holding of the elections and re-elections of the Commissioners, and for the removal of such Commissioners, and for prescribing the mode in which the assessments shall be levied, and generally for all such other things as may be necessary for securing the maintenance of the said work on the Luck-a-kuk.

Lands east of Chilliwack River.

**14.** Provided, also, that if any lands east of Chilliwack River are in any way injuriously affected by the turning of the waters of Vedder Creek into the Luck-a-kuk, they shall be entitled to compensation, the amounts of which shall be decided by arbitration.

Short title.

**15.** This Act may be cited as the "Sumas Dyking Act, 1894."

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VICTORIA, B. C. :

Printed by RICHARD WOLFENDEN, Printer to the Queen's Most Excellent Majesty.