102 A.D. 336
Supreme Court, Appellate Division,
Second Department, New York.

HEARST
v.
McCLELLAN, Mayor, et al.

March 3, 1905.

Synopsis
Appeal from Special Term, Kings County.

Action by William R. Hearst against George B. McClellan, as mayor of the city of New York, and Edward M. Grout, as comptroller of such city, and another. From an order denying a temporary injunction pendente lite, the mayor and comptroller appeal. Reversed.

West Headnotes (2)

[1] **Municipal Corporations**
Incurring Indebtedness or Expenditure

Greater New York Charter, § 59 (Laws 1901, p. 35, c. 466), provides that the board of aldermen and the officers and employés of the city are trustees of its property, funds, and effects, every taxpayer is a cestui que trust in respect to such property, and that any co-trustee or cestui que trust may prosecute any action to prevent waste or injury to any property or funds held in trust, and that all the duties imposed by law on such trustees may be enforced by the city or by any co-trustee or cestui que trust aforesaid. *Held,* that a taxpayer's action under such section to restrain the alleged improvident expenditure of municipal funds was similar to that prescribed by Code Civ.Proc. § 1925, and was not maintainable without proof of fraud, collusion, corruption, bad faith, or illegality.

17 Cases that cite this headnote

[2] **Municipal Corporations**
Compromise

Under Greater New York Charter, § 149 (Laws 1901, p. 50, c. 466), providing that the comptroller shall settle all claims in favor of or against the corporation, and all accounts in which the corporation is concerned as debtor or creditor, but in settling claims he shall be governed by the rules of law and principles of equity, it was not improper for the comptroller in good faith to settle a controversy as to municipal lighting by agreeing to pay the same prices that the city had paid the previous year, and as specified in the contract for the succeeding year, on the lighting companies agreeing to waive interest, though such prices were 20 and 40 per cent. higher than was paid in other cities, and less than the prices charged for private consumption.

4 Cases that cite this headnote

Attorneys and Law Firms

****485** ***337** Theodore Connoly, for appellant McClellan.

William J. Carr, for appellant Grout.

Clarence J. Shearn (Edward B. Whitney, on the brief), for respondent.

Argued before HIRSCHBERG, P. J., and BARTLETT, WOODWARD, HOOKER, and MILLER, JJ.

Opinion

***338** MILLER, J.

The defendants appeal from an order of the Special Term continuing a temporary injunction pendente lite, granted in a taxpayer's action brought by the plaintiff to restrain the audit and payment of certain bills for gas and electric lighting in excess of 80 and 60 per cent. of the face thereof, respectively. The order is challenged in this court upon the ground that the moving papers contain no statements of fact upon which fraud, bad faith, or illegal, corrupt, or dishonest conduct can be predicated, while the respondent insists, first, that the action can be maintained without such proof; second, that there is proof of bad faith; and, third, that the proposed payment is illegal, and therefore can be enjoined, irrespective of the motive of the officer proposing to make it.

The rule as established by Talcott v. City of Buffalo, 125 N. Y. 280, 26 N. E. 263, and Ziegler v. Chapin, 126 N. Y. 342, 27 N. E. 471, that the action authorized by section 1925 of the Code of Civil Procedure, cannot be maintained without proof of fraud, collusion, corruption, bad faith, or illegality, has been uniformly followed by the courts of this state. But the respondent insists that section 59 of the Greater New York Charter (Laws 1901, p. 35, c. 466) is broader than the general taxpayers' act, and authorizes the action without proof of fraud or bad faith. That section is as follows:

> "The board of aldermen and the several members thereof and all officers and employés of the city are hereby declared trustees of the property, funds and effects of said city respectively, so far as such property, funds and effects are or may be committed to their management or control, and every person residing in said city, when authorized to pay taxes therein, and who shall pay taxes therein, is hereby declared to be a cestui que trust in respect to the said property, funds and effects, respectively; and any co–trustee, or any cestui que trust, shall be entitled, as against said trustees, and in regard ****486** to said property, funds and effects, to all the rights and privileges provided by law for any co–trustee or cestui que trust to prosecute and maintain any action to prevent waste and injury to any property, funds and estate held in trust. Such trustees are hereby made subject to all the duties and responsibilities imposed by law on trustees, and such duties and responsibilities may be ***339** enforced by the city or by any co–trustee or cestui que trust aforesaid."

