

CIRCUIT COURT.

SHERBROOKE, 9th JULY, 1874.

Coram DOHERTY, J.BOUTELLE vs. THE CORPORATION OF THE VILLAGE OF
DANVILLE.

HELD:—No action for a quantum meruit lies against a Municipal Corporation for road work

This was an action for the recovery of the sum of \$45.00, for the price and value of work and labor done and performed by Plaintiff, on the roads of defendants.

An admission was made by defendants to the effect that the work done by Plaintiff was of the value claimed, and that they had benefitted thereby to that extent.

Defendants pleaded that at the time the work was done by Plaintiff, he was the Mayor of the Municipality, and as such was incapacitated from contracting with defendants, and could not recover any sum of money for work done by him while holding office.

Plaintiff replied that the Municipal Code to prevent officers of Corporations to enter into any contract with the Corporation of whom they are officers has rendered them liable to the loss of the value of their manual and physical work.

DOHERTY, J. This action must be dismissed upon the ground that no action, *indebitatus*, *assumpsit* or *quantum meruit* lies against a Corporation having limited powers only, and which can oblige themselves only in the manner provided by law. The Municipal Code provides two ways by which a Corporation can make and maintain its roads, neither of which have been followed in this case. The Plaintiff had no right of his own motion, as it seems he did in this case, to go to work on a public road, and afterwards to call upon the Corporation for payment. Action dismissed.

Hall, White & Pameton, for Plaintiff.

Ives & Brown, for Defendant.

