

capital employed by said bank, there is no property of such bank other than said real estate subject to tax.

Respectfully,
GILBERT BETTMAN,
Attorney General.

883.

DISAPPROVAL, NOTES OF SOLON VILLAGE, CUYAHOGA COUNTY—
\$100,000.00.

Re: Notes of Solon Village, Cuyahoga County, Ohio, \$100,000.00.

COLUMBUS, OHIO, September 17, 1929.

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

GENTLEMEN:—I have examined the transcript relative to the above issue of notes. These notes are issued in anticipation of the levy of assessments and the issuance of bonds to pay the cost of seven street improvements.

It appears that the ordinance authorizing the issuance of notes of the village in anticipation of the collection of special assessments was introduced and given its first reading on March 4, 1929, whereupon, pursuant to the provisions of Section 4224, a motion was made and seconded that the rule requiring the reading of an ordinance for three separate days be suspended and this ordinance be placed upon the second and third readings. This motion was not carried by a three-fourths majority as required by Section 4224, the roll call disclosing that four councilmen voted for the motion and two against the motion; whereupon Ordinance No. 1929-148 was restored to its first reading. At the meeting of council of March 18, 1929, Ordinance 1929-148 was read the second time and on April 1, 1929, at a regular meeting of council of the village, after the third reading, the ordinance failed to carry, three members of council voting for the ordinance and three voting against it. This ordinance authorized the issuance of notes of the village in the amount of \$427,300.00, being the engineer's estimate of the cost of the improvements in question.

The minutes of a special meeting of council held on April 5, disclose that, upon motion to reconsider Ordinance No. 1929-148 authorizing notes as aforesaid, which motion was seconded and duly carried, a vote was taken on the question of whether or not the ordinance should be placed on final reading and passed, which resulted in four affirmative and two negative votes. There is some question in my mind as to the regularity of the procedure of council in passing an ordinance which has failed to carry, without complying with the provisions of Section 4224, General Code, relative to reading the ordinance on three different days or dispensing with such rule by a three-fourths vote. In this case, the ordinance had been read on three different days, but after the third reading, it failed to pass and upon such failure it may be contended, in view of the strict construction placed by the courts upon Section 4224, General Code, as hereinafter commented upon, that the ordinance is in the same position as if it had not been introduced and before the reconsideration of the vote may be had, it may be necessary to either re-read the ordinance on three different days as provided or suspend the rule by three-fourths vote.

The above ordinance authorizing notes as aforesaid was amended by Ordinance 1929-162 on May 20, which amending ordinance was repealed by council at a special meeting on June 12, at which time Ordinance 1929-168 was passed, amending Ordi-

nance 1929-148. Ordinance 1929-168 authorizes notes in the amount of \$350,000.00 and corrects other errors appearing in Ordinance 1929-148. As previously indicated, I am unable to escape the conclusion that there may be a serious question raised as to the validity of Ordinance 1929-148 on account of its not having been passed in strict compliance with the provisions of Section 4224, General Code.

I am not unmindful of the general rule that a legislative body may, in the absence of specific rules governing such matters, reconsider any action within a reasonable time, or, as stated in the case of *Adkins et al vs. City of Toledo, et al.*, 6 C. C. (N. S.) at p. 441-442, "before rights have vested in pursuance of the vote taken, or before the status quo is changed * * * ." It must, however, be borne in mind that the provisions of Section 4224, relative to reading an ordinance on three different days, are mandatory and must be strictly complied with. *Vinton vs. James*, 108 O. S. 220; *Costakis vs. Yorkville*, 109 O. S. 184. The purpose of the requirement of Section 4224 here under consideration is as stated in Abbott on "Municipal Corporations," Vol. II, p. 1324, "The prevention of ill-advised, hasty or corrupt legislation."

The financial statement discloses the total value of all property of the municipality as listed and assessed for taxation is \$4,959,760.00. This issue, in the amount of \$350,000.00, of course, need not be considered in calculating the limitation of net indebtedness applicable to municipalities under the provisions of Section 2293-13, General Code, on account of the fact that the entire cost of the improvements in question is to be specially assessed. The petitions filed for the improvements indicate that one realty company is to pay the entire assessments. In the event the municipality should be unable to collect the assessments in question, the obligation must be borne by the municipality, resulting in an outstanding bonded indebtedness considerably in excess of the limitations of indebtedness as set forth in Section 2293-14, General Code. In such event, as previously indicated, in the absence of judicial authority, there is some doubt as to what may be the outcome of an action brought by a taxpayer seeking to enjoin the payment of this obligation.

In view of the foregoing discussion, I do not feel justified in advising you to purchase these notes.

Respectfully,
GILBERT BETTMAN,
Attorney General.

884.

BOARD OF EDUCATION—FREE TUITION AND TRANSPORTATION TO
NON-RESIDENT PUPILS UNAUTHORIZED.

SYLLABUS:

A board of education is without authority to extend the privileges of the schools of its district free of charge to non-resident pupils.

COLUMBUS, OHIO, September 18, 1929.

HON. CHARLES T. STAHL, *Prosecuting Attorney, Bryan, Ohio.*

DEAR SIR:—I am in receipt of your letter of recent date which reads as follows:

"I would like to have your opinion concerning a school situation in Williams County.

The board of education of the West Unity school district proposes to offer