

ance or resolution not in conflict with the constitution of the state or with the express provisions of this charter."

In the case of *Kerlin Bros. vs. The City of Toledo*, 20 C. C. page 603, the court say in connection with Section 2673a R. S., which section was substantially the same as Section 3699, in the fifth syllabus, as follows:

"Under Section 2673a R. S., which limits the power of council to sell municipal property so far as real estate is concerned, a three-fifths vote of the members of council, and an advertisement for two weeks are required in order to sell real estate of the city or village."

Also in the case of *State ex rel. Sielonka v. Carroll*, 103 Ohio St. page 50, in construing sections 3698 and 3699 of the General Code, the court held that the council was without authority to pay the auctioneer's fees for the reason that an ordinance providing for the payment of an auctioneer was in conflict with the general laws.

The city of East Cleveland does not provide in its charter any method for the sale of real estate. Neither does the charter control the sale of real estate by ordinances in conflict with the general laws.

Section 87 of the charter provides that all general laws of the state applicable to municipal corporations which are not in conflict or inconsistent with the provisions of this charter, or with ordinances or resolutions hereinafter enacted by the commission, shall be applicable to this city. The reference to ordinances or resolutions in this section could certainly refer only to such ordinances or resolutions as the city is by its charter authorized to control.

You are therefore advised that the sale of real estate by the city of East Cleveland, which is not in conformity with sections 3698 and 3699 of the General Code, is in conflict with general laws and therefore illegal.

Respectfully,
C. C. CRABBE,
Attorney-General.

3722.

CONTRACTS WHICH RUN BEYOND THE END OF FISCAL YEAR, PAYABLE MONTHLY, MAY NOT BE REDUCED FOR BALANCE OF THIS FISCAL YEAR AND SUCH REDUCTION ADDED TO AMOUNT PAYABLE DURING NEXT FISCAL YEAR.

SYLLABUS:

Contracts entered into which run beyond the termination of the fiscal year and which are to be paid in monthly installments may not be reduced for the balance of this fiscal year and such reduction added to the amount to be paid during the next fiscal year.

COLUMBUS, OHIO, October 18, 1926.

HON. HAROLD A. PREDMORE, *Prosecuting Attorney, Hillsboro, Ohio.*

DEAR SIR:—I am in receipt of your communication as follows:

"We are submitting for your opinion the following statement of facts and questions recently presented to this office by the Board of Education, Paint Township Consolidated School District No. 3.

Paint Township Consolidated School District No. 3 have employed several teachers to teach the schools in the district for the school year 1926-27. The board of education has at its disposal at this time only \$800.00 with which to pay the teachers to January 1, 1927. This amount is entirely insufficient to permit the board of education to make eight equal monthly payments to the teachers.

The question I wish to submit is whether or not, under the circumstances, and taking into consideration the Vorys Bill as it now exists, this board of education can distribute the \$800.00 which it has to the teachers as payment in full for their services under their contracts to January 1, 1927, and then pay the teachers a sufficient amount for the four months following January 1, 1927, to make the full contract price.

For example: A teacher is employed for the full term of eight months or school year at \$800.00. The board of education have only \$200.00 with which to pay the teacher for the four months to January 1, 1927. Can the board of education pay said teacher \$200.00 for her services in full to January 1, 1927, and then pay the teacher \$600.00 for the four months following January 1, 1927, in order to make the full payment of \$800.00 called for in the contract."

Section 5660 of the General Code in part provides as follows:

"No contract, agreement or other obligation calling for or requiring for its performance the expenditure of public funds from whatsoever source derived, shall be made or assumed by any authority, officer or employe of any county or political subdivision or taxing district, nor shall any order for the payment or expenditure of money be approved by the county commissioners, council or by any body, board or employe of any such subdivision or taxing district unless the auditor or chief fiscal officer thereof first certified that the money required to meet such contract, agreement or other obligation, or to make such payment or expenditure has been lawfully appropriated or authorized, or directed for such purpose, or is in the treasury or in process of collection to the credit of the appropriate fund free from any previous and then outstanding obligation or certification, which shall be filed with such authority, officer, employe, commissioners, council, body or board, or the chief clerk thereof, * * *. In the case of contracts running beyond the termination of the fiscal year in which they are made for salaries of educational employes of boards of education, * * * the certification of the auditor or chief fiscal officer as to the money in the treasury or in process of collection, above required as a condition precedent to the making of such contract or lease shall be deemed sufficient if such certification covers the money required to meet such contract or lease throughout the fiscal year in which such contract or lease be made. * * *"

By this section contracts made running beyond the termination of the fiscal year in which made for salaries of educational employes need only be certificated to the end of the fiscal year in which made. If there are not sufficient funds to pay the salaries for the balance of the fiscal year in which contract is made according to the terms of the contract, then such contract would be illegal.

If the contracts for the employment of the teacher provide for a certain amount to be made in monthly installments, the contract would be illegal unless the certificate of the chief fiscal officer is made to the effect that there are sufficient funds to pay the salary of such teacher during the balance of the present fiscal year.

If such a contract has been entered into the reduction of the amounts to be paid during the present fiscal year and the increase of the amount to be paid during the

succeeding fiscal year would be a violation of the terms of section 5660 of the General Code and would therefore be illegal.

You are therefore advised that contracts entered into which run beyond the termination of the fiscal year and which are to be paid in monthly installments may not be reduced for the balance of this fiscal year and such reduction added to the amount to be paid during the next fiscal year.

Respectfully,
C. C. CRABBE,
Attorney-General.

3723.

APPROVAL, BONDS OF VILLAGE OF UNIVERSITY HEIGHTS, CUYAHOGA COUNTY, \$81,400.00.

COLUMBUS, OHIO, October 18, 1926.

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

3724.

APPROVAL, BONDS OF VILLAGE OF PARMA HEIGHTS, CUYAHOGA COUNTY, \$20,150.00.

COLUMBUS, OHIO, October 18, 1926.

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

3725.

APPROVAL, BONDS OF TRIMBLE VILLAGE SCHOOL DISTRICT, ATHENS COUNTY, \$31,250.00.

COLUMBUS, OHIO, October 18, 1926.

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