

This matter was heard before the Premier, then the acting Attorney-General, who after argument gave the following pronouncement: "I am expected apparently on the mere statement of a plaintiff that the members of the Hydro-Electric Power Commission were guilty of fraud and deception, as set out in the statement of claim, to assume the truth of the statement, and, therefore, grant a fiat. Under this doctrine it would be simply necessary for a plaintiff to interject into his pleading any allegation calculated, if true, to justify the issue of a fiat, and a fiat would follow as a matter of course. As I cannot agree with this, and as under such circumstances fiats have been many times refused, I do not see my way clear to grant these applications. Apart from the question of fraud, the plaintiff's contention in each case rests upon the view that the municipal councils had not the power under the statute to finally enter into contracts with the Hydro-Electric Power Commission without submitting the terms of them to the ratepayers. I have personal knowledge that this was not the intention of the legislature, and I cannot divest myself of that knowledge. It may be that at its next session, which cannot now be long delayed, the legislature may make a declaration on the subject. In refusing the application now I reserve leave to the applicants to renew them after the opening of the session."

Comment on this somewhat extraordinary, and, under the circumstances as I venture to think, indefensible deliverance is needless. Surely no one individual member of the House could know what was in the minds of the other members when they voted on the section in question; and apart from this the refusal was an arbitrary and high-handed taking away of the right of every British subject to audience in the courts of justice and contrary to British usage in similar cases.

Judgment was given on this motion to stay proceedings by Mr. Justice Latchford who held that the action could not be stayed either as being frivolous and vexatious or because the Hydro-Electric Power Commission was not a party. In commenting upon s. 23 of the Act he said: "I do not feel called upon to attempt to determine upon a motion of this kind whether such