

electors the question of exempting from all limitations of taxation interest and sinking fund levies necessary for any specific bonded indebtedness. On the contrary, the language used indicates a legislative intent that the question if submitted at all must be submitted as to all bonds of the district whether issued and outstanding on January 20, 1920, or merely authorized prior to that date in the manner defined in the act.

If my interpretation of the law quoted is correct, then of necessity the action of the board of education of Middletown city school district and the results of the election were either illegal and a nullity or they accomplished the removal of interest and sinking fund levies necessary for the two bond issues authorized by the electors prior to January 20, 1920 from all tax limitations.

I do not have before me a certified copy of the resolution of the board of education providing for such submission to the electors, but I assume that the third paragraph of your letter correctly quotes the language of the resolution. If this assumption is correct, I believe the language of the resolution "bonded indebtedness of said school district", construed in the light of the language of section 5649-6a, is broad enough to include not only bonds issued and outstanding January 20, 1920, but also bonds authorized to be issued prior to that date either by a vote of the electors or by proper resolution of the board of education.

I have some doubt as to the curative effect of the action of the board of education in adopting the resolution correcting "nunc pro tunc" their resolution of June 19, 1920. If the board of education were authorized by law to submit to the electors the tax exemption question as to any particular bond issue or merely as to outstanding bonds as distinguished from authorized but not yet issued bonds, the result of the election and the extent of the authority created thereby would be determined by what the board of education actually did as revealed by their record, rather than by what they intended to do but failed to record; otherwise the electors would be unable to intelligently exercise their right of franchise. As applied to the situation here presented, I doubt the authority of the case of *Howard, et al. vs. Aufrance, et al.*, decided by the court of appeals of Butler county, Ohio, and cited in letter of Messrs. Shaffer & Williams, as the facts there presented were to my mind entirely different from the facts presented in your letter.

However, in view of my opinion as to the interpretation of the language of section 5649-6b, the effect of the curative resolution is immaterial.

I am therefore of the opinion that the necessary interest and sinking fund levies for the bonds referred to, aggregating \$700,000, may be made outside of all the tax limitations.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2083.

APPROVAL, BONDS OF FRANKLIN COUNTY, OHIO, IN AMOUNT OF \$340,000 FOR RESTORATION OF SHADEVILLE BRIDGE.

COLUMBUS, OHIO, May 16, 1921.

Industrial Commission of Ohio, Columbus, Ohio.