

by the municipality. The proposed contract did not conform to the by-law in that it purported to bind the municipality to pay a fixed price for energy at Niagara and a proportionate share of the cost of transmission and other charges which were not determined.

*Held*, 1. That such contract would be illegal and a breach of faith with the electorate and contrary to the requirements of 6 Edw. VII. c. 15, and 7 Edw. VII. c. 10.

2. This being so the mayor was justified in refusing to sign the contract.

3. The mayor would have no right to refuse to sign because in his judgment the terms of the contract were not in the best interest of the municipality, nor upon any ground of policy, but where the legislature has empowered the municipality to enter into such contract only with the approval of the majority of the electors and this approval has not been obtained, he cannot be compelled to sign a contract which would commit the municipality to a liability which the legislature has not empowered him to make and which could only be entered into in violation of the conditions prescribed by the statute.

4. Whilst s. 333 of the Municipal Act directs that every by-law shall be signed by the head of the corporation and whilst this section has been held to be imperative and to impose upon the mayor a ministerial statutory duty enforceable by summary order of mandamus (see *Kennedy v. Boles*, 6 O.W.R. 837) he cannot be compelled to sign a contract where the refusal is based upon the ground that the by-law is beyond the jurisdiction of the council and that it purports to authorize and require the making of an invalid and illegal contract. The court will not assist in the doing of that which is unauthorized and illegal and which involves an act of bad faith. (See *State ex rel. Nicholson v. Mayor of Newark*, 35 N.J.L. 396.) The mayor is not a mere automaton, bound to place his signature to any document no matter how vicious or illegal, because he has been directed to do so by the council.

5. The illegality in the contract has not been overcome by 8 Edw. VII. c. 22, which purports to authorize councils to enter into certain contracts with the Hydro-Electric Power Commission in a certain form. Sec. 4 of that Act which declares a certain form to be a sufficient compliance with the Act and to make valid any such contracts as therein referred to involves the proposition that the legislature has indirectly dispensed with the