



## CHAPTER 48.

## An Act to Incorporate the British Columbia Dyking and Improvement Company.

[26th April, 1891.]

**W**HEREAS considerable tracts of land situate in Townships number 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: Preambl.

And whereas a petition has been presented by Donald McGillivray, Charles T. Dunbar and Charles G. Major, praying for the incorporation of a Company to construct and carry out the necessary works for that purpose, and for the purpose of draining 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 British Columbia, enacts as follows:—

## PART I.

1. Donald McGillivray, Charles T. Dunbar and Charles G. Major, together with such other persons and such corporations as shall in pursuance of this Act become shareholders of the Company hereby incorporated, are hereby constituted and appointed a body corporate and politic under the name of “The British Columbia Dyking and Improvement Company (Limited),” hereinafter called “the Company.” Incorporation.

2. Where the words following occur in Part I. this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:— Interpretation.

- “Owner.” (a.) “Owner” shall extend to and include every person having any estate or interest, legal or equitable, in any lands to be affected by Part I. this Act :
- “Occupier.” (b.) “Occupier” shall mean pre-emptor, lessee or licensee from the Crown.

Provisional Directors.

3. The persons named in section one of this Act, with power to add to their number, shall be and are hereby constituted Provisional Directors of the said Company, of whom a majority shall form a quorum, and they shall hold office as such until the first election of Directors under this Act, and shall have power forthwith to open the stock book and procure subscriptions of stock for the undertaking, and to receive payments on account of stock subscriptions, and to cause plans and surveys to be made, and to acquire any plan or survey now existing, and to deposit in any chartered or incorporated Bank having an office in the Province of British Columbia, all moneys received by them on account of stock subscriptions, and to withdraw the same for the purposes of the undertaking, and to receive for the Company any grant, loan, bonus or gift made to it in the aid of the undertaking, and to enter into any agreement respecting the condition or disposition of any gift, bonus, guarantee or other assistance to the Company, and with all such other powers as are ordinarily vested in Directors.

Head office.

4. The head office of the Company shall be at the City of Vancouver. The capital stock of the Company shall be five hundred thousand dollars (\$500,000), to be divided into shares of \$100 each; and the money so raised shall be applied in the first place to the payment of all fees, expenses, and disbursements of and incidental to the passing of this Act and the organization of the said Company, and for making the surveys, plans and estimates connected with the works hereby authorized, or the procuring of any plans and estimates heretofore made, and all the remainder of said moneys shall be applied to the other purposes of this Act.

Money expended by Provisional Directors to be deemed cash instalments on stock.

5. All moneys expended by the Provisional Directors in furtherance of this undertaking, either before or after the passing of this Act, shall be considered as cash instalments on stock, and at the first or any subsequent meeting of Directors a resolution shall be passed giving credit to each Provisional Director in the books of the Company for such amount (if any) as he may have so expended.

Power to exclude persons from subscribing for stock.

6. The Provisional or Elected Directors of the Company may, in their discretion, exclude any one from subscribing for stock in the said Company, or rescind the subscription and return the deposit of any person, if they are of the opinion that such person would hinder,

delay or prevent the Company from proceeding with and completing their undertaking under the provisions of this Act, and if, at any time, more than the whole stock shall have been subscribed the said Board of Directors shall allocate and apportion it amongst the subscribers as they shall deem most advantageous and conducive to the furtherance of the undertaking, and in such allocation the Directors may, in their discretion, exclude any one or more of the said subscribers if, in their judgment, it will be conducive to the interests of the Company.

**7.** It shall be lawful for the Directors in procuring subscriptions Allotment. for stock, to allot such stock in such amounts and subject to the payment of such calls of such amount, and at such times and subject to such terms and conditions, as they may by by-law determine.

**8.** The Provisional Directors shall, on before the 31st day of First general meeting. December next, call a general meeting of the shareholders of the Company at the City of Vancouver, for the purpose of electing Directors of the said Company, giving at least two weeks' notice by advertisement in the British Columbia Gazette and in one of the daily papers published in the City of Vancouver, of the time, place and purpose of said meeting.

**9.** Thereafter the general annual meeting of the shareholders of Annual general meeting. the said Company shall be held at such place in the City of Vancouver, and on such days and at such hours, as may be directed by the by-laws of the Company, and public notice thereof shall be given at least two weeks previously in one or more newspapers published in the City of Vancouver during the two weeks preceding the day on which such meeting is to be held, and special general meetings of the shareholders of the said Company may be held at such place in the City of Vancouver, and at such times and in such manner, as may be directed by the by-laws of the Company, upon such notice as provided in this section.

