

Mr. Justice Sutherland. The appellants to pay the costs of the appeal forthwith after taxation, and also to pay the additional costs, if any, occasioned to the respondent if the trial is continued at Toronto.

SUPREME COURT OF ONTARIO.

SECOND APPELLATE DIVISION.

MARCH 27TH, 1914.

RE CLAREY v. CITY OF OTTAWA.

6 O. W. N. 116.

Municipal Corporations—By-law Establishing Water Works System—Motion to Quash—Special Act, 3 & 4 Geo. V., c. 109—Order of Provincial Board of Health—Public Health Act—Detailed Plans not Prepared—Statute to be Strictly Construed—Exceeding of Powers—Necessity of Submission to Ratepayers—Works in Quebec Province—Provincial Rights—Dominion Legislation—Territorial Jurisdiction—Former By-law Quashed—Res Judicata—Costs.

LENNOX, J., 25 O. W. R. 340, 5 O. W. N. 370, *held*, that 3 & 4 Geo. V. c. 109, authorising the City of Ottawa to raise a sum not exceeding \$5,000,000 for the construction of waterworks, did not authorise the city to pass a by-law providing for the issue of debentures for \$5,000,000 to be applied on a waterworks scheme which would cost at the least estimate \$8,000,000. By-law quashed with costs.

LENNOX, J., 25 O. W. R. 615, 5 O. W. N. 673, *held*, that the City of Ottawa has no power, even with the sanction of legislation of the Province of Ontario, to pass a by-law providing for works to be carried out in the Province of Quebec without the consent of the legislature of the latter province.

That the provisions of the Public Health Act providing that the Provincial Board of Health may order a municipality to establish a waterworks must be strictly construed, and such order cannot be given until definite plans and specifications are submitted to it.

SUP. CT. ONT. (2nd App. Div.) affirmed above judgments.

Appeals by the Corporation of the city of Ottawa from orders made by HON. MR. JUSTICE LENNOX, on the 29th November, 1913, and the 7th January, 1914, quashing by-laws passed by the city council, 25 O. W. R. 340, 615.

The appeals to the Supreme Court of Ontario (Second Appellate Division) was heard by HON. SIR WM. MULOCK, C.J.Ex., HON. MR. JUSTICE MAGEE, HON. MR. JUSTICE SUTHERLAND, and HON. MR. JUSTICE LEITCH.

I. F. Hellmuth, K.C., and F. B. Proctor, for the appellant corporation.

G. F. Macdonnell, for the applicant, respondent.

THEIR LORDSHIPS (v.v.) dismissed the appeals with costs.