

ted with the papers the certificate of the department of finance showing funds appropriated and available in the amounts of the several contracts.

Finding, as I do, that the proceedings in respect to these several proposed contracts have been in conformity to law, and that the proposed contracts themselves are in proper form, I am endorsing my approval thereon, and am returning them herewith, together with all accompanying papers as above noted.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2616.

APPROVAL, BONDS OF CITY OF SPRINGFIELD, OHIO, IN AMOUNT OF \$40,000 FOR STREET IMPROVEMENTS.

COLUMBUS, OHIO, November 22, 1921.

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

2617.

TOWNSHIP MEMORIAL BUILDING—WHERE FOUR TOWNSHIPS VOTE UPON BOND ISSUE—THREE RETURN NEGATIVE VOTE—EFFECT OF SUCH VOTE.

Where four townships have voted under authority of sections 3410-1 to 3410-11 G. C. upon the question of authorizing the bonds of the township for the proportionate share of the township in the cost of erecting a memorial building at the expense of such four townships, three of the townships returning a negative vote, and one an affirmative vote, the aggregate vote for the four townships being affirmative, HELD,

1. *The three townships returning a negative vote are neither required nor authorized to issue bonds for the proposed building.*
2. *The township returning an affirmative vote is not authorized to issue bonds and use the proceeds for the erection of a single township building.*

COLUMBUS, OHIO, November 23, 1921.

HON. ALLAN G. AIGLER, *Prosecuting Attorney, Norwalk, Ohio.*

DEAR SIR:—Your letter of recent date is received, reading:

“Under sections 3410-1 and 3410-2 of the General Code, the question of issuing bonds in the sum of eighty thousand dollars (\$80,000.00) for a joint memorial building was submitted to the electors of four townships in Huron county, at the regular election held November 8th, 1921. In three of said townships a majority of the electors voted against the proposed bond issue, while in the fourth township the bond issue carried by so large a majority that, taking the four townships together, there was a majority in favor of the bond issue.

Will you kindly advise whether each of the townships, participating in the election, is authorized or required to issue bonds for its proportionate share of the total bond issue proposed, by reason of the fact that a majority of the electors in the four townships, considering the townships as a unit, favored the bond issue? And, if you reach the conclusion that those townships are not authorized or required to issue bonds, where a majority vote was against the proposition, may the township, where the proposition to issue bonds, carried, proceed and issue bonds for its proportionate share of the \$80,000.00, and use the proceeds therefrom for the erection of a single memorial building?"

Section 3410-1 reads:

"Whenever there is presented to the trustees of a township, or townships, a petition signed by not less than fifteen per cent of the electors of such township or townships as shown at the last preceding general election held therein, requesting the submission to the electors of such township or townships of the question of issuing bonds in an amount not exceeding \$100,000 for the purpose of purchasing a site, if necessary, and erecting and furnishing a memorial building, or erecting a suitable and appropriate monument, statue or memorial to commemorate the services of the soldiers, sailors and marines of such township or townships and of maintaining same, the trustees shall provide by resolution for the submission of such question to the electors of such township or townships at a special or the next general election.

In case the petitions are filed in two or more townships requesting the submission of such question the total amount of bonds estimated for such purpose shall be divided among such townships in proportion to the tax valuation of such townships as shown by the tax duplicate."

Section 3410-2 provides for notice of the election and form of ballot.

Section 3410-3 (as amended 109 O. L. p. 222) reads:

"The election officers shall forthwith certify the result of such election to the clerk of the township or townships and the township trustees shall make a record of such result. If a majority of the votes cast on such question be in favor of the issuance of bonds for such purpose, the township trustees shall thereupon issue the bonds of the township in the amount specified in the petition filed as authorized in section one of this act. Such bonds shall be of the denomination and shall run for such period or periods of time as the trustees shall determine. They shall be executed as are other bonds of the township and shall express on their face the purpose for which they are issued, shall bear interest at a rate not to exceed six per cent per annum, payable semi-annually, and shall be sold for not less than par and accrued interest. Said bonds shall be offered and sold in the manner provided in sections 1465-58, 2294, and 2295 of the General Code. The township trustees shall, prior to the time such bonds are issued, provide for levying and collecting annually by taxation an amount sufficient to pay the interest thereon and to create a sinking fund for their redemption at maturity, and shall levy annually a sufficient tax for such purpose, irrespective of any limitations, and this provision

shall apply in any case where such bonds have been authorized by vote of the electors as provided in this act."

