

not advised), canceling said former lease agreement with the American Steel and Wire Company, the provisions of said former lease are still in full force and effect between the parties and will continue to be in full force and effect until the expiration of the term of said lease, unless said lease is terminated at an earlier date either by the approval by the Governor of the recent lease above referred to, or by cancellation of said former lease by agreement of the Superintendent of Public Works and said corporation under the provisions of Section 431, General Code.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1623.

APPROVAL, BONDS OF LEWIS TOWNSHIP RURAL SCHOOL DISTRICT,
BROWN COUNTY—\$15,000.00.

COLUMBUS, OHIO, March 14, 1930.

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

1624.

DISAPPROVAL, LEASE TO OFFICE ROOMS FOR USE OF DEPARTMENT OF INDUSTRIAL RELATIONS AT 240 NORTH HIGH STREET, COLUMBUS, OHIO.

COLUMBUS, OHIO, March 15, 1930.

HON. ALBERT T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This acknowledges receipt of your letter of March 8, 1930, requesting approval of a lease between "Builder's Market" and yourself for office space for the department of Industrial Relations, at 240 N. High St., Columbus, Ohio.

After careful consideration, I find that the following provision should be stricken out, before approval of said lease can be made. The fifth covenant on page 3 of the lease reads:

"All safes shall be carried up or into the premises at such times and in such manner as shall be specified by the lessor; the lessor shall in all cases retain the power to prescribe the proper position of such safes and any damage done to the building by taking in or removing a safe, or from overloading the floor with any safe, shall be paid by lessee."

Your attention is directed to the fact that an almost identical provision in a lease was disapproved by this office in Opinion 176, rendered March 8, 1929, to your predecessor, Richard T. Wisda, a copy of which I am enclosing. On page 2 of that opinion, after quoting the objectionable provision, I said:

"As to these provisions in the lease, it is to be noted that you do not have any authority by the execution of this lease contract to impose any liability upon the State of Ohio or any department thereof, or assume on behalf of the State or any department thereof any liability of the kind specified in said provision."

Moreover, in an opinion, directed to Hon. John E. Harper, Director of Public Welfare on April 14, 1928, reported in Opinions of the Attorney General for 1928, Volume II, page 911, my predecessor, with reference to an analogous provision in a contract, said:

"Your attention is directed to the fact that the State of Ohio is not subject to suit in damages unless there is specific statutory provision therefor and it would be impossible for the Department of Public Welfare to pay any of the funds appropriated to it for the purpose of indemnifying the railroad company against loss or damage as provided in paragraphs 6, 8 and 9 of this agreement. In addition, unless specifically authorized by the Legislature a statutory officer is without authority to enter into an agreement of this nature binding on the State. Such provisions, therefore, have no force in law and the only remedy that the railroad company might have would be to present a claim to the Sundry Claims Board for action by it and by the Legislature. It is recommended that you notify the railroad company of the objectionable matters contained in paragraph 6, 8 and 9 of the proposed agreement and these provisions should be stricken out of said agreement. As soon as the contract is submitted to me, without the provisions to which I have objected, I shall approve the agreement."

I would also like to invite your attention to the fact that the leases are undated, and in this connection advise that reference be made to the provisions of Section 2288-2, General Code.

By reason of the above objections, I am forced to disapprove the lease as submitted.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1625.

APPROVAL, BONDS OF CONCORD TOWNSHIP RURAL SCHOOL DISTRICT, HIGHLAND COUNTY—\$10,000.00.

COLUMBUS, OHIO, March 17, 1930

Re: Bonds of Concord Township Rural School Dist., Highland County, Ohio—\$10,000.00.

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

GENTLEMEN:—Under date of March 12, 1930, I rendered a disapproval opinion to your board advising against the purchase of the above issue of bonds on account of the fact that the transcript disclosed a failure to comply with the provisions of Section 2293-21, General Code, relative to the publication of notice of