

read together it is clear that it was intended that the funds so collected should be preserved and deposited in the same manner in which other public funds are preserved and deposited, \* \* \*.”

On this question also see 1947 O. A. G., page 267, No. 54.

In the above referred to request it is stated that this account is for the purpose of paying bonds and coupons as they mature. On the above assumption as to the source of these monies constituting such fund, it is clear that such monies, whether received from taxation, or received as operating revenue from the municipally-owned power and light company, would come into the hands of “public officers” within the meaning of said Public Depository Act, and by virtue of the fact that they are retained for the purpose of paying bonds and coupons of such municipally-owned power and light company, as the same mature, I am of the opinion such funds constitute “public funds” within the meaning of the Public Depository Act, as construed by the Supreme Court in the case of *Storen, State Treas. v. Sexton, Marion Co. Treas., supra*. In such case, under the provisions of Section 21 of said Act, *supra*, such funds would be insured under the provisions of said Act.

---

OFFICIAL OPINION NO. 10

March 2, 1954

Mr. John Peters  
Treasurer of State  
242 State House  
Indianapolis, Indiana

Dear Mr. Peters:

Your letter has been received requesting an Official Opinion on request made to you from the First Bank of Charlestown, Charlestown, Indiana, which, in part, reads as follows:

“This community is going to try to build an addition to our school building here by forming a Charlestown School Township Building Corporation, Inc. In fact the Corporation has already been formed.

## OPINION 10

“Within a few days the new Corporation will contact the bonding Company and Architects on plans and the possibility of selling the bonds, necessary to build it. At the present time the amount has not been decided on. However the amounts talked about vary from \$300,000 to \$450,000.00.

“There is a number of such Corporations over the state already and we would like some information on the status of funds on deposit in the banks. If we do sell the bonds and deposit the money here in this bank would the funds be covered under the Public Depository Insurance Funds if we would include it in our monthly reports?”

I assume that the school building corporation referred to in your letter has been organized pursuant to the provisions of Acts of 1947, Ch. 273, as amended, same being Burns' Indiana Statutes (1948 Repl.), Section 28-3220.

Under said law, a not for profit corporation is organized for the purpose of building a school house and leasing it to the local school corporation. It receives the money to build the school house through the issuance and sale of its bonds, which in turn are liquidated from the lease rental receipts from the school corporation.

Protsman v. Jefferson-Craig Consolidated School Corp. (1953), — Ind. —, 109 N. E. (2d) 889.

An examination of the foregoing statute does not reveal any provision requiring the receipts from the sale of such bonds of the school building corporation to be deposited pursuant to the Public Depository Act. Since the monies received by the school building corporation from the sale of its bonds are not paid to “public officers” within the meaning of said Public Depository Act, and since the money is used to pay contractors and others who erect such school building, I am of the opinion such monies received from the sale of such school building corporation's bonds do not constitute “public funds” within the meaning of said Public Depository Act. On this question attention is directed to 1954 O. A. G., No. 9 issued to you concurrently herewith, which fully covers the definition of “public officers” and “public funds” under said statute.

1954 O. A. G.

Assuming this school building corporation is incorporated in pursuance to the provisions of the Acts of 1947, Ch. 273, *supra*, I am of the opinion that monies received by the school building corporation from the sale of its bonds are not subject to the provisions of the Public Depository Act.

---

OFFICIAL OPINION NO. 11

March 4, 1954

Mr. R. R. Wickersham  
State Examiner  
State Board of Accounts  
304 State House  
Indianapolis, Indiana

Dear Mr. Wickersham:

I have your letter in which you request an Official Opinion in answer to the following questions:

"1. Is it legal for the Board of County Commissioners to fill by appointment a vacancy in the office of Justice of the Peace of a township which comes within the provisions of Section 1, Clause (b), Chapter 319, Acts 1947, as amended, and in which township there is one Justice of the Peace, who was elected in 1950, now serving?

"Is it legal for Justices of the Peace in townships which come within the classifications set out in Section 1, Chapter 319, Acts of 1947, as amended, to continue to operate on a fee basis and disregard the docket fee, salary and expense provisions of this law?"

Your questions relate to the situation in Fairfield Township, Tippecanoe County. In the November elections of 1950, three Justices of the Peace were elected in Fairfield Township for terms of office beginning January 1, 1951 and ending December 31, 1954. One of these Justices of the Peace resigned on September 26, 1953, and on the same date a successor was appointed to replace such resigned Justice of the Peace. On April 1, 1950, the United States Census was taken and the