**10.** In the election of Directors under this Act no person shall be Qualification of Directors. elected a Director unless he shall be the holder and owner of at least ten shares of the stock of the Company upon which all calls have been paid.

**11.** The Directors may from time to time make and prescribe such Directors may make by-laws for certain purposes. by-laws as to them appear needful and proper for, among other things, the following purposes :—

- (1.) To fix and determine the number of Directors, the manner of filling up vacancies that may occur between any annual election, the number of Directors that shall constitute a quorum,

and generally the manner in which their powers shall be exercised, including the appointment and control of subsidiary or local Board of Directors, Committees and Agents :

- (2.) The convening of general meetings and meetings of their own body :
- (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 registers and transfer books for shares, prescribing the manner in which transfers shall be made and the conditions in respect to previous payments of calls or unpaid balance of the stock on which transfers shall be allowed ; also the vouchers and evidence required to be lodged with the Company in case of transmission of shares by marriage, bequest, inheritance, insolvency, or otherwise than by sale, and the forfeiture of shares for non-payment of anything due thereon or in respect thereof :
- (5.) The keeping of minutes of proceedings and the accounts of the Company and rectifying any error which may be made therein, the auditing of accounts and the appointment of auditors :
- (6.) The declaration and payment of dividends out of the profits of the Company :
- (7.) The remuneration of Directors :
- (8.) The borrowing or advancing of money for promoting the purpose of the Company, and the securities to be given by or to the Company for the same :
- (9.) The times and manner 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 :
- (10.) And generally for the transaction and management of the affairs and business of the Company and carrying into effect the rights, powers, privileges and duties conferred or imposed on the Company, its shareholders and directors, by this Act.

Limits liability of  
shareholders.

**12.** No shareholder of the Company shall in any manner be liable to be charged with the payment of any debt, demand or liability of the Company beyond the amount of his or her subscribed share in the capital stock of the Company.

Powers of the com-  
pany—  
To enter on land.

**13.** The Company shall have power and authority—

- (1.) To enter from time to time and at all times hereafter into and upon the lands of Her Majesty without previous license therefor, 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 it may require for the purposes of dyking or draining, or both dyking and draining, the lands to be benefited by the undertaking :

- (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 widen, &c., streams.
- (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 purposes 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 erect dykes, &c.
- (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, or 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 : To purchase streams, &c.
- (5.) All the powers hereinbefore given shall be construed so as to enable the Company to drain Sumas Lake : To drain Sumas Lake.
- (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 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 : To receive grants of land.
- (7.) To borrow from time to time, either in this Province or elsewhere, such sums of money as it may deem expedient, and to make the bonds, debentures, or other securities granted for the sums so borrowed, payable either in currency or in sterling, To borrow money.

and at such place or places within this Province or without as may be deemed advisable, and to sell the same at such prices or discount as may be deemed expedient or be necessary, and to hypothecate, mortgage, or pledge the lands, revenues, undertaking and other property of the Company for the due payment of the said sums and the interest thereon; but no such debentures shall be for a less sum than one hundred dollars: Provided always, that the powers conferred by this section shall not be exercised until at least forty per cent. of the capital stock shall have been subscribed and allotted.

Deposit of plan of  
proposed works.

14. The Company shall within two years after the passage of this Act, deposit in the Land Registry Office at New Westminster, a map or plan of the several lands affected or proposed to be affected by this Act, and specifications of the work proposed to be done, also a book of reference, which map or plan and book of reference shall be deposited in the said Land Registry Office at least two months before actual construction shall be commenced, and shall show—

- (a.) The lines of the proposed dykes and the lands required to be expropriated therefor:
- (b.) All lands in said townships subject to overflow from the Fraser River at high water, and which the works authorized by this Bill are intended to protect from such overflow, and such of said lands as are prairie lands and such as are brush lands:
- (c.) The names of the owners and occupiers of all lands to be benefited as nearly as can be ascertained, together with descriptions of their lands, showing what portions thereof are prairie lands and what portions brush lands, and such portions of the lands as are liable to assessment under this Act:
- (d.) Everything necessary for a right understanding of said map or plan and book of reference and for ascertaining the several lands to be assessed and the several amounts to be paid by the several owners and occupiers affected by this Act.

