

By the use of the word "therein", it was clearly indicated that the intention of the legislature at that time was that the polling place for a ward precinct should be located within the precinct.

In section 2923 R. S., 77 O. L., 40, enacted March 8, 1880, the provision was as follows:

"\* \* \* At such place within the township as the trustees thereof shall determine to be the most convenient of access for the voters of such precinct, and for each ward precinct, at such place as the council of the corporation shall designate."

In 97 O. L., 191, enacted April 23, 1904, section 2923 R. S. was amended in the same form as the present section 4844 G. C. Since that time, although this section has been amended or re-enacted, 98 O. L., 234, April 2, 1906, the part of the section relating to the polling place for the precincts has remained the same.

In section 4844 G. C. it will be observed that provision is made that the polling place for precincts in villages shall be at such place as the council shall designate. It need not be within the territorial limits of the ward in the village, if the council so decides. It may be, and frequently is, as a matter of fact in the city hall, the city building, where all the wards of the village vote.

Then, as to "registration cities", the provision is: "The deputy state supervisors shall designate the places of holding elections *in each precinct.*" Thus, this section makes a distinction between villages and registration cities. The reason for such distinction is readily apparent.

I am therefore of the opinion that in registration cities, the voting places must be within the territorial limits of the precinct.

Respectfully,  
C. C. CRABBE,  
*Attorney General.*

557.

LEVY PROVIDED FOR BY SECTION 7643-3 G. C. IS WITHIN FIFTEEN MILL LIMITATION FIXED BY SECTION 5649-2 G. C.

*SYLLABUS:*

*The levy provided for by section 7643-3 of the General Code is within the fifteen mill limitation as fixed by section 5649-2.*

COLUMBUS, OHIO, July 6, 1923.

HON. HERBERT S. HIRSHBERG, *State Librarian, Columbus, Ohio.*

DEAR SIR:—I acknowledge receipt of your letter of recent date in which you submit in substance the question of whether the levy provided for by section 7643-3 is removed from the fifteen mill limitation by the provisions of section 7643-6.

The answer to your question depends upon the construction given to the words "which amount shall be allowed by the budget commission in addition to all other levies, provided such amount shall be within the limits as set forth in section three."

Section 7643-6 G. C. was enacted by the 84th General Assembly as a part of a bill dealing exclusively with libraries. Section 5649-2 G. C. is a general section,

and applies to all levies except such as are specifically removed from the limitation. In order that the language used here should be interpreted as placing this levy outside of the fifteen mill limitation, it must indicate clearly the legislative intention to do so.

In considering this question it is significant that the same General Assembly, dealing with an allied subject, in amending section 7639 of the General Code, used the following words:

“The board of education shall annually levy a tax of not to exceed one and one-half mills for such library purposes, which shall be in addition to all other levies authorized by law, and subject to no limitation on tax rates except as herein provided.”

109 O. L. 237.

Applying the familiar rule of construction, we must conclude that if the 84th General Assembly had intended to remove the levy provided for in section 3643-6 from the fifteen mill limitation, it would have chosen language as definite as that which it chose in removing the levy provided for by section 7639 from such limitations. This view is strengthened by an examination of numerous sections of the General Code dealing with levies, which are placed outside of the limitations. Section 5649-4 uses the words, “The taxing authorities of any district may levy a tax sufficient to provide therefor, irrespective of any limitations of this chapter.” Section 1222 provides:

“The remaining one mill of said levy so authorized shall be in addition to all other levies made for any purpose or purposes, and the same shall not be construed as limited, restricted or decreased in amount or otherwise by any existing law or laws.”

Section 5054 authorizes a levy for the purpose of election expenses, and uses the words:

“County commissioners, township trustees, councils, boards of education, or other authorities authorized to levy taxes shall make the necessary levy to meet such expenses, which levy may be in addition to all other levies authorized or required by law.”

It has never been contended that the levies under this section are outside of the limitation.

Section 6926 reads in part as follows:

“Said levy shall be in addition to all other levies authorized by law for county purposes, and subject only to the limitations on the combined maximum rate for all taxes now in force.”

It will be observed from these quotations that when the legislature desires to place a tax levy outside of the limitations, it has invariably specifically referred to those limitations.

It is therefore my opinion that the levy provided for by section 7643-3 is within the limits provided by section 5649-2. The levy so made cannot be reduced by the budget commission, but it must be within the fifteen mill limitation.

Respectfully,

C. C. CRABBE,

*Attorney General.*