

works was introduced, read a first, second and third time and passed by a two-third vote of the council.

This by-law is moved against, and a great many reasons are pointed out why it should be quashed, but although many of these objections may be well taken, I still think, as I thought upon the argument, that the broad outstanding question, and one which goes directly to the merits, is: "Can this by-law be said to be a *bona fide* and legitimate exercise of powers conferred by the Ontario Legislature under the Act referred to? A careful perusal of the provisions of the statute leads me to the conclusion that the Act does not authorise the doing of what the respondents have done. The Legislature confers upon the municipal council power to pass a by-law, with the approval of the board of health, and without the consent of the electors, to raise a sum not exceeding \$5,000,000 for the construction of waterworks of the same general character as in the by-law is provided for. It is true that this by-law only provides for the issue of debentures to the amount of \$5,000,000, but it is founded upon the Binnie report, recites it, and provides for the carrying out of a work which is to cost at the lowest \$8,000,000; and once the money is borrowed, the work entered upon and the \$5,000,000 expended, the city must go on and complete it, cost what it will, or lose these millions. Did the Legislature intend this, a limited borrowing power, but an unlimited commitment? I would require clear language to make me believe it. I think the language is clearly the other way. Sub-section 4 of sec. 2, says the corporation may issue debentures at 50 years and borrow "a sum not exceeding \$5,000,000 to provide for the cost of the construction of the said works and the acquisition of the water, lake or lakes, land and water powers."

Can this mean that the council can enter upon and put the money into a billion dollar scheme so long as the initial borrowing does not exceed \$5,000,000? The undertaking admittedly exceeds the borrowing power by 60 per cent., and in the working out another 60 per cent. may be added, but the point is that if the undertaking is not limited to \$5,000,000 it is not limited at all.

The council have availed themselves of the special privileges of the statute, and the privileges are exceptional and generous; they must accept the limitations as well.