



CHAPTER 71.

An Act to amend the "Oak Bay Act, 1910."

[1st March, 1911.]

WHEREAS a petition has been presented by the Corporation of the District of Oak Bay praying that the "Oak Bay Act, 1910," be amended so as to confer upon the Council of the said Corporation certain powers in addition to those conferred by the "Municipal Clauses Act" and the "Oak Bay Act, 1910":

Preamble

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. The "Oak Bay Act, 1910," is hereby amended by inserting the following section:—

"27 Notwithstanding anything to the contrary contained in the 'Esquimalt Water Works Act, 1885,' and the 'Esquimalt Water Works Extension Act, 1892,' the Esquimalt Water Works Company shall have power to supply and the Council shall have power to take, purchase, or otherwise acquire water from the Esquimalt Water Works Company, on such terms as may be arranged by agreement between the said Council and the Esquimalt Water Works Company: Provided that every such agreement shall be embodied in a by-law, which by-law shall, before the final passage thereof, be submitted to the electors of the municipality who are entitled to vote upon a by-law to contract a debt, and shall be assented to by a majority in number of the electors who shall vote upon such by-law: Provided, further, that the powers hereby conferred upon the Council and the Esquimalt Water Works Company shall be subject to the conditions set out in the Schedule of this Act."

Power to take
water from
Esquimalt Water
Works Co

2. The "Oak Bay Act, 1910," is hereby amended by inserting the following section:—

"28. In addition to the corporate powers vested in the Council under the provisions of the 'Municipal Clauses Act' and the 'Oak Bay Act, 1910,' there is hereby conferred upon the said Council the following powers:—

To sell water

"(a.) To sell water to the Municipality of Saanich:

To lay water-mains.

"(b.) To lay and maintain all water-mains and pipe-lines in, upon, through, and under the highways and roads in the Districts of Victoria, Lake, and Saanich, or any of them, and through such parts of the City of Victoria as may be consented to by the Municipal Council of the said city, and in, upon, through, and over the lands and premises of any person or persons or bodies corporate whatever:

To pass by-laws

"(c.) To make, alter, and repeal by-laws for any of the purposes or in relation to matters coming within clauses (a) and (b) of this section: Provided, however, that the assent of the electors of the Corporation shall in manner provided by section 75 of the 'Municipal Clauses Act' be and it is hereby declared to be necessary to the validity of any by-law to be passed in relation to any of the matters or subjects mentioned in clauses (a) and (b) of this section."

3. The "Oak Bay Act, 1910," is hereby amended by inserting the following section:—

Laying water-mains under highways of Victoria, Lake, and Saanich Districts.

"29. Upon passing any by-law pursuant to clause (c) of section 28 hereof. for any of the purposes mentioned in clause (b) of section 28, and for better effecting the purposes mentioned in such by-law, and for the purposes of bringing water to the municipality, the Council, its servants, workmen, and agents, are hereby empowered to enter into and upon and over, and lay down pipes and water-mains through, in, upon, and under the lands and premises of any person or persons, or bodies corporate whatever, and in, upon, and through or under the highways and roads in the Districts of Victoria, Lake, and Saanich, and in the portions of the City of Victoria consented to as aforesaid, or any of them, and the same to cut and dig up if necessary and to take up, remove, alter, and repair the said pipes or water-mains, doing as little damage as possible in the execution of the power hereby granted to them, and paying reasonable and adequate compensation to the proprietors for any damage, to be ascertained, in case of dispute, by arbitration pursuant to the 'Arbitration Act'; and all such pipes and water-mains shall be vested in and be the property of the Corporation:

Water mains in Saanich District.

