



## CHAPTER 73.

An Act to amend the "Vancouver Water Works Act, 1886."

[20th April, 1891.]

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

1. Section 35 of the "Vancouver Water Works Act, 1886," (being Amends section 35. the chapter numbered 76 in the Unconsolidated Acts, 1888) is hereby amended by striking out all the words from the word "the," in the eleventh line thereof, to the word "arbitrator," in the eighteenth line thereof, both inclusive, and inserting in lieu thereof the following words:—

(a.) The value of the said works and property, and the expenses of Arbitration. operation and maintenance of the said works, and the gross income derived from the said works by the said Company up to the date of arbitration, shall be ascertained by arbitration, in manner following:—

2. Either party may appoint an arbitrator, and give notice thereof in Appointment of arbitrators. writing to the other party, calling upon such party to appoint an arbitrator on behalf of the party to whom such notice is given. The notice to be given to the Council shall be served upon the Mayor, either personally or by leaving a copy for him at the office of the City Clerk.

3. The two arbitrators appointed by and for the parties shall, within Third arbitrator. seven days of the appointment of the last named of the two arbitrators, appoint a third arbitrator.

4. If for seven days after having received such notice, the party to Omission to appoint third arbitrator. whom it is given fails to appoint an arbitrator, or if for seven days after the second arbitrator has been appointed, the two arbitrators omit to appoint a third arbitrator, a Judge of the Supreme Court may, on a summary application to him on behalf of either party, appoint an

arbitrator for the party in default, or a third arbitrator, as the case may be.

Appointment to be under seal.

5. The appointment of the arbitrators shall be under the seals of the Corporation of the City and the Company respectively.

Meeting of arbitrators.

6. The arbitrators shall, within twenty days after the appointment of the third arbitrator, meet at the City of Vancouver, or at such other place or places as they may from time to time agree upon, to proceed with the reference hereby directed, with power to adjourn from time to time as they shall deem proper.

Decision of majority

7. In case of a difference between the arbitrators, the decision of the majority shall be conclusive.

Power to summon witnesses.

8. The arbitrators shall have power by writing, signed by any one of them, to summon before them any witness or witnesses whom either party to the said reference may desire to call, and to examine the said witnesses upon oath or solemn affirmation, to be administered by any one of the said arbitrators, and to order the production before them of any books, documents, accounts, vouchers, papers, and memoranda of any description which they may deem necessary for the purposes of the said reference.

Vacancies.

9. If any or either of the said arbitrators shall die, or refuse to act, or become incapable of acting, it shall be lawful for a Judge of the Supreme Court, upon a summary application on behalf of either party, to appoint some person or persons to act in the place and stead of the said arbitrator or arbitrators so dying, or refusing to act, or becoming incapable of acting as aforesaid.

Award.

10. The award upon the said reference shall be made within three months from the date of this Act receiving the assent of the Lieutenant-Governor: Provided that if any special circumstances shall arise which, in the opinion of the Judge hereinafter named, shall prevent the conclusion of the said arbitration within the said period, the time for making the said award may, upon application on behalf of the said Company, or the said Corporation, to a Judge of the Supreme Court of British Columbia, be from time to time enlarged by the said Judge for such period as he, the said Judge, shall deem just.

By-law in accordance with award.

11. Within a period of two months from the date of publication of the said award a by-law providing for the payment of the amount thereof, and providing also for the payment to the said Company of the additional sums hereinbefore specified, namely:—Twenty per cent. of the value of the said works and property as ascertained by the said award, and a sum sufficient when added to the net income of the Company—that is, to the amount as ascertained by the said award of the gross income derived from the said works by the said Company, less

the amount ascertained as aforesaid of the expense of operation and maintenance of the said works—to provide for the payment of ten per cent. per annum on the paid up stock of the Company from the date of commencement of operation of the said works to the date of the award, shall be submitted to the electors of the City of Vancouver, in accordance with the provisions respecting by-laws requiring assent of electors contained in the “Vancouver Incorporation Act, 1886,” and if the said by-law is assented to by the said electors, then the sum awarded by the said arbitrators to the said Company as the value of the said works and property, together with the additional sums hereinbefore specified to be paid by the said Corporation to the said Company, and also a sum sufficient to provide for the payment of interest at the rate of ten per cent. per annum on the paid up stock of the Company from the date of the said award to the date of said payment, shall be paid by the said Corporation to the said Company within a period of six months from the date of the voting by the electors upon the said by-law as aforesaid.

