

tacked and the proposition submitted to the electorate in each case in the form of a by-law which received their approval; and for consequential relief.

In the action against the Corporation of the City of Toronto a statement of claim has been delivered, but no further proceedings have yet been taken. In this statement of claim the constitutionality of a section of the Act respecting the Hydro-Electric Power Commission, which provides that "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," is attacked.

In the action against the Corporation of the City of London, the statement of defence has been delivered and the reply thereto, and in the reply the plaintiff Smith impugns the validity of the several statutes passed by the legislature respecting the Hydro-Electric Power Commission, in the years 1906-7-8.

It does not seem necessary upon the present motions to consider the constitutional questions raised by the plaintiffs, and the Court deems it inexpedient to express any view upon these questions or upon the right of the Court to entertain them.

While the motions before Mr. Justice Latchford were pending, the plaintiffs made application to the acting Attorney-General for a fiat in each case, permitting the joinder of the commission as a defendant. In the memorandum of Sir James Whitney refusing the plaintiffs' applications, the following paragraph is found: "Apart from the question of fraud, the plaintiffs' contention in each case rests upon the view that the municipal council had not the power under the statute to finally enter into contracts with the Hydro-Electric Power Commission without submitting the terms of them to the ratepayers. I have personal knowledge that this was not the intention of the legislature, and I cannot divest myself of that knowledge. It may be that at its next session, which cannot now be long delayed, the legislature may make a declaration on the subject."

In view of this statement, the Court suggested to counsel for plaintiffs that, inasmuch as the legislature is called for 16th February instant (Tuesday next), it might be well to allow these appeals to stand until it is known whether legislation will be passed such as is indicated by the acting