

528.

LEASE—WATER, STATE TO E. P. ROBY, RIGHT TO WITHDRAW WATER AS DESIGNATED FROM MIAMI AND ERIE CANAL, STATION 5787.00, D. BLYTHE'S SURVEY, AUGLAIZE COUNTY, OHIO.

COLUMBUS, OHIO, May 2, 1939.

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

DEAR SIR: You have submitted for my examination and approval a certain water lease in triplicate by the terms of which the State of Ohio, acting through you as Superintendent of Public Works, has given and granted to one E. P. Roby of St. Marys, Ohio, the right to insert into the level of the Miami and Erie Canal at Station 5787+00 of D. Blythe's Survey one 1½ inch pipe and to thereby withdraw from the Miami and Erie Canal at this point such amount of water as may be needed by him for fish propagation purposes, for a period of five years from and after May 1, 1939. By the terms of this lease instrument, which has been executed for the purpose aforesaid in consideration of the payment of an annual rental of \$9.00 for the water so withdrawn, it is further provided that this water service shall be for a period of three months only in each of the years covered by the lease.

This lease instrument is one executed by you under the authority of section 14009, General Code, which, in so far as the same is material in the consideration of this lease, provides as follows:

"Whenever, in the opinion of the superintendent of public works, there shall be any surplus water in any of the state canals, or in any of the feeders, or reservoirs, or at any dams created by the state for the purpose of supplying any of said canals with water, or erected for improving the navigation of any river, over and above the quantity of water which may be required for the purpose of navigation, said superintendent of public works may sell or lease the right to use such surplus water for hydraulic or other purposes, for any term not exceeding twenty-five years for a certain annual rental, or otherwise, as he may deem most beneficial for the interests of the state, subject to such conditions, reservations and restrictions as he may deem necessary and proper. All rentals shall be fixed by the superintendent of public works with the approval of the governor and attorney general."

Upon examination of this instrument, I find that the same has been properly executed by you as Superintendent of Public Works and by

E. P. Roby, the lessee therein named. I further find that the provisions of this lease and the conditions and restrictions therein contained are in conformity with the statutory provisions under the authority of which this instrument is executed. I am accordingly approving this water lease as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

529.

BONDS—TOLEDO CITY SCHOOL DISTRICT, LUCAS COUNTY,
\$5,000.00.

COLUMBUS, OHIO, May 2, 1939.

The Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN :

RE: Toledo City School District, Lucas County, Ohio,
\$5,000.00 (Limited).

The above purchase of bonds appears to be part of a \$900,000 issue of school building bonds of the above city dated January 28, 1915. The transcript relative to this issue was approved by this office in an opinion rendered to the State Teachers Retirement Board under date of July 15, 1935, being Opinion No. 4419.

It is accordingly my opinion that these bonds constitute valid and legal obligations of said city school district.

Respectfully,

THOMAS J. HERBERT,
Attorney General.