

or ultimately to be raised, by a levy on the general tax list, and does not cover or refer to money of individuals, that is, money to be raised by an assessment upon the property along the improvement. The municipality is limited and restrained by this section as to the expenditure of its own money, but not as to the money of others. As to such assessments, it is competent for the contractor to agree to take the assessments in payment for his labor and materials, and collect the same as provided by law; and if he does so, the money never goes into the treasury, and no certificate can be filed as to the same.

It would therefore appear, that as to the expenditure of money to be raised by such assessments, Section 2702 is not applicable.

This holding protects the treasury and the general taxpayer, and at the same time enables needed local improvements to be made without detriment to the municipality and is in accordance with the intention of the general assembly in passing the Burns Law."

While Section 3914 of the General Code provides that the municipal corporation may issue notes in anticipation of the levy of special assessments or of the issuance of bonds as provided therein, it is not believed that this section would materially change the rule as laid down in the case of *Comstock vs. Nelsonville*, supra.

Section 3914 of the General Code was enacted with the power of preventing the issuing of bonds for more than the amount of the assessment. If special assessments were not considered by the court in the *Comstock* case as funds of the municipality, it is not believed that they can be considered as public funds under Section 5660 of the General Code.

It is therefore my opinion that the chief fiscal officer of a municipal corporation need not certify that the funds are in the treasury or in process of collection to meet the property owners' part of the cost of an improvement at the time a contract for such improvement is awarded.

Respectfully,

C. C. CRABBE,

Attorney-General.

3701.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN TUSCARAWAS AND CUYAHOGA COUNTIES.

COLUMBUS, OHIO, October 13, 1926.

Department of Highways and Public Works, Division of Highways, Columbus, Ohio.

3702.

APPROVAL, BONDS OF BUCYRUS CITY SCHOOL DISTRICT, CRAWFORD COUNTY, \$10,000.00.

COLUMBUS, OHIO, October 14, 1926.

Retirement Board, State Teachers' Retirement System, Columbus, Ohio.