

“Any absolute promise to pay a certain sum of money at a specified time, if it constituted the entire contract, may be taken to be a promissory note.”

Again, in the case of *Burke vs. State*, 104 O. S. 220, the Supreme Court said that a promissory note is a written promise for the unconditional payment of money at a future time.

In view of the above authorities, there can be no question that the collateral trust note involved in this opinion wherein the issuing company “for value received, hereby promises to pay to bearer,” on a certain date a certain amount of money, is a note within the meaning of Section 9357, *supra*.

It is to be noted, however, that before a domestic life insurance company may invest its funds in these collateral notes, it must determine:

1. That the maker of the notes has not “defaulted in payment of interest or principal on any of its bonds, notes, debentures or other evidence of indebtedness,” and
2. That the average annual net earnings of the maker “for a period of not less than seven fiscal years preceding purchase” of such notes, “shall be at least three times the amount required to pay interest on its outstanding funded debt.”

In specific answer to your inquiry, I am of the opinion that a domestic life insurance company may invest its capital, surplus and all accumulations in collateral trust notes issued under and secured by an indenture of trust whereby certain obligations are conveyed to a trustee for the benefit of the holders of such collateral trust notes, which notes are the obligations of a solvent corporation organized under the laws of any state of the United States.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

595.

PROBATE JUDGE — MARRIAGE LICENSE — CEREMONY—IN
FOREIGN COUNTY—MARRIAGE CERTIFICATE.

SYLLABUS:

A probate judge issuing a marriage license may not demand the filing of the minister's license in that county, the minister having been

licensed in another county, in addition to the marriage certificate by law returnable for filing in the county issuing the license.

COLUMBUS, OHIO, May. 14, 1937.

HON. MARVIN A. KELLY, *Prosecuting Attorney, Portsmouth, Ohio.*

DEAR SIR: I am in receipt of your letter of recent date requesting my opinion, which letter reads as follows:

“The Probate Judge of Scioto County issues a marriage license authorizing the marriage of certain persons. These persons take the license to another county where they are married by a licensed minister.

Question: May the Probate Judge of Scioto County demand that the minister so performing the ceremony in another county submit his license so to do to the Probate Court of Scioto County, as well as the certificate provided for by Section 11195?”

I feel that your question can be answered by the sections of the General Code of Ohio regarding marriages, and without quoting such sections, I will refer to them briefly.

Section 11183, General Code, provides that a minister of the gospel duly accredited shall receive a license from the probate judge of said county in which he officiates. This minister's license authorizes him to solemnize marriages any place within this State.

Section 11184, General Code, provides that every licensed minister performing marriage ceremonies must produce to the probate court in each county in which he solemnizes marriages his license so to do, and the county from which such license is obtained is noted on the record, this section referring to ministers performing ceremonies outside of the county licensing such minister.

Section 11195, General Code, provides that a certificate of the minister performing the ceremony of every marriage solemnized shall be returned and filed in the county issuing the marriage license.

It is recognized that couples licensed in the county in which the female resides will go outside of that county to have the marriage solemnized, and that the probate judge issuing the license has no record of the license of the minister solemnizing the marriage except the return of the marriage certificate. The minister in such cases may not be licensed to perform marriage ceremonies, but this is not the concern of the probate judge issuing the license because the statute is mandatory that such minister must file his license in the county in which he solemn-

nizes the marriage, or procure a license in said county. If the minister fails to comply with this law he is penalized under Section 11196, General Code, by the payment of a fine not exceeding \$50.00.

When a marriage ceremony is performed outside of the county issuing the license and the minister performing the same files his license with the probate judge in that county the record is complete in that county. The minister then returns the marriage certificate to the probate judge of the county issuing the license and the record is there complete. If any question arises concerning the validity of the marriage ceremony, the fact of the filing of the minister's license in the county in which he performed the ceremony is evidence of such minister's authority to solemnize marriages.

In specific answer to your inquiry, in view of the foregoing statutory provisions, it is my opinion that the law is properly complied with when duly licensed couples are married by a licensed minister any place in the State of Ohio so long as the licensed minister files in that county his license to perform marriage ceremonies, and that the probate judge of Scioto County may not demand that the minister performing a ceremony in a county foreign to Scioto submit his license so to do to the probate judge in Scioto County in addition to the marriage certificate provided for in Section 11195, General Code.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

596.

APPROVAL—BONDS OF CINCINNATI CITY SCHOOL DISTRICT, HAMILTON COUNTY, OHIO, \$50,000.00.

COLUMBUS, OHIO, May 14, 1937.

The Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN:

RE: Bonds of Cincinnati City School Dist., Hamilton County, Ohio, \$50,000.00.

I have examined the transcript of proceedings relative to the above bonds purchased by you. These bonds comprise part of an issue of