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27 Victoria – Chapter 20

An Act to provide for the drainage and protection of the different Marsh Lands in the Parish of Lancaster, in the County of Saint John. Passed 11th April, 1864.

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Whereas it is necessary to make provision for the drainage and protection of the Marsh Lands on the several Marshes in the Parish of Lancaster, in the County of Saint John;—

Be it therefore enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. The Lieutenant Governor in Council shall appoint three fit and competent persons to be Commissioners of Sewers for the said Marsh Lands in the Parish of Lancaster, in the County of Saint John; which Commissioners, on receiving their appointment, shall be sworn to the faithful discharge of their duties.
2. It shall be the duty of the said Commissioners and they are hereby authorized to meet together as occasion shall require, to devise means and methods for building, repairing or erecting aboideau, dykes, and wears, and such other erections and works as may be necessary for draining the said Marsh Lands, and preventing such Marsh Lands being inundated by the sea, or by freshets; and also, if deemed necessary, and with the consent of at least one half of the proprietors of the said Marsh Lands, for drowning the same.
3. That the Commissioners at the first of their meetings shall appoint a Clerk for one or more of the several Marshes in the said Parish, not being a Commissioner, whose duty it shall be to keep a record of all meetings for each of the said Marshes, and of the doings of the said Commissioners, and to sign all entries, notices and other documents necessary or authorized by virtue of this Act;

and the said Commissioners shall also at their first meeting appoint one of their number Chairman, whose duty it shall be to preside at all meetings of proprietors of each of the said Marshes, and Commissioners.

4. That such Commissioners shall proceed to build, erect, or repair such aboideau, dykes, wears, and other works on each of the said Marshes, as they may deem to be necessary for the drainage and protection of any of the said Marsh Lands; provided that no new work shall be constructed, and no repairs, the estimated costs of which shall exceed the sum of one hundred dollars, except in cases of emergency, shall be commenced and proceeded with without the consent of the owners of at least one half of the land contained in any Marsh where the proposed work is to be done.

5. That the Commissioners are authorized, for the purpose of obtaining such consent to call a meeting of the owners of land on any of the said Marshes at any time, on giving six days notice of the time and place of such meeting, in one or more of the newspapers published in the City of Saint John, and by advertising in three public places in the Parish; such meeting to be held in all instances at some place in the said Parish of Lancaster, and as near as may be convenient to the Marsh where the proposed work is to be done.

6. That the Commissioners at their option, as they may deem most expedient for the interests of the owners of the said Marsh Lands on the respective Marshes, shall either let the said work by contract to some responsible person or persons, or shall cause it to be done by workmen employed by them for reasonable wages; and they may, if they deem it expedient, retain the services of some competent Civil Engineer to devise and plan schemes for the drainage and protection, and if they so think fit, may employ an overseer or inspector of the work, and pay him reasonable remuneration therefor.

7. That in case of emergency or sudden danger arising from any cause, or in ordinary cases of repair, where the estimated expenditure shall not exceed the sum of two hundred dollars, the Commissioners or any one of them may cause the work to be done immediately, without the consent of the owners of one half of the land on any such Marsh as before mentioned.

8. That for the purpose of defraying the said costs and expenses of such building, erecting and repairing the aboideau, dykes, and wears, and other works as before mentioned, and the expenses of the Commissioners, and all other expenses incident to the performance of the powers and duties vested in them by this Act, including the allowance of the Clerk, which shall be a reasonable remuneration, to be settled by the Commissioners, the Commissioners shall make an assessment on the several owners of the land on the Marsh for which the expenses are incurred, assessing them according to the number of acres of land held or owned by each, provided that no assessment shall be made on any land which the Commissioners shall consider not to be benefitted by such works or repairs; and on such assessment being made, the said Commissioners shall cause a Notice (A) to be published for the space of twenty days, (which said Notice shall be signed by the Chairman and Clerk,) in one of the newspapers published in the City of Saint John, and by advertising in three public places in the Parish; which notice shall contain a list of the said

owners, the amount assessed on each, and the quantity of land on which such assessment is made.

9. In case any owner of land shall not within thirty days after the first publication of such notice as aforementioned, pay the amount for which he, she or they are so assessed, to the Chairman of the said Commissioners, the said Commissioners or any two of them shall thereupon issue a distraint Warrant, (B) signed by the said Commissioners or any two of them and the said Clerk, directed to the Sheriff of the City and County of Saint John, under which warrant the Sheriff shall levy on the goods and chattels of the party or parties or body corporate against whom the same shall be issued; and in case there shall not be sufficient goods and chattels in his bailiwick to satisfy the same, the Sheriff shall levy on any portion of the land of the said party or parties or body corporate on which such assessment was made, and shall lease or sell the same to satisfy such warrant; but no sale shall take place until the time and place of such sale shall be advertised by the Sheriff at least three months continuously in some newspaper published in the City of Saint John, the sale to be made between the hours of twelve and five in the afternoon, and the Sheriff shall execute to the purchaser or purchasers of such land a deed of such land, (C) which shall be sufficient to convey all the interest of the person or persons or body corporate against whom the said warrant was issued, and the Sheriff shall return the said warrant to the Chairman of such Commissioners, who shall cause the same to be filed in the office of the Clerk of the Peace in and for the City and County of Saint John; and if there shall be any surplus after paying the amount for which such warrant was issued, and the Sheriff's fees thereon, the Sheriff shall pay over the same to the person or persons against whom the warrant was issued.

