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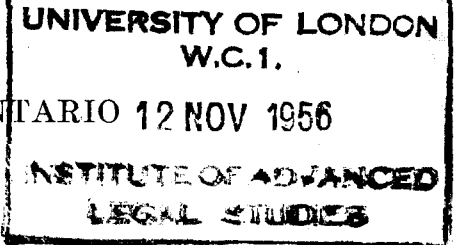
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In the Privy Council.

No. 52 of 1933.

ON APPEAL
FROM THE COURT OF APPEAL FOR ONTARIO 12 NOV 1956



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BETWEEN :

UNITED GAS AND FUEL COMPANY OF
HAMILTON LIMITED and THE CORPORATION OF
THE CITY OF HAMILTON - (Plaintiffs) *Appellants*

— AND —

DOMINION NATURAL GAS COMPANY LIMITED
(Defendant) *Respondent.*

RESPONDENT'S SUPPLEMENTARY APPENDIX OF
STATUTES.

BLAKE & REDDEN,
17, Victoria Street, S.W.1,
for the Appellants.

LAWRENCE JONES & Co.,
Lloyd's Building,
Leadenhall Street,
London. E.C.3,
for the Respondent.

In the Privy Council.

ON APPEAL
FROM THE COURT OF APPEAL FOR ONTARIO.

BETWEEN—

UNITED GAS AND FUEL COMPANY
OF HAMILTON LIMITED and THE
CORPORATION OF THE CITY OF
HAMILTON (Plaintiffs) - *Appellants*

— AND —

DOMINION NATURAL GAS COMPANY
LIMITED (Defendant) - *Respondent.*

RESPONDENT'S SUPPLEMENTARY APPENDIX OF
STATUTES.

I N D E X .

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ON APPEAL
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CORPORATION OF THE CITY OF
HAMILTON (Plaintiffs) - *Appellants*

— AND —

10

DOMINION NATURAL GAS COMPANY
LIMITED (Defendant) - *Respondent.*

RESPONDENT'S SUPPLEMENTARY APPENDIX OF
STATUTES.

No. 1.

1907—Statutes of Ontario 7 Edw. VII, Chapter 2.

An Act respecting the Form and Interpretation of the Statutes.

Assented to 20th April, 1907.

His Majesty, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as follows:—

20 1. This Act may be cited as "The Interpretation Act,"
R.S.O. 1897, c.1, s.1.

* * * * *

6. This, and the following sections of this Act and each
provision thereof, shall extend and apply to the Revised Statutes of

Ontario, and to every Act of the Legislature passed since the said Revised Statutes took effect, except in so far as any provision is inconsistent with the intent and object of such Act, or the interpretation which such provision would give to any word, expression or clause, is inconsistent with the context, and except in so far as any provision thereof is in any such Act declared not applicable thereto. R.S.O. 1897, c.1, s.7 (1).

7. Subject to the limitations in the preceding section of this Act—in every Act to which this section applies,

1. The Law shall be considered as always speaking, and when- 10
ever any matter or thing is expressed in the present tense, the same is to be applied to the circumstances as they arise, so that effect may be given to each Act and every part thereof according to its spirit, true intent and meaning;

2. The word “shall” shall be construed as imperative and the word “may” as permissive;

3. Whenever the word “herein” is used in any section of an Act, it shall be understood to relate to the whole Act and not to that section only;

* * * * * 20

13. The word “person” shall include any body corporate or politic, and the heirs, executors, administrators or other legal representatives of a person, to whom the context can apply according to law;

* * * * *

26. Words importing the singular number or the masculine gender only, shall include more persons, parties or things of the same kind than one, and females as well as males, and the converse;

27. Words making any association or number of persons a corporation or body politic and corporate, shall vest in such corpora- 30
tion power to sue and be sued, contract and be contracted with, by their corporate name, to have a common seal, and to alter or change the same at their pleasure, and to have perpetual succession, and power to acquire and hold personal property or moveables for the purposes for which the corporation is constituted, and to alienate the same at pleasure; and shall also vest in any majority of the members of the corporation, the power to bind the others by their acts: and shall exempt the individual members of the corporation

from personal liability for its debts, obligations or acts, provided they do not contravene the provisions of the Act incorporating them ;

* * * * *

33. If a power is conferred or a duty imposed, the power may be exercised and the duty shall be performed from time to time as occasion requires ;

34. If a power is conferred or a duty imposed on the holder of any office as such, the power may be exercised and the duty shall be performed by the holder for the time being of the office ; (See R.S.C. 10 c.1, s.31, cls. (e), (f)).

