

(1a) of the Consolidated Municipal Act, 1903. The reasoning of Clute, J., was wholly satisfactory, and there was only this to add: it might very well be that at the time by-law No. 881 was submitted many voters refrained from voting because it was apparent that the by-law, if passed, must be a mere nullity.

The learned Judge also stated that he was not to be taken as dissenting from the reasons for judgment given by the other members of the Court.

Appeal dismissed with costs.

MULOCK, C.J.Ex.D.

DECEMBER 2ND, 1909.

ABBOTT v. TOWN OF TRENTON.

Municipal Corporation—Contract for Transfer of Water Power and Right to Supply Electricity to Company—By-law of Town—Invalidity—Necessity for Submission to Ratepayers—Municipal Act, 1903, sec. 565—9 Edw. VII. ch. 75, sec. 2 (1)—Public Utility—Prior Contract—Injunction.

Action by a ratepayer, on behalf of himself and all other ratepayers, of the town of Trenton, against the town corporation and the Trenton Electric Light Co., to set aside an agreement of the 26th July, 1909, entered into between the defendants, and also to set aside a by-law of the municipal council of the town authorising the making of the agreement, and for an injunction to restrain the defendant company from erecting the works contemplated by the agreement.

The town corporation erected a dam on the river Trent within the limits of the town, and the water obtained thereby was developed for the purposes of supplying the inhabitants of Trenton with electric power. By virtue of certain prior agreements, the defendant company became entitled to such water power, together with the right, within the town limits, to continue to develop therefrom electrical energy and to sell and distribute it to the inhabitants of Trenton.

The Dominion Government, for navigation purposes, decided to erect a dam on a site occupied by the first mentioned dam, and also to erect another dam, called No. 2, farther down the river, but still within the limits of the town; and, the town having entered into negotiations with the Dominion Government for the acquisition by lease of the right to the surplus water of dam No. 2, an order in council was passed on the 26th March, 1909, authorising such lease; and the Ontario legislature, by 9 Edw. VII. ch. 126, assented to 13th April, 1909, authorised the town corporation to enter into