

2352.

BONDS—DISPOSITION OF SCHOOL BONDS WHICH ARE NOT TO BE
DISPOSED OF.

SYLLABUS:

Disposition of executed school district bonds which are not to be disposed of discussed.

COLUMBUS, OHIO, July 16, 1928.

HON. JOHN W. DUGAN, *Prosecuting Attorney, New Lexington, Ohio.*

DEAR SIR:—This will acknowledge your recent letter, as follows:

“In 1919 the Board of Education of Shawnee, Perry County, Ohio, passed a resolution authorizing the sale of certain school bonds for the purpose of funding certain indebtedness, the amount of bonds to be \$15,000.00. The board had the bonds, 30 of \$500.00 each, and coupons, printed. They were sent in to the Industrial Commission of Ohio for their approval. The Industrial Commission did not purchase them for the reason, as I understand from the board, that they had gone beyond their limitation. These bonds were returned to the board and the president of the board receipted for them.

These bonds, which had been signed by the president and clerk of the board and the coupons with the fac-simile signature of the clerk, were returned to the board of education immediately after the Industrial Commission had refused to take them for the reason above stated.

What would you suggest as the best thing now to do with these bonds. As they are, it is some responsibility of keeping them on file. It would seem to me if each of these bonds and the coupons were marked ‘Void’ and defaced by punching the same, it would be sufficient and they could be filed with cancelled or paid bonds.”

It is not clear from your statement whether the issuance of the bonds in question has been abandoned by the board in view of the rejection by the Industrial Commission, or whether the issue has been disposed of elsewhere. Assuming that their issuance has been abandoned, it is my opinion that the board of education should adopt a resolution containing a recital of the steps taken in the legislation authorizing the issuance of the bonds, the fact that the bonds were offered to the Industrial Commission and the reasons for its refusal to purchase the same. The resolution should then rescind and repeal the legislation authorizing the bond issue and should direct the fiscal officer to destroy the bonds. The adoption of the resolution and its entry on the minutes constitute, in my opinion, sufficient authority for the destruction of the bonds.

The alternative method which you suggest, viz., that the bonds and coupons be marked void and defaced by punching and thereafter filed with the canceled or paid bonds, would likewise be satisfactory.

On the other hand, if the bonds were printed upon the usual Industrial Commission form and for this reason could not be used in disposing of the issue to other purchasers, a different situation would arise. In that event new bonds would be issued to the purchaser, which would, in a sense, duplicate the issue now under consideration. Accordingly it would be necessary for the board to adopt a resolution reciting the facts in substantially the same manner as set forth hereinabove and direct the fiscal officer

to destroy or mutilate the bonds. Such resolution should, of course, omit any rescission or repeal of the legislation authorizing the bond issue. In the event of the destruction of the bonds, it would perhaps be well to have a committee of the board attend and witness the destruction and certify to that effect on the minutes of the board.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2353.

ORDINANCE—SUSPENSION OF RULES—ONE CONSIDERATION DISCUSSED.

SYLLABUS:

Where an ordinance is introduced at a meeting of a village council, the rules properly suspended, and the ordinance lost by reason of the failure to receive a majority vote of all the members elected thereto, the ordinance cannot again be brought before council at a subsequent meeting in the absence of a motion to reconsider. In the absence of such a motion, the subsequent presentation of such an ordinance must be treated as the introduction of a new ordinance and, in order that it may be legally passed, such ordinance must either be read on three different days or the rule suspended by the adoption of a motion to that effect by a three-fourths vote of all the members elected to council.

COLUMBUS, OHIO, July 16, 1928.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This will acknowledge your recent communication as follows:

“A member of the Council of the Village of Barnesville, on June 1, 1927, introduced an Ordinance increasing the salary of the Mayor. A motion to suspend the rules requiring readings on three different days was carried by a vote of five. The vote on the passage of the Ordinance was three yeas and two nays and the Ordinance was declared lost.

On July 5, 1927, the Ordinance was again brought before Council and a motion to suspend the rules and requiring readings on three different days received four yeas and two nays. The vote on the passage of the Ordinance was four yeas and two nays.

QUESTION: Was the Ordinance in question legally adopted?”

While you state that the ordinance in question was again brought before Council on July 5, 1927, it having been defeated by a vote of three yeas and two nays on June 1, 1927, it occurs to me that the answer to your question hinges upon whether the ordinance was, in fact, the same ordinance or must be treated as an entirely new ordinance.

Section 4224, General Code, provides as follows:

“The action of council shall be by ordinance or resolution, and on the passage of each ordinance or resolution the vote shall be taken by ‘yeas’ and ‘nays’ and entered upon the journal, but this shall not apply to the ordering