

1258.

## APPROVAL — DEED CORRECTING ERRONEOUS DESCRIPTION IN FORMER DEED COVERING LOTS IN VILLAGE OF RACINE, OHIO.

HON. JOSEPH T. FERGUSON, *Auditor of State, Columbus, Ohio.*

DEAR SIR: You recently submitted to me the files of your office relating to the application of one Norman J. Theiss for a deed correcting an erroneous description in a former deed executed by the State of Ohio by the hand of the then Governor of the State in and by which it was intended to convey to a predecessor in title certain lots in the village of Racine, Ohio, theretofore sold to such predecessor in title at a sale of Section 16 school lands conducted by the Auditor of State as State Supervisor of School and Ministerial Lands.

From my examination of the files submitted to me, it appears that on or about June 28, 1920, one B. Eber Cross purchased at such sale Lots 29 and 36 in Wolf's Addition to the village of Racine, Ohio, the same being parts of Section Sixteen (16), Town Two (2), Range Twelve (12), Sutton Township, Meigs County, Ohio. It further appears from the records of your office that thereafter said B. Eber Cross paid the purchase price of these lots and that upon such payment he was entitled under the several acts of the General Assembly of Ohio providing for the sale of Section 16 school lands, to a deed to be executed by the Governor in the name of the State of Ohio conveying said lots to him as such purchaser. A deed was executed by the Governor for this purpose; but said deed as drafted, executed and delivered erroneously described the property which was thereby intended to be conveyed to said B. Eber Cross as Lots 29 and 30 in Wolf's Addition to the Village of Racine, Ohio. It further appears that said B. Eber Cross, assuming that he had the legal title to Lots 29 and 36 in said Addition, conveyed the same by deed to one Katie Theiss and that upon the death of Katie Theiss all her right, title and interest in the property passed by descent to Norman J. Theiss.

Section 8528, General Code, provides that when, by satisfactory evidence, it appears to the Governor and the Attorney General, that an error has occurred in a deed executed and delivered in the name of the State, under the laws thereof, the Governor shall correct such error by the execution of a correct and proper title deed, according to the intent and object of the original purchase or conveyance, to the party entitled to it, his heirs, or legal assigns, as the same may require, and take from such party a release in due form, to the State, of the property erroneously

conveyed. Finding, as I do, that there was an error in the former deed executed by the hand of the then Governor of Ohio, I am of the opinion that said Norman J. Theiss, as the successor in title of B. Eber Cross who purchased said Lots 29 and 36, is now entitled to a deed to be executed by the Governor conveying these lots to him by proper description, subject, however, to the reservations contained in the original deed. Inasmuch as it does not appear that B. Eber Cross conveyed or attempted to convey said lot 30 in Wolf's Addition to the village of Racine to Katie Theiss, the immediate predecessor in title of Norman J. Theiss, and since, therefore, it does not appear that Norman J. Theiss has or claims to have any color of title to said Lot 30, it will not be necessary in my opinion to take from Norman J. Theiss a quit claim deed or other instrument releasing to the State Lot 30 which was erroneously included in the former deed of the State above referred to.

I am herewith enclosing a deed which I have drafted, which deed will be signed by the Governor and countersigned by the Secretary of State for the purpose of correcting the error in the description of said former deed. As required by Section 8529, General Code, this deed should be recorded in your office before the same is delivered to the grantee therein named.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

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1259.

FEDERAL HOUSING ADMINISTRATION DEBENTURES IN  
EXCHANGE FOR MORTGAGES—ELIGIBLE TO SECURE  
THE DEPOSIT OF PUBLIC FUNDS.

**SYLLABUS:**

*Debentures issued by the Federal Housing Administrator in exchange for mortgages insured under Title 12, Section 1710, U. S. C. A., prior to July 1, 1939, are obligations of the United States, for the payment of the principal and interest of which the faith of the United States is pledged, and accordingly, are eligible to secure the deposit of public funds under the provisions of Section 2296-15a, General Code. Opinion No. 1153*