

Province of Ontario.**HIGH COURT OF JUSTICE.**

Teetzel, J.]

[July 21.

PARSONS v. CITY OF LONDON.

Municipal corporation—Trustee for ratepayers—Sale of municipal property—Under value—Breach of trust—Injunction.

Motion by plaintiff to continue an injunction restraining the defendants from carrying out the sale and purchase of some municipal property in the city of London. By Geo. V. c. 95, s. 10, the corporation of the city of London was authorized to sell at such price and on such terms as the council might deem expedient the City Hall, and the police station, or either of them, and the lands on which they are situated.

Held, 1. A municipal corporation is a trustee for all ratepayers and amenable to a like jurisdiction of the court as is exercised over trustees generally, and the plaintiff being a ratepayer and therefore a cestui que trust could maintain an action in his own name, on behalf of himself and other ratepayers, to restrain the corporation from carrying out a sale which would, in this case, have been a breach of trust. The strictness with which the conduct of private trustees is watched by the courts should apply in all its force to the action of a municipal corporation in its dealings as a trustee.

2. It was the duty of the council in dealing with corporation property to be careful not to sell without taking steps to insure competition, so as to obtain the best possible price. In this case no such care had been exercised and there was a prima facie case of improvident sale and therefore a breach of trust.

Injunction continued till trial, with costs.

Rowell, K.C., and C. Jarvis, for plaintiff. T. G. Meredith, K.C., for the city of London. J. B. McKillop, for the Royal Bank of Canada.