

BOYD, C.

NOVEMBER 13TH, 1903.

## TRIAL.

## WILLIAMSON v. TOWNSHIP OF ELIZABETHTOWN.

*Municipal Corporation—Audit at Instance of Provincial Municipal Auditor—Appointment of Auditor—Payment for Services—Demand—Practice of Department of Provincial Government—Attorney-General—Scale of Costs—Jurisdiction of County Court—Ascertainment of Amount Claimed.*

Action to recover \$399.14, amount of auditor's bill, certified by the Provincial Municipal Auditor, under sec. 16 of R. S. O. ch. 228, an Act to make better provision for keeping and auditing municipal and school accounts.

G. H. Kilmer, for plaintiff.

E. E. A. DuVernet and H. A. Stewart, Brockville, for defendants.

BOYD, C.—The plaintiff was appointed to make audit under sec. 9 of the Act, and, in the absence of any specific defence, it is to be assumed that all prior pre-requisites have been duly observed. The defence is simply denial of all alleged by plaintiff and putting him to its proof.

It was objected that the action is premature, because there is no evidence that the allowance of the bill by the Provincial Municipal Auditor was approved by the Attorney-General, and no evidence of a demand thereafter at the office of the municipal treasurer of defendants. The proof made was, that the bill as allowed by the Provincial Municipal Auditor was forwarded to the head of the municipality, with a request that it should be "attended to," by letter of 4th May. The council of the defendants were told of the amount of the bill on 11th May, and on 1st June all the papers, report, bill, and letters were read at a council meeting to all the members then assembled. This I take to be a sufficient demand to justify an action brought three months afterwards on 1st September. The demand was not at the office of the financial agent of the corporation, but was made to his principals, the municipal council—which, though other, was yet more, than the letter of the law requires. Then it appears from the certificate of the Attorney-General, which was allowed to be put in, that the practice of the Department is to act upon a tariff provided for such cases, and that the allowance of the Provincial Municipal Auditor according to such tariff is accepted as of course