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CHAP. 32.

An Act to Incorporate the Coquitlam Water Works Company, Limited.

[6th April, 1886.]

WHEREAS a petition has been presented by Alfred Graham Preamble.

Ferguson, of Vancouver, in the Province of British Columbia, contractor; Albert J. Hill, of Port Moody, in said Province, civil engineer; Edward Ashley Wilmot, of Victoria, in the Province aforesaid, civil engineer; Joseph L. Hunter, of the same place, civil engineer; Arthur Edmund Hill, of the same place, civil engineer Charles George Major, of the City of New Westminster, in the aforesaid Province, merchant, and Gordon Edward Corbould, of the same place, barrister-at-law, for an Act to empower them to construct, manage, and maintain water-works to supply the towns which are and may hereafter be built at Port Moody, English Bay, and intermediate places, and the City of New Westminster, and the residents of that part of the District of New Westminster hereinafter mentioned; and for the purposes thereof to take water from the Coquitlam River and Lake, and to build flumes, aqueducts, lay pipes, erect dams, acquire lands, and to do all other acts and things necessary for the purposes aforesaid;

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 the Province of British Columbia, enacts as follows:—

1. The said Alfred Graham Ferguson, Albert J. Hill, Edward Ashley Wilmot, Joseph L. Hunter, Arthur Edmund Hill, Charles George Major, and Gordon Edward Corbould, and such other persons and corporations as shall in pursuance of this Act become shareholders, are hereby constituted a body corporate and politic by the name of the "Coquitlam Water Works Company," hereinafter called the Company. Incorporation.

2. The capital stock of the said Company shall be \$600,000, with power to increase to \$1,000,000, and the said stock shall be divided into 6,000 shares of one hundred dollars each, which shall be applied. Capital stock.

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first, to the payment of all costs and expenses in obtaining the passage of this Act, and the remainder for the purposes of the Company's undertaking.

Provisional Directors.

3. The persons named in the first section of this Act shall be, and are hereby constituted, provisional directors of the Company (with full powers of directors as hereinafter defined), of whom three shall form a quorum for the transaction of business, and they shall hold office until the first election of directors under this Act, and shall have power to open stock books and procure subscriptions of stock for the undertaking.

Company's office.

4. The office of the Company shall be at such place as the Company may elect.

First general meeting.

5. The first general meeting of the shareholders shall be held, upon two weeks' notice being given, at such time and place as the directors shall specify therein.

Annual meeting.

6. The subsequent annual general meeting and special meetings of shareholders shall be held as may be determined by the by-laws of the Company.

Power to borrow money.

7. The Company shall be entitled to borrow money on mortgage, bond, or debentures.

Power to construct and maintain water-works at Burrard Inlet.

8. The Company and their servants may and shall have full power and authority to design, construct, build, purchase, improve, hold, and generally maintain, manage, and conduct water-works and all buildings, materials, machinery, and appliances therewith connected, in that part of the District of New Westminster bounded on the east by the Coquitlam River, on the south by the Fraser River, on the west by the Gulf of Georgia, and on the north by a line running along the south shore line of English Bay and Burrard Inlet to its intersection with the south-west corner of Lot 191, Group I, New Westminster District; thence north-westerly along the north shore line of Port Moody, the east shore line of the North Arm of Burrard Inlet to its intersection with the north line of Township 40 produced west; thence in a north-east direction to the Coquitlam Lake.

Water to be conducted through towns in pipes under ground.

9. The water taken by the Company from the Coquitlam River is to be conducted in pipes, placed under ground, from the crossing of the western boundary line of Lot 190, Group I, New Westminster District, or an imaginary line running due south, as an extension thereof, to the western boundary of Lot 31, Group I, New Westminster District, and through the City of New Westminster and the towns specified in the preamble hereto. But the Company shall have the right to carry the water in a wooden flume placed under or over the ground as may be necessary, so as, however, not to impede traffic in

any way from the Coquitlam River to the western boundary of Lot 190, Group I, New Westminster District, or an imaginary line running due south as an extension thereof.

