

**IN THE SUPREME COURT OF CANADA**  
(ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO)

B E T W E E N:

**CITY OF TORONTO**

APPELLANT  
(Respondent in the Court of Appeal)

-and

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RESPONDENT  
(Appellant in the Court of Appeal)

-and

**TORONTO DISTRICT SCHOOL BOARD**

INTERVENER  
(Intervener in the Court of Appeal)

-and

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## PART I – OVERVIEW

### An unprecedented Act and a singular question

1. Never in the history of our country has a provincial legislature interrupted an active municipal election.<sup>1</sup> By redrawing the electoral map midway through the campaign, “Ontario blew up the efforts, aspirations and campaign materials of hundreds of aspiring candidates, and the reciprocal engagement of many informed voters.”<sup>2</sup>

2. Constitutional grants of legislative authority are not absolute. “The Constitution – both written and unwritten – dictates the limits of all state action.”<sup>3</sup> The *Charter*, the division of powers, the attribution of residual powers, the unwritten constitutional principles such as protection of minorities, the rule of law, and the democratic principle all define the scope of a legislature’s powers. The legislature is bound by these constraints and must comply with them.

3. Moreover, the distributive provisions of the Constitution cannot be read in isolation. The words are the starting point but, as this Honourable Court reminds us, “a superficial reading of selected provisions of the constitutional enactment, without more, may be misleading.”<sup>4</sup> FCM submits that a reading of subsection 92(8) that fails to appreciate the deeply-rooted historical place of democratically elected municipal councils in the governance structure of our country leads to an error of law that fails to protect the democratic rights of Canadians.

4. In that light, the Court of Appeal’s conclusion that 92(8) “is simply a general grant of lawmaking authority”<sup>5</sup> lacks necessary context and the legislature’s decision to upend the active exercise of local democracy, absent any overwhelming exigency to justify it, was unconstitutional.

## PART II – QUESTION IN ISSUE

5. Does 92(8) protect the exercise, by Canadians, of their democratic rights at the local level, particularly – in this appeal – their participation in elections already under way? Or does 92(8) confer upon provincial legislatures the unfettered authority to interrupt, reset, or interfere with the

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<sup>1</sup> *Toronto (City) v Ontario (Attorney General)*, 2019 ONCA 732 at para [109](#) [Court of Appeal Decision] (dissent).

<sup>2</sup> Court of Appeal Decision, *supra* note 1 at para [136](#).

<sup>3</sup> *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para [56](#).

<sup>4</sup> *Reference re Secession of Quebec*, [1998] 2 SCR 217 at para [148](#) [*Secession Reference*].

<sup>5</sup> Court of Appeal Decision, *supra* note 1 at para [93](#).

democratic electoral process through which municipal governments have derived their authority and legitimacy since before Confederation?

### PART III – STATEMENT OF ARGUMENT

6. As is the case for most of the broadly-worded distributive provisions of the Constitution, 92(8), on its face, is a grant of exclusivity, without any explicit guidance on the intended limits of that jurisdiction. This by no means implies a grant of unchecked power. In fact, a robust analysis of 92(8), as outlined below, shows that the democratic principle is an integral and necessary limit on that power, just as it is an essential element that pervades all legislative powers.

7. This multi-faceted principle goes beyond the simple idea of majority rule.<sup>6</sup> The democratic principle includes “most importantly, the promotion of self-government”, because “a sovereign people exercises its right to self-government through the democratic process.”<sup>7</sup> FCM submits that an analysis of 92(8) can only lead to one conclusion: the democratic principle that is the foundation of the process through which Canadians choose their local elected officials is constitutionally protected from legislative infringement, particularly once the process has been set in motion.

