

## Private Electrical Utilities and Municipal Ownership in Ontario, 1891-1900

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### Article abstract

In June, 1897, the electrical utility companies of Ontario launched their first organized offensive against municipal ownership. Their objective was to secure an amendment to the Ontario Municipal Act that would protect the vested interests of local utilities and perhaps slow the reform movement then gathering momentum throughout the province. Two years later, they achieved success in the form of the so-called "Connmee Clauses", requiring municipalities to buy out privately owned local electrical and gas utilities before inaugurating their own systems. The industry united behind the campaign only with difficulty. Its spokesmen expressed a view of the role of the state at once flexible in its conception of the limits of government regulation, and fixed in its perception of government's responsibility to protect fundamental business interests. In the short term, opponents of the legislation were unable to prevent its passage; in the long term, this dispute was but one episode in the conflict over municipal ownership which culminated in the establishment of the Hydro-Electric Power Commission of Ontario.

# Private Electrical Utilities and Municipal Ownership in Ontario, 1891-1900

Kenneth C. Dewar

## *Résumé/Abstract*

*En juin 1897, les compagnies d'électricité de l'Ontario lancèrent leur première offensive organisée contre l'étatisation. Leur but était de faire modifier la Loi sur les municipalités de l'Ontario de manière à protéger les droits acquis des compagnies et éventuellement de ralentir le mouvement de réforme qui commençait à prendre de l'ampleur dans toute la province. Deux ans après, elles réussirent à faire adopter les «Conmee Clauses», aux termes desquelles les municipalités devaient acheter les compagnies locales d'électricité et de gaz avant d'aménager de nouvelles installations. L'industrie eut du mal à faire front commun dans cette campagne. Ses représentants exprimèrent une conception du rôle de l'État qui était à la fois souple quant aux limites de la réglementation publique et rigide quant à la responsabilité qu'elle attribuait au gouvernement de protéger les intérêts fondamentaux des entreprises privées. À court terme, les adversaires du projet de loi ne purent empêcher son adoption; à long terme, cette querelle ne fut qu'un épisode du conflit relatif à la municipalisation de l'électricité, qui aboutit à la création de la Commission de l'énergie hydro-électrique de l'Ontario.*

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In June, 1897, the electrical utility companies of Ontario launched their first organized offensive against municipal ownership. Their objective was to secure an amendment to the Ontario Municipal Act that would protect the vested interests of local utilities and perhaps slow the reform movement then gathering momentum throughout the province. Two years later, they achieved success in the form of the so-called "Conmee Clauses," requiring municipalities to buy out privately owned local electrical and gas utilities before inaugurating their own systems.

Passage of the amendment may be seen as a minor, though not insignificant, incident in the history of the conflict over state ownership that culminated in the creation of the Hydro-Electric Power Commission of Ontario in 1906. It helped to shift the focus of conflict from the municipal to the provincial level of government at the turn of the century. At the same time, the campaign for the amendment is interesting in its own right. The movement for municipal ownership of civic services, a

compound of reforming zeal, economic self-interest and pragmatic response to the administrative and political problems of urban growth, was then in its early stages. Yet the central importance of electric light and power, for street lighting, transportation and water pumping, if not yet for manufacturing, was already recognized.<sup>1</sup> The utility owners thus had some reason to feel a sense of both optimism and insecurity. Their campaign affords an opportunity to observe one industry's attempt to organize its members for political action, and to note the means it employed to present its wishes to the government. In the process, the owners and operators expressed a view of the role of the state at once flexible in its conception of the limits of government regulations, and fixed in its perception of government's responsibility to protect fundamental business interests.

## I

The organizational vehicle of the campaign was the Canadian Electrical Association, formed in 1891 in an attempt to stabilize the fortunes of the lighting business.<sup>2</sup> Competition and rapid technological change had introduced an element of uncertainty into what had been at first a highly profitable line of enterprise. In order to

encourage more cooperation and to help upgrade the technical expertise of "electrical men," a number of companies, assisted by the trade paper, the *Canadian Electrical News*, invited those associated with electrical lighting to join a new national body. Among the respondents, utilities predominated. They were joined by a few manufacturers — the "supply men" — and a few individual technicians, forerunners of the electrical engineering profession.<sup>3</sup> Like many other national associations of the time, the CEA was overwhelmingly Ontarian in its membership and concerns. In the late nineties, its Legislative Committee devoted itself wholly to meeting the threat of municipal ownership in Ontario.

John Yule, general manager of the Guelph Light and Power Company, a firm engaged in both gas and electricity production, initiated and led the efforts to secure protective legislation.<sup>4</sup> As President of the CEA in 1897, he called upon all members to set aside their differences and unite against a common enemy. "No business jealousies should find a place amongst us," he said in opening the annual convention; "rather ought we to help each other by exchanging opinions and experiences, and particularly should this be the case just now, when so many are face to face with that movement now prevalent in Canada for what is called municipal control."<sup>5</sup> He contrasted, with some bitterness, the acclaim which earlier had greeted the introduction of electric light with the persistent and growing movement which now threatened the very people who had risked their capital in the pioneer lighting business — "in most cases done for the purpose of improving their town and helping their community to keep up with the march of progress . . ." Yule himself was not moved by any abstract concern for the rights of property: the local movement which some six years later was to result in the town's purchase of Guelph Light and Power was already gaining strength.

