

unearned salary, which was attacked on the ground, among others, that he was a public officer holding a public appointment, and paid out of the public funds, and that the assignment was therefore void as against public policy. The appointment was solely in the hands of the Birmingham guardians, and the salary was paid out of the local rates; but the insubment was removable only by the local government board. It was held that the chaplain was not a public officer within the meaning of the rule. The judgment is quite in point. . . . This decision is, I think, fatal to the contention under consideration. The case was a much stronger one than the present for invoking the rule by reason of the fact that the chaplain though appointed by the guardians was not removable by them. Here the corporation by resolution appoints a solicitor with whom they contract to perform certain duties for a certain remuneration, but whom, subject to the terms of their contract, they can dismiss at pleasure. He is paid, not out of national funds nor under the authority of a statute, as in *Central Bank v. Ellis*, 20 A. R. 364, to be presently referred to, but by the corporation, under the authority of a by-law. The office is not public in the strict sense of that term, and the due discharge of the duties is only in a secondary and remote sense for the public benefit. It is not, in the light of *In re Mirams*, public within the meaning of the rule.

Mr. McVeity relied on *Central Bank v. Ellis*, but it does not help him. It was there held that the salary of a police magistrate appointed by the Crown, but paid by a municipality, could not, on grounds of public policy, be attached. Osler, J.A., puts the decision on the ground that the office of police magistrate is a public, judicial one, the incumbent of which is appointed directly by the Crown, by whom alone he can be removed, and he pointed out that the fact that the legislature has chosen to provide for payment of a salary by the municipality can make no difference. . . . It is plain that the present is in all respects the converse case. The city solicitor is not appointed by the Crown, nor even under the authority of any statute. His salary is not fixed by the legislature, but by a by-law of the municipality. It does not attach to the office, nor is its payment made obligatory on the municipality, but it is a mere matter of contract between the latter and the officer. On the authority of this case, therefore, as well as on that of *In re Mirams*, it is clear that the city solicitor is not a public officer within the meaning of the rule.