To be approved by  
the Chief Commis-  
sioner.

And such map or plan and book of reference and specifications shall be prepared by an engineer or surveyor to be approved by the Chief Commissioner of Lands and Works, and such map or plan and book of reference shall be approved by the Chief Commissioner; and such map or plan and book of reference, when deposited, shall be a charge on the lands therein specified not being Crown lands, to the extent of the sums due and payable hereunder by each lot or section or portion thereof, but subject to all other charges and encumbrances which shall at the time of the passage of this Act appear registered against the said lands: and no fee shall be charged for registering the same.

In ascertaining whether any particular piece of land is now liable to overflow, the height to which the water reached in the summer of the year 1882 shall be the criterion: Provided the Lieutenant-Governor in Council is hereby empowered from time to time to extend the time for depositing the map or plan, specifications and book of reference of any part of the proposed undertakings, upon being satisfied of the intention of the Company to proceed with the work for which it may ask such extension within a reasonable time.

Manner of ascertaining what lands are subject to overflow.

**15.** After two months from the deposit of the map or plan, specifications and book of reference, and one month's advertisement in at least one newspaper published in the District of New Westminster and in the British Columbia Gazette, actual construction may be commenced.

When actual construction may be commenced.

**16.** The deposit of the map or plan, specifications and book of reference, and the aforesaid advertisement of the deposit thereof, shall be deemed sufficient notice to all persons affected by this Act for all purposes whatsoever, of the lands to be affected and the several amounts which shall be chargeable against such lands.

Notice.

**17.** If any owner or occupier shall deem his lands improperly charged, he may within two months from the date of the first insertion of such advertisement, notify the Chief Commissioner of Lands and Works in writing, stating fully in what respect his lands are improperly charged, and it shall thereupon be the duty of the said Chief Commissioner to appoint a duly qualified land surveyor, who shall forthwith examine the lands in question and take such evidence as he may deem necessary or expedient, and report to the said Chief Commissioner whether the same have or have not been improperly charged either in whole or in part under the provisions of this Act, and the decision of the Chief Commissioner upon such report shall be final.

Owner may object to the charge on his lands.

**18.** The decision of the Chief Commissioner upon every such report as aforesaid shall be made in writing, and shall be deposited in the said Land Registry Office by the Chief Commissioner, and shall thereupon be deemed to be incorporated with the map or plan and book of reference already deposited, which shall thereupon be varied and amended in conformity therewith.

Chief Commissioner's decision to be in writing, &c.

**19.** The fees payable to such surveyor so appointed by the said Chief Commissioner as aforesaid shall not exceed the fees to which arbitrators are entitled under the Act respecting arbitrations, and shall, in the first instance, be payable by the Company; but if the decision of the said Chief Commissioner in such case shall be that the lands of the party complaining have not been improperly charged, then

Fees.

the Company shall be entitled to recover such fees from the party complaining in any Court of competent jurisdiction as an ordinary debt.

Chief Commissioner  
may correct errors.

**20.** Any omission, misstatement, or erroneous description of any lands affected by this Act, or of the owners or occupiers thereof, may, after giving ten days' notice to the owners or occupiers of the lands, be corrected by the Chief Commissioner of Lands and Works, on application made to him for that purpose; and if it appears to him that the omission, misstatement, or erroneous description arose from mistake, he shall grant a certificate accordingly, which shall be deposited in the said Land Registry Office, and thereupon the map or plan shall be corrected in conformity with such certificate.

Power for company  
to alter their works.

**21.** It shall be lawful for the Company from time to time to vary or alter their proposed lines of dykes, and to amend and alter the map or plan, specifications, and book of reference accordingly, under the direction of the Chief Commissioner of Lands and Works, and every such variation or alteration shall be made by certificate of the Chief Commissioner in the manner provided in last preceding section: Provided, the Chief Commissioner may first, in his discretion, require such notices to be given to the parties affected as he may deem expedient.

Expropriation.

**22.** The Company may take, without the consent of the owners or occupiers thereof, the lands required for the proposed lines of dyke, as shown by the said map or plan and book of reference, making compensation therefor as herein provided.

Arbitration.