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10. It shall be lawful for the Company, their servants, agents, and workmen, from time to time and at all times hereafter as they shall see fit, and they are hereby authorized and empowered to enter into and upon the land of any person or persons, bodies politic or corporate, in the town of Port Moody and the City of New Westminster, and into and upon any land lying between the Coquitlam River and English Bay, and between Coquitlam River and the City of New Westminster, and to survey, set out and ascertain such parts thereof as they may require for the purposes of the said water-works, and to divert at the point on the Coquitlam River where the head of their main pipe, ditch or flume may tap the said river, and appropriate at that point so much of the water of the Coquitlam River and Lake as their main pipe, ditch or flume can carry, and to contract with the owners of the said lands and those having an interest or right in the said waters, for the purchase of the same respectively, or any part thereof, or of any other privilege that may be required for the purposes of the Company, and for the right to take timber, stone, gravel, sand, and other materials from the aforesaid land, or any adjacent land, for the use and construction of said works; and in case of any disagreement between the Company and the owners and occupiers of the said land, or any persons having an interest in the said waters, or the natural flow thereof, or any such privilege or privileges, right or rights, as aforesaid, respecting the amount of purchase money, or the value thereof, or as to the damages such appropriations may cause to them or otherwise, or as to the amount of damage arising through the construction of any dam, 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 the two such 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, on application of either party, appoint such arbitrator. In case any such owner or occupant shall be an infant, or insane, or absent from this Province, or shall refuse to appoint an arbitrator on his or her 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 for that purpose by the Company, to nominate and appoint three disinterested persons as arbitrators. The arbitrators to be appointed as before 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 the said arbitrators shall be final. And the said arbitrators shall be and they are hereby required

Power to enter on lands.

Purchase money or damages to be ascertained by arbitration.

Arbitrators, how appointed.

Arbitration proceedings.

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to attend at some convenient place in the New Westminster District, to be appointed by the Company, 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 one of Her Majesty's Justices of the Peace, well and truly to assess the value or damages between the parties, to the best of his judgment.

Award may be set
aside by Supreme
Court.

Provided always, that any award under this Act shall be subject to be set aside on application to the Supreme Court of British Columbia, in the same manner and on the same grounds as in ordinary cases of arbitration, in which case reference may be again made to the arbitration as hereinbefore provided; and that any sum so awarded shall be paid within one month from the date of the award or determination of any motion to annul the same; and the award of a majority of the said arbitrators shall be binding on all parties concerned, subject as aforesaid: Provided always, that until the Company have paid to the owner or proprietor the amount of the award, the Company shall not have any right to enter upon the premises for any purpose except for the purpose of survey.

Lands, &c., appro-
priated to be vested
in the company.

11. The lands, privileges, and waters which shall be ascertained, set out, or appropriated by the Company for the purposes thereof as aforesaid, shall thereupon be vested in the Company so long as they fully comply with the provisions of this Act; and it shall be lawful for the Company to construct, erect, and maintain, in and upon said lands, all such reservoirs, water-works, and machinery requisite for said undertaking, and to convey the water thereto and therefrom, in, upon, and through any of the grounds and lands lying intermediate between the said reservoirs and water-works, and the river or lake from which the same are supplied, and English Bay and the City of New Westminster aforesaid, by one or more lines of pipes as may from time to time be found necessary; and for the better effecting the purposes aforesaid, the Company and their servants are hereby empowered to enter and pass upon and over the said grounds or lands intermediate as aforesaid, and the same to cut and dig up if necessary, and to lay down the said pipes through the same, and in, upon, over, under, and through the highways and roads through that part of the District of New Westminster bounded on the east by the Coquitlam River, on the south by the Fraser River, on the west by the Gulf of Georgia, and on the north by a line running along the south shore line of English Bay and Burrard Inlet to its intersection with the south-west corner of Lot 191, Group I, New Westminster District; thence north-westerly along the north shore line of Port Moody, the east shore line of the North Arm of Burrard Inlet to its intersection with the north line of Township 40 produced west; thence in a north-east direction to the Coquitlam Lake—or any of them, and in, through, and under the public ways,