"(a.) Provided that all water-pipes and water-mains laid through the Municipality of Saanich shall, as far as practicable, be laid under the streets of the Municipality of Saanich, and all such streets shall be put in the same condition by the Corporation as such streets were before

laying such water-pipes or water-mains; and in the event of not being put in such condition, the Municipality of Saanich shall have the right to put such streets in the same condition as they were prior to the laying of such water mains or pipes, and the cost thereof shall be paid forthwith thereafter by the Corporation to the Municipality of Saanich:

"(b.) The Corporation shall, at the request of the Municipality of Saanich, supply to the Municipality of Saanich water in bulk from any main laid by the Corporation within the corporate limits of the Municipality of Saanich, at such point or points on said mains as the Municipality of Saanich may from time to time require: Provided, always, that the needs of the inhabitants of the Municipality of the District of Oak Bay in regard to water supply shall not be interfered with:

"(c.) The Corporation of Saanich is hereby empowered to make connections with such water-mains as the Corporation shall see fit to lay within the Municipality of Saanich after the expiration of thirty days from the date of notification to the Corporation of the intention of the Municipality of Saanich to make such connections:

"(d.) The Corporation of the District of Saanich shall pay to the Corporation the price per thousand gallons for all water delivered in bulk, not to exceed two and one-half cents per thousand gallons in excess of the price that the Corporation pay to the Esquimalt Water Works Company, its successors or assigns, for all water supplied the Corporation at the point where the same will enter the main of the Corporation in the Municipality of Saanich:

"(e.) Any main laid by the Corporation in the Municipality of Saanich shall not be less than twelve inches in diameter:

"(f.) The Corporation shall not interfere with any sewers, water-mains, connections, or other works of whatever kind or nature in the Municipality of Saanich, including the works of the Municipality of the City of Victoria, in laying its said mains:

"(g.) No road is to be kept closed to traffic for a longer period than sixty days."

4. The "Oak Bay Act, 1910," is hereby amended by inserting the following section:—

"30. Notwithstanding anything in the 'Municipal Clauses Act' or the 'Oak Bay Act, 1910,' contained, the Council of the Corporation, for the purpose of purchasing sewer, water, or gas mains, or electric-light conduits, or for the purpose of laying, constructing, and operating and maintaining sewers, or water-mains, or works for supplying, for any or all purposes, water, electric light, or gas to the

To borrow money
for water-mains.

inhabitants of the municipality, or for all or any of such purposes, may borrow money upon the security of sewer rentals or rates or charges, and water or gas or electric-light rentals, rates, or charges, or either, or any, or all, enforceable under the provisions of the 'Municipal Clauses Act' or the 'Oak Bay Act, 1910,' or either or both of them, or any by-law or by-laws heretofore or hereafter passed under the powers contained in the 'Municipal Clauses Act' or the 'Oak Bay Act, 1910,' or either or both of them; and may, as additional security, pledge for the payment of the moneys borrowed the credit of the municipality at large, for the payment of, or other wise guarantee payment of, the annual interest and the sinking fund required for the extinguishment of the debt created out of annual revenue. Any liability under such pledging or guarantee shall be ascertained and paid in each year out of revenue. Every by-law passed in pursuance of the power in this section contained shall comply with the following formalities:—

“(a.) It shall recite—

“(1.) The amount of the debt; the objects for which it is intended to be created.

“(2.) The estimated amount of the said rentals or other rates or charges chargeable for the year in which the same is passed:

“(3.) The amount of money already charged (if any) upon the said rentals or other rates or charges:

“(4.) The debt is created on the security of the said sewer rentals or other rates or charges:

“(b.) If the credit of the municipality is pledged or a guarantee is given, also—

“(5.) The estimated deficiency (if any) in the said rentals or other rates or charges required to make up the amount of the annual interest and sinking fund upon the proposed debt:

“(c.) And such by-law shall—

“(6.) Name a day upon which it shall take effect:

“(7.) The whole of the debt and of the obligations to be issued therefor shall be made payable on or before fifty years from the date on which such by-law takes effect.

“(8.) The specific sum necessary for payment of interest during the currency of the debentures; also a certain specific sum to be set aside annually, and the mode in which such sum is set aside, for the payment of the debt, such sum to be such as will be sufficient with estimated interest not exceeding five per cent. on the investments thereof to discharge the debt when payable:

“(d.) No such by-law shall require the petition mentioned in section 69 of the 'Municipal Clauses Act,' but sections 68 and 70 to 75 inclusive, of the 'Municipal Clauses Act'

shall apply to all by-laws passed under the provisions of this section; but section 81 of the 'Municipal Clauses Act' shall not apply to any such by-laws."

