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SUPREME COURT OF CANADA.

OTTAWA, Nov. 10, 1890.

Ontario.]

MACDOUGALL v. THE LAW SOCIETY OF UPPER CANADA.

Solicitor—Practising without certificate—Nominal member of firm—Professional advertisement.

The firm of M. M. & B., barristers and solicitors, published an advertisement in newspapers which stated that the firm consisted of three partners, W. M., F. M. and N. B., and the three names appeared, also, on the professional cards and letter headings used by the firm. W. M. not having taken out a certificate of the Law Society entitling him to practise as a solicitor, proceedings were instituted to have him suspended from practice for three months unless the fees to the society and a penalty of $40 were paid. In these proceedings it was shown by the evidence of F. M., taken under an order for examination, that W. M. was not, in fact, a partner in the said firm; that an agreement of partnership had been entered into between F. M. and B., who shared all the profits and paid all the expenses of the firm; that no writs were issued in the name of the firm, but were issued in the name of B., and all proceedings in the courts were carried on in B.'s name, and that W. M. was not, at first, aware that his name would appear as an ostensible partner, though he made no objection to it afterwards. As against this, the only act of practising as a solicitor by W. M. shown by the society, was that the name of the firm was indorsed on certain papers filed in the Ontario courts in suits with which the firm was concerned.

Held, reversing the judgment of the Court of Appeal (15 Ont. App. R. 150), and of the Divisional Court (13 O.R. 204), that W. M. did not practise as a solicitor in the courts of the Province within the meaning of R. S. O. (1877), c. 140, s. 21, and that he was not estopped by permitting his name to be published as a member of a firm in active practice from showing that he was not, in fact, a member of such firm.

Appeal allowed with costs.

Belcourt for the appellant.
Marsh, Q.C., for the respondent.

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Ontario.]

GODSON v. THE CORPORATION OF THE CITY OF TORONTO, AND MCDOUGALL.

Prohibition—Restraining inquiry ordered by City Council—R. S. O. (1887), *c.* 184, *s.* 477—*Functions of county court judge.*

The Council of the city of Toronto, under the provisions of R. S. O. (1887), c. 184, s. 477, passed a resolution directing a county court judge to inquire into dealings between the city and persons who were or had been contractors for civic works with a view of ascertaining in what respect, if any, the system of the business of that city in that respect was defective, and if the city had been defrauded out of public monies in connection with such contracts. G., who had been a contractor with the city, and whose name was mentioned in the resolution, attended before the judge and claimed that the inquiry as to his contracts should proceed only on specific charges of malfeasance or misconduct, and the judge refusing to order such charges to be formulated, he applied for a writ of prohibition.

Held, affirming the judgment of the court below, Gwynne, J., dissenting, that the county court judge was not acting judicially in holding this inquiry; that he was in no sense a court, and had no power to pronounce judgment imposing any legal duty or obligation on any person; and he was not, therefore, subject to control by writ of prohibition from a Superior Court.

Held, per Gwynne, J., that the writ of prohibition would lie, and in the circumstances shown it ought to issue.

Appeal dismissed with costs.

McCarthy, Q.C., and *T. P. Galt* for appellant.
Aylesworth for respondent.