Yule's call to arms was representative, in tone and argument, of the utility companies' response to their critics. He dismissed the reformers as "local agitators." Yet at the same time, the moderation of his specific proposals revealed a flexible and fluid approach to the limits of state action, accompanied by, doubtless in part prompted by, a calculated respect for the strength of the movement. His essential concern was to protect the capital already invested in the electrical business: "The agitation is in the air and how best to save our property from complete confiscation is the question of primary importance. We do not dispute the right of municipalities to control and operate all their franchises, *if honestly and fairly entered into*." [My emphasis.] The greatest danger, that is, lay in something which he and his associates in the CEA had always feared: competition.

In this case the competitor, for all his disadvantages of inexperience and political meddling, would have the

backing of the community's tax resources, resources to which the private company itself, as a member of that community, was required to contribute. Yule regarded as a "hopeful sign" that "a few of our leading newspapers are now recognizing that the practice in some European countries of government control of monopolies is the true remedy for any evils that may exist." He described the regulatory Board of Gas and Electric Light Commissioners which existed in Massachusetts, and also noted that in Great Britain local authorities were prohibited from entering competition with private companies. A British municipality was required to purchase the local company, according to rules and procedures set out in the Electric Lighting Act, before it entered the lighting business. If a purchase price could not be agreed upon, the matter went to arbitration. Yule thought that a combination of the British and Massachusetts legislation would offer an ideal environment for private companies. His sights were mainly focused, however, on achieving protection on the British model.

## II

The *Canadian Electrical News*, which had become the official CEA journal, had arrived at much the same position. Three years earlier, in response to a series of municipal initiatives in London, Hamilton, Woodstock and Ottawa, the *News* had begun to devote more space and more serious consideration to the municipal ownership question than it had done previously.<sup>6</sup> Its editorials and articles reflected a mixture of anger and fear, of rigidity and flexibility, similar to that found in Yule's address. Occasionally, articles were printed that were sympathetic to municipal ownership, though these were always signed or, in one case, marked "Contributed."<sup>7</sup> More commonly, a stance that was basically critical was tempered by a cautious reluctance to prejudge the issue. In the summer of 1894, the journal carried an article on the Port Arthur Electric Railway, "the only street railway in America that is owned and operated by the town," and while it seized the opportunity to criticize construction expenditures, it also referred to the railway as "an interesting experiment in municipal undertakings [sic]," one which might in the future help to resolve the question of "the feasibility of towns operating their own railways."<sup>8</sup> Similarly, the journal firmly opposed a Toronto bylaw authorizing money for an electric light plant, but suggested it was too early, in light of the changing state of electrical technology, to make a decision involving so heavy a capital commitment.

It is altogether certain, we believe, that the saving, if any (which might be made by a municipal plant) would be so very trifling as not to warrant the city in entering upon such an extensive undertaking, involving so large an outlay . . .

Whether or not it will ultimately be to the city's advantage to own and operate its own lighting plant, will be much better understood say five years hence than it can possibly be to-day, when the business is to some extent in a transition state.<sup>9</sup>

When the bylaw was defeated, an editorial congratulated the city's property owners on their wisdom, but again revealed the pragmatism of the journal's attitude: "We believe the decision to be a wise one so far as it related to Toronto and cities of large population."<sup>10</sup> The question might be resolved differently, in other words, in smaller centres, where the profitability of lighting was more doubtful but where demand was nonetheless present.

The *Electrical News* also acknowledged the justice of some criticism of the industry by its own appeals for improvements in company practice. In October, 1898, it reprimanded a number of unspecified companies for their cavalier treatment of customers. The editorial, entitled "Short-Sighted Methods," began, "From information to hand, we are of the opinion that the movement in favor of municipal control of electric lighting is being advanced by the unpopular methods of some of the private lighting companies." To operate successfully, utilities had to cater to public requirements. "Their object should be to please by every means the persons from whom their business derives its revenue." The companies in question were not doing so and, moreover, were not maintaining and renewing their equipment. "As might easily have been foreseen, the result of this line of policy has been forfeit of the sympathy and goodwill of the consumers on whom the success of the business must depend, and the dissatisfaction thus engendered has, in many instances, taken the form of active opposition and advocacy of municipal control."<sup>11</sup> This was a result which affected not only the parties directly concerned, but the entire industry.

