

1160.

BOND RESOLUTION—ISSUED BY TOWNSHIP TRUSTEES—WHO SHOULD SIGN SAME—HOUSE BILL No. 1, 87TH GENERAL ASSEMBLY, DISCUSSED.

SYLLABUS:

Where a bond resolution was adopted by a board of township trustees prior to the date of the filing of House Bill Number 1 of the 87th General Assembly in the office of the Secretary of State, to-wit, May 12, 1927, the bonds issued pursuant to said resolution should be signed by the members of such board of township trustees and attested by the signature of the township clerk. Where such bonds are issued pursuant to a resolution adopted after the date of the filing of said House Bill Number 1 in the office of the Secretary of State, such bonds should be signed by the members of the board of township trustees and by the county auditor and bear his seal.

COLUMBUS, OHIO, October 17, 1927.

HON. H. E. CULBERTSON, *Prosecuting Attorney, Ashland, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent request for my opinion, which reads as follows:

“Am about to sell some township bonds and from the new legislation given us in House Bill No. 1 and No. 80, am at a loss to know what fiscal officers should sign these bonds, whether the Auditor of Ashland County or whether the Clerk of Orange Township.

I know that the legislation attempted to cure this matter but it looks to me as though they did not go far enough.

Kindly let me know what your ruling on this matter is.”

A transcript pertaining to an issue of bonds in the sum of Thirteen thousand six hundred (13,600.00) dollars, to be issued by the Board of Trustees of Orange Township, Ashland County, for road purposes, was recently submitted to this department for examination. Said bonds have been purchased by the Retirement Board of the State Teachers Retirement System, and an opinion approving the transcript was rendered on October 7, 1927. This transcript undoubtedly relates to the issue of bonds mentioned in your request for opinion and this opinion is rendered under that assumption.

The transcript above referred to shows that the original bond resolution pertaining to the \$13,600.00 issue of bonds was passed on August 16, 1926, and that an amending resolution was passed on August 2, 1927. The purpose of the amending resolution was merely to postpone the annual maturities from April 1, 1927, to 1935, both inclusive, to April 1, 1928, to 1935, both inclusive. Both the original bond resolution and the amending resolution were passed prior to August 10, 1927, the effective date of House Bill No. 1 above referred to in your communication.

Section 20 of House Bill No. 1 provides:

“Bonds issued prior to the effective date of this act and bonds issued after said date, which have been approved by vote of the people, or by resolution of the taxing authority prior to the day this act is filed with the sec-

retary of state, shall be valid obligations of the taxing district issuing the same if they would be valid under the provisions of law in effect prior to the passage of this act. * * *

Inasmuch as the original bond resolution was passed on August 16, 1926, and inasmuch as the amending resolution, although passed after the date of the filing of House Bill No. 1 in the office of the Secretary of State, to-wit, on May 12, 1927, merely changes the maturities of the bonds, it is my opinion that the date of the original bond resolution is controlling, for the purpose of determining the time when the bonds were authorized, and that under the provisions of Section 20 of House Bill No. 1, supra, said bonds will be valid, if signed in the manner that township bonds were signed prior to the passage of said House Bill No. 1.

Prior to the enactment of House Bill No. 1 there was no specific statutory direction as to how bonds issued by township trustees should be signed, except as found in Section 3287, General Code, which relates to bonds issued in anticipation of the collection of taxes for special purposes; viz., the purchase of a hearse and building a vault, or where a township is composed, in whole or part, of islands, accessible only by watercraft, the purchase of a scow or lighter. However, it has been the universal practice, and that accepted by authorities as the proper one, to require all bonds issued by township trustees to be signed by the members of the board of trustees, and countersigned by the clerk.

Dennison in his Manual for the Issuing and Sale of Bonds, says, on page 85:

“Township bonds should be signed by the trustees and countersigned by the township clerk. No township seals are provided. Compare Section 3287.”

Both the original bond resolution and the amending resolution provide that the bonds shall be signed by the members of the board of township trustees and attested by the signature and official seal of the township clerk. If the bonds in question are so executed, it is my opinion that the same will be valid obligations of the township.

Section 2293-8 General Code, enacted by the 87th General Assembly as a part of House Bill No. 1 on April 21, 1927, provides:

“Bonds or notes issued by any subdivision shall specify on their face the purpose for which they are issued and the resolution or ordinance under which they are issued. They shall bear interest at not to exceed six per cent per annum. They shall be signed in the case of a municipality by the mayor and by the auditor or clerk, or by such officers as may be designated to sign by charter or ordinance of such municipality and shall be sealed with the corporate seal; * * * and in the case of a township, shall be signed by the township trustees and by the county auditor and bear his seal. * * *”

The above provisions of Section 2293-8, General Code, are so specific as to the manner in which bonds issued by township trustees shall be executed as not to require any further discussion.

It is therefore my opinion that where a bond resolution was adopted by a board of township trustees prior to the date of the filing of House Bill No. 1 of the 87th General Assembly in the office of the Secretary of State, to-wit, May 12, 1927, the bonds issued pursuant to said resolution should be signed by the members of such board of

township trustees and attested by the signature of the township clerk. Where such bonds are issued pursuant to a resolution adopted after the date of the filing of said House Bill No. 1 in the office of the Secretary of State, such bonds should be signed by the members of the board of township trustees and by the county auditor and bear his seal.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1161

APPROVAL, BONDS OF WARWICK TOWNSHIP RURAL SCHOOL DISTRICT,
TUSCARAWAS COUNTY, OHIO—\$96,000.00.

COLUMBUS, OHIO, October 17, 1927.

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

1162.

APPROVAL, ABSTRACT OF TITLE TO LAND IN THE CITY OF FINDLAY,
HANCOCK COUNTY, OHIO.

COLUMBUS, OHIO, October 18, 1927.

HON. FRANK D. HENDERSON, *Adjutant General of Ohio, Columbus, Ohio.*

DEAR SIR:—You have submitted an abstract of title certified under date of September 27, 1927, by Ross J. Wetherold, which is accompanied by a warranty deed covering the following property:

“Situate in the City of Findlay, County of Hancock and State of Ohio,
and known as Lots No. 141 and 142 in the original plat of said City.”

After an examination of the abstract of title, it is my opinion that the City of Findlay has a good and merchantable title in said premises, subject to the following encumbrances:

1. The 1927 taxes, amount yet undetermined, are a lien.
2. Assessments for alley paving for the year 1927, \$11.84 on each lot; and for 1928, \$11.25 on each lot are a lien.

The deed submitted is in proper form and has been executed and acknowledged before a Notary Public by the Mayor and Director of Public Service and Safety of the City of Findlay, and is sufficient to convey said premises to the State of Ohio when properly delivered.

The abstract of title and deed are herewith returned.

Respectfully,
EDWARD C. TURNER,
Attorney General.