

quired for current expenditure, notes being delivered to the bank for such sums as were required. At the time the note in question was given, \$5,000 of the \$22,000 remained to be borrowed.

W. Proudfoot, Goderich, for plaintiff.

J. T. Garrow, K.C., for defendants.

ROBERTSON, J.—It is contended by the defendants that the by-laws authorizing the borrowing of the sum of \$22,000 are still in force; and, therefore, whatever sum or sums may have been lent by the defendant bank under the authority therefor, not exceeding that sum, must be assumed for the present as being justified.

On the other hand, the plaintiff contends that the amount thus authorized to be borrowed, exceeded the sum which, under sec. 435 of the Municipal Act, the council had authority to borrow; and the by-laws, therefore, are *ultra vires*, because \$22,000 was in excess of 80 per cent. of the amount collected as taxes, to pay "the ordinary current expenditure" of the municipality in the preceding year.

The total amount collected, of all taxes, for 1900 at the time of the passing of the by-laws, was \$28,154.68; of this sum, 80 per cent. would be more than the amount authorized to be borrowed by \$5,630.93, if the plaintiff's contention is correct.

The question then is, what is the meaning of the words, "ordinary current expenditure"? After much consideration I have come to the conclusion that the whole sum of the estimates for 1900, viz., \$30,084.12, as shewn in the 4th paragraph of the admissions, as follows: for public schools, \$5,000; for separate schools, \$450; for collegiate institutes, \$2,800; for county rate, \$984.70; for consolidated debenture debt, \$3,755.48; and for all other purposes, \$17,093.94: was the sum levied to be collected for that purpose; but, as the whole amount was not collected up to the time of the passing of the by-laws, the percentage for borrowing was calculated on the latter sum, \$28,154.68. \* \* \* To say that the sums required for public school purposes or for separate schools or for collegiate institutes or for county rates or for consolidated debenture debts, are not all within the "ordinary current expenditure" of the municipality, is something I cannot understand. "Expenditure" of the character indicated appertains to every municipality. Such "expenditure" includes all sums which are not to be applied in payment of liabilities exceptional in character and are not recurring year by year. *Scott v. Peterborough*, 19 U. C. R. 469, *McMaster v. Newmarket*, 11 C. P. 398, *Wallace v. Orangeville*, 5 O. R. 37, *Re Olver and Ottawa*, 20 A. R. 529, do not declare what constitutes "ordinary current expenditure." \* \* \* It appears to me that a little practical