

apparent reason assigned is, that Caldwell threatened litigation if some offer he had made was not carried out—but it is said that plaintiff also threatened litigation.

I can see upon the evidence no sufficient grounds for the action of the council in accepting the lower and rejecting the higher offer, regarding the matter as one involving the due and proper administration of corporate property. No evidence for the defence was given, in deference, I think, to the ruling of the learned trial Judge, who seems to have proceeded on the view "that the Courts exercise power over trustees which they do not exercise over municipalities."

The relation of municipal bodies to the equitable jurisdiction of the Court was first considered in this Province by Esten, V.-C., in *Paterson v. Bowes*, 4 Gr. 180, and he came to the conclusion that the legislation which in England defined the scope and object of corporate purposes so as to impress a distinct fiduciary character upon corporate property and thereby attract the jurisdiction of equity, had worked to like result in the municipal legislation of the Province. . . . [Reference to *City of Toronto v. Bowes*, 4 Gr. 489, 507, 520, 6 Gr. at p. 77; *Bowes v. City of Toronto*, 11 Moo. P. C. at p. 524; *Attorney-General v. Goderich*, 5 Gr. 402.]

As to this particular land, it was acquired by the city under a peculiar provision of the law whereby the property was taken over as a satisfaction for the arrears of unpaid taxes thereon. It became corporate property, and, subject to the right of redemption by the owner, it so remained until sold. It takes the place, as it were, of the unpaid taxes, and by the sale of the land there is afforded some opportunity of recouping the treasury for what is in default. Here the unpaid taxes on the lots amount to some \$351—a sum in excess of the highest offer made upon tender.

The councillors had brought before them the correct line of duty when it was said during the meeting that they ought to get all they could for the lots. They were distinctly advised by their solicitor that no contract was made or could be enforced in respect of the Caldwell offer—and this was correct advice. The minority advised that the highest offer should be accepted, and, if no good reason can be given against this course, it is the proper course for the council as trustees to adopt. It is not advisable in dealing with corporate (trust) property to dispose of it in a private way—but some steps should as a rule be taken to ensure competition, whether by inviting tenders or exposing to auction, with, it may be, a reserved bid. This method is recognized by the legislature