

icipalities comprising the county had, as a distinct entity, any property in or right to an aliquot or even a proportionate part.

Any benefit that might accrue to them or any of them could come only through the action of the county council; and whether any disposition of it would benefit any particular municipality, as apart from the other portions of the county, would depend upon considerations which it would be the province of the county council to deal with.

If the plaintiffs had continued as a town in the county, these would be their sole rights; and the legislation under which they withdrew does not appear to have placed them in any more advantageous position.

Then it is said that this is a trust fund upon which the Court may fasten and direct its administration. But it is a trust fund only in the sense that it is in the hands of the county and under the control of the county council, whose duty it is to deal with it in accordance with the Municipal Act. It cannot be said that it is a trust fund held for the benefit of the plaintiffs, nor that they represent in this action the ratepayers by whom the rates were paid, for the purpose of enforcing any supposed trust in respect of it. If a trust is to be enforced, it could only be at the instance of some person or body of persons entitled as an entity to benefit by the trust, and in an appropriate form of action, with all parties interested in the trust properly represented.

The agreement of the 10th February, 1902, was made with reference to matters with which the parties were competent to deal as consequent upon the erection of the plaintiffs into a city, but in no case could it have dealt with the fund in question, unless, perhaps, by consent of all the municipalities.

From no point of view does it appear to me that the plaintiffs are entitled to relief in this action; and, in my opinion, the judgment appealed from should be affirmed and the appeal dismissed with costs.

MEREDITH and MAGEE, JJ.A., agreed in the result, for reasons stated by each in writing.

GARROW and MACLAREN, JJ.A., dissented, each stating reasons in writing.

GARROW, J.A., adopted the statement of law of Brady, L.C., in *Attorney-General v. Belfast*, 4 Ir. Ch. 119, and said that it justified the plaintiffs' contention that, without any special provision in the Municipal Act upon the subject, the defendants were trustees