

975.

APPROVAL, PETITION FOR PROPOSED LAW TO REQUIRE A LICENSE FOR THE OPERATION, MAINTENANCE, OPENING OR ESTABLISHMENT OF STORES IN OHIO.

COLUMBUS, OHIO, June 20, 1933.

MR. EDWARD L. LANSING, *c/o John B. Osman, 330 East Ohio Gas Building, Cleveland, Ohio.*

DEAR SIR:—Pursuant to section 4785-175, General Code, you have submitted a petition signed by one hundred qualified electors, together with a copy of a law to be proposed by initiative petition first to be submitted to the General Assembly of Ohio, entitled, "To require a license for the operation, maintenance, opening or establishment of stores in this state."

The summary of the proposed law contained in the petition reads:

"The Act makes unlawful the opening, operating, maintaining or establishing by any person, firm, association, corporation or co-partnership, whether domestic or foreign, of a retail or wholesale store or mercantile establishment, without first having obtained an annual license from the Tax Commission of Ohio. The proposed act provides for an application fee of fifty cents (50c) for each store operated, owned, controlled or managed, directly or by authority of stock ownership. The proposed act provides that the annual license fee shall be graduated on the basis of the number of stores operated, owned, controlled, or managed directly or by authority of stock ownership as follows:

1. Upon one store, the annual license fee shall be three dollars for each such store;
2. Upon two stores or more, but not to exceed five stores, the annual license fee shall be twenty-five dollars for each such additional store;
3. Upon each store in excess of five, but not to exceed ten, the annual license fee shall be two hundred and fifty dollars for each such additional store;
4. Upon each store in excess of ten the annual license fee shall be one thousand dollars for each such additional store. License fees and penalties provided shall be paid into the State Treasury by the Tax Commission of Ohio to the credit of The School Relief Fund of Ohio."

I am of the opinion that the foregoing is a fair and truthful statement of the law to be proposed by initiative petition first to be submitted to the General Assembly of Ohio, and accordingly submit for uses provided by law the following certification:

"I, John W. Bricker, Attorney General of the State of Ohio, pursuant to the duties imposed upon me under the provisions of Section 4785-175, General Code, hereby certify that the foregoing summary is a fair and truthful statement of the law to be proposed by initiative petition first to be submitted to the General Assembly of Ohio, entitled, 'To re-

quire a license for the operation, maintenance, opening or establishment of stores in this state.' JOHN W. BRICKER, Attorney General."

Respectfully,

JOHN W. BRICKER,
Attorney General.

976.

TOWNSHIP MEMORIAL FUND—TRUSTEES MAY DEPOSIT OR INVEST FUNDS THEREOF IN BUILDING AND LOAN COMPANY—WHEN FUNDS MAY BE DEPOSITED IN BANK WITHOUT INTEREST—BANK LIABLE FOR INTEREST WHEN.

SYLLABUS:

1. *Funds in the possession of the trustees of a township memorial fund may legally be deposited or invested in a building and loan company.*

2. *Where the funds making up such a deposit are likely to be needed for contingent expenses or where the sum is so small that a person would not seek an investment for it, the funds may be deposited in a bank without interest, and the bank will not be chargeable with interest or for any profits that may accrue to it from the use of the moneys so deposited, where the understanding at the time of the deposit is that no interest shall be paid or no accounting for profits made or where there is no understanding whatever with reference to the matter.*

3. *Where, however, there has accumulated in the hands of the trustees a fund of considerable size which, by reason of the circumstances, it will not be necessary for the trustees to use for several years, it is beyond the power of the trustees to deposit this fund without interest, and a bank so receiving it will be held to account for any profits made by it by reason of its use of the funds so deposited.*

COLUMBUS, OHIO, June 21, 1933.

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

GENTLEMEN:—This will acknowledge receipt of your request for my opinion which reads as follows:

"Some years ago, a Memorial Building was constructed under the provisions of Section 3410-1 et seq. General Code, and a board of trustees appointed by the Common Pleas Court has had charge of the same. The building was destroyed by fire some four or five years ago, and the trustees executed a lease to a theatre company. The terms of the lease were that the theatre company should furnish \$200,000 to reconstruct the building, and the trustees would furnish \$70,000, received from the insurance on the building; at the end of a specific number of years, the building was to become the sole property of the trustees. In the meantime, the theatre company paid the trustees five percent upon the \$70,000.

There has been but one levy of taxes for the support of this building, which was turned over by the township treasurer to the Memorial trustees.

Question 1: May the funds in the possession of the Memorial Trustees be legally deposited in a Building and Loan Company?