#### A. A meaning anchored in history

8. Of all the “municipal institutions” captured within the ambit of 92(8) and placed under the exclusive jurisdiction of the provinces – such as library boards, police services boards, administrative tribunals, and property assessment boards<sup>8</sup> – the elected municipal council is the only one that predates Confederation and remains unchanged in its democratic essence and law-making role. This cardinal municipal institution has been explicitly recognized by this Honourable Court as a form of democratic government woven into the fabric of the country.<sup>9</sup>

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<sup>6</sup> *Secession Reference*, *supra* note 4 (analysis of the democratic principle at paras [61–69](#)).

<sup>7</sup> *Secession Reference*, *supra* note 4 at para [64](#).

<sup>8</sup> School boards are excluded from this analysis since their legal status is derived from s. 93.

<sup>9</sup> *Pacific National Investments Ltd v Victoria (City)*, 2000 SCC 64 at para [33](#) [*Pacific National*]; *Catalyst Paper Corp v North Cowichan (District)*, 2012 SCC 2 at para [19](#) [*Catalyst Paper*].

9. Democratic municipal councils have ancient roots in the common law.<sup>10</sup> William I granted a Charter to the City of London in 1067,<sup>11</sup> and the City won the right to choose its own Mayor on May 9, 1215.<sup>12</sup> A month later, the *Magna Carta* confirmed these rights and granted “that all other cities, boroughs, towns, and ports shall enjoy all their liberties and free customs.”<sup>13</sup>

10. The history of democratically elected municipal councils is just as firmly rooted in Canada. In his 1839 report recommending “adjustments” to the “form and administration of Civil Government” in Canada,<sup>14</sup> Lord Durham spoke extensively of the need to establish elected municipal councils as a means of ensuring the future success of the provinces. For Durham, entrusting people “with a complete control over their own local affairs” was not just good governance, it also meant that citizens would be “trained to take part in the concerns of the whole province.” Durham concluded unequivocally that “one of the main causes of the failure of representative government and bad administration” in the provinces was the “utter want of municipal institutions giving the people any control over their local affairs.”<sup>15</sup>

11. Throughout Canada, democratic local governments became the uncontested norm. Toronto’s council was democratic from the day of incorporation in 1834.<sup>16</sup> Elsewhere in Ontario, local democracy was thriving in places like Kingston (incorporated in 1838; Sir John A. Macdonald elected to municipal council in 1843) and Ottawa (incorporated as Bytown in 1847). In 1849, the *Baldwin Act* abolished the last of the provincially-appointed wardens, leaving only one form of local government in Canada West: the democratic municipal council.

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<sup>10</sup> The SCC has traced the rule of law as the basis of the English Constitution to the time of the Norman Conquest. See *Re Manitoba Language Rights*, [1985] 1 SCR 721 at para [63](#).

<sup>11</sup> *London Charter* (1067) (see Book of Authorities at Tab 3).

<sup>12</sup> *King John’s Charter to London* (9 May 1215) (see Book of Authorities at Tab 2).

<sup>13</sup> *Magna Carta* (15 June 1215), clause numbered 13 for convenience (see Book of Authorities at Tab 4); *Secession Reference*, *supra* note 4 (this Honourable Court traced the democratic tradition in our Constitution to the *Magna Carta* at para [63](#)).

<sup>14</sup> UK, Her Majesty’s High Commissioner, *Report on the Affairs of British North America* by the Earl of Durham (London: 31 January 1839) at [3](#) [Durham Report].

<sup>15</sup> Durham Report, *supra* note 14 at [35](#), [emphasis added].

<sup>16</sup> *An Act to extend the Limits of the Town of York; to erect the said Town into a City; and to Incorporate it under the name of the City of Toronto* (UK), 1834, 4 William IV AD, c XXIII at [73](#).

