

1226.

DISAPPROVAL, BONDS OF NEW RICHMOND VILLAGE SCHOOL DISTRICT, CLERMONT COUNTY—\$37,500.00.

COLUMBUS, OHIO, November 25, 1929.

Re: Bonds of New Richmond Village School District, Clermont County, Ohio,
\$37,500.00.

HON. H. ROSS AKE, *Treasurer of State, Columbus, Ohio.*

DEAR SIR:—The above bonds recently purchased by the Retirement Board of the State Teachers Retirement System have been presented to you for payment subject to my approval as to form and execution, the transcript of proceedings relative to their issuance having been previously approved by this office. It is stated on the face of the bonds that they are issued pursuant to a vote of the electors of the school district, cast on the 6th day of November, 1928, and pursuant to a resolution of the board of education of said district duly passed on the 2nd day of July, 1928. This statement on the face of the bonds is apparently made pursuant to the provision of Section 2293-8, General Code, that "bonds or notes issued by any subdivision shall specify on their face * * * the resolution or ordinance under which they are issued."

The transcript of proceedings relative to this issue discloses that on July 2, 1928, the board of education passed a resolution pursuant to the provisions of Section 2293-19, General Code, declaring the necessity of the issue and resolving to submit the question of issuing these bonds to the electors at the next general election on the 6th day of November, 1928. Pursuant to the authority vested in the board of education by the electors at such election, the board of education on February 11, 1929, resolved to issue bonds in the amount of \$37,500.00. I am of the opinion that the resolution referred to in Section 2293-8, General Code, under which the bonds are issued, was the resolution in this instance passed on February 11, 1929, authorizing the issuance of bonds pursuant to authority conferred by vote of the electors on November 6, 1928, rather than the resolution passed July 2, 1928, declaring the necessity of the issue and resolving to submit the question to the electors. I am, accordingly, unable to approve these bonds as to form and execution.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1227.

APPROVAL, ABSTRACT OF TITLE TO LAND OF SARAH C. B. SCARBOROUGH IN XENIA TOWNSHIP, GREENE COUNTY.

COLUMBUS, OHIO, November 25, 1929.

HON. ROBERT B. BARCUS, *President, Board of Trustees of The Combined Normal and Industrial Department at Wilberforce University, Columbus, Ohio.*

DEAR SIR:—You have resubmitted for my examination an abstract of title relating to the purchase of six and six-tenths (6.6) acres of land located in Xenia Town-

ship, Greene County, Ohio, from Sarah C. B. Scarborough, which premises were minutely described in my Opinion No. 1202, rendered to you under date of November 16, 1929.

You have now supplemented the abstract by providing a certificate from the treasurer of Greene County as to the amount of taxes and assessments due. This shows that the only liens on said real estate are the taxes due in December, 1929, amounting to \$33.97, the taxes due in June, 1930, amounting to \$33.97; seven more payments on the road tax of \$5.20 each, amounting to \$36.40, and the mortgage referred to in my opinion No. 1202, in the sum of \$2500.00, plus accrued interest.

I am now of the opinion that said abstract shows a good and merchantable title to said premises to be in the name of Sarah C. B. Scarborough and that the deed submitted when delivered, is sufficient to convey said premises to the State of Ohio.

I am returning herewith the certificate of the treasurer of Greene County and the supplemental certificate of the abstracters.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1228.

ELECTION—ERROR IN TALLYING OF VOTES ADMITTED BY PRECINCT OFFICIALS—REASSEMBLING FOR PROPER COUNT SANCTIONED.

SYLLABUS:

Where election officials in a precinct admit that an error was made in tallying the votes for a candidate for municipal council, thus failing to substantially comply with the laws relating to the counting and tallying of ballots, and such non-compliance is prejudicial to the substantial rights of parties or the public interest therein, the judges and clerks in such precinct should be re-assembled and a proper count of the vote cast be made as is required by Section 5088, General Code.

COLUMBUS, OHIO, November 26, 1929.

HON. MARION F. GRAVEN, *Prosecuting Attorney, Wooster, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion as follows:

“At the last election in Wooster two parties, Mr. Garver and Mr. Glasgow, were the candidates for Councilman from the first ward.

“The clerks in tallying the votes forgot to include in their final totals thirty-one straight democratic votes and eighteen republican votes. It was done in this way, the straight ticket votes were counted and then the mixed tickets. By an oversight the straight tickets were not included in the final count. Mr. Garver apparently had the highest number of votes according to the tally sheets, but there was a discrepancy between the votes cast for other things and the vote for Councilman of approximately forty-nine votes. Both clerks, Republican and Democratic, stated before the Board of Elections that an error was made. The one clerk remembered the number of votes, while the other clerk did not, but both agreed that the