

of immediately selling the securities received and held as security for the deposit of such money under authority of sections 2732, 4295, 7605, 7607 or 2288-1 or any other sections of the General Code, to retain the same, collect the interest and any and all installments of principal thereafter falling due thereon, and to refund, exchange, sell or otherwise dispose of such securities, or any of them, at such times and in such manner as such commissioners, council, township trustees, or board of education may determine to be advisable, with a view to conserving the value of such securities for the benefit of such county, municipal corporation, township or school district, and for the benefit of the depositors, creditors and stockholders or other owners of such bank."

Section 2293-38, General Code, specifically authorizes the subdivision to sell the securities mentioned in Section 2288-1, General Code, in the event of a default by the depository, or to refund them. This section is, in some respects, in pari materia with Section 2288-1, General Code. If the securities deposited pursuant to Section 2288-1, General Code, are security mortgages, the authority of Section 2293-38, General Code, to sell or refund them would be a nullity, for the security mortgage would have no value in and of itself, until the loss is ascertained.

I am therefore of the opinion that Section 2288-1, General Code, does not authorize boards of county commissioners to accept mortgages executed by a depository bank, as mortgagor, on property owned by the bank, as security for the return of moneys deposited in such depository, even though the recited consideration in such mortgage and the penal sum thereof is less than one-half of the appraised value of mortgaged property.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*

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2218.

APPROVAL, CERTAIN WARRANTY DEED TO LAND IN MIAMI TOWNSHIP, MONTGOMERY COUNTY, OHIO, EXECUTED BY C. F. KETTERING, INC.

COLUMBUS, OHIO, January 25, 1934.

*The Ohio State Archaeological and Historical Society, Columbus, Ohio.*

GENTLEMEN:—This is to acknowledge receipt of your recent communication, submitting for my examination and approval, a certain Warranty Deed executed by C. F. Kettering, Incorporated, a corporation organized and existing under the laws of the State of Delaware, purporting to convey to The Ohio State Archaeological and Historical Society, a certain tract of land situated in the northwest quarter of Section 30, Town 2, Range 5, Miami Rivers Survey in Miami Township, Montgomery County, Ohio, and are particularly described as follows:

"Beginning at a planted stone in the south line of the northwest quarter of Section 30, at the southeast corner of the 8.41 acre tract

conveyed to The Ohio State Archaeological and Historical Society, as described in Deed Book 659, page 466, Montgomery County Records, said beginning point being the southwest corner of the Grantor's land; thence northwardly with the east line of said 8.41 acre tract, for a distance of 782.61 feet to the northeast corner thereof; thence eastwardly with the north line of said 8.41 acre tract extended eastwardly, for a distance of 300.0 feet to an iron pin; thence southwardly parallel to the east line of said 8.41 acre tract, for a distance of 781.59 feet to an iron pin in the south line of the northwest quarter of Section 30, said point being also in the south line of the Grantor's land; thence westwardly with the said south line of the grantor's land, for a distance of 300.0 feet to the place of beginning, containing 5.38 acres more or less."

Upon examination of this deed, I find that the same has been properly executed and acknowledged by the corporation named as the grantor therein by and through its President and Secretary in the manner provided by law, with respect to deeds of this kind.

Upon examination of the terms and provisions of this lease and upon consideration of certain further facts stated in your letter of transmittal, I find that this property is being conveyed to The Ohio State Archaeological and Historical Society as an addition to the Miamisburg Mound State Park, and that the tract of land conveyed by this deed is immediately contiguous to the lands now included within said park.

In this situation, it is quite clear that your society is authorized to accept a conveyance of this property under the provisions of Section 10198-1, General Code, as said section is amended in and by House Bill No. 277, enacted by the 90th General Assembly, 115 O. L. 207. This section of the General Code authorizes a society serving purposes such as those for which the Ohio State Archaeological and Historical Society is organized, to acquire lands which are the site of historic or prehistoric monuments, and also to acquire lands contiguous to lands now owned and held by the society as the site of historic or prehistoric monuments.

Miamisburg Mound State Park, as I am advised, is the site of a prehistoric mound constructed by the Mound Builders, so-called. I further find, upon examination of this deed that the form of the same is such that it is legally sufficient to convey this property to The Ohio State Archaeological and Historical Society in and by fee simple title, free and clear of all encumbrances, except as to taxes now due and payable upon this property.

No abstract of title was submitted with this deed and, this being the case, I am not passing upon a title by which this property is held by C. F. Kettering, Incorporated, the corporation named as the grantor in this deed.

Upon the consideration above noted, however, I am approving the deed as is evidenced by my approval endorsed thereon.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*