

the Globe Indemnity Company appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the Workmen's Compensation Act have been complied with.

In this connection, it will be noted that the award was made prior to January 1, 1929, and that the original appropriation lapsed before such contract was approved by the Attorney General. However, it will be further noted that the 88th General Assembly, in Amended House Bill No. 203, reappropriated such funds and authorized the expenditure of money for such purposes with the consent and approval of the Controlling Board, which has been obtained.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,
GILBERT BETTMAN,
Attorney General.

456.

SCHOOL BUILDING—DESTROYED BY FIRE—MAXIMUM AMOUNT OF BONDS ISSUABLE FOR REBUILDING WITHOUT VOTE OF ELECTORS—CONDITIONS NOTED.

SYLLABUS:

1. *When a schoolhouse has been destroyed by fire or other casualty, bonds may be issued for the purpose of building a new schoolhouse to take the place of the building so destroyed, without a vote of the people, to the extent of three per cent of the total value of all property in such school district as listed and assessed for taxation, under the provisions of paragraph (c) of Section 2293-15, General Code, providing there then exists no indebtedness previously so excepted.*

2. *The maximum amount of bonds which may be issued for the above purpose without a vote of the electors, at any time, under the provisions of Section 2293-15, General Code, would be three and one-tenth per cent of the total value of all property in such school district as listed and assessed for taxation, provided that, at such time, there is in existence no unvoted net indebtedness under the first paragraph of this section and further provided that, at such time, there is in existence no indebtedness previously excepted under paragraph (c) thereof.*

COLUMBUS, OHIO, May 28, 1929.

HON. WINSTON W. HILL, *Prosecuting Attorney, Delaware, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“The Delaware City Board of Education, has made request that I write for an opinion from the Attorney General, the question being as follows:

Under Section 2293-15(c), may a board of education issue bonds for the

building of a schoolhouse after a destructive fire, of a value of not to exceed three per cent of the total of all listed taxable property in the school district, without a vote of the people of the district?"

Section 2293-15 is in part as follows :

"The net indebtedness created or incurred by any school district without a vote of the people shall never exceed one-tenth of one per cent of the total value of all property in such school district as listed and assessed for taxation.

The net indebtedness created or incurred by any school district shall never exceed six per cent of the total value of all property in any such school district as listed and assessed for taxation, provided that bonds shall not be submitted to popular vote in an amount which will make the net indebtedness after the issuance of such bonds exceed four per cent of the total value of all property in such school district as listed and assessed for taxation, unless the tax commission of Ohio consents thereto.

In ascertaining the limits of this section, the bonds specified in Section 2293-13 and the following bonds shall not be considered:

(a) * * * * *

(b) * * * * *

(c) Bonds heretofore issued under the provisions of Section 7630-1 or hereafter issued for the purpose of rebuilding or repairing a schoolhouse wholly or partly destroyed by fire or other casualty, or for the purpose of building a new schoolhouse in lieu of repairing or rebuilding such schoolhouse destroyed by fire or other casualty; provided that any insurance moneys received as a result of any such destruction are first applied to reduce the amounts of bonds issued for such repair, rebuilding or new construction, but bonds excepted from the limitation of this section under the provision of this paragraph (c) shall never exceed three per cent of the total value of all property in any such school district as listed and assessed for taxation."

(Italics the writer's.)

There are two limitations on the indebtedness which may be incurred by a school district herein set forth: First, a limitation as to the amount of indebtedness which may be incurred without a vote of the people, as specified in the first paragraph of this section; and, second, a limitation as to the total amount of indebtedness which may be incurred regardless of the question of a vote of the people, as specified in the second paragraph thereof.

Paragraph (c) excepts from the "limits of this section" bonds issued for the purpose of rebuilding, repairing or replacing a schoolhouse wholly or partially destroyed by fire or other casualty, to the extent of three per cent of the total value of all property in any such school district as listed and assessed for taxation. Were this exception only applicable to the amount of bonds which may be voted upon as set forth in the second paragraph of the section, the Legislature would presumably have so stated. In such event, instead of the section being as it is, the following wording would have been used :

In ascertaining the limits of indebtedness which may be incurred by a vote of the people, the bonds specified in Section 2293-13 and the following shall not be considered.

Clearly there appears no such provision in the statute, even by implication. In fact, the Legislature has been quite specific in providing that the limits of this section

shall not be applicable to bonds issued for the purpose under consideration. One of the limitations of this section is, as above commented upon, as to the amount of indebtedness which may be incurred without a vote of the people. The conclusion is, therefore, inescapable that when a schoolhouse has been destroyed by fire or other casualty, bonds may be issued for the purpose of building a new schoolhouse to take the place of the building so destroyed, without a vote of the people, to the extent of three per cent of the total value of all property in such school district as listed and assessed for taxation under the provisions of paragraph (c) of Section 2293-15, General Code, providing there then exists no indebtedness previously so excepted.

The amount of bonds which may be authorized under the above circumstances for such purpose in excess of three per cent without a vote of the electors would, of course, depend upon the amount, at such time, of any existing unvoted net indebtedness within the meaning of the first paragraph of Section 2293-15, *supra*. Following the reasoning contained in my Opinion No. 290, under date of April 10, 1929, addressed to Hon. J. L. Clifton, Director of Education, I am of the opinion that the maximum amount of bonds which may be issued for the above purpose without a vote of the electors, at any time, under the provisions of Section 2293-15, General Code, would be three and one-tenth per cent of the total value of all property in such school district as listed and assessed for taxation, provided that, at such time, there is in existence no unvoted net indebtedness under the first paragraph of this section and further provided that, at such time, there is in existence no indebtedness previously excepted under paragraph (c) thereof.

Respectfully,
GILBERT BETTMAN,
Attorney General.

457.

APPROVAL, ABSTRACT OF TITLE TO LAND OF JULIUS AND DUCKE
JOHANNSEN IN THE CITY OF FREMONT, SANDUSKY COUNTY,
OHIO.

COLUMBUS, OHIO, May 28, 1929.

HON. A. W. REYNOLDS, *Adjutant General of Ohio, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval an abstract of title and a warranty deed covering a certain tract of land in the city of Fremont, Sandusky County, Ohio, which you desire to acquire for the purpose of an armory site, and which property is more particularly described as follows:

Being a part of Outlot Number Fifty in said city of Fremont, commencing at a point on the north line of said Outlot and two hundred and sixty (260) feet northwesterly from the northeast corner of said Outlot; thence in a northwesterly direction, on the north line of said Outlot, one hundred (100) feet; thence southwesterly, at right angles to the north line of said Outlot, three hundred forty and one-half (340½) feet; thence southeasterly, parallel with the north line of said Outlot, one hundred (100) feet; thence northeasterly three hundred forty and one-half (340½) feet to the place of beginning.

An examination of the abstract of title submitted, shows that Julius Johannsen