Robson, J.] [March 5.

RE ST. VITAL MUNICIPAL ELECTION.

Quo warranto—Municipal election—Proceeding to unseat candidate declared elected—Municipal Act, R.S.M. 1902, c. 116, ss. 217, 218.

The applicant and the respondent were both duly nominated as candidates for election as reeve of the municipality, when an objection that the applicant was a paid officer of the municipality, and therefore disqualified, was, contrary to the law as laid down in *Pritchard* v. *Mayor of Bangor*, 13 A.C. 241, given effect to by the returning officer and the respondent declared duly elected without any poll being taken. Section 218 of the Municipal Act provides that a municipal election shall not be questioned on any of the grounds mentioned in s. 217, except by an election petition under the Act.

Held, that the applicant's complaint could not be said to be on the ground that the respondent "was not duly elected by a majority of lawful votes," and that, as none of the other grounds mentioned in s. 217 could be taken, the applicant could not proceed by an election petition, and should have leave to file an information in the nature of quo warranto. *The Queen* v. *Morton*, [1892] 1 Q.B. 39, distinguished.

Hannesson, for applicant. *Phillipps*, for respondents.

Robson, J.] RE PHILLIPPS AND WHITLA. [March 5.

Solicitor and client—Costs—Fee based on percentage of amount recovered by litigation—Allowance for proceedings out of court to save costs or compromise actions.

Unless there is a contract between a solicitor and his client for a percentage, or other mode of remuneration, under s. 65 of the Law Society Act, R.S.M. 1902, c. 95, the tariff of costs promulgated under Rule 990 of the King's Bench Act provides the only measure of a solicitor's remuneration for litigious business, and it is a wrong principle for the taxing officer to award the solicitor, in lieu of fees as provided for by the tariff, a single fee based on a percentage of the amount recovered or preserved for his client by means of an action in the court, although the solicitor, by his successful efforts to procure a settlement, has secured to his client a large sum of money.

A fee so based is not warranted under the provision in the tariff that an allowance may be made by the taxing officer in his