

LATCHFORD, J.

JUNE 12TH, 1918.

ONTARIO POWER CO. OF NIAGARA FALLS v. TORONTO
POWER CO.

Injunction—Interim Order—Irreparable Loss—Contract for Supply of Electric Energy—Threatened Cancellation—Bona Fide Dispute as to Amount Due—Terms of Granting Injunction—Payment into Court of Amount in Dispute.

Application by the plaintiffs for an order restraining the defendants from discontinuing the supply of electric energy to the plaintiffs, under the terms of an agreement between the plaintiffs and the defendants of the 13th October, 1915, whereby the defendants agreed to supply the plaintiffs with electric energy as therein provided, and restraining the defendants from enforcing or attempting to enforce any right under the said agreement to terminate the same upon default in payment of the price of electric energy delivered by the defendants to the plaintiffs, under the agreement, during the month of March, 1918.

The motion was heard in the Weekly Court, Toronto.

G. H. Kilmer, K.C., for the plaintiffs.

R. McKay, K.C., for the defendants.

LATCHFORD, J., in a written judgment, said that the defendants, by the contract, agreed to deliver to the plaintiffs the output at normal rating, to be taken as 10,000 kilowatt amperes, of one electric generator, for a period of five years from the 15th October, 1915.

On or before the 15th of each month, the plaintiffs were to pay the defendants for the amount of energy supplied during the preceding calendar month.

For 75 per cent. of the normal rated capacity of the generator the plaintiffs were to pay at the rate of \$13 per horse power.

For all energy delivered each month, in excess of 75 per cent. of the normal rated output of the generator, the defendants were entitled to be paid according to a scale which rose rapidly as the maximum of 100 per cent. was approached.

On the 8th April, the defendants rendered to the plaintiffs an account for March, 1918, claiming \$41,724.06, a sum greatly exceeding the sum claimed in any previous month. The plaintiffs admitted \$18,901.02 to be due, but disputed the difference, amounting to \$22,823.04.

The defendants thereupon notified the plaintiffs that, in conformity with a term in the contract, they would treat the contract