

1907.

DISAPPROVAL, BONDS OF HARRISON TOWNSHIP RURAL SCHOOL DISTRICT IN AMOUNT OF \$3,000.

COLUMBUS, OHIO, March 9, 1921.

Industrial Commission of Ohio, Columbus, Ohio.

Re Bonds of Harrison township rural school district in the amount of \$3,000 to secure funds to equip a centralized school building and purchase trucks for the conveyance of pupils.

GENTLEMEN:—The transcript discloses that the bonds under consideration are issued under authority of section 7625 G. C. by a vote of the electors of the school district at an election held under the provisions of said section of the General Code. The bonds are, in part at least, issued for the purpose of purchasing motor trucks for conveying pupils to and from school. The Supreme Court of Ohio in the case of Allard vs. Board of Education of Madison Township Rural School District of Scioto County, being case No. 16690 in said court decided December 21, 1920, held that a board of education is without authority to submit to the electors the question of issuing bonds under section 7625 G. C. for the purpose of securing funds to purchase automobiles for the transportation of pupils.

In view of this decision of the Supreme Court, I have no alternative but to disapprove the bonds and advise the commission not to purchase the same.

Respectfully,

JOHN G. PRICE,

Attorney-General.

1908.

DISAPPROVAL, BONDS OF MAD RIVER TOWNSHIP RURAL SCHOOL DISTRICT IN AMOUNT OF \$175,000.

COLUMBUS, OHIO, March 10, 1921.

Industrial Commission of Ohio, Columbus, Ohio.

Re Bonds of Mad River township rural school district in the amount of \$175,000, being 25 bonds of \$7,000 each—6 per cent.

GENTLEMEN:—The bonds under consideration were authorized by a majority vote of the electors of Mad River township rural school district at an election held under authority of section 7625 G. C. and are issued pursuant to a resolution of the board of education passed under authority of section 7626 et seq. G. C.

The general assembly has placed no direct limitation upon the amount of bonds which a board of education may issue under authority of the provisions of sections 7625 et seq. G. C. There is, however, for all practical purposes an indirect limitation upon the amount of bonds which the board may issue under authority of these sections arising from the restrictions placed upon the taxing authority of the board of education.

The transcript discloses that the total value of all property of the school district as listed and assessed for taxation is \$2,971,120. Section 5649-1 of the General Code provides as follows:

"In any taxing district, the taxing authority shall, within the limitations now prescribed by law, levy a tax sufficient to provide for sinking fund and interest purposes for all bonds issued by any political subdivision, which tax shall be placed before and in preference to all other items, and for the full amount thereof."

Under this section and in compliance with the provisions of Article XII, Section 11 of the Ohio Constitution it is mandatory that the taxing officials of the school district levy annually, before all other taxes, a tax sufficient in amount to pay the interest upon and create a sinking fund for the redemption of the principal of bonded obligations. Such levy must be made even though it exhausts the tax levying power of the district and leaves no revenues for other purposes.

Section 5649-3a G. C., as amended 108 O. L., Part II, p. 1304, limiting the amount of taxes which may be levied by the several taxing districts in Ohio, provides as to school districts as follows:

" * * * The local tax levy for all school purposes shall not exceed in any one year three mills on the dollar of valuation of taxable property in any school district. * * *"

It would seem from the language of the two sections of the General Code above quoted that the total annual levy which a school district may make for interest and sinking fund for bonds issued under sections 7625 et seq. G. C. is subject to the three mill interior limitation. This conclusion may be questioned with some force in view of the decision of the Supreme Court of Ohio in the case of *The State ex rel Toledo vs. Sanzenbacher, Auditor*, decided June 30, 1911, without written opinion, 84 O. S. 506. The authority of this decision is, however, at least weakened by the subsequent enactment of the general assembly on February 16, 1914, of section 5649-1 G. C. above quoted. However, the doubt raised by reason of the later legislative act referred to is in my opinion sufficient, particularly where it involves the question of the validity of bonds purchased by the industrial commission, to require me to adhere to the view, until a contrary judicial construction of the law is indicated, that the levy to pay interest and create a sinking fund to pay the principal of bonds issued under authority of sections 7625 et seq. G. C. must be made within the interior limitation of three mills provided under section 5649-1 G. C.

A levy of three mills upon the present tax duplicate of the school district will produce \$8,913.36 each year, which amount is insufficient to pay the interest upon said bonds and create a sinking fund for the payment of the principal thereof at maturity. In fact, the interest alone upon said bonds for the first year will be \$10,500, which amount will more than exhaust the entire three mill levy, leaving nothing to provide a sinking fund for the payment of the principal of the bonds as they mature, of which \$7,000 falls due each year commencing with April 1, 1923, and continuing until all bonds are paid.

In addition to the objection to the bonds just presented, I may add that it is certainly not advisable for a school district having a duplicate of only \$2,971,120 to issue bonds to the amount of \$175,000, particularly in view of the present tax limitations and high interest rates. The operating cost of a new building will of necessity be high, and even though it should hereafter be determined that the levy for interest and sinking fund for said bonds is not subject to the interior limitation of three mills

for school purposes but only to the combined maximum limitation of fifteen mills for all purposes, it is still doubtful if the board of education can by taxation secure sufficient funds to pay interest and sinking fund charges and at the same time continue the proper operation of its schools.

I therefore advise that you decline to accept the bonds under consideration.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1909.

APPROVAL, FINAL RESOLUTIONS FOR ROAD IMPROVEMENTS IN SCIOTO COUNTY.

COLUMBUS, OHIO, March 10, 1921.

HON. LEON C. HERRICK, *State Highway Commissioner, Columbus, Ohio.*

1910.

APPROVAL, FINAL RESOLUTIONS, ROAD IMPROVEMENTS IN HOCKING, WYANDOT AND ASHLAND COUNTIES.

COLUMBUS, OHIO, March 10, 1921.

HON. LEON C. HERRICK, *State Highway Commissioner, Columbus, Ohio.*

1911.

INHERITANCE TAX LAW—WHERE A. BEQUEATHS TO SANATORIUM COMPANY ONE THOUSAND DOLLARS PER ANNUM IN CONSIDERATION OF CARE TO BE FURNISHED B., AN INVALID SISTER OF A., DURING REMAINDER OF HER LIFE—SUCH SUCCESSION TAXABLE.

A. bequeaths to a sanatorium company \$1,000 per annum in consideration of care to be furnished to B., the invalid sister of A., during the remainder of her life;

HELD:

A taxable succession to the sanatorium company.

COLUMBUS, OHIO, March 11, 1921.

Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is made of the receipt of the commission's recent letter requesting the opinion of this department, as follows:

"A. and B. are brother and sister, the latter being a confirmed invalid. A. in his lifetime entered into an agreement with a sanatorium company by