

was paroled, such order of the board cannot interfere with or suspend the execution of a sentence imposed by a court on the parole violator for an offense committed by him while on parole even though by virtue of section 2211-9 the Board of Parole has the power on the revocation of a parole to recommit the prisoner to the institution from which he was paroled.

Respectfully,

JOHN W. BRICKER,
Attorney General.

1403.

APPROVAL, BONDS OF ELYRIA CITY SCHOOL DISTRICT, LORAIN COUNTY, OHIO—\$91,000.00.

COLUMBUS, OHIO, August 15, 1933.

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

1404.

BONDS—ISSUED UNDER HOME OWNERS LOAN ACT OF 1933 LEGAL INVESTMENT FOR BANKS ORGANIZED UNDER OHIO LAWS.

SYLLABUS:

Section 710-111 of the General Code, as amended by Amended Senate Bill No. 371, 90th General Assembly, provides that bonds issued under the Home Owners' Loan Act of 1933 (H. B. No. 5240, 73d Congress, 1st Session) shall be a legal investment for banks organized under the laws of Ohio.

COLUMBUS, OHIO, August 15, 1933.

HON. I. J. FULTON, *Superintendent of Banks, Columbus, Ohio.*

DEAR SIR:—I have your letter of recent date which reads as follows:

“Section 710-111 of the General Code has been amended by an Act (Amended Senate Bill No. 371) filed in the office of the Secretary of State on July 6, 1933. The purpose of said amendment, as I take it, was to make bonds to be issued by the Home Owners' Loan Corporation eligible for investment by banks organized under the laws of this state.

The exact wording of this amendment is to be found in subdivision (a) of Section 710-111 as amended, said wording being as follows: ‘and bonds issued under the home owners' act of 1933.’

The act to which the legislature evidently had reference is known as the ‘Home Owners' Loan Act of 1933’, being House of Representatives' Bill (73d Congress) No. 5240 approved June 13, 1933.

Before the amendment to Section 710-111 G. C. becomes effective, I feel that I should have your opinion as to whether or not the mistake by

the State Legislature in the designation of these bonds as found in the amendment will render such bonds ineligible for investment by banks organized under the laws of this state."

Section 710-111, prior to the enactment of Amended Senate Bill No. 371 by the 90th General Assembly, read in part:

"(A bank may invest its capital, surplus, undivided profits and deposits in the following securities):

(a) Bonds or other interest-bearing obligations of the United States, the Philippines, Hawaii, Porto Rico, and the District of Columbia, or those for which the faith of the United States is pledged to provide payment of the interest and principal, and in farm loan bonds issued by federal land banks and joint stock land banks."

The only change made in this section by Amended Senate Bill No. 371 was the addition, at the end of paragraph (a), of these words: "and bonds issued under the home owners' act of 1933." The act made similar additions to sections 710-150, 9518-1 and 9518-2 of the General Code, and enacted a new section making "bonds issued under the home owners' act of 1933" legal investments for funds of domestic life insurance companies. The Act of Congress mentioned in your letter provides that "this Act may be cited as the 'Home Owners' Loan Act of 1933.'"

The sole question to be determined is whether the description in Amended Senate Bill No. 371 refers to the Home Owners' Loan Act of 1933. The following language appears in 59 C. J., pp. 958-960:

"While the intent of the legislature is to be found primarily in language of the statute, where such language is vague, ambiguous, or uncertain, the court may look, not only to language but to the subject matter of the act, the object to be accomplished, or the purpose to be subserved; it may also look in this connection to the expediency of the act, or its occasion and necessity, the remedy provided, the condition of the country to be affected by the act, the consequences following upon its enactment, or various extrinsic matters which throw some light on the legislative intent. Logic and sound economic principles may serve as a guide to the legislative intent."

By inserting the addition to section 710-111 in paragraph (a) it seems clear that the legislature intended to refer to a federal act. Securities issued by the political subdivisions of a state are covered by another paragraph of the section. Also, I know of no act of the Ohio legislature which has been referred to by a title even remotely similar to "home owners' act." On the other hand, at the time Amended Senate Bill No. 371 was being considered by the legislature, the newspapers of the country were carrying numerous articles concerning the pending Home Owners' Loan Act. It is only reasonable that the legislature should recognize the need for wide distribution of bonds issued under that plan for the improvement of economic conditions in the country. Further evidence that this was the intention of the legislature is adduced from the fact that the new provision directly follows the provision permitting banks to invest "in farm loan bonds issued by federal land banks and joint stock land banks." From an eco-

nomie standpoint these bonds and those under the new act have a similar purpose.

Since it is clear that the legislature intended to refer to the Home Owners' Loan Act of 1933 in Amended Senate Bill No. 371, it is my opinion that bonds issued under that act will be eligible for investment by banks on and after the effective date of the legislative act.

Respectfully,
JOHN W. BRICKER,
Attorney General.

1405.

COUNTY TREASURER—MUST GIVE BOND WITH TWO OR MORE BONDING OR SURETY COMPANIES—MAY NOT EXECUTE TWO BONDS, WITH ONE SURETY ON EACH BOND.

SYLLABUS:

The requirement of Section 2633, General Code, that the county treasurer give bond with two or more bonding or surety companies as surety in such sum as the commissioners direct, does not authorize the execution of two bonds aggregating in amount the sum so directed by the commissioners with one surety on each bond.

COLUMBUS, OHIO, August 16, 1933.

HON. GEORGE N. GRAHAM, *Prosecuting Attorney, Canton, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

"Section 2633 provides that 'before entering upon the duties of his office, the county treasurer shall give bond to the State in such sum as the commissioners direct with two or more bonding or surety companies as surety.'

The treasurer-elect informs me that he is having difficulty in prevailing upon two surety companies to sign his bond; each of the surety companies is willing to sign an individual bond for one-half of the amount that the commissioners have set as the amount of the bond required of the treasurer.

Although I have already advised that it will be necessary for at least two surety companies to sign the same bond for the full amount, yet because of the difficulty the treasurer-elect seems to be having with the bonding companies, I would appreciate your opinion as to whether two separate bonds can be executed by the treasurer, each in one-half of the amount required and each to be signed by a single surety company."

The use of the word "shall" in Section 2633, General Code, which you quote, requiring the treasurer to give bond with two or more bonding or surety companies as surety, is, in my judgment, clearly mandatory. There is nothing in this section to indicate that this requirement shall be given a permissive effect. The well established rule of statutory construction that the word "shall" must be given a mandatory construction unless the legislative intent appears to be otherwise, is well stated in *State, ex rel. vs. Commissioners*, 94 O. S. 296, 306, as follows: