

213.

DISAPPROVAL, BONDS OF CITY OF ST. MARYS, AUGLAIZE COUNTY,
OHIO—\$14,000.00—\$30,000.00.

COLUMBUS, OHIO, March 16, 1927.

Re: Bonds of city of St. Marys, Auglaize county, \$14,000.00—\$30,000.00.

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

GENTLEMEN:—Upon examination of the transcript for the two bond issues, it appears that proceedings were had pursuant to sections 5649-5 to 5649-5f inclusive of the General Code.

The municipality is now proceeding to issue bonds on the assumption that the affirmative vote recorded at the election on the ballot used confers authority upon it to issue these bonds.

An examination of these sections demonstrates clearly that they are not intended to authorize a new issue of bonds. Their function is to provide a means for exempting tax levies from the limitations otherwise applicable. Thus, it will be noted that in section 5649-5, General Code, it is stated that as a prerequisite to a vote the legislative body shall declare by resolution that the amount of taxes within the maximum rates prescribed by other sections of the statute will be insufficient to provide an adequate amount for the necessary requirements of the taxing district and that it is necessary to levy taxes in *excess of said limitations*.

The purposes thereafter stated in section 5649-5, General Code, have reference to already existing bond issues, and upon affirmative vote, the levy necessary to provide for the interest, principal and sinking fund charges on those issues, is exempted from tax limitations.

The fifth purpose designated is as follows: "for any purpose for which the bonds of said subdivision may be issued." The proper interpretation of this language is that it authorizes in lieu of bond issues the exemption of a tax levy for the purpose for which it would be permitted to issue bonds. In other words, recourse must be had to the bond issuing sections to see for what purposes bonds may be issued and this section authorizes an exemption of special levies that are to be made for these purposes.

I am clearly of the opinion that this section and the associated sections above referred to confer no authority whatsoever for the actual issuance of bonds. This is especially so in view of the specific provisions contained in sections 5649-9a to 5649-9d inclusive. The first portion of section 5649-9a, General Code, appears to be conclusive. It is as follows:

"The bond issuing authority of any political subdivision may elect to submit any bond issue authorized by law to vote of the people. In such case and *in every case on which said bond issuing authority is required to submit any bond issue to vote of the people*, they shall pass a resolution which shall set forth the necessity of such bond issue, its purpose, amount and approximate maturities, and of the levy of a tax outside of the limitations of section 5649-5b of the General Code, and all other limitations upon tax rates prescribed by law, to pay the interest on and to retire the said bonds. Said resolution shall also state approximately the dates and maturities of the bonds to be issued."

The plain language of this section is that the method therein prescribed, in-

cluding all the details of procedure, such as form of ballot, is the exclusive way in which bonds may now be submitted to a vote of the people of a municipality.

In view of the above, I am compelled to advise you that the above issues are not valid, and you are not warranted in purchasing them.

Respectfully,

EDWARD C. TURNER,
Attorney General.

214.

APPROVAL, BONDS OF VILLAGE OF BEXLEY, FRANKLIN COUNTY,
OHIO—\$44,500.00.

COLUMBUS, OHIO, March 21, 1927.

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

215.

CIGARETTE LICENSE—SECTION 5894, GENERAL CODE, CONSTRUED.

SYLLABUS:

1. *Where a manufacturing company sells cigarettes to its employes in package and carton lots, it is selling by retail and not by wholesale.*
2. *Under the provisions of section 5894, General Code, a manufacturing company, operating stands where cigarettes are sold to employes in package and carton lots, must secure a retail cigarette license for each stand so operated.*

COLUMBUS, OHIO, March 21, 1927.

HON. RALPH E. HOSKOT, *Prosecuting Attorney, Dayton, Ohio.*

DEAR SIR:—This acknowledges receipt of your recent letter reading in part as follows:

“A large manufacturing concern of this city is planning to sell cigarettes to its employes during the noon hour, on its premises. They are to be sold at different stands, located in various parts of the plant. All of these stands, with the exception of one, are on contiguous pieces of real estate, all owned by the company. The one stand is also on land owned by the company but separated from the others by a public street.

Will this company be required to pay \$200.00 for the wholesale license to sell the cigarettes, or will it be required to pay the \$50.00 retail license to meet the requirements of the law? If the \$50.00 retail license is the one required will the company be obliged to take out a license for each stand; also