

(6) The bond resolution provides for the issuance of bonds bearing interest at the rate of six per cent. The proceedings for the road improvement as indicated by the transcript were commenced prior to February 16, 1920. The supreme court of Ohio, in the case of *State of Ohio ex rel. vs. Zangerle, as Auditor of Cuyahoga County*, No. 16578 on the docket of said court (recently decided), held that the amendment to section 6929 authorizing the issuance of bonds at the increased rate of six per cent did not apply to proceedings for road improvements which were commenced prior to the taking effect of that amendment. Therefore, unless the road improvement proceedings were commenced subsequent to February 16, 1920, the county commissioners were without authority to issue bonds at a rate of interest in excess of five per cent.

It is possible that some of the errors referred to above can be corrected, but all of them can not.

I am therefore of the opinion that the bonds in question are not valid and binding obligations of Williams county and advise the Industrial Commission not to accept the same.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

1316.

DISAPPROVAL, BONDS OF WILLIAMS COUNTY, OHIO, IN AMOUNT OF
 \$15,800 FOR ROAD IMPROVEMENTS.

COLUMBUS, OHIO, June 7, 1920.

Industrial Commission of Ohio, Columbus, Ohio.

RE—Bonds of Williams county, in the amount of \$15,800, for the improvement of inter-county highway No. 21, designated as the Toledo and Angola road west of Alvordton and the extension thereof through the village of Alvordton—one bond of \$1,800 and 14 bonds of \$1,000.

GENTLEMEN:—I have examined the transcript for the above bond issue and decline to approve the validity of the bonds therein referred to for the following reasons:

(1) The date of the hearing upon objections to the improvement was fixed for and held on November 17, 1919; the notice thereof required by section 6912 was published November 6th and November 13th. The language of this section requires that such notice shall be published "once a week for two consecutive weeks." Two full weeks, or fourteen days, should have intervened between the first publication and the date of hearing. See—*Fenner vs. City of Cincinnati*, 8 C. N. P. 340, affirmed without reported opinion by the Supreme Court on October 15, 1901, in case No. 7473.

(2) The hearing upon the schedule of estimated assessments was held March 22, 1919 and the notice thereof required by section 6922 provides that such notice shall be published "once a week for two consecutive weeks." For the same reason as stated in the preceding paragraph I do not believe the notice given meets the requirements of said section 6922.

(3) The bond resolution provides for the issuance of bonds bearing interest at the rate of six per cent per annum. The proceedings for this road improve-

ment were commenced prior to February 16, 1920. In the case of *State ex rel. vs. Zangerle, County Auditor*, No. 16578, (recently decided), the Supreme Court held that county commissioners are without authority to issue bonds bearing a rate of interest in excess of five per cent for road improvements the proceedings for which were commenced prior to February 16, 1920.

For the several reasons stated, I am of the opinion that said bonds are not valid and binding obligations of Williams county and advise the Industrial Commission not to accept the same.

Respectfully,

JOHN G. PRICE,
Attorney-General.

1317.

INHERITANCE TAX LAW—PROBATE COURT HAS INHERENT POWER TO MODIFY OR VACATE AN ORDER DETERMINING SAID TAX AT TERM AT WHICH SUCH ORDER WAS ENTERED—ALSO HAS POWER TO CORRECT ENTRY OF ORDER DETERMINING TAX—HOW ORDER DETERMINING TAX CAN BE MODIFIED OR VACATED AFTER TERM AT WHICH ORDER MADE AND ENTERED.

1. *The probate court has inherent power to modify or vacate an order determining the inheritance tax at the term at which such order was entered.*

2. *Such court has inherent power at any time to correct the entry of an order determining inheritance tax to conform to the real order made by the court.*

3. *After the term at which an order determining inheritance tax is made and entered, a probate court has power to modify or vacate its order determining taxes by proceedings had in the same manner and for like cause as is provided for the modification and vacation of judgments and orders after term time in the court of common pleas.*

COLUMBUS, OHIO, June 8, 1920.

Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is made of the receipt of your letter of recent date requesting the opinion of this department, as follows:

“Some question has been made as to the extent of the power of the probate court, and the procedure to be adopted, to modify its determination of inheritance tax:

1. During the term at which such determination was made.
2. After the term at which it was made.
3. Before the tax has been certified and paid.
4. After such payment has been made.

A concrete case now presents itself. In connection with the estate of W an adjudication of inheritance tax was made on March 1, 1920, and the same was paid shortly thereafter. On May 8th it was discovered by the commission that owing to a misstatement of fact made in good faith by one of the interested parties the court had exempted a large amount of property against which tax should have been assessed.

Seeking to have this corrected the Tax Commission desires to have you advise as to its right to intervene at this time, the authority of the court to modify its entry and the proper procedure to be followed.”