

3078.

DISAPPROVAL BONDS OF VILLAGE OF BOTKINS, SHELBY COUNTY,
IN AMOUNT OF \$8,100 FOR ROAD IMPROVEMENTS.

COLUMBUS, OHIO, May 9, 1922.

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

Re: Bonds of the Village of Botkins, Shelby County, in the amount of \$8,100 to pay the village portion of the cost of improving I. C. H. 164, Sec. Botkins.

GENTLEMEN:—I have examined the transcript of proceedings of the village officials authorizing the issuance of the above bonds and decline to approve the validity thereof for the following reasons:

(1) The resolution consenting to the extension of this road improvement through the village under the supervision of the State Highway Commission was not read on three different dates as required by section 4224 G. C., nor was the rule requiring such reading suspended by a three-fourths vote of council. In fact, from the transcript it appears that only four members of council voted upon the passage of the resolution. As this resolution was the first essential step in the proceedings and was undoubtedly a resolution "creating a right" as defined by said section referred to, it should have been adopted in the manner prescribed by law.

(2) From the transcript it appears that the several ordinances and resolutions were published only once. Section 4229 G. C. requires that such publication be made for two consecutive weeks.

(3) The transcript fails to show that the fiscal officer prior to the passage of the bond ordinance certified to the life of the improvement and the maximum maturity of the bonds, as required by sections 2 and 7 of the Griswold Act, 109 O. L., 336.

(4) The transcript reveals that the bonds under consideration are issued in part to pay the Western Ohio Railway Company's share of the cost of said improvement. I seriously doubt the authority of the village to so loan its credit for the purpose of financing the railroad company's proper share of the improvement. If such action can be sustained at all it would be upon the theory that the village in the first instance is under obligation to construct, maintain and repair roads and such bonds would then of necessity be considered in arriving at the net indebtedness of the village. They certainly can not be considered as bonds issued in anticipation of the collection of special assessments.

The transcript otherwise fails to furnish information necessary to determine the validity of the bond issue, particularly in that it does not contain a financial statement showing the total value of all property in the village as assessed for taxation, a detailed tax statement and a detailed statement of outstanding bonded indebtedness of the village, indicating what if any bonds have been issued without a vote of the electors during the present fiscal year under authority of section 3939 G. C. However, in view of the errors and defects referred to in the first three paragraphs, it would be useless to secure this additional information.

I am of the opinion that said bonds are not valid obligations of the village and advise the Industrial Commission to decline to purchase the same.

Respectfully,

JOHN G. PRICE,
Attorney-General.