

"In its broad sense a bond comprises a negotiable promissory note under seal, but a promissory note is not a municipal bond within the meaning of those words as understood in the commercial world. A negotiable promissory note generally is made payable to a person or order and is for a comparative short period of time, while a bond generally made payable to bearer, has a long time to run and has negotiable interest coupons attached. It is easier to distinguish them than to point out the distinction."

I am therefore of the opinion that certificates of deposit issued by building and loan associations authorized to do business in Ohio are not such interest-bearing bonds or stocks as, by virtue of Section 4169, General Code, may be the subject of investment of the permanent funds of public graveyards or burial grounds located in cities.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1647.

APPROVAL, BONDS OF THE VILLAGE OF BEXLEY, FRANKLIN COUNTY—\$48,000.00.

COLUMBUS, OHIO, February 1, 1928.

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

1648.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN JEFFERSON COUNTY, OHIO.

COLUMBUS, OHIO, February 1, 1928.

HON. GEORGE F. SCHLESINGER, *Director of Highways and Public Works, Columbus, Ohio.*

1649.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND OF THOMAS MILLER, ASHLAND COUNTY, OHIO.

COLUMBUS, OHIO, February 1, 1928.

HON. CARL E. STEEB, *Secretary, Ohio Agricultural Experiment Station, Columbus, Ohio.*

DEAR SIR:—Examination has been made of the Abstract of Title of the Thomas Miller tract, being a part of the southwest quarter and a part of the south-

east quarter of Section 9, Township 19, Range 16, also being a part of the northeast quarter and a part of the northwest quarter and a part of the southeast quarter of Section 16, Township 19, Range 16, all in Hanover Township, Ashland County, Ohio. As a result of my examination of the Abstract of Title submitted, I find that said Thomas Miller is the owner of record of said premises, subject to the following exceptions:

1. The abstract shows that one Thomas McMahan died seized of that part of said premises located in Section 9, Township 19, Range 16. Subsequent to the death of said Thomas McMahan, it appears that one George W. Bassford became the owner of an undivided one-seventh interest in said lands by quit claim deed to him executed and delivered by one John McMahan, who it appears was one of the heirs of Thomas McMahan. The abstract fails to show how said George W. Bassford obtained any further title to said lands. However, at Section 13 of said abstract there is noted a quit claim deed by the assignees of said George W. Bassford, purporting to convey to Daniel C. and Alonzo Priest the whole title to said above noted lands in Section 9. Likewise there is shown at Section 14 of the abstract a deed by said George W. Bassford and wife to said Daniel C. and Alonzo Priest, which purports to convey the whole title to said lands in Section 9.

2. There is nothing in the abstract to show how the title of Daniel C. Priest to an undivided interest in said lands in Section 9, Township 19, Range 16, passed from him. At Section 15 of the abstract there is shown a quit claim deed by one William Priest to James L. Priest, Anna Priest and D. Q. Priest. It is probable that the parties to this conveyance were the children and heirs of said Daniel C. Priest, but the abstract does not show this to be the fact.

3. Section 16 of the abstract shows a deed under date of March 3, 1885, for the lands in Section 9, Township 19, Range 16, which was executed and delivered by Alonzo Priest and wife, David Q. Priest, James L. Priest, a single man, and Anna Priest, a single woman, to one Harvey Purdy. The deed does not name the wife, if any, of said David Q. Priest, neither is there any recital indicating that at the time of this deed he was unmarried. If at the time of the execution of this deed said David Q. Priest was married and his wife is still living, she has dower rights in the undivided interest of said David Q. Priest in said land.

4. The abstract shows that on or after January 1, 1887, one David Maxwell was the owner of record of said lands in Section 9, Township 19, Range 16, and that on June 3, 1896, Sam R. Jones, Sheriff of Ashland County, conveyed said lands by sheriff's deed to one W. S. Fisher. This deed was apparently executed by the sheriff pursuant to order of sale of the Common Pleas Court of Ashland County, in certain foreclosure proceedings in which said David Maxwell and others were parties defendant. The proceedings relating to said foreclosure case, however, are not abstracted and there is nothing in the abstract to show that by service of summons upon said David Maxwell and other defendants, or by publication, any jurisdiction was conferred upon said court to order the sale of said lands in the foreclosure case.

5. In the deed of Sam R. Jones, Sheriff of Ashland County, to W. S. Fisher, the property conveyed is described as being the east half of the southwest quarter of Section 9, Township 19, Range 16, containing eighty acres more or less; also the southwest quarter of the southeast quarter of Section 9, Township 19, Range 16, containing forty acres of land more or less, "except thirty acres out of the above described tract sold by David and Louisa Maxwell to John D. Canan July 9, 1889, recorded in Volume 71, p. 269, in Record of Deeds of Ashland County, Ohio." The abstract is defective in not locating and describing the thirty acres sold and

conveyed by David and Louisa Maxwell to John D. Canan. Without such location and description we have no means of knowing whether said thirty acres were conveyed out of the lands of which Thomas Miller is the record owner, or out of other lands owned by said Maxwell.

6. At Section 30 of the abstract there is shown a warranty deed by one Gilbert Pell to William Pitts to the lands therein conveyed, being certain lands in the east half of the northeast quarter of Section 16, Township 19, Range 16. There is nothing in the abstract to show how said Gilbert Pell obtained title to said lands.

