sistent with the precise engagement sworn to by the plaintiff as having been entered into on the 20th August, 1887:

Held, that this evidence satisfied the requirements of R.S.O., c. 61, s. 6, and it was not necessary that it should go so far as to be inconsistent with the promise which the defendant admitted he made before majority.

The plaintiff swore that "it was to be a year's engagement, and we were to be married in the following August:"

Held, that this was not an agreement not to be performed within a year, and was therefore not void under the Statute of Frauds, although not in writing.

McVeity for plaintiff.

Shepley for defendant.

Chancery Division.

OSLER, J. A.] [July 9.

DARBY *v.* THE CORPORATION OF THE CITY OF TORONTO, *et al.*

Municipal corporation—Representation previous to submission of money by-law—Costs—52 Vict., c. 73, s. 14 (O).

A municipal corporation previous to the submission of a money by-law to the vote of the electors issued a pamphlet to them which contained under the heading "Some of the reasons why the buildings should be erected" this clause: "In order that the buildings may be erected in accordance with ** legislation has been obtained authorizing the appointment of three commissioners to whom will be entrusted the supervision of the work **", and after the by-law was approved of and passed they decided not to appoint commissioners.

In an action by a ratepayer to enjoin the corporation from proceeding with the work, it was

Held, that that representation formed no part of the by-law and was not a representation of an existing fact but a mere statement of intention, and formed no part of the bargain in the sense of a binding bargain between the corporation and the ratepayers, and there was nothing to bind the corporation to adhere to it, and they were at liberty to revoke or disclaim that intention and take another course, and that the action should be dismissed; but as the conduct of the corporation was so discreditable their costs were refused.

Held, also, that there was no person or class of persons for whose benefit the power under 52 Vict., c. 73, s. 14 (O) was conferred, or upon whom a right was conferred to have the power exercised, and that such power was not obligatory but permissive only.

A by-law is not a contract between the ratepayers and the corporation.

Remarks upon the practice of taking a *plebiscite* upon a subject wholly within the discretion of a corporation.

W. M. Hall for the plaintiff.

C. R. W. Biggar for the defendants.

Practice.

Q. B. Div'l Ct.] [June 22.

In re MOORE *v.* WALLACE.

Prohibition—Division Court—Attachment of debts—R.S.O., c. 51, s. 189—Absconding debtor—R.S.O., c. 66, s. 16—Payment to sheriff of moneys attached—Payment to Division Court clerk.

Where money comes into the hands of a Division Court clerk under a garnishee summons, and he is made aware of a writ of attachment under the Absconding Debtors' Act, he must pay the money to the sheriff and not to the primary creditor, under the provisions of s. 16 of the Absconding Debtors' Act, R.S.O., c. 66.

And where after the service upon the garnishees of a Division Court garnishee summons, a County Court writ of attachment was placed in the hands of the sheriff, and the garnishees paid the amount owing by them to the primary debtor to the sheriff, but the judge in the Division Court ordered the sheriff to pay the money to the Division Court clerk, and the clerk to pay it out to the primary creditors in the Division Court:

Held, that the judge was right in ruling that the money should have been paid by the garnishees to the Division Court clerk under sec. 189 of the Division Courts Act, R.S.O., c. 51, and therefore his order upon the sheriff to pay it to the clerk could not be interfered with; but the order to pay out to the primary creditors was contrary to s. 16 of the Absconding Debtors' Act; and prohibition to restrain the clerk from so paying out the money was awarded.