**23.** In case of disagreement between the Company and the owners or occupiers of the said lands required to be expropriated by the Company for the lines of dyke respecting the amount of purchase money or value thereof, or as to the damages such appropriation shall cause to them, or otherwise, 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, upon application by either party, appoint such arbitrator; and in case such owner or occupier shall be an infant, married woman, or insane, or absent from this 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 the Company, to nominate and appoint three disinterested persons as arbitrators.



**24.** The arbitrators to be appointed as hereinbefore mentioned shall award, determine, adjudge, and order the respective sums of money which the Company shall pay to the respective persons entitled to receive the same, and the award of the majority of said arbitrators shall be final. Arbitrators' award.

**25.** The said arbitrators shall be and they are hereby required to attend at some convenient place, or in the vicinity of the proposed lines of dyke, to be appointed by the Company aforesaid, after eight days' notice given for that purpose by the 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: Provided, always, that the award under this Act shall be subject to be set aside, on application to the Supreme Court of British Columbia, in the manner and on the same 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, as hereinafter mentioned, within one month from the date of any award or determination to annul the same, and the award of the majority of the said arbitrators shall be final and all parties concerned subject as aforesaid. Meeting of arbitrators.

**26.** The Company may with one month of the making of the said award, pay either the owner or occupier the sum or sums so awarded, or make a deposit thereof in the hands of the Registrar of the Supreme Court of British Columbia, whose duty it shall be to give to the Company a written acknowledgement of the deposit of the price or compensation for damages so awarded as aforesaid, and such certificate shall be equivalent to a grant or conveyance to the Company of the lands of such owner or occupier so required to be expropriated as aforesaid; and every proprietor or other person or persons whomsoever interested in the said lands shall lose and be divested of all rights and claims therein, and such lands shall rest in the said Company, and the Company may by right, and without any further formality, enter into possession of and use the same for any of the purposes authorized by this Act, any law, statutes, or usages to the contrary notwithstanding. Payment of award.

**27.** Any expropriation made by virtue of this Act shall have the effect of removing and paying off all mortgages, charges, encumbrances, easements or privileges with which the said lands required to be expropriated may at the time of such expropriation be encumbered. Effect of expropriation.

**28.** In consideration that the Company shall well and effectually dyke, agreeably to the aforesaid map or plan, specification, and book of reference, such lands in the aforesaid townships numbers sixteen (16) Company may charge \$5 per acre on lands affected.

(not including Matsqui Prairie), nineteen (19), twenty (20), twenty-two (22), and twenty-three (23), in the District of New Westminster, as are mentioned in such map or plan and book of reference, subject to overflow from the Fraser River, it shall be entitled to charge the owners or occupiers of such lands as to all prairie lands, as shewn by the aforesaid map or plan and book of reference, the sum of five dollars per acre, and as to all other lands so dyked by the said works, as shewn by such map or plan and book of reference, the sum of two dollars and fifty cents per acre, which said several sums shall be payable by two equal instalments as hereinafter mentioned, and shall be a charge on the several lots or sections, or portions of lots or sections, of land as aforesaid, and that in preference to and with priority over all encumbrances, except those payable to the Crown, on such land, and those registered at the time of passing this Act; and the said respective instalments and the interest respectively shall be payable by the person or persons who for the time being, or on the first day of January in any year when any such instalment shall fall due, shall be the owner or owners, or occupier or occupiers, of the said several lots or sections, or the portions thereof, respectively.

Works to be subject  
to approval of Chief  
Commissioner.

**29.** The said works shall be constructed subject to the approval of the Chief Commissioner of Lands and Works, and when completed shall be passed upon and accepted by him, and immediately upon the passing upon and acceptance of the same by him, the said lands within the line of dyke constructed shall be deemed to be well and effectually dyked, and the first instalment charged upon such lands shall become due and payable at the expiration of five years, and the second instalment at the expiration of ten years, from the date of such passing and acceptance; the first and second instalments carrying interest respectively at the rate of seven per cent. per annum, such interest to be payable by annual payments on the first day of January in each and every year, and to be levied as herein provided:

First instalment.

Interest.

Proviso.

(1.) Provided that any owner shall be at liberty at any time to pay the assessment on his land in one payment, and all interest shall thereupon cease:

Proviso.

(2.) Provided further, that no such instalment shall become due, nor shall interest accrue on any assessment on land which is covered by back-water during the time the gates are closed until such time as such back-water is removed; and such lands when such back-water is removed, shall be liable to such further assessment as will be a fair proportion of the total cost of removing such back-water.

