

LOGIE, J.

NOVEMBER 10TH, 1920.

CITY OF CHATHAM v. CHATHAM GAS CO. LIMITED.

Ontario Railway and Municipal Board—Exclusive Jurisdiction—Increase in Price for Supply of Natural Gas—Agreement between Gas Company and City Corporation—Ontario Railway and Municipal Board Act, secs. 21 (1), 22—Public Utility—Action to Restrain Company from Increasing Prices—Jurisdiction of Court Ousted.

Motion by the plaintiffs for an interim injunction restraining the defendants from raising their rates for natural gas supplied to domestic consumers in Chatham.

The motion was heard in the Weekly Court, Toronto.

O. L. Lewis, K.C., for the plaintiffs.

W. N. Tilley, K.C., and J. G. Kerr, for the defendants.

LOGIE, J., in a written judgment, said that a preliminary objection taken by the defendants, that the Court had no jurisdiction to entertain the action because the jurisdiction of the Ontario Railway and Municipal Board was exclusive, must be given effect.

The original franchise agreement between the parties, dated the 31st December, 1916, provided for the supply of gas to consumers at certain rates for a period of 5 years, and thereafter the defendants agreed to furnish gas at prices "as low as and not greater than the prices" for natural gas sold elsewhere in Ontario, but either the gas company or the city corporation might apply to the Board to increase or decrease the prices from time to time to what the Board should, in all the existing circumstances, deem reasonable.

This agreement was carried into effect by by-law No. 101 of the city corporation.

Neither the company nor the corporation had made application to the Board, but the company had, by notice to the corporation, declared an intention to raise the rates for gas to prices which, as the plaintiffs contended, were not as low as and not greater than the prices therefor as sold elsewhere in Ontario; and the corporation brought this action to restrain the company from charging the consumers at the increased rates, without application to the Board having first been made.

By sec. 21 (1) of the Ontario Railway and Municipal Board Act, R.S.O. 1914 ch. 186, the Board has jurisdiction to inquire into, hear, and determine any application by or on behalf of any