

of the mayor and police shall extend into and over such territory."

Sec. 3970: "Such aqueducts and pipes shall be so constructed and laid as not to interfere unnecessarily with the use of such streets, roads, alleys and public highways and public grounds, and the corporation so extending and establishing any part of its water works outside of its limits shall have the same power and jurisdiction to prevent or punish pollution of or injury to the water so conveyed or injury to the works or any portion thereof as it has within the limits of such corporation."

Section 3968, *supra*, in clear and unmistakable language confers jurisdiction upon the mayor and police of the municipality beyond the territorial limits of such municipality for the purpose of not only maintaining but protecting a municipally operated water works. Section 3970, *supra*, expressly confers jurisdiction outside of the territorial limits of the municipality for the purpose of preventing the pollution or injury of a municipally owned water supply.

In view of these last two mentioned sections, it is my opinion that your inquiry must be answered in the affirmative. The opinion of this office, appearing in Opinions of the Attorney General for 1927, Volume 2, page 914, is accordingly overruled.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

3328.

APPROVAL—STATE OF OHIO, THROUGH DIRECTOR OF PUBLIC WORKS, WITH THE CHESAPEAKE AND OHIO RAILWAY COMPANY, PROPOSED SALE, PARCEL, ABANDONED HOCKING CANAL LANDS, CITY OF LANCASTER, FAIRFIELD COUNTY, OHIO, PURCHASE PRICE, \$300.00.

COLUMBUS, OHIO, December 2, 1938.

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

DEAR SIR: This is to acknowledge the receipt of your recent communication with which you submit for my examination and approval a transcript in duplicate of your proceedings as Superintendent of

Public Works and as Director of said department relating to the sale to The Chesapeake and Ohio Railway Company in consideration of the payment by said company to the State of Ohio of the sum of \$300.00, the appraised value of the property, of a parcel of abandoned Hocking Canal lands situated in the City of Lancaster, Fairfield County, Ohio, which parcel of land is a part of Section 7, Township 14 North, Range 18 West, and which is more particularly described as follows:

Beginning at Canal Survey Station 517+37.7 of Bruce Doughton's Survey made under the direction of the State Board of Public Works of Ohio in 1912, plats of which are on file in the Department of Public Works, at Columbus, Ohio, which is at the point of intersection of the Canal Survey Transit Line and the northeasterly right of way line of The Chesapeake and Ohio Railway Company, said point being fifty (50') feet distant northeasterly, measured radially from the original center line of said railway company, and said point being 62.05 feet north $89^{\circ} 10'$ east, from the point of intersection of said Canal Survey Transit Line and said original center line at original station 1696+29.88 and Canal Survey Station 516 plus 75.65; thence southeasterly along said right of way line on a curve to the right, with a radius of 1960.08 feet, parallel with and fifty (50') feet distant radially from said original center line, 35 feet, more or less, to a point on the southerly state property line; thence westerly along said southerly state property line, which intersects said original center line at original station 1696+75, a distance of 116 feet, more or less, to a point on the southwesterly right of way line of said railway company; thence northwesterly along said right of way line, on a curve to the left, with a radius of 1860.08 feet, parallel with and fifty (50) feet distant radially from said original center line, 46.5 feet, more or less, to a point on the Canal Survey Transit Line at Canal Survey Station 516+12.7; thence continuing northwesterly along said right of way line, on a curve to the left, with a radius of 1860.08 feet, parallel with and fifty (50) feet distant radially from said original center line, 98.5 feet to a point on the northerly state property line; thence south $88^{\circ} 54'$ east along said northerly state property line, intersecting said original center line at original station 1695+36 at a distance of 67.6 feet, a total distance of 133.8 feet to a point in the northeasterly right of way line of the railway company; thence southeasterly on a curve to the right with a

radius of 1960.08 feet, parallel with and fifty (50') feet distant radially from said original center line, 89.5 feet to the point of beginning; containing thirty-one hundredths (0.31) of an acre, more or less; being shown on Drawing No. 12181-9 of the Chief Engineer's Office, The Chesapeake and Ohio Railway Company, Richmond, Virginia.

The above described parcel of land is being sold by you in your official capacity as Superintendent of Public Works under the authority of an act of the 88th General Assembly enacted April 19, 1929, 113 O. L., 521, which, among other things, provides for the sale of abandoned Hocking Canal lands in Fairfield, Hocking and Athens Counties, Ohio. This act in section one thereof provides that the sale of such lands shall be subject to the approval of the Governor and the Attorney General and shall be made in strict conformity with the provisions of Section 13971, General Code. Section 13971, General Code, provides, among other things, that any canal lands of the State that cannot be leased so as to yield six per cent on the valuation thereof may be sold and further provides that if the appraised value of the property does not exceed \$500.00 such sale may be made at private sale with the approval of the Governor and the Attorney General. At the time of the enactment of Section 13971, General Code, in its present form, the jurisdiction and control of the canal lands of this State were vested in the State Canal Commission. As to this, however, it is noted that Section 464, General Code, confers upon the Superintendent of Public Works all the powers previously exercised by the State Canal Commission with respect to the sale of canal lands.

Inasmuch as it appears from the transcript of your proceedings relating to the sale of this property that the sum of \$300.00 to be paid by The Chesapeake and Ohio Railway Company for this property is the appraised value thereof and it further appears that this property cannot be leased at an annual rental equal to six per cent of said appraisement and that this property is not now required for the use, maintenance and operation of said canal, you are authorized to sell the property here in question; and such sale and your proceedings relating there to are accordingly approved by me as is evidenced by my approval endorsed upon the transcript and on the duplicate copy thereof, both of which are herewith enclosed.

Respectfully,

HERBERT S. DUFFY,

Attorney General.