

relating to the status of surety companies and the workmen's compensation have been complied with. A certificate from the Secretary of State shows that the foreign 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.

3230.

APPROVAL, BONDS OF OTTAWA HILLS VILLAGE SCHOOL DISTRICT,
LUCAS COUNTY, OHIO—\$106,000.00.

COLUMBUS, OHIO, May 18, 1931.

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

3231.

BOND ISSUE—IN COUNTY WHEREIN BONDS, ISSUED PRIOR TO 1922,
HAVE MATURED BUT HAVE NOT BEEN PAID—COUNTY COM-
MISSIONERS REQUIRED TO OFFER PRESENT ISSUE TO TRUS-
TEES OF SINKING FUND BEFORE SELLING.

SYLLABUS:

When a county has outstanding bonds issued prior to January 1, 1922, which have matured but which have not been paid or retired, there is no authority for the abolition of the sinking fund of such county, and accordingly, under the provisions of Section 2293-27, General Code, the commissioners must, before selling any bonds or notes of the county, offer the same at par and accrued interest to the trustees of the sinking fund.

COLUMBUS, OHIO, May 18, 1931.

HON. DON W. MYERS, *Prosecuting Attorney, Elyria, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

"I am interested to obtain an opinion from your office concerning to whom any notes or bonds of a county should be offered wherein all bonds of the county issued prior to January 1, 1922 have matured but remain unpaid because of a failure to present said bonds for payment.

I might further state in the case under consideration that all bonds of this county issued prior to January 1, 1922 have matured, the last of which matured September 1, 1930, and two bonds, in the sum of \$1000.00

each, that have thus matured remain unpaid. It appears that presentment of these bonds has not been made and the question therefore arises as to whether the sinking fund commission should continue to exercise its powers by reason of these delayed payments or if the county treasurer supersedes this commission by virtue of G. C. section 2295-14. The statute with reference to these bonds uses the particular language, "shall have been paid", and makes no reference to the last maturity of such bonds previously issued.

A decision with reference to this situation becomes important when considering to whom notes and bonds shall be offered pursuant to G. C. Section 2293-27."

Section 2293-27, General Code, provides:

"Before selling any notes or bonds of the subdivision, the taxing authority shall offer the same at par and accrued interest to the trustees or commissioners or other officers who have charge of the sinking fund of the subdivision and such officers shall have the option of purchasing said notes or bonds or rejecting the same."

The language of the foregoing section is clearly mandatory in the event the subdivision issuing the bonds has a sinking fund. If your county lawfully has a sinking fund, there should be, of course, sinking fund trustees to whom notes or bonds of the county can be offered,—this for the reason that the sinking fund shall be under the control of such trustees. Section 2976-18, et seq., General Code.

Your inquiry, therefore, resolves itself into a question of whether or not there is authority for the continuance of a sinking fund after all bonds issued prior to January 1, 1922, have matured but have not been paid.

Section 2295-14, General Code, to which you refer, provides in part as follows:

"The board of sinking fund trustees of any county or municipality or the board of sinking fund commissioners of any school district shall continue to exercise the powers provided in sections 2976-18 to 2976-27 inclusive, 4511 to 4522 inclusive, 3932 and 7613 to 7619 inclusive of the General Code and all other provisions of law relating to its powers, until all outstanding bonds of such county, municipality or school district issued previous to January 1, 1922, shall have been paid; and thereupon it shall be deemed to be abolished and its functions and powers relating to the purchase and sale of securities, receipt, deposit and investment of taxes, assessments and other funds raised for the payment of bonds and funded debts, the application of such funds to the payment of bonds and other indebtedness and all its other powers and functions as set forth in said provisions of law as amended in this act (G.C. §§2295-6 to 2295-15), shall be deemed to be transferred to the treasurer of the county, municipality or school district, and all moneys, securities and other assets then in the custody and possession of such board shall be transferred and delivered to such treasurer. * * * * *

The express provision of this section that the board of sinking fund trustees shall continue to exercise its powers until all outstanding bonds issued prior to January 1, 1922, "shall have been paid" is, I believe, not subject to construction. It is well established that words used by the legislature are to be given their ordinary meaning and that when, by giving words their generally accepted meaning,

the intention of the legislature is clearly expressed, there is no room for construction. For instance, the phrase "when a bond is paid" does not ordinarily convey the same meaning as the phrase "when a bond has matured". In Lewis' Sutherland Statutory Construction, 2nd Ed., Vol. II, p. 702, the text is as follows.