This self-criticism was, of course, exceptional. The image usually presented by the *Electrical News* and by vocal members of the CEA was of an industry engaged in an undertaking hazardous by its very nature, and made even more so by the threat of municipal ownership.<sup>12</sup> An especially destructive snowstorm in the winter of 1894 inspired the hope that the public would recognize the need for a "fair margin of profit" in a business vulnerable to sudden and serious damage.<sup>13</sup> The picture of uncertain profits first drawn at the time of the Association's creation recurred in subsequent years. When in 1894 a delegation of gas and electric company representatives opposed the assessment of "street plant" for taxation purposes, the risks of electric lighting enterprise were stressed: changing technology, low profit margins, "keen competition," including that of other illuminants, and the immobility of plant, once it was established.<sup>14</sup> At the same

time, the *News* suggested it was "the public" itself which owned these enterprises. The original promoters typically sold their stock at a premium, thereby reaping "some of the reward due to their daring and ability," and the purchaser was generally a "steady," "sensible" man who was investing his small yearly surplus earned in business or a profession. His shares constituted part of the legacy which he left to his family. "These men," according to the *News*, "their widows and unmarried daughters, are ultimately the principal owners of gas and electric companies in the larger towns . . ."<sup>15</sup> This transfer of ownership had taken approximately a decade.

The companies, in this view, occupied a position of weakness in relation to the municipalities. The *News* argued that central station men were ignorant of each other's methods and operating conditions. It offered as evidence a letter from the manager of a plant in an eastern Ontario town to his counterpart in a western Ontario town requesting information about the other's lighting system and the nature of his municipal contract. "The municipalities have taken advantage of this state of things to force down the price of electric lighting, and in fact to almost dictate their own terms to the companies." The need for some sort of united defensive action was manifest, and the journal urged managers and owners to join and support the CEA.<sup>16</sup>

The Association devoted a session of its 1898 convention to a consideration of how the beleaguered company owner might best cope with his problems. The paper, delivered by A.A. Wright of Renfrew — "How to Overcome Some of the Difficulties Encountered by Central Station Men" — and the discussion that followed, gave as much attention to municipal relations as to commercial and residential lighting. Wright, later a Liberal M.P., was a prominent charter member of the CEA.<sup>17</sup> His advice consisted mainly of two points. The first was to confine one's own political activity to the provincial and federal areas. Direct involvement in municipal politics would only make enemies who would then attack the municipal lighting agreement. Entire passivity, on the other hand, was likewise to be avoided: "I do not wish you to infer from this that you should not exercise your franchise when the day for voting comes around, but on the contrary let it be known that you and your employees always vote for the progressive and enterprising men of the town and as every aspiring alderman will want your assistance, you if you do not make too much noise, will generally manage when he is elected to get his."<sup>18</sup>

Secondly, Wright advised that every attempt should be made to terminate the lighting contract, usually annual in smaller centres, on the first of March. This could be done by informing the municipal authorities that the company's fiscal year began on that date. A "harmless looking saving clause" should then be inserted near the end of

the contract, providing for thirty days' written notice of intent to terminate by either party, failing which the contract would be renewed for another year. Quarterly billing dates, finally, should be arranged to fall on the first of March, June, September and December. This strategy was predicated on the timing of Ontario municipal elections, held at the beginning of each year. The outgoing council, hopeful of the company's assistance in re-election, would "forget" to give notice. The new council normally met for the first time only at the end of January, when in any case little business was conducted. Electric lighting thus would escape attention until presentation of the March quarterly account, by which time it would be impossible to meet the requirements for notice of termination. Wright thought this might go on for some time!

During the discussion, he supplemented this advice by recommending the joint stock company as a form of organization. If "the most influential men in the town" could be enlisted as members of the board the company would secure an added "leverage on the council" and a hedge against the formation of a rival concern. More pessimistically, he advised his listeners to avoid street lighting altogether and to concentrate on the commercial and residential side of the business. J.J. Wright, manager of the Toronto Electric Light Company, added a cautionary note to the saving clause recommendation. It was impossible, he thought, to come right out and ask for it, "especially as one has to deal with a number of men who are not any too well up." One had to choose carefully an alderman who would sponsor it. In a similar vein, Yule warned of the fickleness of municipal councillors. The problem with gathering the support of influential men was that often their influence was transitory. He himself was thankful that in Ontario only property holders could vote on a bylaw, and they were not inclined to trust the councils "with any more money or property than they can get at present."<sup>19</sup>

Underlying the electric light industry's sense of municipal persecution was thus a solid distrust, bordering on contempt, for local authorities. Many of them, in A.A. Wright's words, "know nothing of arc lighting, except that it is not only necessary, but their special duty, to appear wise in order that they may look well after the interests of the town." More sympathetically, in his 1897 Presidential Address, Yule contrasted the situation in cities admired by municipal reformers, like Glasgow, Manchester and Birmingham, "where the civic ambition largely prevails amongst men of capital, leisure and ability, who give their time and talents to promote the common good," with that in Canada, where municipal affairs were managed "in odd hours snatched from business, by men who cannot afford to give the time and attention necessary to the successful management of an intricate and hazardous mercantile concern like the supply of electricity."<sup>20</sup> The problem of incompetence was compounded by

the problem of corruption, as the *Electrical News* was quick to point out late in 1894 when the famous Toronto boodle case was exposed. Municipal institutions, it argued, were unfit to take over any industry.<sup>21</sup> For the utility companies, the Damoclean sword was suspended by the thin hair of a municipal politician.

