

3658.

APPROVAL, BONDS OF MONTGOMERY COUNTY, \$3,000.00.

COLUMBUS, OHIO, September 24, 19

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

3659.

APPROVAL, BONDS OF VILLAGE OF ST. CLAIRSVILLE, BELMONT COUNTY, \$4,765.49.

COLUMBUS, OHIO, September 24, 1926.

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

3660.

LANDS ACQUIRED BY STATE—NO AUTHORITY TO REQUIRE RECORDING OF DEED BEFORE PAYMENT.

SYLLABUS:

There is no legal authority to justify the requirement that a deed to the State be placed upon record before payment is made to grantor.

COLUMBUS, OHIO, September 27, 1926.

HON. G. F. SCHLESINGER, *Director of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of your communication which reads:

“In the purchase of land by the various departments of the state for public improvement, the Auditor of State has required that a deed be executed and recorded in the county in which the land is located, before a warrant would be issued for the purchase price.

“This practice has led to great inconvenience and criticism on the part of all concerned, as the state thereby holds both the recorded deed for the land as well as the purchase price of same.

“Therefore, we respectfully ask that you render an opinion in writing, as to whether or not a deed must be recorded in the county in which the land is located before payment for same is made.”

Section 267 of the General Code, which relates to recording of the evidence of title to lands acquired by the state, provides:

"The evidence of title of lands other than public lands, belonging to or hereafter acquired by the state, shall be recorded in the office of the recorder of the counties in which they are situated, and when so recorded such evidence of title shall be deposited with the auditor of state and kept in his office. He shall make an abstract of the title of all lands acquired by the state in a book prepared for that purpose and open for inspection by all persons interested."

While the above section is mandatory as to the recording of a deed to lands acquired by the state in the office of the recorder where such lands are situated, it does not contemplate such action until there has been a proper delivery of the deed to the state. It will readily be observed that until there has been a proper delivery and acceptance, no title has passed, and the lands do not belong to the State.

It certainly would be good business practice to require payment before making delivery of the deed. While such deeds are usually submitted for the examination of the Attorney-General, it is always understood, either expressly or by implication, that the same is not to be delivered until such time as the state has made payment to the grantor.

In view of the foregoing, you are advised that the state should not require a deed to be recorded until such time as payment has been made by the state for the purchase price of the land.

Respectfully,
C. C. CRABBE,
Attorney-General

3661.

DISAPPROVAL, BONDS OF HARRISONVILLE RURAL SCHOOL DISTRICT,
MEIGS COUNTY, \$2,000.00.

COLUMBUS, OHIO, September 24, 1926.

Re: Bonds of Harrisonville Rural School District, Meigs County, \$2,000.00.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—The foregoing bonds are issued under the provisions of section 7629 of the General Code. This section provides as follows:

"The board of education, of any school district may issue bonds to obtain or improve public school property, and in anticipation of income from taxes for such purposes, levied or to be levied, from time to time, as occasion requires, may issue and sell bonds, under the restrictions and bearing a rate of interest specified in sections seventy-six hundred and twenty-six and seventy-six hundred and twenty-seven. The board shall pay such bonds and the interest thereon when due, but provide that no greater amount of bonds be issued in any year than would equal the aggregate of a tax at the rate of two mills, for the year next preceding such issue. The order to issue bonds shall be made only at a regular meeting of the board and by a vote of two-thirds of its full membership, taken by yeas and nays and entered upon its journal."