

the provisions of section 1579-41 to the effect that money collected by the clerk shall be paid to the proper party, the proper conclusion must be that the witness fees when collected by the clerk of the municipal court of Cleveland should properly be paid into the county treasury.

Respectfully,
JOHN G. PRICE,
Attorney-General.

3130.

DISAPPROVAL, BONDS OF VILLAGE OF ANNA, \$4,260, FOR ROAD IMPROVEMENTS.

COLUMBUS, OHIO, May 24, 1922.

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

Re.: Bonds of the village of Anna, Ohio, in the sum of \$4,260.00, in anticipation of the collection of assessments on abutting property owners to pay a part of the cost and expense of improving I. C. H. No. 164 in and through said village.

GENTLEMEN:—I have carefully examined the transcript of the proceedings of the council of the village of Anna relating to the above issue of bonds and note the following objections which prevent my approval of these bonds on the transcript submitted:

(1) The transcript fails to show an application by the county commissioners to the state highway commissioner for state aid in the construction of this inter-county highway improvement.

(2) In addition to said application the transcript should show an approval of the same by the state highway commissioner or the state highway advisory board.

(3) The transcript does not show any preliminary ordinance or resolution on the part of the council of the village granting consent to said improvement. It would have been quite proper for council to have passed such ordinance but probably this defect is not fatal for the reason that such consent is necessarily given in resolution No. 220, set out in the transcript, which provides for an additional width of said improvement through the village.

(4) The transcript does not show that resolution No. 220, providing for an increased width of the improvement through the village, was actually passed. It shows that after the resolution was read the rules were suspended by a yea vote of all the members of council, but fails to show any action by council with respect to the passing of the resolution.

(5) The transcript shows that resolution No. 220 was posted in five most conspicuous places in the village but does not show that same was posted in five or more of the most public places in the village as determined by council, as required by section 4232 G. C.

(6) The resolution of necessity provides for payment of assessments in twenty annual installments. As to this, however, I note that the ordinance to proceed correctly fixes the number of annual installments at nine.

(7) The ordinance providing for the issue of these bonds was passed April 3, 1920, before council passed the ordinance to proceed. This to my mind was an error fatal to the issue of these bonds.

- (8) The bond ordinance includes three issues:
- (a) This issue in the sum of \$4,260.00 in anticipation of the collection of assessments against abutting property owners;
 - (b) An issue in the sum of \$5,500.00 in anticipation of assessments against The Western Ohio Railway Company;
 - (c) An issue of \$4,200.00 to be paid for by taxes levied against the general duplicate of the village.
- (9) Although the bond ordinance provides for a direct tax to cover deficiencies in the collection of assessments against abutting property owners and against said The Western Ohio Railway Company, it does not provide for an *annual* tax for said purpose as required by law.
- (10) The bond ordinance was passed with only five members of council present and voting thereon. This being so, the transcript should have shown affirmatively that said meeting was legal, that is, a regular meeting or a special meeting called in compliance with law.
- (11) The transcript does not show that the clerk of the village, as the fiscal officer thereof, lodged with council a certificate with respect to the life of this improvement before the ordinance providing for this bond issue was passed, as required by section 2 of the Griswold Act (109 O. L., 337).
- (12) The transcript fails to show any certificate by the clerk, as the fiscal officer of the village, to council fixing the maximum maturity of these bonds, before said bond ordinance was passed, as required by section 7 of the Griswold Act (109 O. L., 338).
- (13) It does not appear that any copy of the bond ordinance was lodged with the county auditor, as required by section 15 of the Griswold Act.
- (14) The transcript does not show that this issue of bonds was offered to the sinking fund trustees of the village and their rejection secured before the same were offered to the industrial commission.
- (15) The financial statement is not as complete as it should be.
- Some of the defects above noted may undoubtedly be cured by further information. Others, however, are of such nature as to compel me to hold that the issue is invalid. I am therefore of the opinion that you should not purchase said issue of bonds.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

3131.

DISAPPROVAL, BONDS OF VILLAGE OF ANNA IN AMOUNT OF \$5,500,
 ROAD IMPROVEMENTS.

COLUMBUS, OHIO, May 24, 1922.

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

Re.: Bonds of the village of Anna in the sum of \$5,500 in anticipation of the collection of assessments against The Western Ohio Railway Company, to pay a part of the cost and expense of the improvement of I. C. H. No. 164, in and through said village.