

JUNE 30TH, 1910.

*BEARDMORE v. CITY OF TORONTO.

Constitutional Law—Powers of Provincial Legislature—Authorising Municipal Corporations to Acquire and Distribute Electric Energy—B. N. A. Act, sec. 92 (8), (10)—Validation of Contracts with Hydro-Electric Power Commission—Stay of Pending Actions—Right of Court to Inquire into Validity of Statutes.

Appeal by the plaintiff from the order of a Divisional Court, 20 O. L. R. 169, affirming the judgment of BOYD, C., ib. 165.

The appeal was heard by MOSS, C.J.O., GARROW, MACLAREN, MEREDITH, J.J.A., and BRITTON, J.

E. F. B. Johnston, K.C., and H. O'Brien, K.C., for the plaintiff.

H. L. Drayton, K.C., and H. Howitt, for the defendants.

J. R. Cartwright, K.C., for the Attorney-General for Ontario.

Moss, C.J.O.:— . . . Upon the appeal to this Court the argument was substantially confined to the discussion of two questions, viz., whether the legislature had legislative power to authorise and empower the city of Toronto to manufacture, or, by contract with the Hydro-Electric Power Commission, to acquire, electric power and energy, and not only use such power and energy for lighting its streets and buildings and for purposes of a cognate character (which, it was conceded, might be done), but also sell and dispose thereof to private citizens and others for use by them; and whether recourse to the Courts for the purpose of testing the constitutional validity of the legislation is barred by the provisions of the Act 9 Edw. VII. ch. 19. . . .

In dealing with this appeal, it does not seem to be necessary for us to go beyond the well-considered judgment pronounced by the learned Chancellor, speaking for a Divisional Court, in *Smith v. City of London*, 20 O. L. R. 133. All the considerations pressed upon us by counsel for the appellant in this case appear to be fully and completely answered, and it would be but idle repetition to travel once more over the same ground. . . .

* This case will be reported in the Ontario Law Reports.