

not say the "sole" credit and security of the tolls, &c., but, in the absence of any other credit or security defined by the Ordinance, those only can be looked to which are expressly mentioned. It is, however, evident that it was for the very purpose of guarding against the possibility of the present claim that, in addition to the affirmative words already quoted, negative words were introduced that the loan is "not to be paid out of or be chargeable against the general revenue of the province."

It does not appear possible to use language more carefully framed to exclude from the minds of proposed lenders the idea that they were in any case to look to the province for repayment of the moneys advanced by them.

The only criticism which has been offered upon this passage is that it does not negative the contention that the loan is to be paid out of revenue other than the "general" revenue of the province. But no other revenue can be suggested.

The Government has no power to raise or apply revenue in any other way than is authorized by law. It is obvious that revenue already appropriated to particular objects cannot be diverted from them, and, when it is forbidden to apply the unappropriated or general revenue to the payment of the loan, all possible sources of reimbursement out of revenue of the province are excluded. It is a contradiction in terms to say that that which the province is by express enactment forbidden to pay out of its revenue remains nevertheless a liability of the province.

The 26th section enacts that it shall be lawful for the Governor, if he shall deem it expedient at any time within three years from the passing of the Ordinance, and not afterwards, out of any unappropriated public moneys in his hands, to purchase for the public uses of the province and from the said Trustees debentures to an amount not exceeding 10,000*l.* currency, the interest and principal of and on which shall be paid to the Receiver General by the said Trustees in the same manner, and under the same provisions, as are provided with regard to such payments to any lawful holder of such debentures.

Thus the Governor is enabled to purchase, on behalf of the province, debentures, and so to become the creditor of the Trustees, but this power is limited to three years.

This is the wholly inconsistent with the idea that the province was already the debtor for the whole amount of the loan.

The province cannot stand in the relation both of debtor and creditor to itself; and if the process be regarded as a means of redeeming the debt of the province, no reason can be suggested why this power of purchasing debentures should be limited in amount and to a period of three years.

The 23rd section enacts that the debentures shall bear interest, and concludes thus:—"Such interest to be paid out of the tolls upon the roads, or out of any other moneys at the disposal of the Trustees for the purposes of this Ordinance."

Here there are no negative words excluding the liability of the province, but the obligation to pay interest primarily follows that of paying the principal, and it lies upon the party asserting that it is imposed elsewhere to establish it.

So far from there being anything in the Ordinance to support the contention that the interest is to be paid by the province, everything on the subject of interest tends strongly in the opposite direction.

By the 27th section it is enacted that all arrears of interest shall be paid before any part of the principal sum, "and if the deficiency be such that the funds then at the disposal of the Trustees shall not be sufficient to pay such arrears, it shall be lawful for the governor for the time being, by warrant under his hand, to authorize the Receiver General to advance to the Trustees out of any unappropriated moneys in his hands such sums of money as may, with the funds then at the disposal of the Trustees, be sufficient to pay such arrears of interest as aforesaid, and the amount so advanced shall be repaid by the Trustees to the Receiver General."

This provision, empowering the Governor General to authorize a loan to the Trustees to enable them to pay interest, is inconsistent with the idea that the province was already under an obligation to pay the interest.

If then the case had rested upon the effect of the Ordinance alone, their Lordships are of opinion that no liability on the part of the province for payment of either the principal or interest could be established; but it has been argued that by subsequent legislation and con-