

2452.

APPROVAL—NOTES OF LIBERTY RURAL SCHOOL DISTRICT, ADAMS COUNTY, OHIO, \$1,563.00.

COLUMBUS, OHIO, April 3, 1934.

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

2453.

APPROVAL—ARTICLES OF INCORPORATION OF THE SONNENBERG MUTUAL FIRE AND LIGHTNING INSURANCE ASSOCIATION.

COLUMBUS, OHIO, April 4, 1934.

HON. GEORGE S. MYERS, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I have examined the amendment to the articles of incorporation of The Sonnenberg Mutual Fire and Lightning Insurance Association which you have submitted to me, and I find same not to be inconsistent with the laws and Constitution of the State of Ohio and of the United States, and I have therefore endorsed my approval upon the same.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2454.

BONDS—COUNTY BOARDS OF SINKING FUND TRUSTEES UNAUTHORIZED TO INVEST FUNDS IN HOME OWNERS' LOAN CORPORATION BONDS.

SYLLABUS:

1. *Bonds issued by the Home Owners' Loan Corporation which corporation has been created by authority of Public Act No. 13, (73rd Congress), as approved June 13, 1933, are not obligations of the United States.*

2. *County boards of sinking fund trustees are granted no authority by Section 2976-21, General Code, to invest their funds in "Home Owners' Loan Corporation bonds."*

HON. CALVIN CRAWFORD, *Prosecuting Attorney, Montgomery County, Dayton, Ohio.*

COLUMBUS, OHIO, April 4, 1934.

DEAR SIR:—I am in receipt of your request for my opinion concerning the following question:

Can a board of sinking fund trustees legally invest its funds in Home Owners' Loan Corporation bonds?

Boards of sinking fund trustees are governmental agencies, and as such, have such powers and such only, as have been expressly granted to them by the legislature, in the acts creating them and defining their powers. *Jones, Aud., vs. Commissioners of Lucas County*, 57 O. S., 189; *Peter vs. Parkinson, Treas.*, 83 O. S., 36, 49; *Elder vs. Smith, Aud.*, 103 O. S., 369, 379; *State ex rel. Locher vs. Menning*, 95 O. S., 97, 99.

As stated by the court in *State ex rel. vs. Menning, supra*, at page 99:

"The authority to act in financial transactions must be clear and distinctly granted, and, if such authority is of doubtful import, the doubt is resolved against its exercise in all cases where a financial obligation is sought to be imposed on the county."

The powers of such boards of sinking fund trustees are set forth in Section 2976-21, General Code, which reads:

"The trustees of the sinking fund shall invest all monies subject to their control in bonds of the United States, the state of Ohio, or of a municipal corporation, school district, township, or county of the state, and hold in reserve in cash only such sums as may be needed for effecting the purposes of this act."

Home Owners' Loan Corporation bonds are bonds issued by a corporation created by the federal government under the authority of Public Act No. 43, 73rd Congress, approved June 13, 1933. Section 4, Paragraph (c) of such act authorizes such corporation to issue not to exceed \$2,000,000,000.00 of its bonds, but expressly states that such bonds:

"* * * shall be fully and unconditionally *guaranteed as to interest only* by the United States, and such guaranty shall be expressed on the face thereof. In the event that the Corporation shall be unable to pay on demand, when due, the interest on any such bonds, the Secretary of the Treasury shall pay to the Corporation the amount of such interest, which is hereby authorized to be appropriated out of any money in the treasury not otherwise appropriated, and the corporation shall pay the amount of such interest to the holders of the bonds. Upon the payment of such interest by the Secretary of the Treasury the amount so paid shall become an obligation to the United States of the Corporation and shall bear interest at the same rate as that borne by the bonds upon which the interest has been so paid."

While such act directs the Secretary of the Treasury to purchase the capital stock of such corporation, the act itself, is specific in creating such corporation separate and distinct from the Federal Government. See Section 4, paragraphs (a), (h), (i), (j) and (k). From an examination of that act, it is clearly apparent that there is no obligation on the part of the United States on the bonds

of the Home Owners' Loan Corporation. A corporation is a separate and distinct entity from that of its shareholders. The obligation on the bonds is that of the corporation created under federal law. In fact there is no direct obligation in connection with such bonds to the holder even after default in interest. The obligation authorized to be created on the part of the United States is that the Secretary of the Treasury of the United States will, in the event that the corporation is unable to pay the interest on its bonds as it shall mature or become due and payable, pay "to the Corporation the amount of such interest."

I am, therefore, unable to form the opinion that Home Owners' Loan Corporation bonds are obligations of the United States. It is self-evident that such bonds are not the bonds of the State of Ohio or of any of the other political subdivisions mentioned in Section 2976-21, General Code. Bearing in mind the limited powers of governmental agencies such as the Board of Sinking Fund Trustees, it appears to me that your inquiry must be answered in the negative.

Specifically answering your inquiry it is my opinion that:

(1) Bonds issued by the Home Owners' Loan Corporation, which corporation has been created by authority of Public Act No. 13 (73d Congress), as approved June 13, 1933, are not obligations of the United States.

(2) County boards of sinking fund trustees are granted no authority by Section 2976-21, General Code, to invest their funds in "Home Owners' Loan Corporation bonds."

Respectfully,

JOHN W. BRICKER,

Attorney General

2455.

APPROVAL—BONDS OF SHARON TOWNSHIP RURAL SCHOOL DISTRICT, FRANKLIN COUNTY, OHIO, \$600.00.

COLUMBUS, OHIO, April 4, 1934.

Industrial Commission of Ohio, Columbus, Ohio.

2456.

BOARD OF ELECTION—MEMBER MAY CARRY OUT CONTRACT AS ARCHITECT FOR COUNTY TUBERCULOSIS HOSPITAL WHEN.

SYLLABUS:

A member of a board of elections of a county, who, shortly before the time of becoming such member had entered into a contract with the county commissioners of such county to perform architectural services in connection with the erection of an addition to the county tuberculosis hospital, may legally continue during his term of office to carry out his said contract.