

2976.

APPROVAL, BONDS OF DELAWARE COUNTY IN AMOUNT OF \$104,500
FOR ROAD IMPROVEMENTS.

COLUMBUS, OHIO, April 10, 1922.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

2977.

MEMORIAL ASSOCIATION OF KNOX COUNTY—NOT AUTHORIZED BY
LAW TO BUILD FOUR SEPARATE MEMORIAL BUILDINGS FROM
FUNDS SECURED BY ISSUANCE OF BONDS UNDER SECTION 3059
G. C.

The board of commissioners constituting the Memorial Association of Knox county are not authorized by law to build four separate memorial buildings from funds secured by issuance of bonds under sections 3059 et seq. General Code.

COLUMBUS, OHIO, April 11, 1922.

HON. PAUL M. ASHBAUGH, *Prosecuting Attorney, Mt. Vernon, Ohio.*

DEAR SIR:—I have your letter of March 28th in which you request my opinion as follows:

“On August 25th, 1919, the Commissioners of Knox county, Ohio, passed the following resolution:

‘BE IT RESOLVED, that in the opinion of the commissioners it is desirable to erect, furnish and maintain in the county of Knox, a memorial building to commemorate the services of the soldiers, sailors, marines and pioneers, of said county, and to expend therefor not to exceed two hundred and fifty thousand dollars (\$250,000.00), and be it further resolved, that the commissioners certify to the Governor of the State their action for the purpose of securing the appointment of a board of trustees as provided by section 3059 of the General Code.’

Pursuant to the action of the board of commissioners the Governor of Ohio appointed a board of trustees and at the regular election held in November, 1919, the question of authorizing the issue of bonds in the sum of two hundred and fifty thousand dollars was submitted to the voters of Knox county, Ohio, a majority of whom voted in favor of said proposition, the ballot was in the following form:

- Yes. ‘Shall bonds in the sum of two hundred fifty thousand dollars be issued for the purpose of erecting and furnishing a memorial building to commemorate the services of the soldiers, sailors, marines and pioneers of Knox county, Ohio.’
- No.

The preamble to the bond resolution passed by the board of county commissioners reads as follows:

'Whereas, the commissioners of Knox county, Ohio, have heretofore by resolution passed by a majority vote certified to the governor of said state that in their opinion it is desirable to erect, furnish and maintain a memorial building to commemorate the services of the soldiers, sailors, marines and pioneers of Knox county, Ohio, and to expend for such purposes the amount of two hundred fifty thousand dollars * * *

And whereas, said question was duly submitted to popular vote at said county election and the result thereof has been certified by said deputy state supervisors to said board of trustees, shows that a majority of the votes cast upon the question to have been in favor of the issue of such bonds and the construction and maintenance of such memorial building. * * *

The bonds issued under the foregoing resolution have been sold to the Industrial Commission of Ohio and the board of trustees of the Memorial Association of Knox county, Ohio, now submit the following question, 'Whether or not said board of trustees could legally build four memorial buildings, one in the city of Mt. Vernon and the other three in the villages of Fredericktown, Centerburg and Danville in said county.'

I have advised them that since the original resolution contemplated ONE memorial building, and that since the form of the ballot used at the election when the issue of bonds was authorized, contemplated only ONE memorial building that any deviation from the expressed will and purpose of the electorate would be a violation of the trust placed in them and would be wholly illegal.

They now request me to submit the original question to you for your opinion."

The authority pursuant to which the board of trustees constituting "The Memorial Association of Knox County" was appointed and a vote taken upon the question of issuing bonds in the amount of \$250,000 to erect a memorial building is found in sections 3059 et seq. of the General Code. These sections authorize the construction of a memorial building in each county of the state "to commemorate the services of the soldiers and sailors, marines and pioneers of the county," and provide the machinery whereby the funds for such purpose may be raised. In none of the sections constituting the so-called "memorial building act" is the term "memorial buildings" used, nor is there any indication therein that it was intended to authorize the construction of more than one such building in any county.

Without questioning in full the language of the several sections of the memorial building act, your attention is directed to sections 3059, 3061, 3063, 3066 and 3068 G. C. in which it seems clearly apparent that the legislature contemplated the construction of only one such building in any county. Such being the intent of the law, it is immaterial for the purpose of answering your question to consider either the language of the resolution of the county commissioners authorizing the submission of the question of issuing the bonds for a memorial building to a vote of the electors, or the form of the ballot used at such election. For, if authority for the construction of only one memorial building in each county is conferred by the law, then the power of the memorial association trustees, at least as to constructing memorial buildings, will be exhausted upon the completion of one building.

It is, therefore, my opinion that the board of commissioners constituting the Memorial Association of Knox County, Ohio, is not authorized by law to build four separate memorial buildings from the funds secured by the issuance of bonds as set forth in your letter.

Respectfully,
 JOHN G. PRICE,
Attorney-General.