issue and decline to approve the validity thereof because all of said bonds run for a period of longer than eight years from the date of their issuance, contrary to the provisions of section 4 of house bill 567 (108 O. L. 711). This section of the General Code in part provides that bonds issued under authority of said H. B. 567 shall run for a period not exceeding eight years. The first of the bonds provided in the issue under consideration matures on April 1, 1928. The last of said bonds matures April 1, 1935.

I therefore advise you to decline to accept the bonds.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1093.

APPROVAL, ABSTRACT TO 10.66 ACRES OF LAND IN ERIE TOWNSHIP, OTTAWA COUNTY, OHIO, WHICH FORMERLY BELONGED TO OHIO RIFLE RANGE ASSOCIATION.

COLUMBUS, OHIO, March 22, 1920.

HON. ROY E. LAYTON, *Adjutant General, Columbus, Ohio.*

DEAR SIR:—The abstract submitted to this department for examination purports to exhibit the title to 10.66 acres of land in Erie township Ottawa county, which formerly belonged to the Ohio Rifle Range Association, and described as follows:

> "Being the east half of the southeast quarter of fractional sections 21, fractional township 7, range 16, lying north of the county road excepting the west 3.342 acres thereof, said excepted part being more particularly described in said abstract."

Consideration of the abstract as submitted discloses, among other things, the following:

1. No patent deed appears of record. An early record, according to the abstract, shows this land "was entered by Abraham Bell, July 21, 1834."

2. In the deed from John Dewell to Benjamin Read & Company (page 4 of abstract) in the granting clause, there are no words of perpetuity, the grant being unto grantee "his heirs and assigns" without the addition of the word "forever." In the latter part of this section of the abstract, however, the abstracter certifies that the deed contains the usual habendum clause and covenents of warranty.

3. The same discrepancy appears in the deed of Benjamin Read and John Wild to Amasa Short (page 5 abstract), with the same reference to the habendum clause and covenants of warranty.

4. In these two sections of the abstract it does not appear who constituted the firm or partnership of "Benjamin Read & Company" nor so far as these two deeds are concerned does the connection of John Wild with Benjamin Read & Company appear. However, the next section (page 7 abstract) shows that Amasa Short executed a mortgage to Benjamin Read & Company, which in the next section (page 8 abstract) was foreclosed in a proceeding brought by Benjamin Read and John Wild, in the petition for which it is alleged that said mortgage and notes secured thereby were executed to the plaintiffs, Read and Wild.

5. On page 12 of the abstract, George E. St. John and Mate St. John, his wife, convey by warranty deed to Oliver A. Short, who previously had received (page 11

abstract) a warranty deed from James Dunham, Sr., and wife. The source of the title purported to be conveyed by deed of George E. St. John and wife does not appear in the abstract. On page 13 Oliver A. Short and Mary Short, his wife, by quit claim deed, convey back to George E. St. John.

The source and extent of title in these conveyances do not clearly appear in the abstract and the same defect as to the absence of words of perpetuity exist in the deed of St. John and wife to Cliver A. Short (page 12 abstract), with the same reference to the habendum and covenant of warranty clauses.

However, in an action begun by Reuben Grant in 1883, which was an action for equitable relief and foreclosure, both of these parties, together with Amasa Short, Mary E. Elwell, formerly Mary E. Dunham, and Charlotte Short, were made parties defendant. On December 12, 1884, an order of sale was made ordering the premises sold to William Grant and at the January term, in 1885, sale was confirmed and deed ordered.

In the next section (page 17 abstract) the sheriff conveyed to Reuben Grant. It is noted that the deed is made to Reuben Grant instead of William Grant named in the order of court. It is believed that with all of these parties in court, their respective rights and equities in this real estate were adjudicated, and no direct attack being made upon this judgment by appeal or error proceedings, it cannot now be collaterally attacked. In the later deed from Minnie Jeremy to Scott Stahl (page 30 abstract), the words of perpetuity are absent in the granting clause. As appearing in the abstract it reads "unto the said grantee, his heirs and assigns." The abstract, however, states that the deed contains the usual habendum and covenants of warranty. This same condition obtains in the deed from Scott Stahl to the Ohio State Rifle Association (page 31 of abstract).

