

as to the use of surplus funds, I am unable to say that the use of such funds for investment in the bonds of such district, thereby saving interest for itself, is not accomplishing a legitimate object of the district. Surely, the financing of the district for the purpose of carrying out the work of conservation therein is one of the legitimate objects of such district. The price to be paid for such bonds is within the discretion of the directors and the payment of the fair market price therefor would not be an abuse of such discretion, even if such price is more than their par value.

Consequently, I am of the opinion that the directors of a conservancy district may lawfully invest the surplus funds of such district in bonds issued by such district paying the fair market price therefor.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2855.

APPROVAL, NOTES OF BRIGHTON TOWNSHIP RURAL SCHOOL DISTRICT, LORAIN COUNTY, OHIO—\$4,400 00.

COLUMBUS, OHIO, June 23, 1934.

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

2856.

BANK—BI-MONTHLY REPORTS UNDER SECTION 710-32a, GENERAL CODE, APPLIES TO NATIONAL BANKS AND FOREIGN TRUST COMPANIES DOING BUSINESS WITHIN STATE.

SYLLABUS:

Section 710-32a, General Code, requiring bi-monthly reports from trust companies and banks doing a trust business, applies to national banks located in this state, and to foreign trust companies doing business within its borders, as well as to banks organized under the laws of Ohio.

COLUMBUS, OHIO, June 25, 1934.

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

DEAR SIR:—I have your request for my opinion as to whether banks other than those organized under the laws of this state, viz., national banking associations, located in this state, and foreign trust companies doing business in this state, are required to file bi-monthly reports, setting forth uninvested trust funds, as required by Section 710-32a, General Code.

Section 710-32a, General Code, was enacted as part of H. B. 696, 90th General Assembly (115 O. L., 286), and reads as follows:

"Every trust company and every other bank doing a trust business shall make to the superintendent of banks bi-monthly reports of all moneys held by it in any fiduciary capacity, whether in cash or on deposit, which have been so held for more than three months without being invested; but an amount of five hundred dollars or less held in any one particular fiduciary capacity need not be included in such reports. Such reports shall be made at such times, and shall be in such form as may be prescribed by the superintendent of banks; shall be verified by the oath or affirmation of the president, vice-president, cashier, secretary, treasurer, or trust officer of such bank or trust company; and shall set forth the amount held in each fiduciary capacity, the time during which it has been so held, and the reason, in each case, why it has not been invested." (Italics the writer's.)

The statute in terms applies to national banking associations located in this state and to foreign trust companies doing business here, as well as to banks organized under the laws of Ohio.

In Opinion No. 2665, rendered May 15, 1934, I said, with reference to another section of the statutes relating to banks:

"A statute free from ambiguity, clearly expressing the intention of the legislature cannot be otherwise construed. *Ohio Savings & Trust Co. vs. Schneider*, 25 O. A. 259. Where the language of a statute is clear the court cannot, under the guise of construction, ignore its plain terms and insert provisions, even to cover omissions or to correct errors. *State ex rel vs. Brown*, 121 O. S., 329; *Park Co. vs. Development Co.*, 109 O. S., 358; *Maxfield vs. Brooks*, 110 O. S., 566. The legislature's intention must be ascertained from the language used in the statute. *D. & H. Coal Co. vs. Lay*, 37 O. A., 433, affirmed 123 O. S., 468."

In my opinion the plain language of Section 710-32a, General Code, requires bi-monthly reports of national banks located in this state and foreign trust companies doing business here.

Section 11 of the Federal Reserve Act reads in part:

"The Federal Reserve Board shall be authorized and empowered:
* * * * *

(k) To grant by special permit to national banks applying therefor, when not in contravention of State or local law, the right to act as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, committee of estates of lunatics, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which come into competition with national banks are permitted to act under the laws of the State in which the national bank is located.

Whenever the laws of such State authorize or permit the exercise of any or all of the foregoing powers by State banks, trust companies, or other corporations which compete with national banks, the granting to and

the exercise of such powers by national banks shall not be deemed to be in contravention of State or local law within the meaning of this Act.

National banks exercising any or all of the powers enumerated in this subsection shall segregate all assets held in any fiduciary capacity from the general assets of the bank and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of this subsection. *Such books and records shall be open to inspection by the State authorities to the same extent as the books and records of corporations organized under State law which exercise fiduciary powers*, but nothing in this Act shall be construed as authorizing the State authorities to examine the books, records, and assets of the national bank which are not held in trust under authority of this subsection."

It is clear that under this section the trust records of a national bank may be inspected by state authorities in the same manner and to the same extent as those of state banks, which exercise fiduciary powers. The language of Section 11 (k), Federal Reserve Act, appears sufficiently broad to empower the superintendent of banks to require the reports authorized by Section 710-32a, General Code.

A foreign trust company which comes into Ohio to do business thereby consents to be governed by our laws applicable to such type of business. *New York Life Ins. Co. vs. Cravens*, 178 U. S., 389; *Orient Insurance Co. vs. Daggis*, 172 U. S., 557; *Hooper vs. California*, 155 U. S., 648.

There being no provisions of law making section 710-32a, General Code, inapplicable to national banks located in this state or to foreign trust companies doing business here, it is my opinion that such institutions must furnish the reports required by said section, since they are within the clear meaning of the language used.

Respectfully,

JOHN W. BRICKER,

Attorney General.

2857.

WORKMEN'S COMPENSATION—APPROPRIATION TO INDUSTRIAL COMMISSION FROM HIGHWAY DEPARTMENT—H. B. No. 699 DID NOT REPEAL H. B. No. 248.

SYLLABUS:

1. *House Bill No. 699, regular session of the 90th General Assembly, known as the General Appropriation Bill, did not repeal House Bill No. 248, enacted earlier in the same session, and making a partial appropriation for insurance on employes of the Department of Highways.*

2. *Where the Department of Highways has paid to the Industrial Commission of Ohio for workmen's compensation insurance the sum of \$75,000 from the*