The criticism directed by industry spokesmen at local authorities was not markedly different from that voiced by municipal reformers. The tone of reform criticism tended more toward earnest concern, but Yule's words, for example, might have been lifted from the pages of the *Municipal World*. The same might be said of an *Electrical News* editorial of 1894: "Without the slightest reflection upon the ability and integrity of the permanent civic officials, and apart from all questions of political influence or corruption, the lack of continuity of control inherent in our system of municipal government, and the control by men elected for other considerations than their especial fitness for the business in hand, place the civic corporation at such a disadvantage that in competition with it a private concern will earn a profit which is the wages of ability and fitness." "Politics" would obstruct the best-intentioned efforts of permanent officials.<sup>22</sup>

Like the reformers, the companies were preoccupied by the lack of expertise found among local politicians. E. Carl Breithaupt presented the case against state ownership in a paper delivered at the CEA convention in the autumn of 1894. He offered evidence to demonstrate that private plants were superior in economy and efficiency to municipal ones. A large part of the explanation for this lay in the years of special training and experience required to operate an electric light plant successfully. What could one expect of a plant supervised or even in some cases managed by a committee of council, "a body of men who hold office for only one year, and who, while they are probably well versed in their own private business, usually have no knowledge of gas or electric light matters."<sup>23</sup> Continuity and expertise were required for efficient operation. Breithaupt also criticized municipal accounting practice, for its inaccuracy and for its tendency to charge items from one department, such as lighting, to the expenses of another, such as waterworks.<sup>24</sup> One *Electrical News* editorial in 1901 went so far as to commend the commission system of municipal utility operation because it removed management from politics and placed it under expert guidance.<sup>25</sup>

Each side, of course, approached the problem of inefficiency in municipal government from a different perspective. The reformers saw it as a flaw to be remedied. The companies usually saw it as an irremediable fact of municipal life. In 1898, the city of Hamilton commissioned a report on the cost of installing and operating a lighting plant. When the report was presented, the *Electrical News* commented on it at some length, in terms

which accepted a significant portion of the municipal ownership argument.

We do not wish to be understood as condemning every case of municipal control off-hand, but we do say that in the majority of cases it has been found to be a mistake. Given the same system under municipal and under private control, and assuming that the management in both cases has the same dividend making efficiency, the former will have an advantage, for whereas the municipal plant is capitalized on money borrowed at 3.5 per cent, the private plant is expected to pay, say, 8 per cent, and the difference of 4.5 per cent is in favor of the first. Again, a new municipal plant properly engineered and managed, has, by reason of its greater efficiency of operation, a decided advantage over an old and inefficient plant which it is to replace . . .

The fault in the argument lay in the assumption of comparable management. "In any case, the difference in cost of operation will not be so great but that by improper management the positions may be reversed, and municipal management, hampered as it usually is by local politics, is not in the best position to make the most of the above advantages."<sup>26</sup> It obviously was not in the interest of the companies that this problem be solved. Nevertheless, it was over the *possibility* of solving it that their argument mainly differed from that of the reformers.

### III

By 1897 and 1898, however, the utility companies recognized that whatever their views of the practicability of municipal ownership, the movement, even if only a passing fancy, would not pass in the immediate future. A number of demonstrated failures to live up to its claims of greater economy and efficiency would be required before the municipalities recognized their mistake. The immediate necessity, therefore, was to secure protective legislation. "The function of a government," Breithaupt had argued, "is to regulate and control and to encourage enterprise on the part of its citizens by extending a protecting hand over the industries they establish." "Simple justice" required that if a municipal corporation decided to enter a business in which some of its citizens were already engaged, it offered to buy them out at a "fair and equitable price."<sup>27</sup> The *News* urged its readers to attend the CEA convention in June, 1897 and to use the Association as an instrument to prevent the "annihilation" of private lighting companies.<sup>28</sup>

During the convention, held that year in Niagara Falls, the Association adopted John Yule's recommendation that its Committee on Legislation be authorized to seek pro-

tection aid from Queen's Park. The committee, under Yule's chairmanship, got down to work immediately. It retained the legal services of Donald Guthrie, Q.C., a prominent Guelph Liberal and president of the Guelph Light and Power Company since its inception in 1870.<sup>29</sup> On his advice, the committee prepared a bill to be introduced to the Ontario Legislature, to amend the Municipal Act. It canvassed the lighting companies of the province for financial assistance and urged them to seek the support of their local Members. It contacted "leading" newspapers and, assisted by Guthrie and Z.A. Lash, who was paid by the Toronto Electric Light Company, it appeared before the Municipal Committee of the Legislature in January, 1898.<sup>30</sup>

