

- (8) The bond ordinance includes three issues:
- (a) This issue in the sum of \$4,260.00 in anticipation of the collection of assessments against abutting property owners;
 - (b) An issue in the sum of \$5,500.00 in anticipation of assessments against The Western Ohio Railway Company;
 - (c) An issue of \$4,200.00 to be paid for by taxes levied against the general duplicate of the village.
- (9) Although the bond ordinance provides for a direct tax to cover deficiencies in the collection of assessments against abutting property owners and against said The Western Ohio Railway Company, it does not provide for an *annual* tax for said purpose as required by law.
- (10) The bond ordinance was passed with only five members of council present and voting thereon. This being so, the transcript should have shown affirmatively that said meeting was legal, that is, a regular meeting or a special meeting called in compliance with law.
- (11) The transcript does not show that the clerk of the village, as the fiscal officer thereof, lodged with council a certificate with respect to the life of this improvement before the ordinance providing for this bond issue was passed, as required by section 2 of the Griswold Act (109 O. L., 337).
- (12) The transcript fails to show any certificate by the clerk, as the fiscal officer of the village, to council fixing the maximum maturity of these bonds, before said bond ordinance was passed, as required by section 7 of the Griswold Act (109 O. L., 338).
- (13) It does not appear that any copy of the bond ordinance was lodged with the county auditor, as required by section 15 of the Griswold Act.
- (14) The transcript does not show that this issue of bonds was offered to the sinking fund trustees of the village and their rejection secured before the same were offered to the industrial commission.
- (15) The financial statement is not as complete as it should be.
- Some of the defects above noted may undoubtedly be cured by further information. Others, however, are of such nature as to compel me to hold that the issue is invalid. I am therefore of the opinion that you should not purchase said issue of bonds.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

3131.

DISAPPROVAL, BONDS OF VILLAGE OF ANNA IN AMOUNT OF \$5,500,
 ROAD IMPROVEMENTS.

COLUMBUS, OHIO, May 24, 1922.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

Re.: Bonds of the village of Anna in the sum of \$5,500 in anticipation of the collection of assessments against The Western Ohio Railway Company, to pay a part of the cost and expense of the improvement of I. C. H. No. 164, in and through said village.

GENTLEMEN:—As above noted, this issue of bonds is one in anticipation of the collection of assessments against The Western Ohio Railway Company for the purpose of paying a part of the cost and expense of improving I. C. H. No. 164, otherwise known as the Dixie Highway, through said village.

In addition to the objections noted to the proceedings relating to an issue of bonds by said village in the sum of \$4,260.00, in anticipation of the collection of assessments against abutting property owners, and which are set out in Opinion No. 3130, of even date therewith, I am compelled to hold against the validity of the above issue of bonds for the reason that I fail to find any statutory authority permitting a municipal corporation to assess a part of the cost and expense of an improvement of this kind against a street railway company, which under franchise from the municipality has its tracks in and on the streets of such municipality. See —*Dayton & Troy Elec. Ry. Co. vs. Scott*, 101 O. S., 13.

In the case of *City of Newark vs. Fromholtz, et al.*, 102 O. S., 81, the court upheld an agreement between the city and the Electric Railway Company by which the city was to pay for that part of the improvement between the rails and collect the cost thereof from the railway company in annual installments. This, however, comes far short of holding that a municipality may levy an assessment against an electric railway company by reason of its occupancy of the streets and issue bonds in anticipation thereof.

For the reasons above noted, I am of the opinion that this issue of bonds is invalid and that you should not purchase the same.

Respectfully,
JOHN G. PRICE,
Attorney-General.

3132.

DISAPPROVAL, BONDS OF VILLAGE OF ANNA, \$4,200, ROAD IMPROVEMENTS.

COLUMBUS, OHIO, May 24, 1922.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

Re: Bonds of the village of Anna, Ohio, in the sum of \$4,200.00, in anticipation of the collection of taxes against the tax duplicate of the village to pay a part of the cost and expense of improving I. C. H. No. 164 through said village.

GENTLEMEN:—All the objections noted by me in Opinion No. 3130 with respect to an issue of bonds by said village in the sum of \$4,260.00 in anticipation of the collection of assessments against abutting property owners to pay a part of the cost and expense of said improvement, apply to the above issue of bonds with the exception of numbers (6), (7) and (9), and by reason of said objections applicable to this issue of bonds, I am of the opinion that the same is invalid and that you should decline to purchase the same.

Respectfully,
JOHN G. PRICE,
Attorney-General.