

657.

APPROVAL, BONDS OF VILLAGE OF FLUSHING, BELMONT COUNTY,
\$19,277.66.

COLUMBUS, OHIO, June 22, 1927.

Industrial Commission of Ohio, Columbus, Ohio.

658.

APPROPRIATION—MAY BE MADE ONLY BY LAW AND NOT BY JOINT
RESOLUTION—NO APPROPRIATION MADE IN HOUSE JOINT
RESOLUTION NO. 9, 87TH GENERAL ASSEMBLY— CANNOT ACCEPT
OTHER FUNDS.

SYLLABUS:

1. *An appropriation may be made only by law and not by joint resolution.*
2. *No attempt was made to make an appropriation by House Joint Resolution No. 9 of the 87th General Assembly, relative to economy in public service and providing for an investigation of the compensation and duties of state employes, such resolution simply providing that the expense of the committee thereby created, not exceeding \$25,000.00, should be payable from the contingent fund of the legislature, after moneys had been appropriated for such purpose.*
3. *Legislative committees have only such powers as are expressly granted and those necessarily incident to carry out express powers. The joint legislative committee provided for by House Joint Resolution No. 9 of the 87th General Assembly is without authority to accept funds from any organization of any kind for the purpose of carrying on the work of the committee or for any other purpose.*

COLUMBUS, OHIO, June 24, 1927.

HON. WALTER G. NICKELS, *Chairman, Sub-Committee under House Joint Resolution No. 9, New Philadelphia, Ohio.*

DEAR MR. NICKELS:—I beg to acknowledge receipt of your request for opinion under date of June 22nd, reading as follows:

"I enclose herewith copy of House Joint Resolution No. 9, which has to do with the creation of a committee for investigation in the matter of economy in public expenditures. This is the resolution about which I conferred with you this morning. A number of state organizations wish to furnish the funds to finance this committee in its work.

In giving me your opinion on this matter will you not also include an opinion on the following:

Has the Governor the right to veto an appropriation which was authorized by both Houses of the General Assembly under a joint resolution?

I appreciate the fact that he has the right to veto any item in the appropriation bill, but the \$25,000.00 was appropriated under this resolution at the time of passage and was included in the appropriation bill as a matter of form and proper procedure."

Legislative committees have only such power as are expressly granted to them and those necessarily incident to carry out the express powers.

There being no legislative authority for it, I am of the opinion that your committee has no authority to accept funds from any organization of any kind for the purpose of carrying on the work of the committee or for any other purpose.

Section 16 of Article II of the Constitution of Ohio, so far as pertinent here, provides:

"The Governor may disapprove any item or items in any bill making an appropriation of money and the item or items so disapproved shall be void unless repassed in the manner as herein prescribed for the repassage of a bill."

House Bill No. 502 was filed with the Secretary of State May 11, 1927 with the Governor's approval of all items except the following and certain other items not here pertinent:

"* * *

Senate

Maintenance—

Contract and open order service F 9

* * *

Expense of joint committee to investigate economy in public service, \$25,000 for 6 months.

* * *"

You are advised that in vetoing this item the Governor acted according to law.

Section 22 of Article II of the Constitution of Ohio provides:

"No money shall be drawn from the treasury except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a longer period than two years."

I am of the opinion that no attempt was made in House Joint Resolution No. 9 to make an appropriation. Furthermore, appropriations can be made only by law and not by joint resolution.

Inasmuch as House Joint Resolution No. 9 is still in full force and effect, the joint legislative committee appointed pursuant thereto may function thereunder but no money for expenses may be drawn from the public treasury or accepted as donations from any source. However, I see no legal objection to the committee itself advancing the money necessary for expenses and relying upon reimbursement from some future session of the legislature. It must be borne in mind, however, that the payment of these expenses by the committee without an ap-

propriation duly made therefor would create no legal claim against the state. But a succeeding legislature would have the power to reimburse the committee.

Respectfully,
EDWARD C. TURNER,
Attorney General.

659.

APPROVAL, ABSTRACT OF TITLE TO LAND KNOWN AS SCHOENBRUN TRACT, GOSHEN TOWNSHIP, TUSCARAWAS COUNTY, OHIO.

COLUMBUS, OHIO, June 24, 1927.

The Ohio Archeological and Historical Society, Ohio State University, Columbus, Ohio.

GENTLEMEN:—The abstract of title, deed, encumbrance estimate and other papers relating to the proposed purchase of land situate in the township of Goshen, county of Tuscarawas and state of Ohio, and being a part of Lot No. 82 of J. C. Adair and C. A. Leech's subdivision of a part of Lots Nos. 7, 8, and 9 of the Schoenbrun Tract have been resubmitted for my examination and approval.

In an opinion of this department, being Opinion No. 162, dated March 1, 1927, it was held that the abstract showed a good and merchantable title to the premises in H. P. Copeland, Martha M. McDivitt and James McDivitt, trustees of the estate of John McDivitt, deceased, subject to the following exceptions:

"1. In Section 26 of the abstract, it appears that Francis M. Wills, on January 10, 1896, granted an interest in the land to The Central District & Printing Telegraph Company for the purpose of permitting said Company to construct, operate and maintain its lines over and along property owned by Mr. Wills, including the necessary poles and fixtures along the roads, streets or highways adjoining the property, together with the right to set the necessary guy and brace poles and attach to trees the necessary wires. This lease encumbrance has never been released.

2. In Section 28 in the deed from Francis M. Wills and wife to John McDivitt under date of March 28, 1907, the deed was made subject to the conditions for the benefit of the grantors, and their heirs and assigns, being the owners of other lands fronting on the public road, on which said lot abuts, that no building shall be erected or maintained on said premises nearer than 50' to said public road.

3. The taxes for 1926 are a lien and unpaid."

Your attention is directed to the letter, which is submitted with the abstract, from Rev. Joseph E. Weinland to Mr. C. B. Galbreath, Secretary of the Ohio State Archeological and Historical Society, under date of June 14, 1927, in which it is said:

"1. The grant of interest to the Central District & Printing Telegraph Company interferes in no respect with the property for which this deed is given. It applies to a portion of property not included in the limits described therein.