It is argued that this statute requires the courts to control the official acts of the administrative officers of the city of New York precisely to the same extent as the acts of any trustee may be controlled. The jurisdiction of courts of equity over trusts is inherent; a trustee in a proper case may ask the advice of the court; in the absence of a trustee the court will even take upon itself the execution of the trust; and yet a court of equity cannot interfere with the discretion of a trustee when exercised within fair and reasonable limits, unless there is fraud, bad faith, or some peculiar reason calling for its intervention. Mason v. Jones, 3 Edw. Ch. 524; Ireland v. Ireland, 84 N. Y. 321. And it has been held that the courts will not interfere with the discretion of the directors of a private corporation at the instance of its stockholders unless the corporate powers have been illegally or unconscientiously executed, or unless it be made to appear that the acts complained of were fraudulent or collusive, and destructive of the rights of the stockholders; and that mere errors of judgment are not sufficient as grounds of equity interference. Leslie v. Lorillard, 110 N. Y. 519, 18 N. E. 363, 1 L. R. A. 456; Burden v. Burden, 159 N. Y. 287, 54 N. E. 17; Hennessy v. Muhleman, 40 App. Div. 175, 57 N. Y. Supp. 854. The history of the two statutes shows their purpose to have been the same. The special act applicable to New York City was first enacted by chapter 405, p. 940, of the Laws of 1864; the general act by chapter 161, p. 467, of the Laws of 1872. Both were undoubtedly the result of the decision in Roosevelt v. Draper, 23 N. Y. 318, which held that a taxpayer could not maintain an action to restrain or avoid a corporate act not affecting his private interest, as distinct from that of other inhabitants. While the act of 1864 has been re–enacted by the consolidation act and the present charter, it is significant that no decision can be found even suggesting that greater powers were conferred by it than by the general act; and in the case of Knowles v. City of New York, 176 N. Y. 430, 68 N. E. 860, the Court of Appeals, in affirming a judgment sustaining a demurrer in a taxpayer's action, placed its decision upon the ground that the complaint did not allege facts showing that the acts questioned were either illegal or fraudulent.

***340** It is not to be assumed that the Legislature intended that the courts should become public administrators in the city of New York, and not elsewhere. The reasons which were controlling in the construction of the general act apply with equal force to the special act, and compel the conclusion that the terms "waste" and "injury," as used in the two statutes, are identical in meaning, and include only illegal, wrongful, or dishonest acts.

The complaint alleges on information and belief that the defendants, "in violation of law, in disregard of their duties to the public, and in bad faith, have agreed with one another and with the aforesaid companies to pay to said companies the entire amount of the bills rendered; ****487** * * * that the payment of the said bills would be a waste of more than $1,200,000 of the public funds of the city of New York, would

be a fraud upon the public, and illegal." These are allegations of conclusions, and not issuable facts. Knowles v. City of New York, supra; Kittinger v. Buffalo Traction Co., 160 N. Y. 377, 54 N. E. 1081; Barhite v. Home Tel. Co., 50 App. Div. 26, 63 N. Y. Supp. 659; Wallace v. Jones, 83 App. Div. 152, 82 N. Y. Supp. 449. A brief recital of the facts is therefore necessary.

