

you will let me know the date, as having been a member of the township council here seven terms, and of the county council two terms, I would like to talk matters over with you, before further procedure.

“Yours truly,

“BARNUM HOWSE,

“Per W. H. B.”

The plaintiff says he mailed that notice and registered it—and got the usual certificate, but the certificate had been mislaid and was not produced. This notice was received by the reeve of Southwold, but the exact date of such receipt or indeed of the mailing was not shewn. Nothing turns upon that, in view of what happened. The claim was rejected by the township council. The plaintiff apparently had hopes of getting a settlement even up to and after the 16th of August, that being the day when he consulted the defendant, and the day when, as he contends, he retained the defendant to bring an action against the township. The defendant's account of the interview and alleged retainer on the 16th August is that the plaintiff spoke hopefully of a settlement and gave reasons for his hope, and he wanted a strong letter—a “bluffing” letter—written to the reeve, as he, the plaintiff, thought such a letter would assist in bringing the settlement about.

There is a direct contradiction between the plaintiff and defendant as to what took place at that interview. The plaintiff says that he told the defendant to commence the action if no settlement followed the letter and to commence it in time. The plaintiff further says that at other times and later on, he told the defendant to issue the writ, and that the time within which the writ must issue was discussed between him and the defendant. The defendant says that the negotiation was still on between the plaintiff and the council, and he, the defendant, was not instructed to issue the writ, but, on the contrary, he was to wait until further instructed, and he was not, within the three months from time of accident, instructed so to do. The defendant says he was not instructed to commence the action until in October, 1911. A letter such as defendant describes, was written on 16th August, 1911.

The plaintiff says that up to within 3 or 4 days of the expiry of the time for bringing his action, he knew that the writ had not been issued, and he told defendant's clerk of the delay and complained of it.