



## CHAP. 31.

An Act to Incorporate the Nanaimo Water Works Company,  
Limited.

[9th March, 1885.]

**W**HEREAS, Robert O'Brian, William C. Halleck, Edwin Pimbury, Preamble.  
Elijah Priest, and Josiah Walter Stirtan, all of Nanaimo, have by their petition represented that they are desirous of being incorporated as a Joint Stock Company, under the name of the Nanaimo Water Works Company, Limited, and having prayed that there may be granted to them the right to take water from the Nanaimo River, at or near a point known as Starke's Falls, and to construct and maintain water works and lay a line of pipes from said river to the City of Nanaimo, and in and throughout the said city;

And whereas it is desirable 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 said Robert O'Brian, William C. Halleck, Edwin Pimbury, Elijah Priest, and Josiah Walter Stirtan, and such other persons as shall hereafter become shareholders of the said Company, are hereby constituted a body corporate and politic, under the name of the "Nanaimo Water Works Company, Limited." Incorporation.

2. The capital of the Company shall be fifty thousand dollars, with power to increase the sum to one hundred thousand dollars, and shall be divided into shares of fifty dollars each, which shares shall be held to be personal estate, and shall be assignable in such manner and form as may, from time to time, be prescribed by the by-laws of the Company. Capital stock.

3. The said Robert O'Brian, William C. Halleck, Edwin Pimbury, Elijah Priest, and Josiah Walter Stirtan shall be directors of the said Company until a choice of directors by election of the shareholders shall take place in the manner hereinafter prescribed; and the said directors and their successors, or any three of them, shall have power to open books for the subscription of shares, Provisional Directors.  
Their powers.

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Qualification.	qualified to be a director who does not hold in his own right five shares of the capital stock of the Company.
Annual meetings.	4. An annual meeting of the shareholders of the Company for the transaction of general business, and the election of Directors from among the shareholders for the management of the affairs of the Company, shall be held at such time and place in the City of Nanaimo, and under such regulations, with regard to notice, as may be determined by the by-laws of the Company.
First general meeting of Shareholders.	5. The first meeting of the said Company shall be held within six months after the passing of this Act, at such time and place as the Directors may appoint, at which meeting the Directors shall be elected; and the number of said Directors shall not be more than five or less than three; and the Directors shall elect from among themselves a Chairman, who shall preside at all meetings, and who shall be entitled to vote on all questions submitted to any meeting at which he is Chairman. Subsequent annual meetings and special general meetings of shareholders shall be held after sixty days' previous notice shall be given to each shareholder by the Secretary of the Company, by prepaid registered letter, addressed to the registered address of such shareholder, unless and until otherwise regulated by the by-laws thereof, and all or any of the Directors may be removed at any meeting of the shareholders called for the purpose, or for that purpose together with any other object or business.
Votes of Shareholders.	6. Each shareholder shall have one vote for every share up to ten, and an additional vote for every five shares beyond the first ten shares, at all meetings of the Company, and such vote may be given either personally or by proxy, such proxy being also a shareholder and having a written authority; and all questions shall be determined by the majority of votes given in respect thereof.
Calls on stock.	7. The Directors may make such calls upon the shareholders, in respect to the shares subscribed or held by them respectively, as they may, from time to time, deem expedient, and may impose penalties for failure of payment not exceeding one per cent. per month at any one time upon the amount of the call or calls made, and likewise subject to such rules and conditions as may be imposed by by-law, also may declare forfeited all such shares as may be in arrear in respect of any such call or calls and penalty, and such shares shall, upon such declaration, be and become forfeited in
Forfeiture of shares.	favour of the Company, as well as the amounts paid thereon, and shall thereupon be sold and disposed of in such manner as the directors may see fit, and the net proceeds applied in reduction of

the claims of the Company against the shareholders in default; or the directors may in their discretion, should they see fit, proceed by suit or action for the recovery of any sum or sums due for a call or calls on such shares, with or without interest and penalties, or either, as the case may be, and may afterwards, if not recovered in full, proceed by forfeiture as above directed without prejudice to their recourse by suit in any case, until the shares have been paid for in full.

