

# The Ontario Weekly Notes

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No. 45.

## HIGH COURT OF JUSTICE.

TEETZEL, J.

JULY 21ST, 1911.

### PARSONS v. CITY OF LONDON.

*Municipal Corporations—Sale of Municipal Property—1 Geo. V. ch. 95, sec. 10—Trustee for Ratepayers—Action by Ratepayer to Restrain Sale—Undervalue—Primâ Facie Case—Injunction.*

Motion by the plaintiff to continue an injunction restraining the defendants from completing a transaction for the sale and purchase of municipal property in the city of London.

N. W. Rowell, K.C., and C. G. Jarvis, for the plaintiff.

T. G. Meredith, K.C., for the defendants the Corporation of the City of London.

J. B. McKillop, for the defendants the Royal Bank of Canada.

TEETZEL, J.:—By Geo. V. ch. 95, sec. 10, the Corporation of the City of London may sell, at such price and on such terms as the council of the corporation may deem expedient, the city hall and the police station in the said city of London, or either of them, and the lands upon which the same are situate, etc.

In carrying out any such sale under the Act, the corporation being a trustee for all the ratepayers and being amenable to the like jurisdiction of the Courts as is exercised over trustees generally (*Phillips v. Corporation of Belleville*, 9 O.L.R. 732, and *Maellreith v. Hart*, 39 S.C.R. 657), and the plaintiff being a ratepayer and therefore a cestui que trust, the plaintiff is entitled to maintain an action, in his own name, on behalf of himself and the other ratepayers, to restrain the corporation from carrying out a sale which may have been effected under circumstances amounting to a breach of trust.

Whether, upon a proper construction of the above statute, the corporation is entitled to sell the whole block, 110 feet square,