35. Where forms are prescribed, deviations therefrom not affecting the substance or calculated to mislead, shall not vitiate them ;

* * * * *

38. Where power to make bye-laws, regulations, rules or orders is conferred, it shall include the power to alter or revoke the same from time to time and make others ;

39. Every Act shall, unless by express provision it is declared to be a Private Act, be deemed to be a Public Act, and shall be 20 judicially noticed by all Judges, Justices of the Peace, and others, without being specially pleaded ;

40. The Preamble of an Act shall be deemed a part thereof and intended to assist in explaining the purport and object of the Act ;

41. Every Act and every provision or enactment thereof shall be deemed remedial, whether its immediate purport be to direct the doing of anything which the Legislature deems to be for the public good, or to prevent or punish the doing of anything which it deems to be contrary to the public good, and shall accordingly receive such fair, large and liberal construction and interpretation as will best 30 ensure the attainment of the object of the Act, and of the provision or enactment, according to the true intent, meaning and spirit thereof ;

42. Where reference is made by number to two or more sections, sub-sections or clauses in any statute, the number first mentioned and the number last mentioned shall both be deemed to be included in the reference ;

* * * * *

44. Where any Act confers power to make, grant or issue any instrument, that is to say, any Order in Council, order, warrant,

scheme, letters patent, rules, regulations or by-laws, expressions used in the instrument, if it is made after the 31st day of December, 1897, shall, unless the contrary intention appears, have the same respective meaning as in the Act conferring the power ;

45. Every Act shall be construed as reserving to the Legislature the power of repealing or amending it, and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever the repeal, amendment, revocation, restriction, or modification is deemed by the Legislature to be required for the public good. R.S.O. 1897, c.1, s.8, pars. 35-45. 10

46. Where any Act or enactment is repealed, or where any regulation is revoked, such repeal or revocation shall not save as in this section otherwise provided :—

(a) Revive any Act, enactment, regulation or thing not in force or existing at the time at which the revocation takes effect ;
or

(b) Affect the previous operation of any Act, enactment, regulation or thing so repealed or revoked ; or

→ || (c) Affect any right, privilege, obligation or liability acquired, accrued, accruing or incurred under the Act, enactment, regulation or thing so repealed or revoked ; or 20

(d) Affect any offence committed against any Act, enactment, regulation or thing so repealed or revoked, or any penalty or forfeiture or punishment incurred in respect thereof ; or

(e) Affect any investigation, legal proceeding or remedy in respect of any such privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

And any such investigation, legal proceeding or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the Act, enactment, regulation or thing had not been repealed or revoked ; 30

47. If other provisions are substituted for those so repealed, or revoked :—

(a) All officers and persons acting under the Act, enactment, regulation or thing so repealed or revoked shall continue to act, as if appointed under the provisions so substituted until others are appointed in their stead ; and

(b) All proceedings taken under the Act, enactment, regulation or thing so repealed or revoked, shall be taken up and

continued under and in conformity with the provisions so substituted, so far as consistently may be; and

(c) In the recovery or enforcement of penalties and forfeitures incurred, and in the enforcement of rights existing or accruing under the Act, enactment, regulation or thing so repealed or revoked, or in any other proceeding in relation to matters which have happened before the repeal or revocation, the procedure established by the substituted provisions shall be allowed so far as it can be adopted; and

10 (d) If any penalty, forfeiture or punishment is reduced or mitigated by any of the provisions of the Act, enactment, regulation or thing whereby such other provisions are substituted, the penalty, forfeiture or punishment, if imposed or adjudged after such repeal or revocation shall be reduced or mitigated accordingly.

48. Where any Act or enactment is repealed and other provisions are substituted by way of amendment, revision or consolidation:—

20 (a) All regulations, orders, ordinances, rules and by-laws made under the repealed Act or enactment shall continue good and valid, in so far as they are not inconsistent with the substituted Act or enactment, until they are annulled and others made in their stead; and

30 (b) Any reference in any unrepealed Act, or in any rule, order or regulation made thereunder to such repealed Act or enactment, shall as regards any subsequent transaction, matter or thing, be held and construed to be a reference to the provisions of the substituted Act or enactment relating to the same subject matter; and if there is no provision in the substituted Act or enactment relating to the same subject matter, the repealed Act or enactment shall stand good, and be read and construed as unrepealed in so far, and in so far only, as is necessary to support, maintain or give effect to such repealed Act, or enactment, or such rule, order or regulation made thereunder. (See R.S.C. cap. 1, ss. 19, 20).

