

4910.

APPROVAL, BONDS OF CITY OF EUCLID, CUYAHOGA COUNTY, OHIO, \$58,000.00.

COLUMBUS, OHIO, November 20, 1935.

Industrial Commission of Ohio, Columbus, Ohio.

4911.

AGRICULTURAL SOCIETY—MAJORITY VOTE OF ELECTORS NECESSARY FOR SPECIAL TAX LEVY FOR COUNTY AGRICULTURAL SOCIETY.

SYLLABUS:

Under the provisions of Section 9887, General Code, upon submission of the question of a special tax levy for the purpose of extending aid to a county agricultural society under the circumstances therein set forth, a majority vote is all that is required to carry a question submitted to the electors under such section.

COLUMBUS, OHIO, November 20, 1935.

HON. ROBERT CRITCHFIELD, *Prosecuting Attorney, Wooster, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“Section 9887 of the General Code of Ohio relating to the holding of county fairs by a county agricultural society, provides in substance that under conditions enumerated in said section the county commissioners may erect or repair buildings or otherwise improve such site, and further provides that the commissioners are authorized to appropriate from the general fund such an amount as they deem necessary for any such purpose.

The section further provides that if the amount appropriated to be expended for the purposes enumerated shall exceed ten thousand dollars in any one year, such expenditure shall not be made unless the question of the levy of a tax therefor be submitted to the qualified electors of the county.

On the 2nd day of October, 1935, the county commissioners adopted a resolution in which it is stated in substance that the State

Fire Marshal has condemned the grand-stand and will not permit the use of the same for grand-stand purposes in the future because the same is unsafe and dangerous; that successful fairs have been conducted annually and in order to continue the successful conduct of such county fairs it is necessary to have a suitable grand-stand; that the title to the land upon which said county fairs have been conducted is vested in fee in the county and that the Board of County Commissioners of Wayne County think that it is for the best interest of the county and said county agricultural society to erect a new and suitable grand-stand upon said fair grounds and that the cost of construction of such a grand-stand will exceed the amount authorized by law for the board of county commissioners to appropriate for said purpose in any one year and that it will therefore be necessary to make a special levy in order to construct such a grand-stand in the sum of one mill for a period of one year. Further, that the question of such special levy in the amount of one mill for a period of one year be submitted to the qualified electors of the county at the general election to be held on the 5th day of November, 1935.

A copy of this resolution was filed with the county board of elections and a legal notice published for the required length of time. Ballots for the purpose were prepared by the county board of elections and were submitted to the voters at the election on the 5th day of November, 1935.

The question has arisen as to what per cent of the vote cast upon the proposition is necessary in order for the proposition submitted to carry.

I shall be very much pleased to have your opinion upon this question at your earliest convenience."

The pertinent portion of Section 9887, referred to in your inquiry, is as follows:

"In counties wherein there is a county agricultural society which has purchased, or leased, real estate for a term of not less than twenty years, a site whereon to hold fairs or where the title to such site is vested in fee in the county, the county commissioners, if they think it is for the best interests of the county, and society, may erect or repair buildings or otherwise improve such site and pay the rental thereof, or contribute to or pay any other form of indebtedness of said society. The commissioners are authorized to appropriate from the general fund such an amount as they deem necessary for any of said purposes. Provided, however, that if the amount appropriated to be expended in the purchase of such real

estate or in the erection of buildings or other improvements or payments of rent or other forms of indebtedness of said society shall exceed ten thousand dollars, in any one year, such expenditure shall not be made unless the question of a levy of the tax therefor is submitted to the qualified electors of the county at some general election, a notice of which, specifying the amount to be levied, has been given at least thirty days previous to such election, in one or more newspapers published and of general circulation in the county. The county commissioners shall pass a resolution authorizing the submission of the question to the electors and certify their action to the board of deputy state supervisors of elections of the county who shall prepare and furnish the necessary ballots and other supplies. The form of the ballots cast at such election shall be:

‘Agricultural tax—Yes.’

‘Agricultural tax—No.’

If a majority of the vote cast be in favor of such tax, it may be levied and collected as other taxes.”

It is perfectly obvious from a reading of the foregoing section that the question of the policy of expending more than ten thousand dollars in any one year and the levy of a special tax for the purpose or purposes therein set forth must be approved by a majority of the electors. I find no inconsistency existing between this section and any other sections of the General Code with respect to the submission to the electors of other questions relative to special tax levies. The language of the statute is clear and is not subject to construction. As stated 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 to 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 its letter.”

In *Slingluff vs. Weaver*, 66 O. S. 621, the second branch of the syllabus is as follows:

“But the intent of the law-makers is to be sought first of all in the language employed, and if the words be free from ambiguity and doubt, and express plainly, clearly and distinctly, the sense of the law-making body, there is no occasion to resort to other means of interpretation. The question is not what did the general assembly intend to enact, but what is the meaning of that which it did enact.

That body should be held to mean what it has plainly expressed, and hence no room is left for construction.”

Specifically answering your question, it is my opinion that under the provisions of Section 9887, General Code, upon submission of the question of a special tax levy for the purpose of extending aid to a county agricultural society under the circumstances therein set forth, a majority vote is all that is required to carry a question submitted to the electors under such section.

Respectfully,

JOHN W. BRICKER,
Attorney General.

4912.

SECURITY—WHISKEY WAREHOUSE RECEIPT IS A SECURITY.

SYLLABUS:

A warehouse receipt issued for whiskey stored in a bonded warehouse is a security within the meaning of that term as defined in Section 8624-2, General Code, since a warehouse receipt is a certificate or instrument which represents title to or an interest in the property of another.

COLUMBUS, OHIO, November 20, 1935.

HON. W. PAUL WAGNER, *Director of Commerce, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter which reads as follows:

“Will you please render to this Department your opinion as to whether or not so-called ‘whiskey warehouse receipts’ come within the definition of the term ‘security’ as set forth in Section 8624-2, subsection 2, of the Ohio General Code, and, as such, are amenable to the provisions of the Ohio Securities Act.”

Under the Revenue Laws of the United States distillers are allowed to place whiskey for storage either in a so-called distillery warehouse (R. S. 3271) or in a public warehouse bonded by the United States Government and known as a general bonded warehouse (26 U. S. C. A. Sec. 1265). These warehouses are used for the storage of whiskey upon which the Federal excise tax has not been paid by the distiller. Buildings or storage places used either as