1856. Bowes v. City Toronto

corporation from purchasing from the holder any of the debentures of the corporation which have been issued as public securities payable to bearer, and that upon the sole ground of the supposed disqualification under the general rule of equity, every such purchase must necessarily be void.

When the objection to such dealings by the members of a municipal corporation is urged upon us as applying with greater force, on account of the important considerations of public policy which may undoubtedly with good reason be pressed into the argument, I confess I find the difficulty increased either in giving to the rule of equity relied upon an universal application, or in drawing any line which can enable us to distinguish satisfactorily, without reference to anything in the peculiar circumstances of the particular case, where the transaction can be allowed to stand, and where it cannot.

Judgment.

As to certain classes of cases which might occur in connection with such corporations, I have already said that I have no doubt a court of equity should decide them to be within their rule for the protection of *cestuis que trustent;* so that the member of the council involving himself in such transactions could neither call in aid the powers of a court of equity to enforce them, nor be allowed even to retain any advantage which he had acquired.

The cases to which I now allude are such cases as might arise between ordinary agents and their principals —I mean cases where the member of a corporation may be found to have applied its funds in purchasing property for himself, or in carrying on any private speculation of his own, or when he has acted unfaithfully in alienating the property of the corporation ; or has had transactions on his own account which he ought to have conducted on theirs.