In December, 1902, the commissioner of water supply, gas, and electricity advertised for and received bids for gas and electric lighting for the year 1903. Said bids were neither accepted nor rejected, but were referred by him to the board of estimate and apportionment, of which the defendant Grout was a member. Upon the report of a committee, of which the defendant Grout was a member, the board, in December, 1903, adopted a resolution, in accordance with which all of said bids, except one, were rejected by the commissioner as unreasonably high. The companies submitting said bids were then furnishing, and during the year 1903 before the rejection of the bids and thereafter continued to furnish, to the city, gas and electric lighting, and to render monthly bills therefor upon the basis of said bids, which the comptroller refused to audit, offering, however, to allow 60 and 80 per cent. of the gas and electric light bills respectively, without prejudice to the contention of the city and the companies, which offer was accepted by a few, but rejected by most, of the companies. Meanwhile the commissioner advertised for bids for the year 1904, the same company submitted bids at practically the same rate, and in October, 1904, the commissioner ***341** accepted said bids. Two taxpayers' actions were begun, one in Manhattan and one in Brooklyn, to restrain the making of a contract; one on the ground that the bids were excessive, and one on the ground that the bids accepted were not the lowest. Motions in both actions for injunctions were denied, and thereafter the commissioner entered into a contract for a year from March, 1904. The prices which the city had been paying prior to 1903, the prices bid for the year 1903, the prices charged in the disputed bills, and the prices specified in the contract of 1904 were practically the same, and these prices were on the average less than were charged private consumers, and, in respect to the gas companies, less than the rate fixed by statute as the maximum charge against the city, there being no statutory restriction as to electric lighting charges. After the making of said contract the comptroller proposed to pay said companies the face of the bills if they would waive all claim to interest and make certain modifications in said contract theretofore entered into, and the order appealed from enjoins said proposed adjustment. It also appears that the different companies are subsidiary to a single company, each operating within restricted districts without competition. It is alleged by the respondent that the average price paid for gas and electric lighting in the principal cities of the United States and Great Britain is less than that bid by these companies; that the bid price for gas lighting by the one company whose bid for 1903 was accepted was 20 ****488** per cent. less than the average price bid by the other companies, which, however, was all it was authorized by its charter to charge; and that the average price for electric lighting in other cities is 40 per cent. less than the average price bid; from which the conclusion is drawn that the excess of the bills rendered for electric lighting over the fair value amounts to more than 40 per cent. thereof, or $900,000, and the like excess in respect to gas lighting to 20 per cent. thereof, or $300,000, but this is a non sequitur. Where a fact is stated as a deduction from evidential facts alleged, the facts alleged must warrant the deduction. Prices paid in other cities could hardly be controlling without proof that similar conditions existed. But it is conceded that the prices charged are unreasonably high, and the question is presented whether the facts stated warrant an inference of bad faith on the part of the defendant Grout in proposing said ***342** settlement.

To constitute bad faith some improper motive is essential. The act need not be corrupt in the sense of being induced by desire for pecuniary gain, but it must be done to accomplish some purpose foreign to the interest of the municipality—which is tantamount to fraud. Bad judgment, even gross incompetence, is not bad faith. As pointed out in cases cited supra, the statute was not designed to protect the public from "mistakes, errors of judgment, or lack of intelligent appreciation of official duty" on the part of their chosen officials. Under our form of government a different remedy is intended, fraught with less mischief than the conversion of officers, designed by the Constitution to discharge judicial functions only, into public administrators. Broad power to settle and adjust claims is conferred on the comptroller by section 149 of the charter (page 50) in the following language:

> "He shall settle and adjust all claims in favor of or against the corporation, and all accounts in which the corporation is concerned as debtor or creditor; but in adjusting and settling such claims, he shall, as far as practicable, be governed by the rules of law and principles of equity which prevail in courts of justice."

