

1453.

CHARTER CITY—PAYMENT, FROM GENERAL FUND, OF MONEY FOR
SUBSCRIPTION AND MEMBERSHIP FEES OF SPECIFIC ORGANI-
ZATIONS UNAUTHORIZED—EXCEPTIONS NOTED.

SYLLABUS:

In view of the decision of the Supreme Court in the case of State ex rel. vs. Semple, 112 O. S. 559, the council of a charter city may not authorize legally the payment from the public funds of the city of a subscription fee to the Bureau of Public Personnel Administration, Washington, D. C., or a fee for membership in the Civil Service Assembly of the United States and Canada, or sustaining membership dues in the National Municipal League of New York City unless the charter of the city expressly authorizes such expenditures or contains a general provision from which authority may be inferred to expend the funds of the city for the purposes mentioned.

COLUMBUS, OHIO, January 27, 1930.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your request for my opinion, which reads as follows:

“May the council of a charter city, whose charter does not specifically provide therefor, by ordinance legally authorize the payment of the following amounts for the purposes mentioned, from the General Fund:

Fee for subscription to the Bureau of Public Personnel Administration, Washington, D. C., \$100.

Fee for membership in the Civil Service Assembly of the United States and Canada, \$50.

Sustaining membership dues in the National Municipal League, New York City, \$10.”

I am not advised just what are the objects of the three organizations mentioned in your inquiry or what is the nature of the service, if any, that they propose to render to the municipality in consideration of the municipality's subscription or payment of membership dues. If they are organizations maintained for profit and the subscription or payment of dues therein is a mere donation, there would be no question as to a municipality's right to expend public moneys for the purposes mentioned, even if the municipality was authorized by charter or statute to do so. Such an expenditure of public money for aid of an institution or organization operated with a view to gain is prohibited by Section 6 of Article VIII of the Constitution of Ohio.

Assuming, however, for the purposes of this opinion, that each of the organizations mentioned is operated not for profit, and that some incidental benefit would accrue, or at least the municipal officers think that some municipal benefit will accrue, to the municipality by acquiring and maintaining the proposed connection with the said activities, the pertinent questions to be determined are whether the proposed expenditures are for a public municipal purpose and if so, whether it be such an expenditure as must be authorized by charter, either by express provision therein or by some general provision thereof from which the power to make the expenditure may be inferred.

A decision of the Supreme Court of Ohio, which to my mind, is directly in point is that of *State ex rel. vs. Semple*, 112 O. S. 559. In that case the question

arose as to the authority of the city council of the City of Cleveland to disburse funds of the municipality by a contribution to the support and maintenance of a so-called "Conference of Ohio Municipalities." The city council passed a resolution providing for the payment of the sum of one hundred dollars to one George Hoffman, secretary of the "Conference of Ohio Municipalities" as dues from the city of Cleveland for membership in that association for a portion of the year 1924. In connection therewith the court said:

"It must be conceded that there is no express provision of the charter of the city of Cleveland relative to the contribution from the treasury of the city to a fund made up of contributions of various municipalities for the purposes enumerated in the constitution of the 'Conference of Ohio Municipalities' and no general provision from which authority may be inferred to expend the funds of the city to assist in creating and maintaining an organization with offices and officers entirely separate from those of the city selected by representatives of various municipalities of the state with salaries and expenses also fixed by them."

The suit was an original action in mandamus, wherein the court was asked to grant a writ of mandamus ordering the Director of Finance of the city of Cleveland to draw a voucher for the amount which the council of the city had authorized to be paid for the purpose mentioned. The writ was denied.

Sometime ago there was submitted for my consideration the question of whether or not a charter city might legally expend its funds for services and periodicals of an organization known as a "Conference of Ohio Municipalities" in the absence of a specific charter provision. In response to which question there was rendered Opinion No. 109 under date of February 21, 1929, in which it was held that a charter city could not legally expend its funds for services and periodicals of an association known as a "Conference of Ohio Municipalities" in the absence of specific charter provision, following the holding in the *Semple* case, *supra*.

Although, as I said before, I do not have before me the exact type of organization and the purposes of the Bureau of Public Personnel Administration of Washington, D. C., or the Civil Service Assembly of the United States and Canada, or the National Municipal League of New York City, my information with respect to the said institutions is that they are very analogous, both in organization and purpose, to the "Conference of Ohio Municipalities" and I therefore feel that the decision of the Supreme Court in the *Semple* case is controlling.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1454.

APPROVAL, NOTES OF STOKES TOWNSHIP RURAL SCHOOL DISTRICT, MADISON COUNTY—\$50,000.00.

COLUMBUS, OHIO, January 27, 1930.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.