

of property, shall be passed, unless it has been fully and distinctly read on three different days, and with respect to any such by-law, ordinance or resolution, there shall be no authority to dispense with this rule, except by a three-fourths vote of all members elected hereto, taken by yeas and nays, on each by-law, resolution or ordinance, and entered on the journal."

The case of *The Elyria Gas and Water Co. vs. The City of Elyria*, 57 O. S. 374 was an injunction proceeding, wherein it was sought to enjoin the issue and sale of bonds of the city for the purpose of raising a fund with which to build water works. One of the grounds on which the injunction was asked was that the resolution declaring the necessity for the issue and sale of the bonds and directing the submission of the question of their issue and sale to the electors of the city was not read on three different days before its adoption nor was the rule requiring such reading dispensed with. The second and third paragraphs of the syllabus read as follows:

2. "The proper adoption, by the council, of the resolution declaring it to be necessary to issue and sell the bonds of the corporation for a specified purpose authorized by Section 2835, of the Revised Statutes, and providing therein for the submission of the question of their issue to the electors at an election to be held for that purpose, is essential to the validity of all subsequent proceedings, and without which there can be no lawful issue or sale of the bonds.

3. Such a resolution is of a general and permanent nature, within the meaning of Section 1694, of the Revised Statutes, and must, before it can be legally adopted by the council, be read on three different days, or the rule requiring such reading be dispensed with by three-fourths of the members elected to the council."

Section 1694, Revised Statutes became Section 4224, General Code, in the revision of 1910, and the provisions relative to the reading of resolutions and ordinances on three different days and providing for the dispensing with said rule in Section 4224, General Code, are virtually the same now as they were at the time of the decision in the case above referred to.

The above case has never been overruled by the Supreme Court and is still the law, and I am therefore compelled to advise you not to purchase the above issue of bonds.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1022.

DISAPPROVAL, BONDS OF TRUMBULL COUNTY, \$11,000.00.

COLUMBUS, OHIO, September 20, 1927.

Re: Bonds of Trumbull County, \$11,000—Secedar Road Improvement No. 2.

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

GENTLEMEN:—Examination of the transcript of the proceedings of the board of county commissioners and other officers of the County of Trumbull, relative to the

above bond issue, reveals that the resolution declaring the necessity of the improvement was adopted at a regular adjourned meeting held April 9, 1926, at which only two members of the board were present. The transcript accordingly shows the affirmative vote of only the two members present at said meeting.

Section 6910, General Code, provides:

"The county commissioners may, without the presentation of a petition, take the necessary steps to construct, reconstruct, improve or repair a public road or part thereof, as hereinbefore provided, upon the passage of a resolution by unanimous vote declaring the necessity therefor."

In response to a letter calling the attention of the clerk of the Board of County Commissioners of Trumbull County to the above section of the General Code and requesting a copy of the petition, if a petition was actually filed, I am advised by the clerk that at the time of the passage of the resolution of necessity, one of the county commissioners was ill and out of the state and stating that if desired he will furnish a certificate that the absent member's vote on said resolution will be "yea." A board of county commissioners must act as a body, and not individually and I am therefore of the opinion that a certificate such as the one suggested by the clerk would not serve to correct a failure to comply with Section 6910, supra, to the effect that a unanimous vote is required for the passage of a resolution of necessity relating to the construction, reconstruction, improvement or repair of a public road or part thereof, where no petition for said improvement has been filed.

I am accordingly impelled to advise you not to purchase the above issue of bonds. I am returning the transcript herewith.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1023.

APPROVAL, ABSTRACT OF TITLE TO LAND IN SALEM TOWNSHIP,
JEFFERSON COUNTY, OHIO.

COLUMBUS, OHIO, September 21, 1927.

HON. CHARLES V. TRUAX, *Director, Department of Agriculture, Columbus, Ohio.*

DEAR SIR:—You have resubmitted for my opinion a warranty deed and an abstract of title, last certified by R. G. Porter of Steubenville, Ohio, under date of September 9, 1927, covering land situate in Salem Township, Jefferson County, Ohio, said land consisting of two tracts, one containing 146 acres, more or less, and the other containing 84.61 acres, more or less, bounded and described as follows:

Tract No. 1. Being the northeast quarter of Section No. 24, in Township No. 10, Range No. 3, in said county, excepting the portion thereof heretofore deeded by Alexander Riley to Alexander Morrison, the portion hereby conveyed containing 146 acres, and 155 rods, more or less.

Tract No. 2. Also one other piece or parcel of land situate in said Township of Salem and County of Jefferson, and described as follows: