

Parliament of Canada, was also engaged in the production of and sale of electrical energy. By an agreement of the 13th October, 1915, the defendant company agreed to sell to the plaintiff company the electrical energy which would constitute the output of one generator, 10,000 kilovolt amperes, for a period of 5 years. The litigation turned largely upon this agreement. There were other similar agreements between the two companies.

During the war, a great demand for electrical energy existed, and it could be sold for a high price.

The Government of Canada, in its concern to secure the utmost output of munitions, under the wide powers conferred by the War Measures Act took steps to deal with the power situation in Ontario, and on the 5th November, 1917, by an order in council appointed Sir Henry Drayton "Controller of the Production and Distribution of Electrical Energy by Companies Generating and Distributing Electrical Energy in Ontario." Under the wide powers conferred upon him, the Controller gave directions to the companies regarding the distribution of energy.

Accounts for energy supplied were rendered monthly by the defendant company to the plaintiff company; the accounts involved in these actions were those for March, 1918, and subsequent months. The companies were at variance as to the amounts payable. The defendant company demanded payment in accordance with its view of the amount payable for March, 1918. The plaintiff company sent a cheque for the amount it thought to be payable; the defendant company refused to accept it, and in due course served a notice demanding payment, and stating that in default it would exercise its power of cancelling the agreements or ceasing to supply electricity thereunder.

The plaintiff company then began the first action, and obtained an injunction restraining the defendant company from carrying out its threat, upon the plaintiff company paying to the defendant company the amount admitted to be due and paying into Court the amount claimed by the defendant company over and above the amount admitted to be due.

The same performance was gone through month by month, so that issue was joined in six actions, and two more were pending in which pleadings had not been delivered, but which (as agreed) were to abide the result of the six.

The total amount involved in the eight actions was nearly \$200,000, apart from the amount to be paid for power supplied under the Power Controller's order.

The six actions were tried without a jury in Toronto.

I. F. Hellmuth, K.C., and G. H. Kilmer, K.C., for the plaintiff company.

R. McKay, K.C., for the defendant company.