

The treasurer was called, and upon his evidence a judgment could not be given against the defendant for any arrears of taxes, as a debt.

The city collector desired to collect all that was owed by the defendant. And the bills supposed to be all that the defendant owed were handed to the treasurer for that purpose. The treasurer's evidence is that defendant stated "I do not want to owe the city anything, take it out." The treasurer, without being requested to do so, and without objection on the part of the defendant, deducted a portion not due and kept money for payment in full of the balance.

Upon the evidence I find that at the time of said election the defendant was not solicitor for Thomas O'Connell, who claimed damages from the city of Ottawa. The defendant had written a letter, but there was no retainer or employment for anything further. At the time of the election defendant was not in a position to give, and O'Connell was not in a position to claim, defendant's services.

The defendant was not at the time of election acting solicitor for Thos. Clarey in any proceeding then pending against the city of Ottawa.

What the relator complains of as an act by the defendant since the election for Thomas Clarey, was merely getting the cheque of the city in favour of Thos. Clarey cashed. There is no dispute about the amount. Clarey was entitled to get it. Defendant was entitled to his costs from Clarey, and Clarey allowed defendant to collect the cheque, defendant to account to Clarey. It was not any act or thing in Clarey's proceedings against the city—nothing in litigation or in contemplation of litigation or dispute between Clarey and the city.

The defendant had not at the time of the election any claim against the city for costs of the action commenced by Clarey. Defendant's claim, if any, was against Clarey; his claim did not in any way depend upon the result of litigation, and the litigation in which defendant's claim against Clarey arose was at an end.

The motion will be dismissed with costs. Judgment will be in favour of defendant.

The order will be drawn up and papers returned pursuant to secs. 177 and 178 of the Municipal Act.