The rule has never been questioned, so far as I am aware, that so long as an auditing officer keeps within his jurisdiction and acts in good faith, no matter what errors of judgment he may commit, his audit is not the subject of collateral attack, and no fact is alleged inconsistent with good faith on the part of the comptroller. It may be that he acted imprudently and unwisely; it may be that he was mistaken in the assumption that the companies could recover interest, as counsel for the respondent learnedly argues; he may have been wrong in thinking that the price charged private consumers established a market price; he may have erred in thinking that the so–called "Oakley Contract" for 1904 was an admission by the city of the value of the service; he may have erred in supposing that the acceptance of the service without rejecting the bids precluded the city from questioning the amount charged; but, if these were errors, they were errors of judgment, not the subject of review in a taxpayer's action.

The mere fact that the price proposed to be paid is excessive does not necessarily warrant the inference of bad faith. The comptroller ***343** is an auditing, and not a contracting, officer. The service having been ****489** furnished the city, the question for him to determine was whether it was better for the city to adjust the matter or have a lawsuit, and mere errors of judgment in determining that question, no matter how great, can be reviewed, if at all, only by certiorari. Of course, a case might be conceived in which the proposed payment and actual value would be so disproportionate as to be of themselves evidence of fraud; but that cannot be the case where, as here, the proposed payment is based on the same rates paid by the city pursuant to contract the preceding year, and agreed to be paid the succeeding year by a contract, the making of which the courts refused to enjoin. Had the complaint alleged facts tending to establish that, knowing and believing that to the extent claimed said bills were not a legal or proper charge against the city, and could not be recovered by the claimants in any action or proceeding that could be brought for the purpose, and that said proposed settlement was disadvantageous to the city, the defendants had nevertheless collusively conspired to make such payments for the purpose and with the intent of unlawfully diverting the money of the city to the use of said claimants, and of enabling them to make an unlawful profit to the detriment of the city, a different situation would have been presented.

The argument that the proposed payment is illegal is based upon the assertion that to the extent of 40 per cent. of the electric lighting bills, and 20 per cent. of the gas lighting bills, it is a gratuity. This argument begs the question. The statute makes the judgment of the auditing officer controlling in determining the question in the first instance. He is required to examine the matter, exercise his judgment, and determine it. The court cannot substitute its judgment for his. Instead of being illegal, his proposal to audit the bills was in the strict line of his duty. Had he refused to act, mandamus to compel action would have been a proper remedy; but no one will pretend that in such a proceeding the court would direct what the audit should be, no matter how clear the proof upon the subject, and yet we are asked to restrain him from performing an act, performance of which could be compelled, but not controlled, unless he does it in a specified manner, ***344** upon a statement of facts which do not warrant a conclusion more adverse to him than that he is likely to use poor judgment.

My conclusion is that, upon the undisputed facts disclosed by the record before us, the motion to continue the injunction should have been denied. The order appealed from should therefore be reversed, with $10 costs and disbursements, and the motion denied, with $10 costs.

All concur; HOOKER, J., not voting.