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streets, lanes, and other passages of the towns of Port Moody, Vancouver, and the City of New Westminster, and in, upon, through, over, and under the lands and premises of any person or persons, bodies corporate, politic, or collegiate whatsoever, and to set out, ascertain, use, and occupy, such part or parts thereof as they, the Company, shall think necessary and proper for the making and maintaining of the said works, and for the purchasing of any lands required for the protection of the said works or for preserving the purity of the water supplied or for taking up, removing or altering the same, and for distributing water to the inhabitants of said city and towns, and that part of the District of New Westminster hereinbefore described, or of the proprietors or occupiers of the land through or near which the same shall pass, and for this purpose to sink and lay down pipes, make reservoirs and other conveniences, and from time to time to alter all or any of the said works, as well in the position as in the construction thereof, as to the Company shall seem meet, doing as little damage as may be in the execution of the powers hereby granted to them, and making reasonable adequate satisfaction to the proprietors, to be ascertained, in case of dispute, by arbitrators as aforesaid; and all such water-works, pipes, erections, and machinery requisite for the said undertaking, shall likewise be vested in and be the property of the Company.

Lay pipes, &c.

Works to be vested
in the company.

12 If any person shall maliciously or wilfully hinder or interrupt, or cause or procure to be hindered or interrupted, the Company or any of their managers, contractors, servants, agents or workmen in the exercise of any of the powers and authorities in this Act authorized and contained, or if any person shall wilfully and maliciously let off or discharge any water so that the same shall run waste and useless out of the said works, or if any person shall throw or deposit any injurious, noisome or offensive matter into the said water or water-works, or upon the ice, or in any way foul the same or commit any wilful damage or injury to the works, pipes or water, or encourage the same to be done, every person offending in any of the cases aforesaid shall, on conviction thereof before any two Justices of the Peace having jurisdiction within the locality where the offence shall or may be committed, forfeit and pay for every such offence a sum not exceeding \$250, together with costs of conviction, and such Justices may, in default of payment, condemn such person to be confined in the common goal of the City of New Westminster for a space of time not exceeding three calendar months, as to such Justices may seem meet, and such person or persons so offending shall be liable to an action at law at the suit of the Company to make good any damage done by him, her, or them.

Penalty for injury to
water-works property.

13. The Company shall regulate the distribution and use of the water on all places, and for all purposes, and shall from time to time

Regulation of the use
and distribution of
water.

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fix the rent or price which any owner or occupier of any house or building who shall use such water shall pay for the use thereof; but in no case shall the Company affix a greater rate than sixty cents a thousand gallons for water, or one dollar a month from the owner or occupants of any house or building wherein the number of persons does not exceed four, and thirty cents a month per capita for each and every additional occupant: Provided always, the Company shall, upon the application of any person or persons, furnish a supply of water within a reasonable time from the date of said application: Provided always, that the applicant or applicants deposit with the Company a sum sufficient to pay for the actual cost of laying the necessary service pipe. In which case the Company shall allow the said person or persons a rebate of one-half of the usual water rent until the sum advanced by said person or persons shall have been recouped, then the said pipes shall become the property of the Company; and the Company shall have the power of electing whether they shall charge parties using water from their works by the gallon or per capita as aforesaid.

Penalty for connecting pipes with the Company's main.

14. If any person or persons shall lay or cause to be laid, any pipe or main to communicate with any pipe or main of the said water-works, or in any way obtain or use any water thereof without the consent of the Company or their manager, he or they shall, on conviction thereof before any two Justices of the Peace having jurisdiction within the locality where the offence shall or may be committed, forfeit and pay for every such offence a sum not exceeding \$100, together with costs of conviction, and such Justices may, in default of payment, condemn such person to be confined in the common goal of the City of New Westminster for a space of time not exceeding three calendar months, as to such Justices may seem meet, and such person or persons so offending shall be liable to an action at law at the suit of the Company to make good any damage done by him, her, or them.

Penalty for fouling water.