5. Subsection (9) of section 5 of the "Oak Bay Act, 1910," is amended by striking out the word "forty" wherever it occurs in subsection (9), and inserting in its place the word "sixty."

Subsec. (9) of s. 5 amended.

6. The "Oak Bay Act, 1910," is hereby amended by inserting the following section:—

"12A. And whereas doubts have arisen as to the meaning of certain words in subsection (a) of section 12 hereto, it is hereby declared that notice of the intention mentioned in the second and third lines of said subsection (a) refers to and was always intended to refer only to works or improvements under the initiative method mentioned in section 12 (1) hereof, and not to works or improvements undertaken or commenced by the Council under any other method whatsoever."

Notices of local improvement

7. The "Oak Bay Act, 1910," is hereby amended by inserting the following section:—

"31. Notwithstanding anything contained in the Water Works Loan By-law, 1909, passed by the Council of the Corporation, and notwithstanding anything contained in the 'Municipal Clauses Act,' it shall be lawful for the Council of the Corporation to set aside and pay annually during the currency of the debentures created by the Water Works Loan By-law, 1909, the sum of fifteen hundred dollars for the payment of the interest on the said debentures, and the sum of six hundred and thirty dollars and sixty cents for the purpose of creating a sinking fund for the payment off of the debt created by the said by-law at maturity, out of any frontage water rates heretofore or hereafter imposed or charged by or under any by-law heretofore or hereafter passed by the Council under the provisions of subsection (1) of section 2 of the 'Oak Bay Act, 1910,' instead of setting aside such sum out of the charges enforceable under the provisions of the Water Works Charges By-law, 1909: Provided, however, that nothing in this section shall affect the validity of the hereinbefore-mentioned Water Works Loan By-law, 1909, or the debentures created thereunder, or prevent in any way the holders of the said debentures from enforcing all their rights and privileges for the payment of the principal or interest moneys secured by the said debentures under the provisions of the said 'Municipal Clauses Act,' or the said Water Works Loan By-law, 1909."

Water Loan By-law, 1909, payment of interest and sinking fund

8. The "Oak Bay Act, 1910," is hereby amended by inserting the following section:—

"32. Notwithstanding anything contained in the Water Works Loan By-law, 1910, passed by the Council of the Corporation, or the

Water Loan By-law, 1910, payment of interest and sinking fund

'Oak Bay Act, 1910,' and notwithstanding anything contained in the 'Municipal Clauses Act,' it shall be lawful for the Council of the Corporation to pay and raise annually during the currency of the debentures created under the said by-law the sum of three thousand dollars for the payment of the interest on the said debentures, and the sum of one thousand two hundred and sixty-one dollars and twenty cents for the purpose of creating a sinking fund for the payment off of the debt created by the said by-law at maturity, out of any frontage water rates heretofore or hereafter imposed or charged by or under any by-law heretofore or hereafter passed under the provisions of subsection (1) of section 2 of the 'Oak Bay Act, 1910.' In the event of the Council of the Corporation paying and raising such sinking fund and interest out of said water rates, it shall not be required to levy in each year during which it pays such interest and sinking fund out of such frontage water rates the rate of two and five-tenths mills on the dollar on all the rateable land and improvements in the municipality imposed by such Water Works Loan By-law, 1910: Provided, however, that nothing in this section shall affect the validity of the hereinbefore mentioned Water Works Loan By-law, 1910, or the debentures created thereunder, or prevent in any way the holders of the said debentures from enforcing all their rights and privileges for the payment of the principal and interest moneys secured by the said debentures under the provisions of the said 'Municipal Clauses Act' or the said Water Works Loan By-law, 1910."

9. The "Oak Bay Act, 1910," is hereby amended by adding the following section:—

Borrowing money
for fire department.

