

2487.

DISAPPROVAL, BONDS OF DARKE COUNTY, OHIO, IN AMOUNT OF
\$192,800 FOR ROAD IMPROVEMENTS.

COLUMBUS, OHIO, October 18, 1921.

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

Re: Bonds of Darke county, Ohio, in the amount of \$192,800 in anticipation of taxes and assessments to pay the respective shares of Darke county, of Greenville township and of the owners of benefited property of the cost and expense of improving I. C. H. 212, Section A, in said township and county.

GENTLEMEN:—I have examined the transcript submitted of the proceedings of the board of county commissioners of Darke county and of other officers relating to the above issue of bonds and decline to approve said issue for the following reasons:

The transcript does not set out a letter or other communication of the state highway commissioner approving the application of the board of county commissioners for state aid with respect to this improvement, but assuming that this defect in the transcript can be supplied by further information, I find that the proceedings are fatally defective for the reason that when the board of county commissioners adopted its resolution under date of July 22, 1921, providing for the issue of these bonds, it had not, as required by section 1200 G. C., adopted a resolution approving the plans, specifications, estimates, etc., for said improvement and determining to proceed with same. The adoption in proper form of said resolution required by section 1200 G. C. is obviously jurisdictional to the power of the county commissioners to adopt a resolution providing for the issue of bonds or to take any other steps with respect to said improvement. On July 23, 1921, the board of county commissioners of said county did, as required by said above noted section of the General Code, adopt a resolution in proper form approving the plans, specifications, estimates, etc., for said improvement and determine to proceed therewith. It is clear, however, that the adoption of this resolution of July 23, 1921, could not have the effect of validating the bond resolution which at the time it was adopted was wholly without authority for want of the required prior resolution.

Said issue of bonds is therefore and for this reason disapproved.

If it is desired by the board of county commissioners of said county to provide for this issue of bonds, it will be necessary for it to again adopt a proper resolution for this purpose and again offer said issue of bonds to the board of trustees of the county sinking fund. In said resolution it should be provided that said bonds should bear a date not earlier than the date on which said new resolution is adopted.

In this connection I note that it is assumed in the resolution providing for this issue of bonds that the owners of property lying and being within one and one-half miles on either side of said road improvement are to pay twenty-five per cent of the cost and expense thereof. I do not find in the transcript copy of resolution by the board of commissioners of said county providing for any increase in the share of the cost and expense of said improvement to be paid by property owners or extending the same to the owners of property lying within one and one-half miles on either side of said

improvement. Section 1214 G. C. provides authority in the board of county commissioners to increase the share of the cost and expense to be paid by the property owners and to extend this to property owners owning property within one-half mile on either side of an improvement or within one mile of either side of the improvement. I do not note anything in the statute, however, authorizing the board of county commissioners to extend its assessments to property lying within one and one-half miles of the improvement as contemplated by the board of county commissioners in this case.

For the reasons first above noted herein said issue of bonds is disapproved and you are advised not to purchase the same.

Respectfully,

JOHN G. PRICE,
Attorney-General.

2488.

ELECTIONS—EMPLOYMENT OF ASSISTANT TO DEPUTY STATE SUPERVISORS OF ELECTIONS, IN COUNTY IN WHICH THERE IS NO REGISTRATION CITY NOT PROPER AND NECESSARY EXPENSE—WHEN SERVICES OF PART TIME ASSISTANT MAY BE NECESSARY EXPENSE—CONCURRENCE OF BOARD OF DEPUTY STATE SUPERVISORS OF ELECTIONS AND COUNTY COMMISSIONERS NECESSARY.

The employment by the year of an assistant to the board of deputy state supervisors of elections, in a county in which there is no registration city, is not a proper and necessary expense within the meaning of section 4821 G. C.

Services of a part time assistant may be a proper and necessary expense, depending upon the judgment of the board of deputy state supervisors of elections to initiate, and that of the county commissioners to approve and pay for, and the commissioners may refuse to pay, pay in part or in full any such claim, as their discretion and good judgment dictate.

In creating and paying for any proper and necessary expense in the conduct of elections under section 4821 G. C., the joint concurrence of the good judgment and discretion of the board of deputy state supervisors of elections and of the county commissioners is necessary.

COLUMBUS, OHIO, October 18, 1921.

HON. LLOYD S. LEECH, *Prosecuting Attorney, Coshocton, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter reading:

“The deputy state supervisors of elections of Coshocton county, on the 18th day of July, 1921, employed an assistant clerk to help take care of the work of the election board and fixed her salary at sixty dollars per month. This was done by the election officials without consulting the board of county commissioners, and the bill for her services was then presented to the board of county commissioners, which said board refused to approve and allow the same. Whereupon, the question of the legality of the expenditure of said money was submitted to me and I have informed both boards that I am of the opinion that the bill would be a proper one to allow if the additional services were necessary, but that under the law I was of the