12. The same local democratic tradition took hold in the other three confederating provinces during the same period. Elected municipal councils were in place in all the larger centres well before Confederation: Quebec City (1840), Montreal (1836), Halifax (1841), Fredericton (1848), and St. John (1849; followed by the rest of New Brunswick in 1854).<sup>17</sup>

13. The conclusion is inescapable: even in a society that was still overwhelmingly rural,<sup>18</sup> and well before Confederation, municipalities played a central role in self-government and the evolution to fully democratic municipal councils as the universal governance model for incorporated municipalities was nearing completion<sup>19</sup> in the four founding provinces.<sup>20</sup>

14. This rapid, deliberate trajectory towards universal democracy at the local level must be taken as forming part of the knowledge and experience of the framers of the *Constitution Act, 1867*. If we anchor the analysis of 92(8) in its historical context,<sup>21</sup> the democratic principle, expressed through the exercise of local democracy and the municipal electoral process, lives within subsection 92(8) of the *Constitution Act, 1867*.

15. As Canada grew, municipal democracy was affirmed with the accession of each new province. To name but three examples, when British Columbia entered Confederation in 1871, a democratic municipal council was in place in Victoria (1862) and Vancouver, with a population barely exceeding 1,000, followed suit in 1886. Charlottetown was incorporated with a democratic council in 1855,<sup>22</sup> almost twenty years before PEI entered Confederation. Elected councils had

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<sup>17</sup> See Part VI (Table A-1) for an overview of the pre-Confederation legislation that incorporated the cities of Kingston, Ottawa, Quebec City, Montreal, Halifax, Fredericton, and St. John.

<sup>18</sup> See “Figure 1: Proportion of the population living in rural areas, Canada, 1851 to 2011” (last modified 21 December 2015), online: *Statistics Canada* < [https://www12.statcan.gc.ca/census-recensement/2011/as-sa/98-310-x/2011003/fig/fig3\\_2-1-eng.cfm](https://www12.statcan.gc.ca/census-recensement/2011/as-sa/98-310-x/2011003/fig/fig3_2-1-eng.cfm) >.

<sup>19</sup> Ontario, *Report of the Royal Commission on Metropolitan Toronto – Metropolitan Toronto: A Framework for the Future*, vol 1 (15 June 1977) (John P Robarts) at 2–3.

<sup>20</sup> *Sobeys Stores Ltd v Yeomans and Labour Standards Tribunal (NS)*, [1989] 1 SCR 238 at 265.

<sup>21</sup> *R v Blais*, 2003 SCC 44 at para 40.

<sup>22</sup> See Part VI (Table A-2) for an overview of the near-or-post-Confederation legislation that incorporated the cities of Victoria, Vancouver, Charlottetown, Edmonton, and Calgary.

been established by federal authorities<sup>23</sup> in Edmonton (1892) and Calgary (1894) by the time Alberta was constituted as a province in 1905.

16. This history shows us that the democratic principle was made manifest at the municipal level before Confederation, and there is nothing in the language of 92(8) to show an intent to dislodge that principle. Thus, the democratic principle guides the interpretation of 92(8), acting as a vital safeguard against attempts to disrupt electoral processes once they have begun. That is the conclusion that flows by necessary implication from the context in which 92(8) was adopted.

**B. A meaningful text**

17. Interpreting 92(8) within the wider text of the Constitution leads to the same conclusion. The reference to “a Constitution similar in Principle to that of the United Kingdom”<sup>24</sup> in the 1867 document might seem like a faint acknowledgement of something so fundamental as democratic self-government but it forms “a sort of baseline against which the framers of our Constitution, and subsequently, our elected representatives under it, have always operated. It is perhaps for this reason that the principle [of democracy] was not explicitly identified in the text of the *Constitution Act, 1867* itself. To have done so might have appeared redundant, even silly, to the framers.”<sup>25</sup>

18. The implicit but fundamental nature of Canada as a democracy founded on the rule of law was reaffirmed explicitly through the constitutional renewal process that culminated in 1982. In addition, the expansive intent behind the *Charter* is crystal clear: the *Charter* should “not be construed as denying the existence of any other rights or freedoms that exist in Canada.”<sup>26</sup> In that light, Ontario’s argument that section 3, by “necessary implication”, deprives elections at the municipal level of any constitutional protection cannot stand.<sup>27</sup>

19. Instead, the text of the *Charter* stands in support of constitutional protection for the local democratic process. As stated by this Honourable Court, “the values and principles essential to a free and democratic society” include “faith in social and political institutions which enhance the

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<sup>23</sup> [\*Chapter 8: An Ordinance Respecting Municipalities of the Revised Ordinances of the North-West Territories\*](#), 1888.

