

education in question is not empowered to assume the obligation of the makers of this note, and even if it could lawfully do so it would not have power to issue bonds to discharge the obligation. The board is not a party to this note and is not liable on the note and a judgment could not be obtained against the board on account of the note.

So far as appears, the residents of the district, or some of them, constructed this building and donated it to the board of education without any intention other than that it should be the property of the board of education. There was probably some arrangement made that receipts from athletic contests held in the building should be applied to that part of the cost of the building which was not paid for by subscription and donations, and it appears that the board of education has been permitting this to be done but that fact does not in any wise obligate the board of education to pay any portion of the note from public funds.

The board, no doubt, by virtue of its authority to construct suitable and necessary buildings for the needs of the district would have authority to construct a gymnasium building such as you describe and it would be regarded as a permanent improvement, as the term is used in the Uniform Bond Act. Bonds might be issued by the board of education for the purpose of constructing or acquiring such a building, and, if third parties owned such building, and the board desired to acquire it, there is no doubt but that bonds might be issued for that purpose. Here, the building was erected on the board's land, was attached thereto and so far as appears, became a fixture on said lands and thereby became the property of the board of education. If the building had been constructed on other lands, or the persons building it had by some lawful arrangement retained title to it until such time as they chose to convey it to the board either with or without consideration the board could now lawfully, if it saw fit, purchase it and issue bonds for that purpose, but that does not appear to have been the situation in this instance and it is therefore not necessary for the purposes of this opinion, to further consider that phase of the question.

In view of the situation as described by you in your letter of inquiry I am of the opinion that the board of education of the Ross Township Rural School District does not have the power to issue bonds by vote of the people or otherwise, for the purpose of paying the note in question or of reimbursing the makers of this note after they have paid the same.

Respectfully,
GILBERT BETTMAN,
Attorney General.

4623.

APPROVAL, CONTRACT BETWEEN THE STATE OF OHIO AND E. M. CARMELL COMPANY, OF COLUMBUS, OHIO, FOR THE CONSTRUCTION AND COMPLETION OF HOT PROCESS WATER SOFTENING EQUIPMENT AND RETUBING HEATERS AT THE OHIO SOLDIERS' AND SAILORS' ORPHANS' HOME, XENIA, OHIO, AT AN EXPENDITURE OF \$9,500.00—SURETY BOND EXECUTED BY THE SEABOARD SURETY COMPANY.

COLUMBUS, OHIO, September 19, 1932.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State

of Ohio, acting by the Department of Public Works, for the Ohio Soldiers' and Sailors' Orphans' Home, Xenia, Ohio, and E. M. Carmell Company of Columbus, Ohio. This contract covers the construction and completion of contract for Hot Process Water Softening Equipment and Retubing Heaters, including Alternate B, at the Ohio Soldiers' and Sailors' Orphans' Home, Xenia, Ohio, in accordance with the form of proposal dated July 6, 1932. Said contract calls for an expenditure of nine thousand five hundred dollars (\$9,500.00).

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. You have also shown that the Controlling Board and Emergency Board have released moneys for this contract, as required by section 8 of House Bill No. 624 of the 89th General Assembly. In addition, you have submitted a contract bond upon which the Seaboard Surety Company appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,
GILBERT BETTMAN,
Attorney General.

4624.

APPROVAL, BONDS OF PERRY COUNTY, OHIO—\$12,000.00.
COLUMBUS, OHIO, September 19, 1932.

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

4625.

APPROVAL, BONDS OF VILLAGE OF OTTAWA HILLS, LUCAS COUNTY,
OHIO—\$1,000.00.

COLUMBUS, OHIO, September 19, 1932.

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