

date of April 29, 1927, on a question submitted with respect to the power and authority of the judge of the municipal court of Piqua, Ohio, to make such an appointment.

It follows from the conclusion reached by me on the question here submitted that the vacancy in the board of township trustees of Liverpool township cannot be filled otherwise than by the election of some person at the time and in the manner provided for the election of township officers.

Respectfully,

EDWARD C. TURNER,  
*Attorney General.*

1318.

DISAPPROVAL, BONDS OF THE VILLAGE OF SOUTH EUCLID, CUYA-  
HOGA COUNTY, OHIO—\$73,000.00.

COLUMBUS, OHIO, November 30, 1927.

Re: Bonds of the Village of South Euclid, Cuyahoga County, Ohio, \$73,000.00.

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

GENTLEMEN:—A transcript of the proceedings of council and other officers of the Village of South Euclid pertaining to an issue of special assessment bonds in the sum of \$224,070.00 to cover the property owners' portion of the cost of seven different improvements, of which issue the Retirement Board desires to purchase bonds in the sum of \$73,000.00, has been submitted to this department for examination.

The bond ordinance was passed on July 25, 1927, and provided that said bonds should bear interest at the rate of 5% per annum, payable semi-annually. The bonds were offered to the sinking fund commissioners and rejected and were then advertised for sale. Pursuant to said advertisement one bid was received for said bonds, based on the bonds bearing interest at the rate of 5½% per annum. No bids were received based on the bonds bearing interest at 5%, the rate specified in the bond ordinance and in the advertisement. On September 6, 1927, the above bid, based on a 5½% return, was declared to be the highest bid and accepted and on October 24, 1927, council amended the original bond ordinance, the amendment providing that bonds should bear interest at the rate of 5½% per annum.

Section 2293-28, General Code, provides among other things that the bond advertisement "may also state that anyone desiring to do so may present a bid or bids for such bonds based upon their bearing a different rate of interest than specified in the advertisement, provided, however, that where a fractional interest rate is bid such fraction shall be one-quarter of 1 per cent or multiples thereof."

Section 2293-29, General Code, provides that the highest bid, or if bids are received based upon a different rate of interest than specified in the advertisement the highest bid based upon the lowest rate of interest, presented by a responsible bidder, shall be accepted by the taxing authority, or in the case of a municipal corporation by the fiscal officer.

The advertisement of the sale of bonds above referred to does not state that anyone desiring to do so may present a bid or bids for such bonds based upon their bearing a different rate of interest than specified in the advertisement. The purpose of advertising bonds for sale is to invite the public generally to enter into competition for the purchase of the same and unless the advertisement or invitation to bid permits of free competition among all bidders, it is my opinion that the acceptance of a bid which is not on a strict competitive basis is void.

From a study of Sections 2293-28 and 2293-29, General Code, it is my opinion that unless the advertisement states that bids may be presented based upon their bearing a different rate of interest, the acceptance of a bid based upon a lower or different rate of interest is void. Unless the advertisement contains such a provision there is no assurance that a bidder who based his bid upon the amount of interest stated in the advertisement would not have submitted a bid, based upon a different rate of interest, higher than the bid which was in fact accepted.

It is therefore my opinion that the acceptance in the instant case of a bid, based upon a rate of interest higher than that specified in the advertisement, there being no provision in the advertisement that bids might be submitted based upon a different rate of interest is void and I am therefore compelled to advise you not to purchase the above issue of bonds.

Respectfully,  
 EDWARD C. TURNER,  
*Attorney General.*

1319.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND IN MARIETTA TOWNSHIP, WASHINGTON COUNTY, OHIO.

COLUMBUS, OHIO, December 1, 1927.

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

DEAR SIR:—You have submitted under date of November 3, 1927, for my opinion, an abstract of title prepared and certified under date of July 5, 1927, by Strecker and Williamson, attorneys, Marietta, Ohio, accompanied by an encumbrance estimate and a deed covering real estate situate in Marietta Township, Washington County, Ohio, being a part of Section Number Eight (8), Town Number Two (2), Range Number Eight (8), and being more particularly described as:

Beginning at an iron pipe on the south line of the lands deeded to the State of Ohio by Louis E. Miller, et al., by deed recorded in Volume 194, at page 185, of the Deed Records of said County of Washington, six and twenty-six hundredths (6.26) chains east of the southeast corner thereof; thence south nineteen (19°) degrees and ten (10') minutes east, seven and thirty-three hundredths (7.33) chains to an iron pipe; thence south eighty-nine (89°) degrees and fifty (50') minutes east, twenty-four and seventeen hundredths (24.17) chains to an iron pipe; thence north fourteen (14°) degrees and ten (10') minutes west, seven and twenty-three hundredths (7.23) chains to an iron pipe on the south line of the lands of the State of Ohio above mentioned; thence along the said south line west twenty-four and seventy-eight hundredths (24.78) chains to the place of beginning, containing seventeen (17) acres as surveyed by C. M. Weeks, County Surveyor.

An examination of the abstract discloses that J. Wiley West has a good and merchantable title to said premises, subject to the following encumbrances:

1. An oil lease to Shankland Brothers, executed February 28, 1917, and recorded in the Lease Records of Washington County, Vol. 129, page 15. The term of this lease is for one year and as much longer as oil or gas is found in paying quantities or the