

Full Court.] JOHANNISON *v.* GALBRAITH. [Feb. 10.
Arbitration and award—Setting aside award—Pleading—Allegation that award relied on invalid—General relief.

Judgment of PERDUE, J., noted vol. 41, p. 621, allowing defendant's demurrer to the statement of claim, reversed on appeal on the ground that the prayer in the original statement of claim for general relief was sufficient to cover the setting aside of the award as the facts added by the amendment set up such a case as, if true, would entitle the plaintiff to ask specifically for that relief. Dictum of KILLAM, J., in *Rogers v. Commercial Union Ass. Co.*, 10 M.R., at pp. 675 and 676, and notes at page 625 of *Bullen v. Leake*, 5th ed., followed. *Gaughan v. Sharpe*, 6 A.R. 417, distinguished.

Held, also, that this Court has jurisdiction to set aside an award whether or not it is one to which the provisions of 9 & 10 Wm. III. c. 15, apply. That statute provides for summary proceedings to set aside awards of a certain kind, and limits the time within which such proceedings may be taken, but the Court of Chancery formerly could, and this Court can now, exercise jurisdiction over award independently of that statute. *Smith v. Whitmore*, 2 De G. J. & S. 297, followed.

Per MATHERS, J., Rule 773 of the King's Bench Act provides a code of procedure only for the enforcement of award, and Rule 774, which reads, "The former practice with respect to awards shall not be abolished, but the same shall only be followed by special leave of the Court or judge" should be interpreted as if it read, "The former practice relating to the enforcement of awards, etc."

Wilson, for plaintiff. *Potts*, for defendant.

Province of British Columbia.

SUPREME COURT.

Duff, J.] [Dec. 23, 1905.

CARROLL *v.* CITY OF VANCOUVER.

Land—Compulsory appropriation by waterworks company—Crown—Pre-emption record.

Held, that before the lands of any person can be compulsorily appropriated under the provisions of any statute giving a com-