

be taken by 'yeas' and 'nays,' etc." This section further provides that no ordinance of this nature shall be passed unless it has been fully and distinctly read on three different days, and there shall be no authority to dispense with this rule except by a three-fourths vote of all members elected thereto taken by yeas and nays, etc. In other words, this statute, which has been held to be mandatory, in substance provides that the requirement of reading on three different days be dispensed with by the required vote before such an ordinance or resolution can be passed. This statute, I think, really requires two yea and nay votes, one for the suspension of the rule in this section and one on the question of the passage of the ordinance or resolution if said rule is dispensed with. In the case of *Custakis vs. Yorkville*, 109 O. S. 184, the court said:

"The important, substantial thing is that there be a determination of three-fourths of the entire number elected, that the three readings be made on the same day and that such determination be entered on the journal before the second and third readings."

While I do not go so far as to say that three readings are necessary where the statutory rule is dispensed with, it is certainly mandatory that a determination of the required three-fourths be made before the question of the passage of the ordinance is voted upon.

For this reason, it is my advice that you do not purchase these bonds.

Respectfully,

JOHN W. BRICKER,
Attorney General.

3316.

DISAPPROVAL, BONDS VILLAGE OF PERRYSVILLE, ASHLAND COUNTY, OHIO, \$16,000.00.

COLUMBUS, OHIO, October 17, 1934.

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

GENTLEMEN:—Re: Bonds Village of Perrysville, Ashland Co., Ohio, \$16,000.00.

I have examined the transcript of the proceedings relating to the above bond issue. The question of the issuing of these bonds was voted upon by the electors at the primary election of this year, apparently under favor of Amended Sub. Senate Bill No. 38 of the first special session of the 90th General Assembly, as amended by Amended Senate Bill No. 28 of the second special session of said General Assembly, but there is nothing in the legislation pertaining to the bond issue showing that these bonds were authorized under said act. Likewise, there is nothing in the notice of election or the form of ballot which was used which would indicate that the bonds were issued under said act.

The purpose of this bond issue as voted upon by the people is set forth as being for the purpose of repairing, rebuilding, extending and adding to the water works system and facilities of the village, while the purpose set forth in the bond ordinance is for the "acquisition of land in fee or by easement for the

purposes of obtaining such water supply, and for the repair, rebuilding, extension, and adding to the water works equipment, lines, hydrants, laterals, and extensions." Of course, the purpose of this bond issue can be no different than the purpose set forth in the notice of election and ballot.

The transcript shows that none of the ordinances or resolutions were read on three different days, or that said requirement was dispensed with by three-fourths vote of the council. This requirement has been held to be mandatory *Custakis vs. Yorkville*, 109 O. S. 184.

The transcript contains this notation:

"Federal aid was sought in this proposition upon the theory that the F. E. R. A. might be required to take both the Bond Issue and the Grant in a maximum total of twenty-three thousand dollars (\$23,000.00). A tentative grant of six thousand dollars (\$6,000.00) was received from the F. E. R. A. proposition; also the council felt they could sell the sixteen thousand dollar (\$16,000.00) bond issue on their own accord, which was done. It will appear throughout these proceedings that it was necessary to qualify a bond issue, as well as to qualify for the Federal grant, both of which have been thus far successful."

Said Amended Sub. Senate Bill No. 38, as amended by said Amended Senate Bill No. 28, provides for the issuance of bonds under this act for the purpose of enabling subdivisions to participate in Federal aid provided by the National Industrial Recovery Act, and for that purpose only. It appears from this transcript that the Federal aid is being obtained from what is known as the FERA. The Federal Emergency Relief Administration was created under the Federal Emergency Relief Act and is no part of the National Industrial Recovery Act. Consequently, bonds cannot be issued under said act for the purpose of enabling a subdivision to participate in Federal aid under the Federal Emergency Relief Administration.

For these reasons, it is my advice that you do not purchase these bonds.

Respectfully,

JOHN W. BRICKER,

Attorney General.

3317.

APPROVAL, BONDS OF PAULDING, OHIO, \$12,000.00.

COLUMBUS, OHIO, October 17, 1934.

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