

2952.

APPROVAL, BONDS OF BELMONT COUNTY—\$172,479.56.

COLUMBUS, OHIO, November 30, 1928.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

2953.

TAX AND TAXATION—SPECIAL ASSESSMENTS NOT TENDERED—
DUTY OF COUNTY TREASURER TO ACCEPT GENERAL TAXES.

SYLLABUS:

While it is the duty of the county treasurer to proceed in the same manner and at the same time to collect both general taxes and special assessments, it is not the duty of said treasurer to refuse to accept payment of the general taxes when tendered even though at the same time there are due and payable special assessments, the payment of which is not tendered.

COLUMBUS, OHIO, November 30, 1928.

HON. HARRY B. REESE, *Prosecuting Attorney, Wellston, Ohio.*

DEAR SIR:—In your recent communication you request my opinion as follows:

“Special assessments have been made in the City of Wellston and bonds of the corporation have been issued in anticipation of the collection thereof and such assessments have been properly certified to the county auditor; the county auditor has, in accordance with Section 3892, O. G. C., placed the assessments upon the tax list. It has been the practice of the county treasurer to permit any of the property owners against whom these assessments have been certified to pay their general taxes without paying the certified assessments when due.

Is it proper for the treasurer to continue this practice or should he refuse to accept any of the taxes if the whole tax bill, including street assessments, is not paid?”

The same question you present was considered by me in my Opinion No. 2833 issued to the Bureau of Inspection and Supervision of Public Offices on November 3, 1928, a copy of which is enclosed herewith. The syllabus of said opinion is as follows:

“1. It is the duty of the county treasurer to proceed in the same manner and at the same time to collect both general taxes and special assessments.

2. It is not the duty of the county treasurer to refuse acceptance of the payment of general taxes when tendered, notwithstanding special assessments are due and payable at the same time but are unpaid.”

Applying the principle announced in said opinion to the question propounded by you, of course, compels the same conclusion. Therefore, in specific answer to your inquiry you are advised that while it is the duty of the county treasurer to proceed in the same manner and at the same time to collect both general taxes and special assessments, it is not the duty of said treasurer to refuse to accept payment of the general taxes when tendered, even though at the same time there are due and payable special assessments, the payment of which is not tendered.

Respectfully,

EDWARD C. TURNER,

Attorney General.

2954.

MUNICIPALITY—BOND ISSUE FOR IMPROVEMENT OF STREETS—
HOW PROCEEDS ARE EXPENDED—WHERE FUNDS EXHAUSTED,
NEW LEGISLATION REQUIRED.

SYLLABUS:

1. *When the legislation providing for one bond issue for the improvement of city streets designates therein the streets which are to be improved without allotting a specific sum to any project, the city authorities may use their discretion as to the sum to be expended on any particular street among those enumerated. In the absence of abuse of such discretion, if the fund is exhausted before all the streets enumerated in said legislation are improved, such expenditures will be regarded as made for the purposes for which such fund was created.*

2. *When such legislation allots to each street enumerated a specific amount, no more than the amount so allotted to each street can be expended from the proceeds of the bond issue on such street; that is, the funds allotted to one street cannot be expended on another street.*

3. *Under no circumstances can the proceeds of such a bond issue be used to improve streets that are not enumerated in the legislation determining to issue such bonds.*

4. *In those instances where, for some reason, a street which was enumerated in the bond legislation has not been improved, and the funds, arising from the proceeds of the bond issue, issued for the purpose of providing funds to improve a number of streets, no specific amount being allotted to any one street, are entirely exhausted, such a street has the same status as though no bonds had been issued, and steps may be taken as provided by law to improve the same.*

COLUMBUS, OHIO, November 30, 1928.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This will acknowledge the receipt of your recent communication which reads:

“In many of the larger cities of the State one bond issue is authorized to pay the City’s portion of the cost of improving several streets. The streets are designated by name in the legislation, but no reference is made to the amount to be expended for each separate street improvement. The proceeds of the sale of the bonds are deposited in a fund designated ‘City’s