



## CHAPTER 66.

An Act to amend the "Corporation of Victoria Water-Works Act, 1873," and the "Victoria Water-Works Amendment Act," Chapter 64 of the Statutes of 1892, and to give additional powers. 1873, c. 20; 1892, c. 64.

[12th March, 1909.]

**W**HEREAS a petition has been presented by the Corporation of Preamble.  
the City of Victoria, praying that the "Corporation of  
Victoria Water-Works Act, 1873," as amended in 1892, be further  
amended:

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

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

1. This Act may be cited as the "Victoria City Water Works Short title.  
Acts Amendment Act, 1909."

2. It is hereby declared that the powers, rights and privileges Ratifying 36 Vic., c  
20, and c. 27 of  
1881, and c. 64 of  
1892.  
granted and conferred by chapter 20 of 36 Victoria, being the  
"Corporation of Victoria Water-Works Act, 1873," as amended by  
chapter 64 of the Statutes of 1892, are hereby ratified and confirmed  
to the Corporation of the City of Victoria; and it is hereby declared Rights not diminish-  
ed by "Water  
Clauses Consolida-  
tion Act."  
that such powers, rights and privileges were and are in no way  
abrogated or diminished by the Statute, chapter 190 of 1897 (the  
"Water Clauses Consolidation Act"), or by any Statute amending,  
altering, repealing or in substitution for the same, or by any general  
Statute previous thereto repealed thereby, or by any other Statute  
heretofore passed:

Provided that the Commissioner shall not enter upon, take, or appropriate any of the lands, waters, rights or privileges of the Esquimalt Water Works Company without, if that Company so requires, taking, appropriating and purchasing the whole undertaking of the Company; and the price or compensation to be paid by the said Corporation to the said Company for the value of the property so purchased, taken or appropriated shall, in case of disagreement, be decided by arbitrators appointed under the said Statutes of 1873, chapter 20, and 1892, chapter 64:

Provided, also, that the Corporation of the City of Victoria may expropriate a sufficient right-of-way over, through or under the lands of the Esquimalt Water Works Company for the purpose of conducting waters from Sooke watershed to the water-works system of the City of Victoria, notwithstanding the foregoing, making compensation therefor, and for all damage at any time thereafter suffered thereby: Provided further, that the power in this section contained shall not extend, and the said Commissioner shall not have or exercise under any power in that behalf vested in him, the right of expropriation over the land of the Esquimalt Water-Works Company forming the reservoir site below the power house at Goldstream: And, provided further, that the works for conducting the said water from Sooke Lake watershed shall be begun within two years of the 15th day of March, 1909, and finished within eight years from said date as to the first means of conduit of such waters:

Provided further, that the following shall govern the said arbitration proceedings in determining the compensation for the expropriation of the undertaking as a whole:—

- (a.) An offer of purchase shall first be made of not less than seven hundred thousand dollars (\$700,000)—to be deemed a tender—and the Company shall have two months to accept such offer:
- (b.) If the Company decline such offer and arbitration ensues, the Arbitrators shall be limited to awarding to the Company, and no such award shall exceed, the sum which the Company would become entitled to, determined as if the said Esquimalt Water Works Company were a company incorporated under the “Water Clauses Consolidation Act of 1897,” and as if its franchises, undertakings, property and assets were in process of compulsory purchase by Order in Council, under the provisions of section 129 of said “Water Clauses Consolidation Act, 1897,” but so that the interest on capital invested shall be calculated at not exceeding six per cent. per annum, at simple interest, and the bonus on capital actually invested at not more than twenty per cent. and no deductions shall be made in respect of so much of the net profits as were used for construction purposes.

3. Section 10 of said Act of 1873, is hereby amended by enacting that the returns by said section to be made annually on or before the 31st day of December in each and every year shall be made on or before the 15th day of January of each year for the year preceding.

Annual return to be made by 15th January.

4. Section 20 of said Act of 1873 is hereby amended by adding the following sub-section:—

“(a.) In the case of tenement buildings or buildings let or occupied in separate tenancy, the service pipe throughout the building shall, as to supply of water, be under the control of the Water Commissioner.”

Control of surface pipes in tenements.

5. Sections 28, 29 and 31, of said Act of 1873, are hereby repealed, and the following section is substituted therefor:—

“28-31. Generally for all water-works purposes, including the payment of sinking fund and interest on moneys owing, and hereafter to be borrowed or procured to be expended, and expenses of such borrowing or procuring, or for the purpose of meeting the payment of any other expense, work, matter or thing that is contemplated or allowed by the said “Victoria City Water Works Act, 1873,” and the Amendment Act, chapter 64, of 1892, and of this Act, the Council of the Corporation of the City of Victoria shall have power to borrow money by way of debentures or otherwise in such manner, in such form, and for such term, and at such interest and discount, or to procure the construction of a water-works system upon such plan of finance as may be deemed desirable, and to vest any such system in whole or in part in such manner as may be necessary in order to carry out any such plan, and generally for effectuating such borrowing or financing in all matters and things in such manner as to the Council may seem fit, upon the security of the water-works system and property and the taxes and rates, rentals and charges and the general revenue of the water-works system, or waters of the Corporation, or on either, or any, or all of them, and may as additional security pledge, for the payment of the moneys borrowed or procured to be expended and the interest and sinking fund and all expenses of and attending the borrowing or procuring, the credit of the Corporation, or otherwise guarantee payment of the same, in whole or in part: Provided, always, that a By-law approving thereof shall be submitted to and passed by a vote of a majority of the persons voting thereon, qualified to vote on By-laws by virtue of sub-section (2) of section 75 of the ‘Municipal Clauses Act.’”

