

OPINIONS

OF THE

Attorney General

OF

OHIO

FOR THE

Period from January 11, 1937,
to January 1, 1938

VOLUME I



Cleveland, Ohio
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Foreword

As chief law officer of the State of Ohio charged with the legal direction of the administration of public law and thus sharing in the operation and usefulness of each Department of State, I submit these Opinions rendered to the various state and county officers for the year 1937.

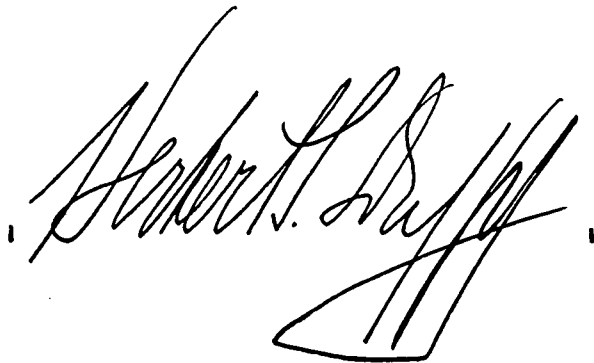
Questions of administrative law are ordinarily determined by the Attorney General.

The research required in the formulation of these opinions is usually of an original character, and when studious legal application and erudition are manifest, it often pleases our courts to adopt both language and argument.

The "office court" of the Attorney General is a unique institution and affords our state courts a preview of the legal scene that makes facile and expeditious their decisions in similar and related cases, and it is an important factor for the rhythm of departmental functioning. The codification of the laws, the numbering of code sections and the certification of the synopsis of proposed amendments to our laws are of genuine help to the legislative division of government.

Administrative branches of government are expanding. Social security, unemployment compensation, minimum wage, cooperative participation with Works Progress and Public Works authorities of the National Administration, as well as federal contributions to old age assistance, to state educational and relief agencies, have all added problems of legal consequence to the work of this office and increased its usefulness.

These opinions are the directive, compass-setting and direction finder for the guidance of state officers in the agenda of public welfare and the facilities of statecraft. All praise is due to my colleagues for their splendid work in court, for their alacrity in response to the frequent requests for opinions, and their contribution towards the writing and making of legal history in Ohio. The type and character of this work will, I believe, be revealing in this and forthcoming volumes of Opinions.

A large, stylized handwritten signature in black ink, which appears to read "Herbert S. Duff". The signature is written in a cursive, flowing style with some loops and flourishes.

Attorney General.

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Municipality—May acquire, construct, own, lease and operate any public utility—Gas plant—Levy outside ten mill limitation must be submitted to electors—Vote—Article XVIII, sections 4, 5, Constitution of Ohio—Section 5625-15 G. C.	1733
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Public library trustees—Not a taxing authority—Power to issue notes in anticipation of revenue—Uniform Bond Act—Exception by section 2293-4 G. C.	1630
Quarry abandoned twenty years—Owned by township—Plan to reopen where machinery and equipment to be purchased—Trustees must submit plan to vote although no tax levy or bond issue involved	1756
Resolution—State Board of Real Estate Examiners—Brokers and Dealers bonds to be executed by surety companies, unconstitutional, when	142
Retirement Board, State Teachers Retirement System—Bids on bonds—Not required to file bond or certified check, when—See Sections 2293-28 G. C.	2384