The campaign for protection strained the unity of the Canadian Electrical Association. Yule apparently was afraid of certain problems right from the beginning. This, at any rate, would explain some of the remarks in his 1897 Presidential Address, the intent of which seemed to be to anticipate and head off possible ruptures. His explicit appeal to set aside "business jealousies" perhaps reflected a concern for the effects of competition on inter-company relations. A brief justification of the convention as time well spent reflected some unhappiness with the limited support the Association was receiving from the industry, and his denial that the organization existed "for the display of intellectual gymnastics" perhaps hinting at an old conflict over purpose between promotion of commercial interest and the advancement of engineering knowledge.<sup>31</sup> He concluded by assuring the electrical manufacturers that the utilities were most appreciative that, unlike their counterparts in the United States, they were not going after the municipalities as a way of maintaining their declining rate of growth in sales. It was not expected that the suppliers actually *refuse* to sell to municipalities. "But that they take a stand for the best interest of the business and do not lend themselves to helping in confiscating the property of those who had the courage to invest in electric lighting enterprises, is very much to be commended."<sup>32</sup>

If his purpose was indeed to paper over differences, Yule achieved only partial success. The commercial-professional conflict did not become evident until 1900, the year after the Conmee clauses had been passed. At that time a proposal was made that the Association amend its constitution to provide for a company membership as well as an individual one. More fees would result and legislative pressure might be facilitated. The objection was raised, however, that the CEA was moving away from being an organization of electrical engineers and becoming "an association for the benefit of electrical interests." The proposal was dropped and the hope was expressed that commerce and science could co-exist harmoniously.<sup>33</sup>

Inter-company tensions, on the other hand, surfaced almost immediately. The Committee on Legislation incurred a little over \$600.00 in costs during its first year's efforts, for legal services, printed matter, postage, office assistance and so on. Committee members had paid their own expenses. Yule pointed out in his report that only fifteen companies had responded to requests for funds, in amounts ranging from \$10 to \$150. "It is quite evident to your committee," he said, "that if the work in hand is to be carried to a successful issue, a more general, liberal and hearty support will have to be accorded them."<sup>34</sup> The following year saw considerable improvement, which was fortunate since expenses more than tripled. Still, only fifty-one companies made contributions. Almost \$2000 was collected, in subscriptions of \$5 to \$250. Included in this amount were two "unsolicited and substantial" contributions from the Royal Electric Company, a manufacturer in Montreal, and the Packard Electric Company, a manufacturer in St. Catharines. The Committee's annoyance with its tight-fisted colleagues was tempered this time by the satisfaction of success, and it contented itself with proposing that the companies agree to pay a small annual subscription to maintain a lookout for hostile amendments.<sup>35</sup> This attempt to regularize support failed, and the problem remained. The municipal ownership movement showed no signs of abatement and the protective legislation, financially beneficial to those companies under immediate threat of municipal competition, was subject to periodic attacks that required the Committee's attention. By 1901, Yule bitterly denounced those company owners who were prepared to reap where others had sown. "I am so much disgusted with the support we got from the companies that I feel like dropping the thing and letting them take care of themselves . . ."<sup>36</sup> Two years later, the Committee drew on the Association's general revenues for the first time.<sup>37</sup>

The suspicions harboured by many producers toward the electrical supply men also emerged at an early stage. At the 1898 convention a wide-ranging discussion followed the Committee on Legislation's report. Stephen Noxon of Ingersoll wondered at one point how much responsibility for "this idea of municipal lighting" rested with the manufacturers. "It occurred to me that if the supply men would not encourage municipalities in this thing, it would go a long way towards getting rid of the difficulties." One of the suppliers responded by describing an occasion on which a number of manufacturers had agreed not to tender for a certain municipal plant until a definite decision had been made by the town, but the news had leaked out and the arrangement had fallen through. The delegate from Barrie, whose company was then under municipal siege, judged the manufacturers blameless in his case.<sup>38</sup> Then, following a general expression of loyalty to the "electrical fraternity" by another supplier, Yule revealed a defensiveness that belied his confident assurance of the previous year: "In regard to

the supply men we know who are our friends and who are our foes. We know a great deal more than they give us credit for sometimes."

A.A. Wright said he would not soon forget how the rival company in Renfrew had been promoted by a manufacturer, but he warned that any outright alliance between operators and suppliers would be pounced on by their opponents. By telling "half the truth" they would "make the people believe" that an arrangement had been made not to sell plant or supplies to the municipalities. It would be best, he thought, if the supply men would simply recognize that it was in their own interest, since it was the utilities who brought their products, to be "very careful and throw all reasonable cold water" on municipal schemes. To this, one supplier bristled in reply that if operators in certain towns would buy in Canada, rather than across the border, the manufacturers would not have to approach municipal authorities to expand their trade into those towns. The discussion ended inconclusively, and would arise again, with similar result.<sup>39</sup>

