

3292.

APPROVAL, BONDS OF FRANKLIN VILLAGE SCHOOL DISTRICT,
WARREN COUNTY, OHIO—\$37,000.00.

COLUMBUS, OHIO, June 3, 1931.

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

3293.

APPROVAL, BONDS OF WASHINGTON TOWNSHIP RURAL SCHOOL
DISTRICT, LUCAS COUNTY, OHIO—\$200,000.00.

COLUMBUS, OHIO, June 3, 1931.

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

3294.

APPROVAL, CONTRACT BETWEEN THE STATE OF OHIO AND THE
ELLIOTT COMPANY, PITTSBURGH, PENNSYLVANIA, FOR SUR-
FACE CONDENSER FOR THE POWER PLANT AT OHIO STATE
UNIVERSITY, AT AN EXPENDITURE OF \$13,950.00. SURETY BOND
EXECUTED BY THE AMERICAN SURETY COMPANY OF NEW
YORK.

COLUMBUS, OHIO, June 3, 1931.

HON. ALBERT T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Works, for the Board of Trustees of the Ohio State University and the Elliott Company, Pittsburgh, Pennsylvania. This contract covers the construction and completion of a 5000 sq. ft. horizontal two pass surface condenser for the Power Plant on the Ohio State University Campus in accordance with the form of proposal dated April 20, 1931, and calls for an expenditure of thirteen thousand, nine hundred and fifty dollars (\$13,950.00).

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. You have also shown that the Controlling Board has approved the expenditure. In addition, you have submitted a contract bond upon which the American Surety Company of New York appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the Workmen's Compensation have been

complied with. A certificate of the Secretary of State shows that the contracting foreign corporation is authorized to do business in Ohio under the terms of section 188, General Code.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3295.

DISCUSSION AS TO LEGALITY OF PURCHASE OF LAND OF LAFAYETTE TAYLOR AND VOLNEY S. TAYLOR, REGARDLESS OF OIL AND GAS RESERVATIONS.

COLUMBUS, OHIO, June 3, 1931.

HON. CARL E. STEEB, *Secretary, Ohio Agricultural Experiment Station, Columbus, Ohio.*

DEAR SIR:—Under date of April 20, 1931, I rendered to you Opinion No. 3167, in which was pointed out the state of the title of a 637 acre tract of land in Scioto County, the purchase of which from Lafayette Taylor and Volney S. Taylor is contemplated. Therein, it was pointed out that on February 29, 1924, one E. J. Gregg, in conveying the land to Lafayette and Volney S. Taylor, expressly reserved the oil, gas and mineral rights for a period of ten years, and that the title of the Messrs. Taylor was subject to this right which will not expire until February, 1934. In a subsequent letter you have requested my opinion as to whether this land may be legally purchased regardless of said reservation.

Section 1172, General Code, provides:

“The title of all lands for the use of the Ohio agricultural experiment station shall be conveyed in fee simple to the state, but no title shall be conveyed for such purposes until the attorney general is satisfied that it is free from defects and encumbrances.”

A rigorous and literal interpretation of this section may seem to preclude the purchase of any land whose title has any defect whatsoever. However, having in mind that there are practically no titles which are not defective in some manner, common sense precludes such an impracticable interpretation—otherwise it would be almost impossible for the state to purchase land. Clearly this statute contemplates only serious, material defects which might result in the state's losing the land, or which might interfere gravely with the uses contemplated by the state, or which might vitally impair the marketability of such land in case the state sought to sell it after the purposes for which it had been purchased have terminated.

Having in mind that seven of the ten years for which the above reservation was made have elapsed without any move to develop the rights reserved, that the reservation expires in less than three years, that it is unlikely that any one