suant to the provisions of House Bill No. 467, which was passed by the 90th General Assembly under date of June 8, 1933, and which became effective on the 11th day of October, 1933. 115 O. L. 512. By the provisions of this act, the Superintendent of Public Works, with the approval of the Governor and Attorney General, is authorized to make a rental adjustment of unpaid rentals on existing canal land leases, as well as to make anadjustment of current rentals for a period of one year in advance beginning with the next semi-annual rental payment date provided for in such leases. Such rental readjustment can be made by the Superintendent of Public Works only upon an application therefor made by the lessee in the manner and form provided for in section 3 of said act, in and by which application, among other things, the lessee is required to set forth the reasons why such rentals should be revised. In the application filed by the lessee with you as Superintendent of Public Works, the reason assigned for the reductions requested by the lessee is that a very substantial part of the parcel of land covered by this lease is now used as a public way with the result that the lessee has lost the use of this part of the land for residence purposes.

Acting upon this application, you have made a finding in and by which you have granted to said lessee a reduction in the amount of its delinquent rental under this lease from $66.00 to $39.60 and you have reduced the current rental under this lease for the period from May 1, 1934, to May 1, 1935, from $66.00 to $44.00.

Upon examination of the proceedings relating to this matter, including the application for the reduction in the rentals above referred to, I am inclined to the view that they are in substantial conformity with the statutory provisions outlined in House Bill No. 467 and the same are accordingly hereby approved by me as to legality and form, as is evidenced by my approval endorsed in and upon the resolution of approval which is made a part of the proceedings relating to the reduction of said rentals, and upon the copies thereof, all of which, together with the duplicate copies of your findings and the application, are herewith returned.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2680.

CHURCH—ADMISSION FEE TO BOXING EXHIBITION NOT EXEMPT FROM TAX UNDER SECTION 5544-2, GENERAL CODE—VAUDEVILLE SHOW EXEMPT WHEN.

SYLLABUS:

1. *When a church stages a boxing exhibition and charges an admission fee thereto, in excess of eleven cents per admission, such admission is subject to the tax levied by Section* 5544-2, *General Code, and is not rendered exempt by the provisions of Section* 5544-3, *General Code, even though all the proceeds therefrom are used exclusively for church or school purposes.*

2. *Where a church or school gives a vaudeville show and charges admission therefor in excess of eleven cents, all the proceeds of which are used exclusively for religious or school purposes by reason of the provisions of Section* 5544-3, *Gen-*

eral Code, such admissions are not subject to the admission tax imposed by Section 5544-2, *General Code.*

COLUMBUS, OHIO, May 17, 1934.

HON. RAY B. WATTERS, *Prosecuting Attorney, Summit County, Akron, Ohio.*

DEAR SIR:—Your request for my opinion reads:

> "St. Augustine's Parish, of Barberton, Ohio, from time to time, gives combination charitable boxing and vaudeville shows for which they charge 35c admission per person. The boxers donate their services and the entire proceeds of the affair go to the welfare of the church and school. No promoter or anyone like that receives anything for getting up the shows.
>
> Under that state of facts, we would greatly appreciate your opinion as to whether the said church is exempt from the state admission tax under General Code Section 5544-3."

The tax on admissions, referred to in your inquiry, is levied by the provisions of Section 5544-2, General Code. Under the provisions of such law a tax is levied on all admissions other than those specifically exempted in Section 5544-3, General Code. The pertinent parts of such exemption section, read:

> "No tax shall be levied under this act with respect to:
>
> (1) Any admissions, all the proceeds of which inure
>
> (a) Exclusively to the benefit of religious, educational or charitable institutions, societies, or organizations, societies or organizations for the prevention of cruelty to children or animals or societies or organizations conducted for the sole purpose of maintaining symphony orchestras and receiving substantial support from voluntary contributions, or of improving any municipal corporation, or of maintaining a cooperative or community center moving-picture theatre, or swimming pool—if no part of the net earnings thereof inures to the benefit of any private stockholder or individual;
>
> * * * * * * * *
>
> The exemption from tax provided by this section shall, however, not be allowed in case of admissions to wrestling matches, prize fights, or boxing, sparring or other pugilistic matches or exhibitions, nor in the case of admissions to any athletic game or exhibition the proceeds of which inure wholly or partly to the benefit of any college or university."

There is an established rule of statutory interpretation that laws imposing a tax are to be strictly construed in favor of the taxpayer.

Caldwell vs. *State,* 115 O. S. 458, 460;
Cassidy vs. *Ellerhorst,* 110 O. S. 535;
Crooks vs. *Harrelson,* 282 U. S. 55;
Partington vs. *Attorney General,* L. R. 4 H. L. 100, 122.

