

accrued in the Municipal Court of Akron to the clerk thereof, whose duty it then is to pay the same into the treasury of the city of Akron, as provided by Section 1579-536, General Code."

In this opinion no consideration was given to the provisions of Section 4599, supra. Inasmuch as a state case was there involved and in view of the provisions of Sections 1579-536 and 4599, supra, the syllabus of this opinion is corrected to read as follows:

"In felony cases instituted in the Municipal Court of Akron, where the defendant is convicted in the Court of Common Pleas, such fees as accrue in such court should be inserted in the judgment of conviction. Upon payment of the costs of conviction by the State, under the provisions of Section 13727, General Code, the clerk of the Court of Common Pleas, by the terms of Section 3016, General Code, should pay such fees and costs as may have accrued in the Municipal Court of Akron to the clerk thereof, whose duty it then is to pay the same into the treasury of the County of Summit, as provided by Sections 1579-536 and 4599, General Code."

In view of the foregoing and answering your question specifically, it is my opinion that in state cases instituted in the Municipal Court of Akron the costs and fines collected, by the terms of Sections 1579-536 and 4599, General Code, are payable to the treasury of the County of Summit by the clerk of the Municipal Court.

Respectfully,

EDWARD C. TURNER,

Attorney General.

1776.

TAX LEVIES—HOW PROCEEDS OF LEVIES MADE UNDER FORMER SECTION 1222, GENERAL CODE, MAY BE APPLIED.

SYLLABUS:

The proceeds of tax levies upon the 1927 duplicate made in pursuance of former Section 1222, General Code, must be applied only to the objects set forth in said statute.

COLUMBUS, OHIO, February 28, 1928.

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

GENTLEMEN:—This will acknowledge receipt of your communication as follows:

"We respectfully request your written opinion upon the following:

A tax in accordance with the provisions of Section 1222, G. C., prior to its amendment in 112 O. L. 470, was made upon the 1927 tax duplicate. Section 1222, G. C., at the time the assessment of the tax was determined provided that the proceeds of the levy shall be used solely for the purpose of paying the county's proportion of the cost and expense of the construction, improvement, maintenance and repair of inter-county highways and main market roads or parts thereof in co-operation with the state highway de-

partment or the federal government or both. The amendment of Section 1222 provides that the proceeds of such levy shall be used for the purpose of paying the county's proportion of the cost and expense of any work conducted by the department of highways in co-operation with such county and also for the purposes provided in Sections 6965 to 6972, inclusive, of the General Code.

Question: May the proceeds of the levy made on the 1927 tax duplicate be used for the purposes provided in Sections 6965 to 6972, inclusive, of the General Code?"

Former Section 1222, General Code, provided in part as follows:

"For the purpose of providing a fund for the payment of the county's proportion of the cost and expense of the construction, improvement, maintenance and repair of highways and of bridges in municipalities under the provisions of this chapter, the county commissioners are hereby authorized to levy a tax, not exceeding one and one-half mills, upon all the taxable property of the county. Said levy shall be in addition to all other levies authorized by law for county purposes, but subject, however, to the extent of one-half mill thereof, to the limitation upon the combined maximum rate for all taxes now in force. The remaining one mill of said levy so authorized shall be in addition to all other levies made for any purpose or purposes, and the same shall not be construed as limited, restricted or decreased in amount or otherwise by any existing law or laws. The proceeds of such levy shall be used solely for the purpose of paying the county's proportion of the cost and expense of constructing, improving, maintaining and repairing inter-county highways and main market roads or parts thereof in co-operation with the state highway department or the federal government or both; and the funds produced by such levy shall not be subject to transfer to any other fund, either by order of court or otherwise. * * * "

Said statute, (Section 1222, supra) was repealed by the 87th General Assembly, 112 O. L. 501. Simultaneously with its repeal, and as a part of the same act, there were enacted certain provisions of law which were codified as Section 1222, General Code, which authorize the county commissioners to levy a tax similar to that authorized by former Section 1222, General Code, of one and one-half mills for the purpose of co-operating with the Department of Highways in any work conducted by said Department of Highways in co-operation with the county, and for the further purpose provided in Sections 6965 to 6972, General Code, which sections relate to the creation and maintenance of the county system of highways.

Said new Section 1222, General Code, did not, by the terms of the act of which it is a part, become effective until January 2nd, 1928. No tax levied by virtue of the authority thus granted could have been levied on the 1927 duplicate and consequently no proceeds from such a tax could possibly at this time be available for any purpose or from any source. It is an entirely separate and distinct tax from that authorized by former Section 1222, General Code, although it happens to be the same in amount and is for substantially the same purpose and carries the same section number.

The Constitution of Ohio, Article XII, Section 5, provides:

"No tax shall be levied except in pursuance of law; and every law imposing a tax, shall state, distinctly, the object of the same, to which only, it shall be applied."

Therefore, the proceeds derived from the tax levied by authority of former Section 1222, General Code, can only be applied to the objects therein set forth. As the statute does not provide that the proceeds of this tax may be used for the purposes set forth in Sections 6965 to 6972, General Code, it cannot be done.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1777.

DISAPPROVAL, BONDS OF THE CITY OF CAMPBELL, MAHONING COUNTY—\$18,821.59.

COLUMBUS, OHIO, February 28, 1928.

The Industrial Commission of Ohio, Columbus, Ohio.

Re: Bonds of the City of Campbell, Mahoning County—\$18,821.59.

GENTLEMEN:—I have examined the transcripts of the proceedings of the council and other officers of the City of Campbell, Ohio, relative to the above bond issues, and find that the financial statement attached to the transcripts shows that the assessed valuation of the taxable property of the municipality, as shown by the tax duplicate for the year 1927, was \$32,746,390.00. Said financial statement also shows that the total amount of bonds, notes and other evidences of indebtedness issued and outstanding, including the present issue, is \$970,826.20, of which amount the sum of \$387,194.88 is subject to the one per cent limitation set out in Section 2293-14, General Code. The amount last above mentioned, to-wit, \$387,194.88, is clearly in excess of one per cent of the total value of all property in the municipality, as listed and assessed for taxation.

The financial statement above referred to also shows that the net indebtedness of the municipality incurred without a vote of the electors has been reduced during the present calendar year in the sum of \$10,300.00. It is clear, therefore, that the provisions of Section 2293-18, General Code, which permits a subdivision to issue bonds in any calendar year where the net indebtedness limitations are exceeded, in an amount not exceeding nine-tenths of the amount by which the net indebtedness on bonds of the same class has been reduced during the calendar year, would not permit the issue of the above amount of bonds.

For the foregoing reasons, I am compelled to advise you not to purchase the above issue of bonds.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1778.

APPROVAL, BONDS OF BEACHWOOD VILLAGE SCHOOL DISTRICT, CUYAHOGA COUNTY—\$49,000.00.

COLUMBUS, OHIO, February 28, 1928.

Industrial Commission of Ohio, Columbus, Ohio.