<sup>24</sup> *Constitution Act, 1867*, 30 & 31 Vict, c 3, [Preamble](#), in RSC 1985, Appendix II, No 5.

<sup>25</sup> *Secession Reference*, *supra* note 4 at para [62](#).

<sup>26</sup> *Canadian Charter of Rights and Freedoms*, s [26](#), Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

<sup>27</sup> Factum of the Respondent at para 125.

participation of individuals and groups in society.”<sup>28</sup> Faith in municipal councils, the cornerstone of grassroots democracy and civil society,<sup>29</sup> cannot endure if the electoral process itself can be stopped, cancelled, and reset at the will of the legislature.<sup>30</sup>

20. On their own, unwritten constitutional principles cannot be used to invalidate legislation. However, examples abound, in our jurisprudence, of instances where “the powerful normative force”<sup>31</sup> of unwritten constitutional principles has been brought to bear in order to avoid superficial and misleading interpretations of constitutional provisions. Access to justice,<sup>32</sup> the independence of the judiciary,<sup>33</sup> respect for minorities,<sup>34</sup> the inclusion of the Inuit and Métis within the ambit of subsection 91(24),<sup>35</sup> to name a few illustrations, are critical elements of the Constitution found to live within the broad language of distributive provisions.

21. Of particular relevance to this appeal, “[t]he principle of democracy has always informed the design of our constitutional structure, and continues to act as an essential interpretive consideration to this day.”<sup>36</sup> This principle must be brought to bear on the interpretation of 92(8).

22. ‘Municipal institutions’ might refer to a range of bodies, but this does not imply that these institutions are all identical, nor that legislatures enjoy the same latitude with respect to all institution types. In fact, the elected municipal council is the only one that was ever intended to form an integral part of democratic self-government in Canada. This conclusion is not only

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<sup>28</sup> *R v Oakes*, [1986] 1 SCR 103 at para 64 [*Oakes*].

<sup>29</sup> Report of the United Nations Global Forum on Innovative Policies and Practices in Local Governance, DDSMS and UNDP, 1996, ST/TCD/SER.E/40 at 19 [UN Report on Local Governance].

<sup>30</sup> Durham Report, *supra* note 14 at 92.

<sup>31</sup> *Secession Reference*, *supra* note 4 at para 54.

<sup>32</sup> *Trial Lawyers Association of British Columbia v British Columbia (AG)*, 2014 SCC 59.

<sup>33</sup> *Refr re Remuneration of Judges of the Prov Court of PEI; Refr re Independence and Impartiality of Judges of the Prov Court of PEI*, [1997] 3 SCR 3.

<sup>34</sup> *Lalonde v Ontario (Commission de restructuration des services de santé)*, 56 OR (3d) 505 (CA).

<sup>35</sup> *Reference as to whether "Indians" includes in s. 91 (24) of the B.N.A. Act includes Eskimo in habitants of the Province of Quebec*, [1939] 2 DLR 417; *Daniels v Canada (Indian Affairs and Northern Development)*, 2016 SCC 12 [*Daniels*].

<sup>36</sup> *Secession Reference*, *supra* note 4 at para 62.

supported by history,<sup>37</sup> it also flows from the “jurisprudential imprints”<sup>38</sup> left by key cases that have considered the place and role of municipalities as democratic governments.<sup>39</sup>

23. This Honourable Court’s recognition that the democratic principle guides the interpretation of 92(8) leads to a necessary conclusion that the disruption of an active electoral process is offensive to the Constitution. That recognition will also be a highly important guide to future action under 92(8) with respect to municipal democracy, safeguarding it from all but the most exigent and justifiable incursions commensurate with the severity and duration of a given emergency.

