

1856.

Howes
v.
City Toronto

purchase by the defendant from a third party of debentures which were no property of the corporation, but merely evidences of debts due by them, was not a transaction forbidden by the rules of equity, merely on the ground of a supposed relation of trustee between the defendant and those for whom, or with whom, he was acting, as a member of the council. In what I am now saying of a member of the council purchasing debentures, I speak without reference to the particular circumstances of this case, which it will be necessary hereafter to consider.

I understood it to be contended in the argument that any purchase of debentures of a corporation by a member of the corporation which had authorised them to be issued would, in the view of a court of equity, be illegal, more by reason of the fiduciary relation in which the member of the council stands to the corporation; but I apprehend that we should not be borne out by authority in taking such a position.

Judgment.

Whether we should be or not, depends upon nothing peculiar in the state of the law in Upper Canada.

If it would not be permitted in England, it should as little be permitted here; and there is no consideration of morality or public policy that would not apply as strongly in one country as in the other.

There have been, no doubt, enough of parallel cases in England. For instance, the various statutes that have been passed (51 Geo. III. ch. 64, and others,) authorising the East India Company from time to time to raise money upon their bonds, transferable by delivery, have given rise to securities of the same nature as the debentures of our municipal bodies. If it has been determined there, or has been generally assumed, that a director of the East India Company could not become the purchaser of such