

The plaintiff should get a return of his deposit. If the check was used the defendants should pay interest at 5 per cent. upon the amount from the 25th February, 1913. If not used the claim for \$1,000 will be satisfied by a return of the check so deposited.

Upon the evidence it is clear that there would have been no difficulty in clearing the title if plaintiff had accepted the contract. The matters in that respect, complained of by plaintiff, were matters of adjustment.

The defendants counterclaimed for damages. They have sustained no damages other than the trouble of litigation. There will be a declaration that the contract was properly cancelled, and is now at an end.

There will be judgment for the plaintiff for \$1,000, deposit as above stated, without costs.

The counterclaim of defendants will be dismissed without costs. Thirty days' stay.

HON. MR. JUSTICE LENNOX.

NOVEMBER 29TH, 1913.

RE CLAREY v. CITY OF OTTAWA.

5 O. W. N. 370.

Municipal Corporations—Waterworks By-law — Motion to Quash—City of Ottawa Special Act—3 & 4 Geo. V. c. 109—Sum Fixed by Act as Limit of Expenditure — Projected Scheme to Exceed such Sum — Debentures not Sufficient to Complete Work—Discretion.

LENNOX, J., held, that 3 & 4 Geo. V. c. 109, authorising the City of Ottawa to raise a sum not exceeding \$5,000,000 for the construction of waterworks, did not authorise the city to pass a by-law providing for the issue of debentures for \$5,000,000 to be applied on a waterworks scheme which would cost at the least estimate \$8,000,000.

By-law quashed with costs.

Motion by Thomas Clarey, a ratepayer of the city of Ottawa, to quash a by-law of that municipality authorising the issue of \$5,000,000 debentures to partially defray the cost of a waterworks system.

T. McVeity, for applicant.

F. B. Proctor, for respondents.

HON. MR. JUSTICE LENNOX:—In the month of May, 1913, the Legislature of Ontario, by 3 & 4 Geo. V. ch. 109, authorised the corporation of the city of Ottawa to construct