

"Promote Social and Civic Welfare. Pay a death benefit to its deceased members."

Since one of the purposes of this society is to pay death benefits, it becomes an insurance society and must comply with the insurance laws of this state, unless it comes within one of the exemptions of section 9491, General Code. Under the by-laws, the amount of the death benefit to be paid depends upon the number of the members belonging to this society, and I find no provision limiting the membership. I fail to find anything either in the articles or the constitution and by-laws which would bring it within any of the exemptions contained in section 9491.

It is my opinion, therefore, that this society under its present set-up cannot lawfully be incorporated.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2672.

APPROVAL—PROCEEDINGS RELATING TO THE CANCELLATION OF
LEASE ON CERTAIN PARCELS OF MIAMI AND ERIE CANAL
LANDS IN MIAMI COUNTY, OHIO.

COLUMBUS, OHIO, May 16, 1934.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval your finding and report made upon the application of The Miami Valley Railway Company for the cancellation of the lease which said company now holds on certain parcels of Miami and Erie Canal lands in Miami County, Ohio, which lease was executed to The Miami Valley Railway Company under date of March 22, 1930, for a term of ninety years and which provides for an annual rental of \$800 00. The application for the cancellation of the lease here in question is made by said company, the lessee therein, under the provisions of sections 6 and 7 of House Bill No. 467, enacted by the 90th General Assembly under date of June 8, 1933, which act became effective as a law on the 11th day of October, 1933. Under the provisions of the sections of this act, above referred to, if at any time any lessee of canal lands of the state can no longer economically use such lands, such lessee may file with the Superintendent of Public Works, at least sixty days prior to any rental payment date, a sworn statement of facts pertaining to such lease, setting forth the reasons why such lease cannot be used any longer by it, and requesting the cancellation of such lease. It is further provided that upon receipt of such sworn statement, said Superintendent of Public Works shall make a thorough investigation of all the facts pertaining to such lease, and if he is satisfied that such representations are true, and that all accrued rentals due thereon have been paid in full up to the next semi-annual rental payment date, he may, with the approval of the Governor and Attorney General, indicated by a resolution in the manner therein provided, cancel such lease.

The application for the cancellation of this lease was filed with you on or about the 1st day of December, 1933, and in said application the reason assigned for the requested cancellation of the lease is that The Miami Valley Railway Company has been authorized by the Public Utilities Commission of Ohio to discontinue operation of its railway, and to dismantle its property; pursuant to said authorization The Miami Valley Railway Company has discontinued operations as a railway and has dismantled its property and has sold its facilities previously located on this property which were used in the operation of the railway, and that for this reason said railway company has no further use in any way for the property covered by said lease.

It appears from your finding that The Miami Valley Railway Company is now indebted to the State of Ohio in the sum of \$400.00, the same being the semi-annual installment of rent under said lease from November 1, 1933, to May 1, 1934. And by your finding and order, this lease is canceled as of May 1, 1934, upon the condition that said company shall pay said accrued rental. In this connection, it is noted that section 7 of the act of the 90th General Assembly, above referred to, provides that upon the cancellation of a canal land lease in the manner therein provided, the Superintendent of Public Works shall note such cancellation upon each of the triplicate copies of such lease. With respect to this provision, you are advised that no notation of cancellation should be made upon such lease before the payment by said company of the accrued rental now due and payable under said lease. Neither should any copy of your finding with respect to the cancellation of such lease be delivered to the lessee before the payment by it of such accrued rental.

Upon examination of the proceedings relating to the cancellation of the lease in question, I find that the same are substantially in the form provided by the terms of the act of the 90th General Assembly, above referred to, and the same are accordingly hereby approved by me as to legality and form, as is evidenced by my signature in and to the resolution approving your order canceling this lease, subject to the condition before noted with respect to the payment by The Miami Valley Railway Company of the accrued rental on this lease now due and payable.

Respectfully,

JOHN W. BRICKER,

Attorney General.

2673.

APPROVAL.—PROCEEDINGS RELATING TO APPLICATION MADE BY CINCINNATI, DAYTON RAILWAY COMPANY OF BALTIMORE, MARYAND, FOR A REDUCTION IN THE ANNUAL RENTAL TO BE PAID UPON THE LEASE OF MIAMI AND ERIE CANAL LANDS IN BUTLER COUNTY, OHIO.

COLUMBUS, OHIO, May 16, 1934.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You recently submitted for my approval the report of your finding