All Citations

102 A.D. 336, 92 N.Y.S. 484

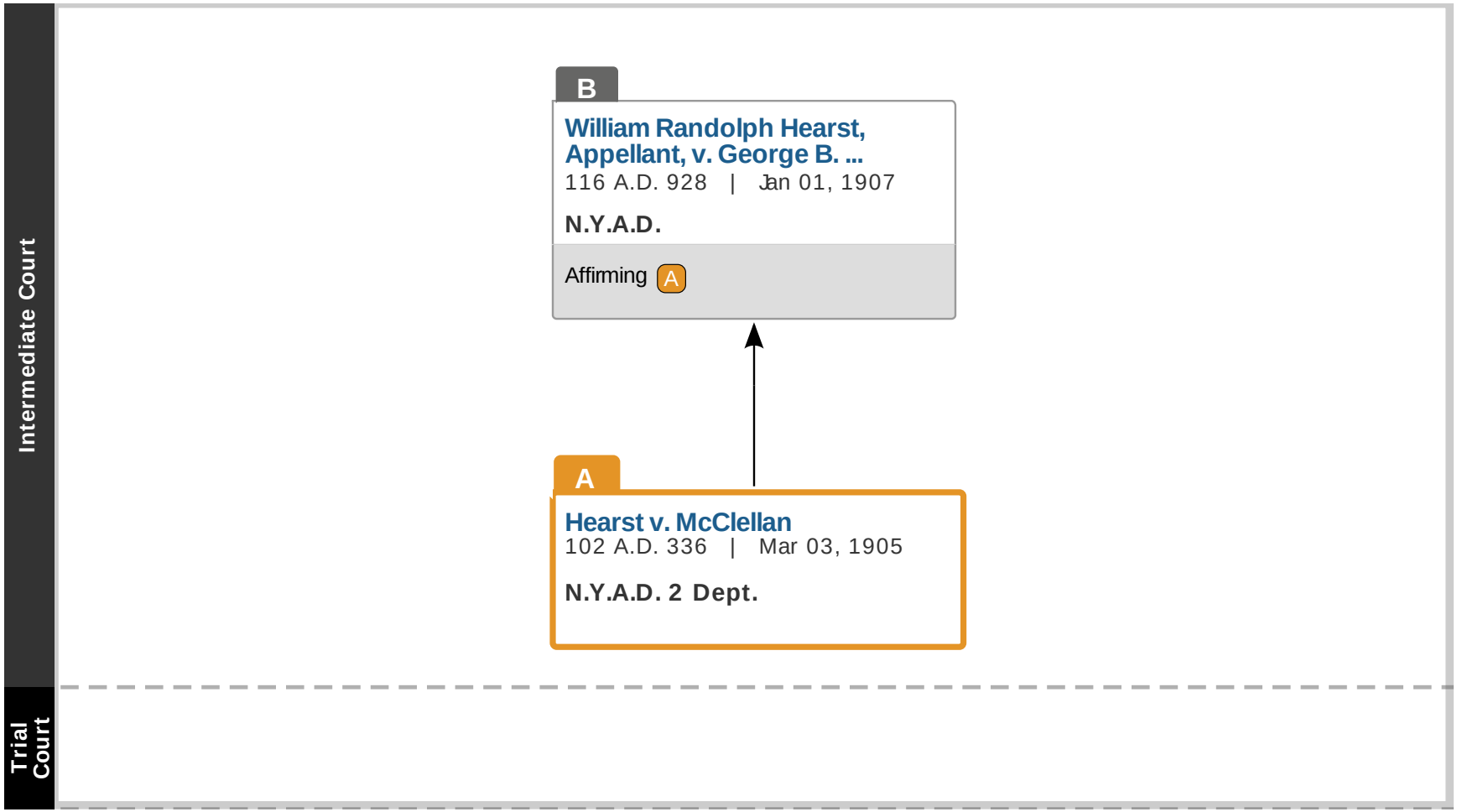
History (2)

Direct History (2)

1. Hearst v. McClellan
102 A.D. 336 , N.Y.A.D. 2 Dept. , Mar. 03, 1905

Affirmed by

2. William Randolph Hearst, Appellant, v. George B. McClellan, as Mayor of the City of New York, and Edward M. Grout, as Comptroller of the City of New York, Respondents, Impleaded with Another.
116 A.D. 928 , N.Y.A.D. , Jan 1907



Citing References (27)

