

Miller was disapproved by reason of certain defects therein which were pointed out in said opinion; and the same is likewise true of Encumbrance Estimate No. 5844 which was submitted as a part of the files relating to the purchase of this property.

An examination of the warranty deed now tendered by Volney S. Taylor and C. W. Miller, shows that the same has been properly executed and acknowledged by said grantors and their respective wives, and that said deed is in form sufficient to convey to the State of Ohio a fee simple title to the lands in question, therein described, free and clear of all encumbrances, and free and clear of the dower interests of the wives of said grantors.

An examination of Encumbrance Estimate No. 5844 corrected in the manner pointed out in said former opinion, shows that the same is now properly executed, and that it shows sufficient balances in the proper appropriation account to pay the purchase price of said property.

Said warranty deed and encumbrance estimate are accordingly herewith returned with my approval.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1575.

QUESTIONS OF TAX LEVY FOR SALARY OF COUNTY FARM AGENT
AND FOR EXTENDING AID TO COUNTY AGRICULTURAL SOCIETY
SUBMITTED TOGETHER ON ONE BALLOT—DEFEATED—SUCH AD-
VERSE VOTE MAY NOT BE IMPLIED AS AGAINST EMPLOYMENT
OF SAID AGENT.

SYLLABUS:

When a question has been submitted to the electors of a county upon the levy of a tax for the payment of the salary of the county agricultural agent and for the purpose of extending county aid to the county agricultural society and such question did not carry at the election, the county commissioners are not authorized to assume that the electors have thereby voted against the employment of a county agricultural agent.

COLUMBUS, OHIO, March 1, 1930.

HON. GEORGE W. RIGHTMIRE, *President, The Ohio State University, Columbus, Ohio.*

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

“The Department of Agricultural Extension is raising the following question:—At the November election, 1929, in Champaign County, the following question was placed on the ballot:

‘A tax for the benefit of Champaign County, Ohio, for the purpose of making it possible for the board of county commissioners of said county to appropriate the sum of fifteen hundred dollars (\$1,500.00) out of the Agricultural Fund of said subdivision for the payment of the salary of the county farm agent and to appropriate from the same fund the amount required by statute for the Champaign County Agricultural Society, at a rate not exceeding one-fourth mill for a period of two years.’

The tabulation of the votes showed that the majority were against

the levy; the commissioners of the county are referring to the vote on the above question as being an indication that the people of the county do not desire a county agricultural agent. The budget law of Ohio apparently permits such matters to be placed on the ballot, but requires that such item shall be for a single purpose. The ballot above mentioned carried this item covering two purposes which are distinct; one, for raising money for the farm agent and the other for raising money for the county agricultural society; the latter having no organic connection with the agent or the Ohio State University.

The question of law presented seems to be whether the ballot above mentioned is in compliance with the statute covering such matter, and whether the position of the commissioners, therefore, is correct in holding that the voters have disapproved of a county agricultural agent.

I am bringing this matter to your attention for study and an opinion, since the question involved is as to the continuance of the county agent in agricultural extension in Champaign County, and in this matter the University has a vital interest."

The first matter for determination in considering the question presented is whether or not the ballot submitted to the electors as set forth in your letter has been submitted pursuant to authority conferred upon the taxing authority of the county in the provisions of the so-called Budget Law. Section 5625-15, General Code, provides seven specific purposes for which the question of a tax outside the fifteen mill limitation may be voted upon. These are as follows:

1. Current expenses of the subdivision.
2. For the payment of debt charges on certain described bonds, notes or certificates of indebtedness of the subdivision issued subsequent to January 1, 1925.
3. For the debt charges on all bonds, notes and certificates of indebtedness issued and authorized to be issued prior to January 1, 1925.
4. For recreational purposes except in townships, but the total levy for such purpose authorized by vote of the people, shall not exceed two-tenths of a mill.
5. For a municipal university, but not to exceed fifty-five hundredths of a mill as prescribed in Section 7908, of the General Code.
6. For the construction or acquisition of any specific permanent improvement or class of improvements which the taxing authority of said subdivision may include in a single bond issue.
7. For the general construction, reconstruction, resurfacing and repair of roads and bridges in counties."

This section further provides that the resolution to submit such question shall be confined to a single purpose. An examination of the ballot as set forth in your letter clearly discloses that the question of a tax levy was submitted to the electors of the county in question for two purposes, viz., payment of the salary of the county farm agent and granting aid to the county agricultural society. There is no authority contained in the Budget Law for submitting either to the electors even if the provisions as to a single purpose could be disregarded.

The provisions relating to county agricultural societies are contained in Title IX, Division 6, Chapter II of the General Code, being Sections 9880 to 9910, both inclusive. This chapter also contains provisions for township societies and farmers' institutes. Section 2880, General Code, provides that under certain circumstances

as therein set forth "the county auditor of each county wherein such agricultural societies are organized, annually shall draw an order on the treasurer of the county in favor of the president of the county agricultural society for the sum of eight hundred dollars, and the treasurer of the county shall pay it. The total amount of such order shall not exceed one hundred per cent (100%) of the amount paid in regular class premiums." I am of the view that this payment by the county should be made from the general fund out of the general levy for current expenses. Section 5625-5, General Code, provides that the purpose of the general levy for current expenses is to carry into effect any of the general or special powers granted by law to any subdivision. In the event the general levy for current expenses does not provide sufficient funds to meet the requirements of Section 9880, it is evident that under Sections 5625-15, et seq., a tax levy for current expenses of the subdivision outside the fifteen mill limitation could be submitted to the electors. A much closer question would be presented if the purpose of the levy here under consideration were described as "to pay the amount required by statute to be appropriated for the county agricultural society", since it might be contended that this purpose is in effect "current expenses of the subdivision" as tabulated in Section 5625-15, supra. As hereinbefore indicated, however, a question was submitted of a levy for two purposes.

It occurs to me that it was possibly the intention in submitting the question of a levy for the purpose of raising fifteen hundred dollars for the payment of the salary of a county farm agent to comply with the provisions of Section 9921-4, General Code, prior to repeal by the 88th General Assembly, providing that each county is authorized to appropriate annually not to exceed fifteen hundred dollars for the maintenance, support and expenses of a county agricultural agent. The 88th General Assembly, however, in repealing this section, provided for a tax levy and the appropriation of money for the employment of county agricultural agents as contained in Section 9921-1c, 113 O. L. 83. It is expressly provided in this section that the levy for the purposes therein set forth shall be within the limitations prescribed by law and it is, of course, a purpose separate and distinct from the purpose of aid to the county agricultural society.

Section 9921-5, which was also repealed by the 88th General Assembly, provided for a referendum on the question of whether or not a county agricultural agent shall be employed in the event the county commissioners shall not make provision for such agricultural agent. This section, however, contained no provision for submitting to the electors the question of discontinuing the services of a county agent already employed. In any event, the section is repealed and I find no provisions in the law authorizing the submission to the electors of the question whether or not the services of a county agricultural agent should be dispensed with.

In view of the foregoing and in specific answer to your inquiry, I am of the opinion that when a question has been submitted to the electors of a county upon the levy of a tax for the payment of the salary of the county agricultural agent and for the purpose of extending county aid to the county agricultural society and such question did not carry at the election, the county commissioners are not authorized to assume that the electors have thereby voted against the employment of a county agricultural agent.

Respectfully,

GILBERT BETTMAN,

Attorney General.