

The supreme court of Ohio has recently held in the case of *State ex rel vs. Zangerle, Auditor, No. 16578*, that bonds issued by county commissioners under section 6929 for county road improvements, proceedings for which were commenced prior to February 17, 1920, cannot bear interest in excess of 5 per cent; in other words, that the amendment to section 6929 which went into effect February 17 was inoperative as to proceedings for county road improvements then pending.

Following the rule laid down in the case just referred to the same conclusion must be reached relative to state aid road improvements and the bonds issued under section 1223 to pay the cost and expense of a state aid road improvement, proceedings for which were commenced prior to February 17, 1920, cannot bear interest in excess of 5 per cent per annum.

I am therefore of the opinion that said bonds are not valid and binding obligations of Henry county and advise you not to purchase the same.

Respectfully,

JOHN G. PRICE,  
*Attorney-General.*

1256.

APPROVAL, FINAL RESOLUTIONS FOR ROAD IMPROVEMENTS IN  
JACKSON, GEAUGA, SANDUSKY AND UNION COUNTIES, OHIO.

HON. A. R. TAYLOR, *State Highway Commissioner, Columbus, Ohio.*

COLUMBUS, OHIO, May 19, 1920.

1257.

APPROVAL, FINAL RESOLUTIONS FOR ROAD IMPROVEMENT IN ERIE  
COUNTY, OHIO.

COLUMBUS, OHIO, May 20, 1920.

HON. A. R. TAYLOR, *State Highway Commissioner, Columbus, Ohio.*

DEAR SIR:—The letter of your department of May 19th, signed by Mr. T. S. Brindle, chief highway engineer, is received, enclosing for my opinion the following final resolution:

Lima-Sandusky road, I. C. H. No. 22, Section A, Erie county.

I have noted the special circumstance mentioned in the letter transmitting said resolution, that on July 18, 1919, \$20,000 of the main market road moneys were set aside by your department on account of the work in question, and that subsequently, to-wit: On December 19, 1919, when revising the main market road system of the state, as authorized by section 1189 G. C. (amended 108 O. L. 482), you dropped from the main market road system the section of highway named in said final resolution.

Said section 1189, after providing that if within a certain period, the state highway commissioner for certain specified reasons finds it expedient to abandon as such any of the main market roads

“ \* \* \* he shall vacate and abandon such highways as main market

roads, and such highways shall *cease to be main market roads* and shall become and remain inter-county highways and *be improved as such.*"

While this language is imperative in form, yet it must be construed in the light of section 26 G. C., which provides in part:

"Whenever a statute is repealed or amended, such repeal or amendment shall *in no manner* affect pending \* \* \* proceedings \* \* \* "

Our supreme court as recently as May 11, 1920, (State ex rel. Andrews, et al vs. Zangerle, Auditor) has held that the successive steps for a road improvement constitute a "proceeding" within the meaning of said section 26, and that

"Section 26 G. C. is a rule of legislative interpretation and is to be construed as a part of any amended act, unless such amendment otherwise expressly provides."

In this state of the law, I conclude that by reason of said section 26, you are at liberty to proceed under the original action of the state highway commissioner in setting aside said \$20,000 of main market road funds for the improvement in question. No question is here involved as to the authority of your department at this time to set aside the \$20,000 for use on what was formerly, but is no longer, a section of main market road; for the fact is that not only was the sum set aside in the regular course of a road improvement proceeding before the time of the removal of such section of highway from the main market system, but also more than a month before the amendment of section 1189 became effective in August, 1919.

Finding that the special circumstance above discussed presents no objection to the final resolution in question, and finding it in all respects correct, I am returning it herewith, endorsed with my approval as to form and legality in accordance with section 1218 G. C.

Respectfully,  
JOHN G. PRICE,  
*Attorney-General.*

1258.

ELECTIONS—COMPENSATION OF JUDGES AND CLERKS OF ELECTION  
WHERE SPECIAL ELECTION HELD ON SAME DAY AS PRIMARY  
OR GENERAL ELECTION—SPECIAL ELECTION DEFINED.

*Each judge and clerk of election shall receive the compensation provided by law for services rendered on any election day and the questions submitted to the voters on that day in no way affect such compensation so rendered. Since general elections can occur only on the first Tuesday after the first Monday of November in any year, and primary elections are another class and otherwise provided for, a special election is one called by a proper board or officer for any purpose specifically provided for by law, not within the meaning of general election, and may occur at any time except on a general election day.*

COLUMBUS, OHIO, May 20, 1920.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—Acknowledgment is made of your request of recent date for a written opinion on the following questions, to-wit: