

requiring such "double liability" is unwarranted for the following reasons:

1. This section does not specifically say "double liabilities" of the stockholders, but uses the more comprehensive term, "the liabilities of the stockholders," which would include the "double liability," *if any*, as well as all other liabilities of shareholders such as, for example, liabilities for unpaid subscriptions, etc. It marshals such liabilities for the cestuis que trustent, whatever they may be, but does not require "double liability" of stockholders of a corporation transacting a trust business.

2. To construe the section as mandatory would cast grave constitutional doubt on section 710-161, General Code, with reference to national banks. Since such interpretation is not essential, rules of construction dictate a reasonable interpretation casting no constitutional doubt on the validity of the section.

The rule that the capital stock, with the liabilities of the stockholders existing thereunder and the one hundred thousand dollars of securities, shall stand in lieu of any special bond to be exacted as a condition of qualification under an appointment in any of the capacities named in section 710-161, General Code, admits of the exception that the appointing authority may "upon proper application" require additional security of a trust company that has been appointed. The phrase "upon proper application" in this section has been interpreted in Opinions of the Attorney General for 1920, Volume 1, page 210, to mean that after appointment, upon application in writing made by any person interested in the trust estate, further security may be required by the court or officer. This exception in section 710-161, General Code, provides a method for obtaining additional security of banks doing a trust business, and it is my opinion that such would also be applicable to national banks because of the provisions of title 12, section 248, subsection 11 (k) supra.

In view of the foregoing, it is my opinion that:

1. Section 710-161, General Code, does not require national banks to have double liability on their shareholders to be eligible to transact a trust business in Ohio.

2. A national bank, with the capital stock as indicated, when and if validly authorized by the Comptroller of the Currency to transact trust business, may legally exercise trust functions in this state, upon depositing with the Treasurer of State the cash or securities as enumerated in section 710-150, General Code.

Respectfully,

JOHN W. BRICKER,
Attorney General.

1407.

APPROVAL, NOTES OF TWIN RURAL SCHOOL DISTRICT, ROSS COUNTY, OHIO—\$8,239.00.

COLUMBUS, OHIO, August 17, 1933.

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