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Actions for calls.

8. In any action or proceeding which may be brought by the Company against any shareholder for the recovery of any sum due on any call or calls, or for interest or penalties thereon, it shall not be necessary to set forth the special matter, but it shall be sufficient to declare that the defendant is a holder of one share or more in the capital stock of the Company, and is indebted in the sum to which the arrear or call or calls made on the share or shares amount (together with interest and penalties, if any), and it shall only be necessary to prove that the defendant was proprietor of a share or shares, and that a call or calls had been made thereon.

Proceedings in actions for calls

9. The directors may make By-Laws, and may from time to time alter, repeal, amend, or wholly substitute others for the government of the Company, its affairs, business, managers, officers, and servants, which By-laws shall be subject to the approval or disallowance by the shareholders, and shall not be in force until approved of either at the annual or any special general meeting of the shareholders, and may, among other things, besides comprehending all matters hereinbefore referred to as the subject of By-laws, be made subject to the general provisions of this Act, for the following objects and purposes, and the same shall be accessible, at reasonable hours, to all persons interested therein:—

Directors may make By-Laws.

- (1) To fix and determine the number of Directors; the manner of filling up vacancies that may occur between any annual election; how many Directors shall constitute a quorum, and generally the manner in which their power shall be exercised, including the appointment and control of agents and officers generally.
- (2) The manner of calling meetings as well of the Directors as of the shareholders, and fixing the time for annual meetings.
- (3) The forfeiture of shares in arrear in respect of a call or calls, and the conditions and manner in which such forfeiture shall be declared.
- (4) The keeping of register and transfer books for shares, prescribing the manner in which transfers shall be made, and the conditions in respect to previous payments of calls

To fix number of Directors, fill vacancies, &c.

Calling meetings.

Forfeiture of shares.

Keeping of register and transfer books.

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Records of the proceedings of the Company.	(5) The keeping of minutes of proceedings and the accounts of the Company, and rectifying any error which may be therein, the auditing of accounts and the appointment of auditors.
Dividends.	(6) The declaration and payment of dividends out of the profits of the said Company.
Directors remuneration.	(7) The remuneration of Directors.
Borrowing money.	(8) The borrowing or advancing of money for promoting the purposes of the Company, and the securities to be given by or to the Company for the same.
Increasing capital stock.	(9) The times and manners of proposing and voting for increasing the capital stock of the Company, the mode of taking subscriptions and allotting shares for such increase, and making calls thereon, and collecting the same.
Distribution of water	(10) For regulating the distribution and use of water, and the rates to be charged therefor.
General management	(11) Generally the transaction and management of the affairs and business of the Company, and the carrying into effect all the powers and duties conferred or imposed on the Company, its shareholders and Directors, by this Act.
Winding up.	(12) The winding up of the Company.
Power to borrow money.	10. The company are authorized at any time to borrow money to the amount and extent of seventy-five per cent. of their capital, upon mortgage, bond or debentures.
Shareholders limited to fifty shares.	11. No one shareholder shall hold more than fifty shares.
Power to become party to notes, deeds, &c.	12. For the purposes of its objects, the Company may become a party to promissory notes, bills of exchange, cheques, agreements, deeds, mortgages and pledges.
Directors not to be disqualified by receiving remuneration from the Company.	13. No Director shall be disqualified from holding office by reason or on account of his being concerned directly or indirectly as partner in any other company or association, in any contract with the Company, or on account of his receiving any pay or remuneration for attending to the affairs of the Company as managing Director or agent or solicitor for the Company.
"Companies Ordinance, 1869," not to apply.	14. The "Companies Ordinance, 1869," shall not apply to this Company.

