

nomie standpoint these bonds and those under the new act have a similar purpose.

Since it is clear that the legislature intended to refer to the Home Owners' Loan Act of 1933 in Amended Senate Bill No. 371, it is my opinion that bonds issued under that act will be eligible for investment by banks on and after the effective date of the legislative act.

Respectfully,
JOHN W. BRICKER,
Attorney General.

1405.

COUNTY TREASURER—MUST GIVE BOND WITH TWO OR MORE BONDING OR SURETY COMPANIES—MAY NOT EXECUTE TWO BONDS, WITH ONE SURETY ON EACH BOND.

SYLLABUS:

The requirement of Section 2633, General Code, that the county treasurer give bond with two or more bonding or surety companies as surety in such sum as the commissioners direct, does not authorize the execution of two bonds aggregating in amount the sum so directed by the commissioners with one surety on each bond.

COLUMBUS, OHIO, August 16, 1933.

HON. GEORGE N. GRAHAM, *Prosecuting Attorney, Canton, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

"Section 2633 provides that 'before entering upon the duties of his office, the county treasurer shall give bond to the State in such sum as the commissioners direct with two or more bonding or surety companies as surety.'

The treasurer-elect informs me that he is having difficulty in prevailing upon two surety companies to sign his bond; each of the surety companies is willing to sign an individual bond for one-half of the amount that the commissioners have set as the amount of the bond required of the treasurer.

Although I have already advised that it will be necessary for at least two surety companies to sign the same bond for the full amount, yet because of the difficulty the treasurer-elect seems to be having with the bonding companies, I would appreciate your opinion as to whether two separate bonds can be executed by the treasurer, each in one-half of the amount required and each to be signed by a single surety company."

The use of the word "shall" in Section 2633, General Code, which you quote, requiring the treasurer to give bond with two or more bonding or surety companies as surety, is, in my judgment, clearly mandatory. There is nothing in this section to indicate that this requirement shall be given a permissive effect. The well established rule of statutory construction that the word "shall" must be given a mandatory construction unless the legislative intent appears to be otherwise, is well stated in *State, ex rel. vs. Commissioners*, 94 O. S. 296, 306, as follows:

"Courts should be slow to impart any other than the natural and commonly understood meaning to terms employed in the framing of our statutes.

You shall and *you shall not* should be construed as imposing imperative duties or prohibitions, unless the manifest intention of the legislature suggests a weakened sense of meaning."

The suggested plan of executing two bonds, each bond being for one-half the amount required by the commissioners, would not in my judgment meet the requirement of Section 2633. This section does not authorize the giving of a number of bonds aggregating in amount the sum required by the commissioners, but expressly provides that a "bond" be given with two or more bonding or surety companies as surety.

Specifically answering your question, it is my opinion that the requirement of Section 2633, General Code, that the county treasurer give bond with two or more bonding or surety companies as surety in such sum as the commissioners direct, does not authorize the execution of two bonds aggregating in amount the sum so directed by the commissioners with one surety on each bond.

Respectfully,

JOHN W. BRICKER,
Attorney General.

1406.

NATIONAL BANK—NOT REQUIRED TO HAVE DOUBLE LIABILITY
ON SHAREHOLDERS TO TRANSACT TRUST BUSINESS IN OHIO—
REQUIREMENTS TO TRANSACT TRUST FUNCTIONS DISCUSSED.

SYLLABUS:

1. *Section 710-161, General Code, does not require national banks to have double liability on their shareholders to be eligible to transact a trust business in Ohio.*

2. *A national bank, with a capital stock of one hundred thousand dollars of common stock and one hundred thousand preferred, and a surplus of forty thousand dollars, when and if validly authorized by the Comptroller of the Currency to transact trust functions, may, upon depositing with the Treasurer of State the cash or securities as enumerated in section 710-150, General Code, legally exercise trust functions in this state.*

COLUMBUS, OHIO, August 16, 1933.

HON. I. J. FULTON, *Superintendent of Banks, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your communication which reads as follows:

"A national banking association is being organized in this state, which will have its principal office in a city the population of which exceeds twenty-five thousand (25,000).

It proposes to issue and sell to subscribers common stock in the amount of one hundred thousand (\$100,000.00) dollars and preferred