

(1) The provision in Section 2, Article XII of the Constitution that institutions "used exclusively for charitable purposes * * * may, by general laws be exempted from taxation," does not authorize the General Assembly to exempt from taxation the property of benevolent organizations not used exclusively for charitable purposes.

(2) Section 5328, General Code, passed pursuant to the requirement of Section 2, Article XII of the Constitution, requires that, "all real or personal property in this state * * * shall be subject to taxation, except only such property as may be expressly exempted therefrom." The exemption must be clearly and expressly stated in the statute and must be such only as the above section of the Constitution authorizes to be exempted.

Respectfully,

EDWARD C. TURNER,
Attorney General.

1176.

DISAPPROVAL, BONDS OF THE VILLAGE OF BAY, CUYAHOGA COUNTY,
OHIO—\$10,111.20.

COLUMBUS, OHIO, October 20, 1927.

Re: Bonds of the Village of Bay, Cuyahoga county, \$10,111.20.

The Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—An examination of the transcript pertaining to the above issue of bonds reveals that on May 3, 1927, the council of the Village of Bay, passed a resolution, bearing number 1619, wherein it was resolved that a sidewalk of stone flagging be constructed on the east and west sides of Woodland Road from Lake Road south to Oakland Road and in accordance with the plans and specifications therefor on file in the office of the clerk of the village; that the clerk of the council be required to serve a notice of the passage of this resolution, as required by law.

Section 3814, General Code, provides as follows:

"When it is deemed necessary by a municipality to make a public improvement to be paid for in whole or in part by special assessments, council shall declare the necessity thereof by resolution, three-fourths of the members elected thereto concurring, except as otherwise herein provided. Such resolution shall be published as other resolutions, but shall take effect upon its first publication."

Section 3815, General Code, provides, in part as follows:

"Such resolution shall determine the general nature of the improvement, what shall be the grade of the street, alley, or other public place to be improved, the grade or elevation of the curbs, and shall approve the plans, specifications, estimates and profiles for the proposed improvement. In such resolution council shall also determine the method of the assessment, the mode of payment and whether or not bonds shall be issued in anticipa-

tion of the collection thereof, and may determine whether or not bonds shall be issued to pay the corporation's part of such improvement, * * *

The resolution passed by the council of the City of Bay referred to above does not determine the grade of the street or the grade or elevation of the curbs, nor does it approve of the plans, specifications, etc., for the proposed improvement, nor has council determined the method of the assessment, the mode of payment and whether or not bonds shall be issued in anticipation of the collection thereof.

Section 3825, General Code, provides:

"If the council decides to proceed with the improvement, an ordinance for the purpose shall be passed. Such ordinance shall set forth specifically the lots and lands to be assessed for the improvement, shall contain a statement of the general nature of the improvement, the character of the materials which may be bid upon therefor, the mode of payment therefor, a reference to the resolution theretofore passed for such improvement with date of its passage, and a statement of the intention of council to proceed therewith in accordance with such resolution and in accordance with the plans, specifications, estimates and profiles provided for such improvement."

The transcript does not show that the ordinance required by Section 3825, General Code, was ever passed.

The transcript contains proofs of publication in two newspapers of the bond sale advertisement, which recites that bids will be received for the purchase of said bonds on the 4th day of October, 1927. It appears that three bids were submitted; two of the bids being based upon an interest rate of five (5%) per cent per annum, which is the rate set out in the bond sale advertisement, the third bid being based on a rate of four and three-fourths (4¾%) per cent per annum. Council accepted the bid based on the four and three-fourths per cent rate as being the highest bid based upon the lowest rate of interest for said bonds.

Section 2293-28, General Code, prescribes, among other things, what the advertisement for the sale of bonds shall contain. It provides in part:

"Such advertisement may also state that any one desiring to do so may present a bid or bids for such bonds based upon their bearing a different rate of interest than specified in the advertisement, provided however, that where a fractional interest rate is bid such fraction shall be one-quarter of 1 per cent or multiples thereof."

Section 2293-29, General Code, in so far as pertinent, provides:

"No bonds or notes shall be sold for less than the face value thereof with accrued interest. The highest bid, or if bids are received based upon a different rate of interest than specified in the advertisement the highest bid based upon the lowest rate of interest, presented by a responsible bidder, shall be accepted by the taxing authority, or in the case of a municipal corporation by the fiscal officer thereof. But in case a bid is accepted based upon a rate of interest other than that provided for in the ordinance or resolution adopted under Section 2293-26, such acceptance before taking effect must be approved by resolution of the taxing authority, which resolution shall be certified to the county auditor; * * *

In my opinion Sections 2293-28 and 2293-29 must be read together. In other words, unless the advertisement states that anyone desiring to do so may present a bid or bids for such bonds, based upon their bearing a different rate of interest than specified in the advertisement, no bids other than those based upon the rate specified in the advertisement may be considered in awarding the bonds. The advertisement for the sale of the above bonds does not contain such a statement and it is therefore my opinion that the acceptance of the bid, based upon a different rate of interest, was illegal.

For the above reasons, I am compelled to advise you not to purchase the above issue of bonds.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1177.

APPROVAL, BONDS OF MANTUA TOWNSHIP RURAL SCHOOL DISTRICT,
PORTAGE COUNTY, OHIO—\$5,000.00.

COLUMBUS, OHIO, October 20, 1927.

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

1178.

APPROVAL, BONDS OF THE CITY OF FINDLAY, HANCOCK COUNTY,
OHIO—\$54,657.00.

COLUMBUS, OHIO, October 20, 1927.

Industrial Commission of Ohio, Columbus, Ohio

1179.

APPROVAL, BONDS OF LOGAN COUNTY, OHIO—\$1,500.00.

COLUMBUS, OHIO, October 20, 1927.

Industrial Commission of Ohio, Columbus, Ohio.