

2084.

APPROVAL, BONDS OF SPRINGFIELD TOWNSHIP RURAL SCHOOL DISTRICT, CLARK COUNTY, OHIO—\$9,000.00.

COLUMBUS, OHIO, July 11, 1930.

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

2085.

APPROVAL, ENCUMBRANCE ESTIMATES RELATING TO PURCHASE OF LAND IN NEAVE TOWNSHIP, DARKE COUNTY, OHIO.

COLUMBUS, OHIO, July 11, 1930.

HON. HARRY D. SILVER, *Director of Finance, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval encumbrance estimates Nos. 704, 705 and 706 relating to the purchase of several parcels of land in Neave Township, Darke County, Ohio, recently acquired by the Greenville Historical Society, for the purpose of conveying the same to the State of Ohio as a site upon which to establish a State Historical Park. The parcels of land here referred to are more particularly described in Opinion No. 1978 of this office, directed to you under date of June 13, 1930.

In said former opinion I approved the form and execution of the several deeds by which the Greenville Historical Society obtained title to said property, and upon consideration of the corrected abstract of title of this property submitted to me at the time, I found that the Greenville Historical Society had a good merchantable fee simple title to said property which it could convey to the State of Ohio. In said opinion I likewise approved the execution and form of the deed by which this property is to be conveyed to the State of Ohio.

Touching the question here presented with respect to the form and execution of the encumbrance estimates above noted, it is pertinent to note the statutory provisions which authorized the Greenville Historical Society to acquire this property for the purpose above stated. These statutory provisions are found in an act of the 88th General Assembly passed April 5, 1929, and which became effective on the 25th day of July of that year. (113 O. L. 593). This act of the General Assembly reads as follows:

“Sec. 1. That for the purpose of acquiring and improving the site of Fort Jefferson in Darke County, Ohio, on which was erected a military post by General Arthur St. Clair in his campaign against the Indians in 1791, and adjacent lands not to exceed eight acres, there is hereby appropriated out of any moneys in the state treasury to the credit of the general revenue fund, not otherwise appropriated, the sum of three thousand dollars, which the Greenville Historical Society is hereby authorized to draw upon for the purpose named.

Sec. 2. Upon the completion of acquiring and improving said site and lands, the Greenville Historical Society shall convey the same to the State of Ohio, whereupon the care and control of said site and lands shall be

vested in the board of trustees of the Ohio State Archaeological and Historical Society, who shall hold the same and the property thereon subject to such use as the General Assembly may by law direct."

The encumbrance estimates above referred to are made out, so to speak, in the name of the respective owners of certain parcels of said property from whom the Greenville Historical Society obtained title to the same.

Whatever question there may be in your mind or in the minds of others with respect to the legality of the form and execution of these encumbrance estimates arises, I assume, from the fact that no direct contract relation has at any time existed between the State of Ohio and the original owners of said parcels of land with respect to the purchase of the same. With respect to this question, it is noted that there is nothing in the statutory provisions above noted, which indicates any legislative intention that the Greenville Historical Society was to purchase this property out of its own funds and thereafter sell the same to the State of Ohio and thereby reimburse itself out of the moneys appropriated by said act for the purpose of providing for the acquisition of this property. On the contrary, said act provides that the Greenville Historical Society should acquire this property and for this purpose it is authorized to draw upon said appropriation. As I read the provisions of this act I am inclined to the view that it was contemplated by said act that the warrants for the payment of the purchase price of this property should be issued upon the request and order of the Greenville Historical Society directly to the person from whom the Greenville Historical Society acquired the property. In this view it is altogether proper that the encumbrance estimates covering the purchase price of said property should be made out in the name of such persons, as appears to have been done in the encumbrance estimates which have been submitted for my approval.

In the sequence of events, these encumbrance estimates and the warrants following the same should have been executed upon the execution of the respective deeds by which the Greenville Historical Society obtained the title to this property. However, no objection is seen to the execution of said encumbrance estimates in the form above indicated at the present time, nor to the issuance of warrants to said persons covering the purchase prices of the several tracts of land sold and conveyed to the Greenville Historical Society. It appears however, from the act of the General Assembly above quoted, that before said warrants are issued to said respective persons from whom the Greenville Historical Society obtained title to said property a request for the execution of such warrants should be lodged with the Auditor of State by the Greenville Historical Society. The encumbrance estimates submitted to me are hereby approved, and the same, together with all of the other files submitted to me are herewith returned to you.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2086.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND G. H. MOEHL-
MAN, OF NORWALK, OHIO, FOR COMPLETION AND CONSTRUCTION
OF GENERAL CONTRACT FOR CLEVELAND STATE HOSPITAL, AT
EXPENDITURE OF \$70,400.00—SURETY BOND EXECUTED BY THE
SEABOARD SURETY COMPANY.

COLUMBUS, OHIO, July 11, 1930.

HON. ALBERT T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Works, for and on behalf of the Depart-