

federal reserve banks, and for other purposes.' The fiscal officer together with the board of education in each school district is hereby required to provide such information upon request as may be required by the reconstruction finance corporation in conformity with the rules and regulations established for the administration and extension of loans as provided in section 11 of the act of congress hereinbefore specified. But any unfunded current operating indebtedness due and unpaid on July 1, 1934, and not included within the meaning of section 11 of the act of congress entitled 'an act relating to direct loans for industrial purposes by federal reserve banks, and for other purposes,' shall be funded in the manner provided by the separate sections of this act."

In other words, the current debts due and unpaid July 1, 1934, may be funded under the provisions of section 11 of said Act of Congress by a school district, but the balance of the indebtedness must be funded under the provisions of said House Bill No. 11, and if any of the current operating indebtedness due and unpaid July 1, 1934, is not included within the meaning of section 11 of said Act of Congress, then such indebtedness must likewise be funded under the provisions of said House Bill No. 11.

Therefore, I am of the opinion that, under the provisions of House Bill No. 11 of the third special session of the 90th General Assembly, it is the mandatory duty of a board of education to submit to the auditor of state an itemized statement of all the outstanding debts of the school district due and unpaid on July 1, 1934, and, upon receipt of the certificate of net floating indebtedness from such auditor, to proceed to issue the bonds of the school district in the total sum thereof less the amount of bonds which prior to the passage of this act may have been issued under the provisions of any act theretofore passed by the 90th General Assembly, which bonds are in excess of the debt limitations which may be incurred, and less the amount of current debts which may be funded by loans made under section 11 of the Act of Congress passed May 10, 1934, entitled "An act relating to direct loans for industrial purposes by federal reserve banks, and for other purposes."

Respectfully,

JOHN W. BRICKER,
Attorney General.

3116.

LIBRARY—DISTRIBUTION OF CLASSIFIED PERSONAL PROPERTY TAX RECEIPTS.

SYLLABUS:

When prior to the May settlement of the county treasurer of taxes received from classified personal property taxes, the county treasurer has received from such source an amount greater than one half of the taxes levied on such class of property, the county treasurer is required by the provisions of Section 5639, General Code, to make distribution of such taxes to public libraries within the county in

the amount of fifty percent of the amount budgeted to such public libraries by the county budget commission; any residue remaining after payment to such public libraries, municipalities and the county of fifty percent of the amount budgeted to such subdivisions by the budget commission, is payable to the county school tax fund, even though by reason of such payment the county treasurer will not be able at the time of the October settlement of such taxes to pay to such libraries, municipalities and the county, the remainder of the amount so fixed by the budget commission although all of the personal property taxes levied were paid in full.

COLUMBUS, OHIO, August 30, 1934.

HON. LEO M. WINGET, *Prosecuting Attorney, Sidney, Ohio.*

DEAR SIR:—I am in receipt of your request for my opinion concerning the following facts and question:

At a meeting of the budget commission held for the purposes set forth in Section 5625-24, General Code, the budget commission determined the estimated amount of revenues from unclassified property tax to be \$8,000.00 and allotted \$7,500.00 as the amount for public library purposes. No other subdivisions were allotted any proportion of such tax in the budget so approved. It subsequently developed that if all taxes for the year 1934 were paid, the revenues produced within the county would be \$8,400.00, approximately \$6,400.00 of which was paid as advance payments, leaving a remainder of approximately \$2,000.00 to be collected during the second half year. You inquire whether, under such set of facts the board of public library trustees, after the settlement between the county auditor and county treasurer for the first half year and the distribution to such body of one half of the amount budgeted to it by the budget commission, as provided in the second sub-paragraph of Section 5639, General Code, has a preference to the extent of \$2,650.00 on the remaining amount collected.

Your question arises by reason of an ambiguity contained in Amended Senate Bill No. 30, as enacted by the 90th General Assembly. That is, Section 5639, General Code, provides that at each settlement of undivided classified property taxes the county treasurer shall distribute:

- a. To the state of Ohio, one fourth of one percent.
- b. To the public libraries of the county, fifty percent of its budget estimate.
- c. To the municipal corporations in the county, fifty percent of their budget estimates from such source, collected from such subdivision.
- d. To the county, fifty percent of its budget estimate from such source, collected from that part of such subdivision lying without the limits of municipalities.
- e. The residue to the county school tax fund.

From the facts stated in your inquiry, it is evident that the county and the municipal corporations therein are not entitled to share in the proceeds of the classified tax collected in your county during the year 1934. Since you raise no

question as to that portion thereof, which is payable into the state treasury, I will not herein refer to such item.

From the language of Section 5639, General Code, construed alone, it would appear that the treasurer must make distribution of one half of the public library's budgeted amount, or \$3,750.00 to it, and the remainder of such taxes so collected prior to such settlement to the county school fund.

In Section 5625-24, General Code, certain language is contained which would indicate that the distribution should be made in the manner set forth in the budget prepared by the county budget commission, were it not for the provisions of Section 5639, General Code. Thus in such section is the following language:

"The budget commission shall also have authority to fix the amount of proceeds of classified property taxes, collected within the county, to be distributed to each board of public library trustees which shall have qualified or be qualified as provided in section 5625-20 of the General Code for participation in the proceeds of such taxes, the amount of proceeds of such taxes, collected within the county, to be distributed to each board of township park commissioners, the amount of proceeds of such taxes originating outside the limits of municipal corporations, to be distributed to the county, and the amount of proceeds of taxes originating within each municipal corporation, to be distributed to each municipal corporation and shall separately set forth the amount so fixed and determined in the 'official certificate of estimated resources,' as provided in section 5625-26 of the General Code, and separately certify such amount to the county auditor who shall be guided thereby in the distribution of the undivided classified property tax fund for and during the fiscal year * * *"

The language of such section is that the county auditor "shall be guided by" the amounts set forth in the budget prepared by the budget commission. The language of Section 5639, General Code, is specific to the effect that the county treasurer shall, "at each settlement", pay "to each board of public library trustees in the county, which shall have qualified or be qualified according to law for participation in such fund fifty per centum of the amount set forth in the annual budget * * *. The residue of the undivided classified property tax fund * * * shall constitute the county school tax fund, and be distributed among all the school districts of the county (excepting the county school district) in the manner provided by law." The manner of distribution is set forth in Section 5640, General Code, but does not concern the question forming the basis of this opinion and may for our purposes be ignored.

It is fundamental that both sections must be given full effect if possible. *Medical College of Ohio vs. Ziegler*, 17 O. S. 52; *City of Cincinnati vs. Connor*, 55 O. S. 82; *State ex rel. Myers vs. Ind. Com.* 105 O. S. 103. Construing such sections in the light of each other it would appear that the specific language of Section 5639, General Code, requires the county officials to be guided by the budget in computing the one half of such budgeted amount to be paid to the public libraries of the county; however, there is no requirement of Section 5625-24, General Code, requiring the budget commission to determine any amount for the county school tax fund. The language of Section 5639, General Code, is that the residue of the proceeds of the classified property tax fund in the possession of the county treasurer at the time of his semi-annual settlement together with the proceeds derived from the proceeds paid to the county treasurer by virtue

of Section 5414-22, General Code, shall constitute the county school tax fund. It would appear from this language that the amount of the county school tax fund is indefinite, i. e., it is not determined by the budget commission but consists of the residue or remainder of two taxes after certain other distributions have been made. Section 5639, General Code, apparently requires a complete distribution of the proceeds of the classified property tax at each of the semi-annual settlements of the county treasurer. Each settlement between the county treasurer and the county auditor is of all tax receipts received from the tax sources forming the subject matter of the settlement since the last semi-annual settlement. In view of the specific provisions of such Section 5639, General Code, it would appear to me that your inquiry should be answered in the negative.

Since the language of such section is plain and unambiguous and the language is specific in its requirement, there is no propriety in attempting to give it a meaning other than that expressed. *Slingluff vs. Weaver*, 66 O. S. 621; *Smith vs. Bock*, 119 O. S. 101,103; *Elmwood Place vs. Schnaugh*, 91 O. S. 354,357. As stated by Marshall C. J. in *Stanton vs. Realty Co.*, 117 O. S. 345,349:

"It is a general rule of interpretation of statutes that the intention of the legislature must be determined from the language employed, and, where the meaning is clear, the courts have no right to insert words not used, or omit words used, in order to arrive at a supposed legislative intent, or where it is possible to carry the provisions of the statute into effect according to the letter."

Since it is possible to carry Section 5639, General Code, into effect according to its letter, I do not feel that such express requirement of law can be altered by interpretation, whether or not I agree with its policy or effect. *Allison vs. Stevens*, 23 O. App. 259; *Board of Ed. vs. Boal*, 104 O. S. 482.

I am therefore of the opinion, in specific answer to your inquiry that, when prior to the May settlement of the county treasurer of taxes received from classified personal property taxes, the county treasurer has received from such source an amount greater than one half of the taxes levied on such class of property, the county treasurer is required, by the provisions of Section 5639, General Code, to make distribution of such taxes to public libraries within the county in the amount of fifty percent of the amount budgeted to such public libraries by the county budget commission; any residue remaining, after payment to such public libraries, municipalities and the county of fifty percent of the amount budgeted to such subdivisions by the budget commission, is payable to the county school tax fund even though by reason of such payment the county treasurer will not be able at the time of the October settlement of such taxes to pay to such libraries, municipalities and the county, the amount so fixed by the budget commission although all of the personal property taxes levied were paid in full.

Respectfully,

JOHN W. BRICKER,
Attorney General.