

It is also stated in said opinion that:

"As before stated, the payment of the franchise tax by the foreign corporation is for the current year, and not for the following year."

The Maryland corporation could not be required under 5519, General Code, to report and elect at the time it did; but it voluntarily elected to pay the franchise tax in order to exempt its Ohio shareholders from listing their stock for taxation. The corporation claims its election was intended for 1927. If so, the stock is not exempt from listing in 1926. The election was to pay the franchise tax; and the payment of the franchise tax by a foreign corporation is for the current year. The payment of its franchise tax by the National Cash Register Company of Ohio for 1926, will not exempt the stock of The National Cash Register Company of Maryland (which took over the assets of the Ohio corporation April 1, 1926) from taxation in Ohio for the current year.

The commission's second question is whether

"if an election has been made by a foreign corporation, such election may be withdrawn either before or after the basis of the tax has been certified to the auditor of state?"

When the election is filed, it fixes the status of the stock of the Ohio shareholders; that is, it exempts said stock from being listed by said shareholders for taxation in Ohio; it also obligates the foreign corporation so electing, to pay the franchise tax. After said election is made, and the status of said stock is fixed, it is not believed that the foreign corporation may withdraw its election.

However, nothing appears in the brief of the Maryland corporation to suggest their desire to withdraw their election.

It is therefor believed that when an election under section 192, General Code, has been filed with the Tax Commission, said election may not be withdrawn.

Respectfully,

C. C. CRABBE,

Attorney-General.

3917.

DISAPPROVAL, BONDS OF YORK TOWNSHIP RURAL SCHOOL DISTRICT, BELMONT COUNTY, \$3,000.00.

COLUMBUS, OHIO, December 29, 1926.

Re: Bonds of York Township Rural School District, Belmont County, \$3,000.00.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—I have examined the transcript of proceedings for the foregoing issue of bonds and find the same cannot be approved for the following reasons:

1. The affidavit of the publisher recited that the notice of the sale of the bonds shall be published for three weeks, commencing September 4, 1926, and giving notice of the sale of the bonds on September 29, 1926.

In the case of *State of Ohio v. Kuhner and King*, 107 O. S., page 406, the court held:

"The requirement of section 1206, General Code, that 'the state highway commissioner shall advertise for bids for two consecutive weeks' is mandatory, and the contract entered on June 14, for advertisement in two weekly newspapers of the county on June 6th and June 13th is invalid."

Applying the construction of the similar statute to the provisions of section 2294 G. C., under which this advertisement was made, it is necessary to hold that these bonds have not been advertised for sale and sold as required by the provisions of the foregoing section.

2. The bond resolution was passed on August 25, 1926, and provides that the first bond should mature on October 1, 1927. Section 2295-12 of the General Code provides:

"All bonds hereafter issued by any county, municipality, including charter municipalities, school district, township or other political subdivision, shall be serial bonds maturing in substantially equal semi-annual or annual installments. If issued with semi-annual maturities the first installment shall mature not earlier than the first day of March next following the fifteenth day of July next following the passage of the ordinance or resolution authorizing such bonds; and if issued with annual maturities, the first installment shall mature not earlier than the first day of the second September next following said fifteenth day of July. In either case the first installment shall mature not later than eleven months after said earliest date thereof."

In applying the foregoing statute it will be found that the first maturing bond has not been made to conform to the provisions of the foregoing section.

3. The bond issue is made for the purpose of purchasing a non-fireproof building and furnishing a school house. The transcript does not show compliance with the provisions of section 5654-1 of the General Code in so far as the showing should be made as to the amount of the contract price for the foregoing improvements. It is possible that the two latter objections might be met by additional information or corrections, but in view of the failure to comply with the provisions of section 2294 of the General Code, the advertisement of the notice of the sale and the sale of the bonds could not be approved, and for that reason you are advised not to accept the same.

Respectfully,
C. C. CRABBE,
Attorney-General.

3918.

APPROVAL, BONDS OF VILLAGE OF MADEIRA, HAMILTON COUNTY,
\$25,854.29.

COLUMBUS, OHIO, December 29, 1926.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.