the class of expenses under consideration, viz.: expenses of offices in the particular class of cities therein referred to."

In view of the statute and opinions cited above, it is my opinion that the costs of purchase of tabulating machines and totalizers for use in the offices of the board of deputy state supervisors and inspectors of elections in a registration city should be charged against the city and not the county.

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

2257.

FINAL JUDGMENT FOR CONTRACTUAL OBLIGATION—SUBDIVISION MUST PLACE LEVY FOR JUDGMENT ON DUPLICATE IN ITS ENTIRETY.

SYLLABUS:

A subdivision against which final judgments have been taken for contractual obligations must place the levy for such judgment on the duplicate in its entirety and may not divide the same into installments.

COLUMBUS, OHIO, March 4, 1925.

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

GENTLEMEN:—I am in receipt of your communication as follows:

"We are in receipt of a letter from Mr. Frank Delay, Solicitor of the City of Jackson, Ohio, which reads:

" 'On November 13, 1924, The Jackson Mutual Water Company recovered a judgment against the City of Jackson in the amount of $23,460.00, being for unpaid rental of fire hydrants for the fire protection of said City. The obligation therefor arose through various ordinances of said City providing for the rental of the hydrants, at rates fixed by the Public Utilities Commission of Ohio on appeals from the rates fixed in the ordinances.

" 'The City of Jackson is wholly unable, within the limits of its funds available, to pay said judgment. Its revenue from tax collections within the fifteen mill limitation is even now insufficient, after providing for sinking fund and interest requirements, for its ordinary operating expenses. If this judgment is required to be paid out of current revenues for one year, within the ten or fifteen mill limitation, there will be nothing left with which to run the city.

" 'The judgment creditor is insisting upon payment, and threatens, unless provision is made looking to the funding or payment of the judgment, to proceed to collect by execution.

" 'Your advice is requested upon the following:

" '1. Is there any authority of law by which this judgment can be funded into bonds?

" '2. If a tax levy for the payment of this judgment is made under section 5649-1c G. C., will such levy be outside the fifteen mill limit?

" '3. Will such levy be within the limits prescribed by section 5649-2 G. C.?

" '4. Under section 5649-1c G. C., is the city permitted to provide for the payment of this judgment in installments, levying each year a tax sufficient to pay the installment determined for that year? In this connection your attention is called to section 2295-13 General Code.

" 'In connection with questions 2 and 3, it has been suggested that section 5649-2 was enacted in 1913, while section 5649-1c was enacted in 1921, that, therefore, the limitations of section 5649-2 were not intended to apply to the levy authorized and directed in section 5649-12. In other words, that the latter section is mandatory, and inconsistent with 5649-2, and therefore is independent of it. Upon this latter point your attention is directed to the reasoning of Judge Bigger in the case of Columbus vs. Lazarus, 15 Ohio Dec. 187, where such reasoning was applied to a somewhat similar state of facts.

" 'In the event you do not feel clear upon these points, we would appreciate your submitting the matter to the Attorney-General, as our taxing authorities here desire some authority on the matter.'

"Since these are questions of general interest, the Bureau would very much appreciate your opinion in relation thereto. An early reply will be appreciated."

Section 2295-8, General Code of Ohio, as found in 110 O. L., page 160, provides:

"When the fiscal officer of any county or other political subdivision, including charter municipalities, certifies to the bond-issuing authority that, within the limits of its funds available for the purpose, the subdivision is unable, with due consideration of the best interests of the subdivision, to pay a final judgment rendered against the subdivision in an action for personal injuries or based on other non-contractual obligation, then such subdivision may issue bonds, in an amount not exceeding the amount of the judgment and carrying interest not to exceed six per cent, for the purpose of providing funds with which to pay such final judgment. Providing also that when the fiscal officer of any such subdivision certifies to the bond issuing authority that, within the limits of its funds available for the purpose, the subdivision is unable with due consideration of the best interests of the subdivision, to pay a final judgment rendered against the subdivision in an action based upon an obligation of a contractual nature incurred prior to the fourteenth day of May, 1921, and reduced to judgment prior to the passage of this act, then said political subdivision may issue bonds in an amount not exceeding the amount of the judgment and the interest due thereon, and carrying interest not to exceed six per cent for the purpose of providing funds with which to pay such final judgment."

