

posit, pass book, note, receipt or other writing, and had unlawfully assumed and exercised powers granted to banking corporations.

The court held:

"The company incorporated under the laws of this state for the purpose of 'contracting for and buying and selling securities and bonds, also borrowing and loaning on same; and making loans on real estate securities,' is not authorized to engage in a banking business and where such company solicits and receives government bonds, on deposit at its established place of business in this state, agreeing to return same or like bonds upon call, or at a time agreed upon, paying therefore a stipulated rate of interest in addition to that called for by the coupons attached thereto, its announced purpose being to use same as collateral to borrow money which shall constitute its working capital, such transactions are beyond its authority and will be enjoined."

On page 121 of the opinion, Matthias, judge, says:

"The relation of the defendant and its depositor is that of debtor and creditor rather than bailor and bailee, being substantially the relation of a bank and its depositor. * * *

"At least to the extent of soliciting and receiving such deposits the defendant is engaging in the banking business, and in that respect is acting without authority."

In the situation presented in your communication, the mortgage company is soliciting the deposit of money or its equivalent to be used by it in the carrying on of its business and issuing to the depositor a certificate of indebtedness payable at a certain stipulated time, and this would seem to bring the mortgage company within the rule laid down in *Security Company vs. the state*, supra. The relation between the mortgage company and the depositor is that of debtor and creditor and substantially the relation of bank and its depositor.

It is, therefore, my opinion that the corporation as set out in your communication to the extent of soliciting and receiving such deposits and issuing such certificates of indebtedness is engaging in a banking business.

Respectfully,

C. C. CRABBE,

Attorney General.

2528.

APPROVAL, BONDS OF SPRINGFIELD TOWNSHIP RURAL SCHOOL DISTRICT, RICHLAND COUNTY, \$3,000.00.

COLUMBUS, OHIO, June 1, 1925.

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