

3390.

RECOMMENDATION THAT TRANSACTION RELATING TO PURCHASE OF PROPERTY OF MARY KLINE, CLARA KLINE AND SAMUEL KLINE IN LAUREL TOWNSHIP, HOCKING COUNTY, OHIO, BE CLOSED AT ONCE.

COLUMBUS, OHIO, July 1, 1931.

HON. JOS. T. TRACY, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—Under date of May 12, 1931, I directed to Hon. Carl E. Steeb, Secretary of the Ohio Experimental Station, an opinion, bearing No. 3218, approving the title to three certain tracts of land owned of record by Mary Kline, Clara Kline and Samuel Kline in Laurel Township, Hocking County, Ohio.

After the files relating to the purchase of this property, including the voucher covering the purchase price of the property, reached your office, the matter of closing the transaction for the purchase of the property by the issuance of warrants for the purchase price of the same was held up by you at the request of this office, pending an investigation with respect to the question as to what, if any, minerals the state might reasonably expect to find in a thirty-eight acre tract of land purchased in said proceedings as a part of the larger acreage of land above mentioned. The point to the suggestion and inquiry with respect to this tract of land was due to the fact that in the patent by which Samuel Kline obtained title to the same from the United States, all minerals in and under said land were reserved to the United States.

This particular thirty-eight acre tract of land, as well as the lands above mentioned, were purchased under contract by the board of control of the Ohio Agricultural Experiment Station under authority of section 1177-10a, General Code, which provides in part as follows:

“The board of control of the agricultural experiment station may buy forested lands or other lands in the state suitable for the growth of forest trees, at a price not exceeding ten dollars per acre, to the amount of the appropriation for that purpose. All lands so purchased shall be deeded to the state and shall be known as state forests, but the purchase price of such lands shall not be paid until the title thereof has been approved by the attorney general. The board of control shall also have authority to acquire by purchase or gift and hold in the name of the state, lands for state forest park purposes. Such lands may include areas which it is deemed necessary to reserve for the public good and may include sites of scenic value, virgin woodlands, and areas desirable for recreation and reforestation.”

The provisions of the section of the General Code above quoted do not clearly impose any limitations upon the quantity or interest in any particular tract of land which the board of control of the Ohio Agriculture Station is authorized to purchase. In as much, however, as it is the declared policy of the State of Ohio to reserve in itself the minerals in all lands owned by the state, it was thought proper to give some consideration to the inquiry whether upon all the known facts minerals of any kind could reasonably be expected to be found in this tract of land. Investigation of this matter through the state forestry department and

otherwise leads to the conclusion that there are no minerals of any consequence in this tract of land, except possibly a bed of limestone which lies two or three hundred feet below the surface of the land.

In this situation I do not think the reservation of mineral grants to the government in this tract of land is one of any legal consequence so far as the statutory right and authority of the state to purchase this land for forestry purposes is concerned; and inasmuch as the purchase of this particular tract of land is greatly desired by the forestry department on account of the situation of this particular tract of land with respect to the larger acreage of land above referred to, and to lands now owned by the state in the vicinity, it is recommended that the transaction relating to the purchase of all of the property here in question be closed at once by the acceptance of the deeds tendered conveying this property to the state, and by the issuance of warrants covering the purchase price of said property.

Respectfully,
 GILBERT BETTMAN,
Attorney General

3391.

APPROVAL, TRANSCRIPT OF PROCEEDINGS RELATING TO SALE OF
 OHIO CANAL LANDS IN THE VILLAGE OF BALTIMORE, FAIR-
 FIELD COUNTY, OHIO.

COLUMBUS, OHIO, July 1, 1931.

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

DEAR SIR:—You have submitted for my examination and approval a transcript of your findings and proceedings relating to the proposed sale to The Toledo and Ohio Central Railway Company of two contiguous tracts of abandoned Ohio canal lands of 0.508 and 0.086 acres, respectively, located in the Village of Baltimore, Fairfield County, Ohio, which tracts of land are now, and for many years have been, occupied by said railroad company for its tracks and road bed under successive leases executed by the state through your department. On investigation I find that the property here in question on either side of the canal bed was low ground through which the tracks of the railroad company formerly passed by means of a trestle; and that thereafter by permission of your department the railroad company filled in this ground, and the tracks of the railroad company are now constructed in and upon this fill.

The authority for the sale of the property here in question is found in an act passed by the 88th General Assembly, April 5, 1929, 113 O. L. 524, and which went into effect on the 25th day of July, 1929. The act here referred to is one providing for the abandonment of that portion of the Ohio canal by the Buckeye Lake in Fairfield County, Ohio, to the junction of said canal with Little Walnut Creek in Pickaway County, Ohio, and of all basins, feeders and wide waters and state lands heretofore used in connection with said canal for navigation purposes. Section 4 of said act, which has been carried into the General Code by designation made by the Attorney General as section 14203-82, provides as follows:

“Any municipality through which any of the canals herein abandoned for canal purposes passes, shall have the first right to purchase, or if