

and variations and also exemptions as to small packages shall be established by rules made by the secretary of agriculture and shall conform to those of the federal law, and provided, further, that this act shall not apply to such packages or containers, weighed, put up, packed or filled in the presence of the customer.

Whoever, with intent to defraud, transfers a brand, mark or stamp placed upon a case or package by a manufacturer to another case or package, or with like intent, repacks a case or package so marked, branded or stamped, with goods or articles of quality inferior to those of such manufacturer shall be deemed guilty of a violation of this section.

Any article or commodity packed and sold by weight shall be sold by net weight only, and no wood, paper, burlap, cord, paraffin or other substance used for wrapping or packing, shall be included as a part of such commodity sold.

Provided, however, that nothing in this section shall prohibit making a reasonable separate charge for any wrapper or container used in packing or preparing such article or commodity for sale, if such be agreed to by the purchasers of such article or commodity at time of sale. Any person, firm, company, corporation or agent, who fails to comply with any provision of this act, shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00). \* \* \*."

Said section has nothing whatever to say on the subject of confiscation of goods or articles not in conformity with its provisions. It is therefore unnecessary to discuss the further question of its applicability to packages concerned in a "transaction made through inter-state shipment," to use the phrase contained in your letter.

Your question is therefore answered in the negative.

Respectfully,

JOHN G. PRICE,  
*Attorney-General.*

2033.

ROADS AND HIGHWAYS—AMOUNT OF BONDS THAT MAY BE ISSUED BY TOWNSHIP ROAD DISTRICT IN ANY ONE YEAR WITHOUT VOTE OF PEOPLE—SECTION 3295 G. C. (106 O. L. 536) DOES NOT IMPOSE ON SAID DISTRICTS AS DEFINED IN SECTION 3298-25 TO 3298-53 G. C., THE LIMITATIONS UPON INDEBTEDNESS AS SET OUT IN SECTION 3939 ET SEQ. G. C.

*Section 3295, G. C. (106 O. L. 536), does not impose on township road districts as defined in sections 3298-25 to 3298-53 G. C., the limitations upon indebtedness as set out in sections 3939 et seq., G. C. (Longworth Act). (Attention called to opinion of Supreme Court in State ex rel. Steller vs. Zangerle, 100 O. S., 414; and opinion Attorney General appearing in Opinions 1917, Vol. II, p. 1212.)*

COLUMBUS, OHIO, April 28, 1921.

HON. JESSE C. HANLEY, *Prosecuting Attorney, Lisbon, Ohio.*

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

"I would like to have your opinion upon the limitation of the amount of bonds a township road district may issue in any one year without a vote of the people. This matter comes up by reason of the following:

Section 3298-44 General Code provides that the board of trustees of any township containing a road district is hereby authorized to levy annually a tax not exceeding three mills upon each dollar of the taxable property of said district.

Section 3940 General Code limits the total indebtedness the township trustees might create in any one year without the vote of the people, such limitation being one-half of one per cent, the total value of the property in the township. Does this section, 3940, create a limitation as to the amount of indebtedness that the township trustees might incur in behalf of a road district without a vote in any year?"

No doubt your reference to section 3940, G. C., which is part of the so-called Longworth act relating to the issuing of bonds by municipalities, is because of the provisions of section 3295, G. C., which in its present form as enacted 106 O. L. 536, reads:

"The trustees of any township may issue and sell bonds in such amounts and denominations, for such periods of time and at such rate of interest, not to exceed six per cent., for any of the purposes authorized by law for the sale of bonds by townships or by municipal corporations for specific purposes, and for the purpose of providing funds to pay the township's share of the cost of any improvement made under an agreement with the county commissioners, when not less than two of such trustees, by an affirmative vote and by resolution, deem it necessary, and the provisions of law applicable to municipal corporations with reference to the limitations upon the amount of bonds to be issued, and for the submission of the question of their issuance to the voters, shall extend and apply to the trustees of townships. Such township bonds shall be advertised and sold in the manner provided by law. All bonds heretofore issued by township trustees under assumed authority for the improvement of roads in connection with county commissioners, shall, in so far as the same might otherwise be held invalid on account of the absence of power of such trustees to issue bonds for such purpose, be held to be legal, valid and binding obligations of the township issuing such bonds."

It is unnecessary to quote section 3940 G. C. or to discuss at length the provisions of the Longworth act. It is sufficient for present purposes to say that such act, while on the one hand granting authority to municipalities to issue bonds for certain designated purposes, on the other hand limits such authority, first, in respect of the amount of bonds that may be issued in any one fiscal year without a popular vote, and second, in respect of the aggregate total of bonds that may be issued without a popular vote.

It will have been observed that section 3295 does not relate to township road districts,—it relates to townships. Township road districts are provided for in the series of sections 3298-25 to 3298-53, G. C. You refer in particular to section 3298-44, G. C. That section is a part of the series relating to township road districts and reads:

"The proportion of the compensation, damages, costs and expenses of such improvement to be paid by the road district shall be paid out of any road improvement fund available therefor. For the purpose of providing by taxation a fund for the payment of the road district's proportion of the compensation, damages, costs and expenses of constructing, reconstructing,

resurfacing or improving roads under the provisions of sections 3298-25 to 3298-53, inclusive, of the General Code, the board of trustees of any township containing a road district is hereby authorized to levy annually a tax not exceeding three mills upon each dollar of the taxable property of said district. Said levy shall be subject only to the limitation on the combined maximum rate for all taxes now in force. The taxes so authorized to be levied shall be placed by the county auditor upon the tax duplicate against the taxable property of the road district and collected by the county treasurer as other taxes. When collected such taxes shall be paid to the treasurer of the township containing the road district from which they are collected and the money so received shall be under the control of the township trustees of such township for the purpose of constructing, reconstructing, resurfacing or improving the public roads of such district."

While it is quite true that the activities of a township road district are carried on by township trustees, and its records kept by the township clerk, yet it is believed that the road district, so far as your inquiry is concerned, must be regarded as an entity entirely separate and apart from the township. A township road district, if created by township trustees, consists of that part of the township exclusive of municipal corporations therein, as will be seen by section 3298-25, G. C. The district, including the matter of levying taxes and issuing bonds (sections 3298-44 statutes relating to the road district authorize action to be taken on behalf of the and 3298-45). The district exists for one purpose only,—that of road improvement. With these matters in mind, it becomes very clear that the provisions of section 3295, with their broad conferring of power to issue bonds for many sorts of projects, cannot have any reference to road districts, and must be read as relating to the township trustees solely in their capacity as fiscal agents for the township as such.

The conclusion to be drawn from the foregoing furnishes specific answer to your inquiry: Section 3940, G. C., does not create a limitation as to the amount of indebtedness which a township road district may incur in any year without a vote of the people. In fact, said section 3940 has no relation whatever to a township road district.

Since comparison has been made above as between a township and a township road district, it is believed proper to call attention in connection with townships, to the decision of the supreme court in *State ex rel. Steller vs. Zangerle*, 100 O. S. 414, wherein the supreme court held, in effect, that after the enactment of sections 3298-1 to 3298-15m, G. C. et seq. (107 O. L. 69), townships were not authorized to resort to section 3295, G. C., in the issue of township road bonds; and to an opinion of this department found in 1917 Opinions, Attorney-General, Vol. II, page 1212, wherein the view is expressed that township trustees may issue bonds under sections 3298-15e G. C. and 3298-45, G. C., without submitting the matter of such issue to a vote of the electors.

Respectfully,  
JOHN G. PRICE,  
*Attorney-General.*