1856.

Bowes v. City Toronto

tions wisely devised to prevent improvidence, and to secure those who may advance their money upon them. I certainly have no particular knowledge upon the point; but from anything that I have heard judicially or otherwise I do not imagine that any member of these councils has thought himself precluded from dealing in these debentures. I mean, of course, in those issued by the corporation to which he belongs. I doubt not that such purchases have been frequent by members of county or township councils, as well as those of cities; and I am not aware that they have ever been thought open to doubt or question before this suit was instituted.

There are many gentlemen in these councils, I dare say, who have abstained from making such purchases as a matter of speculation, (as people deal in stocks,) from a feeling that it would not be delicate or proper, and from an unwillingness to expose themselves to such suspicions as an extensive traffic of that kind would be very likely to give rise to.

Judgment.

There are few municipal councillors, however, I believe, who would hesitate to purchase a debenture as an investment, and perhaps no one who would hesitate to receive one from his debtor in payment of his debt. But if such a purchase could in any case be made without violating the rules of equity, we could hardly draw a line as to the number of debentures that might be bought, or a line that would make the transaction legal or not, according to the inducements for buying them.

I think there is no rule of law or equity that prohibits such purchases; and if it be not unlawful for the members of municipal councils to buy debentures, (as I believe it is not), it cannot be unlawful for them to sell them; and any person by whom they can be lawfully bought and sold must be entitled to the profit which he