7. At Section 31 of the abstract there is shown a quit claim deed under date of September 2, 1857, executed by Lucinda Pitts and Mary Ann Pitts, heirs of William Pitts, deceased, to one Amos Myers to part of the land in Section 16, Township 19, Range 16, of which Thomas Miller is now record owner. There is nothing in the abstract to show that said Lucinda and Mary Ann Pitts were all of the heirs of said William Pitts, deceased.

8. Section 33 of said abstract shows a warranty deed dated June 15, 1835, from Gilbert Pell to Henry Riblet, purporting to convey thirty-five acres off of the south end of the east half of the northeast quarter of Section 16, Township 19, Range 16. There is nothing in the abstract to show how Gilbert Pell got the title to the land conveyed.

9. At Section 36 of the abstract there is shown a deed under date of April 1, 1869, from Levi Riblet, heir at law, and Mary Riblet, wife of Henry Riblet, deceased, to Amos Myers, purporting to convey, among other lands, certain lands in the southeast quarter of Section 16, Township 19, Range 16. There is nothing in the abstract to show how Henry Riblet or Levi Riblet obtained title to said land in said southeast quarter.

10. At Section 38 of the abstract there is shown a deed under date of April 9, 1833, from one Gilbert Pell to one Israel Mapes, purporting to convey the north half of the northwest quarter of Section 16, Township 19, Range 16. The abstract does not show how Gilbert Pell obtained title to the north half of the west half of said northwest quarter of Section 16. At Section 37 of the abstract there is shown a deed of Duncan McArthur, Governor of Ohio, to Gilbert Pell, conveying the east half of said northwest quarter of Section 16, but there is nothing to show that said Gilbert Pell obtained title to any part of the west half of said northwest quarter of Section 16.

11. The abstract at Section 39 shows a deed under date of December 19, 1884, from Israel Mapes and wife to one Benjamin Jones, which purports to convey the northwest quarter of Section 16, Township 19, Range 16. The abstract does not disclose, however, how Israel Mapes obtained title to the south half of the northwest quarter of Section 16.

12. At Section 44 of the abstract there is shown a deed dated May 27, 1863, from David Gray and wife to one John Ports. This deed conveys to John Ports the north half of the northeast quarter of Section 16, Township 19, Range 16. The only conveyance shown in the abstract by which said David Gray obtained title to lands in said Section 16 is that shown at Section 43 of the abstract, where it appears that by deed of one James Irwin and wife to David Gray there was conveyed to said David Gray the north half of the *northwest* quarter of Section 16.

13. At Section 45 of the abstract there is shown a deed under date of March 22, 1867, from John Ports and wife to one Rachel Bishop. This deed purports to convey the northeast quarter of the northwest quarter of said Section 16. As before noted, the deed from David Gray to John Ports conveyed the north half of the northeast quarter of said Section 16.

14. The abstract shows that on September 22, 1874, one William Lease, by deed of conveyance from Andrew J. Scott and wife, obtained record title to the northeast quarter of the northwest quarter of Section 16, Township 19, Range 16, containing forty acres more or less and that said William Lease died seized of said lands. At Section 52 of the abstract there is shown a deed dated April 5, 1876, from John C. Gains, administrator of the estate of William Lease, to A. J. Scott. This deed recites that the same is made pursuant to an order of sale issued by the Probate Court of Ashland County, Ohio. There is, however, no abstract made of the proceedings on the petition of the administrator to sell said lands and there is, therefore, nothing in the abstract to show that by service of summons or by entry of appearance, or otherwise, the court obtained such jurisdiction over the heirs of said William Lease as authorized the court to issue an order of sale for said lands.

15. At Section 55 of the abstract there is shown a deed under date of August 23, 1904, from Amos Myers and wife to one L. T. Cornell. There is nothing in the abstract to show how Amos Myers got title to the twenty acres in the southeast quarter of Section 16 and described as part of the lands conveyed by said deed.

16. At Section 60 of the abstract there is shown a mortgage deed dated September 3, 1926, from Thomas Miller to The Farmers Bank of Loudonville, from which it appears that the original mortgage indebtedness was \$2250.00. This mortgage, to the extent of the amount unpaid thereon, is a lien on all the lands of which said Thomas Miller is the record owner in Sections 9 and 16 of Township 19, Range 16.

17. At Section 61 of the abstract there is shown a mortgage deed under date of June 27, 1927, from said Thomas Miller to John H. Miller. The original mortgage indebtedness, as shown by this mortgage deed, is \$485.00. This mortgage, to the extent of the amount remaining unpaid thereon, is a lien on the lands here under investigation.

18. The taxes for the last half of the year 1926 and taxes for the whole of the year 1927, the amount of which is not stated in the abstract, are a lien on said lands and premises under investigation.

It is probable that some of the defects in the title to the lands under investigation or different parts thereof have been cured by the lapse of time and adverse possession. This, however, in the nature of things, depends upon the existence of facts which an abstract of title cannot disclose. However, the exceptions to the lands here under investigation are so many and varied that I do not feel that I can do otherwise than disapprove the record title to said lands and premises now owned and held by said Thomas Miller, and the same is accordingly hereby disapproved.

I am herewith returning said abstract, together with Mr. Miller's deed and the files submitted by you therewith.

Respectfully,
EDWARD C. TURNER,
Attorney General.