

ment of the United States and may not require as a condition of admission to do business in the state that a foreign corporation surrender any rights secured to it by the Constitution of the United States, a state may impose such conditions as it may desire upon the admission of a foreign corporation to do business in the state, without regard as to whether or not discrimination is created as among the foreign corporations themselves or as between foreign corporations and domestic corporations. The equal protection clause of the Constitution of the United States being limited to persons *within the jurisdiction* of the state, does not apply to a foreign corporation which has not yet been admitted to do business in the state.

2. After a foreign corporation has been admitted to do business in the state, the equal protection clause of the Constitution of the United States may be invoked by such corporation, and in the imposition of taxes upon either the privilege of continuing to exercise the corporate franchise within the state or upon the right to do business in the state, a state cannot discriminate as among such foreign corporations or between such foreign corporations and domestic corporations.

3. Looking through the form to the substance, considering what will be the operation and effect of the bill if enacted into law, and in view of the express terms of the bill, a foreign corporation is admitted to do business in Ohio upon compliance with Sections 1, 2 and 3 of Substitute Senate Bill No. 12.

4. The provisions of Sections 4, 5, 7 and 8 of Substitute Senate Bill No. 12 therefore impose a tax upon foreign corporations already admitted. Since the basis of computing the tax might product discrimination as between foreign corporations enjoying the same privilege as well as between foreign corporations admitted to do business and domestic corporations, the bill, if enacted, would be subject to attack in a proper case under the equal protection clause of the Constitution of the United States.

5. In fixing a strictly "entrance fee" for foreign corporations, I see no objection to the method adopted in Section 5 of the bill, i. e., ten cents per share on the number of such corporation's shares of authorized capital stock employed in this state. The cases recently decided by the Supreme Court of Illinois under the caption of *O'Gara Coal Company vs. Emmerson* are not apposite on this point.

In view of the conclusions above set forth, it is deemed unnecessary further to comment on the formal defects of the bill indicated in this opinion, or to point out other defects of like nature existing in the bill as submitted.

Respectfully,

EDWARD C. TURNER,

*Attorney General.*

---

476.

APPROVAL, FINAL RESOLUTION ON ROAD IMPROVEMENT IN GUERNSEY COUNTY—I. C. H. NO. 349, CAMBRIDGE COSHOCTON ROAD.

COLUMBUS, OHIO, May 11, 1927.

HON. GEORGE F. SCHLESINGER, *Director, Department of Highways and Public Works, Columbus, Ohio.*