

44.

## DISAPPROVAL, REFUNDING BONDS, CITY OF NILES, TRUMBULL COUNTY, \$19,000.00.

COLUMBUS, OHIO, February 5, 1923.

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

Re: Refunding Bonds, City of Niles, Trumbull County, \$19,000.00.

GENTLEMEN:—The meager information contained in the transcript furnished me in connection with the above bond issue indicates that these bonds are to be issued for the purpose of refunding indebtedness under authority of section 3916 of the General Code, and as nearly as can be ascertained from the transcript, are for the refunding of bonds issued in anticipation of the collection of assessments.

I have examined the transcript and herewith decline to approve the validity of the bonds for the following reasons:

1. The bond issue provides for \$19,000 of bonds, while the transcript shows unpaid assessments of \$17,700, leaving the difference in amounts for a controversy as heretofore considered by your department.

2. Resolution No. 847 of the city of Niles reads:

“Whereas Council of the City of Niles has heretofore issued bonds in anticipation of special assessments to be levied against the respective properties, benefited by the improvement of S. Main Street; of constructing a sanitary sewer in sub-district 4 of sewer district 4; and grading and sidewalking Hunter Street.

And whereas by reason of the low valuation of certain properties such properties would not stand the assessments, and it was necessary to make certain adjustments and rebates in said assessments.

And whereas by reason of the said adjustments there is a lack of money with which to pay the said bonds so issued in anticipation of assessments, and which bonds, by reason of the limitation in taxation the said City of Niles is unable to pay at maturity.” \* \* \*

In view of the fact that certain properties have a low valuation and would not stand the assessments, the question is raised as to the validity of the bonds issued in anticipation of such assessments as the statute clearly provides that no such assessments can be made in an amount exceeding thirty-three and one-third per cent of the value of the properties improved after the improvement is made, so the bonds must necessarily have been defective in the first instance.

The making of adjustments under such circumstances must have been carried out to an extensive nature, as the extent of such adjustments amounted to \$17,700.00.

I doubt the validity of the bonds to such an extent being issued after the adjustment and failure to pay assessments wherein the money to have met these bonds that are proposed to be refunded should have been made against the property and paid by the properties benefited, and the authority of a bond issue chargeable against the city, in my opinion, is beyond the power of council to make for payment of special assessment bonds.

The transcript is otherwise deficient in information, but the defects referred to above are of such character that I am of the opinion that these bonds are not a valid and binding obligation of the city, and I therefore advise the Commission not to purchase the bonds.

Respectfully,  
C. C. CRABBE,  
*Attorney-General.*

45.

DISAPPROVAL, BONDS OF VILLAGE OF NORWICH, \$1,500.00, TO  
SUPPLY GAS OR ELECTRICITY FOR USE OF VILLAGE.

COLUMBUS, OHIO, February 5, 1923.

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

Re: Bonds of the Village of Norwich, \$1,500, for the purpose of  
supplying gas or electricity for the use of the village.

GENTLEMEN:—The transcript for the above bond issue states the proceedings are for the purpose of "the supplying of gas or electricity to a corporation," and no other provision or purpose is shown for the use of the money to be raised by the issuance of these bonds.

Section 3939, paragraph 12 of the General Code, gives authority to municipal corporations to issue bonds

"For erecting or purchasing gas works or works for the generation and transmission of electricity, for the supplying of gas or electricity to the corporation and the inhabitants thereof."

This statutory provision must be construed strictly, and the only purpose for which these bonds can be issued is for erecting or purchasing gas works or works for the generation and transmission of electricity, for the supplying of gas or electricity to the corporation and the inhabitants thereof, and any legislation merely providing for supplying of gas or electricity would be of such a broad and incomprehensible purpose that it would be without the intention of the statute and would be so indefinite and uncertain that I would question the validity and legality of the bond issue for that purpose alone when no provision is made as contemplated for the electricity, or purchasing of gas works or works for the generation and transmission of electricity, as that is the real intention of the statute and the only purpose for which the bonds can be issued as a valid and binding obligation of the village.

Feeling that it would be impossible to amend the legislation in this case to comply with the intention and meaning of the statute above referred to, I therefore advise the Commission not to purchase the bonds.

Respectfully,  
C. C. CRABBE,  
*Attorney-General.*