Recovery of assess-  
ments.

**30.** The said instalment or instalments and interest due and payable in respect of any section or lot of land, or portion thereof, benefited as aforesaid by any particular line of dyke, may be recovered

with costs as a debt due to the said Company in any Court of competent jurisdiction, by action against the person or persons who for the time being, or on the first day of January in each year, shall be owner or owners, or occupier or occupiers, of the said several sections or lots of land respectively.

**31.** Every tenant or occupier who shall pay for the land in his occupation any sum charged thereupon, under or by virtue of the provisions of this Act, shall be and is hereby authorized to deduct and retain out of the rent due to his landlord the amount of the sum of money he shall so pay as aforesaid; but nothing herein contained shall extend or be construed to enable any occupier or lessee to deduct from his rent any costs or expenses incurred by non-payment of the moneys hereby imposed or authorized to be paid.

Tenants to pay for land in their occupation.

**32.** Whenever an assessment against any land has been unpaid for the space of three months after the same shall be due, the land may be sold for all arrears of assessment and interest due, and the said Company, or its assigns, shall make out a list of all the persons in arrear, with amount of arrears and interest due against such section or lot, or portion thereof, and shall cause the said list, together with notice that the lands specified in such list will be sold, to be published in the British Columbia Gazette and one or more newspapers published or circulating in the neighbourhood in which the lands to be sold are situate, and written notice shall be posted to each owner or occupier, in a registered letter, at his last known place of abode.

Land may be sold for arrears of assessments.

**33.** The advertisement shall contain a notification that unless the arrears and costs are sooner paid, the Sheriff will proceed to sell the lands for arrears of assessment and interest, at a day and place to be named in the advertisement. The day of sale shall be more than thirty days after the publication of the first list. The said Company shall in each case add to the arrears to be published the cost of advertising and the Sheriff's commission for selling, which shall be two and a-half per cent. If, at any time appointed for the sale of the lands, no bidders appear, the Sheriff may adjourn the sale from time to time. If the assessments or arrears, interest and costs, have not been previously collected, or if no person appears to pay the same at the time and place appointed for the sale, the Sheriff shall sell by public auction the whole or so much of the land as may be sufficient to discharge the sums due for such assessments or arrears, interest and costs, incurred in and about the sale, and the collection of the amounts due, selling in preference such part as he may consider best for the owner to sell first; and in offering such lands for sale it shall not be necessary to describe particularly the portion of the lot which shall be sold, but it shall be sufficient to say that he will sell so much of the lot as may be

Advertisement in Gazette.

Sheriff's sale

necessary to secure the payment of the sums due, and the amounts stated in the published list shall in all cases be held to be the correct amounts due, unless it is shown to the satisfaction of the Sheriff that the amount due is less than appears in the published list.

**Adjournment of sale**     **34.** If the Sheriff fails at such sale to sell any land for the full amount of assessments, interest and costs due, he shall at such sale adjourn the same until a day then to be publicly named by him, not earlier than one week nor later than one month thereafter, of which adjourned sale he shall give notice by public advertisement in the local newspaper, or in one of the papers in which the original sale was advertised, and on such day he shall sell such lands, unless otherwise directed by the said Company, for any sum he can realize, and shall accept such sum as full payment of such arrears of assessment and interest and costs; but the owner of any land so sold shall not be at liberty to redeem the same, except upon payment to the Sheriff of the full amount due, together with the expenses of sale.

**Crown lands in  
arrear.**

**35.** If the Sheriff sells any interest in land of which the fee is in the Crown, he shall only sell the interest therein of the pre-emptor, licensee, lessee, or locatee, and it shall be so distinctly expressed in the conveyance to be made by the Sheriff, and such conveyance shall give the purchaser the same rights, in respect of the land, as the original pre-emptor, lessee, licensee, or locatee enjoyed, and shall be valid without requiring the assent of the Chief Commissioner of Lands and Works. If the purchaser of any parcel of land fails immediately to pay to the Sheriff the amount of the purchase money, the Sheriff shall forthwith again put up the property for sale. The Sheriff, after selling any land for arrears of assessments, costs (if any) and interest, shall give a certificate under his hand to the purchaser, stating distinctly what part of the land and what interest therein has been so sold, and describing the same; also stating the quantity of land, the sum for which it has been sold, and the expenses of sale; and further stating that a deed conveying the same to the purchaser or his assigns, according to the nature of the estate or interest sold, will be executed by the Sheriff, on his or their demand, at any time after the expiration of one year from the date of the certificate, if the land be not previously redeemed.