15. If any person shall bathe, or wash or cleanse any wool, cloth, leather, skins or animals, or place any nuisance or offensive thing within or near the source of supply for such water-works in any lake, river, pond, source or fountains from which the water of the said water-works is obtained, or shall convey or cast, throw or put any filth, dirt, dead carcasses or other nuisance or offensive thing therein, or cause, permit or suffer the water of any sink, sewer, or drain, to run or be conveyed into the same, or cause any other thing to be done whereby the water therein may be in anywise tainted or fouled, every such person shall, on conviction thereof before any two Justices of the Peace, be by such Justices adjudged and condemned to pay a penalty for every such offence not exceeding \$250, together with costs, and such Justices may in default of payment, condemn such person to be confined in the common gaol at the City of New Westminster for a space not exceeding three calendar months, with or without hard labour.

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16. If any person being occupant, tenant or inmate of any house, or otherwise supplied with water from the said water-works by the Company, sells or disposes of the water thereof, or gives it away or permits it to be taken or carried away, or uses it or applies it to the benefit of others, or to any other than his or her use and benefit, or wrongfully neglects or improperly wastes the water, every such person shall, on conviction thereof before any Justice of the Peace, be by such Justice adjudged and condemned to pay a penalty for every such offence not exceeding \$25, together with costs, and such Justice may in default of payment condemn such person to be confined in the common gaol in the City of New Westminster for a space not exceeding one calendar month.

Penalty for waste or improper use of water.

17. In all places where a vacant space intervenes between a line of the street and the wall of the building into which the water is to be taken, the Company is empowered to lay the service pipe across such vacant space at the expense of the owners or occupiers of such buildings, such charge to be payable with the first water rates, and to be collected in the same manner from the said owners, or such owner may himself lay such service pipes, provided the same is done to the satisfaction of the Company or persons appointed by them on their behalf.

Laying pipes across vacant spaces.

18. The service pipe from the line of the street to the interior face of the outer wall of the building supplied, together with all branches, couplings, stop-cocks and apparatus placed thereon shall be under the control of the Company, and if any damage be done to this portion of the service pipe or its fittings by the occupant or owner of the premises, or any person or persons in his or her employ, either by neglect or otherwise, the Company may repair the same and charge the same to the occupant or owner of the premises. The stop-cock placed by the Company inside of the building shall not be used by the water tenant except in cases of accident or for the protection of the building or the pipes, and to prevent flooding of the premises.

Service pipes, taps, &c., to be under the control of the Company.

19. All parties supplied with water by the Company may be required to place only such taps for the drawing and shutting off the water as may be approved of by the Company.

Taps.

20. The Company shall not be liable for damage caused by the breaking of any service pipes or attachment, or for any shutting off of the water for the purpose of repairing, maintaining or cleaning the pipes, provided notice be given of the intention to shut off the water when the same is shut off more than six hours at any one time.

Non-liability for damage by water.

21. The servants of the Company shall have free access at proper hours of the day and upon reasonable notice given and request made for that purpose to all parts of every building in which water is delivered and consumed.

Right of access.

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Company can do certain works subject to the control of the Chief Commissioner of Lands and Works.

22. The Company may, subject to the control of the Chief Commissioner of Lands and Works, or of the proper authority having management of the streets and bridges, open and break up the soil and pavement, and any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the said limits pipes and service pipes, and from time to time repair, alter, and remove the same; and for the purposes aforesaid may remove and raise all earth and materials in and under such streets and bridges, and do all other acts which the Company shall from time to time deem necessary for supplying water to the inhabitants, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers.

Before the Company proceed to open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the Chief Commissioner of Lands and Works, or other authority under whose control or management the same may be, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work, except in case of emergency arising from defects in any of the pipes or other works, and then as soon as possible after the beginning of the work or the necessity for the same shall have arisen.

When the Company open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall, with all convenient speed, complete the work for which the same be broken up, and shall fill in the ground, reinstate and make good the road, or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby; and shall at all times, whilst any such road or pavement shall be open or broken up, cause the same to be fenced and guarded, and shall cause a light, sufficient for the warning of passengers, to be set up and maintained against or near such road or pavement where the same shall be opened or broken up, every night during which the same shall be continued open or broken up, and shall keep the road or pavement which has been so broken up in good repair for three months after replacing the same.

Penalty for interfering with hydrants.

