

that such powers under The Municipal Act and otherwise should be vested in a receiver to be appointed by the Lieutenant-Governor in Council, and that the receiver should have power to recommend the passage of such by-laws as might be passed by the Mayor and Council under said Acts, the same to be submitted to the Lieutenant-Governor in Council. By 63 & 64 Vict., c. 32, it was provided that the Lieutenant-Governor in Council might by order-in-council appoint or provide for the election of three persons to act as an advisory board for the town and prescribe the duties and powers of such board. Pursuant to this statute an order-in-council was passed appointing the members of such advisory board and defining their duties, one of which was to perform in an executive capacity all the duties vested in municipal councils under the provisions of the Municipal Act. They were also required to meet at least once a month for the transaction and ratification of all business affecting the town and to advise and assist the receiver and authorize and supervise the expenditure of the moneys of the town. The defendant was the receiver of the town appointed under c. 10 of 57 Vict., and acted as such until he was dismissed in February, 1901, when W. W. Unsworth was appointed receiver. This action was brought in the name of the town and W. W. Unsworth, its receiver, for an account of moneys alleged to have been received by the defendant while he was receiver of the town and not accounted for or paid over. On his examination for discovery the plaintiff, Unsworth, admitted that he had not authorized the bringing of the action, and the defendant then moved before the referee for the dismissal of the action or for a stay of proceedings on the ground that the action had been commenced without the authority of the plaintiff or either of them. On the return of the motion a retainer was produced, signed by Unsworth in the name of the town and for himself as receiver, and sealed with the corporate seal, authorizing the solicitors to prosecute the action, and ratifying, confirming and adopting it, and all things done and proceedings taken therein, and acknowledging that it had been brought with the full knowledge, sanction and approval of the said town and of himself as such receiver. The referee held that this did not shew sufficient authority to sue in the name of the town and ordered that the name of the town be struck out of the action, but refused to dismiss the action or stay the proceedings as authority from Unsworth was now shewn.

Both sides then appealed to a Judge in Chambers, and when the appeals came on to be heard the plaintiff's solicitors produced a resolution of the advisory board passed after the date of the referee's order and containing a retainer and authorization of the suit in the same terms as that formerly signed by Unsworth, and sealed with the seal of the town. By consent a pro forma order was made dismissing both appeals so that the whole matter might be dealt with by the full court.

*Held*, that a municipal corporation may authorize the commencement of an action by resolution under the corporate seal and that a formal by-law is not necessary: *Town of Barrie v. Weaymouth*, 15 P.R. 95; *Barrie*