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Statute—Conflict, inconsistency or incompatibility—The later in time— Special matter, controls—Fines collected from forfeited bonds—Ar- rests by state highway patrolmen—One-half to state treasury—One- half to city, village or county where case prosecuted	1273
Unexpended poor relief appropriation—Must be held intact by several counties, pending legislative enactment—Proceeds of Carey Act Bonds— Expenditure of funds from public utilities excise tax and selective sales tax, when	1361
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Public library trustees—Not a taxing authority—Power to issue notes in anticipation of revenue—Uniform Bond Act—Exception by section 2293-4 G. C.	1630
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Approval—	
Bond, Lawrence B. Bennett, Resident District Deputy Director High- ways, Franklin County, Ohio	1098
Bonds, Bureau of Motor Vehicles, as follows: 1—C. Erwin Nofer, Chief of Records and Chief of Drivers License Divisions, etc., \$10,000.00; 2—Clyde E. Haeger, Resident District Deputy, \$5,000.00; 3—Edward M. Huber, Auditor, \$10,000.00	1298
Chauncey B. Dodge, Resident District Deputy Director Highways, Portage County, Ohio	116
Edison Ellis in the sum of \$5,000.00 as deputy highways director for Van Wert County, Ohio	1563
Donald S. Elson, \$5,000.00, deputy director in Union County, Ohio— Highways	1584
B. H. Frasch, Deputy Director of Highways, Bureau of Maintenance, \$5,000.00	1249
Bond, Ralph M. Geiser as resident district deputy director highways in Fairfield County, Ohio	13
George F. Johnston, resident district deputy director highways in Co- lumbiana County, Ohio	463
Clarence H. Knisley, Treasurer of State, as custodian of the Un- employment Compensation Administration Fund	195
Henry T. McGrady, resident district deputy director highways in Picka- way County, Ohio	110
Henry K. Martin, \$5,000.00, resident district deputy director highways in Scioto County, Ohio.....	231
Frank H. Schnorrenberg and William L. Belknap, resident district deputy directors highways	86
Albert C. Smith, \$5,000.00, deputy director of highways in Trumbull County, Ohio	2065
Roy H. Smith, \$30,000.00, Treasurer of Kent State University, Kent, Ohio	2421
Richard Sperry, resident district deputy director highways in Ashta- bula County, Ohio	115
Philip K. Troutman, L. H. Schmenk, resident division deputy directors of highways, Division No. 5 and Putnam County, Ohio, \$5,000.00 each	1250

BOND—Concluded.

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Approval—Concluded.

William J. Whitehead, \$5,000.00, resident district deputy director of highways in Lawrence County, Ohio 1704

