

7 Edw. VII. c. 19 (1907). The plaintiff replied that this Act was *ultra vires*. After evidence was taken the judge adjourned the argument to see what the legislature then sitting would do, though this was strongly objected to by counsel for the plaintiff. Shortly afterwards, 9 Edw. VII. c. 19 (1909) was passed. This declared the contract to be valid and binding according to the terms thereof, and was not to be called in question on any ground whatever by any court. Sec. 8 provided that "every action which has been heretofore brought, and is now pending wherein the validity of the said contract or any by-law passed or purporting to have been passed authorizing the execution thereof by any of the corporations hereinbefore mentioned is attacked or called in question, or calling in question the jurisdiction, power or authority of the Commission or of any municipal corporation or of the councils thereof or of any or either of them to exercise any power or to do any of the acts which the said recited Acts authorize to be exercised or done by the Commission or by a municipal corporation or by the council thereof, by whosoever such action is brought shall be and the same is hereby forever stayed." On the argument which afterwards took place the plaintiff contended that this legislation as well as 7 Edw. VII. c. 19 was *ultra vires*, and that the action was not thereby stayed.

Held, that the legislation above referred to was within the powers of a provincial legislature; and that, as the legislature had said the action should be stayed, it was the duty of the judge to obey such order, and that no judgment could be entered, except that the record might be endorsed with a declaration that the action was stayed by the legislation referred to; and further that no order could be made as to costs.

Johnston, K.C., and *McEvoy*, for plaintiff. *DuVernet*, K.C., and *Lefroy*, for city of London. *Cartwright*, K.C., for Attorney-General of Ontario.

Province of Manitoba.

KING'S BENCH.

Cameron, J.]

BARRY v. STUART.

[April 22.

Costs—Witness fees—Expenses of qualifying witnesses to give evidence.

The successful party in an action cannot have taxed to him under rules 963 and 964 of the King's Bench Act, R.S.M. 1902,