"When the intention of the legislature is so apparent from the face of a statute that there can be no question as to the meaning, there is no room for construction.' 'It is not allowable to interpret what has no need of interpretation.' To attempt to do so would be to exercise judicial functions. 'There is no safer or better settled canon of interpretation than that when language is clear and unambiguous it must be held to mean what it plainly expresses.' These views of eminent courts are supported by numerous cases."

The interpretation which I have placed upon this term "paid" is strengthened by a consideration of the provisions of the Budget Law, as enacted by the 87th General Assembly. Obviously, if the sinking fund of your county were to be now abolished, it would be necessary to transfer the moneys appearing therein from the sinking fund to some other fund of the county. Section 5625-13, General Code, as amended by the 88th General Assembly, provides insofar as pertinent as follows:

"No transfers shall be made from one fund of a subdivision to any other fund, by order of the court or otherwise, except as hereinafter provided:

* * * * *

c. The unexpended balance in the sinking fund or bond retirement fund of a subdivision, after all indebtedness, interest and other obligations for the payment of which such fund exists have been paid and retired, shall be transferred in the case of the sinking fund to the bond retirement fund and in the case of the bond retirement fund to the sinking fund; provided that if such transfer is impossible by reason of the non-existence of the fund herein designated to receive the transfer, such unexpended balance, with the approval of the court of common pleas of the county wherein such subdivision is located, may be transferred to any other fund of the subdivision.

* * * * *

The provision of Section 2295-14, supra, that before the duties of the sinking fund trustees shall be deemed to be terminated all term bonds "shall have been paid" is strengthened by the foregoing section providing, in substance, that such bonds shall "have been paid and retired".

It may be noted before concluding this opinion that the legislature has apparently made no provision for limiting the period of years during which a subdivision must maintain a sinking fund after all such bonds have matured. In case these bonds have been lost or destroyed and their owners disappeared, there is no statutory authority for the abolition of the fund. In my view, legislation to provide for such a contingency would probably be desirable.

Specifically answering your inquiry, it is my opinion that when a county has outstanding bonds issued prior to January 1, 1922, which have matured but which have not been paid or retired, there is no authority for the abolition of the sinking fund of such county, and accordingly, under the provisions of Section

2293-27, General Code, the commissioners must, before selling any bonds or notes of the county, offer the same at par and accrued interest to the trustees of the sinking fund.

Respectfully,
 GILBERT BETTMAN,
Attorney General.

3232.

BOARD OF EDUCATION—AUTHORIZED TO FIX A RATE FOR HIGH SCHOOL TUITION UNDER SECTION 7682, GENERAL CODE, PROVIDED SUCH RATE IS NOT MORE THAN THE MAXIMUM FIXED UNDER SECTION 7747, GENERAL CODE.

SYLLABUS:

Where persons, other than those described in Section 7681, General Code, are admitted to the high schools of a district, the board of education may in its discretion fix the amount of tuition which shall be paid for their attendance in such schools, which amount shall not be more than the maximum fixed in accordance with the rule stated in Section 7747, General Code.

COLUMBUS, OHIO, May 19, 1931.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your request for my opinion which reads as follows:

“When the board of education of a school district determines the amount to be charged for tuition under the provisions of section 7747 G. C., which section seems to apply where a board of education is to pay such tuition, may the board under the provisions of section 7682 G. C., fix the rate which is to be paid by the pupil himself or his parents different from the rate fixed under section 7747 of the General Code? In other words, if the board fixes a rate of \$120.00 per school year under section 7747 G. C., may such board legally fix a rate of \$60.00 under section 7682 of the General Code?”

Section 7681, General Code, provides in substance that the schools of each district shall be free to all youth between six and twenty-one years of age who are children, wards or apprentices of actual residents of the district. It also provides that inmates of the proper age of certain semi-public and district children's homes shall be admitted upon certain conditions, and that the inmates of private children's homes or orphan asylums located in the district may be admitted with or without the payment of tuition as may be agreed upon.

Section 7682, General Code, provides as follows:

“Each board of education may admit other persons upon such terms or upon the payment of such tuition within the limitations of other sections of law as it prescribes. Notwithstanding the provisions of section 7603, General Code, money received for tuition shall in all cases upon its receipt be placed in the tuition fund.”