

is nevertheless a valid mortgage between the parties, and, if and when said mortgage is filed with the county recorder of the county where the mortgagor resides, it has priority over subsequent purchasers and mortgages in good faith. (*Ohio Farmers' Ins. Co. vs. Todino*, 111 Ohio St., 274, and *Helwig vs. Warren State Bank*, 115 Ohio St., 182, overruled.)"

You mention in your request that the seller of the car signed a bill of sale in blank but neglected to have his signature verified. It was stated at page 587 of the above case:

"Section 6310-9 provides: 'Any bill of sale not verified before delivery as hereinbefore provided shall be null and void and of no effect in law.' This is the only provision in the Automobile Registration Act which affects the validity of the transaction. That portion of the statute being very specific, it must be held that the bill of sale, as it existed at the time of the levy of execution, *was wholly invalid, and the transaction stood as though no bill of sale had been executed or delivered.*" (Italics the writer's.)

Specifically answering your inquiry, it is my opinion that when the vendor of a motor vehicle does not execute a bill of sale or where he neglects to have his signature verified on the bill of sale, although title to such motor vehicle may pass to the purchaser, still the clerk of courts is not authorized to accept a sworn statement of ownership from such purchaser in lieu of a properly executed bill of sale.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2659.

CONTRACT—BETWEEN BOARD OF EDUCATION AND TEACHERS NOT
FIXING DEFINITE SALARY IS INVALID.

SYLLABUS:

1. *An agreement between a board of education and a teacher in the public schools, whereby it is agreed to employ said teacher to teach in the schools of the district, which agreement does not fix a definite salary for the services of the teacher is not a valid and binding contract.*

2. *Where such an agreement is entered into and the board later, by resolution fixes a definite salary, the terms of which resolution are accepted by the teacher, a valid and binding contract arises, and both parties are bound in accordance with its terms.*

COLUMBUS, OHIO, May 12, 1934.

HON. JAMES V. WILL, *Prosecuting Attorney, Richland County, Mansfield, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion with reference to the following matter:

"On March 1, 1932, the Board of Education of Cass Township Rural School District entered into a contract with Paul H. Weaver to act as Superintendent of their school for a period of three years beginning the first day of July, 1932, and specified the salary for a period of one year with adjustments to be made for each of the ensuing years, subject to fiscal conditions.

On June 6, 1933, the Board of Education passed the following Motion which fixed the salaries for the remaining two years for a definite amount.

'Motion was made by Gundrum and seconded by Adams that P. H. Weaver's salary be \$1800.00 per year for the years remaining according to terms of contract entered into between the Board of Education and Mr. Weaver, March 1, 1932, ending June 30, 1935, payment to be made in twelve monthly installments. Patterson, Howard, Adams, Gundrum, Harley voting "AYE".'

1. Said board desires to know whether or not said contract made without specifying the consideration for the remaining two years is valid;

2. If such contract is valid, they desire to know whether or not the action of the board on June 6, 1933, would bind them as to salary for the school year 1934-1935.

I am enclosing herewith a copy of the opinion of the Court of Appeals, Ninth Judicial District, Wayne County, in the cases of *Messner vs. Beals et al.*, and *Beals et al. vs. Rutherford*. A Motion to certify was filed in Supreme Court and overruled."

In the cases of *Messner vs. Beals et al.*, and *Beals et al. vs. Rutherford*, decided by the Court of Appeals for Wayne County, January 8, 1934, reference to which is made in your letter, the court held in substance, that a purported contract of a school board with a teacher and principal of a high school which neither fixed the length of term for which the teacher was to be employed nor the salary to be paid but left both "to be determined on a later date" was in fact no contract at all and bound neither party thereto.

It appeared that the Board of Education of Paint Township Rural School District in Wayne County did on the third day of April, 1933, pass the following resolution:

"Moved by Lax and seconded by Spangler that board employ C. O. Rutherford as superintendent of Paint township high school for the school year 1933-34. Length of term and salary to be determined at a later date."

Some time later this board, by appropriate resolution, employed one Earl Weygandt as principal and teacher of said school for the school year 1933-34 and fixed a definite term of employment and a definite salary for said teacher. Weygandt accepted the terms of this contract as fixed by the said resolution. The question involved in both these cases which were consolidated, was whether or not the employment of Weygandt was legal in view of the former action of the board as shown by its resolution of April 3, 1933, referred to above. It did not appear that any term or salary for Rutherford had ever been fixed in pursuance of this resolution. It did appear, however, that Rutherford was attempting to act

or threatened to act as teacher inasmuch as the second suit—*Beals et al., vs. Rutherford* was a suit for an injunction, in which it was sought to restrain the said Rutherford from “interfering with the conduct of the school or attempting to take charge thereof or doing anything in connection therewith.” It was alleged that unless the said Rutherford should be restrained from so doing he “would disrupt the proper conduct of said school by interfering therewith.”

