

### Corporate Liability for the Payment of Debentures.

We are indebted to the Tweed "News" for the following history of an important case :

After several weeks of anxiety judgment has been finally given upon the appeal by the village of Tweed from the judgment given by Justice Ferguson on Sept. 15th last ordering summary judgment against the village as defendants in an action to recover \$5,000 and interest on debentures held by the Standard Life Assurance Co. The judgment upon the appeal held that the debentures fell within the scope of an Act passed by the Ontario Legislature in June, 1903, reading as follows :

"Where in the case of any by-law heretofore or hereafter passed by any municipal council, the interest for one year or more on the debentures issued under such by-law and the principal of the matured debentures (if any) has or shall have been paid by the municipality the by-law and the debentures issued thereunder remaining unpaid shall be valid and binding on the corporation and shall not be quashed or set aside on any ground whatever."

The appeal from the judgment of Justice Ferguson was argued at Osgoode Hall, Toronto, before the Chancellor, Sir John Boyd, and Judges McMahon and Teetzel on October 7th, when judgment was reserved. As a result of the judgment just given out by them the village of Tweed must pay the \$5,000 and interest on the debentures held by the Standard Lite Assurance Co., together with costs.

A brief review of the history of the case may be of interest. The debentures were issued March 25th, 1892, by the village of Tweed for the purpose of raising money to enable Mr. George Easterbrook to rebuild his mill after it had been destroyed by fire. They were five in number, each for \$1,000, payable at the office of Murphy, Gordon & Co., Tweed, ten years from date thereof. When they fell due in March, 1902, the Standard Life Assurance Company, who held the debentures, immediately made application to the village for payment. This the village refused on the ground that no provision for payment had been made in the by-law under which the debentures were issued and that there were no funds out of which payment could be made. The matter was apparently dropped and nothing was heard of it for a period of about six months until in October, 1902, the Standard Life Assurance Co. made a second application for payment which was similarly refused. A period of some eight or nine months then elapsed

and in July, 1903, after the passing of the Act already referred to, a third application was made, this time with a threat to sue for the amount if payment were not made. Again the village refused payment on the same grounds as previously. The Standard Life Assurance Co. then entered action to recover the amount. The case came up for trial before the Master-in-Chambers, J. S. Cartwright, on Aug. 22nd, 1903, when the application for judgment against the village was dismissed. The Standard Life Assurance Co. then entered an appeal against this dismissal of their motion which was argued before Justice Ferguson on Sept. 14th. On the following day judgment was given reversing the order of the Master-in-Chambers and giving judgment against the village for the amount of the claim, and costs. Following this the village entered the appeal upon which judgment has just been given as above reported.

In giving judgment against the village in this appeal the Divisional Court held that the debentures were invalid at the time they were given because no provision had been made for a sinking fund to pay the principle and that when the debentures fell due the Standard Life Assurance Co. had no real claim against the Corporation to recover the amount, but that the Act passed in June, 1903, had the effect of validating the debentures and making them binding upon the Corporation.

The judgment given is for \$5,000, the amount of the debentures, together with the interest on that amount at 5 per cent., since March 25th, 1902, and costs of the various actions. The whole amount has to be levied at once in addition to the ordinary taxes unless the council make application to the Legislature for a special Act to enable the Corporation to issue debentures to raise the amount.

Mr. Reuben Lawless has been appointed Clerk of the Township of Haldimand, to succeed Mr. J. H. Johnston.

The electors of the Town of Brockville, last month, by a vote of 793 to 124 carried a by-law providing for a grant of \$16,000 to the Cossitt Company, Limited, on certain conditions, to assist that company in the re-building of their works destroyed by fire in July, 1900.

Two by-laws were recently carried by the electors of Windsor by substantial majorities. One provides for the conversion of the old Central School into a City Hall, and the other for the raising of \$56,000, to be expended in the laying of new sidewalks throughout the city.

### Chatham's Bad Financing.

The people of Chatham have suddenly come to the knowledge that the city is facing a deficit of some \$49,734. The Government auditor, after investigating the books, made this astounding announcement to the citizens. Expenditure by the council in excess of appropriation, and expenditures for which no appropriations are made, are the main causes of this deplorable state of affairs. That there must have been something radically wrong in the system of doing business, or else gross carelessness on the part of the city's representatives in allowing a debt to accumulate without the council's knowledge, no one will deny. The system adopted by municipal councils of expending money in excess of the cash on hand and borrowing until the taxes are collected, is a fruitful source from which these conditions may emanate. It is easy to understand that as long as the amount collected in taxes covers the amount borrowed, everything goes smoothly on, but at the same time, just in proportion as the amount borrowed gets nearer the amount levied, the municipality's debt is increasing.

This system, the Berlin Telegraph points out, was followed by the County of Waterloo a few years ago with the result that the county was thousands of dollars in debt more than its representatives supposed. In the year 1894 the county council found it necessary to issue debentures in order to make up a deficiency that had occurred through this way of doing business. The old estimate of \$20,000 a year being insufficient, \$25,000 a year was levied, and later on \$30,000 for current county expenditures. A reduction, however, to \$27,000 was made, in 1902, with the result that debentures had again to be issued to make up for another deficiency. The proper method for municipal bodies to follow is to make an intelligent estimate of the amount necessary for annual current expenditure, and then keep within their estimates. The appointment of a Government auditor by the Ontario Legislature, some years ago, was a good move, and in Chatham's case has been the means of unearthing a condition of affairs which otherwise might have continued and become worse.—Guelph Mercury.

Mr. Thomas Scott, clerk and treasurer Township of Osprey, was recently shot at through a window when sitting alone in his house. Mr. Scott has no clue to the man, but believes it was some person who knew he was alone in the house, the object doubtless being to kill him and steal the township funds.