

terminated taxes on the property for the year 1939. These taxes are a lien upon the property.

Upon examination of the warranty deed tendered by Charles Vallery, I find that said deed has been properly executed and acknowledged by said grantor and that the form of this deed is such that the same is legally sufficient to convey this property to the State of Ohio by fee simple title with a covenant that the property is so conveyed free and clear of all encumbrances whatsoever.

Upon examination of contract encumbrance record No. 75, I find that said instrument has been properly executed and that there is shown thereby a sufficient balance in the rotary fund in the hands of the State Treasurer, provided for under sections 1173-2, et seq., General Code, to pay the purchase price of this property, which purchase price is the sum of \$300.15.

The abstract of title, warranty deed, contract encumbrance record and other files relating to the purchase of this property are hereby approved and the same are herewith returned for your further attention in closing the transaction for the purchase of this property by the issue of voucher covering the purchase price of the property.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

611.

LEASE—STATE TO THE PHILIP CAREY MANUFACTURING COMPANY, DESIGNATED PORTION, MIAMI AND ERIE CANAL, LOCKLAND, HAMILTON COUNTY.

COLUMBUS, OHIO, May 18, 1939.

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval a canal land lease in triplicate executed by the State of Ohio, acting through you as Superintendent of Public Works and as Director of said department, to The Philip Carey Manufacturing Company of Lockland, Ohio.

By this lease, which is one for a stated term of ninety-nine years, renewable forever, and which provides for an annual rental of \$171.00 during the first fifteen-year period of the term of the lease, which annual rental is six per cent of the sum of \$2850.00, the present appraised value of the property covered by the lease, there is leased and demised to the lessee above named the right to occupy and use for general business pur-

poses, that portion of the abandoned Miami and Erie Canal property and contiguous state lot located in the City of Lockland, Hamilton County, Ohio, which are more particularly described as follows:

First Tract: Beginning at a point that is north $43^{\circ} 36'$ west and sixty-three (63') feet, more or less, opposite to Station 12258+83 on the transit line of G. H. Nichol's Survey of said canal property; thence south $46^{\circ} 24'$ west, a distance of two hundred and sixty-four (264') feet, more or less, to a point, same being north $43^{\circ} 36'$ west and sixty-three feet (63') more or less, opposite to Station 12261+47 of said survey; thence north $43^{\circ} 36'$ west, a distance of one hundred sixty-five (165') feet, more or less to a point; thence north $46^{\circ} 24'$ east, a distance of two hundred sixty-four (264') feet, more or less, to a point; thence south $43^{\circ} 36'$ east, a distance of one hundred sixty-five (165') feet, more or less, to the point of beginning and containing one (1) acre, more or less.

Second Tract: Beginning at Station 12252+37, on the transit line of G. H. Nichol's Survey of said canal property, same being the southerly bank of Mill Creek, and extending thence southwesterly with the lines of said canal property, a distance of seventeen hundred and sixty-three (1763') feet, more or less, to Station 12270+00, of said survey and containing three and seven-tenths (3.7) acres, more or less.

This lease is one executed by you under the authority of Sections 14153-5, et seq., of the General Code, as said sections were amended in and by Amended Senate Bill No. 127 enacted by the Ninety-first General Assembly under date of May 6, 1935, 116 O. L., 155, 157, 158. By these sections of the General Code as thus amended the Director of Highways was and is authorized and directed to designate on plats to be prepared by him for the purpose those portions of this section of the Miami and Erie Canal as are to be used for highway purposes. Section 14153-8, General Code, as amended in said act, provides as follows:

"All other lands which may be shown on said plat adjacent to said highway and which will not be used for highway purposes may be leased under the direction of the superintendent of public works in the following manner:

The said superintendent of public works shall appraise said lands, not to be used for said highway, just prior to the granting of a lease therefor, at their true value in money and the annual rental thereon shall be six per cent (6%) of such appraised value.

After said lands are so appraised after application therefor, the lands not needed or required within said highway may be leased to any reasonable applicant, for a period of fifteen (15) years and multiples thereof up to ninety (90) years, or for a term of ninety-nine (99) years, renewable forever, upon a rental equal to six per cent (6%) per annum upon the value of the appraisal so made, and at the end of each fifteen (15) year period, said lands shall be reappraised and likewise leased to the owner or owners of such leaseholds, or other applicants therefor.

Provided, however, that if any municipal corporation, county, township, or any other taxing district desires to lease any portion of said lands not required for said highway purposes, the same may be leased to such taxing district upon a rental of four per cent (4%) per annum of the appraised value thereof.

Said application shall be made in writing, upon forms to be provided for that purpose by the superintendent of public works and shall clearly describe the lands covered in said application, and shall state the term of years for which such lease is desired, and shall be signed by the public officers of such municipality or other taxing district, duly authorized, thereto, by the proper authorities of the city, village, or other political subdivision making such application as and when the same shall be desired by any political subdivision of the state of Ohio.

Before granting any lease to any private individual or corporation, notice of the filing of such application shall be given to the public by posting said application upon the public bulletin board in the office of the department of public works, at Columbus, Ohio, at least ten days before any official action is taken thereon."

The lease here in question is one executed under the authority of the above quoted section of the General Code. And it appears in this connection that the Director of Highways under date of May 10, 1939, made and journalized an entry in the journal of his office stating that certain Miami and Erie Canal lands therein described, including those set out in this lease, will not be needed for future highway development purposes and effecting a release of the canal lands described in said entry to the Superintendent of Public Works for such disposal as he may desire to make of the same pursuant to law.

The lease here under consideration is one executed to the lessee above named, a private corporation, and in this view attention is called to the provision of Section 14153-8, General Code, above quoted, that before granting any lease to any private individual or corporation, notice of the filing of such application shall be given to the public by posting the appli-

cation for such lease upon the public bulletin board in the office of the Department of Public Works, at Columbus, Ohio, at least ten days before any action is taken by you upon this lease. This lease instrument does not state when The Philip Carey Manufacturing Company made its application for this lease. But assuming, as I do, that the application for this lease was made by the lessee above named ten days or more before the 12th day of May, 1939, when you first took official action with respect to the grant of this lease on such application, and that such application was duly posted during the whole of such period of time on the public bulletin board in your office, I am inclined to the view that this lease is one which you are authorized to execute under the statutory provisions above noted.

Upon examination of this lease, I find that the same has been executed by you as Superintendent of Public Works and as Director of said department, acting for and in the name of the State of Ohio, and by The Philip Carey Manufacturing Company, lessee herein, acting by the hand of its President pursuant to the authority conferred upon him for this purpose by a resolution of the Board of Directors of The Philip Carey Manufacturing Company duly adopted under date of May 15, 1939.

Likewise, upon examination of this lease, I find that the provisions of the same and the conditions and restrictions therein contained are in conformity with the statutory provisions above noted and with other statutory enactments relating to leases of this kind. I am accordingly approving this lease, as is evidenced by my approval endorsed thereon and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

612.

BONDS—BEDFORD VILLAGE SCHOOL DISTRICT, CUYA-
HOGA COUNTY, \$7,000.00. UNLIMITED.

COLUMBUS, OHIO, May 19, 1939.

*Retirement Board, State Public School Employes Retirement System,
Columbus, Ohio.*

GENTLEMEN:

RE: Bonds of Bedford Village School District, Cuya-
hoga County, Ohio, \$7,000.00 (Unlimited).

I have examined the transcript of proceedings relative to the above bonds purchased by you. These bonds comprise part of an issue of