

2785.

DISAPPROVAL, BONDS OF VILLAGE OF EAST YOUNGSTOWN, OHIO,
IN AMOUNT OF \$13,900 FOR STREET IMPROVEMENT.

COLUMBUS, OHIO, January 12, 1922.

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

Re: Bonds of the village of East Youngstown in the amount of \$13,900 in anticipation of the collection of assessments for the improvement of Bright avenue from Twelfth street to Fourteenth street by paving, one bond payable in five installments of \$2,780 each.

GENTLEMEN:—The transcript submitted for examination in connection with the above bond issue discloses that the notice of the passage of the resolution of necessity required to be given by section 3818 G. C. was served between June 21st and July 17th of the year 1921 upon owners of property who were served personally or by leaving a copy. Service of such notice by publication upon owners of property not found was made by publishing notice for two weeks in the Youngstown Vindicator, the first publication being made July 23rd and the second publication July 30th. The ordinance to proceed with the improvement was passed July 18, 1921.

Under section 3823 G. C. owners of property to be assessed for street improvements are given a period of two weeks after the service of such notice or the completion of publication thereof to file claims for damages. Under the provisions of section 3824 G. C. council of a municipality is without authority to pass the ordinance to proceed with such improvement until the expiration of the time limited by law for filing claims for damages. The council of the village of East Youngstown was therefore without authority to pass the ordinance to proceed on July 18, 1921, and since council is without authority to provide for the issuance of bonds until after the passage of a proper ordinance determining to proceed with the improvement, it follows that the bonds under consideration were unauthorized and are not valid and binding obligations of the village of East Youngstown. I therefore advise that the Commission decline to purchase said bonds.

Respectfully,

JOHN G. PRICE,
Attorney-General.

2786.

DISAPPROVAL, REFUNDING BONDS OF KUNKLE RURAL SCHOOL
DISTRICT, WILLIAMS COUNTY, OHIO, IN AMOUNT OF \$20,000.

COLUMBUS, OHIO, January 12, 1922.

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

Re: Refunding bonds of Kunkle rural school district, Williams County, in the amount of \$20,000.

GENTLEMEN:—The transcript for the above bond issue discloses that said bonds were issued under authority of section 5656 G. C. to refund debts of Kunkle rural school district. Although the transcript contains no statement setting forth in de-

tail the obligations to be refunded, yet the bond resolution contains the following statement of such indebtedness:

"Section 1. * * * \$7,400.00 to Leige Brothers on a contract, \$600.00 to the American Seating Company on a contract, \$200.00 to the Cleveland Seating Company on a contract, \$2,100.00 to the Bryan Plumbing & Heating Company on a contract, \$3,000.00 to J. B. Manor & Son on a contract, \$200.00 to Fred Culbertson on a contract, \$500.00 to the Wayne Works on a contract, \$650.00 to The Kunkle State Banking Company, teachers' salaries earned and unpaid in the sum of \$2,500.00, indebtedness for fuel in the sum of \$250.00, and outstanding unpaid vouchers in the sum of \$2,600.00."

From such statement it is apparent that the larger part of the indebtedness is for unpaid items for either constructing, repairing or furnishing one or more school buildings. It has been the frequently expressed opinion of this department that bonds may be issued under said section 5656 to secure funds to pay salaries of teachers, janitors and other school employes serving under valid contracts, to pay the cost of transporting pupils, amounts due the teachers' retirement fund and other obligations created by law, but that said section does not authorize the issuance of bonds to pay for constructing, repairing or furnishing school buildings or to take up vouchers issued for school supplies.

This latter conclusion follows of necessity from the provisions of section 5660 G. C., which in specific terms prohibits a board of education from making a contract or agreement involving the expenditure of money for such purposes without having unappropriated money in the treasury sufficient for the payment of such obligations. If the requirements of said last mentioned section were complied with by the board of education there could be no occasion for the issuance of refunding bonds to meet such obligations. On the other hand if the requirements of said section were not complied with by the board of education, then the obligations referred to are not valid and binding obligations of the school district. The mere determination of the board of education that such items are valid and binding obligations is certainly not conclusive and adds nothing to the value of such claim.

I am therefore of the opinion that the bonds under consideration are not valid and binding obligations of said school district and advise the Commission not to purchase the same.

The transcript is in other particulars incomplete, but in view of the character of the indebtedness sought to be refunded, it would be of no avail to return the transcript for further information.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2787.

APPROVAL, BONDS OF MADISON RURAL SCHOOL DISTRICT IN
AMOUNT OF \$13,500.

COLUMBUS, OHIO, January 13, 1922.

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