**Sheriff's certificate  
to be deemed the  
purchaser's title.**

**36.** The purchaser shall, upon the receipt of the Sheriff's certificate of sale, become the owner of the land, so far as to have all necessary rights of action and powers for protecting the same from spoliation or waste, until the expiration of the term during which the land may be redeemed; but he shall not knowingly permit any person to cut timber growing upon the land, nor shall he do so himself, but he may use the land without deteriorating its value: Provided that the purchaser

shall not be liable for damage done without his consent to the property during the time the certificate is in force. From the time of the tender to the Sheriff of the full amount of redemption money required by this Act, the said purchaser shall cease to have any further right in or to the land in question, and the Sheriff shall notify the purchaser accordingly. Every Sheriff shall be entitled to two and a-half per cent. commission upon the sums collected by him as aforesaid.

**37.** The Sheriff shall, in all certificates and deeds given for land sold at such sale, give a description of the part sold with sufficient certainty; and, if less than a whole lot, then by such a general description as may enable a surveyor to lay off the piece sold on the ground; and he may make search, if necessary, in the Land Registry Office, to ascertain the description and boundaries of the whole parcel; and he may also obtain a surveyor's description of such lots, to be taken from the Land Registry Office or the official maps, where a full description cannot otherwise be obtained; such surveyor's fee not to exceed ten dollars; and the charges so incurred shall be included in the account and paid by the purchaser of the land sold or the party redeeming the same. Except as before provided, the Sheriff shall not be entitled to any other fees or emoluments whatever for any services rendered by him relating to the said collection of arrears of assessment.

Contents of Sheriff's certificate.

**38.** The owner of any land which may hereafter be sold for non-payment of arrears of assessment and interest, or his heirs, executors, administrators and assigns, or any other person, may at any time within one year from the day of sale, exclusive of that day, redeem the estate sold by paying or tendering to the Sheriff, for the use and benefit of the purchaser or his legal representative, the sum paid by him, together with twelve per cent. thereon; and the Sheriff shall give to the party paying such redemption money a receipt stating the sum paid and the object of payment, and such receipt shall be evidence of the redemption.

Power of redemption

**39.** If the land be not redeemed within the period so allowed for its redemption, being one year exclusive of the day of sale as aforesaid, then on the demand of the purchaser or his assigns, or other legal representative, at any time afterwards, and on payment of five dollars, the Sheriff shall prepare and execute and deliver to him or them a deed of the land sold, in which deed any number of lots, sections, or parcels may be included, at the request of the purchaser or any assignee of the purchaser.

If not redeemed Sheriff to give a deed.

**40.** Such deed shall be a conveyance by the Sheriff, and shall state the date and cause of the sale, and the price, and shall describe the land according to the provisions of this Act, and shall have the effect

Nature of deed.

of vesting the land in the purchaser or his heirs and assigns, or other legal representatives, in fee simple or otherwise, according to the nature of the estate or interest sold; and no such deed shall be invalid for any error or miscalculations in the amount of the assessments or interest in arrear, or any error in describing the land as granted, sold, pre-empted, leased, or otherwise, unless such deed purports to convey more land or larger interest than was originally sold.

Registration thereof.

**41.** The Registrar-General of Titles, upon production of the deed and application in the usual form, shall register the same in the usual manner.

Sheriff to record all sales.

**42.** The Sheriff shall enter in a book a full description of every parcel of land conveyed by him to purchasers for arrears of assessments, with an index thereto; and such book and such entries shall be kept amongst the records of his office, and may be inspected at all reasonable hours on payment of a fee of twenty-five cents.

Validity of Sheriff's sale.

**43.** Whenever lands shall be sold for arrears of assessments, and the Sheriff shall have given a deed for the same, such deed shall be to all intents and purposes valid and binding, except as against the Crown, if the same has not been questioned before some Court of competent jurisdiction, by some person interested in the land so sold, within two years from the time of sale.

Owner may make lateral drains.

**44.** Any occupier or owner of land may, at his own expense, construct lateral drains into any natural water-course, whether improved or not, except during the construction of the works, subject nevertheless to the performance of such conditions as may be necessary in the opinion of the Company for the protection and preservation of the works authorized to be done under this Act, and also subject to the payment of any damage which may be done to the said works thereby.