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	**1.** Daly v. Haight 156 N.Y.S. 538, 540+ , N.Y.A.D. 2 Dept. Appeal from Special Term, Westchester County. Action by Michael Daly against Joseph Haight, individually and as Supervisor of the Town of Rye, and another. Judgment for plaintiff...	Dec. 24, 1915	Case		2 3 A.D.
Discussed by	**2.** Bressler v. Corning 351 N.Y.S.2d 52, 54+ , N.Y.Sup. Action by taxpayer for an order enjoining city officials from auditing, allowing and paying any salaries, wages or emoluments for city employees commencing November 1, 1973. On...	Nov. 07, 1973	Case		2 4 A.D.
Cited by	**3.** Application of Deutschmann 116 N.Y.S.2d 578, 588 , N.Y.A.D. 1 Dept. Proceedings by stockholders, who objected to corporation's plan for sale of stock to employees, for appraisal of their stock. The Special Term, Valente, J., 113 N.Y.S.2d 823,...	Nov. 12, 1952	Case		7 A.D.
Cited by	**4.** Pilbeam v. Sisson 198 N.Y.S. 834, 838 , N.Y.A.D. 3 Dept. Appeal from Special Term, Madison County. Suit by James Pilbeam to enjoin Herbert S. Sisson, as State Superintendent of Highways, and others, from performing alleged illegal...	Mar. 07, 1923	Case		—
Cited by	**5.** Oscar Daniels Co. v. City of New York 188 N.Y.S. 716, 718 , N.Y.A.D. 1 Dept. Appeal from Trial Term, New York County. Action by the Oscar Daniels Company against the City of New York. From a judgment entered on a dismissal of the complaint in part, and on a...	May 27, 1921	Case		—
Cited by	**6.** Daly v. Haight 148 N.Y.S. 46, 47 , N.Y.A.D. 2 Dept. Appeal from Special Term, Westchester County. Action by Michael Daly against Joseph Haight, individually and as supervisor of the town of Rye, and others. From orders overruling...	June 12, 1914	Case		—
Cited by	**7.** Ellis v. Keeler 110 N.Y.S. 542, 545 , N.Y.A.D. 2 Dept. Appeal from Special Term, Kings County. Action by Louise Ellis against Samuel Keeler, executor of Julia A. Chapman, and others, impleaded. From an interlocutory judgment sustaining...	May 01, 1908	Case		5 A.D.
Cited by	**8.** Cahn v. Metz 101 N.Y.S. 392, 396 , N.Y.A.D. 1 Dept. Appeal from Special Term. Bill for injunction by William Cahn against Herman A. Metz, as comptroller, and others. From an order continuing the injunction pendente lite, defendants...	Nov. 23, 1906	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**9.** **Borchert v. Metropolitan Life Ins. Co.** 86 N.Y.S.2d 803, 806 , N.Y.Sup. Action by Augusta Borchert against Metropolitan Life Insurance Company on life policy, wherein Catherine Borchert was impleaded as defendant. On plaintiffs' motion to strike out...	Jan. 28, 1949	Case		5 A.D.
Cited by	**10.** **Balducci v. Strough** 239 N.Y.S. 611, 615 , N.Y.Sup. Action by Ralph Balducci, as a taxpayer, against Arthur Strough, Mayor, and others, to restrain further proceedings by respondents as village officials relating to a water supply. ...	Dec. 18, 1929	Case		—
Cited by	**11.** **Brown v. Ward** 216 N.Y.S. 402, 405 , N.Y.Sup. Action by Randolph L. Brown, suing in his own behalf and in behalf of all other taxpayers of the town of Taylor, excepting Morel Calkins, against Frederick A. Ward and others,...	Feb. 15, 1926	Case		1 A.D.
Cited by	**12.** **Grace v. Scott** 211 N.Y.S. 68, 73+ , N.Y.Sup. Action by Patrick Grace, as a taxpayer of the City of New Rochelle, and others, against Harry Scott, individually and as Mayor of the City of New Rochelle, and others. Judgment...	Sep. 29, 1922	Case		3 A.D.
Cited by	**13.** **Marsch v. Seibert** 155 N.Y.S. 1083, 1085 , N.Y.Sup. Action by Alvin J. Marsch against Simon Seibert and others, constituting the Board of Fire Commissioners. On motion for injunction. Motion denied.	Oct 1915	Case		7 A.D.