15. No shareholder of the Company shall in any manner be liable to or charged with the payment of any debt or demand due by the Company beyond the amount of his or her subscribed share or shares in the capital stock of the Company. A.D. 1885.  
Limited liability of shareholders.
16. No failure to elect Directors, or to hold the first or any annual meeting, shall operate as a dissolution of the Company, but any thing omitted to be done may be afterwards performed at a meeting called in conformity to the By-laws or at a meeting called specially for the purpose. Failure to elect Directors or hold annual meeting not to operate as a dissolution.
17. The Company may by its By-laws fix, from time to time, a tariff of rates to be charged for water, but no greater charges shall be made than those set forth in the Schedule to this Act, and the Company shall have full power to collect, and sue for, and recover the charges to which they may be entitled, and in case of non-payment, to enforce the same by shutting off the water. Company may fix tariff of charges.
18. The Company shall have its head office in the City of Nanaimo, and such office shall be kept open on each day of the week, Sundays and public holidays excepted, between the hours of 10 a. m., and 4 p. m., or as may be provided for by the By-laws of the Company. Head office and office hours.
19. The Company shall have power to design, construct, build, purchase, improve, hold, and generally maintain, manage, and conduct water-works and all buildings, machinery, and appliances therewith connected, or necessary thereto, in the City of Nanaimo, and parts adjacent, as hereinafter provided. Power to construct and maintain water-works.
20. The Directors shall have power to employ and appoint engineers, surveyors, officers, servants, and other persons, at such salaries and remuneration as may be agreed on. Power to appoint engineers, servants, &c.
21. For the purposes of this Act, the Company may purchase, lease, rent, surrender, and sell such lands, works, buildings, and tenements as may be necessary. Power to purchase and deal with lands.
22. It shall be lawful for the said Company, their agents, servants, and workmen, from time to time, and at all such times hereafter as they shall see fit, and they are hereby authorized and empowered to enter into and upon the lands of the Crown, or of any person or persons, bodies politic or corporate, in the City of Nanaimo, or lying between the place or places where they shall take water from the Nanaimo River and the City of Nanaimo, and to survey, set out, and ascertain such parts thereof as they may require for the purposes of the said water-works, and also to divert and appropriate such of the waters of the said Nanaimo River as they shall consider necessary and proper, and to take such water from the said river at a point or place known as Starke's Falls, or at such other point or place on said river, within one mile above and one mile below said

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Purchase money or  
damage to be ascer-  
tained by arbitration

Arbitration proceed-  
ings.

falls, as they shall judge suitable and desirable, and to contract with the owners or occupiers of the said lands, and those having an interest or right in the said water or waters, for the purchase thereof, or any part thereof, or of any privilege that may be required for the purposes of the said Company, and for the right to take all timber, stone, gravel, sand, and other materials from the same or adjacent lands, for the use and construction of the said works; and in case of disagreement between the said Company and the owners or occupiers of the said lands, or any person having an interest in the said water or the natural flow thereof, or any such privilege or privileges, right or rights as aforesaid, respecting the amount of purchase money or value thereof, or as to the damages such appropriation shall cause to them or otherwise, or as to the amount of damages arising through the construction of any dam or the laying of any pipe, the same shall be decided by three arbitrators to be appointed as hereinafter mentioned, namely: the Company shall appoint one, the owner or owners shall appoint another, and such two arbitrators shall, within ten days after their appointment, appoint a third arbitrator, but in the event of such two arbitrators not appointing a third arbitrator within the time aforesaid, one of the Judges of the Supreme Court of British Columbia, shall, on the application of either party, appoint such arbitrator.

23. In case any such owner or occupier shall be an infant, married woman, insane, or absent from the Province, or shall refuse to appoint an arbitrator on his behalf, then it shall be the duty of one of the Judges of the Supreme Court of British Columbia, on application being made to him by petition in a summary manner for that purpose by the Company, to nominate and appoint three indifferent persons as arbitrators. The arbitrators to be appointed as hereinbefore mentioned, shall award, determine, adjudge, and order the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same, and the award of the majority of the said arbitrators shall be final, and they are hereby required to attend at some convenient place, to be appointed by the said Company, after eight days' notice given for that purpose by the said Company, then and there to arbitrate and award, adjudge and determine such matters and things as shall be submitted to their consideration by the parties interested, and each arbitrator shall be sworn before some one of Her Majesty's Justices of the Peace in and for the said Province of British Columbia, or any part thereof, any of whom may be required to attend the said meeting for that purpose, well and truly to assess the value or damages between the parties, to the best of his judgment. Provided always, that any award under this Act shall be subject to be set aside on application to the Supreme Court of British Columbia, in the same manner and on the grounds as in ordinary cases of arbitration, in

