

35.

APPROVAL, BONDS OF TALLMADGE TOWNSHIP RURAL SCHOOL DISTRICT, SUMMIT COUNTY, \$80,000, TO ERECT SCHOOL BUILDING AND REPAIR AND EQUIP SCHOOL BUILDINGS OF DISTRICT.

COLUMBUS, OHIO, January 30, 1923.

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

36.

TAXATION—COUNTY BOARD COMPOSED OF AUDITOR, PROSECUTING ATTORNEY, AND PROBATE JUDGE CANNOT APPOINT OFFICER WITH INDEPENDENT POWER TO LEVY AND COLLECT TAXES IN COUNTY.

A county board to be composed of the county auditor, prosecuting attorney and probate judge, cannot be empowered by the general assembly to appoint an officer with independent power and authority to act throughout the county in levying and collecting taxes, and in performing other duties incident to the exercise of the taxing power of the state.

COLUMBUS, OHIO, January 30, 1923.

HON. ROBERT A. TAFT, *Chairman, Committee on Taxation, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date relative to the drafting of a law to govern the levying and collection of taxes, was duly received.

As I understand it, it is desired that a law be prepared and enacted whereunder a county board, to be composed of the county auditor, prosecuting attorney and probate judge, will be authorized and directed to appoint an officer to be called the "county tax assessor" or "deputy county auditor", who is to be vested by the proposed law with independent power and authority to act throughout the county in levying and collecting taxes, and in performing other duties incident to the exercise of the taxing power of the state.

It is well settled that the power of taxation is one of the inherent sovereign powers of the state, and also that this important function of state government can only be exercised through officers duly and constitutionally authorized. See *State v. Cooper*, 97 O. S., 86, and *State v. Groom*, 91 O. S., 1.

If the authority to be conferred and exercised, and the duties to be imposed upon and performed by the prospective "county tax assessor" or "deputy county auditor", are to include the levying and collection of taxes, and the performing of other duties incident to the exercise of the taxing power of the state, and his jurisdiction is to be co-extensive with and extend throughout the whole county, it seems clear that such an officer would be a county officer, for "the character