

the gross value of the estate. In my opinion, your first and second questions should be answered in the affirmative. It would appear to me to be immaterial whether the loan from the Reconstruction Finance Corporation would be secured by unpledged assets or would be secured in whole or in part by assets released from pledge by payment of funds procured by means of proceeds derived from a loan from the Reconstruction Finance Corporation.

In reply to your third inquiry, subject to the limitations imposed by the Superintendent of Banks, it would appear from the language of section 710-88a, supra, that if in the opinion of the conservator it would be for the best interest of the estate or that the estate would be enhanced by the purchase of the pledged assets, or a part thereof, he would have the authority to purchase such assets as were considered beneficial. By reason of my opinion with reference to your first and second inquiries, it necessarily follows that, in my opinion, the conservator has the authority to borrow money for such purpose and to pledge the assets of the bank for such purpose. In my opinion, your third inquiry should be answered in the affirmative.

In reply to your fourth inquiry, I am expressing no opinion as to the authority of the municipality or other public depositor to release a portion of the collateral or other securities deposited with it for the purpose of securing the return of the funds placed in a depository. Such question is not presented by your request. Being of the opinion, as set forth above, that the conservator has the authority to permit the withdrawal of the whole of a fund deposited with the bank as public depository, it becomes self-evident that the conservator would have like authority to permit the withdrawal of any part thereof, provided, however, that at least a proportionate amount of the securities deposited by the bank for the purpose of securing the return of such funds to the public depositor are at the same time released to the bank; and providing further that good faith is used in the transaction by the public depositor and the conservator; that is, it is not to be supposed that the conservator would permit a withdrawal of \$100,000 and at the same time receive a return of securities having a par or face value of \$110,000, but having an actual value of \$50,000, and permitting the good securities to remain with the depositor.

It is therefore my opinion that each of your inquiries should be answered in the affirmative. For the purposes of this opinion I have assumed that the public deposits referred to in your inquiry are secured only by the deposit of securities and not in part by surety bond. I therefore express no opinion concerning a state of facts where the deposit is secured in part by surety bond and in part by securities.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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APPROVAL, BONDS OF TRUMBULL COUNTY, OHIO—\$10,000.00

COLUMBUS, OHIO, April 25, 1933.

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