

3033.

APPROVAL, BONDS OF McCOMB CENTRALIZED SCHOOL DISTRICT,
HANCOCK COUNTY, OHIO—\$15,000.00.

COLUMBUS, OHIO, March 10, 1931.

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

3034.

TOWNSHIP CEMETERY—PURCHASE OF LAND THEREFOR—BOARD
OF TOWNSHIP TRUSTEES UNAUTHORIZED TO MAKE PUR-
CHASE FROM ONE OF ITS MEMBERS.

SYLLABUS:

A board of township trustees may not purchase land for a township cemetery from a member of such board.

COLUMBUS, OHIO, March 10, 1931.

HON. HOWARD GOLDSBERRY, *Prosecuting Attorney, Chillicothe, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent request for my opinion which reads as follows:

“The Trustees of Jefferson Township, Ross County, Ohio, control a cemetery and are in need of additional lands. It appears that the cemetery boundary on one side borders on a county road and that one of the Trustees owns the land surrounding the cemetery on the three remaining sides. This Trustee is willing to sell, but the question is whether or not an acre or two may be purchased from this Trustee for cemetery purposes under these conditions in any manner other than appropriation proceedings.”

For the purpose of this opinion, I assume that the cemetery referred to is a township cemetery.

Section 12910, General Code, reads as follows:

“Whoever, holding an office of trust or profit by election or appointment, or as agent, servant or employe of such officer or of a board of such officers, is interested in a contract for the purchase of property, supplies or fire insurance for the use of the county, township, city, village, board of education or of a public institution with which he is connected, shall be imprisoned in the penitentiary not less than one year nor more than ten years.”

There is no doubt that this section prohibits a township trustee from being interested in a contract for the purchase of property for the use of the township; and, accordingly, the purchase of land for a township cemetery by a board of township trustees from one of its members, will subject such township trustee from whom the land is purchased to the penalty provided in said section.

For pertinent sections relating to the appropriation of land for a township

cemetery your attention is called to Sections 3441, 3442, and 3455, General Code. Doubtless proper proceedings instituted under these sections will effectuate your purpose.

In view of the express prohibition contained in Section 12910, *supra*, it is my opinion that a board of township trustees may not purchase land for a township cemetery from a member of such board.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3035.

APPROVAL, LEASE TO MIAMI AND ERIE CANAL LAND IN VILLAGE
OF MIAMISBURG, MONTGOMERY COUNTY, OHIO.

COLUMBUS, OHIO. March 10, 1931.

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

DEAR SIR:—You have submitted for my examination and approval a certain canal land lease in triplicate, by which the state of Ohio, acting through you as superintendent of public works and as director of said department, has leased and demised to the village of Miamisburg, Ohio, subject to certain conditions and restrictions provided for in said lease and subject to certain prior leases, certain Miami and Erie Canal lands which were abandoned for canal purposes by the act of the 86th General Assembly, passed March 25, 1925, and which went into effect on the 14th day of July, 1925. 111 O. L. 208. The particular portion of abandoned Miami and Erie Canal lands covered by said lease is all that part of said canal lands lying within the limits of the village of Miamisburg and is more particularly described as follows:

“Being all that portion of the abandoned Miami and Erie Canal within the corporate limits of the village of Miamisburg, Montgomery County, Ohio, commencing at the north corporation line of said village at or near Station No. 9961+50 of H. C. Baldwin’s survey of the Miami and Erie Canal south of Dayton, Ohio, made under the direction of the State Board of Public Works in 1912, and extending thence southward over and along said Miami and Erie Canal, including the full width of the bed and embankments thereof a distance of seventy-five hundred and forty-two (7542) feet, more or less, to the south corporation line of said village, plats of said survey being on file in the Department of Public Works, at Columbus, Ohio, and to which reference is hereby made for additional information.”

As above indicated, parts of the canal lands covered by the lease here under consideration are covered by prior leases. These prior leases which are listed and referred to in the lease here in question are: two leases executed to the village of Miamisburg under date of May 8, 1923; a lease executed to one R. J. Connelly, May 10, 1926; and a lease executed to the Cincinnati, Hamilton and Dayton Railway Company, January 18, 1927. Said prior leases, to the extent that they cover abandoned Miami and Erie Canal lands in the village of Miamisburg, and included