### **C. Municipal councils are democratic governments**

24. Three orders of government are recognized within Canada’s governance structure: Parliament came into being with the adoption of the *Constitution Act, 1867*; provincial legislatures and incorporated municipal councils were continued through the Confederation process.

25. Municipal governments are different in that they exercise delegated powers that vary from province to province, and legislatures have the ability to modify the architecture of municipal governments in a number of ways: single-tier vs. multi-tier models, amalgamations and other changes to municipal boundaries, at-large vs. district representation, to name a few.<sup>40</sup> However, all three levels of government derive their legitimacy from their democratic nature. As such, their respective electoral processes are constitutionally protected by the democratic principle and, in a free and democratic society, that principle must remain unassailable.

26. Local democratic governments are not – nor have they ever been in our history – ephemeral gifts of the legislature. They are the result of a gradual and deliberate march towards democratic self-government at all levels that began before Confederation. The Constitution provides legislatures with tremendous leeway in how municipal governments can be structured in order to address the needs and political priorities of the day. However, the meaning of 92(8)

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<sup>37</sup> Durham Report, *supra* note 14 at [92](#).

<sup>38</sup> *Daniels*, *supra* note 35 at para [41](#).

<sup>39</sup> *Shell Canada Products Ltd v Vancouver (City)*, [1994] [1 SCR 231](#); *Pacific National*, *supra* note 9; *Catalyst Paper*, *supra* note 9; *114957 Canada Ltée (Spraytech, Société d’arrosage) v Hudson (Town)*, [2001 SCC 40](#) [*Spraytech*]; *Canada (AG) v PHS Community Services Society*, [2011 SCC 44](#); *Croplife Canada v Toronto (City)*, [2005] [254 DLR \(4th\) 40](#).

<sup>40</sup> *East York (Borough) v Ontario (Attorney General)*, [1997] [34 OR \(3d\) 789](#) (Ont Div Ct); *East York (Borough) v Ontario*, [1997] [153 DLR \(4th\) 299](#) (CA).



imports, by necessity, essential protections for the local exercise of democracy by the more than 80% of Canadians who live in incorporated municipalities.<sup>41</sup>

#### **D. Respecting subsidiarity**

27. The principle of subsidiarity speaks to the advantages of, and the important role played by, municipal councils. “[L]aw-making and implementation are often best achieved at a level of government that is not only effective, but also closest to the citizens affected and thus most responsive to their needs, to local distinctiveness, and to population diversity.”<sup>42</sup> The Court of Appeal for Ontario, in a different case involving municipal jurisdiction, observed that “the reason that higher levels of government and authority should not displace the pre-existing initiatives of lower levels of government and civic society, is because there is something inherently valuable in local institutions and communities being able to maintain their own projects and commitments.”<sup>43</sup>

28. Subsidiarity underlines the wisdom of including, within the national governance structure, a level of local government that can be shaped – in structure and mandate – so as to respond to evolving needs. This conclusion had been reached before Confederation, as was the idea that, to be effective, such responsiveness has to be accomplished by means of local democracy.<sup>44</sup>

#### **E. Exigency and justification**

29. “In Canada, elections are the centerpiece of our democracy at all three levels of government – federal, provincial and municipal.”<sup>45</sup> The ability to participate in fair and free local elections is not only something Canadians have taken for granted since before Confederation, the municipal electoral process constitutes “a prerequisite for building a stable, productive society.”<sup>46</sup>

30. The democratic principle operates as a limit on the legislatures’ powers under 92(8) but not as a bar. Any apparent conflict between the democratic principle and a legislature’s sovereignty

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<sup>41</sup> “Population estimates, July 1, by census metropolitan area and census agglomeration, 2016 boundaries” (last modified 29 January 2021), online: *Statistics Canada* <<https://www150.statcan.gc.ca/t1/tb11/en/tv.action?pid=1710013501>>.