10. That the deed of the Sheriff, duly acknowledged or proved and registered, or a certified copy thereof, shall be evidence that the said property so conveyed was regularly seized, advertised, and sold; and in case of the death or going out of office of the Sheriff who has seized, advertised or sold any lands, the sale or conveyance thereof, or both, may be completed by his successor without any new warrant or any alteration in the previous proceedings.

11. The Commissioners shall keep a separate record of each of the several Marshes, which said record shall contain a record of all the meetings of the owners of Lands on such Marsh called by them, and of all meetings of the said Commissioners with reference thereto, and of all work done by them, and of all contracts entered into, and all assessments made by them, with respect to any such Marsh; which said records shall (except where the same are in use at such meetings,) be kept on file in the office of the Clerk of the Peace for the County of Saint John; and the said Commissioners shall annually, on the second Monday in January in each year, file with the said Clerk of the Peace a separate detailed account for each of the said Marshes, of all moneys expended by them as such Commissioners during the year previous, which said records and accounts shall be open to the inspection of any owner of Land on the Marsh to which they refer, upon payment of the fee of twenty cents to the Clerk of the Peace for such inspection.

12. The Commissioners shall be entitled to receive out of the moneys to be raised by any such assessment, two dollars each for each day's attendance at such meetings, and two dollars for each day's attendance when superintending the workmen employed in dyking or draining; provided

that not more than one Commissioner shall be paid for attendance as Superintendent on the same day.

13. In case of any vacancy in the said Commissioners by death or otherwise, the Governor in Council may from time to time appoint another Commissioner to fill any such vacancy; and in case of a vacancy by death or resignation of the Chairman of Commissioners, the Commissioners may appoint one other of their number Chairman; and in case of the absence of the Chairman at any meeting, the Commissioners may appoint a Chairman for the time being, to act at such meetings.

14. The Commissioners may employ one Clerk for all the Marshes in the said Parish, or they may have a Clerk for each Marsh, or otherwise, and remove such Clerk from time to time, and appoint others; and any irregularity in any meeting, assessment or other proceeding for any one Marsh, shall not affect or invalidate the proceedings with regard to any other Marsh in the said Parish..

SCHEDULE A.

NOTICE.

To the owners of the _____ Marsh, [as the case may be] in the Parish of Lancaster, in the County of Saint John.

The following persons, owners of Land on the _____ Marsh, [as the case may be] in the Parish of Lancaster, in the County of Saint John, have been assessed in the sums set opposite their respective names, and they will pay such sums respectively to the undersigned, Chairman of the Commissioners of Sewers, on or before the ____ day of _____ next, or proceedings will be taken to collect the same.

Name of owner of Land.	Sum assessed.	No. of acres.	Rate per acre.

Dated St. John, ____ day of _____ A.D. 186____.

(Signed)

A.B., Chairman of Comm'rs of Sewers on _____ Marsh.

C.D., Clerk

B.

To the Sheriff of the City and County of Saint John.

By virtue of the power and authority in us vested under and by virtue of the Act of Assembly twenty seventh Victoria, Chapter twenty, we hereby direct you to levy of the goods and chattels of C. D., in your bailiwick, the sum of _____; and in case you shall not find within your bailiwick sufficient of the goods and chattels of the said C. D. whereon to levy the same, you are hereby required to levy on the lands of the said C. D. on the _____ Marsh, in the Parish of Lancaster, in the County of Saint John, the sum of _____, and to proceed thereon according to law: and we further direct you to pay the said sum of _____, when so levied, to the Chairman of the Commissioners of Sewers for the _____ Marsh, and to return this execution to the Chairman of the said Commissioners on or before the ____ day of _____ A. D. 186 _____. —Dated this ____ day of _____ A. D. 186 _____.

A.B. }
C.D. } Commissioners
E.F. }
G.H. }

G. H. Clerk.

C.

To all to whom these Presents shall come.

I, _____, Sheriff of the City and County of Saint John, send greeting.

Whereas by a certain execution under the hands of the Commissioners of Sewers in the _____ Marsh, in the Parish of Lancaster, in the County of Saint John, issued under and by virtue of the provisions of the Act of Assembly twenty seventh Victoria, Chapter twenty, I was directed to levy on the goods and chattels of C. D. in my bailiwick, the sum of _____; and in case I should not find within my bailiwick sufficient of the goods and chattels of the said C. D. whereon to levy the same, I was required to levy on the lands of the said C. D. on the _____ Marsh, in the Parish of Lancaster, and County of Saint John, described as follows:—[set forth description]; and after advertising and selling the same according to law, E. F. becomes the purchaser thereof for the sum of _____: Now know ye, that I, the said Sheriff, in pursuance of the powers in me vested, and in consideration of the said sum of _____, do grant, bargain and sell unto the said E. F. all the said lands and tenements, together with all buildings and appurtenances thereon being, to hold the same unto the said E. F., his heirs and assigns, for ever. In witness whereof, I have hereunto set my hand and seal, this ____ day of _____, in the year of our Lord one thousand eight hundred and _____.

Signed, sealed and delivered }
in the presence of }

County of Saint John, ss.

On this ___ day of ___ A. D. 186_, before me personally appeared the above named Sheriff, and made oath that all the acts required by law for sale of the lands and tenements mentioned in the within deed, were duly performed by him the said Sheriff, and that the within conveyance is his act and deed, by him executed for the purposes in the same mentioned and set forth.

G. H., Justice of the Peace
for the City and County of Saint John.