



TELEPHONE RANDOLPH 5444

An independent fact-finding organization
reporting to the public on civic affairs.

CIVIC AFFAIRS

October 7, 1952

RESPONSIBILITY FOR CAPITAL BORROWING

Members of City Council receive copies of each Bureau bulletin.
Why not discuss the subject of this bulletin with your Alderman?

Fellow Citizens:

When the books of the City were closed at the end of 1951, they showed that Toronto was carrying a net debenture debt of just over \$100 million. The effect of this debt load has been to commit the local authorities to interest and principal instalments during the present year amounting to \$10.9 million, not including debt charges arising from new borrowing in 1952.

As these obligations fall due, three main sources are expected to provide the required funds. About two-thirds of the total will come out of current municipal and school taxes. Another 30 per cent is to be derived from the income of revenue-earning enterprises, such as the waterworks system and the T.T.C. The remaining two per cent has been billed directly to property owners for local improvements.

For a city of Toronto's size and wealth, the year-end debt position was by no means alarming. Among the fifty-nine urban municipalities in Ontario over 10,000 population, sixteen had a higher per capita debt than Toronto's \$149. The amounts ranged upwards to \$240 per capita. Again, Toronto's debt was backed by taxable real property assessed at \$1,440 million plus the substantial earning power of its municipal enterprises. There are few Ontario centres whose debt is more strongly secured. In addition, Toronto has never been in default and for many years has kept clear of embarrassing deficits. Consequently, the credit rating of the City is excellent.

Having recognized Toronto's strong financial position, there is nonetheless good reason for taking an interest in the debt situation. Considering the huge sums involved, the borrowing activities of the City appear to receive very slight public discussion. Debt charges were responsible for nearly six mills of the 1952 tax rate and have been a factor in the determination of present utility rates and fares. Since the last war, new debt has been incurred at a rapid and accelerating pace. Out of the \$100 million total outstanding at the end of 1951, more than \$85 million was floated during this post-war period; over \$53 million in the last two years. Moreover, the City's capital dealings extend much beyond the actual debentures issued. It is regular practice to plan and proceed

with capital undertakings some time in advance of the marketing of the necessary bonds. Consequently, quite in addition to the projects which had already been debentured, the 1952 budget, as approved on April 15th, carried the following:

- I. Capital Expenditures for Probable Debenturing in 1952, \$14,057,280
- II. Capital Expenditures Authorized for Debenturing, \$35,470,148
(Physical work in progress or authorized for commencement)

Then there was a further classification:

- III. Capital Works Given Top Priority \$22,936,755
(date of Commencement yet to be determined)

Finally, in addition to these items, the budget included three further highway improvement schemes on the "top priority" list without setting down any estimate of the cost.

In looking at the capital expenditures yet to be debentured, it would be a mistake to infer either that debentures to the full amount shown in the first category would be issued this year, or, conversely, that debenture issues would be held exclusively to items listed under that heading. Actually, to September 30th, the total of new debenture issues was slightly in excess of \$5.3 millions with \$600,000 from group II. Whether there will be a further block of debentures marketed in 1952 has not yet been announced.

In a city of Toronto's financial standing, the timing of new debenture issues can be delayed or advanced in order to take advantage of favourable market conditions. The important point is that as of April 15th, 1952, the City Council had set the wheels in motion on some \$50 million worth of capital undertakings over and above the sizeable debt for which debentures were then outstanding. In large part, the \$50 million represented commitments of earlier years. On the other hand, since the budget was passed the Council has extended definite authorization to five new items which add \$1 million.

To summarize the position: Since the war, successive Councils have put the stamp of approval on capital expenditures estimated to cost \$136 million. Debentures already issued cover slightly in excess of \$90 million; the remainder has yet to be financed. Top priority has been given to further proposed works estimated at \$22½ million plus an unspecified sum for three sizeable highway projects. Obviously in recent years Council business has moved into the major league!

Controls over Capital Borrowing

Profiting from some bitter experiences in years gone by, the Province has developed extensive control over the capital borrowing activities of Ontario municipalities. In outline, here is the position as it affects Toronto:

- 1) Municipalities are required to plan for balanced budgets year by year, including payment of debt charges and covering the sums to be provided for school purposes or for any board, commission or other municipal body.