A strict construction of a statute is an interpretation which does not extend its meaning beyond the literal or clear meaning of the language employed by the

legislature. *Cassidy* vs. *Ellerhorst, supra; U. S.* vs. *Maryland,* 49 Fed., 2d, 556. Were it not for the exceptions contained in Section 5544-3, General Code, supra, the language of Section 5544-2, General Code, would expressly impose a tax on the amount paid for any and all admissions which are in excess of eleven cents, regardless of the kind of entertainment. The literal meaning of such act would require such construction.

Your inquiry is to be decided from a proper interpretation of Section 5544-3, General Code. The language of the first part of such section standing alone, is apparently broad enough to grant such exemption under the facts stated in your inquiry. This language is as follows.

> "No tax shall be levied under this act with respect to:
> (1) Any admissions, all the proceeds of which inure
> (a) Exclusively to the benefit of religious, educational or charitable institutions, societies or organizations * *".

You state that no part of the proceeds is paid to the performers and that the entire proceeds go to the church and school. If this be true, it is necessary to consider what, if any, effect the last paragraph of such section has upon such apparent grant of exemptions. The final paragraph of such section provides that the exemptions authorized by Section 5544-3, General Code, shall not apply "to admissions to wrestling matches, prize fights, sparring or other pugilistic matches or exhibitions."

Where a statute in terms is broad enough to levy a tax on taxpayers generally, but contains provisions purporting to exempt certain taxpayers from its effect, such exceptions are to be strictly construed, that is, should not be extended beyond their plain terms.

Hoge vs. *Railroad Co.,* 99 U. S. 348, 355
Bank of Commerce vs. *Tennessee,* 161 U. S. 134, 146
South Carolina Produce Assn. vs. *Com'r. of Internal Revenue,* 59 Fed., 2d 742.

In the last mentioned case, at page 744, the court says:

> "Exemptions from taxation are not favored, and, if any rule of interpretation were to be invoked, it would be that the statute in question would be strictly construed against the taxpayer."

Under date of February 27, 1934, the Tax Commission of Ohio rendered an interpretation of those provisions of Section 5544-3, General Code, in question, to the effect that admissions to boxing exhibitions, etc., were taxable even though all of the proceeds inured exclusively to the benefit of a religious, charitable, educational or other institution of the type mentioned in sub-paragraph (1) of such section.

Bearing in mind that a strict or literal interpretation must be placed on all statutes granting an exception from the operation of the law, I am of the opinion that the ruling of the Tax Commission is the proper interpretation of such statute. Such exception would not prevent the admissions to the vaudeville entertainments from being exempt.

In the event that the exhibitions under consideration are a combination of boxing, etc., exhibitions and vaudeville performances, it becomes a question of fact as to what is and what is not a boxing exhibition. Such matter is within the

jurisdiction of the Tax Commission, and when it has established a uniform rule pursuant to the provisions of Section 5624, General Code, such uniform rule should control unless held invalid by a court of competent jurisdiction.

Specifically answering your inquiry it is my opinion that:

1. When a church stages a boxing exhibition and charges an admission fee thereto, in excess of eleven cents per admission, such admission is subject to the tax levied by Section 5544-2, General Code, and is not rendered exempt by the provisions of Section 5544-3, General Code, even though all the proceeds therefrom are used exclusively for church or school purposes.

2. Where a church or school gives a vaudeville show and charges admission therefor in excess of eleven cents, all the proceeds of which are used exclusively for religious or school purposes by reason of the provisions of Section 5544-3, General Code, such admissions are not subject to the admission tax imposed by Section 5544-2, General Code.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2681.

APPROVAL—PROCEEDINGS RELATING TO APPLICATION MADE BY SARA R. MONTROSS OF TROY, OHIO, FOR REDUCTION IN RENTAL UPON LEASE OF MIAMI AND ERIE CANAL LAND IN TROY, OHIO, MIAMI COUNTY.

COLUMBUS, OHIO, May 18, 1934.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval the report of your finding upon an application made by Sara R. Montross of Troy, Ohio, for a reduction in the delinquent and current annual rental payable by the lessee upon a lease of Miami and Erie Canal lands in the City of Troy, Miami County, Ohio, which canal lands are now occupied and used by said lessee for residential purposes.

The lease here in question, which bears serial number M&E 403, was executed under date of May 3, 1929, for a term of fifteen years, expiring May 2, 1944, and the same provided for an annual rental of $84.00. It appears from your finding that the lessee is delinquent in the payment of her rental upon this lease for the period from November 1, 1932, to May 1, 1934, amounting to the sum of $126.00. And, as above noted, the application filed with you is for a reduction in the amount of this delinquent rental as well as for a reduction in the amount of the current rent on this lease from May 1, 1934, to May 1, 1935.

This application for an adjustment of delinquent and current rentals under this lease was filed with you on or about the 8th day of December, 1933, pursuant to the provisions of House Bill No. 467, which was passed by the 90th General Assembly under date of June 8, 1933, and which became effective on the