

4229.

APPROVAL, NOTES OF METAMORA VILLAGE SCHOOL DISTRICT,
FULTON AND LUCAS COUNTIES, OHIO—\$75,000.00.

COLUMBUS, OHIO, April 2, 1932.

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

4230.

SMOKE ORDINANCE—CLEVELAND—STATE OWNED CENTRAL AR-
MORY NOT SUBJECT TO SUCH ORDINANCE.

SYLLABUS:

The jurisdiction of the City of Cleveland, in the enforcement of its smoke ordinance, does not extend to the Central Armory which is under the exclusive control and management of the state.

COLUMBUS, OHIO, April 4, 1932.

HON. FRANK D. HENDERSON, *Adjutant General, Columbus, Ohio.*

DEAR SIR:—I acknowledge receipt of your letter which reads as follows:

“This office is in receipt of a communication from the Department of Public Safety, City of Cleveland, Division of Smoke Inspection, which indicates that the use of Ohio coal with the present equipment at the Central Armory, Cleveland, Ohio, would doubtless cause a smoke condition which would constitute a serious public nuisance contrary to the Cleveland smoke ordinance. The Central Armory at Cleveland is owned by the County of Cuyahoga although an act of the Legislature in 1929 authorized the payment of a first installment of the purchase price by the state of Ohio for an armory. Referring to Opinion No. 3528, office of the Attorney General dated August 31, 1931, on a question of jurisdiction in the city of Cincinnati over the armory located in that city, it is assumed that the present situation in the city of Cleveland is similar in application. It is not possible, due to limited appropriations, to install special equipment as suggested in letter from the Division of Smoke Inspection, and it is desired to use Ohio coal under the boilers, in which case, your opinion is desired as to whether or not the jurisdiction of the city of Cleveland in the enforcement of the smoke ordinance would extend to prohibit the use of Ohio coal with the present equipment in use in case a violation of the smoke ordinance occurs.”

In 1929 the legislature passed an act authorizing the execution of a contract between the State and Cuyahoga County for the rental and for the ultimate purchase by the state of the Central Armory in Cleveland, which should be in the form of a lease for the term of two years, renewable for successive terms of two years each until the whole amount of the purchase price is paid. 113 O. L. 516. Such an agreement was executed, by the terms of which the adjutant general was given the supervision and control of the property at all times. In 1931, said lease was renewed by the state for an additional two years.