

the money as they see fit, so long as it is used at Nankin cemetery for lawful purposes for which money may be expended by township trustees in connection with a township cemetery.

I am therefore of the opinion, in specific answer to your question, that the township trustees may use the gift of money in question for the upkeep of the cemetery or any lawful improvement which they desire to make thereon.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

3238.

SCRIP—ACCEPTABLE IN PAYMENT OF DEBT DUE BANK IN  
LIQUIDATION WHEN—AUTHORITY OF SUPERINTENDENT OF  
BANKS.

SYLLABUS:

1. Under sub-paragraph 1 of section 710-95, General Code, the Superintendent of Banks, in charge of the liquidation of a bank, may, with the approval of the Court of Common Pleas of the county in which the liquidation proceedings are pending, accept scrip issued by the county, in payment of interest and principal of debts due to such bank, where such scrip will be accepted by the county treasurer in payment of taxes, and where such bank owes taxes upon real estate located in that county which are due from the Superintendent of Banks.

2. Under sub-paragraph 2 of section 710-95, General Code, the Superintendent of Banks may, with the approval of the Court of Common Pleas, accept county scrip in exchange for assets of a bank in liquidation, provided that no assets shall be so exchanged at less than the appraised value thereof, as fixed by appraisers appointed as provided in Section 710-95b, General Code.

COLUMBUS, OHIO, September 22, 1934.

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

DEAR SIR:—I have your request for my opinion which reads as follows:

“I am informed that certain debtors of Cleveland banks now in liquidation are offering scrip issued by Cuyahoga County in payment of interest and principal on loans. I am informed that such scrip will be accepted by the Treasurer of Cuyahoga County in payment of taxes.

Each of said banks has extensive real estate holdings in Cuyahoga County, and if permitted to accept such scrip could use the same in payment of the taxes thereon. I would appreciate your opinion as to whether or not under the circumstances, and for the purpose mentioned, I am permitted to accept scrip issued by Cuyahoga County in payment of interest and principal on loans.”

Section 710-95, General Code (Am. 115 O. L. 136), relative to the powers and duties of the Superintendent of Banks, reads in part as follows:

“\* \* \* The superintendent of banks, upon taking possession of the business and property of any bank, shall have, exercise and discharge the following powers, authority and duties, without notice or approval of court, but subject to the provisions of this chapter, to-wit:

1. To collect all money due to such bank.

\* \* \* \* \*

5. To pay off and discharge any taxes, assessments, liens, claims or charges against the assets or property of such bank.

\* \* \* \* \*

Without prejudice to or limitation of the foregoing powers, authority and duties, the superintendent of banks may, upon application to the court of common pleas in which the proceedings for the liquidation of such bank are pending, or a judge thereof, and on such terms as such court, or such judge, may by order approve:

1. Sell or compromise any or all bad or doubtful assets and debts owing to such bank; \* \* \*”

2. Sell or exchange assets of such bank, the consideration for which sale or exchange may be, in whole or in part, claims against such bank; provided, however, no such sale or exchange of any such assets, shall be made at less than the appraised value thereof, as fixed by appraisers appointed as provided in Section 710-95b of the General Code.

\* \* \* \* \*

As in the case of all public officers, the powers of the Superintendent of Banks are limited to those granted by statute. *State ex rel. vs. Menning*, 95 O. S. 97; *State ex rel. vs. Pierce*, 96 O. S. 44; *State ex rel. vs. Cook*, 103 O. S. 465; *Schwing vs. McClure*, 120 O. S. 335.

Under Section 710-95, supra, the superintendent can collect “money” due the bank “without notice or approval of court.” However, before he compromises a bad or doubtful debt owing to the bank, he must obtain the approval of the court of common pleas in which the liquidation proceedings are pending.

I assume that the scrip in question was issued under authority of Amended Senate Bill No. 382, 90th General Assembly, (115 O. L. 377), as amended by House Bill No. 48, Second Special Session, 90th General Assembly.

Section 4 of Senate Bill No. 382 reads:

“Any subdivision which shall be authorized to issue notes pursuant to this act may, by ordinance or resolution of its taxing authority, provide for the issuance of notes of said subdivision which shall be serially numbered; shall be in such denominations not less than one dollar or more than fifty dollars, as the chief fiscal officer may determine; shall be due and payable to bearer without interest not later than on or before five years from their date at the treasury of the subdivision issuing them; and shall be signed by or bear the facsimile signatures of the officers of the subdivision authorized to sign bonds; shall be negotiable instruments, and in all respects governed by the laws applicable to negotiable instruments, and be appropriately printed or lithographed by the county auditor. In all respects not otherwise provided in this act, the authorization, execution, and sale of such notes shall be controlled by the provisions of the uniform bond act.”

It is clear from this section that the so-called "scrip" is not "money" but is a promissory note of the political subdivision, in this case a county, which issues it. The scrip in question can be used only for a limited purpose. It may be that for such purpose it is as valuable as a like face amount of money. It may also be true that the Superintendent of Banks could use the scrip for that particular purpose. (Section 710-95, paragraph 5, supra). Nevertheless, in view of the plain language of section 710-95, General Code, I am of the opinion that the superintendent of banks can accept scrip under Paragraph 1 of the second group of numbered paragraphs of such section only to compromise a bad or doubtful debt, and then only with the approval of the Court of Common Pleas.

Paragraph 2 of the second group of numbered paragraphs of said section 710-95, provides that assets may be exchanged, with the approval of the court, at not less than their appraised value as fixed under section 710-95b, General Code. In my opinion, assets in the possession of the Superintendent of Banks may be exchanged for scrip pursuant to this paragraph and in compliance with the procedure therein prescribed.

Specifically answering your inquiry, it is my opinion that:

1. Under sub-paragraph 1 of section 710-95, General Code, the Superintendent of Banks, in charge of the liquidation of a bank, may, with the approval of the Court of Common Pleas of the county in which the liquidation proceedings are pending, accept scrip issued by the county, in payment of interest and principal of debts due to such bank, where such scrip will be accepted by the county treasurer in payment of taxes, and where such bank owes taxes upon real estate located in that county which are due from the Superintendent of Banks.

2. Under sub-paragraph 2 of section 710-95, General Code, the Superintendent of Banks may, with the approval of the Court of Common Pleas, accept county scrip in exchange for assets of a bank in liquidation, provided that no assets shall be so exchanged at less than the appraised value thereof, as fixed by appraisers appointed as provided in section 710-95b, General Code.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

3239.

APPROVAL, LEASE NO. 2242, IN FRANKLIN TOWNSHIP, MERCER COUNTY, OHIO, FOR STATE GAME PURPOSES—STATE OF OHIO.

COLUMBUS, OHIO, September 22, 1934.

HON. WILLIAM H. REINHART, *Commissioner, Division of Conservation, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval a certain lease No. 2242, executed by K. E. Mitchell and L. J. Mitchell of Franklin Township, Mercer County, Ohio, to the State of Ohio, on a parcel of land in said township and county, known and described as follows:

"Being the northwest quarter of the southwest fractional quarter of Section 19, Town 6 South, Range 3 East, containing fifty-five acres of land, more or less.