

and as we now see, with the full consent, deliberately expressed after a knowledge of the circumstances, of the persons out of whose pockets that profit came. For all that we can judicially know in such a case, the defendant has not only received the money, but has spent it. It is no inconsiderable sum. The decree to pay that amount in ten days, or at any time, might be attended with ruin to some parties, while as to others its effect might only be to make them so much the less rich; but this, at any rate, we must consider, that whenever it is right to pronounce such a decree it will be right also, according to the ordinary practice in courts of equity, to imprison the defendant for contempt till he complies with it; at least, if no other means can be found for compelling payment of the money.

1856.

Bowes
v.
City Toronto.

We are bound, therefore, to satisfy ourselves that the claim of the plaintiffs in this case to have the 5000*l.* paid over to them clearly rests upon a good foundation, before we can give judgment in their favor.

Judgment.

I have already observed that I did not understand the plaintiffs' counsel on the argument to contend that the evidence established any actual, positive fraud on the part of the defendant, further than by urging that for the defendant to acquire the private interest which he did acquire, and under such circumstances as were proved, and to conceal the position in which he stood from the corporation of which he was a member, and indeed the head, was in effect a fraud upon the corporation, inasmuch as it left the council to suppose that in the propositions which he made to them, and in the discussions connected with them, he was like the other members, unbiassed by personal interest, and was consulting only the welfare of the city, while on the contrary, he was at that time contriving and forwarding a speculation out of which he expected to reap a large gain for himself.