"33. Notwithstanding anything contained in the 'Municipal Clauses Act,' the Municipal Council may, under the formalities required by law, pass by-laws for contracting debts, by borrowing money or otherwise, and for levying rates for payment of such debts on the rateable land or improvements, either or both, or the rateable real property of the municipality, for the purpose of purchasing fire-engines and equipment and fire-fighting apparatus of any kind, acquiring property for a fire-hall site or sites, for erecting a fire hall or halls, and equipping and maintaining a fire department:

"(a.) No such by-law shall require the petition mentioned in section 69 of the 'Municipal Clauses Act,' but sections 68 and 70 to 75, inclusive, of the 'Municipal Clauses Act' shall apply to by-laws passed under the provisions of this section."

Short title.

10. This Act may be cited as the "Oak Bay Act, 1910, Amendment Act, 1911."

SCHEDULE.

The powers conferred by this Act are so conferred under and subject to the following conditions, which shall be binding on all parties concerned:—

In this Schedule the word "City" shall mean the Corporation of the City of Victoria, and the word "Corporation" shall mean the Corporation of the District of Oak Bay.

1. It shall hereafter, at all times, be recognised that an obligation exists upon the part of the City to furnish the Corporation with a supply at all times of water of the same class and quality as that supplied to the inhabitants of the City of Victoria, and that a corresponding obligation exists on the part of the Corporation to receive, accept, and pay for such supply of water.

2. The route of the said pipe-line, and the size of the pipe to be laid therein, shall, in so far as possible, without undue circuitry, be adapted to the requirements of the City, in connection with its development of Sooke Lake, Sooke River, or their tributaries, as a source of water-supply, and all such matters, and also all tenders and any work in connection with the construction of the said pipe-line, shall be decided upon by the Water Commissioners of the City and the Corporation, and in the event of differences between them the same shall be settled by the Chief Water Commissioner of the Province of British Columbia:

Provided, however, that if the City shall insist upon the pipe being of a larger size than twelve inches in diameter, the City shall pay to the Corporation at the time of construction the difference in the cost of material and installation between a pipe of twelve inches in diameter and the additional size required by the City.

3. The Corporation shall not, in the first instance, enter into any contract with the Esquimalt Water Works Company for a supply of water for a longer period than five years from the date of the passing of this Act, but provision may be made in said contract for an extension for another period of three years if the City shall not be ready, at the said period of five years, to supply water to the Corporation from Sooke Lake, Sooke River, or their tributaries.

4. If at the expiration of the said contract, or any extension thereof as aforesaid, the City shall have acquired a supply of water from Sooke Lake, Sooke River, or their tributaries, and completed the initial work of construction connected therewith, and shall be in a position, and shall give the Corporation three months' notice of its readiness to furnish an adequate supply of water in bulk from such source to the Corporation at the boundary of the municipality, at a pressure sufficient for the domestic needs of the Corporation, excepting Gonzales Hill (and in case a dispute shall arise between the City and the Corporation as to whether the water is being furnished at the said pressure, then such dispute shall be referred to and settled by the said Chief Water Commissioner) then the Corporation shall forthwith cease to take water from the Esquimalt Water Works Company, and the right of the Esquimalt Water Works Company to supply such water shall likewise cease and determine, and the Corporation shall thereafter take water in bulk from the said City, at the said boundary-line, at a price to be then agreed upon, or, failing such an agreement, at a price to be settled by the said Chief Water Commissioner, and such price shall be readjusted in the same manner between the said municipalities every five years thereafter.

5. Immediately upon the City notifying its readiness to supply the Corporation with water, the Corporation shall furnish an accurate detailed statement of the total initial cost of the said pipe-line, and the construction thereof as settled in clause 2 hereof, and the City shall thereupon forthwith pay such sum to the Corporation; and thereupon all the said pipe-line shall become the

property of the City The said pipe-line so to be constructed shall in the first instance with the exception provided for in clause 2 hereof, be constructed at the expense of the Corporation, and the ownership thereof shall not at any time be parted with except as above, and the Corporation shall take no action that will prevent the Corporation selling the said pipe-line to the said City at the time herein specified.

6 Neither municipality shall make any attempt before the Legislature, or otherwise, to derogate from the provisions of this Schedule except with the consent of the other municipality

7 Nothing herein contained shall be deemed to derogate in any manner from the arrangement now existing between the Corporation and the City with reference to the supply of water from Elk Lake until such time as the City supplies water from Sooke Lake Sooke River or their tributaries

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1911