

It is accordingly my opinion that these bonds constitute a valid and legal obligation of said school district.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

1673.

APPROVAL—BONDS OF VILLAGE OF GENEVA-ON-THE-LAKE, ASHTABULA COUNTY, OHIO, \$18,000.00.

COLUMBUS, OHIO, December 21, 1937.

The Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN:

RE: Bonds of Village of Geneva-on-the-Lake, Ash-
tabula County, Ohio, \$18,000.00.

The above purchase of bonds appears to be part of an issue of bonds of the above village dated October 1, 1936. The transcript relative to this issue was approved by this office in an opinion rendered to the Teachers Retirement System under date of November 29, 1937, being Opinion No. 1550.

It is accordingly my opinion that these bonds constitute a valid and legal obligation of said village.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

1674.

STATUS—ABSTRACT OF TITLE AND WARRANTY DEED
RELATING TO A PARCEL OF LAND IN CITY OF IRON-
TON, OHIO, ACQUIRED AS THE SITE OF AN ARMORY.

COLUMBUS, OHIO, December 21, 1937.

HON. EMIL F. MARX, *Adjutant General, Columbus, Ohio.*

DEAR SIR: This is to acknowledge the receipt of your recent com-

munication with which you submit for my examination and approval an abstract of title and a warranty deed relating to a parcel of land in the city of Ironton, Ohio, which has been acquired by you in the name of the State of Ohio as a site for an armory to be hereafter erected and constructed by the State.

This parcel of land is described in the deed in and by which the same is conveyed to the State of Ohio, as follows:

Being a part of lots 886 and 888 of the Ohio Iron and Coal Company's Third Addition to the City of Ironton, Lawrence County, Ohio, and being further described as follows:

Beginning at the intersection of the South line of Vernon Street and the West line of Jersey Alley; thence in a westerly direction with the South line of Vernon Street 140 feet to a point; thence at right angles to Vernon Street in a southerly direction, parallel with the line of Jersey Alley 264 feet to the North line of Washington Street; thence in an Easterly direction with the North line of Washington Street 140 feet to the West line of Jersey Alley; thence in a Northerly direction with the West line of Jersey Alley 264 feet to the place of beginning.

This property was conveyed to the State by a warranty deed executed by Samuel B. Cooke and Agnes Cooke, his wife, under date of October 7, 1937. Whatever title Samuel B. Cooke had in and to this property was that conveyed to him by the Board of County Commissioners of Lawrence County by deed under date of October 4, 1937. It will be noted from the description of this property that the same is a part of Lots 886 and 888 of the Ohio Iron and Coal Company's Third Addition to the City of Ironton. Upon examination of the abstract of title submitted to me, I am unable to find that the Board of County Commissioners of Lawrence County ever obtained any title whatever to that part of the above described parcel of land which is included in Lot No. 888 of the Ohio Iron and Coal Company's Third Addition to the City of Ironton.

The Board of County Commissioners of Lawrence County appear to have had the record title to the remainder of the land described in the deed executed by said Board of County Commissioners to Cooke and in the deed executed by Cooke to the State of Ohio, other than that included as a part of Pleasant Alley. Other than that part of the above described lands which is included in Lot 888 and in said alley, the lands described in said deed are a part of Lot No. 5 and all of Lots 6,

7, 8 and 9 which are a part of the so-called Davey Subdivision of Lot 886, which lots, as is above noted, were conveyed to the Board of County Commissioners by deeds executed in the years 1879 and 1887, respectively.

Another fundamental objection to the record title of the Board of County Commissioners of Lawrence County is that it does not appear from the abstract of title submitted that any part of Lot 886 ever passed from the ownership of the Ohio Iron and Coal Company, assuming that said company on and prior to the year 1862 owned and held this lot. So far as the abstract of title shows, the only property which at any time was conveyed away by the Ohio Iron and Coal Company is that described in a deed executed by said company to one Mary F. Davey under date of March 24, 1862, which property therein described is as follows:

Commencing at a stake which bears North 55° East one hundred and ninety-two (192) feet from the point where the southeast line of Vernon Street, if extended, would intersect the northeast line of Ninth Street; thence north 55° east eighty-eight (88) feet; thence South 35° East one hundred and thirty-two (132) feet; thence, south 55° west eighty-eight (88) feet; thence north 35° west one hundred and thirty-two (132) feet to the place of beginning, being part of section No. 20, township one, and Range 18, near the town of Ironton.

The parcel of land just described may be identified as original Lot No. 888 in the city of Ironton, Ohio. However, there is nothing in the abstract of title to show how the title to Lot 886 or any part thereof passed from the Ohio Iron and Coal Company to anybody in the chain of title in and by which this lot or a part of the same subsequently passed to the Board of County Commissioners of Lawrence County.

If the record title to the property described in the deed from the Board of County Commissioners of Lawrence County to Cooke and in the deed from Cooke to the State of Ohio were now in either said Board of County Commissioners or Cooke, and the question here presented were whether the State should accept title to this property for the purpose of erecting and constructing thereon an armory building, I would have to disapprove the title to this property and advise you not to accept the deed of conveyance for the same. Apparently, however, someone connected with your department accepted this deed from Cooke so that the State now has the record title to the property described in Cooke's deed to the State. In this situation, my opinion with respect to the title to this property upon the abstract of title submitted is, of course,

the same as it would have been had Cooke's deed to the State not been accepted and filed for record. And in this view, I am required to advise you not to spend any money in the erection and construction of an armory building on this property until the title to the same has been quieted in the name of the State of Ohio or until it is shown that the Board of County Commissioners of Lawrence County and their successors in title have a good and indefeasible fee simple title by adverse possession of the property here in question independent of any defects in the record title to the property.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

1675.

ANY PERSON ELECTED MEMBER OF THE BOARD OF EDUCATION—FAILURE TO QUALIFY WITHIN 10 DAY PERIOD—VACANCY CREATED, WHEN—HOW FILLED.

SYLLABUS:

If any person is elected as a member of a board of education, and fails to qualify within ten days after the organization of the board of education to which he was elected, at the expiration of such ten day period a vacancy is created for that term of office to which the person who failed to qualify was elected, and thereupon, such vacancy must be filled by the board of education in accordance with the provisions of Section 4748, General Code.

COLUMBHS, OHIO, December 22, 1937.

HON. RALPH FINLEY, *Prosecuting Attorney, New Philadelphia, Ohio.*

DEAR SIR: This will acknowledge receipt of your recent communication, which reads as follows:

"I should like an opinion on the following matter:

At the recent November election, three new members were elected to the Bolivar Board of Education to fill the offices which would be left vacant by reason of expiration of term of