BONDS—EMPLOYES RETIREMENT BOARD, STATE—

Approval—

City of Lima, Allen County, Ohio, \$6,000.00 309

City of Lima, Allen County, Ohio, \$5,000.00 2013

Perry Township Rural School District, Brown County, Ohio, \$12,000.00 694

Perry Township Rural School District, Brown County, Ohio, \$2,000.00 695

City of Springfield, Clark County, Ohio, \$2,000.00 399

City of Cleveland, Cuyahoga County, Ohio, \$10,000.00 117

City of Cleveland, Cuyahoga County, Ohio, \$18,000.00 2352

City of Cleveland, Cuyahoga County, Ohio, \$8,000.00 2353

City of Cleveland, Cuyahoga County, Ohio, \$15,000.00 2519

City of Cleveland, Cuyahoga County, Ohio, \$18,000.00 2600

Cleveland City School District, Cuyahoga County, Ohio, \$15,000.00 2542

Cleveland Heights village school district, Cuyahoga County, Ohio, \$10,000.00 43

Cleveland Hts. city school district, Cuyahoga County, Ohio, \$10,000.00 960

Cleveland Heights City School Dist., Cuyahoga County, Ohio, \$28,000.00 1306

Cleveland Heights City School Dist., Cuyahoga County, Ohio, \$2,000.00 2701

Cuyahoga County, Ohio, \$1,000.00 104

Cuyahoga County, Ohio, \$1,000.00 104

Cuyahoga County, Ohio, \$5,000.00 117

Cuyahoga County, Ohio, \$5,000.00 283

Cuyahoga County, Ohio, \$5,000.00 687

Cuyahoga County, Ohio, \$8,000.00 1063

Cuyahoga County, Ohio, \$3,000.00 1636

Cuyahoga County, Ohio, \$2,000.00 1707

Cuyahoga County, Ohio, \$4,000.00 2139

Cuyahoga County, Ohio, \$10,000.00 2139

Cuyahoga County, Ohio, \$5,000.00 2304

Cuyahoga County, Ohio, \$12,000.00 2355

Cuyahoga County, Ohio, \$1,000.00 2582

Cuyahoga County, Ohio, \$5,000.00 2583

Cuyahoga County, Ohio, \$5,000.00 2584

Cuyahoga County, Ohio, \$4,000.00 2705

City of Euclid, Cuyahoga County, Ohio, \$3,000.00 2584

Garfield Heights City School Dist., Cuyahoga County, Ohio, \$4,000.00... 2235

Village of North Royalton, Cuyahoga County, Ohio, \$5,830.00 1996

City of Rocky River, Cuyahoga County, Ohio, \$4,250.00 881

City of Rocky River, Cuyahoga County, Ohio, \$10,000.00 1506

City of Shaker Heights, Cuyahoga County, Ohio, \$5,000.00 962

Shaker Heights City School District, Cuyahoga County, Ohio, \$4,000.00 2357

Monroe Township Rural School District, Darke County, Ohio, \$10,000.00 2007

Columbus City School District, Franklin County, Ohio, \$10,000.00 318

Columbus City School District, Franklin County, Ohio, \$1,000.00 2650

Franklin County, Ohio, \$3,000.00..... 1538

Grandview Heights Village School Dist., Franklin County, Ohio, \$6,000.00 880

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Perry Rural School District, Lake County, Ohio, \$7,000.00	1997
Ironton City School District, Lawrence County, Ohio, \$1,000.00	309
City of Elyria, Lorain County, Ohio, \$2,000.00	1539
City of Lorain, Lorain County, Ohio, \$4,500.00	1538
Lorain City School District, Lorain County, Ohio, \$10,000.00	962
City of Toledo, Lucas County, Ohio, \$13,000.00	105
City of Toledo, Lucas County, Ohio, \$25,000.00	117
City of Toledo, Lucas County, Ohio, \$25,000.00	125
Toledo, Lucas County, Ohio, \$10,000.00	284
City of Toledo, Lucas County, Ohio, \$7,000.00	310
City of Toledo, Lucas County, Ohio, \$5,000.00	316
City of Toledo, Lucas County, Ohio, \$3,000.00	317
City of Toledo, Lucas County, Ohio, \$1,000.00	341
City of Toledo School District, Lucas County, Ohio, \$4,000.00	457
City of Toledo, Lucas County, Ohio, \$10,000.00	683
City of Toledo, Lucas County, Ohio, \$2,000.00	687
City of Toledo, Lucas County, Ohio, \$10,000.00	2014
City of Toledo, Lucas County, Ohio, \$5,000.00	2357
City of Toledo, Lucas County, Ohio, \$2,000.00	2583
City of Toledo, Lucas County, Ohio, \$2,000.00	2585
Toledo city school district, Lucas County, Ohio, \$2,000.00	105
Toledo City School District, Lucas County, Ohio, \$8,000.00	195
Toledo City School District, Lucas County, Ohio, \$13,000.00	316
Toledo City School District, Lucas County, Ohio, \$10,000.00	682
Toledo City School District, Lucas County, Ohio, \$2,000.00	879
Toledo City School District, Lucas County, Ohio, \$9,000.00	961
Toledo City School District, Lucas County, Ohio, \$5,000.00	1636
Toledo City School District, Lucas County, Ohio, \$5,000.00	1642
Toledo City School District, Lucas County, Ohio, \$5,000.00	1893
Toledo City School District, Lucas County, Ohio, \$5,000.00	2353
Meigs County, Ohio, \$37,000.00	1755
Montgomery County, Ohio, \$5,000.00	1892
Montgomery County, Ohio, \$5,000.00	3265
City of New Boston, Scioto County, Ohio, \$12,000.00	437
City of Portsmouth, Scioto County, Ohio, \$5,000.00	682
City of Portsmouth, Scioto County, Ohio, \$5,000.00	1398
City of Akron, Summit County, Ohio, \$2,000.00	1750
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Village of Richmond, Union County, Ohio, \$9,600.00	1107