- 2) Any deficit resulting from one year's operations must become a first charge against the tax rate of the following year.
- 3) Auditors appointed by the municipal council and licensed by the Department of Municipal Affairs must submit audits of all the local authorities to the Department annually.
- 4) Except for temporary accommodation required during the year, the municipal council alone may undertake borrowing on behalf of all local authorities.
- 5) Such borrowing which is not designated for repayment in the current year must be authorized by municipal by-law and, except where specifically exempted, requires a favourable referendum vote by property owners and others qualified to vote on money by-laws. As the legislation now stands, there is a wide list of stated exemptions.
- 6) As one of the important exemptions, borrowing on behalf of the school board requires referendum approval only where the municipal council rejects an application by the school board for debenture financing and the board then calls for a vote. If the referendum is favourable and the Provincial authorities concur, the council must proceed to issue the debentures.
- 7) The Ontario Municipal Board must authorize all borrowing under money by-laws. The Board has full power to dispense with electoral assent but in such cases must hold public hearings and may impose special conditions on subsequent borrowing.
- 8) In certain cases, the approval of a particular Provincial department must be secured in addition to the consent of the Ontario Municipal Board.

In essence, control over local borrowing activities is divided in the following manner:

1. Particular Provincial authorities have been designated to supervise municipal accounting and to see to the financial soundness of local transactions which create an obligation extending into future years.

Provincial departments also supervise capital projects from a public health or safety standpoint and, with their power to make capital grants can favour essential projects and promote economies in construction.

2. Local control over debenture borrowing is centred in the City Council. Besides settling on its own borrowing requirements, the Council decides on capital projects recommended by the separated board and commissions. For certain purposes and within stated limits, Council's authority locally is final. Otherwise it must obtain the assent of money by-law electors or exemption from this requirement by appeal to the Ontario Municipal Board. On school debentures, the Board of Education can appeal over the head of Council to the electors and their decision is final.

Major Weakness

Comprehensive as the controls over capital borrowing are, there is one great weakness in the present situation. Direct appeal to the electors

with capital undertakings some time in advance of the marketing of the necessary bonds. Consequently, since in addition to the projects which had already been debentured, the 1952 budget, as approved on April 15th, carried the following:

I. Capital Expenditures for Probable Debenturing in 1952, \$11,027,280
II. Capital Expenditures Authorized for Debenturing, \$32,470,118
(Physical work in progress or authorized for commencement)

Then there was a further classification:

III. Capital Works Given Top Priority
(date of commencement yet to be determined)
\$22,936,722

Finally, in addition to these items, the budget included three further highway improvement schemes on the "top priority" list without setting down any estimate of the cost.

In looking at the capital expenditures yet to be debentured, it would be a mistake to infer either that debentures to the full amount shown in the first category would be issued this year, or, conversely, that debenture issues would be held exclusively to items listed under that heading. Actually, to September 30th, the total of new debenture issues was slightly in excess of \$2.3 million with \$600,000 from group II. Whether there will be a further block of debentures marketed in 1952 has not yet been announced.

In a city of Toronto's financial standing, the timing of new debenture issues can be delayed or advanced in order to take advantage of favourable market conditions. The important point is that as of April 15th, 1952, the City Council had set the wheels in motion on some \$50 million worth of capital undertakings over and above the sizeable debt for which debentures were then outstanding. In large part, the \$50 million represented commitments of earlier years. On the other hand, since the budget was passed the Council has extended definite authorization to five new items which add \$1 million.

To summarize the position: since the war, successive Councils have put the stamp of approval on capital expenditures estimated to cost \$136 million. Debentures already issued cover slightly in excess of \$90 million; the remainder has yet to be financed. Top priority has been given to further proposed works estimated at \$28 1/2 million plus an unspecified sum for three sizeable highway projects. Obviously in recent years Council business has moved into the major league!

Controls over Capital Borrowing

Profiting from some bitter experience in years gone by, the Province has developed extensive control over the capital borrowing activities of Ontario municipalities. In outline, here is the position as it affects Toronto:

- (1) Municipalities are required to plan for balanced budgets year by year, including payment of debt charges and covering the sums to be provided for school purposes or for any board, commission or other municipal body.

by referendum no longer plays a major part in the borrowing process; yet no adequate substitute has been developed.

In contrast to the many capital authorizations in the post-war period totalling some \$136 million, only five projects were put before the voters. The amounts so approved added to less than \$15 million. Even where a vote was taken, the electors have not, in all cases, been given a full opportunity to pass on the financial plans as they have in fact developed.