23. If any person or persons not being in the employment of the Company, and not being a member of any duly constituted fire brigade in the City of New Westminster, Port Moody, or Vancouver, and duly authorized on that behalf, shall wilfully open or close any hydrant, or obstruct the free access to any hydrant, stop-cock, chamber, or hydrant chamber, by placing on it any building material, rubbish, or otherwise, or take or appropriate to his own use any water from any public or private tap, any such person shall, on conviction before any two of Her Majesty's Justices of the Peace, forfeit and pay for each offence a sum not exceeding \$60, or in default of payment be imprisoned in the gaol at New Westminster for a term not exceeding thirty days; and

each time the said hydrants are interfered with, and each day said obstruction shall continue, shall be considered a separate offence.

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24. If any suit or action be brought against any person or persons for anything done in pursuance of this Act the same shall be brought within six calendar months next after the act committed, or in case there shall be a continuation of damages, then within one year after the original cause of such action arising.

Time limit for bringing suit or action.

25. The liability of the shareholders shall be limited to the amount unpaid on their shares, in accordance with and as if the Company had been incorporated under the "Companies Ordinance, 1869," and an Act of the Imperial Parliament passed in the 25th and 26th years of the reign of Her Majesty Queen Victoria, chapter 89, intituled the "Companies Act, 1862;" and the Company shall have all the rights and privileges conferred by, and in all things conform to and be governed by, the said Ordinance and "Companies Act, 1862."

Limitation of liability.

26. The said water-works shall be constructed and in operation to the Railway wharf at Port Moody and to Vancouver, except as to the laying of additional pipes and mains, within four years after the passing of this Act.

Time limit for laying pipes to Vancouver, &c.

27. In order to prevent the waste of water and settle disputes arising therefrom as to the quantity consumed, the Company are empowered to place water meters upon any service pipe or connection within or without any building or house where water is used, and neither the meter nor any fittings thereunto belonging shall be subject to or liable for rent by the possessor or owner of any premises wherein the same may be.

Use of water meters.

28. Any person who shall wilfully alter any meter placed as in the last section mentioned, so as to lessen or alter the amount of water registered thereby, or so as to cause the quantity registered or used to be falsely indicated, shall incur a penalty of not less than \$5 or more than \$100, to be recovered with full costs on summary conviction before any two Justices of the Peace having jurisdiction in the locality in which the said offence is committed; and in case such penalty and costs are not paid forthwith, such Justices of the Peace may commit the offender to the common gaol at New Westminster for a period not exceeding thirty days, unless the said penalty and costs are sooner paid.

Penalty for wilfully altering meters.

29. The Company shall have power from time to time to make rules and regulations for the general maintenance or management, and for the collection of the water rent and for fixing the time when and the places where the same shall be payable, and in case of default in payment to enforce payment by shutting off the water, or by suit at law before any court of competent jurisdiction, or both.

Power of the Company to make rules, &c.

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Certain sections of the "Land Clauses Consolidation Act, 1845," to apply.

30. The "Land Clauses Consolidation Act, 1845," as modified by the "Vancouver Island Land Clauses Consolidation Act, 1863," shall not apply, but the following sections of the "Land Clauses Consolidation Act, 1845," shall be read with and as part of the Act, so far as the same may be applicable, and except in so far as such sections, or any of them, may be varied or modified by the provisions of this Act, or are repugnant thereto: Sections 26, 29, 30, 31, 32, 33, 34, 36, 37, 69, 70, 71, 72, 73, 74, 76, 78, and 79, but in section 69, in lieu of the word "Bank" and next following words, there shall be read the "Treasury of British Columbia, to the account of the District Registrar of the Supreme Court of British Columbia," and in section 70 and said subsequent sections, in lieu of the words "Court of Chancery in England," there shall be read "the Supreme Court of British Columbia," and in sections 71, 73, and 76, in lieu of the word "Bank" there shall be read the "Treasury of British Columbia, to the account of the District Registrar of the Supreme Court of British Columbia."

Table A of the "Companies Act, 1862," to apply.

31. The several clauses in Table A in the first Schedule of the Act of the Imperial Parliament passed in the session of Parliament holden in the 25th and 26th years of the reign of Her Majesty Queen Victoria, chapter 89, intituled the "Companies Act, 1862," which are not varied or inconsistent with the provisions of this Act, and are applicable to the Company, shall be read with and form part of this Act.