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Winchester Village School District, Adams County, Ohio, \$1,635.00	2196
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City of Lima, Allen County, Ohio, \$3,000.00	1620
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City of Lima, Allen County, Ohio, \$10,000.00	1805
City of Lima, Allen County, Ohio, \$1,000.00	1815
City of Lima, Allen County, Ohio, \$21,000.00	2138
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Village of St. Clairsville, Belmont County, Ohio, \$62,400.00	384
Butler County, Ohio, \$21,000.00	1486
City of Hamilton, Butler County, Ohio, \$5,000.00	1920
City of Middletown, Butler County, Ohio, \$15,000.00	1310
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Goshen Rural School District, Clermont County, Ohio, \$40,000.00	2331
Clarksville Village School District, Clinton County, Ohio, \$9,500.00	1308
Village of Lisbon, Columbiana County, Ohio, \$26,894.64	2254
City of Salem, Columbiana County, Ohio, \$40,000.00	179
Vilage of Bay, Cuyahoga County, Ohio, \$19,000.00	2294
City of Berea, Cuyahoga County, Ohio, \$93,000.00	1696
City of Cleveland, Cuyahoga County, Ohio, \$50,000.00	116
City of Cleveland, Cuyahoga County, Ohio \$25,000.00	126
City of Cleveland, Cuyahoga County, Ohio, \$10,000.00	178
City of Cleveland, Cuyahoga County, Ohio, \$50,000.00	270
City of Cleveland, Cuyahoga County, Ohio, \$10,000	397
City of Cleveland, Cuyahoga County, Ohio, \$64,000.00	419
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City of Cleveland, Cuyahoga County, Ohio, \$30,000.00	719
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City of Cleveland, Cuyahoga County, Ohio, \$7,000.00	1047
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City of Cleveland, Cuyahoga County, Ohio, \$100,000.00	2050
City of Cleveland, Cuyahoga County, Ohio, \$37,000.00	2054
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Village of South Euclid, Cuyahoga County, Ohio, \$156,041.12.....	1676
Union City, Darke County, Ohio, \$20,000.00.....	1896
City of Defiance, Defiance County, Ohio, \$15,000.00.....	1047
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City of Sandusky, Erie County, Ohio, \$20,000.00.....	991
Village of Sugar Grove, Fairfield County, Ohio, \$16,500.00.....	2183
City of Columbus, Franklin County, Ohio, \$16,000.00.....	128
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City of Columbus, Franklin County, Ohio, \$100,000.00.....	1569
City of Columbus, Franklin County, Ohio, \$5,000.00.....	1662
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City of Ironton, Lawrence County, Ohio, \$21,000.00.....	1310
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Washington Township Rural School District, Lawrence County, Ohio, \$16,200.00	1532
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City of Parma, Cuyahoga County, Ohio, \$11,000.00 (Limited)		2517
City of Parma, Cuyahoga County, Ohio, \$6,200.00 (Limited)		2518
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Parma City School District, Cuyahoga County, Ohio, \$8,500.00		684
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Parma City School District, Cuyahoga County, Ohio, \$4,000.00		1133
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City of Shaker Heights, Cuyahoga County, Ohio, \$3,500.00		2306
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City of Grandview Heights, Franklin County, Ohio, \$7,300.00 (Limited)		2647
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Newtown Village School District, Hamilton County, Ohio, \$1,800.00		6
Roundhead Rural School District, Hardin County, Ohio, \$8,000.00 (Unlimited)		1915
Jewett Village School District, Harrison County, Ohio, \$40,000.00		695
Jewett Village School District, Harrison County, Ohio, \$10,000.00		2701
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Cross Creek Rural School District, Jefferson County, Ohio, \$95,000.00 (Unlimited)		2694
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Village of Willowick, Lake County, Ohio, \$3,000.00		1807
Village of Willowick, Lake County, Ohio, \$3,000.00		1808
Village of Willowick, Lake County, Ohio, \$3,000.00		1809
Village of Willowick, Lake County, Ohio, \$1,000.00		1810
Ironton City School District, Lawrence County, Ohio, \$35,000.00		2645
Etna Rural School District, Licking County, Ohio, \$1,120.00 (Limited)		2479
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McKean Rural School District, Licking County, Ohio, \$4,000.00 (Unlimited)		1437
Perry Rural School District, Licking County, Ohio, \$1,500.00 (Unlimited)		1507
St. Albans Village School District, Licking County, Ohio, \$1,440.00 (Limited)		1135
