

common sense, and common knowledge, must be applied in disposing of this question. In the first place, it may be asked why the council of any municipality was authorized to borrow money at all. One and all have the power to assess and levy on the whole taxable property within its jurisdiction, a sufficient sum in each year to pay all its valid debts, whether principal or interest, falling due within the year, etc. The work of the assessor is the first thing done; the assessment rates being returned and the assessed value ascertained, as provided; the next thing in order is to ascertain the amount required for all purposes during that year; and a rate not to exceed two cents on the dollar on the whole assessed value, is to be struck for all purposes, except school rates. Then the collector goes to work. Now the accomplishment of all these things requires time; it is generally as late as October, and sometimes later, before the taxes are collected; but in the meantime the liabilities are accruing due from month to month. The salaries of officials have to be paid; the schools require funds to meet teachers' salaries and other expenses connected with the schools; debentures are becoming due, and interest thereon; but there is nothing in the treasury to meet these several demands. This being the case, the Legislature allowed and gave power to the council of each municipality to pass by-laws authorizing the borrowing of what was necessary to meet those several demands in anticipation of the taxes levied and being collected. How can it be said that these several sums thus falling due from time to time each year, as shewn by the estimates of each year, and the money to meet them when paid, is not "current expenditure"? There is nothing to shew that there is a "debenture sinking fund" in this case, which, of course, would not be included in "current expenditure." That fund, if any, is one created by putting by a certain sum each year, levied for the purpose of meeting debentures yet to fall due. It was stated at the Bar that the consolidated debt debentures, referred to in the estimates, were payable by annual instalments, and the amount of each instalment was levied each year, etc., and there was, therefore, no "sinking fund."

I have, therefore, come to the conclusion that the amount authorized to be borrowed by the by-law No. 4 of 1901, as amended by by-law No. 4 (B) of 1901, authorizing the amount of \$22,000 to be borrowed, was not, nor is it, *ultra vires* of the council of the defendant corporation. And, on the whole case, I am of the opinion that the action must be dismissed, and the injunction dissolved, with full costs, together with the costs of the motion to extend the injunction and all costs incident thereto.

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