

paid, the political subdivision cannot recover the money back, in the absence of fraud, collusion or excess payments.

In Opinions of the Attorney General for 1932, Vol. II, page 858, it is stated, as disclosed by the third paragraph of the syllabus:

“3. Payments made to a de facto officer for services rendered may not be made the subject of a finding for recovery in the absence of fraud, collusion or excess payments for such services.”

It is believed that the principles set forth above will provide an adequate answer to your second question.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5319.

APPROVAL—PROPOSED AGREEMENT WITH THE C. AND O.
RAILWAY COMPANY, FOR ELIMINATION OF GRADE
CROSSING IN CITY OF COLUMBUS, FRANKLIN COUNTY,
OHIO.

COLUMBUS, OHIO, April 2, 1936.

HON. JOHN JASTER, JR., *Director of Highways, Columbus, Ohio.*

DEAR SIR: You have submitted for my consideration a proposed agreement by and between the Director of Highways, the City of Columbus, the County of Franklin and The Chesapeake and Ohio Railway Company, covering the elimination of the grade crossing at Fifth Avenue (S. H. 48) and King Avenue in the City of Columbus and Chambers Road in Franklin County, over the tracks of The Chesapeake and Ohio Railway Company, and the raising of the Third Avenue bridge superstructure in Columbus, Franklin County, Ohio.

After examination, it is my opinion that said proposed agreement is in proper legal form and when the same is properly executed it will constitute a valid and binding contract.

Said proposed contract is being returned herewith.

Respectfully,

JOHN W. BRICKER,
Attorney General.