which case reference may be again made to arbitration, as hereinbefore provided, and that any sum so awarded shall be paid within six months from the date of the award or the determination of any motion to annul the same, and in default of such payment, the proprietor may resume possession of his property, and all his rights shall thereupon revive, and the award of a majority of the said arbitrators shall be binding on all parties concerned, subject as aforesaid.

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**24.** The lands, privileges and waters which shall be ascertained, set out, or appropriated by the said Company for the purpose thereof as aforesaid shall, so long as the said Company use the same for the purposes of this Act, be vested in the said Company, and it shall be lawful for the said Company to construct, erect and maintain in and upon said lands, all such reservoirs, water-works and machinery requisite for the undertaking, and to convey the water thereto and therefrom, in, upon, or through any of the grounds and lands lying intermediate between the said reservoirs and water-works, and the stream, river or body of water from which the same is procured and the said City of Nanaimo, by one or more lines of pipes as may from time to time be found necessary; and for better effecting the purposes aforesaid, the said Company and their servants are hereby empowered to enter and pass upon and over said grounds or lands intermediate as aforesaid, and the same to cut or dig up if necessary, and to lay down the said pipes through the same, and in, upon, over, under and through the highways and roads in the Districts of Mountain, Nanaimo, Cranberry and Douglas, and in, through, over and under the publicways, streets, lanes, or other passages of the said City of Nanaimo, (and in, upon, through, over and under the lands and premises of the Crown and of any person or persons, bodies corporate, politic, or collegiate whatsoever), and to set out, ascertain, use and occupy such part or parts thereof as they, the said Company, shall think necessary and proper for the making and maintaining of the said works, or for the opening of new streets required for the same, and for purchasing of any lands required for the protection of the said works, or for preserving the purity of the water, or for taking up, removing, altering, or repairing the same, and for distributing water to the inhabitants of the City of Nanaimo, or for the uses of the Company, or the proprietors or occupiers of the land through or near which the same may pass, and for any other purposes whatsoever, and for this purpose to sink and lay down pipes, make reservoirs and other conveniences, and from time to time to alter all or any of the said works, as well in the position as in the construction thereof as to the said Company shall seem meet, doing as little damage as may be in the execution of the powers hereby granted to them, and making reasonable and adequate satisfaction to the

Lands, &amp;c., appropriated to be vested in the Company.

Power to convey and distribute water.

Enter on lands.

Lay down pipes.

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Works to be vested  
in the Company.

Penalties for injury  
to water-works  
property, waste of  
water, stealing  
water, &c.

proprietors, to be ascertained in case of dispute by arbitration as aforesaid, and all such water-works, pipes, erections and machinery requisite for the said undertaking shall likewise be vested in and be the property of the said Company.