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Lucas County, Ohio, \$10,000.00		2373
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City of Toledo, Lucas County, Ohio, \$6,000.00		571
City of Toledo, Lucas County, Ohio, \$3,000.00		2072
City of Toledo, Lucas County, Ohio, \$25,000.00		2074
City of Toledo, Lucas County, Ohio, \$5,000.00		2078
City of Toledo, Lucas County, Ohio, \$5,000.00		2206
City of Toledo, Lucas County, Ohio, \$10,000.00		2284
City of Toledo, Lucas County, Ohio, \$6,000.00		2330
City of Toledo, Lucas County, Ohio, \$11,000.00		2338
City of Toledo, Lucas County, Ohio, \$5,000.00		2433
City of Toledo, Lucas County, Ohio, \$4,000.00		2478
City of Toledo, Lucas County, Ohio, \$25,000.00 (Unlimited)		2541
City of Toledo, Lucas County, Ohio, \$50,000.00		2625
City of Toledo, Lucas County, Ohio, \$14,000.00		2651
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City of Youngstown, Mahoning County, Ohio, \$200,000.00	2053
Green Camp Village School District, Marion County, Ohio, \$25,000.00 (Unlimited)	1136
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Medina County, Ohio, \$20,000.00	892
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City of Dayton, Montgomery County, Ohio, \$73,000.00	2081
City of Dayton, Montgomery County, Ohio, \$16,000.00	2300
Phillipsburg Village School District, Montgomery County, Ohio, \$10,- 000.00 (Unlimited)	1515
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Harrison Rural School District, Perry County, Ohio, \$3,853.00	1559
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City of Portsmouth, Scioto County, Ohio, \$41,000.00 (\$36,000 inside 10 mill; \$77,000 inside 15 mill)		385
City of Portsmouth, Scioto County, Ohio, \$56,000.00 (Limited)		385
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City of Canton, Stark County, Ohio, \$15,000.00		140
Canton City School District, Stark County, Ohio, \$184,000.00		2597
Massillon City School District, Stark County, Ohio, \$30,000.00		5
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Minerva Village School District, Stark County, Ohio, \$104,500.00 (Unlimited)		362
City of Akron, Summit County, Ohio, \$10,000.00		18
City of Akron, Summit County, Ohio, \$69,000.00		431
City of Akron, Summit County, Ohio, \$20,000.00		685
City of Akron, Summit County, Ohio, \$46,300.00		685
City of Akron, Summit County, Ohio, \$40,000.00		686
City of Akron, Summit County, Ohio, \$2,000.00		699
City of Akron, Summit County, Ohio, \$10,000.00 (Unlimited)		730
City of Akron, Summit County, Ohio, \$10,000.00		817
City of Akron, Summit County, Ohio, \$2,000.00		905
City of Akron, Summit County, Ohio, \$25,000.00 (Unlimited)		883
City of Akron, Summit County, Ohio, \$2,000.00		1082
City of Akron, Summit County, Ohio, \$5,000.00		1113
City of Akron, Summit County, Ohio, \$4,000.00		1134
City of Akron, Summit County, Ohio, \$30,000.00		1215
City of Akron, Summit County, Ohio, \$29,000.00 (Limited)		1251
City of Akron, Summit County, Ohio, \$3,000.00		1313
City of Akron, Summit County, Ohio, \$15,000.00		1374
City of Akron, Summit County, Ohio, \$2,000.00		1375
City of Akron, Summit County, Ohio, \$20,000.00		1400
City of Akron, Summit County, Ohio, \$14,300.00		1560
City of Akron, Summit County, Ohio, \$10,000.00		1561
City of Akron, Summit County, Ohio, \$9,000.00		1569
City of Akron, Summit County, Ohio, \$10,000.00		1613
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City of Akron, Summit County, Ohio, \$120,000.00 (Unlimited)	1674
City of Akron, Summit County, Ohio, \$5,000.00	1730
City of Akron, Summit County, Ohio, \$4,000.00	1730
City of Akron, Summit County, Ohio, \$8,000.00	1731
City of Akron, Summit County, Ohio, \$10,000.00	1840
City of Akron, Summit County, Ohio, \$10,000.00	1841
City of Akron, Summit County, Ohio, \$17,000.00 (Unlimited)	1917
City of Akron, Summit County, Ohio, \$45,000.00	1969
City of Akron, Summit County, Ohio, \$5,000.00	2074
City of Akron, Summit County, Ohio, \$5,000.00	2232
City of Akron, Summit County, Ohio, \$5,000.00	2267
City of Akron, Summit County, Ohio, \$4,000.00	2282
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City of Akron, Summit County, Ohio, \$5,000.00	2344
Akron City School District, Summit County, Ohio, \$5,000.00	177
Akron City School District, Summit County, Ohio, \$10,000.00	725
Akron City School District, Summit County, Ohio, \$2,500.00	2081
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Akron City School District, Summit County, Ohio, \$5,000.00	2206
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City of Cuyahoga Falls, Summit County, Ohio, \$10,000.00	1913
City of Cuyahoga Falls, Summit County, Ohio, \$10,000.00	1914
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