#### IV

Despite these tensions the major goal of the campaign was achieved. At the close of 1897 a bill was prepared that would prohibit a municipality from operating either an electric plant or a gas works until it had completed arrangements to purchase any privately owned plant that already offered the service. Gas works were included in order to secure the support of the gas companies and because a number of companies, such as the one in Guelph, combined the two operations. A board of arbitration would be appointed to resolve any difference that arose as to price. Provision was made as well for the resolution of disputes between a municipality and a company over lighting rates by means of arbitration. Donald Guthrie argued that this would deprive the municipality of an "excuse" for getting into the gas or electric business.<sup>40</sup> The bill proceeded as far as the Municipal Committee, where it came to a temporary halt. Probably with an eye on the approaching election, the chairman, Premier A.S. Hardy, suggested that the bill be allowed to stand over for a year to enable the municipalities to give it further consideration.<sup>41</sup>

The outlook was nevertheless encouraging for the companies. Both Hardy and Conservative Opposition Leader J.P. Whitney had approved of the bill in principle. And while municipal ownership was spreading, this very growth, according to the *Electrical News*, was stimulating interest in the CEA: "Electric light companies have become convinced of the necessity of organization in order to protect their property."<sup>42</sup> The Committee on Legislation presented an optimistic report to the 1898 convention.



The electrical men emphasized in their argument that their intention was not to prevent municipalities from owning their own utilities. It was only to ensure fair treatment to people who had originally risked capital in the lighting business, often with the express sanction or encouragement of municipal authorities. The proposed legislation in fact safeguarded municipalities since it not only provided for arbitration of their lighting rates but also prevented them from entering a potentially unprofitable competition, a point which at this stage might fairly be called whistling in the dark. To meet the objection that some towns might wish only to light their streets and public buildings and not to get involved in the supply of commercial light and power, the companies agreed reluctantly to provide for separation of plant and to allow the arbitrators to evaluate the effect of this on the business of the firm concerned.

The proposed legislation, it was argued, had at least two important precedents. One was the law already in effect in Ontario which protected the property of water supply companies from municipal competition.<sup>43</sup> The gas and electric utilities asked only for the extension of that law to cover themselves. Equally important, there was clear precedent for their request in British legislation. This, "the fact of a law having been passed in Britain, where they have had more experience probably than we have had in this country," was, in Stephen Noxon's view, a strong argument in favour of the bill.<sup>44</sup>

Above all, the point to which the companies returned again and again was the need for protection against municipal competition. Duplication of plant was wasteful and in itself to be avoided. When, in addition, one plant was owned municipally and the other privately, it was "a case of a whole community going into competition with private individuals who are the shareholders of the existing gas and electric light company." The effect was confiscatory.<sup>45</sup>

In 1899, James Conmee, the Liberal Member for West Algoma, agreed to guide the Association's bill through the Assembly. He did so with what one central station man later called "the enthusiasm of a man with a large amount of money invested in electrical interests."<sup>46</sup> Conmee presented the bill, which had been drafted by Donald Guthrie, as a measure of municipal reform. The *Toronto Globe*, under the sub-headline "A Bill to Enable Municipalities to Acquire Electric Light Plants," reported that one provision gave towns the same "right" to buy gas and electric companies as they already had to buy water-works!<sup>47</sup> Arguing against the bill with characteristic vehemence, the *Toronto Telegram* responded that the protection accorded water companies should be removed rather than extended to include gas and electricity.<sup>48</sup>

Opposition to the bill focused on three specific areas. Arbitration was seen as a cumbersome process which would involve municipalities in an expense they could ill afford. Also, the larger cities especially might wish to establish plants for public purposes only, such as street lighting, and leave the commercial supply of light and power in the hands of a private company. Finally, concern was expressed that, under the conditions of arbitration, companies would be evaluated as "going concerns," that is, the purchase price would take into account prospective profits lost and the value of the franchise itself.<sup>49</sup> Conmee responded in the Municipal Committee to each of these objections: the arbitration process was streamlined, provision was made, as noted above, for separation of plant, and a clause was added specifying that value be determined on a basis of the plant alone.<sup>50</sup>

He was unable, however, to meet the more general opposition, which was to the constraints imposed by the bill on municipal freedom of action. Try as he might to describe the legislation as in the "line" of municipal reform, he insisted that municipal competition was "practical confiscation" and had to be prevented.<sup>51</sup> In a similar vein, Guthrie summed up the bill's purpose for the Municipal Committee of the Legislature as aiding private enterprise while not discouraging public enterprise.<sup>52</sup> That the bill did discourage public enterprise, however, by infringing on municipal rights, was the fundamental point of its opponents. Its effect, claimed the *Telegram*, was "to tie every municipality in Ontario up neck and heels to the electric light and gas companies."<sup>53</sup> The role of the legislature, in the view of Henry Carscallen, Conservative Member from Hamilton, was to protect the public; the corporations could take care of themselves.<sup>54</sup>

Despite these objections, the bill did not provoke strong resistance from the Conservative Opposition, and on the Liberal side Guthrie's connections were undoubtedly of some assistance, since Hardy appointed him to sit on the sub-committee which drafted the bill in final form.<sup>55</sup> It was incorporated in the Municipal Amendment Act and passed in the closing hours of the session on March 31.