In 1945, a vote was taken on the Clifton Road subway to cost \$1,302,000. This subway forms only one small part of the Mount Pleasant arterial route, a project which is not yet fully debentured. The electors were given no opportunity to rule on other sections of this expressway.

In 1946, the electors voted on the re-development of Regent Park (North) at an estimated cost of \$5.9 million. The particular plan on which the referendum estimated was based could not be followed and a more extensive scheme costing a much larger amount was undertaken. Moreover, there is reason to question whether the estimate of \$5.9 million was itself realistic at the time it was put to the voters.

The electors were also given an opportunity to express an opinion on the T.T.C. rapid transit project. But, as the T.T.C. has since been careful to point out, this question was not in the nature of a money by-law. Owners and tenants alike were permitted to vote. No estimate of the cost was set down in the referendum. Moreover, the proposal as voted upon was conditional on the receipt of a public works grant from the Government of Canada which was never fully assured and, as it has since turned out, could not be obtained.

Use of the referendum to test public opinion on money by-laws is discouraged by the way in which Provincial legislation on the subject has developed. After stating as a general principle that money by-laws require electoral assent, the Municipal Act proceeds to catalogue a host of exceptions. Leaving aside the subject of school debentures, which calls for special comment, the exceptions now include funds for:

- Employees pension plans
- Judicial facilities
- Construction or improvement of municipal hospitals
- Aid to public hospitals
- Projects undertaken as war memorials
- Sites for armouries, drill sheds and similar works
- Road-making machinery
- Suburban roads
- Borrowing under the Local Improvements Act and the Municipal Drainage Act
- Garbage disposal facilities
- Capital extensions to municipally owned and operated utilities
- Construction or improvement of waterworks or sewage systems ordered by the Ontario Dept. of Health
- Improvements ordered or authorized by the Dominion Dept. of Transport
- Improvements ordered by the Ontario Municipal Board

The range of the present exemptions is due in no small part to additions or revisions adopted during the past few years.

Any deficit resulting from one year's operations must become a first charge against the tax rate of the following year.

Auditors appointed by the municipal council and licensed by the Department of Municipal Affairs must submit audits of all the local authorities to the Department annually.

Except for temporary accommodation required during the year, the municipal council alone may undertake borrowing on behalf of all local authorities.

Such borrowing which is not designated for repayment in the current year must be authorized by municipal by-law and, except where specifically exempted, requires a favourable referendum vote by property owners and others qualified to vote on money by-laws. As the legislation now stands, there is a wide list of stated exemptions.

As one of the important exemptions, borrowing on behalf of the school board requires referendum approval only where the municipal council rejects an application by the school board for debenture financing and the board then calls for a vote. If the referendum is favourable and the Provincial authorities consent, the council must proceed to issue the debentures.

The Ontario Municipal Board must authorize all borrowing under money by-laws. The Board has full power to dispense with electoral assent but in such cases must hold public hearings and may impose special conditions on subsequent borrowing.

In certain cases, the approval of a particular Provincial department must be secured in addition to the consent of the Ontario Municipal Board.

In essence, control over local borrowing activities is divided in the following manner:

1. Provincial Provincial authorities have been designated to supervise municipal accounting and to see to the financial soundness of local transactions which create an obligation extending into future years.

Provincial departments also supervise capital projects from a public health or safety standpoint and, with their power to make capital grants can favour essential projects and promote economies in construction.

Local control over debenture borrowing is centered in the City Council. Besides setting its own borrowing requirements, the Council decides on capital projects recommended by the separated board and commissions. For certain purposes and within stated limits Council's authority locally is final. Otherwise it must obtain the assent of money by-law electors or exemption from this requirement by appeal to the Ontario Municipal Board. On school debentures the Board of Education can appeal over the head of Council to the electors and their decisions are final.

Major Weakness

Comprehensive as the controls over capital borrowing are, there is one great weakness in the present situation. Direct appeal to the electors

The practice of going to the people on capital projects has also been seriously undermined by the overriding discretionary power given to the Ontario Municipal Board. Since 1934, this body has been able to dispense with the necessity of a referendum whenever, in its judgment, circumstances have warranted. Such power used to require a unanimous Board decision but with the enlargement of the Board in 1947 that provision was dropped. Nowadays, the Board exercises this right quite commonly. Indeed, when the Board refuses a request for exemption, in the public mind their refusal may be taken as a sign that the proposal in question is deficient in some respect. Once the use of the Board's extraordinary powers became at all general such a development was perhaps inevitable.

