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TREASURER OF STATE—AUTHORITY UNDER SECTIONS 710-150 AND 330-3, GENERAL CODE.

SYLLABUS:

Treasurer of state has no authority to permit substitution of United States of America treasury certificates of indebtedness for United States bonds deposited with him under either Section 710-150 G. C. or Section 330-3 G. C.

COLUMBUS, OHIO, March 12, 1927.

HON. BERT B. BUCKLEY, *Treasurer of State, Columbus, Ohio.*

DEAR MR. BUCKLEY:—I beg to acknowledge receipt of your request for opinion of March 11th, reading as follows:

“The Treasurer of State is in receipt, at this time, of a number of letters and telephone calls from banks who desire to convert 2nd Liberty Loan bonds on deposit with the State Treasurer into certain other United States bonds, following the recent announcement of the Secretary of the Treasury of the United States, that his department was calling in for conversion what is known as the bonds issued under the 2nd Liberty Loan. The law of the state apparently provides that these bonds shall be actually in the treasury, and yet it must be remembered that this law was passed before the federal government inaugurated the idea of converting one issue into another issue. In other words, the law as it exists is not quite up to date with modern business ideas, as adopted and put in force by the federal government, following the various war loans.

Under these circumstances, would it be permissible for the Treasurer of State to forward these U. S. Bonds to the Federal Reserve Bank, at Cleveland, to be converted into U. S. Treasury 3% certificates—the Treasurer of State holding the receipt of the Federal Reserve Bank for these bonds during the period of conversion?

Due to the fact that this conversion starts as of March 15th, these various banks are expecting from the Treasurer of State an early answer upon this question.”

Your chief clerk, Mr. Todd, advises me that the bonds in question have been deposited with you in pursuance of Section 710-150 G. C. This section provides in part as follows:

“From time to time said treasurer shall, with the approval of superintendent of banks, permit withdrawals of such securities or cash, or part thereof, upon deposit with him and approval of the superintendent of banks, of cash or other securities of the kind heretofore named, so as to maintain the value of such deposits as herein provided, and so long as it continues solvent he shall permit it to collect the interest on its securities so deposited.”

If the transaction were to be one for the substitution of *bonds* for bonds, I would see no objection under Section 710-150 G. C., providing you first obtained the approval of the superintendent of banks to the substitution. The difficulty, however, arises from the fact that what is proposed to be substituted for bonds of the United States are treasury certificates, and Section 710-150 G. C. does not authorize the de-

posit of treasury certificates of indebtedness. This act was amended at the last session of the legislature so as to permit the deposit of farm loan bonds but nothing was said in the amendment about United States of America treasury certificates of indebtedness.

In addition to the bonds deposited under Section 710-150 G. C., I learn from inquiries coming directly to this office that you are being asked to take the same action in respect of bonds deposited with you under Section 330-3 of the General Code as security for state deposits.

Section 330-3 of the General Code authorizes the deposit of United States government bonds but does not authorize the deposit of United States treasury certificates of indebtedness. This section was also amended by the last session of the legislature so as to permit the deposit of federal farm loan bonds.

United States of America treasury certificates of indebtedness are issued under the Act of September 24, 1917, as amended April 4, 1918, and as amended March 3, 1919, being Section 6829 kk., U. S. Compiled Statutes.

Under the rules promulgated by the treasury department, it is provided :

“The certificates of these series will be acceptable to secure deposits of public money but do not bear the circulation privilege.”

Thus, while the United States government will accept these certificates of deposit as depositary security for United States moneys, yet they plainly show that they make a distinction between the use of the certificates of indebtedness and bonds.

If Sections 710-150 G. C. and 330-3 G. C., contained language similar to Section 9660 G. C., which permits the investment of idle funds by building and loan associations, I would have no trouble in advising you that the proposed exchanges might be made. This language of Section 9660 is in part as follows :

“ * * * to invest any of its idle funds, or any part thereof, in bonds or interest bearing obligations of the United States. * * * ”

This section was also amended at the last session of the legislature and shows conclusively that the legislature had in mind the distinction between bonds and other interest bearing obligations of the United States.

In Opinion No. 2267, bearing date of March 6, 1925, and to be found in the Opinions of the Attorney General for 1925 at page 118, my predecessor held :

“Certificates of indebtedness issued by a public political subdivision may not be accepted legally as security for a depositary bond.”

The foregoing opinion went into the matter thoroughly and I see no reason to depart from the holding therein.

It is therefore my conclusion that you have no authority to accept United States of America treasury certificates of indebtedness in lieu of bonds deposited either under Section 710-150 G. C. or Section 330-3 G. C.

Respectfully,
EDWARD C. TURNER,
Attorney General.