

GENTLEMEN:—As above noted, this issue of bonds is one in anticipation of the collection of assessments against The Western Ohio Railway Company for the purpose of paying a part of the cost and expense of improving I. C. H. No. 164, otherwise known as the Dixie Highway, through said village.

In addition to the objections noted to the proceedings relating to an issue of bonds by said village in the sum of \$4,260.00, in anticipation of the collection of assessments against abutting property owners, and which are set out in Opinion No. 3130, of even date therewith, I am compelled to hold against the validity of the above issue of bonds for the reason that I fail to find any statutory authority permitting a municipal corporation to assess a part of the cost and expense of an improvement of this kind against a street railway company, which under franchise from the municipality has its tracks in and on the streets of such municipality. See —*Dayton & Troy Elec. Ry. Co. vs. Scott*, 101 O. S., 13.

In the case of *City of Newark vs. Fromholtz, et al.*, 102 O. S., 81, the court upheld an agreement between the city and the Electric Railway Company by which the city was to pay for that part of the improvement between the rails and collect the cost thereof from the railway company in annual installments. This, however, comes far short of holding that a municipality may levy an assessment against an electric railway company by reason of its occupancy of the streets and issue bonds in anticipation thereof.

For the reasons above noted, I am of the opinion that this issue of bonds is invalid and that you should not purchase the same.

Respectfully,
JOHN G. PRICE,
Attorney-General.

3132.

DISAPPROVAL, BONDS OF VILLAGE OF ANNA, \$4,200, ROAD IMPROVEMENTS.

COLUMBUS, OHIO, May 24, 1922.

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

Re: Bonds of the village of Anna, Ohio, in the sum of \$4,200.00, in anticipation of the collection of taxes against the tax duplicate of the village to pay a part of the cost and expense of improving I. C. H. No. 164 through said village.

GENTLEMEN:—All the objections noted by me in Opinion No. 3130 with respect to an issue of bonds by said village in the sum of \$4,260.00 in anticipation of the collection of assessments against abutting property owners to pay a part of the cost and expense of said improvement, apply to the above issue of bonds with the exception of numbers (6), (7) and (9), and by reason of said objections applicable to this issue of bonds, I am of the opinion that the same is invalid and that you should decline to purchase the same.

Respectfully,
JOHN G. PRICE,
Attorney-General.