The Company may alter, &c., any of the regulations contained in said table A.

32. Subject to the provisions of this Act, the Company in general meeting may from time to time, by passing a special resolution in manner hereinafter mentioned, alter all or any of the regulations of the Company contained in the said Table A, or make new regulations, to the exclusion of or in addition to all or any of the regulations of the Company; and any regulations so made by special resolution shall be deemed to be regulations of the Company, of the same validity as if they had been originally contained in the said table, and shall be subject in like manner to be altered or modified by any subsequent special resolution.

Special resolutions,¹ how passed.

33. A resolution passed by the Company shall be deemed to be special whenever a resolution has been passed by a majority of not less than three-fourths of such members of the Company for the time being entitled, according to the regulations of the Company, to vote as may be present in person or by proxy (in cases where by the regulations of the Company proxies are allowed), at any general meeting of which notice specifying the intention to propose such resolution has been duly given, and such resolution has been confirmed by a majority of such members for the time being entitled, according to the regulations of the Company, to vote as may be present in person, or by proxy, at a subsequent general meeting, of which notice has been duly given, and held at an interval of not less than fourteen days, nor more

than one month from the date of the meeting at which such resolution was passed. At any meeting mentioned in this section, unless a poll is demanded by at least five members, a declaration of the chairman that the resolution has been carried, shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the same. Notices of any meeting shall, for the purpose of this section, be deemed to be duly given, and the meeting to be duly held, whenever such notice is given and meeting held in manner prescribed by the regulations of the Company. In computing the majority under this section when a poll is demanded, reference shall be had to the number of votes to which each member is entitled by the regulations of the Company.

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Notice of meeting
to be given.

Counting votes.

In default of any regulations as to voting, every member shall have one vote; and in default of any regulations as to summoning general meetings, a meeting shall be held to be duly summoned of which seven days' notice in writing has been served on every member, in manner in which notices are required to be served by the said Table A; and in default of any regulations as to the persons to summon meetings, five members shall be competent to summon the same; and in default of any regulations as to who is to be chairman of such meeting, it shall be competent for any person elected by the members present to preside.

Votes and voters.

Notice of meeting.

A copy of any special resolution that is passed by the Company under this Act shall be printed and forwarded to the Registrar of Joint Stock Companies and be recorded by him. If such copy is not so forwarded within fifteen days from the date of the confirmation of the resolution, the Company shall incur a penalty not exceeding ten dollars for every day after expiration of such fifteen days during which such copy is omitted to be forwarded, and every director and manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty. Any summons, notice, order, or other document required to be served upon the Company may be served by leaving the same or sending it through the post office in a prepaid letter addressed to the Company at their registered office. Any document to be served by post on the Company shall be posted in such time as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the service thereof, and in proving service of such document it shall be sufficient to prove that such document was properly directed, and that it was put as a prepaid letter into the post office. Any summons, notice, order, or proceeding requiring authentication by the Company may be signed by any director, secretary, or other authorized officers of the Company, and need not be under the common seal of the Company, and the same may be in writing or in print, or partly in writing and partly in print.

Copy resolution to be
sent Registrar of
Joint Stock Compa-
nies.

Penalty for default.

Service of document
upon the Company.Authentication of
document by the
Company.

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Net profits not to
exceed 20 per cent.

34. If in any year during the time the Company is operating said works, the net profits divided from said works shall exceed twenty per cent. per annum on the paid up stock of said Company, the rates charged by said Company for water shall, when required by the Corporation of Port Moody, New Westminster, or Vancouver, or either of them, be reduced so that the said profits shall not exceed the aforesaid rate of twenty per cent. per annum on the paid up stock.

No chinese to be
employed.

35. 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.

Penalties.

Penalties.

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

Meaning of
"Chinese."

37. 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 of employ-
ment of Chinese.

38. Upon any prosecution under sections thirty-five and thirty-six 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

prima 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.

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39. 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 provision 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.

Convictions, &c.,
not to be quashed
for want of form.

40. This Act may be cited for all purposes as the "Coquitlam Short title. Water Works Act, 1886."