

in regulating the municipal power to acquire and dispose of "wet lands." When it is deemed expedient to sell, depart with, or dispose of the same, it is to be "by public auction in like manner as they may by law sell or dispose of other property:" R. S. O. 1897 ch. 223, sec. 556, and same section in the Act of 1903.

Of course the money derived from the sale of the lands bought for arrears of taxes can be applied to any legitimate purpose of the corporation—and, even if regarded as "general funds" of the municipality (sec. 424), would be still of fiduciary character.

It was thought at one time that the Court would not interfere to prevent trustees selling at an undervalue, unless the injury was irreparable. This was so held in *Pechel v. Fader*, 2 Anst. 549, which case is published (though erroneously) in the Revised Reports as an exposition of the law: 3 R. R. 627. This case, however, was repudiated at an early date by the Court of Chancery. . . . [Reference to *Attorney-General v. Liverpool*, 1 My. & Cr. 210: *Dance v. Goldingham*, L. R. 8 Ch. 902.] And reasons are given in the early Canadian cases cited to shew that judicial supervision may well be applied to ensure the well-working of the municipal system in regard to its administration aspects as the holder and disposer of corporate property.

I think my brother Anglin was well advised to interfere at the outset by way of preliminary injunction so as to stop the sale at a less price than the highest offer till the facts had been ascertained. In their statement of defence the corporation submit to convey to the person entitled. As between the two before the Court plaintiff is the one who should be accepted as purchaser, and if defendant corporation have no objection to this course, that may now be ordered. But if the corporation desire to prove good reasons which induced a preference for defendant Caldwell, there may be a further trial on that point, with all costs reserved before the Judge at the trial. If the parties agree to close the litigation at this stage, that being communicated to the Court, the costs and any other undisposed of matters will be dealt with.

MACMAHON, J., concurred.

MEREDITH, J., dissenting, was of opinion, for reasons stated in writing, that the appeal should be dismissed.