

2542.

APPROVAL, BONDS OF VILLAGE OF SILVERTON, HAMILTON COUNTY,
OHIO—\$69,168.84.

COLUMBUS, OHIO, November 17, 1930.

Industrial Commission of Ohio, Columbus, Ohio.

2543.

GRAFTON STATE FARM—DEPARTMENT OF PUBLIC WELFARE MAY
NOT LEASE PORTIONS OF FARM FOR PURPOSES OF FEEDING
HOGS.

SYLLABUS:

There is no authority for the Department of Public Welfare to lease portions of the Grafton State Farm for the purpose of feeding hogs.

COLUMBUS, OHIO, November 18, 1930.

HON. H. H. GRISWOLD, *Director of Public Welfare, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your recent communication, which reads as follows:

“This department has been considering the possibilities of a contract with a resident of Cleveland as follows:

The contractor desires to lease fifteen acres of land at the Grafton State Farm for the purpose of feeding hogs. He has a contract with the city of Lakewood for the disposal of their garbage. He proposes to erect on this fifteen acre parcel farm buildings worth eight thousand (\$8,000) dollars. He agrees to give to the state all fertilizer resulting from his operations and also that the buildings shall become the property of the state at the end of the five year period.

Will you kindly advise me whether in your opinion this department may legally make such a contract?”

It is a fundamental principle of law in this state that a state officer may not grant an interest in lands belonging to the State of Ohio, except in pursuance of specific statutory authority. No doubt there are cases wherein such authority may be implied if necessary to carry into effect an express power of some character. In this connection you are referred to an opinion found in Opinions of the Attorney General for the year 1925, page 61, wherein it was held, as disclosed by the first branch of the syllabus:

“The Department of Public Welfare may not, without specific statutory authority, lease the lands under its jurisdiction for the purpose of drilling for oil or gas.”

The following is quoted from the body of the opinion:

"The second question which you raise seems to me to be very easily disposed of. The lease of the lands at the Athens Hospital farm is a conveyance of a right in the real estate belonging to the State of Ohio. There is no statutory authority for the Department of Public Welfare of Ohio to make any such conveyance. Wherever a department of state is authorized to make leases, a specific authority therefor is found in the statute. Special provision is made for the lease of canal and reservoir lands by Section 13965, and following, of the General Code of Ohio. There is no analogous section with reference to such lands as the lands of the Athens State Hospital."

Subsequent to the opinion above mentioned, the legislature enacted Section 154-57a, which expressly authorizes the Director of Public Welfare to lease for oil and gas any real estate owned by the State of Ohio and placed under the supervision of the Department of Public Welfare in the manner therein specifically provided.

Section 154-157 of the General Code places in the Department of Public Welfare all the powers and duties vested in or imposed upon the Board of Administration with reference to the managing of such institutions, and there is no doubt but the Grafton lands are included therein.

Sections 1832, et seq., General Code, set forth the powers and duties of the Ohio Board of Administration with reference to the managing of the institutions therein referred to.

Section 1838 of the General Code provides:

"The board, in addition to the powers expressly conferred, shall have all power and authority necessary for the full and efficient exercise of the executive, administrative and fiscal supervision over all said institutions."

Section 1848 authorizes the cultivation of lands belonging to the institutions under the control of the Department of Public Welfare. It also provides that the department may require, when such institutions have proper lands and labor, that they undertake intensive agriculture and "may rent lands for the production of supplies for any of said institutions which have surplus labor, when it can be done to advantage."

However, in examining the statutes which relate to the powers and duties of the Ohio Board of Administration, which are now exercised by your department, I have been unable to find any statute which expressly authorizes the renting of lands belonging to the state for such purposes as are mentioned in your communication. When lands are used in connection with the managing of one of the institutions under your control, it is the intent of the statutes that they shall be used for the purposes of intensive agriculture, as hereinbefore indicated, in order to carry out the express powers conferred upon the Department of Public Welfare. In such management there may be instances wherein the power to lease will be implied. That is to say, in the event that it would be necessary to have a railroad spur constructed to some manufacturing plant, under the control of your department, it is possible that the implied power would exist to grant such permission in order to carry into effect the express power granted in such connection. However, in the case under consideration there are no facts that would justify the exercise of such power. The proposed contract probably would be beneficial to the state. However, the use of the land in the manner provided under said contract is not in the furtherance of any purpose for which your department is required or authorized to use the land.

In specific answer to your inquiry, it is my opinion there is no authority for the

Director of Public Welfare to lease land at the Grafton State Farm for the purpose of feeding hogs.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2544.

APPROVAL, BONDS OF BROOKFIELD TOWNSHIP RURAL SCHOOL DISTRICT, TRUMBULL COUNTY, OHIO—\$41,000.00.

COLUMBUS, OHIO, November 18, 1930.

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

2545.

APPROVAL, BONDS OF VILLAGE OF SHEFFIELD LAKE, LORAIN COUNTY, OHIO—\$23,200.00.

COLUMBUS, OHIO, November 18, 1930.

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

2546.

APPROVAL, BONDS OF BELMONT COUNTY, OHIO—\$148,819.00.

COLUMBUS, OHIO, November 18, 1930.

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

2547.

APPROVAL, FINAL RESOLUTIONS FOR ROAD IMPROVEMENTS IN MADISON AND PICKAWAY COUNTIES.

COLUMBUS, OHIO, November 18, 1930.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*