

1172.

DISAPPROVAL, BONDS OF WATERFORD TOWNSHIP RURAL SCHOOL DISTRICT, WASHINGTON COUNTY—2 ISSUES—\$3,980.00 AND \$20,000.00.

COLUMBUS, OHIO, October 19, 1927.

Re: Bonds of Waterford Township Rural School District, Washington County—
2 Issues—\$3,980.00 and \$20,000.00.

Retirement Board, State Teachers' Retirement System, Columbus, Ohio.

GENTLEMEN:—The above issues of bonds were recently purchased by your board and the transcripts have been delivered to this department for examination and opinion.

An examination of the transcripts reveals that at the November, 1926, election the electors of the above school district authorized an issue of bonds for the purpose of constructing a fireproof school building in the sum of twenty thousand (\$20,000.00) dollars. Bids for the construction work were received on May 30, 1927, and the contract was awarded to W. A. Showers & Company at their bid of \$29,589.00, less the sum of \$6,427.00 to cover electrical work, plastering, painting and varnishing, roofing and finishing lumber; the deduction being necessary in order to bring the amount of their bid to \$23,162.00, which apparently was all the money available at that time. In other words, the contract that was let called for a building incomplete as to the items above mentioned. In order to complete said building the board of education of the above school district on May 5, 1927, passed a resolution to issue bonds in the sum of \$3,980.00 and on June 10, 1927, awarded a contract, without advertising, to said W. A. Showers & Company in the sum of \$3,980.00 for the purpose of furnishing the plastering for, and the roofing of, said building.

Under date of June 13, 1927, this department rendered an opinion bearing number 604, the syllabus of which reads as follows:

“where the electors of a school district have authorized a bond issue for a specific improvement, the board of education is without authority to expend in excess of the sum so authorized for the completion of such improvement, unless the bond legislation and notice of election indicated that the resulting improvement would be incomplete or that other sources of revenue would be utilized in the completion thereof.”

The conclusions reached in the opinion above referred to were based on the holding of the Supreme Court in the case of *State ex rel. vs. Andrews*, 105 O. S., 489, the fourth branch of the syllabus of which case reads:

“When the voters of a county sanction the policy of building a county jail by voting a bond issue in an amount certain, the policy adopted is one involving the expenditure of no greater sum than that approved, and a building commission is without power to contract for such building under its adopted policy and plan involving an estimated expenditure of an amount in excess of that sanctioned by the voters.”

In view of the holding in the case of *State ex rel. vs. Andrews*, supra, and the former opinion of this department above referred to, it is my opinion that the Board of Education of Waterford Township Rural School District was not authorized to enter into a contract which called for an incomplete structure and later to issue bonds

in addition to those authorized by the electors in order to provide funds to complete said structure.

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

Respectfully

EDWARD C. TURNER,

Attorney General.

1173.

DISAPPROVAL, BONDS OF THE CITY OF EAST LIVERPOOL, COLUMBIANA COUNTY, OHIO—\$14,416.00.

COLUMBUS, OHIO, October 19, 1927.

Re: Bonds of the City of East Liverpool, Columbiana County, Ohio, \$14,416.00.

Retirement Board, State Teachers' Retirement System, Columbus, Ohio.

GENTLEMEN:—An examination of the transcript pertaining to the above issue of bonds reveals that said bonds are to be issued to pay the city's portion of the cost of improving certain streets by grading, paving, etc., and certain sewer districts by constructing sanitary sewers therein. The bond ordinance which was passed on June 23, 1927, was never published.

Section 4227, General Code, provides, in part, as follows:

"Ordinances, resolutions and by-laws shall be authenticated by the signature of the presiding officer and clerk of the council. Ordinances of a general nature, or providing for improvements, shall be published as hereinafter provided before going into operation."

Section 4228, General Code, provides for such publication "in two English newspapers of opposite politics, printed and of general circulation in such municipality, if there be such newspapers; if two English newspapers of opposite politics are not printed and of general circulation in such municipality, then in one such political newspaper and one other English newspaper printed and of general circulation therein; if no English newspaper is printed and of general circulation in such municipality, then in any English newspaper of general circulation therein or by posting, as provided in Section 4232 of the General Code, at the option of council."

Section 4229, General Code, requires publication to be had once a week for two consecutive weeks.

In construing Section 4227, *supra*, it has been held that an ordinance which authorizes a municipal corporation to issue bonds, for the purpose of obtaining money to pay for a dam, for raising bridges, constructing roadways and acquiring land and materials for waterworks, is an ordinance of a general nature, within the meaning of said section, and it is my opinion that the ordinance now under consideration falls within the same class.

I am informed that the reason for dispensing with publication in the instant case is that the city officials were guided by Section 3815, General Code. Said section, however, is a part of the chapter pertaining to special assessments and provides, in part, that council may determine in the resolution of necessity whether or not bonds