The debenture issues which were floated in 1951 should serve to illustrate the use that is being made of the referendum. Throughout the year, nineteen money by-laws were prepared by the City Council. The number included two school proposals which were accepted by the Council and, in consequence, did not go to the electors. Twelve other by-laws were specifically exempted from referendum approval by the statute law of the Province. Of the remaining five, one by-law covering a portion of the Regent Park financing had previously been sanctioned by the voters. The other four were authorized by the Ontario Municipal Board in lieu of a civic referendum.

Translated into dollars, here is the breakdown: Capital expenditures involving more than \$24 million (including \$20 million for the T.T.C.) were exempted by statute from a referendum vote. Projects totaling over \$2 million were given special clearance by the Municipal Board. Only one by-law for \$600 thousand had referendum backing.

There is an even more surprising fact to report. Actually, Toronto has not held a referendum vote on a money by-law in the proper legal form for many years. The City has not been prepared to bind itself in advance to such details as a specific interest rate on proposed borrowing. Therefore, since 1934, every bond issue which was not exempted by statute has been given special clearance by the Ontario Municipal Board - some following an unofficial referendum as was the case with Regent Park. Prior to the Municipal Board securing that power, the City used to get its debenture plans approved by special Act of the legislature.

School Debentures

When it comes to school borrowing, the City Council finds itself in a somewhat difficult position. The requests for capital financing come from a Board which is also elected - a Board whose members should be in a better position than Council to assess the need for school improvements. Moreover, the wording of the school statutes does not make it easy for the Council to take the initiative in carrying a question to the electors. The way the Public School Act puts it is that "the council may pass a by-law" and "it shall not be necessary that the by-law --- be submitted to the electors". The Act then continues: "Where the council refuses to pass such a by-law the question shall be submitted by the council, if requested by the board, to the vote of the electors ---". In the High School Act, the wording is even stronger. The Council must "disapprove" a proposed debenture issue in order to secure either withdrawal or an appeal to the voters. In other words, the Council has to declare itself as opposed to a high school debenture issue before it can insist on a vote.

Of course there is nothing in either statute to prevent the Board of Education and the Council from agreeing that the public should be so

by referendum no longer plays a major part in the borrowing process; yet no adequate substitute has been developed.

In contrast to the many capital authorizations in the post-war period totalling some \$1.5 billion, only five projects were put before the voters. The amounts approved varied from less than \$1 million. Even where a vote was taken, the electors were not, in all cases, given a full opportunity to pass on the financial plans as they have in fact developed.

In 1945, a vote was taken on the Clifton Road subway to cost \$1,302,000. This subway forms only one small part of the Mount Pleasant arterial route, a project which is not yet fully debentured. The electors were given no opportunity to vote on other sections of this expressway.

In 1946, the electors voted on the re-development of Regent Park (North) at an estimated cost of \$2.9 million. The particular plan on which the referendum was passed could not be followed and a more extensive scheme covering a much larger amount was undertaken. However, there is reason to question whether the estimate of \$2.9 million was itself realistic at the time it was put to the voters.

The electors were also given an opportunity to express an opinion on the T.T.C. rapid transit project. But as the T.T.C. has since been careful to point out, this question was not in the nature of a money by-law. Owners and tenants alike were permitted to vote. No estimate of the cost was set down in the referendum. Moreover, the proposal as voted upon was conditional on the receipt of a public works grant from the Government of Canada which was never fully secured and, as it has since turned out, could not be obtained.

Use of the referendum to test public opinion on money by-laws is discouraged by the way in which Provincial legislation on the subject has developed. After stating as a general principle that money by-laws require electoral assent, the Municipal Act proceeds to catalogue a host of exceptions. Leaving aside the subject of school debentures, which calls for special comment, the exceptions now include:

- Employees pension plans
- Hydroelectric facilities
- Construction or improvement of municipal hospitals
- Aid to public hospitals
- Projects undertaken as war memorials
- Gifts for almshouses, day nurseries and similar works
- Road-making machinery
- Suburban roads
- Borrowing under the Local Improvements Act and the Municipal Finance Act
- Garbage disposal facilities
- Capital extensions to municipally owned and operated utilities
- Construction or improvement of waterworks or sewage systems
- Order by the Ontario Dept. of Health
- Improvements ordered or authorized by the Dominion Dept. of Transport
- Improvements ordered by the Ontario Municipal Board

The range of the present exemptions is due in no small part to additions or variations adopted during the past few years.

consulted about a proposed school building programme. Yet the City Council might be somewhat reluctant to make the suggestion in the light of the limited use it has itself made of even an unofficial referendum in recent years.

