

It appeared, also, that on the 1st December, 1879, the defendant and his co-surety, Edward Stunden, wrote to the council, notifying the council of their wish to have the bond annulled from date. This letter they withdrew at the request of the treasurer. At this time it was not known that any default had occurred, but the treasurer had been drinking, and the defendant did not wish to remain bound in consequence. The treasurer continued in office until the end of 1879. It further appeared that after the treasurer had been dismissed, and the deficiency in his account of about \$1,500 had been discovered, which was in June, 1880, the defendant said, according to the evidence of Mr. Britton, the deputy reeve, "that he would pay all he was liable for," and according to his own evidence, they asked the son if he could "pay the \$1,500 and odd, and he said he could not. Then Mr. Britton asked me if I was prepared to pay, and I told him no. Then Mr. Burgess asked me what portion of it I would pay, or something to that effect, and I told him I would pay whatever deficiency had occurred since I signed the bond, if there was any. I told them if they would make up the books, if there was any, I would pay it."

The moneys actually received by the treasurer after the execution of the bond amounted to \$5,255.92, and the amounts paid in the aggregate to \$5,011.22, as found by the learned Judge. The plaintiffs owed the treasurer the following sums: for a safe purchased by the treasurer without authority from the council, to keep the papers and moneys of the corporation in, \$118, which, after the dismissal of the treasurer, the council by resolution agreed to accept, crediting the treasurer with the amount; an item of \$269.60 for stone for the use of the roads, used in 1879, but not allowed for by the plaintiffs till 1880, after the treasurer's dismissal; and \$75, the salary of the treasurer for the year 1879, with which according to his custom he had credited himself in the books of the plaintiffs kept by him. These several sums in the aggregate exceeded the amount of the moneys received by the treasurer after the execution of the bond.