

that said bonds have been advertised and sold in that amount. The resolution then recites that the amount of the issue was in excess of the limitation of one-half of one per cent of the tax valuation as provided in the Longworth act and that only \$67,000.00 could be legally issued.

Provision is then made for the issuance of bonds Nos. 36 to 45, 56, 61 to 72 and 80 to 117, in all in the sum of \$67,000.00, and then provides that the remainder of said bonds in the sum of \$50,000.00 be sold after January 1, 1921.

So far as shown by the transcript, there were no other proceedings in connection with the issuance of the bonds and the sale thereof, and on January 10, 1921, the officials of the city certified that they did sign the remainder of the issue in the sum of \$50,000.00.

I am of the opinion that this issue of bonds as made, advertised and sold in the aggregate sum of \$117,000.00 has not been sufficiently separated by proper proceedings, and that the officials have violated the limitations as to amount of bonds that can be issued and sold in any one year under the provisions of section 3940, General Code, and also that the same objection would apply to any part of this issue.

You are therefore advised not to accept said bonds.

Respectfully,  
C. C. CRABBE,  
Attorney General.

2492.

#### COUNTY AGRICULTURAL SOCIETIES—AUTHORITY OF COUNTY COMMISSIONERS UNDER HOUSE BILL NO. 444 DISCUSSED.

##### SYLLABUS:

*House bill 444 as enacted by the 86th general assembly, was filed in the office of the secretary of state on April 16th, and becomes effective on July 16th, 1925, unless a referendum should be instituted against it. Under the provisions of said act, sections 9894, and 9887-1 of the General Code are repealed, and it is impossible for any relief to be obtained under said sections if the act becomes effective.*

COLUMBUS, OHIO, May 15, 1925.

HON. CHARLES V. TRUAX, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—Acknowledgement is made of your communication inquiring in reference to the provisions of house bill 444 which was approved by the governor on April 15th and filed in the office of the secretary of state on April 16th, 1925. You inquire in reference to the date it becomes effective, and whether the benefits under sections 9894 and 9887-1 may be secured before the house bill above mentioned, which repeals said sections, becomes effective. You further request a discussion of the benefits that may accrue under said act, and inquire whether county commissioners may designate county fair boards as their agents in the expenditure of money appropriated under the provisions of the act.

As above stated, the bill was filed in the office of the secretary of state on April 16th and will become effective on July 16th, 1925, unless, of course, a referendum should be instituted against it. The act specifically repeals sections 9887-1, 9894, 9895, 9896 and 9897. These repealed sections, of course, will be in full force and effect until the date upon which the act referred to becomes effective.

The tax provided for in sections 9887-1 and 9894 must be levied in accordance with the provisions of section 5649-3a, et seq. which relates to the submission of the budget by the commissioners, the action thereon by the budget commissioners and the levy which is eventually made by the auditor.

It will be observed that the sections which authorize the levy of the taxes to which you refer will be repealed before the budget commissioners have an opportunity to act. Therefore, it will be clear that the levy cannot be made until after the repeal of said section. If the levying of such taxes could legally be called a "proceeding" within the meaning of section 26 of the General Code, then it is possible that in the event certification is made to the budget commissioners prior to the repeal of the laws authorizing the tax, that the further proceedings in reference to the levying of the tax could be carried out.

However, the case of *Alexander, et al. vs. Spencer, et al.*, 13 C. C. (N. S.) 475, seems to foreclose such a claim. In that case everything had been done except the actual levy that was to be made. The court specifically pointed out that the levying of the tax was no part of any other proceeding. Applying the principles enunciated in this case to the question before us, compels the conclusion that in view of the repeal of the sections to which you refer, it will be impossible for any relief to be given under the sections mentioned until such time as the legislature authorizes the same.

Reference is also made to the case of *Friend vs. Levy*, 76 O. S., 26, which is believed to strengthen the foregoing view.

It has been suggested by some interested in the matter that it was not the intention of the legislature to repeal such sections, and that such action was due to a mistake.

However, in view of the numerous decisions of the supreme court to the effect that when statutes are unambiguous and definite in their statements, the question is not what the legislature intended to do, but rather the question is, what did the legislature do?

In discussing the general benefits of the act, it may be stated that section 9887 as amended, provides that in counties wherein there is a county agricultural society which has purchased or leased real estate for a term of not less than twenty years, whereon to hold fairs, or where the title is vested in the county, the commissioners may erect or repair buildings or otherwise improve such site and pay the rental thereof. The advantages over the old provisions are that when the conditions are as above described, the commissioners may improve, repair buildings and pay the rental thereof, irrespective of whether the society in any manner contributes to the improvement. Previously the commissioners could only expend the same sum which the society expended for such a purpose. Of course, if these expenditures amount to more than \$10,000 in any one year, then, of course, it must be submitted to the voters in accordance with the provisions of the act.

In reference to your further inquiry as to whether the county commissioners may designate the county fair board as their agent in the expenditure of money appropriated under the provisions of this act, you are advised that the express provisions of the act are that the commissioners "may erect or repair buildings or otherwise improve such site and pay the rental thereof." This section would seem to require the commissioners to take such action, and in no wise authorizes them to constitute the fair board as their agent in making such expenditure.

Respectfully,

C. C. CRABBE,  
Attorney General.