

850.

## DISAPPROVAL, BONDS OF SANDUSKY COUNTY—\$10,350.00.

COLUMBUS, OHIO, September 10, 1929.

In re: Bonds of Sandusky County, Ohio, \$10,350.00.

*Industrial Commission of Ohio, Columbus, Ohio.*

GENTLEMEN:—The transcript of proceedings relative to the above issue of bonds discloses that these bonds are issued in anticipation of the collection of taxes and assessments to pay the cost of a county road improvement lying within the limits of a municipality. The cost of the improvement appears to have been apportioned as follows: 55% assessed by the foot front upon the abutting property, 20% by the village by a levy on all the property in the village, and 25% by the county of Sandusky by a county levy.

The ordinance of the village within which the above improvement lies, consenting to the improvement and approving the surveys, plans and profiles as prepared by the county engineer, which was passed presumably pursuant to the provisions of Section 6950, General Code, fails to fix a time in which claims for compensation and damages on account of the proposed improvement shall be filed with the council. The transcript fails to disclose any proceedings on the part of the village other than the passage of this last mentioned ordinance. The proceedings of the county commissioners indicate that an attempt has been made to issue the bonds of the county, not only in anticipation of the collection of taxes to pay the county's portion and in anticipation of the collection of assessments to pay the property owner's portion, but also in anticipation of the collection of taxes to pay the village's portion of the cost. The bond resolution passed May 24, 1928, attempts to levy a tax on all the taxable property within the village to pay the village's portion of the cost of this improvement. Under the provisions of Section 6951-1, General Code, the county commissioners may levy assessments against the property within the municipality, but there is no authority vested in a board of county commissioners to levy a tax upon all property within a municipality. Under the provisions of the section, the municipality may issue its bonds in anticipation of the collection of taxes levied by the municipality for the purpose of providing for the payment of the municipality's share of the cost and expense of such improvement.

The transcript discloses that notice was published by the county commissioners pursuant to the provisions of Section 6912, General Code, fixing a date for hearing objections to the improvement and to estimated assessments, for two consecutive weeks beginning May 9, 1928. It appears that the cost of the improvement is in excess of the estimated cost and that a contract was entered into on June 19, 1928, in an amount in excess of the estimated cost upon which the estimated schedule of assessments was based. Under these circumstances, there is considerable doubt in my mind as to the propriety of this proceeding without a revised schedule of assessments being advertised pursuant to Section 6912, General Code.

The transcript contains a certificate of the clerk of the board of county commissioners to the effect that the village's portion of the cost of the improvement was paid into the county treasury on August 6, 1929. Under the provisions of Section 5625-33, General Code, this certificate as to the payment of the municipality's share of the improvement into the county treasury should have been executed prior to June 19, 1928, the date of entering into the contract above referred to.

In view of the foregoing, I advise you not to purchase these bonds.

Respectfully,

GILBERT BETTMAN,

*Attorney General.*