

## County Debentures.

The county council of Oxford is apparently in trouble, over the sale of the \$155,000 worth of debentures, issued to raise money to pay for the court house, and poor house, recently erected in that county. The intending purchasers refuse to take the debentures, their solicitors having expressed the opinion, that the issue is illegal. The difficulty seems to have been occasioned by the passing of a by-law by the county council, providing for the issue of these debentures, without having first submitted such by-law to the vote of the ratepayers. This proceeding, it is claimed, does not fill the requirements of the following section, and sub-sections of the Municipal Act.

344. (1) Every by-law, except for drainage, as provided for under section 569 of this act, or for a work payable entirely by local assessment, for raising, upon the credit of the municipality, any money not required for its ordinary expenditure, and not payable within the same municipal year, shall, before the final passing thereof, receive the assent of the electors of the municipality in the same manner provided for in section 293, and following sections of this act; except that in counties the county council may raise, by by-law or by-laws, without submitting the same for the assent of the electors of such county or counties, for contracting debts or loans, any sum or sums not exceeding in any one year \$20,000, over and above the sums required for its ordinary expenditure.

Provided always, that where a county and city are united for judicial purposes, the council of the county or city may, by by-law or by-laws passed at any meeting of such council, without submitting the same for the assent of the electors of such county or city, as the case may be, for contracting such debt, raise such sums of money as may be required for erecting, building and furnishing a court house and offices, to be used in connection therewith, and for acquiring such land as may be necessary or convenient for the purposes of such court house and offices.

And provided always, that a city or town heretofore or hereafter withdrawn from the county and continuing so withdrawn pursuant to the provisions hereof, or of a city heretofore or hereafter erected, may, by by-law or by-laws passed at any meeting of such council, without submitting the same for the assent of the electors of such town or cities, as the case may be, raise such sums of money as may be required to liquidate their share of the county debt as awarded or agreed upon pursuant to this act, and to issue debentures for that purpose at such rates, for such times and upon such terms as they may therefore have done, or be entitled to do for meeting any other liability of said town or city, as the case may be. R. S. O. c 184, s 344.

345. No such by-law of a county council for contracting any such debt or loan for an amount not exceeding in any one year \$20,000 over and above the sum required for its ordinary expenditure, other than a by-law to raise money for erecting, building and furnishing a court house, and offices aforesaid, or for acquiring land as provided in subsection 2 of the last preceding section, shall be valid, unless the same is passed at a meeting of the council specially called for the purpose of considering the same, and held not less than three months after a copy of the by-law, as the same is ultimately passed, together with a notice of the day appointed for the meeting, has been published in some newspaper issued weekly or oftener within the county, as constituted for judicial purposes, or if there is no such public newspaper, then in a public newspaper published nearest to the county.

These sub-sections are interpreted as applying to Toronto, Hamilton, London

and similar municipalities. When they are joined for judicial purposes with the county, and the weight of opinion and authority seem to be against the legality of the by-law as passed, and the debentures issued pursuant thereto. The only alternatives on the part of the council seem to be to either to prepare a by-law for the issue of the debentures, and submit the same to the rate-payers now, or apply to the legislature for such legislation, as will legalize the debentures already issued. At a recent session the council are said to have deliberated the question in all its phases, and finally, as the safest course, decided to apply to parliament for relief. As to this a contemporary says: All the same the statutes were framed to afford protection to the people of a county who were to be consulted and asked to vote yea or nay when any such expenditure as this was contemplated. It is a judicious enactment, and to allow its provisions to be set aside deliberately, and put the people at defiance and say they must submit and pay whether they like it or not, is far from being in the public interests. Oxford county is in a fix and to ease its residents, where there is only one harsh alternative, the legislation will be granted, but it might be granted with the warning to all other counties that it was only granted because of the dilemma which has arisen, perhaps out of a mistake or unsound legal advice, and that for the future no such relief would be given, but that if county councillors chose to disregard the statutes they must suffer the consequences.

Another difficulty appears to be, that the council have used the sinking fund of the Credit Valley Railway debentures, which mature in October next, for the purposes of paying for the court house, and the money now required is to supply the deficiency. This money having been raised for a certain purpose, it could not, at any rate without an order in council, be appropriated to another purpose. The following is the section of the act:

373—1. If, after paying the interest of a debt and appropriating the necessary sum to the sinking fund of such debt, or in payment of any instalment or principal, for any financial year, there is a surplus at the credit of the special rate account of such debt, such surplus shall so remain, and may be applied, if necessary, towards the next year's interest; the excess shall be carried to the credit of the sinking fund account, or in payment of principal of such debt, R. S. O. c. 184, s. 373.

2. Provided always that any moneys levied and collected for the purpose of a sinking fund, shall not in any case be applied towards paying any portion of the current or other expenditures of the municipality, save as may be otherwise authorized by this or any other act.

3. In the event of the council in any municipality diverting any of the said moneys for such current or any other expenditure, save as aforesaid, the members who vote for the diverting of said moneys shall be personally liable for the amount so diverted, and the said amount may be recovered in any court of competent jurisdiction; and the members who may have voted for the same, shall be disqualified for holding any municipal office for a period of two years, 54 V. c. 42, s. 12.

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