Company's permission necessary.

**45.** If during the construction of the works aforesaid, any persons construct, or cause to be constructed, any lateral drain as aforesaid from which water may be discharged into any main drain or slough without written permission first obtained, such person shall, on due notice being given by the Company, restore such lateral and main drain and slough to its former condition; and should any person upon receipt of such notice refuse or neglect to restore such lateral or main drain or slough to its former condition within a reasonable time thereafter, such person as the clerk, secretary, or like officer in the head office of any body corporate, or any of them, may be summoned for a trespass before two or more Justices of the Peace, and shall be punishable by a fine not exceeding one hundred dollars, to be recovered in a summary manner; and delivery of any notice to the clerk, secretary, or like officer, or head officer, of any body corporate at the

Penalty.

place of business of such body corporate shall be due service of such notice upon such body corporate within the meaning of this or any other section of this Act.

**46.** From and after the completion of the said works, and the passing and acceptance of the same by the Chief Commissioner of Lands and Works as aforesaid, and for one year thereafter, the Company shall not be bound to maintain the same, or any part thereof, but it shall be lawful for the Lieutenant-Governor in Council from time to time to make such order or orders as may be expedient for the future maintenance of the dyke, and the disposition thereof by the Company; and the Company shall be bound to make such disposition of the whole undertaking, or any part thereof, as the Lieutenant-Governor in Council may order, but nothing herein contained shall prevent their recovering the said assessments as aforesaid : Maintenance of works after completion.

Provided, however, that the Company shall be bound to keep the gates in good and effective repair for five years from the acceptance of the works aforesaid. Proviso.

**47.** The cost of preparing all plans and specifications prepared in pursuance of this Act by direction of the Chief Commissioner of Lands and Works, and all charges and expenses of supervising the said works, or any part thereof, incurred by the Chief Commissioner of Lands and Works, or his agents, shall be refunded by the Company to the Chief Commissioner. Costs of preparing plans, &c.

**48.** Nothing in Part I. of this Act shall apply to, or affect, or render liable to assessment the following lands, viz.: Sections twelve (12), thirteen (13), fourteen (14), twenty-three (23), twenty-four (24), and twenty-five (25) of township twenty-three (23); 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); nor authorize or relate to the diversion of the waters of Vedder Creek into the Luck-a-Kuk or the Chilliwack Rivers. Nothing in this Act contained shall authorize the Company to divert any water into the Chilliwack, above the present junction of the Luck-a-Kuk with the Chilliwack at Conly's farm. Application of Part I.

## PART II.

**49.** The Company shall have power and authority to divert the waters of the stream known as the Vedder Creek into any other channel it may deem expedient. Power to divert Vedder Creek.

**50.** The Company, 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 Works requisite before turning Vedder Creek into the Luck-a-Kuk.

some engineer appointed by him in that behalf, shall be necessary to secure the lands in the forty-eighth section mentioned, and every portion of said lands, 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 Company 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 the forty-eighth section mentioned from such damages. And the Company shall, and this Act is passed on the express understanding that the Company will, indemnify the owners or occupiers of the lands in the forty-eighth 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 Company shall build and erect, and for the said period of four years mentioned maintain, at its own expense, all works necessary to prevent the said Luck-a-Kuk from overflowing its banks, or washing away, or backing up on the lands in the said forty-eighth 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 Company will indemnify and make good to the owner or occupiers so damaged as aforesaid all damages occasioned to him or them.

Appointment of  
Commissioners.

**51.** 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 forty-eighth section mentioned, so as to cover all the works erected by the Company on the Luck-a-Kuk River.

Ditto.

**52.** The Commissioners shall be appointed as follows : The owners of the lands mentioned in the forty-eighth section shall appoint one, and the owners of the lands mentioned in section twenty-eight shall appoint a second, and the Lieutenant-Governor in Council shall appoint a third.

Powers of Commis-  
sioners.

**53.** The Commissioners may enter into contracts and do all things necessary for keeping the works on the Luck-a-Kuk in repair, so as to protect the lands mentioned in section forty-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 forty-eighth section mentioned shall not exceed one-third, and that the total amount to be assessed against the lands mentioned in section twenty-eight shall not exceed two-thirds.

**54.** 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 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.

If Chief Commissioner refuses to act the Governor may appoint another person.

