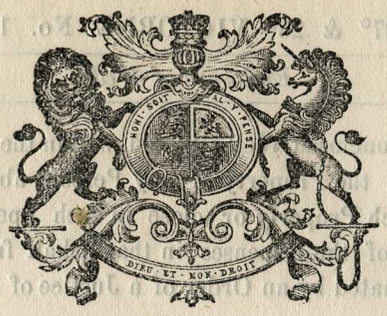

ANNO VICESIMO SEPTIMO ET VICESIMO OCTAVO

VICTORIÆ REGINÆ.

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No. XV.

An Act to provide for the Closing of Wells upon unenclosed Lands in Vancouver Island and its Dependencies. [7th July, 1864.

WHEREAS it is expedient to provide Means whereby the Wells upon unenclosed Property may be prevented from emperilling the Lives and Property of Her Majesty's Subjects: Be it therefore enacted by the Governor on behalf of Her Majesty by and with the Advice and Consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies, as follows:

I. That within Thirty Days after the Passage of this Act all Persons being Owners or Lessees of unenclosed Property in the Colony of Vancouver Island upon which any open Well is situate shall either enclose the same Property with a durable Fence or cover in such open Well in a thoroughly safe and permanent Manner and so that the same shall no longer continue dangerous to Life and Limb. **Open Wells shall be covered in**

II. An open Well shall for the Purposes of this Act be deemed to be an artifical sinking into the Ground not being a Ditch or Drain or Pond of a depth of more than Three feet and not protected by a safe and substantial Fence. **Definition of term "open Well"**

III. That any Person omitting to enclose such Property or to cover in such Well in such a Manner as aforesaid shall be liable to a Penalty not exceeding Twenty Dollars to be recovered before any Justice of the Peace in a Summary Manner and that the said Penalty may be recovered by Distress and in Default of a sufficient Distress by Imprisonment for a Period of not more than One Week. **Penalty for non-compliance with Act.**

IV. That the Mayor and Council may employ such Persons as they may select **In cases of default**

Mayor and Council may in the City of Victoria cover in Wells and recover costs thereof.

select to cover in any unclosed Well situated within the Municipal Limits of the City of Victoria and on the Property of any Person absent from the Colony or neglecting to enclose such Property or close in such open Well and may recover the reasonable Amount of the Expenses in that behalf from the Person on whose Property the same is situated by an Order of a Justice of the Peace.

Surveyor General may cause the work to be performed in certain cases and recover costs thereof.

V. That the Surveyor General of Vancouver Island and its Dependencies may employ such Person as he may select to cover in any unclosed Well situate beyond the Municipal Limits of the City of Victoria and on the Property of any Person absent from the Colony or neglecting to enclose such Property or close in such open Well and may recover the reasonable Amount of the Expenditure in that behalf from the Person on whose Property the same is situate on a like Order.

Penalty how recoverable.

VI. That in the Event of the said penalty remaining unrecovered for the space of Twenty Four Hours after the Order of the Justice the amount of the Penalty shall be deemed to be a Charge within the meaning of an Act entitled "The Land Registry Act, 1860" upon the Real Estate on which such Well is situate and the Surveyor General is hereby authorised and required to Register the Order in that behalf as a Charge against such Real Estate on the Books of the Registrar General of Titles of Real Estate in Vancouver Island and its Dependencies.

Order for Penalty to be registered.

VII. Every Justice of the Peace shall within Twelve hours from the Time in which such Order is made transmit the same Order to the Surveyor General or Mayor and Council as the Case may require and the said Surveyor General and Mayor and Council are hereby required to Register the same within the space of Twelve Hours from the receipt of same.

Fees for registering Order to be added to Penalty.

VIII. No fees shall be taken by the Registrar General on the Registration of an Order on behalf of the said Mayor and Council but the same shall be added to the Amount of the Charge so registered in addition to the Amount mentioned in the Order.

Cancellation of Registered charge.

IX. The Registrar is hereby authorised to cancel any such Registered Charge upon satisfactory Evidence that the same has been satisfied duly verified by a Justice of the Peace for the particular District in Manner directed by the Fortieth Section of "The Land Registry Act, 1860." The Amount so paid in in satisfaction of such Registered Charge shall be paid over by the Justice of the Peace so recovering the same to the Treasurer of Vancouver Island and its Dependencies if the same has been paid in respect of an open Well in the rural Districts of Vancouver Island for the use of Her Majesty Her Heirs and Successors and in the Event of the same being paid in in respect of an open Well within the Municipal Limits the same Amount shall be paid over to the Mayor and Council.

Disposition of Penalty when recovered.

Passed the Legislative Assembly 17th May, 1864.

R. W. TORRENS,
CLERK OF THE LEGISLATIVE ASSEMBLY.

Passed the Legislative Council 30th May, 1864.

E. J. NESBITT,
CLERK OF THE LEGISLATIVE COUNCIL.

Received my Assent this 7th day of July, 1864.

A. E. KENNEDY,
GOVERNOR.

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