

that, in the event of the plaintiffs in each of these cases consenting that the trial shall take place before a Judge without a jury, the motions to change the venue be dismissed with costs to plaintiffs in the cause. These costs I fix in each case at \$4 only. I do so to mark my disapproval of the affidavit of plaintiffs' solicitor, on two grounds. First, because it was laid down as long ago as *Hood v. Cronkrite*, 4 P. R. 279, by Draper, C.J., that affidavits on these motions should be made by the party, and not by his solicitor, who can speak only from his client's instructions. This case has been followed within the last year, as will be seen by reference to p. 443 of 38 C. L. J., already referred to. The other ground is the objectionable character of the affidavit. I do not think that a solicitor is warranted before the trial of an action in speaking of "this action as one of five all arising out of the same fraudulent conspiracy between the defendant and others for the purpose of extorting money out of the plaintiff and others by means of an agreement alleged by defendant to have been signed by plaintiff."

MAY 18TH, 1903.

DIVISIONAL COURT.

HEFFERNAN v. TOWN OF WALKERTON.

Municipal Corporations—By-law—Payment to Mayor—Procedure at Meeting of Council—Reference to Committee of Whole—Injunction—Discretion.

Appeal by plaintiff from judgment of BOYD, C., in the Weekly Court (ante 17), upon a motion to continue an interim injunction, turned by consent into a motion for judgment, dismissing the action, which was brought by a ratepayer to restrain defendant corporation from paying to defendant Cryderman, the mayor of the town, \$125 as remuneration for his services as mayor during the year 1902.

The appeal was heard by FALCONBRIDGE, C.J., STREET, J., BRITTON, J.

J. E. Jones, for plaintiff.

A. Shaw, K.C., for defendants.

BRITTON, J.—The plaintiff has no merits in this case, and, applying the words of the statute giving jurisdiction as to injunctions, I do not think this a case in which "it is just or convenient" that an order for an injunction should be made.

The by-law which was challenged was as fully considered by the council, and by the same members, as if considered in