Section 3410-4 reads:

"If such improvement is to be made by a single township the proceeds of such bonds, other than any premium and accrued interest which shall be credited to the sinking fund, shall be placed in the township treasury to the credit of a fund to be known as 'the memorial fund.' If such bonds are issued by two or more townships to build a joint building, the trustees of each township shall select one of their number and the men so selected shall constitute and be known as the memorial trustees. And such memorial trustees shall have full power to do and perform all acts imposed upon the township trustees with reference to a single township memorial, such powers being fully set out in sections 5, 6, 7, 8, 9, 10, and 11 of this act. And wherever the term trustees or township trustees is used in said section with reference to the powers and duties of such trustees as to the construction and maintenance of such memorial building, monument, statue or memorial, the same shall be construed to mean 'memorial trustees' in case of a joint building. Such fund shall be paid out upon the order of the township trustees. Upon the completion of the memorial building, monument, statue or memorial, any unexpended balance shall be transferred and placed to the credit of the sinking fund."

Sections 3410-5 to 3410-11 prescribe the method of procedure to be followed in erecting the building, and make provision for the placing therein of commemorative tablets and for the maintenance and general use of the building.

The bonds which may be issued under authority of an affirmative vote of the electors are obligations of a single township only, and not the joint obligations of the several townships which vote. This is clear not only from the general tenor of sections 3410-1 to 3410-4, but is emphasized by the last sentence of section 3410-1, to the effect that the total amount of the bonds is to be divided among the townships in proportion to their respective tax duplicates. Logically, then, the election in each township must be treated as going no farther than to the question of whether the electors of that township will confer authority for the issuing of the bonds of that township for the proposed joint project. It cannot be accepted as a district election, nor as going to the extent that the affirmative vote in one of the townships is to offset a negative vote in another of the townships. Hence, you are advised that the three townships which returned a negative vote on the proposition are neither required nor authorized to issue bonds.

Your second question, as to whether the township in which an affirmative vote was cast, may issue bonds for its proportionate share of the \$80,000 bonds originally proposed for all of the townships, and use the proceeds for the erection of a single township memorial building, is also answered in the negative. The electors of the four townships were not voting on the question of whether bonds should be authorized for a single township building, but upon the question whether the township should issue bonds to make up a contribution, so to speak, for a project in which three other townships should be interested. It may well be imagined that many electors of the township voting affirmatively would favor an \$80,000 memorial building in which four townships were interested, and at the same time be opposed to a like building

of smaller cost and less pretentious character in which only one township was interested.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2618.

TAXES AND TAXATION—THE FOLLOWING TWO LEVIES ARE SUBJECT TO FIFTEEN MILL LIMITATION OF SECTION 5649-5b G. C.—INTEREST AND SINKING FUND LEVIES FOR CENTRALIZED SCHOOL BUILDING, BONDS ISSUED UNDER AUTHORITY OF VOTE OF ELECTORS—INTEREST AND SINKING FUND LEVIES FOR VILLAGE'S PORTION OF COST OF STREET PAVING, BONDS AUTHORIZED BY VOTE OF ELECTORS.

The following levies are subject to the fifteen mill limitation of section 5649-5b of the General Code.

1. *For interest and sinking fund purposes on account of bonds issued to build a new school building for a centralized school, issued under authority of a vote of the electors.*

2. *For interest and sinking fund purposes on account of bonds issued by a village council to provide the village's portion of the cost and expense of paving streets, authorized by a vote of the electors.*

COLUMBUS, OHIO, November 23, 1921.

HON. EARL C. KRUEGER, *Prosecuting Attorney, Sandusky, Ohio.*

DEAR SIR:—Your letter of recent date requests an opinion upon the question as to whether the following levies are subject to the fifteen mill limitation of section 5649-5b of the General Code:

(1) A levy by a rural school district board of education for interest and sinking fund purposes on account of bonds for a new school building, to be used as a centralized school, authorized by a vote of the people.

(2) A levy by a village council for interest and sinking fund purposes on account of bonds issued to pay the village's portion of the cost and expense of paving streets, approved by a vote of the electors.

Without going into an elaborate discussion, it may be said that, in the opinion of this department, both of these levies are subject to the fifteen mill limitation imposed by the section referred to. That limitation applies to all levies unless some special provision to the contrary is found in the group of sections of which it is a part, or elsewhere in the General Code. This department is aware of no special exceptions or exemptions in favor of levies of either of these types.

Respectfully,
JOHN G. PRICE,
Attorney-General.