

received to secure the deposits of the board, but nevertheless the delivery of the securities was made by the bank and not by the board. The receipt also recites that it is executed in duplicate, one for the bank and one for the school district. It is quite obvious that where receipts are executed in duplicate, the holder of the securities would be justified in refusing to surrender them without a presentation and surrender of both of the receipts. This would necessarily involve an agreement between the depositary bank and the board as to the right of the board to look to the securities in question.

I deem such a possible situation as clearly objectionable. The hypothecated securities should be in the exclusive control or dominion of the board of education and available without the concurrence of any one else for the purposes for which the deposit was made. For this reason, I am of the opinion that the funds of the board of education in the case which you present are not properly protected by the delivery of the securities to another bank and their receipt in the manner set forth.

This conclusion should not be construed as indicating the impropriety of placing the hypothecated securities in some safe and proper place. I think it would be entirely proper for the board to keep these securities in a safety deposit box or deposit them with some safe institution. It would appear that under such circumstances the duty of the board to provide properly for the safe keeping of these securities had been properly discharged. This would however be a question of fact in each instance and it is unnecessary and improper to lay down any general rule as to liability. Any such arrangement, however consummated, should reserve the exclusive control and dominion over the hypothecated securities in the board of education. It is the lack of this essential element in the case which you present which forces me to the conclusion that the arrangement is improper.

You are therefore advised that the board of education in the instance set forth by you has not provided proper protection for the funds of the school district.

Respectfully,
EDWARD C. TURNER,
Attorney General.

582.

APPROVAL, NOTES OF SCHOOL DISTRICTS IN COSHOCTON AND
MONROE COUNTIES.

COLUMBUS, OHIO, June 7, 1927.

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

583.

DISAPPROVAL, ABSTRACT OF TITLE TO GUILFORD LAKE PARK LAND,
HANOVER TOWNSHIP, COLUMBIANA COUNTY.

COLUMBUS, OHIO, June 7, 1927.

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

DEAR SIR:—You have submitted for my opinion encumbrance estimate No. 3976

and the abstract of title prepared by McMillan & Kelso, abstracters at Lisbon, Ohio, certified under date of April 17, 1926, and re-certified under date of November 3, 1926, covering land known as Tract No. 1, Guilford Lake Park, containing 47.43 acres of land, situate in the township of Hanover, county of Columbiana and state of Ohio, and more particularly described as follows:

First Parcel: Beginning at the southeast corner of said Section No. 2; thence north along the east line of said Section No. 2, 772.86 feet to a post in said section line which point is also the southeast corner of lands now owned by Margaret Camp; thence S. 89° 58' W. along the south line of said Margaret Camp's land 994.95 feet to a post at the northeast corner of lands now owned by E. E. Hanna, guardian; thence south along the easterly line of said E. E. Hanna, guardian's land 772.40 feet to a stone set in the south line of said Section No. 2; thence N. 89° 58' E. along the south line of said Section No. 2, 994.90 feet to the place of beginning and containing 16.98 acres of land be the same more or less.

Second Parcel: Beginning at the northeast corner of said Section No. 11; thence S. 0° 07' W. along the east line of said Section No. 11, 774.74 feet to a stone set in said section line; thence S. 86° 04' W. 199.30 feet to a stake; thence S. 65° 04' W. 238.20 feet to a stake; thence S. 56° 31' W. 242.80 feet to an iron pin; thence S. 4° 23' W. 454.50 feet to a stake; thence S. 37° 30' W. 415.50 feet to a stake; thence S. 68° 04' W. 290.00 feet to a stake in the center line of the state road leading from Lisbon to Canton; thence N. 63° 41' W. along the center line of said road leading from Lisbon to Canton 778.20 feet to a point in the south line of lands now owned by E. E. Hanna, guardian; thence S. 84° 40' E. along the southerly line of lands now owned by said E. E. Hanna, guardian, 779.90 feet to a stone set at the southeast corner of said E. E. Hanna, guardian's land; thence N. 3° 29' E. along the easterly line of lands now owned by said E. E. Hanna, guardian, 1608.88 feet to a stone in the north line of said Section No. 11; thence N. 89° 58' E. along the north line of said Section No. 11, 994.90 feet to the place of beginning and containing 30.45 acres of land be the same more or less.

The first parcel of Tract No. 1 is a part of a parcel of land containing 132.22 acres and the second parcel of Tract No. 1 is a part of a parcel of land containing 190½ acres of land owned by Mary Whinery and Lizze Whinery, which larger parcels are covered by the abstract above mentioned.

Upon examination of the submitted abstract, I am of the opinion that the same shows a good and merchantable title to said 47.43 acres in Mary Whinery and Lizzie Whinery, subject to the following:

1. On parcel No. 1, an uncanceled oil and gas lease, executed January 4, 1910, by A. G. and G. R. Hostetter to Fred Worthington, for the term of two and one-half years and as much longer as oil and gas is found in paying quantities, the lease to be void if a well was not drilled within four months or the rentals paid. No data is furnished indicating that this lease has been cancelled or has become void.

2. On parcel No. 1, an uncanceled oil and gas lease executed on the twenty-ninth of March, 1911, by A. G. and G. R. Hostetter to John Kominsky for the term of two years and as much longer as oil and gas is found in paying quantities, the lease to be void on failure to complete a well within three months or pay rentals. No data has been furnished which indicates that the lease has been cancelled or that the lease has become void.

3. A mortgage executed by Annie E. H. Morgan on March 7, 1899, to Solomon

J. Firestone and Ed Firestone, partners doing business as Firestone Brothers, covering her undivided one-fifth interest in parcel No. 2, for the purpose of securing the payment of her note of \$1,000.00 due in two years from that date, with interest at 7%. This mortgage has not been cancelled.

4. Since the completion of the abstract, the 1926 taxes have become a lien and, so far as is disclosed, they are still unpaid.

5. The 1927 real estate taxes, amount yet undetermined, are now a lien and, are probably unpaid.

The abstracter's certification shows no examination in the United States Court and that the examination was made in the name of record owners only, and only for the period during which each one respectively held title.

The encumbrance estimate submitted is numbered 3976, is dated December 22, 1926, and bears the certification of the Director of Finance under date of December 23, 1926, and appears to be in regular form.

No deed has been submitted with the abstract and encumbrance estimate.

I am herewith returning your file relating to Tract No. 1, including the abstract and encumbrance estimate.

Respectfully,
EDWARD C. TURNER,
Attorney General.

584.

APPROVAL, CONTRACT BETWEEN THE STATE OF OHIO AND JIM & ED WILLIAMS, WASHINGTON C. H., OHIO, TO CONSTRUCT STATE ARMORY AT GREENFIELD, OHIO, AT AN EXPENDITURE OF \$48,631.00—SURETY BOND EXECUTED BY THE AETNA CASUALTY AND SURETY COMPANY.

COLUMBUS, OHIO, June 8, 1927.

HON. FRANK D. HENDERSON, *Adjutant General, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the state of Ohio, acting by the Adjutant General, and James R. Williams and Edward L. Williams, partners, doing business under the name of Jim & Ed Williams, of Washington C. H., Ohio. This contract covers the construction and completion of a State Armory to be erected in the village of Greenfield, Ohio, and calls for an expenditure of forty-eight thousand six hundred and thirty-one dollars (\$48,631.00).

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. There has further been submitted a contract bond upon which the Aetna Casualty & Surety Company appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,
EDWARD C. TURNER,
Attorney General.