

architects, clerks, laborers and other employes (see Sec. 3064), acquiring necessary lands (see Sec. 3065), and the preparation of plans and specifications for the construction of the memorial building (see Sec. 3066).

In 1914 Opinions of Attorney-General, Volume II, page 1450, it was held that the proceeds of the bond issue authorized by the above statute were trust funds, and that being true no part thereof should be expended for any purpose not clearly warranted by statute.

The only claim of authority for the payment of the premiums on trustees' bonds is based upon section 3060 G. C., which provides that the trustees shall be entitled to be repaid their "necessary expenses" from the fund referred to. The term "necessary expenses", in my opinion, does not refer to personal expenses incurred by the trustees in qualifying themselves for office, but rather to necessary expenses incurred in the performance of the duties imposed upon them in their official capacity as trustees with respect to the erection or construction and maintenance of the memorial building, the compensation of the assistant secretary, superintendents, architects, clerks, laborers and other employes, the acquisition of necessary lands, and the preparation of plans and specifications.

The general assembly has, in some instances, expressly provided that the premium on official bonds shall be paid from public funds (see Sec. 1855 G. C. which provides that the cost of bonds of officers and employes of institutions under the control of the board of administration, etc., shall be paid from funds available for the respective institutions), and the inference to be drawn from that and kindred legislation is that such payment of such items, to be lawful, must be so authorized.

Section 9572 G. C. also provides that whenever any fiduciary has given bond with a surety thereon, a reasonable sum paid therefor shall be allowed in the settlement of his account as such fiduciary by the judge, court or officer whose duty it is to pass upon the account. The latter statute appears to be inapplicable to the trustees of county memorial buildings, for the reason that no duty appears to be enjoined upon such trustees to file an account.

You are therefore advised that the costs incurred by the trustees of county memorial associations in giving bonds to the state as required by section 3064 G. C. are not "necessary expenses" within the meaning of section 3060 G. C. which provides that the trustees shall be entitled to be repaid their necessary expenses from the fund raised by the issue of bonds authorized by section 3061 G. C.

Respectfully,

JOHN G. PRICE,
Attorney-General.

916.

ROADS AND HIGHWAYS—ASSESSMENTS PROVIDED IN SECTION 3298-15b G. C. MAY BE PAID IN INSTALLMENTS ONLY UNLESS LUMP SUM TENDER INCLUDES INTEREST ON ASSESSMENTS.

The road improvement assessments mentioned in section 3298-15b G. C. may be paid in installments only and not as a lump sum, unless the tender of payment in lump includes interest on the assessments in full from date of issue to date of ma-

turity of bonds issued by authority of section 3298-15e G. C. in anticipation of such assessments, rate of interest to be the same as that named in the bonds.

COLUMBUS, OHIO, January 6, 1920.

HON. WATSON H. GREGG, *Prosecuting Attorney, Cambridge, Ohio.*

DEAR SIR:—Your letter of recent date is received, reading as follows:

“Section 3298-15b, road laws of Ohio, provides, relative to assessments for road purposes, that ‘the principal shall be payable in not more than twenty semi-annual installments, extending over a period of not more than ten years, as determined by the township trustees.’ May the trustees, under this section, provide for the payments in cash, or must the assessments extend over a period of time?”

The section of the General Code to which you refer is part of a series (3298-1 to 3298-15n) providing for road construction by township trustees. Said series of sections is in large part a *verbatim* adaptation of the county road improvement statutes (sections 6906 to 6948) to township purposes.

Said county road improvement statutes were the subject of a recent opinion of this department (No. 886) directed to Hon. Benton G. Hay, prosecuting attorney, Wooster, Ohio, under date December 24, 1919, dealing with the same question as applied to the county statutes which is submitted in your letter as to the township statutes. A copy of that opinion is enclosed together with copy of Opinion No. 887, to which it makes reference.

The similarity existing between two sets of statutes is so marked that the principles discussed in said opinion furnish the answer to your question, which answer may be stated as follows:

The road improvement assessments mentioned in section 3298-15b, G. C., may be paid in installments only and not as a lump sum, unless the tender of payment in lump includes interest on the assessments in full from date of issue to date of maturity of bonds issued by authority of section 3298-15e, G. C., in anticipation of such assessments, rate of interest to be the same as that named in the bonds.

Respectfully,

JOHN G. PRICE,
Attorney-General.

917.

BOARD OF EDUCATION—WHERE CANDIDATE FOR MEMBER RECEIVES NEXT TO HIGHEST NUMBER OF VOTES IN ELECTION—NOT RESIDENT OF DISTRICT—CANNOT QUALIFY—VACANCY—WHERE NOMINATION PAPERS DO NOT CONTAIN SUFFICIENT SIGNATURES OF CANDIDATES FOR MEMBER OF VILLAGE BOARD OF EDUCATION—NO OBJECTION RAISED—ELECTION NOT THEN INVALID.

1. *Where a candidate for a member of a board of education receiving next to the highest number of votes in the election was not a resident of the district, he cannot legally qualify and a vacancy exists.*
2. *Where the nomination papers of a candidate for a member of the village*