Mentioned by	**14.** **Smith v. Hedges** 154 N.Y.S. 867, 869 , N.Y.A.D. 2 Dept. Appeal from Special Term, Suffolk County. Action by William Sidney Smith and others against Dayton Hedges. Judgment for plaintiffs for less than demanded, and both parties appeal....	July 30, 1915	Case		9 A.D.
Mentioned by	**15.** **Dunning v. Elmore & Hamilton Contracting Co.** 124 N.Y.S. 107, 108 , N.Y.A.D. 2 Dept. Appeal from Special Term, Orange County. Action by Charles T. Dunning against the Elmore & Hamilton Contracting Company and others. From a judgment for plaintiff, the defendant...	June 24, 1910	Case		—
Mentioned by	**16.** **Barile v. City Comptroller of City of Utica** 288 N.Y.S.2d 191, 196 , N.Y.Sup. Proceedings placing in issue the validity of Local Law adopted over veto of mayor by vote of common council at special meeting. The Supreme Court, Special Term, Richard D. Simons,...	Mar. 06, 1968	Case		2 A.D.
Mentioned by	**17.** **Borek v. Golder** 74 N.Y.S.2d 675, 698 , N.Y.Sup. Action by Sadie Borek against Boyd E. Golder and others to have declared invalid proceedings taken under the Public Housing Law. Complaint dismissed.	Sep. 19, 1947	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	**18. In re Donovan** 65 N.Y.S.2d 347, 348 , N.Y.Sup. Proceeding in the matter of the petition of one Donovan to review a determination of the trustees of the Town of Brookhaven to convey certain property. On motion by trustees for...	Sep. 24, 1946	Case		—
Mentioned by	**19. Hanrahan v. Corrou** 12 N.Y.S.2d 536, 540 , N.Y.Sup. Action by Frank H. Hanrahan against Vincent R. Corrou, Mayor of the City of Utica, and others, to restrain governing authorities of the city from carrying out a contract to...	Aug. 23, 1938	Case		—
Mentioned by	**20. Connelly v. City of Elmira** 258 N.Y.S. 603, 607 , N.Y.Sup. Action by Cornelius Connelly, Jr., against the City of Elmira and others. On motion to dismiss the complaint for insufficiency. Motion granted.	May 14, 1932	Case		—
Mentioned by	**21. In re Cowen's Estate** 265 N.Y.S. 40, 42 , N.Y.Sur. Proceeding by Julian Cowen for the removal of Elias D. Cowen and another as trustees appointed and acting under the last will and testament of Abraham W. Cowen, deceased. Petition...	June 09, 1933	Case		—
—	**22. Power of city, town, or county or their officials to compromise claim** 15 A.L.R.2d 1359 (Supplementing annotation in 105 A.L.R. 170.) This annotation deals with the power of certain governmental subdivisions, namely, cities, towns, and counties or their officials, to...	1951	ALR	—	—
—	**23. Power of city, town, or county or its officials to compromise claim** 105 A.L.R. 170 As to power of municipal corporation to submit to arbitration, see annotation in 40 A.L.R. 1370. As used in this annotation, the term "municipality" is generally intended to...	1936	ALR	—	—
—	**24. McQuillin The Law of Municipal Corporations s 48:21, § 48:21. Power to compromise claims—Who authorized to compromise** To be legal and binding, the compromise must be made by the authorized corporate officers or in the governing body alone. In municipal corporations proper, where the representative...	2019	Other Secondary Source	—	4 A.D.
—	**25. CJS Municipal Corporations s 2514, § 2514. Misapplication, diversion, or waste of funds —Payment of claims, warrants, and bonds; compromise** CJS Municipal Corporations As a general rule, sometimes by virtue of statutes, authorities of a municipal corporation may be enjoined at the suit of taxpayers from paying out money of the municipality on a...	2019	Other Secondary Source	—	—