The court, after pointing out that one of the most essential elements of any contract is the meeting of the minds of the parties thereto as to the material matters which are the subject of the contract, said:

“Probably one of the most important elements of the contract to both parties concerned was the question of salary, and as to that it may not be urged that there was any meeting of the minds, for that question was expressly reserved, under the resolution passed by the board, for later determination, and nothing appears in the record before us indicating that the minds of the parties had come into agreement upon that question. * *

One of the fundamental rules of contracts is that a contract which is not binding on one party because it is too indefinite and uncertain as to a material matter, is not binding on the other party thereto. * *

And since we conclude that such a contract as is here urged would not be binding upon the teacher by reason of its indefiniteness upon an essential term of said contract, it necessarily follows that it could not be binding upon the school board.

There having been, in our judgment, no meeting of the minds of the contracting parties upon all of the essential elements of the contract in question, we discharge our duty by dismissing the petition in case No. 926, at plaintiff's costs, and by issuing a permanent injunction in favor of the school board and against the defendant Rutherford in case No. 925, with exceptions.”

We do not have quite the same situation to deal with in the consideration of the matter referred to in your inquiry. In this case a written agreement was entered into on March 1, 1932, between the board of education of Cass Township Rural School District as party of the first part and Paul H. Weaver as party of the second part. This said agreement provided in part:

“That the party of the first part By regular motion and called vote thereon By members of its corporate Body on this date agrees and Binds itself to employ said Paul H. Weaver as Supervising principal or Superintendent of the schools of said district for a period of three (3) years Beginning the first day of July, 1932, as provided By section 7705, General Code and opinion of the Attorney General No. 3006 as of Feb. 27, 1931, at a Salary of Twenty-Two Hundred and Fifty Dollars (\$2250.00) for the year 1932-1933 adjustments to Be made for each of the ensuing years subject to fiscal conditions Payments to Be made monthly subject to the provisions of the Teachers' Retirement Law as enacted in 1919.****

It is further agreed that party of the Second part shall perform such duties as are provided by law and shall give such reports to the party of the first part as may Become his office at all times promoting the welfare, scholarship, character and Well-Being of the children, teachers, and employees under his Supervision.

It is further agreed that if the party of the Second part leave the employ of the party of the first part By accepting employment elsewhere, without Being released from the conditions of this instrument, or Because of the inability on the part of the party of the first part to make a proper adjustment of Salary, such leaving shall of itself work a forfeit to said party of the first part of all the salary then due to party of the Second part as liquidated damages."

The above agreement was definite as to a salary for one year, and there can be no question but that there was a meeting of the minds as to the essential elements of the contract so far as this first year is concerned. As to the school years of 1933-34 and 1934-35, no salary was fixed in this agreement and no meeting of the minds with respect thereto, other than that an attempt would be made to adjust the matter of salary for those years at some future time. The agreement must be regarded as merely a contract for one year, inasmuch as the essential matters upon which the minds of the parties must meet to constitute a valid contract were fixed and definite for one year only. As to the remaining years which the agreement purported to cover, the minds of the parties did not meet as to the salary. Upon this essential element of a valid contract, the agreement was so indefinite that it cannot be said to constitute a valid and binding contract for more than one year.

However, on June 6, 1933, the board passed the resolution referred to in your letter, fixing the salary for the superintendent for the school years of 1933-34 and 1934-35, and by reference incorporated therein the terms and provisions of the written agreement which had theretofore been executed between the parties, and the terms of this resolution apparently were assented to by Mr. Weaver inasmuch as he continued to serve in the capacity of superintendent in the district in question.

It appears that Mr. Weaver performed services in pursuance of the agreement referred to during the school year 1932-33 and was paid the salary fixed in the agreement for that service, and that he continued to serve during the school year 1933-34 and up to the present time.

I am of the opinion that there now exists between the said board of education and Mr. Weaver a valid and binding contract to employ the said Weaver as supervising principal of the schools in Cass Township Rural School District until June 3, 1935, at a salary of \$1800 per year as provided by the resolution of the board of education adopted June 6, 1933.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2660.

POOR RELIEF—PROCEEDS OF CERTAIN BONDS MAY BE EXPENDED
BY TOWNSHIPS AND MUNICIPAL CORPORATIONS FOR BURIAL
OF INDIGENTS WHEN—

SYLLABUS:

The proceeds of bonds issued by a county under section 7 of Amended Senate Bill No. 4 of the first special session of the 89th General Assembly, as