

4510.

APPROVAL, NOTES OF TIVERTON RURAL SCHOOL DISTRICT, COSHOCTON COUNTY, OHIO, \$1,796.00.

COLUMBUS, OHIO, August 5, 1935.

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

4511.

APPROVAL, NOTES OF MONROE RURAL SCHOOL DISTRICT, COSHOCTON COUNTY, OHIO, \$2,555.00.

COLUMBUS, OHIO, August 5, 1935.

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

4512.

INDIGENT—WARRANTS ISSUED TO LANDOWNER ASSIGNABLE TO PURCHASER WHERE PROPERTY OCCUPIED BY INDIGENT TENANT.

SYLLABUS:

Where, after warrants are issued to the owner of property occupied by an indigent tenant as provided for by Amended Senate Bill No. 200 of the 90th General Assembly, as amended by Amended Senate Bill No. 53 of the first special session of the 90th General Assembly, as amended by House Bill No. 21 of the 91st General Assembly, the owner sells said property and such warrants are assigned by him to the purchaser thereof, the county treasurer may receive them on payment of taxes thereon.

COLUMBUS, OHIO, August 6, 1935.

HON. FRANK T. CULLITAN, *Prosecuting Attorney, Cleveland, Ohio.*

DEAR SIR:—This acknowledges receipt of your communication which reads as follows:

“I respectfully request your opinion on a matter involving the

construction of certain provisions of Amended Senate Bill #200, otherwise known as the Annat Housing Relief Law. The facts are as follows: Tax warrants were issued under the Annat Housing Relief Law to the owner of the premises occupied by an indigent tenant. Thereafter the owner sold and conveyed the premises and at the same time assigned such warrants to the purchaser, who now offers them in payment of taxes assessed against the premises and for the payment of which taxes the warrants were issued. May the county treasurer honor such warrants in the hands of such new owner in view of the provision of Section 1 of the Annat Law referred to, reading as follows:

'Said warrants shall not be negotiable or received by the treasurer in payment of taxes of any property except the property mentioned therein.' "

Section 1 of Amended Senate Bill No. 200 of the 90th General Assembly, as amended by Amended Senate Bill No. 53 of the first special session of the 90th General Assembly, as amended by House Bill No. 21 of the 91st General Assembly, reads as follows:

"In addition to all other forms of relief, the commissioners of any county are authorized to appropriate the sum that said commissioners decide is necessary for the purpose of direct housing relief to indigent persons. Said commissioners may appoint the clerk of the board of county commissioners or one or more officials, individuals or corporations not for profit, to investigate claims and demands for such relief. The clerk or authorized person or persons, may issue a voucher to the auditor of the county each month toward the rent of any indigent person whom he finds is entitled to such relief and such voucher shall in no case be for more than one-twelfth of the tax for the calendar year immediately preceding the issuance thereof and in no event to exceed the sum of ten dollars without including special assessments, upon the premises or portion of the premises occupied by such indigent person. Such voucher shall give the line and page of the book of the tax list of the county on which such property is entered and otherwise identify same as the auditor may direct and upon presentation of such voucher to the auditor, the auditor shall issue a warrant mentioning the property described in said voucher which shall be received by the treasurer on payment of taxes on the premises mentioned on said voucher. Said warrant shall not be negotiable or received by the treasurer in payment of taxes of any property except the property mentioned therein. At each semi-annual settlement between the treasurer and the auditor,

the warrants that have been presented for the payment of taxes as herein provided shall be entered on a book provided by the auditor who shall deduct from each taxing subdivision the portion of the tax which is represented by said warrants and in making the settlement with each taxing subdivision amounts so deducted shall be entered upon same as taxes withheld for direct housing relief."

Section 3 of said Amended Senate Bill No 200, as amended by said House Bill No. 21, reads as follows:

"No voucher shall be issued to any owner of real estate according to the provisions of this act unless said owner shall agree to accept them toward the rent thereof."

