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DISAPPROVAL, BONDS OF NEW ATHENS IN AMOUNT OF \$3,700 FOR STREET ASSESSMENTS.

COLUMBUS, OHIO, March 29, 1920.

Industrial Commission of Ohio, Columbus, Ohio.

RE: Bonds of New Athens in the amount of \$3,700 in anticipation of the collection of street assessments, being 10 bonds of \$370 each.

GENTLEMEN:—I have examined the transcript of the proceedings of council and other officers of the village of New Athens relative to the above bonds and am of the opinion that said bonds are not valid and binding obligations of the village.

The bonds under consideration were issued in anticipation of the collection of special assessments. Section 3914-1 G. C. provides as follows:

“Bonds issued in anticipation of the collection of special assessments shall be full, general obligations of the issuing municipal corporation, and for the payment of the principal and interest of the same, the full faith, credit and revenue of such municipal corporation shall be pledged. To provide for any deficiency in the payment or collection of said assessments as the same fall due, the council of the issuing municipal corporation shall, prior to the issuance of the bonds above mentioned, provide for the levy of a tax upon all the taxable property of said corporation.”

The provisions of this section relative to providing for a deficiency tax levy are mandatory. The transcript discloses that council has failed to provide for such a levy. This defect could doubtless be corrected by a supplemental ordinance of the village council, but there are other defects in the proceedings which make the bonds of doubtful legality, and inasmuch as Messrs. Rowland and Pettay, attorneys for the village, have indicated in a letter attached to the corrected transcript that there is at present a ready local market for the bonds and that it is immaterial to them whether or not the industrial commission accepts the bonds, I advise that you decline to take them.

Respectfully,
JOHN G. PRICE,
Attorney-General.

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DISAPPROVAL, BONDS OF SALINE TOWNSHIP ROAD DISTRICT, JEFFERSON COUNTY, OHIO, IN AMOUNT OF \$20,000 FOR ROAD IMPROVEMENTS.

COLUMBUS, OHIO, March 29, 1920.

Industrial Commission of Ohio, Columbus, Ohio.

RE: Bonds of Saline township road district in the amount of \$20,000, being 10 bonds of \$2,000 each.

GENTLEMEN:—I have examined the transcript of the proceedings of the township trustees and other officers of Saline township road district, relative to the

above bond issue, and advise you that in my opinion the bonds are not valid and legal obligations of said road district.

The transcript as first submitted indicated that the trustees of Saline township were attempting to issue bonds of Saline township road district in anticipation of the collection of a three mill tax levy and for the purpose of creating a fund from which to make such improvements as the trustees might thereafter deem necessary. There being no authority in law for such procedure, the transcript was returned for more definite information as to the purpose and authority for the issue. I have since received the transcript supplemented by a letter of information reciting as follows:

"Answering your letter of February 26 relative to the transcript of the proceedings of Saline township trustees, will say that the bond issue contemplated is to pay the portion of the township on a road improvement to be made by the state highway department on I. C. H. No. 442.

The state was to pay a certain amount, the county a certain percentage, and the township the balance. The portion of the township will be about twenty thousand dollars. The contract has been let for several months but the contractor has not started on the job.

All estimates, plans and specifications are on file in the state highway department.

I enclose a copy of the resolution which is on the minutes of the township trustees referring to this matter."

The resolution referred to in this letter recites that the county commissioners of Jefferson county heretofore made application for state aid in the construction and improvement of I. C. H. No. 442 leading from Hammondsville to New Sumerset in Saline township road district in Saline township, Jefferson county, Ohio.

I therefore conclude that the road improvement is being constructed by the state highway commissioner upon application for state aid made by the county commissioners of Jefferson county. This being the case, whatever bonds are necessary to secure funds in anticipation of the respective shares of the cost of said improvement to be paid by the county commissioners, township trustees and owners of property to be assessed must be issued under section 1223 G. C. by the county commissioners of Jefferson county.

The only authority of the township trustees to issue bonds of a road district for road improvement purposes is conferred by section 3298-45 G. C. and is for the purpose of raising funds in anticipation of the collection of taxes and assessments for a specific road improvement constructed by the township trustees in a road district, and then only in an amount not greater than the aggregate sum necessary to pay the estimated compensation, damages, costs and expense of such improvement.

I therefore advise that you decline to accept the bonds under consideration.

Respectfully,

JOHN G. PRICE,
Attorney-General.