

have been invalid and wrongful would seem to me to be an abuse of the discretion which the court possesses in regard to the granting of this extraordinary remedy."

An Act was passed at the last session of the Ontario legislature (8 Edw. VII. c. 22, s. 4), which it was claimed validated these illegal contracts; but the same learned judge held that it had no such effect, or rather could not have been intended so to do.

The mayors of the other municipalities (Toronto included), without any authorization from the ratepayers they were supposed to represent, and for whom they were merely agents, signed the contracts on the altered basis in spite of their obvious illegality. It may be that reliance was placed upon the supposition that an Act of the provincial legislature would be passed to make that legal which had been declared illegal, but more of that hereafter.

In the meantime for the purpose of testing the legality of these proceedings, a suit had been brought by one of the ratepayers of Toronto for himself and other ratepapers, to set aside the contract entered into between the city and the Commission upon the broad ground that the contract was not in accordance with the by-law of the ratepayers in that behalf, and claiming that the city has no right to levy a rate upon their property under an illegal contract, also claiming that the contract had been induced by misrepresentation.

The city of Toronto then made application to Mr. Justice Latchford to set aside the writ and to stay proceedings on the ground that the action was not properly constituted as the Hydro-Electric Commission had not been joined as parties defendant; the learned judge postponed the argument to enable the plaintiff to apply to the Attorney-General for a fiat, as the second Hydro-Electric Commission Act, 7 Edw. VII. c. 19, s. 23, seemed to require this leave before the Commission could be sued. The section reads as follows: "Without the consent of the Attorney-General, no action shall be brought against the Commission or against any member thereof for anything done or omitted in the exercise of his office."