**55.** The assessments and rates in this part 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:

Recovery of assessments, &c.

(a.) And it shall be lawful for the Chief Commissioner, or such other person as may be appointed under the provisions of section 54 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.

Chief Commissioner to make regulations for removal of Commissioners.

**56.** This Act shall not come into operation until proclaimed by the Lieutenant-Governor in Council, and notice of such proclamation published in the British Columbia Gazette.

When Act to take effect.

**57.** The Company shall commence actual construction within two years, and complete the works authorized by this Act (except so far as relates to draining Sumas Lake) within four years after such proclamation.

Commencement and completion.

No Chinese to be  
employed.

**58.** This Act is passed upon the express understanding that no Chinese, either directly or indirectly, shall be employed in or about, or concerning any work or services authorized by this Act, or required by the Company to be done or performed. In the event of any Chinese being employed by the Company, the Company shall be liable, upon summary conviction before any two Justices of the Peace or functionary having the power of two Justices of the Peace, upon the oath or affirmation of one or more credible witness or witnesses, to a penalty not exceeding twenty-five dollars, or less than ten dollars, for every Chinese employed; and in default of immediate payment of the penalty the same may be levied by distress and sale of the goods and chattels of the Company. And in the event of any Chinese being employed by any of the Company's contractors or sub-contractors contrary to the provisions of this Act, then any such contractor or sub-contractor shall be liable, upon summary conviction as aforesaid, to a penalty not exceeding twenty-five dollars, nor less than ten dollars, for every Chinese employed; and in case of default in immediate payment of such last-mentioned penalty, the same may be recovered by distress and sale of the goods and chattels of the offender; and in default of sufficient distress, the offender may be committed to any gaol or place of confinement situate within the territorial jurisdiction of the convicting Justices, and there imprisoned for any term not exceeding thirty days; and any director or officer of the Company who causes or procures any Chinese to be employed, contrary to the provisions of this Act, or permits or connives at such employment, shall be liable, upon summary conviction as aforesaid, to the like penalties as hereinbefore in this section provided, recoverable in manner secondly hereinbefore mentioned.

Penalty.

Penalty for each  
separate offence.

**59.** The offender shall be liable to separate and successive penalties for each and every day during which any Chinese shall be employed.

Defines "Chinese."

**60.** The term "Chinese" wherever used in this Act shall mean any native of the Chinese Empire or its dependencies not born of British parents, and shall include any person of the Chinese race.

Evidence as to  
person being  
"Chinese."

**61.** Upon any prosecution under section fifty-eight of this Act, evidence under oath of any witness that to the best of his knowledge and belief any person alleged to have been employed contrary to the provisions of this Act is a Chinese, shall be *primâ facie* evidence that such person is a Chinese within the meaning of this Act, and shall cast upon the defendant the burden of proving that such person is not a Chinese. The Justices may also decide upon their own view and judgment whether any person produced before them is a Chinese within the meaning of this Act.

**62.** No conviction, or warrant for enforcing the same, or any other process or proceeding under this Act, shall be held insufficient or invalid by reason of any variance between the information and the conviction, or by reason of any other defect in form or substance, provided it can be understood from such conviction, warrant, process, or proceeding that the same was made for an offence against some provisions of this Act, and provided there is evidence to prove such an offence, and that it can be understood from such conviction, warrant, or process that the appropriate penalty or punishment for such offence was intended to be thereby adjudged. Upon any application to quash any such conviction, or the warrant for enforcing the same, or other process or proceeding, whether in appeal or upon habeas corpus, or by way of certiorari, or otherwise, the Court or Judge to which such appeal is made, or to which such application has been made upon habeas corpus, or by way of certiorari, or otherwise, shall dispose of such appeal or application upon the merits, notwithstanding any such variance or defects as aforesaid; and in all cases where it appears that the merits have been tried, and that the conviction, warrant, process, or proceeding is sufficient and valid under this section, or otherwise, such conviction, warrant, process, or proceeding shall be affirmed, or shall not be quashed (as the case may be); and such Court or Judge may, in any case, amend the same if necessary, and any conviction, warrant, process, or proceeding so affirmed, or affirmed and amended, shall be enforced in the same manner as convictions affirmed on appeal, and the costs thereof shall be recoverable as if originally awarded.

Want of form not to  
invalidate process.

**63.** This Act may be cited as the "Fraser River Dyking Act, 1891." Short title

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