The new law, which was linked ever after with its sponsor's name, outraged advocates of state ownership, for it forced municipalities, if they wished to enter the lighting business, in some cases to expend money on obsolete equipment, in others to buy a plant which had never been profitable since originally constructed, and, where competition already existed between private companies, to buy more than one plant.<sup>56</sup> Moreover, it removed some of their bargaining power, for unless they could secure special legislation granting exemption from its terms, they now had no recourse if, as a last resort in negotiation, a company simply cut off its service. The companies, on the other hand, were elated by their success. Three months after the bill's passage the CEA President was claiming



that already the privately owned utilities were responding to their new-found security by extending their business and enlarging and improving their plants.<sup>57</sup> The value of the Association was now established beyond any doubt.<sup>58</sup>

At the same time, no one suggested the industry's troubles were over. The Committee on Legislation predicted, accurately, that attempts would be made to amend the Conmee clauses. It hoped for funds to maintain a watching brief, a hope which, as indicated earlier, soon became an angry plea.<sup>59</sup> It was important, too, that companies not abuse their legal protection; that would only prompt further antagonism. When in 1900 the association thanked John Yule for his leadership in the previous two or three years he included in his own remarks a piece of cautionary advice.

If I were to give a word of warning to the companies throughout the province, I would say that they had better not be too aggressive in their dealings with corporations [i.e., municipal]. Meet the corporations as soon as any advance is made, and fairly and squarely deal with them as they would deal with any other item of business. It appears to me this movement is going to grow; it will grow for a time, and then I think it will die out after they have had a little experience.<sup>60</sup>

Even the subdued optimism of this forecast was not borne out by events. By 1903, in commenting on the financial problems of resisting the municipalities at Queen's Park, Yule's description of the situation was bleak. "Another thing that has weakened us, gentlemen, is that the companies are gradually going over to the municipalities; they are being gradually bought out; we are being weakened in that way; some of our strongest supporters have gone over, Berlin, Brockville, Owen Sound, Guelph and Kingston, etc."<sup>61</sup> The year previously, moreover, a new factor had required comment:

The Socialistic candidates in the election campaign last month all advocated the policy of the Provincial Government generating electricity at

the Falls [Niagara], transmitting and selling at cost to the different Municipalities. Whether this movement will grow or not the future will determine. We point this out for the purpose of showing the different lines of attack made upon our interests and the necessity of continued wakefulness on the part of the Companies.<sup>62</sup>

The passage of the Conmee clauses, indeed, was only one episode in a longer struggle.

## V

The electrical men can scarcely be criticized for failing in 1899 to divine a future whose outline was only beginning to take definite shape in 1902 and 1903. For the moment, they had achieved formal recognition of what they regarded as an important claim on the resources of the state. In doing so, they had moved with ease from their private sphere to the public one. In Donald Guthrie they had had at their service a man of some substance in Liberal politics, who, though a private citizen, had played an active role in framing the amendment in committee. No serious opposition had been met in the legislature. The strength of their opponents, as yet only poorly organized, lay in individual towns and cities. More importantly, municipal ownership had not yet acquired the following among the provincial bourgeoisie that it would later attract when the value of electricity for motive power in manufacturing became apparent. In obtaining from the provincial government an amendment to the Municipal Act, the companies had successfully brought the restraining hand of a senior government to bear against the reformist tendencies of a junior one, just as, ten years later, private interests attempted unsuccessfully to persuade the Dominion government to disallow legislation pertaining to the province's new Hydro Commission.<sup>63</sup> In both cases, the appeal was made not so much against the reform itself as against the apparent lapse of the junior government in performing its protective duty toward business.

## NOTES

1. See John C. Weaver, *Shaping the Canadian City: Essays on Urban Politics and Policy, 1890-1920* (Toronto, 1977). For the place of this dispute in the history of Hydro, see Kenneth C. Dewar, "State Ownership in Canada: The Origins of Ontario Hydro," Ph.D. Thesis (University of Toronto, 1975).
2. *Canadian Electrical News*, March 1892, p. 39; August 1892, pp. 96, 108. (Hereafter cited as *CEN*. Unless otherwise indicated, the footnotes in this paper are to the *News*.)
3. Oct. 1891, p. 143; Feb. 1892, p. 24.

4. The Guelph company is described in the Nov. 1892 issue of *CEN*, pp. 155-56.
5. June 1897, pp. 99-101. Yule offered parenthetical justification for his regional focus — "(I mention Ontario because it is the storm centre of the present agitation)" — presumably in deference to the feelings of those six delegates from Quebec and Nova Scotia. Fifty-seven people were listed from Ontario and five from the United States.
6. Mar. 1894, p. 31.