6. In the sections of the abstract following the deed of Charles F. Sipe, as receiver, to Frank Holt, trustee (page 32 of the abstract), the proceedings for winding up the affairs of the Ohio State Riflle Assocation Company and the orders of court therein are purported to be given. From the allegations in the petition and the proceedings thereunder, it is not clear that this proceeding was intended to be the statutory action under sections 11938 G. C., et seq., for the dissolution of corporations. The names and addresses of the stockholders, as provided for in section 11939 G. C., is not contained in the petition. It does not appear that an order was entered "requiring all persons interested in the corporation to show cause, if any they have, why it should not be dissolved, before some referee or master commissioner, appointed by the court, and to be named in the order, at a time and place therein specified, not less than three months from its date" as provided in section 11941 G. C. of that chapter.

However, the allegations of the petition and the subsequent proceedings may be considered in the light of an action in equity for the appointment of a receiver and for the consequent liquidation of the corporation's trustees.

It does appear from the proceeding that all of the creditors of the company have filed their claims with the receiver, amounting to the sum as shown in the abstract.

While some question may be made of the regularity of the act of the receiver in making the sale in the manner in which it was made on an order to sell, yet with the defendant corporation being in court and the creditors having either expressly or tacitly agreed to such method of transfer, it is believed that in the absence of a direct attack upon this order, it is valid and binding as against collateral attacks.

This latter question, with that noted as to the lack of evidence in the continuity of the title above pointed out, constitutes the more serious questions as to the merchant ability of the title under consideration.

As to the receiver's sale, in view of the considerations above noted, together with the fact that in any event the state would be subrogated into the rights of the creditors, whose claims are paid from the consideration paid by the state, I am inclined to regard these apparent discrepancies as not being fatal to the title.

By letter from Hon. Charles H. Graves, of Toledo, it is learned that the absence of words of perpetuity, as above noted, resulted from omissions of the abstracter to quote the granting clauses which are quoted in such letter, and show the grants to be to the respective individual grantees and their "heirs and assigns forever." and to the Ohio State Rifle Association Company, and to "its successors, heirs and assigns forever." It is noted also that this last deed was acknowledged before the mayor of Port Clinton, Ohio, and not the "mayor of Ottawa county," as appears in the abstract.

As to the break in the chain of title, it is noted that the present grantor, Frank Holt, trustee, and his predecessors in title, as shown by the abstract, and the information submitted therewith, have been in the open, adverse, notorious and continuous possession of this real estate for thirty-five years or more, and any prior irregularities in the record title are cured by a title thus made by prescription.

In view of these considerations, and in the light of the circumstances above referred to, notwithstanding the matters pointed out, it is believed that the abstract constitutes a merchantable title and it is therefore approved.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1094.

APPROVAL OF FORMS OF RESOLUTION BY BOARDS OF TOWNSHIP TRUSTEES AS TO HIGHWAY IMPROVEMENTS—PART OF COST CONTRIBUTED BY STATE—SEE OPINION No. 779, NOVEMBER 15, 1919.

COLUMBUS, OHIO, March 23, 1920.

HON. A. R. TAYLOR, *State Highway Commissioner, Columbus, Ohio.*

DEAR SIR:—

In the matter of approval of forms of resolution by boards of township trustees as to highway improvements, a part of the cost of which is to be contributed by the state.

In line with preparation of two forms of resolution for use by county commissioners as covered by approval of this department in my letter to you of November 15, 1919 (opinion No. 779), I have also revised the form now in use by township trustees, and have provided for two forms of resolution, the first to be designated "Resolution Approving Plans and Determining to Proceed," which form has particular reference to sections 1199 and 1200 G. C., and the second to be designated "Final Resolution," which has particular reference to sections 1218 and 5660 G. C.

The two forms as revised, which I now approve, are respectively as follows:

"Received_____	_____County,
Pet. No._____	_____Township,
Name of Road_____	I. C. H. No_____Sec_____
_____	