

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

shall be issued to pay the corporation's share of an improvement "and if such determination be included in the resolution, then the issuance or authorization of issuance of both the assessment bonds and the bonds for the corporation's portion may be included in a single ordinance and such ordinance need not be published." This section clearly refers to bond ordinances, which include both special assessment bonds and bonds to cover the corporation's cost of said improvements. There is no authority in Section 3815, General Code, for the proposition that where bonds are issued to cover the corporation's cost of the improvements separately, and not in conjunction with the ordinance to issue special assessment bonds, publication may be dispensed with.

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

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

1174.

#### BOARDS OF EDUCATION—EMPLOYMENT OF ATTORNEY, DISCUSSED.

##### SYLLABUS:

1. *A board of education of a county school district, a rural school district or a village school district may employ an attorney only in cases in which the prosecuting attorney refuses to act, or is not required to act as provided in Section 4761 of the General Code, or in which there is litigation between the board of education of such school district and the county or a county officer.*

2. *A board of education of a city school district may employ an attorney only in cases in which there is a conflict of interests between the city and the city school district, or in cases where the city solicitor refuses to act.*

COLUMBUS, OHIO, October 19, 1927.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—Permit me to acknowledge receipt of your request for my opinion as follows:

"You are respectfully requested to furnish this department your written opinion upon the following:

Section 4761 of the General Code makes the prosecuting attorney of the county the legal adviser and attorney for boards of education other than in city districts. Section 2917, G. C., provides that the prosecuting attorney shall be the legal adviser of county commissioners and boards of trustees of townships and Section 2917-1, G. C., makes him the legal adviser of boards of elections. Section 2918, G. C., provides that nothing in the preceding two sections shall prevent a school board from employing counsel to represent it and that said counsel when so employed shall be paid by such board from the school funds.

Question 1: May a board of education of a village or rural school district employ attorneys to represent it?