As matters stand, it is questionable whether the City Council can be relied on to do more than (a) block a school debenture request when the members are convinced that the project is decidedly unsound and that the public can be made to recognize it as such, (b) hold school debt to some reasonable proportion of the total debt outstanding and, (c) refuse to issue school debentures which would carry the City's total debt beyond the safety margin. At the same time, the Board of Education can always place a goodly share of the responsibility for school borrowing on the City Council--more than the Council is likely to fulfil.

Concluding Comments

The use of the referendum as a local control over municipal borrowing is at present far from effective. The virtue in exempting work which the Province or Dominion finds it necessary to order for health or safety reasons is of course recognized. But the combined effect of other statutory exemptions and discretionary powers given to the Ontario Municipal Board has been to direct attention away from the referendum and focus it on Provincial screening of debenture financing. The City of Toronto has contributed to the development by taking frequent advantage of opportunities to avoid the submission of debenture proposals to the electorate.

The controls that now operate are properly designed to hold the total debt of a municipality within reasonable bounds but the present position is unsatisfactory notwithstanding. So long as the Provincial statutes pay lip service to the referendum, local councils are not likely to search out alternative methods of informing the public systematically on proposed capital undertakings. The danger is either that the policy decisions will shift more and more to Queen's Park or that the Council and the separated boards and commissions will settle matters without sufficient public guidance.

In the opinion of the Bureau, control over capital undertakings is among the most important responsibilities exercised by your City Council. Therefore, the citizens should demand that the Council seek amendments to the present referendum legislation which will ensure an acceptable method of placing capital proposals before the public at election time.

C. J. Furett
President
Eric Hardy
Director

The practice of going to the people on capital projects has also been seriously undermined by the overriding discretionary power given to the Ontario Municipal Board. Since 1931, this body has been able to dis-approve a referendum whenever, in its judgment, circumstances have warranted. Such power used to require a unanimous Board decision but with the amendment of the Board in 1957 that provision was dropped. Nevertheless, the Board exercises this right quite commonly. Indeed, when the Board refuses a request for exemption, in the public mind this refusal may be taken as a sign that the proposal in question is objectionable in some respect. One of the Board's extraordinary powers became of all general such a development was perhaps inevitable.

The debenture issues which were floated in 1951 should serve to illustrate the use that is being made of the referendum. Through the year, various money by-laws were prepared by the City Council. The number included two school proposals which were accepted by the Council and, in consequence, did not go to the electors. Twelve other by-laws were specifically exempted from referendum approval by the statute in the Province. Of the remaining five, one by-law covering a portion of the Regent Park financing had previously been sanctioned by the voters. The other four were authorized by the Ontario Municipal Board in lieu of a referendum.

Translated into dollars, here is the breakdown: Capital expansion (T.T.C.) was exempted by statute from a referendum vote. Income tax - only one by-law for \$600 thousand had referendum backing.

There is an even more surprising fact to report. Actually, Toronto has not held a referendum vote on a money by-law in the proper legal form for many years. The City has not been prepared to bind itself in advance to such details as a specific interest rate on proposed borrowing. There-fore, since 1931, every bond issue which was not exempted by statute has been given special clearance by the Ontario Municipal Board - some following an unofficial referendum as was the case with Regent Park. Prior to the Municipal Board's creation that power, the City used to get its debenture plans approved by special Act of the Legislature.

When it comes to school borrowing, the City Council finds itself in a somewhat difficult position. The requests for capital financing come from a Board which is also elected - a Board whose members should be in a better position than Council to assess the need for school improvements. However, the wording of the school statutes does not make it easy for the Council to take the initiative in carrying a question to the electors. The way the Public School Act puts it is that "the Council may pass a by-law" and "it shall not be necessary that the by-law --- be submitted to the electors". The Act then continues: "where the Council refuses to pass such a by-law the question shall be submitted by the Council, if requested by the Board, to the vote of the electors ---" in the High School Act, the wording is even stronger. The Council must "disapprove" a proposed debenture issue in order to secure either withdrawal of an appeal to the voters. In other words, the Council has to decline itself as opposed to a high school debenture issue before it can insist on a vote. Of course there is nothing in either statute to prevent the Board of Education and the Council from agreeing that the public should be so