

5. The total membership in the society shall not at any time exceed five hundred.

Section 9491, General Code; Opinion of Attorney General No. 3483, rendered to you August 5, 1931.

Since the proposed articles of incorporation of Sans Souci Mutual Aid do not comply with the pertinent statutes of Ohio, I am compelled to advise that same should not be filed by yourself in their present form.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3739.

DISAPPROVAL, BONDS OF CITY OF ALLIANCE, STARK COUNTY,
OHIO—\$50,000.00.

COLUMBUS, OHIO, November 6, 1931.

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

GENTLEMEN:

Re: Bonds of City of Alliance, Stark County, Ohio, \$50,000.00.

There has been submitted in connection with the above purchase of bonds a transcript with respect to the issuance of two series of bonds in the amounts of \$100,000 and \$700,000 respectively, each of which were authorized pursuant to vote of the electors at the November, 1925, election on the matter of issuing bonds in the amount of \$800,000 for the purpose of constructing sewers and a sewage disposal plant.

The transcript does not contain affidavit in proof of publication of the notice of election as required by the then provisions of Section 5649-9b, General Code. These provisions with respect to the notice of election upon the question of issuing bonds are now substantially incorporated in Section 2293-21 of the Uniform Bond Act. This office has consistently taken the position that those provisions are mandatory and in the absence of a finding by a court of competent jurisdiction that there has been substantial compliance with the law in this respect, I am compelled to advise you not to purchase these bonds.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3740.

APPROVAL, BOND FOR THE FAITHFUL PERFORMANCE OF HIS
DUTIES AS RESIDENT DISTRICT DEPUTY DIRECTOR IN ASH-
LAND COUNTY—HOWARD H. FETZER.

COLUMBUS, OHIO, November 6, 1931.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted a bond in the penal sum of \$5,000 upon which the name of Howard H. Fetzer appears as principal and The United States Fidelity and Guaranty Company appears as surety. Said bond is conditioned to

cover the faithful performance of the duties of the principal as Resident District Deputy Director assigned to Ashland County.

This bond was formerly disapproved by me in Opinion No. 3238, for the reason that the power of attorney submitted did not show that the party signing the name of the surety was duly authorized to execute such bond.

However, it now appears that the objections heretofore pointed out, have been removed and that said bond is now in proper legal form. I have accordingly endorsed my approval thereon, and return the same herewith.

Respectfully,

GILBERT BETTMAN,

Attorney General.

3741.

APPROVAL, CONTRACT BETWEEN THE STATE OF OHIO AND THE ALPHONS CUSTODIS CHIMNEY CONSTRUCTION COMPANY OF CHICAGO, ILLINOIS, FOR SMOKE STACK FOR MASSILLON STATE HOSPITAL, MASSILLON, OHIO, AT AN EXPENDITURE OF \$7,175.00. SURETY BOND EXECUTED BY THE UNITED STATES GUARANTEE COMPANY.

COLUMBUS, OHIO, November 9, 1931.

HON. JOHN MCSWEENEY, *Director of Public Welfare, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Welfare (Massillon State Hospital, Massillon, Ohio), and the Alphons Custodis Chimney Construction Company of Chicago, Illinois. This contract covers the construction and completion of 1 7'0" x 200' Stack Complete, with Burkett Lightning Rod System, as specified, for Massillon State Hospital, Massillon, Ohio, in accordance with the form of proposal dated October 17, 1931. Said contract calls for an expenditure of seven thousand one hundred and seventy-five dollars (\$7,175.00).

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 furnished evidence to show that the Emergency Board has released funds for this project. In addition, you have submitted a contract bond upon which the United States Guarantee 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 Act have been complied with. The Secretary of State has furnished a certificate showing that the above contracting corporation is authorized to do business in Ohio.

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.