

1057.

DISAPPROVAL, BONDS OF MONTGOMERY COUNTY, OHIO, IN AMOUNT OF \$150,000 FOR ROAD IMPROVEMENTS.

COLUMBUS, OHIO, March 5, 1918.

Industrial Commission of Ohio, Columbus, Ohio

GENTLEMEN:

Re bonds of Montgomery county in the amount of \$150,000, in anticipation of the collection of taxes for road improvements.

On the information contained in the transcript of the proceedings of the county commissioners and other officers, relative to the above bond issue, I am unable to approve the validity of said bonds for the following reasons:

The resolution of the county commissioners authorizing the issuance of the bonds in question recites that said bonds are issued "for the purpose of paying the county's portion of the compensation, damages, costs and expenses of constructing, reconstructing, maintaining and repairing county roads and in anticipation of the collection of the taxes above mentioned and levied for the years 1920 and 1921, etc." The 1920-21 taxes referred to are a special levy of one mill levied under authority of section 6926 et seq. of the General Code and a vote of the electors of the county held November 4, 1919.

The transcript, however, fails to disclose that the bonds are issued to secure funds for the improvement of any specific road or roads. An examination of the entire transcript leads to the conclusion that the county commissioners are issuing bonds to secure a fund from which to make such future improvements and repairs of county roads as may hereafter be determined upon by them.

Section 6929 of the General Code as it existed at the time the bond resolution was passed provided in part as follows:

"Section 6929. The county commissioners, in anticipation of the collection of such taxes and assessments, or any part thereof, may whenever, in their judgment it is deemed necessary, sell the bonds of said county in any amount not greater than the aggregate sum necessary to pay the estimated compensation, damages, costs and expenses of such improvement. Such bonds shall state for what purpose they are issued and shall bear interest. * * *"

Under authority of this section county commissioners are authorized to issue bonds only in an amount necessary to pay the estimated compensation, damages, costs and expenses connected with a particular improvement and only after proceedings for such improvement have been properly instituted and an estimate of the amount necessary to pay the costs and expense thereof has been prepared by the engineer and approved by the county commissioners. I do not believe that the section referred to confers upon county commissioners authority to issue bonds for the purpose of securing a fund from which to make road improvements thereafter to be determined upon.

I am, therefore, of the opinion that the bonds in question are not valid and binding obligations of Montgomery county and advise your commission not to accept the same.

Respectfully,

JOHN G. PRICE,

Attorney-General.