<sup>42</sup> *Spraytech*, *supra* note 39 at para 3.

<sup>43</sup> *Canada Post Corporation v Hamilton (City)*, 2016 ONCA 767 at para 85.

<sup>44</sup> Durham Report, *supra* note 14 at 92.

<sup>45</sup> Court of Appeal Decision, *supra* note 1 at para 115.

<sup>46</sup> UN Report on Local Governance, *supra* note 29 at 6.

can be resolved by requiring the legislature to justify enactments that impinge on the democratic principle.

31. Justification requirements form an integral part of Canada’s constitutional framework. Justification is explicitly provided for in section 1 of the *Charter*. This led to the development of the *Oakes*<sup>47</sup> test to assess violations of fundamental rights. In *Sparrow*, by contrast, this Honourable Court construed section 35 as demanding justification for infringement of aboriginals’ harvesting rights.<sup>48</sup> This case calls out for a similar balancing exercise.

32. Exigent situations – unusual or unforeseen circumstances – that reasonably call for immediate action might well justify or even require a sudden and temporary interference by the legislature with municipal democracy. Impending financial collapse likely justified the sudden imposition, by the legislature, of an appointed body to oversee the amalgamation of bankrupt municipalities during the Great Depression.<sup>49</sup> However, despite the gravity of the situation, democratic governance immediately resumed once the crisis had passed. This response was commensurate with the length of the emergency, an important element in the justification of any interference prompted by exigent circumstances.

33. The primary justification offered by Ontario for its disruption of the election is that it did not want to wait until the next municipal election to implement the smaller Council it deemed preferable. FCM submits that political impatience, in the absence of any apprehended or unforeseen catastrophe, simply does not rise to the level of exigency one would expect to warrant interrupting an active municipal election and profoundly changing the city’s governance framework midstream. This is particularly the case when the electoral map being tampered with by Bill 5 was adopted by an elected municipal council after lengthy public deliberations, and was vetted by both the Ontario Municipal Board<sup>50</sup> and the Divisional Court.<sup>51</sup>

34. In a free and democratic society, legislation that represents “a substantial attack on the centrepiece of democracy in an established order of Canadian government – an active election in

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<sup>47</sup> *Oakes*, *supra* note 28.

<sup>48</sup> See e.g. *R v Sparrow*, [1990] [1 SCR 1075](#).

<sup>49</sup> *Ladore v Bennett*, [1939] [3 DLR 1](#).

<sup>50</sup> *Di Ciano v Toronto (City)*, [2017 CanLII 85757 \(ON LPAT\)](#).

<sup>51</sup> *Natale v City of Toronto*, [2018 ONSC 1475](#).

a major Canadian municipality”<sup>52</sup> simply cannot pass muster. Under such circumstances, legislative sovereignty is constrained by the democratic principle and implementation should simply have waited until after the 2018 election.

**F. Undemocratic consequences**

35. Canadians have been voting for their municipal councils since before Confederation and these democratic governments were folded into the constitutional order in 1867. Contrary to the majority’s conclusion in the Court of Appeal, there should be no doubt that 92(8) ‘constitutionalized’ democratic municipal councils – along with the protection of the electoral process that is required in a democracy.

36. The disruption of an ongoing election without justification is an unprecedented act in Canadian history. As eloquently stated by the dissenting Justices in the Court below, “[f]ree expression in this context would be meaningless if the terms of the election, as embodied in the legal framework, could be upended mid-stream. The instability and risk of meddling this would create is irreconcilable with genuine democratic deliberation.” FCM submits that the effects are not limited to free expression. The democratic principle itself becomes meaningless in such circumstances and the people’s protection of their local privileges, as articulated by Lord Durham in 1839, becomes illusory.<sup>53</sup>

**PART IV – SUBMISSIONS CONCERNING COSTS**

37. FCM does not seek costs and asks that no costs be awarded against it.

**PART V – ORDER SOUGHT**

38. FCM makes no submission in respect of the order on the merits of the appeal itself.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of February, 2021.