Treatment	Title	Date	Type	Depth	Headnote(s)
—	**26. N.Y. Jur. 2d Counties, Towns, and Municipal Corporations s 1472, § 1472. Compromise of claims by and against cities, towns, villages, or counties** N.Y. Jur. 2d Counties, Towns, and Municipal Corporations A municipality has, unless limited by law, the inherent power to compromise and settle claims arising out of a subject matter concerning which the municipality has the general...	2019	Other Secondary Source	—	—
—	**27. THE BERTRAND RUSSELL CASE: THE HISTORY OF A LITIGATION** 53 Harv. L. Rev. 1192 , 1197 On February 26, 1940, the Board of Higher Education of the City of New York appointed Bertrand Russell Professor of Philosophy to teach mathematics and logic in the City College,...	1940	Law Review	—	—

Table of Authorities (12)

Treatment	Referenced Title	Type	Depth	Quoted	Page Number
Mentioned	**1. Barhite v. Home Tel. Co. of Rochester** 63 N.Y.S. 659, N.Y.A.D. 4 Dept., 1900 Appeal from special term, Monroe county. Action by John A. Barhite against the Home Telephone Company of Rochester, N. Y., and others. From an interlocutory judgment sustaining...	Case			487
Mentioned	**2. Burden v. Burden** 54 N.E. 17, N.Y., 1899 Appeal from supreme court, appellate division, Third department. Action by I. Townsend Burden against James A. Burden and others. From a judgment of the appellate division...	Case			486
Mentioned	**3. Dennis v. Louisville, N.A. & C. Ry. Co.** 18 N.E. 179, Ind., 1888 Appeal from circuit court, Jackson county; T. L. Collins, Judge.	Case			486
Mentioned	**4. Hennessy v. Muhleman** 57 N.Y.S. 854, N.Y.A.D. 2 Dept., 1899 Appeal from special term. Action by Charles O'Connor Hennessy against Maurice L. Muhleman and others to restrain the execution of a certain lease by defendants. From an order of...	Case			486
Mentioned	**5. Ireland v. Ireland** 39 Sickels 321, N.Y., 1881 The will of I. gave his residuary estate, after the death of his wife, to his son R. in trust, among other things, to apply one-half of the net income to the use and for the...	Case			486
Mentioned	**6. Kittinger v. Buffalo Traction Co.** 54 N.E. 1081, N.Y., 1899 Appeal from supreme court, appellate division, Fourth department. Action by Joseph Kittinger against the Buffalo Traction Company and others. From an order of the appellate...	Case			487
Cited	**7. Knowles v. City of New York** 68 N.E. 860, N.Y., 1903 Appeal from Supreme Court, Appellate Division, First Department. Action by William P. Knowles against the city of New York and others. From a judgment of the Appellate Division (77...	Case			486+
Cited	**8. Leslie v. Lorillard** 18 N.E. 363, N.Y., 1888 Appeal from supreme court, general term, Second department. Demurrer to complaint by defendants Lorillard and the Lorillard Steam-Ship Company. The plaintiff is a stockholder of...	Case			486

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Cited	**9.** **Roosevelt v. Draper** 9 E.P. Smith 318, N.Y., 1861 There is no distinction between a municipal corporation and towns or counties, which enables a taxable inhabitant of the former to maintain an action to restrain or avoid a...	Case			486
Cited	**10.** **Talcott v. City of Buffalo** 26 N.E. 263, N.Y., 1891 Appeal from supreme court, general term, fifth department. PECKHAM, J., dissenting.	Case			485
Mentioned	**11.** **Wallace v. Jones** 82 N.Y.S. 449, N.Y.A.D. 2 Dept., 1903 Appeal from Special Term, Nassau County. Action by George Wallace against William H. Jones and others. From an interlocutory judgment in favor of defendants sustaining separate...	Case			487
Mentioned	**12.** **Ziegler v. Chapin** 27 N.E. 471, N.Y., 1891 Appeal from supreme court, general term, second department.	Case			485

Filings

There are no Filings for this citation.

Negative Treatment

There are no Negative Treatment results for this citation.