

MACMAHON, J.— . . . In 1895 a by-law authorizing a contract with the plaintiff Keefe, who had been lighting private residences by contract, and some streets by private subscription, to add one more light, was submitted to the ratepayers and defeated. In July, 1897, the Dominion Government expropriated the land occupied by Keefe's plant, and he ceased to operate his works. In December, 1897, the defendants made a lease to Keefe for ten years from 1st January, 1898, for \$1 a year, of the grounds, etc., belonging to the intake pipe and wheel pit on the north bank of the canal in the village of Iroquois. . . . The lease contains a covenant that Keefe shall sell, on 6 months' notice to the village, at a valuation, the leased premises and improvements, and if the parties cannot agree as to value it is to be determined by arbitration. . . . The wheel pit had been built for defendants by one Buchanan, who assigned his claim to Keefe, who recovered a judgment for \$1,950 against defendants, who paid the amount. . . . In December, 1898, the Government cut off the water supply. The plaintiff company was incorporated on 3rd May, 1901. The plaintiff Keefe and his two sons are the provisional directors. The plant which plaintiffs desire to have purchased consists of two dynamos, etc., which, since 1897, have been stored in a warehouse. . . . Keefe could not now sell the wheel pit to the defendants because they became owners when they paid the judgment for the amount of Buchanan's claim for building it for them.

R. S. O. ch. 223, sec. 566, sub-sec. 4, as amended by 62 Vict. (2) ch. 26, sec. 35, sub-sec. 4 (a), cannot apply because the plaintiff company has only been in existence since 3rd May, 1901, and never supplied electric light to the village, and the plaintiff Keefe has not, as an individual, supplied it for nearly nine years. More apt language might have been used in cl. (a), but the words "have supplied" must, having regard to the design and scope of the Act, mean that the company or individual has supplied and is supplying electric light for street lighting at the time notice is given by the municipality of the price at which it offers to purchase the works; and that the Act intended that the municipality should only be called on to fix a price to be offered for works and property that it could at once utilize as an existing going concern, is apparent from the language of cl. (a 3) of the amending Act, relating to the duties of the arbitrators as to price, which prevents them from awarding anything for prospective profits or franchises.