Counsel for the Intervener, Federation of Canadian Municipalities

  
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 for Mary Eberts

<sup>52</sup> Court of Appeal Decision, *supra* note 1 at para [116](#) (dissent).

<sup>53</sup> Durham Report, *supra* note 14 at page [92](#).

  
\_\_\_\_\_  
Stéphane Émard-Chabot

  
\_\_\_\_\_  
for William B. Henderson

## PART VI – TABLE OF AUTHORITIES

<b>A. Legislation</b>	<b><u>Paragraphs in Memorandum</u></b>
1. <i>An Act to provide, by one general law, for the erection of Municipal Corporations, and the establishment of Regulations of Police, in and for the several Counties, Towns, Townships and Villages in Upper Canada</i> (UK), (1849) 12 Vict, c LXXXI.	11
2. <i>Canadian Charter of Rights and Freedoms</i> , <a href="#">Part I of the Constitution Act, 1982</a> , being Schedule B to the <i>Canada Act 1982</i> (UK), 1982, c 11.	18
3. <i>Constitution Act, 1867</i> (UK), 30 & 31 Vict, c 3, <a href="#">reprinted in RSC 1985, Appendix II, No 5</a> .	17
4. <i>King John's Charter to London</i> (9 May 1215).	9
5. <i>London Charter</i> (1067).	9
6. <i>Magna Carta</i> (15 June 1215), clause numbered 13 for convenience.	9
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7. <i>Acte pour incorporer la Cité de Montréal</i> (UK), 1831, 1 Gulielmi IV AD, c LIV.	12
8. <i>An Act in further amendment of the Charter of the City of Saint John</i> (UK), 1849, 12 Vict AD, c LXVIII.	12
9. <i>An Act to alter and amend the Act providing for the establishment of Municipal Authorities in this Province</i> (UK), 1854, 17 Vict AD, c 8.	12
10. <i>An Act to define the limits of the Town of Bytown, to establish a Town Council therein, and for other purposes</i> , (UK), 1847 11 Vict AD, c XLIII.	12
11. <i>An Act to extend the Limits of the Town of York; to erect the said Town into a City; and to Incorporate it under the name of the City of Toronto</i> (UK), <a href="#">1834, 4 William IV AD, c XXIII</a> .	11
12. <i>An Act to Incorporate the City of Fredericton in the Province of New Brunswick</i> (UK), <a href="#">1848, 11 Vict AD</a> .	12
13. <i>An Act to Incorporate the Town of Halifax</i> (UK), 1841, 4 Vict AD, c LV.	12

14. *An Act to Incorporate the Town of Kingston, under the name of “The Mayor and Common Council of the Town of Kingston.”* (UK), 1838 1 Vict AD, c XXVII. 12

15. *An Ordinance to Incorporate the City and Town of Quebec* (UK), 1840, 4 Vict AD, c XXXV. 12

## **A-2. Municipal Statutes of Incorporation Near-Or-Post-Confederation**

16. *An Act to Incorporate the City of Vancouver* (UK), 1886, [49 Vict AD, c 32](#). 15

17. *An Act to Incorporate the Town of Charlottetown* (UK), 1855, 18 Vict AD, c XXXIV. 15

18. [Chapter 8: An Ordinance Respecting Municipalities of the Revised Ordinances of the North-West Territories](#), 1888. 15

19. *The Victoria Incorporation Act, 1862* (UK), [25 Vict AD](#). 15

## **B. Jurisprudence**

20. *114957 Canada Ltée (Spraytech, Société d’arrosage) v Hudson (Town)*, [2001 SCC 40](#). 22, 27

