

2866.

APPROVAL, NOTES OF PERRY TOWNSHIP RURAL SCHOOL DISTRICT,  
LAWRENCE COUNTY, OHIO—\$990.00.

COLUMBUS, OHIO, January 26, 1931.

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

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2867.

APPROVAL, BONDS OF WESTLAND TOWNSHIP RURAL SCHOOL  
DISTRICT, GUERNSEY COUNTY, OHIO—\$22,000.00.

COLUMBUS, OHIO, January 26, 1931.

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

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2868.

DISAPPROVAL, SYNOPSIS OF PROPOSED AMENDMENTS TO THE  
CONSTITUTION OF OHIO.

COLUMBUS, OHIO, January 26, 1931.

MR. CHARLES H. HUBBELL, *Attorney at Law, 630 Engineers Bldg., Cleveland, Ohio.*

DEAR SIR:—Under the provisions of Section 4785-176, General Code, you have presented a petition signed by one hundred twenty-eight qualified electors of the State, requesting my certification as to form of certain proposed amendments to the Constitution of Ohio to be embodied in a single initiative petition. This petition of one hundred twenty-eight qualified electors also requests my certification as to the fairness and truthfulness of a synopsis of the contents and purposes of these proposed amendments to the Constitution of Ohio.

Section 4785-176, General Code, provides as follows:

“One hundred or more qualified electors of the state may, by a written petition signed by them, submit any proposed law or constitutional amendment to the attorney general for examination. If the attorney general finds such law or constitutional amendment correct as to form, he shall so certify and such certification shall be printed immediately, under the text of the law or constitutional amendment. Such electors may also submit to the attorney general a fair and impartial synopsis of such proposed law or amendment, and if such synopsis in the opinion of the attorney general is a fair and truthful summary of the contents and purposes of such proposed law or amendment he shall so certify. Such synopsis together with the attorney general’s certification shall be printed in capital letters immediately following

the notice heretofore provided. At the top of each part of such petition shall be the following:

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The foregoing section has been enacted pursuant to the provisions of Article 2, Section 1a of the Constitution, which section is as follows:

"The first aforesated power reserved by the people is designated the initiative and the signatures of ten per centum of the electors shall be required upon a petition to propose an amendment to the constitution. When a petition signed by the aforesaid required number of electors, shall have been filed with the secretary of state, and verified as herein provided, proposing an amendment to the constitution, the full text of which shall have been set forth in such petition, the secretary of state shall submit for the approval or rejection of the electors, the proposed amendment, in the manner hereinafter provided, at the next succeeding regular or general election in any year occurring subsequent to ninety days after the filing of such petition. The initiative petitions, above described, shall have printed across the top thereof: 'Amendment to the Constitution Proposed by Initiative Petition to be Submitted Directly to the Electors.' "

It is observed that the provision is made for proposing by petition an "amendment to the constitution". Furthermore, under Section 4785-176, supra, one hundred or more qualified electors of the state may submit by a petition to the Attorney General for examination "any proposed law or constitutional amendment". Before considering the correctness of the proposed "amendment" and the fairness and truthfulness of the summary of the contents and purposes of the proposed "amendment", it is necessary to determine whether or not you have submitted a proposed "amendment to the constitution".

The sections proposed to be amended are the following: Article III, Sections 2 and 18; Article IV, Sections 2, 3, 6, 7, 10, 12, 13, 14, 15 and 16; Article X, Sections 2 and 3; Article XVII, Section 2.

An examination of the proposed amendments discloses the fact that it is sought to make numerous vital changes in the Constitution. Several of these are as follows:

The terms of certain state officers shall be changed from two to four years; persons shall be appointed to fill vacancies in certain state offices for different terms than now provided; the terms of office of all judges and residence qualifications of certain judges shall be changed; annuities shall be provided for certain judges; the compensation of certain county officers and their terms of office shall be changed.

A question similar in principle to the one here under consideration was recently decided by the Common Pleas Court of Franklin County in the case of *Eyler v. Myers Y. Cooper, et al.*, being case No. 124,425. This was an action seeking to enjoin the governor, secretary of state and attorney general from canvassing the returns of an election on the amendment of Section 2, Article XII and the repeal of Section 3, Article XII. The question for determination was whether or not the amendment of Section 2, Article XII and the repeal of Section 3, Article XII constituted one amendment or two amendments. In the opinion of the court rendered July 1, 1930, it was held that the amendment of Section 2, Article XII and the repeal of Section 3, Article XII constituted one amendment, for the reason that the provisions of the two sections were "intimately connected"; that "Section 3 was but a restatement of what was contained in Section 2", and that "the repeal of Section 3 and the amendment of Section 2 are not disconnected and independent of each other, but that they do have a direct relation to a general subject matter, and that the repeal of the one is consistent with the amend-

ment of the other. In reaching these conclusions, the court followed the principles laid down by the Supreme Courts of Montana and North Dakota, which are as follows:

"If, in the light of common sense, the proposals have to do with different subjects, if they are so essentially unrelated that their association is artificial, they are not one; but if they may be logically viewed as parts or aspects of a single plan, then the constitutional requirement is met in their submission as one amendment."

—*State, ex rel. Hay v. Alderson*, 49 Mont., 387; 142 Pac., 210.

"To refer in detail to the variety of circumstances in which the question under discussion has arisen in the foregoing cases would unduly lengthen this opinion. We shall consequently content ourselves with a mere statement of the principle which finds practically unanimous support in the many authorities cited.

Such a constitutional provision is designed to prevent the submission to the voters, as one amendment, of distinct propositions that are so far disconnected and independent of each other as to have no direct relation to a general subject."

—*State, ex rel. Fargo v. Wetz* (N. Dak.), 5 A. L. R., 731, 752.

In view of the foregoing, it is my opinion that the numerous proposals which you have submitted seeking to amend fifteen sections of the Constitution do not constitute an amendment to the Constitution within the meaning of the term as used in Section 4785-176, *supra*, but that they deal with several distinct propositions which are not so connected with one another as to have a direct relation to one subject. I, accordingly, return to you herewith the proposed initiative petition without my certifications endorsed thereon.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

2869.

APPROVAL, ABSTRACT OF TITLE TO LAND OF THE RT. REV. JAMES J. HARTLEY IN THE CITY OF COLUMBUS, FRANKLIN COUNTY, OHIO.

COLUMBUS, OHIO, January 26, 1931.

HON. CARL E. STEEB, *Business Manager, Ohio State University, Columbus, Ohio.*

DEAR SIR:—There has been submitted for my examination and approval an abstract of title, warranty deed and Encumbrance Estimate No. 2082 relating to the proposed purchase by the State of Ohio of a certain parcel of land situated in the City of Columbus, Franklin County, Ohio, which is owned of record by the Rt. Rev. James J. Hartley, Bishop of the Diocese of Columbus, and which is more particularly described as being Lot No. 26 of John Burton's Subdivision of the north half of the south half of Lot. No. 278 in R. P. Woodruff's Agricultural College Addition to the City of Columbus, as said lots are delineated on the plat of said subdivision in Plat Book 3, page 350, Recorder's Office, Franklin County, Ohio.