

body corporate for twenty years, under the name of "The Sarnia Gas Company," with the object of supplying the town of Sarnia and its suburbs with gas for illuminating purposes. In that year a by-law was passed by the town council permitting the company to lay down pipes, etc.

In 1880, there was a further incorporation for fifty years, under the same Act. Under that the company were to supply electricity, as well as gas.

Various by-laws and statutes affecting the company were passed in successive years. See 44 Vict. ch. 56; 53 Vict. ch. 133; 2 Edw. VII. ch. 61; 3 Edw. VII. ch. 80.

The statute 56 Vict. ch. 105 changed the name of the company to "The Sarnia Gas and Electric Light Company."

Since the 1st January, 1910, the plaintiffs had wholly discontinued the manufacture and supply of artificial gas.

On the 21st August, 1911, a by-law was passed by the town council providing that \$125,000 should be offered to the plaintiffs for their works and property. The plaintiffs refused this; and proceedings were taken for an arbitration. The plaintiffs objected to the proceedings; and brought this action on the 2nd February, 1912. The case was stated in the action.

I. F. Hellmuth, K.C., W. J. Hanna, K.C., and R. V. Le Sueur, for the plaintiffs.

E. F. B. Johnston, K.C., and J. Cowan, K.C., for the defendants.

RIDDELL, J. (after setting out the facts and referring to the statutes and by-laws):—The main question in the case is, whether, even if an award be made under the Municipal Act, the town can take the works and property of the company. If this be answered in the negative, there is, I am informed, no need of answering any further.

The statute is the Municipal Act of 1903, 3 Edw. VII. ch. 19, sec. 566, sub-secs. 3, 4. Before the Act of 1899, 62 Vict. (2) ch. 26, sec. 35, which introduced what are known as the Conmee clauses, sec. 566, sub-sec. 4, read thus: "By the councils of cities and towns:—For constructing gas and water works and for levying an annual special rate to defray the yearly interest of the expenditure therefor, and to form an equal yearly sinking fund and for the payment of the principal within a time not exceeding 30 years, nor less than 5 years." Then followed (a), providing for the case of a water company incorporated for the municipality, and that the council should not levy water rates