

1809.

DISAPPROVAL, BONDS OF CITY OF WILMINGTON, CLINTON COUNTY,
\$14,400.00.

COLUMBUS, OHIO, September 29, 1924.

Retirement Board, State Teachers' Retirement System, Columbus, Ohio.

Re: Bonds of City of Wilmington, Clinton County, \$14,400.00.

Gentlemen:—

I have examined the transcripts submitted to this department in connection with the foregoing issue of bonds, and find that I cannot approve the same for the following reasons:

1. The transcript shows that these bonds in the sum of \$14,400.00 are for the purpose of paying the city's portion of the improvement of South South Street and Truesdale Street in the City of Wilmington. The engineers estimate as submitted in the transcript shows the city's portion of the improvement to be in the sum of \$5,359.42. From this estimate of the engineer it would seem that the issue of bonds in the foregoing amount could not be warranted. This might be corrected by further communication with the officials of the city, as to the actual amount of the improvement and the portion to be paid by the city.

The second objection, however, is in connection with the advertisement for the sale of bonds.

Section 3924 G. C. provides as follows:

"Sales of bonds, other than to the trustees of the sinking fund of the city or to the board of commissioners of the sinking fund of the city or to the board of commissioners of the sinking fund of the city school district as herein authorized by any municipal corporation, shall be to the highest and best bidder, after publishing notice thereof for four consecutive weeks in two newspapers printed and of general circulation in the county where such municipal corporation is situated, * * *"

The notices of the sale of the foregoing bonds have been advertised in two newspapers, but the affidavit of the publisher in proof of the advertisement in one instance shows that these bonds were advertised on and after the 6th day of August, 1924, the last publication being on Friday, the 22nd day of August, 1924. The notice of the sale of bonds provided that the bonds should be sold on September 4, 1924.

In view of the decision in the case of State of Ohio vs. Kuhner and King, 107 O. S., page 406, wherein the court held that an advertisement calling for bids for two consecutive weeks is mandatory, and a contract entered into for less than two full weeks is invalid, it will be necessary in this case to apply the same rule and to hold that the publication of notices in this instance is not in conformity to the provisions of the statute, and for that reason I am of the opinion that the bonds so sold have not been legally sold, and you are therefore advised not to purchase this issue of bonds.

Respectfully,

C. C. CRABBE,

Attorney General.