21. *Canada (AG) v PHS Community Services Society*, [2011 SCC 44](#). 22

22. *Canada (Minister of Citizenship and Immigration) v Vavilov*, [2019 SCC 65](#). 2

23. *Canada Post Corporation v Hamilton (City)*, [2016 ONCA 767](#). 27

24. *Catalyst Paper Corp v North Cowichan (District)*, [2012 SCC 2](#). 8, 22

25. *Croplife Canada v Toronto (City)*, [2005] [254 DLR \(4th\) 40](#). 22

26. *Di Ciano v Toronto (City)*, [2017 CanLII 85757 \(ON LPAT\)](#). 33

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28. *East York (Borough) v Ontario*, [1997] [153 DLR \(4th\) 299](#) (CA). 25

29. *Ladore v Bennett*, [\[1939\] 3 DLR 1](#). 32

30. *Lalonde v Ontario (Commission de restructuration des services de santé)*, [56 OR \(3d\) 505](#) (CA). 20
31. *Natale v City of Toronto*, [2018 ONSC 1475](#). 33
32. *Pacific National Investments Ltd v Victoria (City)*, [2000 SCC 64](#). 8, 22
33. *R v Blais*, [2003 SCC 44](#). 14
34. *R v Oakes*, [\[1986\] 1 SCR 103](#). 19, 31
35. *R v Sparrow*, [1990] [1 SCR 1075](#). 31
36. *Reference as to whether "Indians" includes in s. 91 (24) of the B.N.A. Act includes Eskimo in habitants of the Province of Quebec*, [1939] [2 DLR 417](#). 20
37. *Re Manitoba Language Rights*, [\[1985\] 1 SCR 721](#). 9
38. *Ref re Remuneration of Judges of the Prov Court of PEI; Ref re Independence and Impartiality of Judges of the Prov Court of PEI*, [1997] [3 SCR 3](#). 20
39. *Reference re Secession of Quebec*, [\[1998\] 2 SCR 217](#). 3, 7, 9, 17, 20, 21
40. *Shell Canada Products Ltd v Vancouver (City)*, [1994] [1 SCR 231](#). 22
41. *Sobeys Stores Ltd v Yeomans and Labour Standards Tribunal (NS)*, [\[1989\] 1 SCR 238](#). 13
42. *Toronto (City) v Ontario (Attorney General)*, [2019 ONCA 732](#). 1, 4, 29
43. *Trial Lawyers Association of British Columbia v British Columbia (AG)*, [2014 SCC 59](#). 20

### C. Secondary Material

44. “Figure 1: Proportion of the population living in rural areas, Canada, 1851 to 2011” (last modified 21 December 2015), online: *Statistics Canada* < [https://www12.statcan.gc.ca/census-recensement/2011/as-sa/98-310-x/2011003/fig/fig3\\_2-1-eng.cfm](https://www12.statcan.gc.ca/census-recensement/2011/as-sa/98-310-x/2011003/fig/fig3_2-1-eng.cfm)>. 13
45. Ontario, *Report of the Royal Commission on Metropolitan Toronto – Metropolitan Toronto: A Framework for the Future*, [vol 1 \(15 June 1977\)](#) (John P Robarts). 13
46. “Population estimates, July 1, by census metropolitan area and census agglomeration, 2016 boundaries” (last modified 29 January 2021), 26

online: *Statistics Canada*

<<https://www150.statcan.gc.ca/t1/tb11/en/tv.action?pid=1710013501>>.

47. Report of the United Nations Global Forum on Innovative Policies and Practices in Local Governance, DDSMS and UNDP, 1996, [ST/TCD/SER.E/40](#) 19, 27
48. UK, Her Majesty's High Commissioner, *Report on the Affairs of British North America* by the Earl of Durham ([London: 31 January 1839](#)). 10, 19, 22, 28, 36