7. Jan. 1895, pp. 10-11; June 1895, pp. 101-103; Apr. 1897, pp. 69-70.
8. July 1894, p. 82.
9. May 1895, p. 79.
10. June 1895, p. 90. On this point see also the paper by E. Carl Breithaupt, "Municipal Electrical Lighting," Oct. 1894, p. 140.
11. Oct. 1898, p. 198. A similar point is made in Mar. 1894, p. 26; Mar. 1898, p. 45; Sept. 1901, p. 171.
12. The *News* published extensive reports of convention discussions.
13. Jan. 1894, p. 8.
14. Apr. 1894, p. 37; also Apr. 1895, p. 61.
15. May 1894, p. 50.
16. Jan. 1896, p. 15.
17. June 1898, p. 111; J.K. Johnson, ed., *The Canadian Directory of Parliament, 1867-1967* (Ottawa, 1968).
18. July, 1898, p. 143.
19. *Ibid.*, pp. 122-23.
20. June 1897, p. 99.
21. Dec. 1894, p. 167.
22. June 1894, p. 67. The editorial's confidence regarding the competitive threat to municipal ownership reflected the early stage of the movement.
23. Oct. 1894, pp. 139-40.
24. In October, 1900 (p. 195) the *News* criticized the financial statistics of municipal lighting plants for understating costs. Often they were adjuncts of other departments, which lowered an item such as salaries. For the reformers, this was simply one advantage of municipal ownership.
25. Dec. 1901, p. 20.
26. Nov. 1898, pp. 217-18.
27. Oct. 1894, p. 140.
28. Apr. 1897, pp. 68-9 and May 1897, pp. 79-80.
29. Guthrie sat federally for Wellington South, 1876-82 and provincially for the same constituency, 1886-94. (Henry James Morgan, *The Canadian Men and Women of the Time: A Hand-Book of Canadian Biography of Living Characters* (2nd ed.; Toronto, 1912)).
30. June 1897, p. 101, 105; Report of the Committee on Legislation, July 1898, pp. 128-30.
31. On this point see also Dec. 1891, p. 165; Aug. 1892, p. 4; May 1897, pp. 79-80.
32. June 1897, pp. 100-101.
33. Sept. 1900, pp. 159-61.
34. July 1898, pp. 128-29. Help came from companies in Brockville, St. Thomas, London, Ottawa, Waterloo, Brantford, Carleton Place, Guelph, Lindsay, Galt, Barrie, Owen Sound, Cornwall, Strathroy and Cobourg.
35. Report of the Committee on Legislation, July 1899, pp. 127-28. A list of contributors is appended to the report, as is a list of contributions by number and amount.
36. July 1901, p. 110.
37. July 1903, pp. 137-38.
38. Reformers and companies alike drew on the Barrie dispute for ammunition (*Toronto Telegram*, Mar. 29, 1899).
39. July 1898, pp. 131-33; July 1899, pp. 145-47. Royal's and Packard's subsequent contributions to the Legislation Committee no doubt were made to demonstrate their goodwill.
40. July 1898, p. 129.
41. *Ibid.*, pp. 128-30; *Toronto Telegram*, Jan. 12, 1898.
42. June 1898, p. 100.
43. Section 507 of the Consolidated Municipal Act (1892).
44. July 1898, p. 131. A *News* editorial of April, 1898 (p. 61) referred also to a Pennsylvania legal decision and legislation before the New York legislature.
45. The case was summarized in the *News* editorial of Mar. 1899, p. 41.
46. The compliment came from H.R. Leyden, manager of the Cataract Power Company in Hamilton (July 1899, p. 128). C.W. Chadwick of Rat Portage, who had run against Connée in the 1898 provincial election, wrote J.P. Whitney that he suspected the bill was introduced in the interests of the local Citizens Electric Light and Power Company (Public Archives of Ontario, *Whitney Papers*, Mar. 8, 1899).
47. *Toronto Globe*, Mar. 4, 1899.
48. *Toronto Telegram*, Mar. 4, 1899.
49. *Toronto Globe*, Mar. 4, 1899.
50. *Toronto Evening Star*, Mar. 23 and Mar. 28, 1899.
51. *Toronto World*, Mar. 18, 1899.
52. *Toronto Telegram*, Mar. 23, 1899.
53. *Ibid.*, Mar. 7, 1899.
54. *Toronto Evening Star*, Mar. 28, 1899.
55. The *Telegram* criticized the appointment (Mar. 29).
56. This was the case made in Municipal Committee by the City Solicitors of Toronto and Hamilton and the Town Solicitor of Prescott (*Toronto Evening Star*, Mar. 23, 1899).
57. July 1899, p. 126.

58. May 1899, p. 85.
59. Report of the Committee on Legislation, July 1897, pp. 127-28. See Reports in Sept. 1900 and succeeding July issues of the *News*.
60. Sept. 1900, p. 169. See also the editorial of May 1900, pp. 76-7.
61. July 1903, p. 137. Yule continued to manage the Guelph plant under municipal ownership until his retirement in 1907. (Greta M. Shutt, *History of Board of Light and Heat Commissioners of Guelph* (Municipal Electrical Histories; Ontario Hydro, n.d.)).
62. Report of the Committee on Legislation, July 1902, p. 108.
63. Cf. Christopher Armstrong and H.V. Nelles, "Private Property in Peril: Ontario Businessmen and the Federal System, 1898-1911," in Glenn Porter and Robert Cuff, eds., *Enterprise and National Development: Essays in Canadian Business and Economic History* (Toronto, 1973), pp. 20-38.