49. The repeal of an Act or enactment shall not be deemed to be or to involve a declaration that such Act, or enactment, was, or was considered by the Legislature to have been, previously in force;

40 50. The repeal or amendment of any Act shall not be deemed to be or to involve any declaration whatsoever as to the previous state of the law;

51. The amendment of any Act shall not be deemed to be or to involve a declaration that the law under such Act was, or was considered by the Legislature to have been, different from the law as it has become under such Act as so amended;

52. The Legislature shall not, by re-enacting an Act or enactment, or by revising, consolidating or amending the same, be deemed to have adopted the construction which has by judicial decision or otherwise, been placed upon the language used in such Act or enactment or upon similar language;

53. No Act or enactment shall affect in any manner or way 10 whatsoever, the rights of His Majesty, His Heirs or Successors, unless it is expressly stated therein that His Majesty shall be bound thereby; nor if the Act be in the nature of a Private Act, shall it affect the rights of any person, or body politic, corporate or collegiate, such only excepted as are therein mentioned or referred to. R.S.O. 1897, c.1, s.8, pars, 54-58.

8. The interpretation section of The Judicature Act, so far as the terms defined can be applied, shall extend to all enactments relating to legal matters. R.S.O. 1897, c.1, s.9.

9. The interpretation section of The Municipal Act, so far as 20 the terms defined can be applied, shall extend to all enactments relating to municipal matters. R.S.O. 1897, c.1, s.10.

* * * * *

11. The foregoing provisions of this Act shall apply to the construction of this Act and to the words and expressions used therein. R.S.O. 1897, c.1, s.12.

12. Chapter 1 of The Revised Statutes of Ontario, 1897, is repealed.

No. 2.

1913—Statutes of Ontario, 3-4 Geo. V, Chapter 43.

Assented to 6th May, 1913.

The Municipal Act, 1913.

Part XXI.

Highways and Bridges.

433. Unless otherwise expressly provided, the soil and freehold of every highway shall be vested in the corporation or corporations of the municipality or municipalities, the council or councils of which for the time being have jurisdiction over it under the provisions of this Act. 3 Edw. VII, c.19, s.599, redrafted.

Part XXIV.

Miscellaneous .

* * * * *

537. (1) The Acts and parts of Acts mentioned in Schedule "A", are repealed.

(2) The repeal of Section 566 of The Consolidated Municipal Act, 1903, shall not take effect until a day named by proclamation of the Lieutenant-Governor in Council.

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* * * * *

SCHEDULE "A".

Acts and parts of Acts repealed.

3 Edw. VII, c.19.—The whole Act.

(The Consolidated Municipal Act 1903).

No. 3.

1914—Revised Statutes of Ontario, Chapter 192.

An Act respecting Municipal Institutions.

Part XXI.

Highways and Bridges.

* * * * *

433. Unless otherwise expressly provided, the soil and freehold of every highway shall be vested in the corporation or corporations of the municipality or municipalities, the council or councils of which for the time being have jurisdiction over it under the provisions of this Act. 3-4 Geo. V, c.43, s.433. 10

Part XXIV.

Miscellaneous.

* * * * *

537. The Lieutenant-Governor in Council may by proclamation declare that Section 566 of The Consolidated Municipal Act, 1903, shall cease to have effect on and from a day to be named in such proclamation and on and from that day the section shall be deemed to be repealed.

No. 4.

1927—Revised Statutes of Ontario, Chapter 233.

The Municipal Act.

Part XXI.

Highways and Bridges.

* * * * *

443. (1) Unless otherwise expressly provided, the soil and freehold of every highway shall be vested in the corporation or corporations of the municipality or municipalities, the council or
10 councils of which for the time being have jurisdiction over it under the provisions of this or any other Act.

(2) In the case of a dedicated highway such vesting shall be subject to any rights in the soil reserved by the person who laid out or dedicated the highway. 1922, c.72, s.433.

Part XXIV.

Miscellaneous.

* * * * *

549. The Lieutenant-Governor in Council may by proclamation declare that Section 566 of The Consolidated Municipal Act,
20 1903, shall cease to have effect on and from a day to be named in such proclamation and on and from that day the section shall be deemed to be repealed. 1922, c.72, s.537.

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