

issuance of these bonds in the amount of \$4,000.00 and that the bonds so issued in such excess will not be legal and valid obligations of the village. You are, therefore, advised not to purchase these bonds.

Respectfully,
C. C. CRABBE,
Attorney-General.

2176.

APPROVAL, BONDS OF VILLAGE OF MANCHESTER, ADAMS COUNTY, FOR
PROPERTY OWNERS PORTION IN THE SUM OF \$23,600.00.

COLUMBUS, OHIO, January 26, 1925.

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

2177.

DISAPPROVAL, BONDS OF CITY OF LAKEWOOD, \$12,000.00.

COLUMBUS, OHIO, January 26, 1925.

Re: Bonds, City of Lakewood—\$12,000.00, payable \$2,000.00 Oct. 1, 1946; \$4,000.00 Oct. 1, 1945; \$4,000.00 Oct. 1, 1946; and \$2,000.00 Oct. 1, 1946. 6%.

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

GENTLEMEN:—An examination of the transcript submitted for the foregoing issue of bonds discloses that the City of Lakewood is operating under a city charter, and that the advertisements of ordinances and resolutions for this issue of bonds have been in accordance with the charter provision of the city, and not in accordance with state laws.

In response to a request for information concerning the form of charter government, a copy of the proposed charter which was subsequently adopted, has been forwarded to this office. Section 14 of this charter provides as follows:

“Every ordinance or resolution upon its final passage, shall be recorded in a book kept for that purpose, and shall be authenticated by the signature of the presiding officer and clerk of the council. Every ordinance or resolution shall be published once in a newspaper of general circulation in the city or posted upon municipal bulletin boards, within ten days after its final passage.”

Section 4228 G. C. provides:

“Unless otherwise especially directed by statute, all municipal ordinances, resolutions, statements, orders, proclamations, notices and reports, required by law or ordinance to be published, shall be published as follows:

In two English newspapers of opposite politics, published and of general circulation in such municipalities; if there be such newspapers; if two English newspapers of opposite politics are not printed and of general circulation in such municipality, then in one said political newspaper and one other English newspaper printed and of general circulation therein; if no English newspaper is printed and of general circulation in such municipality, then in any English newspaper of general circulation therein or by posting as provided in Section 4232 G. C., at the option of council."

A letter from the Lakewood Courier, a newspaper of said city, is enclosed, together with advice from the Director of Finance, that the resolutions and ordinances passed for this issue were published by posting a copy on the municipal bulletin boards in accordance with Section 14, of the charter.

Article 6, paragraph 11, of Section 3515-1 G. C. provides that municipalities adopting and operating under either of the charter plans, as provided under 3515-1 et seq., may provide one advertisement in a newspaper of general circulation in the municipality.

It is, therefore, apparent that the provision for advertisement in the charter of Lakewood, Ohio, is a part of a constitutional plan of government which has been adopted by the people of the City of Lakewood, and irrespective of the statutory provisions.

The Supreme Court, a short time ago, in the case of the State of Ohio, ex rel Clyde W. Osborn, City Solicitor of the City of Youngstown, Ohio, vs. Arthur S. Williams, Director of Finance of the City of Youngstown; held that charter cities cannot make assessments against property owners under the charter provision for notices to the property owners, when the charter provision is in conflict with state laws. This decision was based on the rule as laid down in the case of Berry et al. vs. City of Columbus, 104 O. S., 607 and following the case of Toledo vs. Cooper 97 O. S. 86 and Dayton vs. Bish, 104 O. S., 206, in which case the rule has been made by the Court as follows:

"The power of municipalities both to incur debt and levy taxes, may be restricted or limited by law and a municipality by adopting a charter cannot escape from the limitations imposed thereon by the General Assembly."

"The provisions of a city charter relating to assessments that are in conflict with the requirements of the state law governing special assessments for street improvements must hold to the laws of the state."

In the recent case decided by the Supreme Court, the Opinion of Chief Justice Marshall indicates that proceedings of council of a charter city cannot be approved when the same is contrary to the provisions of the statutes.

In view of these decisions of the Supreme Court, as quoted above, the provisions of a city charter must necessarily be in accordance with state law, either that of general statutes or of special statutes providing for charter organizations.

Provision for bulletin board advertising does not comply with state laws, especially when Sections 4228 G. C. or 3515-1, Art. 6, paragraph 11 is applicable.

In view of the decision of the courts above quoted, I am compelled to hold that charter provisions cannot abrogate or evade state laws, and you are, therefore, advised that the proceedings for said issue of bonds have not been in accordance with state laws, and you are further advised not to purchase said bonds.

Respectfully,

C. C. CRABBE,

Attorney-General.