

and will not be disregarded or overturned except for cogent reasons, and unless it is clear that such construction is erroneous."

In Ohio Jurisprudence, Volume 37, page 698, it is observed:

"In interpreting a statute, it is a well-settled rule that a resort may, under proper circumstances, be had to the construction given thereto by those charged with its execution and application, especially where it has long prevailed. Judicial notice may be taken of such constructions for such purpose.

The construction placed upon a statute by executive departments or bureaus is not only persuasive, but is entitled to great respect and should, perhaps, be regarded as decisive in a case of doubt or where the obligation imposed or the duty enjoined is not plain and specific."

The above text is supported by the following cases:

*State ex rel. Crabbe vs. Middletown Hydraulic Co.*, 114 O. S. 437;

*State ex rel. Woodmen Acci. Co. vs. Conn.*, 116 O. S. 127;

*State ex rel. Johnson & H. Co. vs. Safford*, 117 O. S. 576;

*State ex rel. Automobile Mach. Co. vs. Brown*, 121 O. S. 73;

*State vs. Evans*, 21 O. App. 168;

*State ex rel. Meck vs. Deputy State Supers.*, 111 O. S. 203.

It would therefore appear that the words "Rumex species" when viewed in the light of all the rules of statutory construction, should be construed so as to embrace all plants of the Rumex species, as well as those generally known as "docks."

It is therefore my opinion, in specific answer to your question, that the words "Rumex species," as the same appear in section 5805-3 of the General Code, include all of the Rumex species, both docks and sorrel, and that Rumex Acetosella, commonly known as sheep sorrel, is defined as a noxious weed by section 5805-3, General Code, supra.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*

4024.

DISCUSSION AND FINDING OF ERROR IN DESCRIPTION OF PROPERTY INTENDED TO BE CONVEYED BY FORMER DEED EXECUTED TO ONE FREDERICK HAEHNLE OF CINCINNATI, OHIO, AND APPROVAL OF NEW DEED CORRECTING SUCH ERROR, ETC.

COLUMBUS, OHIO, March 7, 1935.

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

DEAR SIR:—The Superintendent of Public Works as Director of said Department has submitted to me certain files relating to the application of one Frederick Haehnle of Cincinnati, Ohio, for a corrected deed by which there will be conveyed to him that part of parcel No. 17 of surplus Miami and Erie Canal lands in the city of Cin-

cinnati, Ohio, which is contiguous to property now owned by him. Since the receipt of the files above referred to from the Superintendent of Public Works, I have received other files relating to this matter from one Samuel L. Hagans, the attorney for Frederick Haehnle, and from all of the files submitted to me in this matter, it appears that some time prior to the 28th day of February, 1929, Frederick Haehnle, acting under the authority of Amended Senate Bill No. 123, enacted by the 87th General Assembly under date of April 20, 1927, 112 O. L., 210, made application for and thereby intended to purchase from the State a part of parcel No. 17 of surplus Miami and Erie Canal lands which had theretofore been conveyed to the state of Ohio by the city of Cincinnati pursuant to the authority of the act here referred to. It appears further in this connection that Frederick Haehnle intended to apply for and receive from the State a deed conveying to him only that part of parcel No. 17 of surplus Miami and Erie Canal lands, above referred to, which was contiguous to other lands then and now owned by Frederick Haehnle. Apparently, however, by a mistake and error on the part of all parties concerned, the application of Frederick Haehnle was accepted as to the whole of parcel No. 17 and a deed was prepared in proper form and thereafter executed by the Governor which conveyed to Frederick Haehnle the whole of parcel No. 17 by a description of said parcel by metes and bounds.

However, as above noted, it was at that time the intention of Frederick Haehnle to purchase, and of the Superintendent of Public Works to sell to him, only a part of parcel No. 17 of surplus Miami and Erie Canal lands. And in this view, there was a mistake and error in the description of the property intended to be conveyed by the deed executed and delivered to Frederick Haehnle, which deed, as before noted, covered the whole of said parcel.

By section 8528, General Code, it is provided, among other things, that when by satisfactory evidence it appears to the Governor and Attorney General that an error has occurred in a deed executed and delivered in the name of the State, under the laws thereof, the Governor shall correct such error by the execution of a correct and proper title deed, according to the intent and object of the original purchase or conveyance, to the party entitled to it, or to his heirs or legal assigns as the case may require, and take from such party a release in due form, to the State, of the property erroneously conveyed. In this instance, Frederick Haehnle has executed and tendered to the State a quit claim deed executed in proper form in and by which he conveys and releases to the State that part of parcel No. 17 theretofore conveyed to him by the deed executed by the Governor under date of February 28, 1929, which was thereby conveyed to Frederick Haehnle by the mistake and error above referred to. Under the provisions of section 8523, General Code, it is made the duty of the Auditor of State to draft all conveyances of real estate, or any interest therein, sold on behalf of the State, in pursuance of law; and to this end, I am forwarding this communication to you with this, my finding, with respect to the above mentioned mistake and error in the former conveyance, with the request that a corrected deed be drafted by you for execution by the Governor, conveying to Frederick Haehnle by proper description that part of parcel No. 17 of surplus Miami and Erie Canal lands which was intended to be conveyed to him at the time of the former conveyance. I am advised by the Superintendent of Public Works that the consideration to be recited in the new deed is the sum of \$751.75, and that the property to be conveyed thereby is to be described as follows:

Being a part of parcel No. 17 of the subdivision of surplus Miami and Erie Canal lands, in the city of Cincinnati, Ohio, in section 19, Millcreek Township, Hamilton County, Ohio, as surveyed and platted by the Board of Rapid Transit Commissioners of the city of Cincinnati, under the direction of the Superintendent of Public Works of Ohio, in the year 1927, plats of said

survey being on file in the office of the Board of Rapid Transit Commissioners in the city of Cincinnati, Ohio, and likewise in the office of the Department of Public Works of the state of Ohio in the city of Columbus, Ohio; which parcel of land hereby conveyed is more particularly described by metes and bounds as follows:

Being a small tract of surplus Miami and Erie Canal lands in the city of Cincinnati, Ohio, in Section 19, Millcreek Township, Hamilton County, Ohio, lying south of and adjacent to Lot No. 1, of Plat "A" of Samuel J. Browne's Subdivision and Lot No. 66, of Kirby's Mohawk Subdivision in said city, and lying immediately south of and adjacent to a tract of land owned by Frederick Haehnle, commencing at the intersection of the westerly line, produced, of Lot No. 1, of Samuel J. Browne's Subdivision referred to above, with the northerly line of Central Parkway in said city of Cincinnati, which point is 152.00 feet south of the southerly line of McMicken Avenue, measured along the westerly line of said Lot No. 1, and running thence southeasterly along the northerly line of Central Parkway, 28.40 feet to a stake; thence by an angle to the left of 56 degrees 19 minutes northeastward, and running 27.01 feet, to an old stake in the northerly line of the Miami and Erie Canal property; thence by an angle to the left of 125 degrees, 16 minutes, northwesterly, and running forty-eight and five one-hundredths (48.05') feet to a stake at the intersection of the westerly line of Lot No. 1, of Samuel Browne's Subdivision, with the northerly line of said Miami and Erie Canal property, which point of intersection is one hundred thirty and thirty-six one hundredths (130.36') feet south of the southerly line of McMicken Avenue, measured along the west line of said Lot No. 1; thence by an angle to the left of 100 degrees 48 minutes southerly, and running twenty-one and sixty-four one-hundredths (21.64') feet to the point of commencement, and containing eight hundred and twenty-eight and twenty-five one hundredths (828.25) square feet, more or less.

The new deed as drafted should, of course, conform to the provisions of sections 8528, 8529 and 8530, General Code, and, particularly, to that part of section 8529, General Code, which provides that all deeds executed under the authority of these sections "must recite the facts, as ascertained by the governor and attorney general, upon the proof of which they are executed." When you have prepared this deed, you will please present the same to the Governor for his signature and to the Secretary of State for his counter-signature, in the manner provided by law.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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4025.

APPROVAL, BONDS OF CITY OF NILES, TRUMBULL COUNTY, OHIO,  
\$2,350.00.

COLUMBUS, OHIO, March 8, 1935.

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