

cussed and determined. The terms of the statute cannot inhibit the examination of that question.

These statutes purport to be passed in pursuance of the right to legislate as to municipal institutions in the province: British North America Act, 1867, sec. 92 (8). That gives the right to create a legal body for the management of municipal affairs (as said by Lord Watson in *Attorney-General for Ontario v. Attorney-General for Canada*, [1896] A. C. 364). And, by necessary consequence, that implies a right to define what duties and what range of subjects shall be intrusted or delegated for regulation and control to the local subordinate body. It is open, therefore, for the proper understanding of the constitution to regard what had been done under provincial laws before and after the establishment of the federal government of Canada. . . .

[The Chancellor then briefly sketched the history of municipal self-government from 1793 to 1849, when it took its present form.]

In short, it may be said that the law regarding the municipal institutions of this province had received a staple form and body prior to Confederation, and it does not seem necessary to follow the matter in more detail in the present judgment. This I have endeavoured to do in *Smith v. City of London*, post, which was argued before I had fully considered my judgment in this case. I have said so much as to the introductory facts and circumstances to shew that at a certain stage this litigation is identical with that in the London case.

I cannot distinguish the legal and constitutional aspects of the questions submitted for adjudication in each case; they are identical; and for this reason I forbear to labour the details further. I would be bound by the decision of the Divisional Court in the London case, and I am willing to adopt the conclusion there arrived at without further elaboration. The single point of difference, in that there is an existing electric light company in Toronto, is not a material difference.

Whether with or without competition, the object of the legislature and of the city authorities must be to secure an adequate supply of electric service for the needs of all at a fair and reasonable rate of compensation. This point as to competition is dealt with in a controversy not unlike the present by Mr. Justice Shiras in the Federal Court of the United States in *Thompson-Horton Co. v. City of Newton*, 42 Fed. R. 723.

The judgment will be in the same terms as in *Smith v. City of London*.