It is necessary to determine in what sense the word "negotiable" is used. In its broad sense, the word means "Capable of being passed by assignment or endorsement; capable of being transferred by assignment, sale, endorsement or delivery." 45 C. J. 1374. In its strict sense, as applied to negotiable instruments, it means that the transferee, if he be a bona fide holder, takes the instrument free from equities which may exist between the prior parties. As stated in 8 C. J. 51:

"The term 'negotiable' is one of classification and does not of necessity imply anything more than that the paper possesses the negotiable quality. In its widest sense, the term applies to any written security which may be transferred by indorsement or delivery, so as to vest in the indorsee or transferee the legal title, so as to enable him to maintain a suit thereon in his own name. But this is not all which is properly included in the conception of negotiable instruments. By modern statutes choses in action generally are assignable so as to allow the assignee to bring an action thereon in his own name. As used herein, however, and according to the strict commercial sense, it means not only that the instrument may be assigned and that the assignee may sue upon it in his own name, but also that, if he is a bona fide holder in due course, he takes it free from equities that may exist between prior parties, and that out of the acceptance and transfer of the paper, often by mere signature or delivery, shall arise the well established relations and liabilities that are created by the law merchant."

With reference to negotiable instruments, Section 8135, General Code, reads as follows:

"An instrument is negotiated when it is transferred from one

person to another in such manner as to constitute the transferee the holder thereof. If payable to bearer it is negotiated by delivery. If payable to order it is negotiated by the endorsement of the holder completed by delivery."

"Holder" is defined in Section 8295, General Code, as follows:

"'Holder' means the payee or indorsee of a bill or note, who is in possession of it, or the bearer thereof."

If the term "negotiable" is used in this sense, the provision in question would be meaningless as such warrants are in no event negotiable instruments within the meaning of the Negotiable Instruments Law since they do not contain an unconditional promise to pay a sum certain in money as provided by Section 8106 but only a promise that the warrants will be received as payments of certain taxes on the property described therein. Consequently, without the provision in question, they would not be negotiable as that word is used in the Negotiable Instruments Law, but could be only transferred or assigned. Since it is to be assumed that a provision in a statute is inserted for some purpose, I am of the view that the word "negotiable" as used in this act means "transferable" or "assignable."

The statute provides that "said warrant shall not be negotiated or received by the treasurer in payment of taxes of any property except the property mentioned therein." In other words, the purpose of this provision is to prevent the assignment and use of such a warrant for the payment of taxes on any other property than that described therein. The relief furnished is for the benefit of the indigent tenant rather than on behalf of the property owner. Its object is to help pay the rent of the tenant and not to help any particular property owner to pay his taxes. *Opinions of the Attorney General for 1934*, Vol. I, page 273. In effect a credit in a certain amount is applied to the taxes on the property in which such tenant lives to prevent his ejection. So long as such warrants are received in payment of the taxes on that particular property, it is immaterial who the owner of such property may be. When a property owner agrees to accept such warrants in payment of rent, the county agrees to receive them on payment of taxes on that property. To hold that such an owner, if he conveys the property before the taxes thereon are payable, cannot turn such warrants over to his assignee, would render his warrants worthless and the agreement of the county meaningless.

Therefore, I am of the opinion that where, after warrants are issued to the owner of property occupied by an indigent tenant as provided for by Amended Senate Bill No. 200, of the 90th General Assembly, as amended by Amended Senate Bill No. 53 of the first special session of the 90th General Assembly, as amended by House Bill No. 21 of the 91st General Assembly,

the owner sells said property and such warrants are assigned by him to the purchaser thereof, the county treasurer may receive them on payment of taxes thereon.

Respectfully,

JOHN W. BRICKER,

Attorney General.

4513.

APPROVAL, BONDS OF VILLAGE OF SEBRING, MAHONING COUNTY, OHIO, \$25,500.00.

COLUMBUS, OHIO, August 6, 1935.

Industrial Commission of Ohio, Columbus, Ohio.

4514.

APPROVAL, NOTES OF NORTON RURAL SCHOOL DISTRICT, SUMMIT COUNTY, OHIO, \$5,262.00.

COLUMBUS, OHIO, August 6, 1935.

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

4515.

APPROVAL, BONDS OF CITY OF TOLEDO, LUCAS COUNTY, OHIO, \$25,000.00 (UNLIMITED).

COLUMBUS, OHIO, August 6, 1935.

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