

3557.

APPROVAL, BONDS OF CAMDEN TOWNSHIP RURAL SCHOOL DISTRICT, LORAIN COUNTY, OHIO—\$9,000.00.

COLUMBUS, OHIO, September 10, 1931.

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

3558.

DISAPPROVAL, BONDS OF VILLAGE OF WILLIAMSBURG, CLERMONT COUNTY, OHIO—\$40,000.00.

COLUMBUS, OHIO, September 10, 1931.

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

GENTLEMEN:—Re: Bonds of Village of Williamsburg, Clermont County, Ohio, \$40,000.00.

An examination of the transcript relative to the above issue of bonds discloses that this is an issue of mortgage bonds authorized under Section 12, Article XVIII of the Constitution of Ohio, for the payment of which the full faith, credit and revenue of the village is not pledged, the security being solely the waterworks property and the income therefrom.

Section 7896-16, General Code, authorizes your board to purchase "bonds of the United States, the State of Ohio, or of any county, city, village or school district of the State of Ohio."

The authority in this section to purchase "bonds of any city (or) village" might be said to include mortgage bonds of any municipality, using the term "bonds" in the generic sense. An examination of the term as used in the Constitution and in the statutes of Ohio, however, does not, in my judgment, authorize the use of the term "bonds" in this sense. Section 11, Article XII of the Constitution provides as follows:

"No bonded indebtedness of the state, or any political subdivision thereof, shall be incurred or renewed, unless, in the legislation under which such indebtedness is incurred or renewed, provision is made for levying and collecting annually by taxation an amount sufficient to pay the interest on said bonds, and to provide a sinking fund for their final redemption at maturity."

Throughout the Uniform Bond Act, wherever the unqualified term "bonds" is used, the reference is clearly to bonds which are payable out of the proceeds of taxation and for the payment of which the full faith, credit and revenue of the issuing subdivision is pledged. Section 2293-14 of that act expressly exempts from the limitations of net indebtedness therein provided for municipalities, bonds issued under authority of Section 10 or 12 of Article XVIII of the Constitution and designated such bonds as "mortgage bonds."

It is my opinion, therefore, that in the absence of statutory authority for the purchase of mortgage bonds as such by your board, this authority must be denied. I accordingly advise you not to purchase these bonds.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

3559.

APPROVAL, ABSTRACT OF TITLE TO LAND OF HOWARD W. STRONG,  
IN VINTON COUNTY, OHIO.

COLUMBUS, OHIO, September 11, 1931.

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

DEAR SIR:—I am in receipt of your letter submitting for my analysis and approval an abstract of title, copy of real estate option, authority of controlling board, encumbrance estimate No. 1777, tax receipts for the year 1929 and the first half of 1930 and copy of deed, covering the proposed purchase of 3,393 acres of land, more or less, in Vinton County, Ohio, from Edward W. Strong, said land being comprised partially of lots and land in Zaleski, Ohio.

In this opinion I am considering only the land described in the draft of the proposed deed by Mr. Strong to the State of Ohio which, hereafter, shall be referred to as the "State land"; for I find that the caption land in the abstract covers more land than is described in the deed to the State, some of which, as the 25th tract in the caption of the abstract, Mr. Strong does not own in fee simple.

The proposed deed to the State first lists over a hundred lots in the town of Zaleski, and then enumerates 27 tracts of land. Practically all of this land was owned at one time by The Zaleski Company and was conveyed by George Minister, receiver of said company, to William T. McClintick and Edward W. Strong and the survivors of them and to the heirs and assigns of such survivors, by a deed dated October 31, 1895, (page 847, abstract). Edward W. Strong succeeded to the full ownership of said property, formerly belonging to The Zaleski Company upon the death of Mr. McClintick in 1903. Two of the tracts mentioned in the State deed, being the 22d and the 27th tracts therein, did not come into Mr. Strong's hands by way of the deed of The Zaleski Company's receiver. With the exception of matters hereinafter more fully pointed out, I find that Mr. Strong has a good and merchantable fee simple title to the State land.

Title is approved of all of the lots mentioned in the State deed. Lot No. 11, it is true, was omitted in said deed of The Zaleski Company's receiver (p. 850, abstract), but this was probably due to inadvertence. The record shows that The Zaleski Company owned said lot, that it was listed as part of said company's property in the receivership proceedings (p. 737, abstract) and that William T. McClintick and Edward W. Strong bid it in at the receiver's sale (pp. 827-828, abstract). More than thirty-five years have elapsed since that time, and Mr. Strong's equitable title together with the rights which intervening years have fixed in him would be sufficient to defeat any claim which might hereafter be advanced because of the irregularity mentioned.