

conveyance of, or purchase and enclose, improve and protect such lands in one or more places within the township as they deem necessary and proper for cemetery purposes; and if suitable lands cannot be procured by contract on reasonable terms they may appropriate lands for such purpose. Section 3443, General Code, provides that when petitioned by twenty-five interested persons the trustees shall provide a public road to any township cemetery over which they have control, in the same manner as is provided for establishing cemeteries and obtaining the land therefor.

It does not appear that the conveyance here in question is one to the township trustees for the purpose of establishing a cemetery, or for the purpose of establishing a public road to such cemetery.

Section 3244, General Code, above noted, providing for the incorporation of civil townships and defining their powers, provides among other things that they shall be capable of receiving and holding real estate by devise or deed for the benefit of the township for any useful purpose. The conveyance here in question is a right of way or easement in and over the lands of the grantor, and the same is an interest in real estate which the township trustees are authorized to take by purchase and by deed under the provisions of the section of the General Code just noted. There is nothing in the provisions of Sections 3441, et seq. relating to the acquisition of lands for cemetery purposes or in other sections of the General Code which prevents the township trustees from accepting a conveyance of real estate or an interest therein subject to reasonable reservations imposed by the grantor with respect to the use to be made of the lands covered by the conveyance; and without defining the legal and technical character of the condition or reservation in this deed above noted, I am quite clear that there is nothing in said condition or reservation which in any way affects the authority of the township trustees to accept said deed.

Respectfully,

GILBERT BETTMAN,
Attorney General.

330.

TOWNSHIP TRUSTEES—MUST NOT EXPEND OVER \$2,000 FROM GENERAL FUND NOR INCUR INDEBTEDNESS WITHOUT VOTE OF ELECTORS IN BUILDING TOWNSHIP HALL.

SYLLABUS:

For the purpose of constructing a township hall, township trustees are authorized to expend a sum not exceeding two thousand dollars from the general township fund without a vote of the electors; such township trustees may not, however, incur any indebtedness for such purpose unless authorized by vote of the electors under the provisions of Section 2293-17, General Code.

COLUMBUS, OHIO, April 22, 1929.

HON. EARL D. PARKER, *Prosecuting Attorney, Waverly, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your letter of recent date which is as follows:

“I request your opinion on the following statement of facts:

The trustees of Newton Township, Pike County, Ohio, want to erect a two-story Township Hall to be used for community purposes and also a

place in which to hold their elections in the village of Jasper in said township at a cost of approximately two thousand (\$2,000.00) dollars. They have received from public subscription and contributions approximately fifteen hundred (\$1,500.00) dollars.

Can the trustees expend the balance of five hundred (\$500.00) dollars from the general fund or would it be necessary to vote on the proposition in accordance with Sections 3395-3396, General Code."

Section 3395, General Code, to which you refer, is as follows:

"If in a township, it is desired to build, remove, improve or enlarge a town hall, at a greater cost than is otherwise authorized by law, the trustees may submit the question to the electors of the township, and shall cause the clerk to give notice thereof and of the estimated cost, by written notices, posted in not less than three public places within the township, at least ten days before election."

The reference herein to cost greater than otherwise authorized by law is to Section 3260, General Code, which authorizes the trustees of a township, on the approval of the electors thereof, to levy a tax on all of the taxable property of the township in an amount not to exceed two thousand dollars for the purpose of purchasing a site for the erection of a township hall. Under the provisions of Sections 3395, et seq., if it is desired to build a township hall at a greater expense than authorized by Section 3260, proceedings shall be had as therein provided.

It is provided in Section 5625-5, General Code, 112 O. L. 393, that the general levy for current expenses of a subdivision may include

"The amounts required for the carrying into effect of any of the general or special powers granted by law to such subdivision, including the acquisition or construction of permanent improvements. * * * Provided that nothing herein shall require the inclusion within the general levy of amounts for any purpose for which a special levy is authorized to be made under the provisions of this act."

Funds required for the acquisition or construction of a permanent improvement are not required to be included within the general levy as it is provided in the following section, being Section 5625-6, General Code, 112 O. L. 394, that

"The following special levies are hereby authorized without vote of the people:

(a) For any specific permanent improvement which the subdivision is authorized by law to acquire, construct or improve, or any class of such improvements which could be included in a single bond issue.

* * * * "

It is further provided in this section that such special levies shall be within the fifteen mill limitation and subject to the control of the county budget commission. As to whether or not townships are authorized by law to acquire, construct or improve township halls, it is expressly provided in Section 3295, General Code, 112 O. L. 383, as follows:

"The trustees of any township in addition to other powers conferred by

law shall have power to purchase, appropriate, construct, enlarge, improve, rebuild, repair, furnish and equip a township hall, a township park, bridges and viaducts over streets, streams, railroads or other places where an overhead roadway or footway is necessary, and site for any of the same."

While your inquiry does not apparently contemplate the incurring of a debt, it should be borne in mind that under the provisions of Section 2293-17, General Code, 112 O. L. 372, township trustees are prohibited from incurring any indebtedness for the purpose of constructing a township hall without a vote of the electors.

In specific answer to your question, therefore, and in view of the provisions of the General Code as hereinabove considered, I am of the opinion that, for the purpose of constructing a township hall, township trustees are authorized to expend a sum not exceeding two thousand dollars from the general township fund without a vote of the electors; that such township trustees may not incur any indebtedness for such purpose unless authorized by vote of the electors under the provisions of Section 2293-17, General Code.

Respectfully,
GILBERT BETTMAN,
Attorney General.

331.

EXEMPTION FROM TAXATION—SUCCESSORS TO HALF NIECES AND
HALF NEPHEWS SUBJECT TO \$500 EXEMPTION.

SYLLABUS:

Successions to half nieces and half nephews are subject to the five hundred dollar exemption allowable under paragraph 3 of Section 5334 of the General Code.

COLUMBUS, OHIO, April 22, 1929.

HON. J. CARL MARSHALL, *Prosecuting Attorney, Xenia, Ohio.*

DEAR SIR:—Acknowledgment is hereby made of the receipt of your recent communication which reads:

"May I submit for opinion the following question: Are successions to half nieces and half nephews exempt under paragraph three (3), of Section 5334, of the General Code?"

Statement of Facts.

Under the will of a certain decedent, a bequest was made to a half niece and a half nephew. The deceased also made bequests to certain nieces and nephews. So much of the family tree as is necessary is as follows: The mother of the deceased, who is the grandmother of the nieces and nephews and half nieces and half nephew mentioned in the will, by her first marriage had two children; both children after becoming of age married and had children who are the half niece and half nephew mentioned in the will. Later, the mother of the decedent and grandmother of the half niece and half nephew and nieces and nephews married again and of this union there were three children including this decedent. The decedent's two brothers married