

the auditor is required or permitted to take at this time in connection with the refunding of said taxes.

In considering your second inquiry it will be remembered that the newly created district (Grover Hill rural school district) is obliged to pay the sums for which said levy was made and the funds are in the possession of the treasurer of said school district. It has been held:

"Money paid into the county treasury voluntarily by taxpayers under a levy of taxes to meet the interest and create a sinking fund for the payment of bonds at maturity, issued under an unconstitutional law, must be devoted to the purpose for which it was collected; and the treasurer of the county can not be enjoined at the instance of a taxpayer from paying the same to the holders of the bonds; the treasurer, however, will be enjoined from collecting any levy of taxes for such purpose in the future."

State ex rel. vs. Gibson, 8 O. N. P. 367, 11 O. D. (n. p.) 90.

It is the opinion of this department that the board of education should use said funds for the purpose for which they were levied and collected. It perhaps should be further pointed out that if a suit can be and is successfully maintained against the county treasurer by one or more individual taxpayers to recover back this second collection, the treasurer in such a case should pay the judgment and retain the amount from the next distribution to the school district under the provisions of section 5700 G. C.

In view of the foregoing, it is believed to be unnecessary to specifically answer your third inquiry other than to say that there is no authority in view of the facts in the case at hand which authorizes or would permit the board of education to return said funds to the county treasurer.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

1203.

APPROVAL, BONDS OF TRUMBULL COUNTY, OHIO, IN AMOUNT OF
 \$58,600 FOR ROAD IMPROVEMENTS.

COLUMBUS, OHIO, May 4, 1920.

Industrial Commission of Ohio, Columbus, Ohio.

1204.

APPROVAL, BONDS OF SPECIAL SCHOOL DISTRICT, MAD RIVER
 TOWNSHIP, CLARK COUNTY, IN AMOUNT OF \$45,000 FOR SCHOOL
 HOUSE.

COLUMBUS, OHIO, May 4, 1920.

Industrial Commission of Ohio, Columbus, Ohio.