

because of the lack of funds being appropriated for that purpose, and when no emergency as stated in section 4450 of the General Code is declared to exist,

Respectfully,
 JOHN G. PRICE,
Attorney-General.

3727.

APPROVAL, FINAL RESOLUTION FOR ROAD IMPROVEMENTS IN
 PREBLE COUNTY.

COLUMBUS, OHIO, November 16, 1922.

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

3728.

TAXES AND TAXATION—"INVESTMENT IN BONDS" SHOULD BE
 RETURNED AT TRUE VALUE IN MONEY, THE FULL MARKET
 VALUE OF THE SECURITIES—TWO EXAMPLES.

"1. A purchases bonds of the value of \$10,000.00 from B, paying \$4,000.00 in cash and obligating himself to B for the payment of the balance.

2. Instead of obligating himself to B for the balance, A borrows \$6,000.00 from the bank and pays B in full."

HELD: In both of these cases A should return at their true value in money of his "investment in bonds" the full market value of the securities.

COLUMBUS, OHIO, November 16, 1922.

Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—The Commission has requested the opinion of this department upon the following questions:

"1. A purchases bonds of the value of \$10,000.00 from B, paying \$4,000.00 in cash and obligating himself to B for the payment of the balance.

2. Instead of obligating himself to B for the balance, A borrows \$6,000.00 from the bank and pays B in full."

Query: Under these conditions what is the amount of A's 'investment in bonds'? The answer to this query involves an interpretation of Section 5323 General Code."

Section 5323 of the General Code, the interpretation of which is, as the Commission states, involved in this question, defines the term "investment in bonds" as follows:

"The term 'investment in bonds' as so used, includes all moneys in bonds, certificates of indebtedness, or other evidences of indebtedness of whatever kind, whether issued by incorporated or unincorporated companies, towns, cities, villages, townships, counties, states, or other incorporations, or by the United States, held by persons residing in this state, whether for themselves or others."

The meaning of this section is, as stated, involved in the questions, and yet not conclusively so. That is to say, it is not believed that a literal rendition of the words of section 5323 can foreclose the question, for such a literal reading of the statute would define the phrase by limiting it to the *moneys* put into the kind of securities mentioned in the section. That is to say, the investment would consist not of the value of the bond or certificate of indebtedness, but the amount of money invested in it in the first instance. So that upon such a literal reading of the statute, if we imagine a third possible case wherein A would pay the sum of \$9,000.00 for bonds of the face value of \$10,000.00, the market for which would subsequently rise so that the actual market value thereof would aggregate \$11,000.00, yet on this literal interpretation A's investment would still be only \$9,000.00. This meaning is certainly untenable despite the strict phraseology of the statute.

But all the statutes in *pari materia* must be considered together. In doing so we discover in section 5388, which deals with the rules for valuing personal property, the following:

"Investments in bonds, stocks, joint-stock companies, or otherwise, shall be valued at the true value thereof, in money. Money, whether in possession or on deposit, shall be entered in the statement at the full value thereof, except that depreciated circulating notes shall be entered at their current value."

It is quite clear from this section which was passed cotemporaneously with the other section, that the general assembly never intended that the same criterion of value should be applied to investments on the one hand, and to money on the other. In other words, when money is converted into securities designated "investments in bonds," and "investment in stocks" it is no longer to be taxed as money, but the subject of taxation becomes the security into which it is converted.

Now in both cases suggested by the Commission's inquiry A had become the full owner of the securities. His title, both legal and equitable, thereto is in no wise encumbered. True, he has incurred an indebtedness in the transaction which in one instance runs to the seller and in the other instance to a third party. But this indebtedness is general and is not secured by any specific lien on the securities. Even if it were, that fact would be immaterial.

In the opinion of this department, therefore, the question, though not foreclosed by any authorities in this state so far as has been found, is plain, and A should return for taxation the securities which he has acquired at their true value in money as securities, without deduction of his general debts therefrom.

On the point that general debts are not deductible from investments, see *Paine v. Waterson*, 37 O. S. 121.

Respectfully,
JOHN G. PRICE,
Attorney-General.

3729.

APPROVAL, BONDS OF VILLAGE OF LOUISVILLE, STARK COUNTY,
\$16,218, FOR STREET IMPROVEMENTS.

COLUMBUS, OHIO, November 17, 1922.

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

3730.

DISAPPROVAL, BONDS OF HOMER TOWNSHIP RURAL SCHOOL DISTRICT, MEDINA COUNTY, \$10,000.

COLUMBUS, OHIO, November 17, 1922.

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

Re: Bonds of Homer Township Rural School District, Medina County, \$10,000, to pay outstanding indebtedness.

GENTLEMEN:—The bonds under consideration were issued under authority of section 5656 G. C. for the purpose of paying certain indebtedness of the school district. The statement of such indebtedness furnished by the clerk of the board of education is to the effect that same consists of the following items:

\$1,561.77—borrowed for the tuition fund.
5,028.93—borrowed for the contingency fund.
3,409.30—to finish a school building.

It is the opinion of this department that bonds may be issued under section 5656 G. C. to pay only such obligations as the board of education is authorized to incur without violating the provisions of section 5660 G. C.

The item of \$1,561.77 was doubtless for the purpose of paying the teachers' salaries, which obligations the board of education was authorized to incur.

The item of \$5,028.93 may or may not constitute a valid obligation. If any portion thereof was incurred for the purpose of paying the janitors' salaries, trans-