

department, above referred to, have been corrected by further information which has been made a part of the abstract. From my examination of said corrected abstract, I am of the opinion that Edward Cunningham has a good and merchantable fee simple title to the lands here in question, free and clear of all encumbrances whatsoever other than the undetermined taxes for the year 1928.

In my former opinion I called your attention to the fact that the encumbrance estimate submitted to me at that time was defective in that it did not appear that the same had been signed by the Director of Finance. I likewise called your attention to the fact that the file submitted at that time did not show that the purchase of this property had ever been approved by the Board of Control. The only thing that I have before me now is the corrected abstract and I have no means of knowing whether you now have the properly executed encumbrance estimate showing that there are sufficient balances in the appropriation account to purchase these lands, neither am I advised as to whether the purchase of this property has been approved by the Controlling Board. In the absence of this information, I can not approve the proceedings relating to the purchase of these lands, although as above noted, the corrected abstract of title submitted, is approved.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2562.

APPROVAL, BONDS OF THE VILLAGE OF CLYDE, SANDUSKY COUNTY
—\$17,585.00.

COLUMBUS, OHIO, September 11, 1928.

Industrial Commission of Ohio, Columbus, Ohio.

2563.

DISAPPROVAL, BONDS OF THE VILLAGE OF SOMERVILLE, BUTLER
COUNTY, OHIO—\$8,986.34.

COLUMBUS, OHIO, September 12, 1928.

Re: Bonds of the Village of Somerville, Butler County, Ohio, \$8,986.34.

The Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—An examination of the transcript relative to the above issue of bonds reveals that said bonds were advertised for sale for a period of three consecutive weeks commencing May 22, 1928. Such advertisement was apparently had in accordance with Section 2293-28, General Code, which provides for the publication of advertisements of sale of bonds for three consecutive weeks, the first advertisement to be at least twenty-one full days prior to the date of sale in a newspaper having general circulation in the county where the bonds are issued. Section 2293-28, General Code, is a part of The Uniform Bond Act, which became effective on August 10, 1927.

The proceedings leading up to the above issue of bonds were begun, as shown by the transcript, on February 2, 1926, the date of the passage of the resolution declaring the necessity of the improvement and providing for the assessment of the front foot of the whole cost of the improvement less one-fiftieth thereof and the cost of intersections against the lots and lands abutting upon the improvement. The ordinance determining to proceed was passed on March 30, 1926.

Section 26 of the General Code provides as follows:

“Whenever a statute is repealed or amended, such repeal or amendment shall in no manner affect pending actions, prosecutions, or proceedings, civil or criminal, and when the repeal or amendment relates to the remedy, it shall not affect pending actions, prosecutions, or proceedings, unless so expressed, nor shall any repeal or amendment affect causes of such action, prosecution, or proceeding, existing at the time of such amendment or repeal, unless otherwise expressly provided in the amending or repealing act.”

It has been held on a number of occasions by the courts that a proceeding for the improvement of a street is pending after the resolution of necessity has been passed and notice given to the property owners, (*Cincinnati vs. Davis*, 58 O. S. 225), or after the preliminary resolution has been passed (*Toledo vs. Marlow*, 8 O. C. C. (N. S.) 121, affirmed without report, 75 O. S. 574).

Prior to the passage of The Uniform Bond Act, and specifically Section 2293-28 above referred to, Section 3924, General Code, which was repealed by the Uniform Bond Act, provided that sales of bonds must be published for four consecutive weeks in two newspapers printed and of general circulation in the county where the municipal corporation issuing the bonds was situated.

In view of the fact that the proceedings leading up to the issuance of the bonds in question were started in 1926, and hence were pending at the time of the passage and going into effect of The Uniform Bond Act, said proceedings should have been concluded in accordance with the provisions of law in effect at the time the same were started. Hence, the publication of the bond sale advertisement in one newspaper for three consecutive weeks is, in my opinion, insufficient and the sale of the bonds pursuant to such advertisement is invalid.

For the foregoing reasons, I am compelled to advise you not to purchase the above issue of bonds.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2564.

APPROVAL, CONTRACT BETWEEN THE STATE OF OHIO AND ILIFF BROS., CEDARVILLE, OHIO, FOR RECONSTRUCTION OF EMBANKMENTS, GUILFORD LAKE STATE PARK, COLUMBIANA COUNTY, OHIO, AT AN EXPENDITURE OF \$14,382.68—SURETY BOND EXECUTED BY THE FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

COLUMBUS, OHIO, September 12, 1928.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Works, and Iliff Bros., of Cedarville, Ohio.