12. If the said award shall not be made, or if the by-law providing for the said payments shall not receive the assent of the said electors within the time and in the manner aforesaid, or if the sum named therein, together with the additional sums hereinbefore specified to be paid by the said Corporation to the said Company as aforesaid, or any portion thereof, shall not be paid by the said Corporation to the said Company within the time hereinbefore specified for the payment of the same, then the said Corporation shall be deemed to have waived the said option of purchase under this section for a period of ten years, during which time the right of maintaining and operating water works within the City of Vancouver, and of supplying water by means thereof to the inhabitants of the said City, shall be exclusively held and enjoyed by the said Company.

Non-payment of award to be a waiver of right to purchase.

13. If at any time during the period in which the said Company may enjoy the said exclusive privilege, in the opinion of the said Corporation, it is necessary or desirable that an extension of the water service to other parts of the City should be made, or if in the opinion of the said Corporation the mains, water-pipes, and works of the said Company are incapable of sustaining a pressure of water adequate for use in the event of fire within any portion of the said City in which the said works may be in existence, then the said Corporation may give notice to the said Company to make such extension, changes, or repairs in or to the said works as may be specified in the said notice, and within a period of time to be specified in the said notice. In the event of the said Company omitting or declining to make such extension, changes, or repairs in accordance with the said notice, it shall be lawful for a Judge of the Supreme Court, upon application upon motion

City may demand extension of works in certain circumstances.

made to him on behalf of the said Corporation, and upon hearing evidence on both sides, to determine whether such extension is reasonably necessary for the requirements of the inhabitants of the said City, or whether such changes or repairs are necessary for the reasonable protection of such portion or portions of the said City against fire, and, if so, to direct within what time the said Company shall effect the said extension, changes or repairs: Provided that either party may appeal from such order to three Judges of the Supreme Court of British Columbia, other than the Judge appealed from, who shall sit as a Court of Appeal for that purpose: Provided that the party desiring to appeal shall, within one week from the date of such order, give notice of such appeal, and set the same down for hearing within ten days from the date of such order, and the said Court shall sit for the hearing of such appeal as soon thereafter as may be practicable.

Appeal.

Failure to carry out such extension to be deemed a waiver of Company's exclusive rights.

14. If no such appeal be taken, or if upon appeal the decision of the Judge of the first instance be affirmed, then the said Company shall effect the extension, changes, or repairs within the time limited by the order of the said Judge of the first instance, or within such extended time as the Court of Appeal may think proper; and in the event of a failure to obey such order of the Judge or of the Court of Appeal, as the case may be, the exclusive rights hereby granted to the said Company shall be forfeited, and the option of purchase contained in section 35 of the "Vancouver Water Works Act, 1886," shall be revived in the same manner as if these amendments had not been enacted.

Effect of payment of amount of award.

15. In the event of the payment by the said Corporation of the amount of the said award, and of the additional sums hereinbefore specified to be paid by them to the said Company, the transfer of the said works and property to the said Corporation by the said Company shall be immediately completed, and thereupon all the rights, privileges and powers created and granted to the said Company by the said original Act shall enure to the said Corporation in the same manner as if the said Corporation had been named therein in place of the said Company; and whenever the words "the Company" occur in the said original Act there shall be substituted therefor the words "the Corporation of the City of Vancouver."

On acquiring Company's works the city to assume all contracts.

16. If the said Corporation shall acquire the said works and property under the provisions hereinbefore enacted, they shall assume and perform all contracts entered into by the Company prior to the date of the passing of this Act for the supply of water within the limits of the City of Vancouver.

