

ings required by sections 5656 and 5658 G. C. and for this reason the issue of bonds provided for in this resolution must be disapproved.

It is altogether possible that this deficit in the funds of said school district is represented by existing, valid and subsisting items of indebtedness which may be properly funded by an issue of bonds on a resolution of the board of education conforming to the requirements of the above noted sections of the General Code. But it is certain that the resolution submitted does not conform to the requirements of these sections.

For the reason above mentioned, you are advised not to purchase this issue of bonds.

Respectfully,  
 JOHN G. PRICE,  
*Attorney-General.*

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3305.

DISAPPROVAL, BONDS OF WASHINGTON CITY SCHOOL DISTRICT,  
 FAYETTE COUNTY, \$40,000.

COLUMBUS, OHIO, July 5, 1922.

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

Re: Bonds of Washington City School District, Fayette County, Ohio, \$40,000, for the purpose of constructing a building for school purposes and an addition to a school house already constructed.

GENTLEMEN:—I have examined the transcript submitted of the proceedings of the board of education of Washington City School District relating to the above issue of bonds and find that I am required to disapprove the same for the reason that in the adoption of the resolution providing for this issue of bonds the board of education apparently ignored the provisions of section 5120 G. C., which provides as follows:

“In school elections, the returns shall be made by the judges and clerks of each precinct to the clerk of the board of education of the district, not less than five days after the election. Such board shall canvass such returns at a meeting to be held on the second Monday after the election, and the result thereof shall be entered upon the records of the board.”

The transcript shows that on April 17, 1922, the board of education adopted a resolution providing for the submission of the bond issue proposition to the electors of the school district at an election to be held on the 24th day of May, 1922; that the election was held upon said date and that at an adjourned meeting of the board held on May 31, 1922 the resolution providing for the issue of the bonds here in question was adopted. The transcript shows further that on May 26, 1922, the board of education appointed a committee of two of its members to make a canvass of the vote at said special election on the question of said bond issue and to report back to the board and that on June 5, 1922, said committee made its report to the board showing that 465 votes were cast in favor of said bond issue and 238

votes were cast against the same. The transcript does not show, however, that the board of education took any action upon the report of said committee or that said board has canvassed said votes and has carried the results thereof on its records as required by section 5120 G. C. above quoted.

In an opinion of this department under date of October 4, 1917, it was held that sections 7626 and 7627 G. C. relating to the authority of the board of education to issue bonds for school purposes voted by the electors of a school district under 7625 G. C., should be read in connection with the provisions of section 5120 G. C. providing for the canvass by the board of education of the votes of the electors on the proposition of such bond issue and that the board of education should not provide for the issue of said bonds until such vote has been canvassed and the board has thereby determined that a majority of the electors voting on the proposition voted in favor thereof. (Opinions of the Attorney-General, 1917, page 1849.)

As pointed out in said opinion, the provisions of section 5120 G. C. are probably directory with respect to the time when said canvass shall be made, but they are mandatory in their requirement that such canvass shall be made before the board of education adopts its resolution pursuant to the vote at said election providing for the issue of the bonds voted upon and this for the reason that the board of education does not and cannot officially know what the result of said election is until said vote has been canvassed in the manner required by said statute.

Other defects noted in the transcript submitted of the proceedings relating to this bond issue are as follows:

(1) The transcript contains no certificate by the clerk as the fiscal officer of said school district estimating the life of the improvement or improvements for which the bonds are issued, as required by section 2295-7 G. C., as amended 109 O. L., 337.

(2) The transcript does not show any certificate by the clerk as the fiscal officer of said school district as to the maximum maturities of the bonds covering this issue, as required by the provisions of section 2295-10 G. C., as enacted 109 O. L., 338.

(3) The transcript does not show that this bond issue was offered to the board of commissioners of the sinking fund of said school district, as required by the provisions of section 7619 G. C., and the provisions of 1465-58a G. C.

(4) The transcript does not show that a copy of the resolution providing for this issue of bonds has been certified to the county auditor as required by the provision of section 5649-1b G. C., as amended 109 O. L., 344.

(5) The transcript does not contain a financial statement as required by this department in the consideration of all bond issues submitted to it.

These defects in the proceedings last above mentioned may probably be corrected by further information. However, the defect first above noted is of such nature as to require my disapproval of this issue and you are therefore accordingly advised not to purchase the same.

Respectfully,

JOHN G. PRICE,  
*Attorney-General.*