Under this section, a political subdivision unable, within the limits of its funds available for the purpose, with due consideration to the best interests of a subdivision, to pay a final judgment rendered against a subdivision in an action for personal injuries or based upon non-contractual obligations, may issue bonds. This section further provides for issuing bonds for judgments rendered against subdivisions on contractual obligations incurred prior to May 14, 1921, and reduced to judgment prior to the passage of this act. This section is the only section providing for the issue of bonds to pay final judgments. As your inquiry shows that the final judgment was

taken on a contractual matter, and that a judgment was rendered subsequent to the fourteenth of May 1921, it is my opinion that bonds may not be issued for the funding of this judgment.

Section 5649-1c, G. C. found in 109 O. L., page 345, provides as follows:

> "On or before the first Monday in May of each year, the fiscal officer of the municipal corporation or other political subdivision shall cer ify to the council, county commissioners, board of education or other tax levying authority, of his political subdivision the amount of tax necessary to provide for the payment of final judgments against the political subdivision, except in condemnation of property cases, and said tax levying authority shall place such amount in the annual tax levying ordinance, resolution or other measure for the full amount certified."

Under this section the political officer of a political subdivision shall certify to the tax levying authority of the subdivision the amount of tax necessary to provide for the payment of final judgments of the political subdivision, and that amount levied shall be for the full amount certified. Nothing is said in this section as to whether this levy shall be within the ten mill, fifteen mill, or outside of all limitation.

It has been suggested that since section 5649-1c, G. C. was enacted in 1921, and that section 5649-2 G. C., the so-called Smith limitation, was enacted in 1913, that the limitations of section 5649-2 were not intended to apply to the latter section. A study of section 5649-2 G. C. and section 5649-1c, G. C. will show that said sections are not inconsistent with one another and that the two may be harmonized. In the case of State ex rel vs Zangerle, 95 O. S., page 1, it was held by the court, first syllabus:

> "In view of the legislative policy declared by the enactment of the so-called Smith One Per Cent Law (Sections 5649-2 to 5649-5b. General Code), the manifest purpose of which is to restrict the power of levying taxes and thus limit expenditure by administrative officers, statutes purporting to permit departures from that general policy and authorizing exemption therefrom will be strictly construed."

On page 7 of the opinion the Court say:

> "The legislative policy plainly disclosed should not be thwarted by adverse construction of the statute or by judicial amendment of its terms, no matter how laudable the purpose may seem."

In the case of Wampler, et al vs Haines, 19 O. N. P., new series, the court says, page 365:

> "All of the law with reference to taxation should be read together and a reasonable and proper construction placed upon the language, and not such a construction as would make the clear expression of the legislature other than the very terms of the statute intend."

It is a general rule that in construing the statutes, we must consider that the legislature had knowledge of all the statutes then in force. At the time of the enactment of section 5649-1c, the so-called Smith act limitation was in effect and we must assume in arriving at the intent of the legislature that, as there are no provisions for exempting this levy from the Smith law, it is subject to same. The fact that placing the levy for final judgments within the limitations will work a hardship upon the subdivision does not justify writing into the law something which was not placed there by the legislature.

In the opinion found in 15 Ohio Decisions, page 187, in the construction of the Longworth act it was held that "a tax levy in addition to all other tax levies" was outside the Longworth limitation It is believed, however, that the later case of State vs Zangerle, supra, overrules. this case. It is, therefore, my opinion that a tax levy for the payment of judgments under section 5649-1c, G. C., is inside the ten mill limitation.

Coming now to your fourth question, section 5649-1c, G. C. provides that:

"Said tax levying authority shall place such amount in the annual tax levying ordinance, resolution or other measure for the full amount certified."

The use of the words "amount in the annual tax levying ordinance, resolution or other measure for the full amount certified" conveys the idea that the levy for the whole judgment must be placed on the duplicate. This is further strengthened by the fact that the legislature has not seen fit to permit the issuing of bonds or the funding of a judgment for a contractual obligation. To permit the placing of the levy for final judgments on the duplicate in installments would be a funding of the judgment. This, it is believed, was not the intent of the legislature in the enactment of section 5649-1c, G. C.

It is therefore my opinion that a subdivision against which final judgments have been taken for contractual obligations must place the levy for such judgment on the duplicate in its entirety and may not divide the same into installments.

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

2258.

APPROVAL, BONDS OF VILLAGE OF UPPER ARLINGTON, FRANKLIN COUNTY, $12,000.00.

COLUMBUS, OHIO, March 4, 1925.

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

2259.

APPROVAL, BONDS OF VILLAGE OF SHELBY, RICHLAND COUNTY, $5,167.00.

COLUMBUS, OHIO, March 4, 1925.

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