

Upon taking such oath, such watchmen, superintendents, gardeners, or agents shall have and may exercise all the powers of police officers within and adjacent to the cemetery grounds."

Your attention is also invited to Section 12495, General Code, which provides :

"Whoever violates a by-law, rule or regulation adopted by the trustees, directors or other officers of a cemetery company or association, or by a board of township trustees having charge of township cemeteries, with reference to the protection, good order and preservation of cemeteries, and the trees, shrubbery, structures and adornments therein, shall be fined not less than five dollars nor more than fifty dollars."

Section 12496, General Code, also provides :

"Watchmen, superintendents, gardeners, or agents of a cemetery company or association may arrest on view, a person found violating the next preceding section and bring him before a mayor or justice of the peace within the township for trial."

The foregoing sections, it is believed, are sufficiently explicit in themselves as to inform you of the procedure that may be taken thereunder in order to enforce the rules and regulations relative to a township cemetery.

Based upon the foregoing and in specific answer to your inquiry, it is my opinion that :

(1) Under the provisions of Section 3447, General Code, township trustees may make rules and regulations to the effect that only a sexton or caretaker having a contract with the township trustees for such purpose may participate in digging graves in such a cemetery.

(2) Such rules and regulations may be enforced in accordance with the provisions outlined in Sections 10108, 12495, and 12496 of the General Code.

Respectfully,

GILBERT BETTMAN,
Attorney General.

792.

SCHOOL DISTRICT—HAVING UNVOTED INDEBTEDNESS EXCEEDING ONE-TENTH OF ONE PER CENT OF PROPERTY VALUATION—MAY NOT ISSUE BONDS TO REBUILD BURNED GARAGE WITHOUT VOTE OF PEOPLE.

SYLLABUS:

When a school district has an outstanding unvoted net indebtedness equal to or in excess of one-tenth of one per cent of the total value of all property in such district as listed and assessed for taxation, such school district may not issue bonds without a vote of the people in any amount for the purpose of rebuilding a garage destroyed by fire, under the provisions of paragraph "C" of Section 2293-15, General Code.

COLUMBUS, OHIO, August 26, 1929.

HON. PAUL J. WORTMAN, *Prosecuting Attorney, Dayton, Ohio.*

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

"In Opinion No. 197 rendered March 16, 1929, you answered my request for an opinion in the matter of issuing bonds without a vote of the people by the Madison Township Rural School District of this county, for the purpose of finishing the construction of a school building. That district is in the unfortunate condition of having had the destruction of its garage by fire. This garage housed approximately ten school busses and it is imperative that a new garage be constructed.

By reference to said Opinion 197 you will find the financial condition of that district, excepting that the indebtedness has been reduced by approximately \$10,000.00, very little of which was used to retire the unvoted indebtedness as set forth in said opinion.

The board now desires, and it is imperative that they issue bonds in the sum of \$3,500.00 to construct a garage and if possible to have it completed by the beginning of the school term of this September. There was no insurance upon the garage destroyed by fire.

If at all possible under the General Code, this board desires to issue these bonds without a vote of the people inasmuch as this district is one of the poorer districts and is presenting to the people of the district at the November election a tax levy for current expenses and a bond issue to complete the construction of a school building.

Can this board of education issue bonds in the sum of \$3,500.00 without a vote of the people for the erection of this garage under the provisions of Section 2293-15 of the General Code?

Inasmuch as some action must be taken by the board of education to house these school busses before the coming of bad weather and also if it be your decision that they cannot issue bonds without a vote of the people so that they may submit such question at the coming November election, I would greatly appreciate your opinion at the earliest possible moment."

Reference to the financial condition of the school district in question, as set forth in your earlier communication, discloses that there was then a net unvoted indebtedness, \$3,275.75 in excess of the one-tenth of one per cent limitation provided in Section 2293-15, General Code. You state that although the bonded debt has been reduced \$10,000, very little of this amount has been applied toward the reduction of the unvoted net indebtedness. It is accordingly assumed that this unvoted indebtedness is still equal to or in excess of the one-tenth of one percent limitation. Your question, therefore, resolves itself into this:

"When a school district has an outstanding unvoted net indebtedness equal to or in excess of one-tenth of one percent of the total value of all property in such district as listed and assessed for taxation, may such school district issue bonds without a vote of the people in any amount for the purpose of rebuilding a garage destroyed by fire?"

The only reference in Section 2293-15, General Code, which section was quoted in Opinion No. 197, directed to you, to a building destroyed by fire is contained in paragraph C, wherein it is provided that bonds hereafter issued for the purpose of rebuilding or repairing schoolhouses so destroyed, shall not be considered in ascertain-

ing the limitations of indebtedness set forth in the section, to the extent of three per cent on the tax duplicate. The only exception as to the limitations contained in this section in case of destruction by fire or other casualty, is as to schoolhouses. No reference is made to school buildings which might be construed as a broader term. The garage which you state has been destroyed is clearly not a schoolhouse. To hold that this provision relating to schoolhouses is applicable to garages, would require writing into this section a provision which has not been made by the Legislature.

Section 2293-18, General Code, provides as follows:

"If at the effective date of this act any of the limitations of Sections 2293-14, 2293-15, 2293-16 or 2293-17 hereof are exceeded in any subdivision, such subdivision so long as such excess exists may in any calendar year issue bonds falling within the class covered by said limitations in an amount equal to a sum not exceeding nine-tenths of the amount by which the net indebtedness on bonds of such class has been reduced during the said calendar year; provided that the total bonds issued in any year under the provisions of this section shall in no case exceed an amount equal to amount of bonds which may be issued within said limitation."

In view of your statement that very little of the amount by which the bonded indebtedness has been reduced this year has been applied to the unvoted net indebtedness, I assume this section would not be applicable to the question you submit.

In view of the foregoing, I am compelled to advise you that in my opinion, your question must be answered in the negative.

Respectfully,
GILBERT BETTMAN,
Attorney General.

793.

APPROVAL, TRANSCRIPT OF PROCEEDINGS FOR SALE OF ABANDONED OHIO CANAL LAND IN MADISON TOWNSHIP, LICKING COUNTY, OHIO.

COLUMBUS, OHIO, August 26, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication, submitting for my examination and approval findings of fact and other record of proceedings of your office relating to the proposed sale to one Dwight M. Warner of Newark, Ohio, of a certain parcel of abandoned Ohio canal lands in Madison Township, Licking County, Ohio, being that portion of the abandoned Ohio canal property including the full width of the bed and embankments thereof located in Madison Township, Licking County, Ohio, and described as follows:

"Beginning at a line drawn at right angles to the transit line of the Bruce Doughton's survey of said canal property through Station 2022-42 and running thence westerly with the northerly and southerly lines of said canal property, eight hundred and five (805) feet, as measured along the transit line of said survey to a line drawn at right angles through Station 2030-47 and containing one and six-tenths (1.6) acres, more or less.