**25.** If any person shall wilfully or maliciously hinder, interrupt, or cause or procure to be hindered or interrupted, the said Company or their managers, contractors, servants, agents or workmen, or any of them, in the exercise of any of the powers and authorities in this Act authorized or contained, or if any person shall wilfully and maliciously let off or discharge any water, so that the same shall run to waste, or if any person being occupant, tenant or inmate of any house or otherwise supplied with water from the said water-works by the Company, sells or disposes of the water thereof, or gives it away, or permits it to be taken or carried away, or uses it, or applies it to the benefit of others, or to any other than his or her own use and benefit, or wrongfully neglects or improperly wastes the water, or if any person or persons shall lay, or cause to be laid, any pipe or main to communicate with any pipe or main of the said water-works, or in any way obtain or use any water thereof without the consent of the said Company, or if any person or persons not being in the employment of the Company, and not being a member of any duly constituted fire brigade in the City of Nanaimo, and duly authorized in that behalf, shall wilfully open or close any hydrant, or obstruct the free access to any hydrant, stop-cock, chamber or hydrant chamber, by placing on it any building material, rubbish or otherwise, or if any person shall throw or deposit any injurious, noisome, or offensive matter into the said water or water-works, or upon the ice, or in any way foul the same or commit any wilful damage or injury to the works, pipes or water, or encourage the same to be done, every person offending in any of the cases aforesaid, shall on conviction thereof, before any Justice of the Peace having jurisdiction within the locality where the offence shall or may be committed, forfeit and pay for every such offence a sum not exceeding \$25, together with the costs of conviction, and such person or persons so offending shall be liable to an action at law, at the suit of the Company, to make good any damage done by him, her or them.

Penalty for fouling  
water.

**26.** If any person shall bathe, or wash or cleanse any cloth, wool, leather, skin or animal, or place any noisome or offensive thing within one mile above the point of diversion of water for such water-works, or in any flume or ditch conveying the same, or shall convey, or cast, cause or throw or put any filth, dirt, dead carcasses, or other noisome or offensive thing therein, or cause, permit or suffer the water of any sink, sewer or drain to run or be conveyed into the same, or cause any other thing to be done whereby the



water therein may be in anywise tainted or fouled, every such person shall, on conviction thereof before any Justice of the Peace, be by such Justice adjudged and condemned to pay a penalty for every such offence not exceeding twenty-five dollars, together with costs.

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**27.** In all cases where a vacant space intervenes between the outer line of the street and the wall of the building or other place into which the water is to be taken, the Company may, with the consent of the owner, lay the service pipe across such vacant space, and charge the cost thereof to the owner of the premises, such charge to be payable with the first payment of water rates, and to be collected in the same manner from the said owner; or such owner may himself lay such service pipes, provided the same is done to the satisfaction of the Company, or persons appointed by them in that behalf. The service pipe from the main pipe to the interior face of the outer wall of the building supplied, together with all branches, couplings, stop-cocks and apparatus placed thereon by the Company, or by the owner or occupant of the premises, shall be under the control of the Company, and if any damage be done to this portion of the service pipe, or its fittings, either by neglect or otherwise, the Company may repair the same and charge the same to the occupant or owner of the premises.

Laying pipes over vacant spaces.

Service pipes, stop cock, &c., to be under the control of the Company.

**28.** All parties supplied with water by the Company may be required to place and use only such taps as may be approved by the Company. The said Company shall not be liable for damage caused by the breaking of any service pipes or attachment, or for any shutting off of the water for the purpose of repairing, maintaining or cleaning the pipes.

Taps, &c.

Non-liability for damage by water.

**29.** It shall be lawful for the officers of the said Company and their servants, and every person authorized by them for that purpose, to have free access at all reasonable hours, and upon reasonable notice given and request made for that purpose, to all parts of every building in which water is delivered and consumed.

Right of access.

**30.** The construction of the said works shall be commenced within two years, and be completed within four years from the passing of this Act.

Time limit for commencement and completion of works.

**31.** The water-works to be constructed as aforesaid, and the lands, buildings, machinery, reservoirs, pipes and all other property connected with, or appertaining or belonging to the same, shall be exempt from Provincial taxation for four years from the passage of this Act.

Exemption from taxation for four years.

**32.** The Municipal Council of the said City of Nanaimo and the said Company are respectively hereby authorized to make and to enter into any agreement or covenants relating to the construction

Authorizes the Municipal Council of Nanaimo and the Company to enter

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into agreements relating to construction of said water-works.

And may pass, &c., By-Laws for carrying such agreements into effect.

Fire hydrants to be erected by the Company.

Certain sections of the "Land Clauses Consolidation Act, 1845," to apply.

