

2449.

APPROVAL, FINAL RESOLUTIONS FOR ROAD IMPROVEMENTS, DEFIANCE COUNTY, OHIO.

COLUMBUS, OHIO, October 4, 1921.

HON. LEON C. HERRICK, Director of Highways and Public Works, Columbus, Ohio.

2450.

APPROVAL, BONDS OF HARTFORD RURAL SCHOOL DISTRICT IN AMOUNT OF \$5,400.

COLUMBUS, OHIO, October 6, 1921.

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

2451.

DISAPPROVAL, BONDS OF VILLAGE OF MILAN, ERIE COUNTY, IN AMOUNT OF \$25,000.

COLUMBUS, OHIO, October 7, 1921.

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

In re: Bonds of the village of Milan, Erie county, Ohio, in the sum of \$25,000 for the purpose of paying the share of said village of the cost and expense of a certain road improvement in and through said village.

GENTLEMEN:—Relating to the above matter I have at hand a copy of the resolution adopted by you under date of September 14, 1921, providing for the purchase of bonds of said village in the amount of \$25,000 with the recital therein that said bonds are issued by the council of said village "for the purpose of paying the village portion and assessment portion of street improvements." You have directed that these bonds so purchased shall be combined and delivered as one bond with principal and interest installments evidenced by coupons thereto attached, all as authorized by section 1465-58a as amended 109 O. L., 47.

An examination of the transcript submitted by the clerk of the village of Milan, Ohio, shows that the council of said village has provided for two bond issues for the purpose of paying the share of said village of the cost and expense of a certain road improvement conducted by the commissioners of Erie county in and through the village under authority of sections 6949 to 6953, General Code, inclusive. One of said issues is in the amount of \$15,381.00 in anticipation of taxes against all the taxable property of said

village, and the other issue is one in the sum originally of \$18,619.00 in anticipation of assessments against the owners of property abutting upon the streets in and upon which the improvement through the village is to be made. This last named bond issue has been reduced by cash payment of assessments to the amount of \$13,800.00. Inasmuch as the amount of bonds purchased by the industrial commission exceeds the amount of either of these issues, I infer from this fact, as well as from the recital above quoted in your resolution providing for the purchase of the bonds in question, that the bonds purchased by you constitute a part of both of the issues of bonds provided for by the council of the village of Milan for the purpose above indicated. This being true, I am unable to find any authority for your action in purchasing these bonds in the manner and form indicated by your resolution. Under sections 1465-58 and 1465-58a, G. C., you have undoubted authority to purchase all or any part of a bond issue of a municipal corporation or other political subdivision of the state and to require said issue or part thereof so purchased to be combined in one bond, but I am unable to find any authority authorizing you to purchase all or parts of two or more separate bond issues and to require the aggregate amount of bonds so purchased to be combined in one bond.

It is true that both of these bond issues are authorized by section 6951 of the General Code. This section, however, rightly interpreted simply authorizes a municipality through which a county road improvement is being made to issue assessment bonds, or general tax bonds, or both, in the same manner as the municipality would issue said respective kinds of bonds for street improvements under the exclusive jurisdiction and control of the council of the municipality. The issue of bonds by a municipality in anticipation of assessments and the issue of general tax bonds of such municipality are separate and distinct proceedings. Moreover, the bond form of bonds issued in anticipation of assessments in order to conform to statutory requirements is different from that of general tax bonds and these considerations make it quite clear that an issue of assessment bonds and an issue of general tax bonds by a municipal corporation can not be purchased by you and combined in one bond under section 1465-58a.

You will understand that I am not at this time passing on the validity of the bond issues provided for by the council of the village of Milan. My consideration in matters of this kind must necessarily be responsive to the action taken by you, and finding as I do that you have no authority to purchase both of these issues or parts thereof and to require the bonds so purchased to be combined and delivered as one bond, I am required to advise you not to purchase said bonds in the manner and form indicated by your resolution.

If you desire to purchase these bonds I advise that said respective issues be offered and purchased separately, in which case each issue or part thereof purchased by you may at your discretion be combined into one bond and so printed and delivered.

Respectfully,
JOHN G. PRICE,
Attorney-General.