

From this examination, in the light of the law under authority of which these bonds have been authorized, I am of the opinion that bonds issued under these proceedings constitute valid and legal obligations of said school district.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

3352.

APPROVAL—CONTRACT, SUPERINTENDENT OF PUBLIC WORKS WITH THE NORFOLK AND WESTERN RAILWAY COMPANY, PARCEL, ABANDONED OHIO CANAL LAND, SCIOTO COUNTY, OHIO, \$19,926.72.

COLUMBUS, OHIO, December 9, 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 of your proceedings as Superintendent of Public Works relating to the sale by you as such Superintendent of Public Works to The Norfolk and Western Railway Company, in consideration of the payment by said railway company of the sum of \$19,926.72, of a certain parcel of abandoned Ohio Canal land in Scioto County, Ohio, which parcel is designated as Parcel No. 6 of the Ohio Canal lands and which is more particularly described as follows:

Beginning at the south or lower end of Lock Number 49, south of Licking Summit Reservoir at Station 2266+54, of W. C. Row's Survey, made under the direction of the Ohio Canal Commissioners in the year of 1890, same being Station 28+20.8 of the Sanzenbacher Survey of 1912, said place of beginning being opposite a point in the center line of the main track of The Norfolk and Western Railway Company, two thousand nine hundred twenty-four and thirty-five-hundredths (2,924.35') feet distant south or eastwardly from Mile Post No. 99, as measured from Cincinnati, Ohio; thence southwardly over and along said abandoned Ohio Canal, including the full width of the bed and banks thereof and any wide waters or

basins connected thereto, for a distance of three and seven-tenths (3.7) miles to about Station 2071+00, of the said W. C. Row Survey, same being at Station 226+91.1, of the Sanzenbacher Survey of 1912, and at a "T" Rail located three hundred thirty-seven and six-tenths (337.6') feet distant north 84° west from a point in the center line of the main track of The Norfolk and Western Railway Company, one thousand six hundred fifty-five and six-tenths (1,655.6') feet distant south or eastwardly from Mile Post No. 103, as measured from Cincinnati, Ohio, containing forty-eight and seven-tenths (48.7) acres, more or less.

The sale of the above described parcel of Ohio Canal lands made by you in your official capacity aforesaid was so made under the authority of Section 3 of Senate Bill No. 212 enacted by the 79th General Assembly of Ohio under date of June 7, 1911, 102 O. L., 294, Section 13971, General Code, and Section 464, General Code, which confers upon you as Superintendent of Public Works all the power and authority formerly conferred upon the Ohio Canal Commission and the Board of Public Works, respectively, with respect to the sale of canal lands; and said sale of this property was made by you subject to the approval of the Governor and the Attorney General and subject to certain existing and outstanding leases on parts of the above described property.

As required by law, this transcript contains a finding that this land is not necessary or required for the use, maintenance and operation of said canal, and that said lands cannot be leased so as to yield an income of six per cent on the value of the property. And conformable to the provisions of Section 13971, General Code, this property as canal lands was offered for sale at public vendue at the Court House in Scioto County, wherein the property is situated, after thirty days' notice of such public sale was given by publication in two newspapers of opposite politics and of general circulation in said county. At this public sale the property above described was bid in by The Norfolk and Western Railway Company by its Division Counsel for the sum of \$19,926.72, which was and is three-fourths of the sum of \$26,568.96, the appraised value of the property; and it appears further in this connection that said offer so made by The Norfolk and Western Railway Company was the highest and best bid offered for this property.

Upon the consideration of this transcript of your proceedings relating to the sale of the above described property, which transcript sets out all of the facts and findings above noted, I am of the opinion that your proceedings relating to the sale of this property are in all respects regular and in accordance with the statutory provisions above noted.

I am accordingly approving the sale of this property so made by you

as is evidenced by my approval endorsed upon the transcript and the duplicate copy thereof, both of which are herewith enclosed.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

3353.

APPROVAL—CONTRACT, STATE OF OHIO, THROUGH DIRECTOR OF HIGHWAYS, AND COUNTY OF VAN WERT, IMPROVEMENTS, HIGHWAYS NUMBERS 263 and 875, VILLAGE OF WILLSHIRE, VAN WERT COUNTY, OHIO.

COLUMBUS, OHIO, December 9, 1938.

HON. IVAN AULT, *Director, Department of Highways, Columbus, Ohio.*

DEAR SIR: You have submitted for my approval as to form and legality a contract in duplicate by and between the County of Van Wert, State of Ohio, and the State of Ohio, providing for the co-operation between the County and State in the improvement of a portion of State highways Nos. 263 and 875, located in the Village of Willshire, Van Wert County, Ohio.

Attached thereto is the certificate of the Acting Auditor of the Department of Highways certifying that the money for said construction, to the credit of Van Wert County, has been appropriated from the funds of the Highway Department and the certificate of the Director of Finance that there was sufficient funds in the appropriation to the Department of Highways, not otherwise obligated and thereby set aside as to the State's share of the proposed contract.

There is also attached the certificate of the County Auditor of Van Wert County, certifying that the money required for the payment of the cost of said improvement, other than that part thereof assumed by the State, is in the Treasury to the credit of or has been levied and in the process of collection and not otherwise appropriated for any other purpose, or is being obtained by sale of bonds of the county issued on account of said improvement, which bonds are sold and in the process of delivery.

After carefully examining said contract, it is my opinion that the same is in proper legal form and constitutes a binding agreement by and between the parties thereto for the purposes therein mentioned.