Recovery of penalties.

of the said water-works for the laying of water pipes in the streets and highways of the said city, the particular streets along which the same shall be laid, and also for the erection of hydrants for fire purposes.

**33.** The Municipal Council of the said City of Nanaimo is hereby authorized to pass any by-law or by-laws, and to amend, repeal, or enact the same, for the purpose of carrying into effect any such agreement or covenants, and containing all such necessary clauses, provisions, rules, and regulations for the conduct of all parties concerned, including the Company, and for the enjoining obedience thereto, and also for facilitating the laying of the Company's pipes.

**34.** The Company shall at the request and cost of the Corporation of the City of Nanaimo, erect such number of hydrants for fire purposes and cattle troughs, and in such places as the said corporation shall deem fit and necessary. Any duly authorized fire company and their officers shall have the right to use such hydrants and the water of the Company free of charge. Any damage done to, or repairs required for, such hydrants, shall be at the cost of the said Corporation.

**35.** The following sections of the "Land Clauses Consolidation Act, 1845," shall be read with and as a part of this Act, so far as the same may be applicable, and except in so far as such sections, or any of them, may be varied or modified by the provisions of this Act, or are repugnant thereto: Sections 26, 29, 30, 31, 32, 33, 34, 36, 37, 69, 70, 71, 72, 73, 74, 76, 78 and 79; but in section 69, in lieu of the word "bank," and next following words, there shall be read the "Treasury of British Columbia, to the account of the Registrar of the Supreme Court of British Columbia," and in section 70 and said subsequent sections, in lieu of the words "Court of Chancery in England," there shall read, "The Supreme Court of British Columbia," and in sections 71, 73 and 76, in lieu of the word "bank," there shall be read the "Treasury of British Columbia, to the account of the Registrar of the Supreme Court of British Columbia."

**36.** Any offence against any of the provisions of this Act for which any penalty is prescribed and no means for its recovery is specified, any Justice or Justices as aforesaid may, in case of a fine, adjudge that such offender shall pay the same either immediately or within such period as the said Justice or Justices shall think fit; and in case such sum of money shall not be paid at the time appointed, the same may be levied by distress and sale of the goods and chattels of the offender, and for want of sufficient distress such offender may be imprisoned at the discretion of such Justice or Justices in the common gaol for any term not exceeding three months, the imprisonment to cease upon payment of the fine and costs.

**37.** It shall be lawful for the Company to purchase and acquire the franchise and the property rights and privileges of any Company created for, or person or persons engaged in supplying the said City of Nanaimo with water, or to amalgamate with any such Company, person or persons as aforesaid. A.D. 1885.  
Power to amal-  
gamate with other  
water Companies.

**38** It shall not be lawful for the Company, or its contractors, to employ any Chinese in or about the laying of the pipes of the said water-works, or in maintaining the same. No Chinese to be  
employed.

**39.** This Act shall be cited as the "Nanaimo Water-Works Act, 1885." Short title.

### SCHEDULE.

	Per Month.	Water rates
DWELLINGS.—For all houses occupied by a single family of not more than five persons .....	\$2 00	
For each additional person .....	25	
HOTELS, ETC.—Hotels, taverns and boarding houses (not including water for baths), for each bed for boarders and lodgers within the same, in addition to the rate for private families .....	25	
For each day boarder .....	20	
BATHS.—Bathing tubs in private houses, for each tub .....	50	
Bathing tubs in public houses, boarding houses, bathing establishments, and barber shops, each .....	1 00	
LODGING HOUSES.—In addition to rate of family keeping the house, for accommodation for each person within same .....	20	
HORSES.—For one horse .....	1 00	
Each additional horse .....	50	
SHOPS, SALOONS AND OFFICES.—For one tap only .....	2 00	
For each additional tap .....	1 00	
Water furnished for manufacturing purposes to be supplied by meter at the following rates :—		
Per 1,000 gallons, provided the monthly bill is not less than \$5 .....	1 00	
Do. do. do. do. \$10 .....	75	
Do. do. do. do. \$50 .....	50	

