

For these reasons, I am herewith returning the articles of incorporation to you without my approval.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

3256.

APPROVAL, RESERVOIR LAND LEASE TO LAND IN WASHINGTON
 TOWNSHIP, LOGAN COUNTY, OHIO.

COLUMBUS, OHIO, September 27, 1934.

HON. EARL H. HANEFELD, *Director, Department of Agriculture, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of a communication over the signature of the Chief of the Bureau of Inland Lakes and Parks, submitting for my examination and approval a certain reservoir land lease in triplicate, executed by the State of Ohio, by the hand of the Conservation Commissioner, to one G. Jno. Morean, Springfield, Ohio.

By the lease here in question, which is one for a stated term of fifteen years and which provides for an annual rental of fifty dollars, payable semi-annually, there is leased and demised to the lessee above named the right to use and occupy for cottage site and docklanding purposes, and subject to certain conditions and restrictions set out in the lease, that portion of the State Reservoir property at Indian Lake that is included in the triangular-shaped island lying immediately east and south of Fox Island and being separated from Fox Island by a dredged channel, and being a part of the fractional Northeast Quarter of Section 36, Town 6, Range 8, Washington Township, Logan County, Ohio.

Upon examination of this lease instrument, I find that the same has been properly executed by the Conservation Commissioner and by G. Jno. Morean, the lessee above named. I further find, upon examination of the provisions of this lease and of the conditions and restrictions therein contained, that the same are in conformity with section 471, General Code, and other statutory enactments relating to leases of this kind. I am accordingly approving this lease as to legality and form, as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

3257.

RELIEF—SECTION 12775, GENERAL CODE, NOT APPLICABLE TO FOOD
 PROCESSED AND CANNED BY STATE RELIEF COMMISSION FOR
 DISTRIBUTION SOLELY TO POOR RELIEF PERSONS.

SYLLABUS:

The provisions of section 12775 of the General Code, which require that the

grade and quality of the contents of packages containing articles of food, together with the name and address of the person packing and dealing therein be marked on such packages, are not applicable when such food is processed and canned by the State Relief Commission and is distributed solely to persons on poor relief.

COLUMBUS, OHIO, September 28, 1934.

HON. FRANK D. HENDERSON, *Chairman, State Relief Commission, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your communication which reads as follows:

“At Hamilton, Ohio, the State Relief Commission, through its Work Division, is operating a cannery, in which vegetables are processed and canned for distribution to persons on poor relief, only.

An opinion is requested as to whether section 12775 of the General Code is applicable.

Section 12775 of the General Code reads as follows:

“Whoever, being a packer or dealer in preserved or canned fruits, vegetables or other articles of food, *offers them for sale* unless they bear a mark to indicate the grade or quality, and the name and address of the person, firm or corporation packing or dealing therein, except such as are brought from foreign countries, shall be fined not less than fifty dollars if a vendor, nor more than one thousand dollars if a manufacturer or packer.” (Italics the writer’s.)

While most of the statutes relating to foods are directed against practices that are injurious to health, the above section is aimed at the prevention of frauds on the public to prevent cheating and palming off on purchasers articles of food other than or different from those which they are led to believe they are purchasing. A sale is defined in section 8381 of the General Code as follows:

“A sale of goods is an agreement whereby the seller transfers the property in goods to the buyer for a consideration called the price.”

As stated above, the obvious purpose of section 12775, *supra*, being to prevent cheating and deception rather than injury to health, the gist of the crime is selling or offering for sale. Therefore, if the article of food so canned is given away without charging any price therefor, there is no violation. In the instant case the food after being canned is not sold or offered for sale but is given away to persons on poor relief and no representations are made as to its grade or quality.

Another reason why the provisions of the above section are not applicable herein, which, however, in view of the positive language of the statute seems unnecessary to mention, is the familiar doctrine that a sovereign state, which can make and unmake laws, in prescribing general laws intends thereby to regulate the conduct of its subjects only, and not its own conduct.

The state is not bound by the provisions of a general statute, unless it be so expressly enacted. *State of Ohio, ex rel, Charles Parrott, et al., vs. Board of Public Works*, 36 O. S. 409; *State, ex rel. James vs. Brown*, 112 O. S. page 590.

I am therefore of the opinion that the provisions of section 12775 of the General Code, which require that the grade and quality of the contents of packages

containing articles of food, together with the name and address of the person packing and dealing therein be marked on such packages, are not applicable when such food is processed and canned by the State Relief Commission and is distributed solely to persons on poor relief.

Respectfully,
JOHN W. BRICKER,
Attorney General.

3258.

APPROVAL, BONDS OF CUYAHOGA COUNTY, OHIO—\$260,000.00.

COLUMBUS, OHIO, September 28, 1934.

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

3259.

APPROVAL—BOND FOR THE FAITHFUL PERFORMANCE OF HIS DUTIES AS INVESTIGATOR, DEPARTMENT OF HIGHWAYS—ROY MARTIN McREYNOLDS.

COLUMBUS, OHIO, September 28, 1934.

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

DEAR SIR:—You have submitted a bond, in the penal sum of \$2,000.00 with surety as indicated, to cover the faithful performance of the duties of the official as hereinafter named:

Roy Martin McReynolds, Investigator, Department of Highways—
New York Casualty Company.

Said bond is undoubtedly executed pursuant to the following provisions of sections 1182-2 and 1182-3, General Code:

“Sec. 1182-2. The director (of highways) may appoint additional clerks and stenographers, and such other engineers, inspectors and other employes within the limits of the appropriation as he may deem necessary to fully carry out the provisions of this act; * * *”

Sec. 1182-3. Each employe or appointee under the provisions of this act * * *, may be required to give bond in such sum as the director may determine. All bonds hereinbefore provided for shall be conditioned upon the faithful discharge of the duties of their respective positions, and such bonds * * * shall be approved as to the sufficiency of the sureties by the director, and as to legality and form by the attorney general, and be deposited with the secretary of state. * * *”