Borrowing powers.

Proviso.

6. Section 33 of said Act of 1873 is hereby repealed.

Repealing s. 33 of Act of 1873.

7. The interest and sinking funds necessary to be raised to satisfy and retire existing loans obtained by the Corporation for water-works purposes shall be charged upon and primarily payable out of the revenue derived from the water-works system.

Interest to be payable out of revenue.

Moneys raised not to be counted in aggregate of city indebtedness.

8. Moneys heretofore raised, or hereafter to be raised, by the Corporation for water-works purposes, whether with or without guarantee, shall not be counted in the aggregate of indebtedness which the Corporation is, by the "Municipal Clauses Act," authorised to incur.

Revenue to be paid to City Treasurer and dealt with for water-works purposes.

9. Section 14 of the said Act of 1873, as amended by section 5 of the Amendment Act, chapter 64, of 1892, is hereby repealed, and the following section is substituted therefor:—

By-laws.

"14. The Municipal Council of the City of Victoria shall have power from time to time to make and enforce all necessary By-laws, Rules and Regulations for the general maintenance or management and conduct of the said water-works and the officers and employees, not inconsistent with this Act, and for the collection of the said water rent and water rate and charges, and for fixing the time and times when and the places where the same shall be payable, and in case of default in payment, in addition to every other remedy, to enforce payment by shutting off the water."

10. Section 34 of said Act of 1873, as amended by section 9 of the Amendment Act, chapter 64, of 1892, is hereby repealed, and the following section is substituted therefor:—

Disposal of revenue.

"34. All the existing and future revenues arising from or out of the water-works system of the City of Victoria shall be paid to the Treasurer of the Corporation of the City of Victoria, and by him placed to the credit of an account to be termed 'The City Water-Works Account.' The moneys so standing to such water-works account shall be subject to the jurisdiction of the Council of the Corporation in the same manner but not so as to form part of the general revenue and funds of the Corporation, and the said funds shall be expended on water-works account alone, including payment of the sinking fund and annual interest on moneys heretofore and hereafter borrowed by the Corporation for water-works purposes: Provided, always, that moneys in any year in excess of the moneys required to pay the annual expenditure of the water-works system, including the interest and sinking funds, payable in respect of all existing loans for water-works purposes may be used for Corporate purposes as the Council may resolve."

11. Section 36 of said Act of 1873, is hereby amended by adding at the end thereof, the following words:—

Limitation of actions and exemption from execution.

"(a.) No action, suit or other proceeding shall be brought against the Commissioner, or the Corporation, arising out of anything done or omitted, or suffered in connection with water-works matters, until the expiration of one month after notice in writing of any claim, with detailed items of such claim, served upon the said Commissioner:

“(b.) No portion of the lands or property forming part of the water-works system shall at any time be liable to be taken in any process of execution, but this exemption shall not apply as against debenture holders, or as against any person or corporation to whom or in whom the water-works system or property, or any part thereof, may have been hypothecated or vested pursuant to the powers in this Act contained.”

12. Sections 40, 42 and 43 of said Act of 1873 are hereby repealed.

13. The water rates imposed or levied, under authority of the “Victoria City Water-Works Act, 1873,” and of the Amendment Act of 1892, and of this Act, shall be and continue until paid a lien or charge upon the real property assessed, and shall become delinquent on the 31st day of December in the year in which the same are levied, and may be enforced with interest from due date at eight per cent. per annum in the same mode, and with the like incidents and remedies, as municipal taxes on real property are enforced under the provisions of the “Municipal Clauses Act,” chapter 32 of the Statutes of 1906, sections 153, 154 and 155, which said sections, so far as same apply and are not inconsistent with this Act, shall be deemed to be incorporated and repeated herein. The said water rates and every rate, tax, charge or price imposed, fixed and payable under the provisions of said Acts of 1873 and 1892, and this Act, shall, in addition to every other remedy, be deemed a debt due to the Corporation, by the registered owner of such real property assessed at the time of such assessment, and shall bear interest from due date at eight per cent. per annum, and shall be recoverable by action brought by the Corporation with costs of suit in any Court of Record in the Province, or in the Small Debts Court of Victoria, at Victoria.

Mode of levying and collecting taxes, etc

Lien on land.

Recovery by action.

14. The repeal in this Act contained shall in no way prejudicially affect the rights or the remedies of the Corporation of the City of Victoria, or of any holder of debentures heretofore issued, under or by virtue of or arising out of any repealed enactment.

Saving clause.

VICTORIA, B.C. :

Printed by RICHARD WOLFENDEN, I.S.O., V.D., Printer to the King's Most Excellent Majesty.  
1909.