

et seq. of the General Code, as enacted by Amended Senate Bill No. 235, passed by the 88th General Assembly under date of April 6, 1929, which act is one providing for the abandonment for canal purposes of that portion of the Ohio Canal, and lateral canals connected therewith, lying within Stark County, Ohio, and to provide for the lease and sale thereof. By said act, the superintendent of public works is authorized to lease to any municipal corporation or other political subdivision such canal lands abandoned for canal purposes by the act as are located within such municipal corporation or other political subdivision or such of said canal lands as are adjacent to or extend from the boundaries of the municipal corporation or other political subdivision, provided that application for such lease is made by the municipal corporation or other political subdivision within one year from the effective date of said act; and in such case it is further provided that the annual rental to be paid by the municipality for such lease shall be 4% upon the appraisement fixed by the board of appraisers provided for in the act.

It appears that the village of Navarre made application for the lease here in question on June 17, 1930, within one year from the date when the act of the legislature, above referred to, went into effect; and conformable to the provisions of this act the annual rental to be paid by the village of Navarre for the first fifteen years of the term of the lease is 4% of the sum of four thousand four hundred sixty-seven dollars and thirty-five cents (\$4,467.35), the appraised value of the parcel of land covered by the lease and above described. The lease further provides, conformable to the provisions of this act, that the property leased shall be re-appraised at the end of each period of fifteen years during the term of the lease and that the subsequent annual rentals shall, for the ensuing period of fifteen years, be 4% of such respective appraised valuations.

Carrying out the further provisions of the act of the legislature, above referred to, this lease provides for the assignment by the state to the village of Navarre of the state's respective interests as lessor in several term leases theretofore executed by the superintendent of public works to certain individuals and corporations named in this lease.

I have carefully examined this lease and the various provisions and conditions therein contained and find that the same has been properly executed by the superintendent of public works, acting for and on behalf of the state of Ohio, and by the village of Navarre, acting through its mayor and clerk of council pursuant to the authority of an ordinance duly adopted by the council of said village. I am accordingly hereby approving said lease as to legality and form, and I herewith return the same, together with the duplicate and triplicate copies thereof, with my approval endorsed thereon.

Respectfully,

GILBERT BETTMAN,

*Attorney General.*

3959.

DISAPPROVAL, ARTICLES OF INCORPORATION OF THE OHIO GROCERY MUTUAL INSURANCE COMPANY.

COLUMBUS, OHIO, January 16, 1932.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and opinion as to their

validity the proposed "Articles of Incorporation of The Ohio Grocery Mutual Insurance Company."

Excluding the signatures and acknowledgment, said proposed Articles of Incorporation or Certificate of Incorporation read as follows:

"ARTICLES OF INCORPORATION

of

THE OHIO GROCERY MUTUAL INSURANCE COMPANY.

By virtue of the provisions of sections 9593 to 9607 of the General Code of Ohio. The undersigned, a majority of whom are citizens of the United States, desiring to form a corporation, not for profit, under the General Corporation Act of Ohio, and the aforesaid sections, do hereby certify:

FIRST. The name of said corporation shall be The Ohio Grocery Mutual Insurance Co.

SECOND. The place in this State where the principal office of the corporation is to be located

Portsmouth, Scioto County.  
(City, Village or Township)

THIRD. The purpose or purposes for which said corporation is formed are: to enable its members to insure each other against loss by fire and lightning, cyclones, tornadoes or windstorms, and other casualties, and to enforce any contract which may be entered into by them, by which those entering therein shall agree to be assessed specifically for incidental purposes and for the payment of losses which occur to its members.

FOURTH. The following persons shall serve said corporation as trustees until the first annual meeting or other meeting called to elect trustees.

(Names of four individuals here inserted.)"

I find that these proposed Articles of Incorporation are defective in the following respects:

1. The document of incorporation should be captioned "Certificates" rather than "Articles." Section 9594, General Code; Opinions of the Attorney General for 1931, numbered 2859 and 3008.

2. The declaration of the proposed certificate that the incorporators desire "to form a corporation not for profit under the general corporation act of Ohio" is erroneous. This is not a corporation not for profit under the general corporation act, but is formed under authority of sections 9593 to 9607, inclusive, General Code, cited in the proposed Articles or Certificate. This corporation cannot be termed philanthropic or charitable in purpose so as to bring it within the provisions of the General Code governing corporations not for profit.

3. The certificate does not set forth that the incorporators are of lawful age, residents of Ohio or of an adjoining state, or that they own insurable property in Ohio. Opinions of the Attorney General for 1919, page 18, Volume I, and Opinions of the Attorney General, supra.

Said certificate purports to authorize the corporation to insure against all casualties generally. Corporations such as this one may only insure such risks

as are specifically authorized by section 9593, General Code. Volume 2, Opinions of the Attorney General for 1930, page 1013.

It is not affirmatively stated in said proposed certificate that the corporation limits the risk taken to property within the state of Ohio. Section 9593, General Code; Vol. 1, Opinions of the Attorney General for 1914, pp. 835, 965; Vol. 1, Opinions of the Attorney General for 1919, page 18.

The Fourth clause of said certificate purports to authorize the incorporators to act as trustees until the first annual meeting or other meeting is held to elect trustees. I find no authority for the appointment of trustees by the incorporators in the special provisions of the General Code governing this type of corporation. Section 9596 authorizes the election of directors and officers. I am of the opinion, although the question is not necessarily before me, that the provisions of section 9596, General Code, are exclusive and that trustees may not be selected by the incorporators to act in their stead until the directors and officers are elected after due incorporation of the association.

I am returning herewith the proposed Certificate of Incorporation and advise that you should not file the same until revised in conformance with law.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

3960.

APPROVAL, CONTRACT FOR ROAD IMPROVEMENT IN LAKE COUNTY, OHIO.

COLUMBUS, OHIO, January 16, 1932.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

3961.

EMBALMING EXAMINERS—NOT REQUIRED TO RECOGNIZE EMBALMING SCHOOLS HAVING TWENTY-SIX WEEKS COURSE.

*SYLLABUS:*

*The Board of Embalming Examiners, in passing upon the question of whether or not an embalming school shall be recognized by the board, is not compelled to recognize a school merely because it has a twenty-six weeks course; neither is it precluded from recognizing only schools which may have a reasonably longer course if, upon due consideration of the facilities of the various schools, the board should determine that a reasonably longer course is necessary to adequately fit an applicant to become an embalmer.*

COLUMBUS, OHIO, January 18, 1932.

*State Board of Embalming Examiners, 6406 Franklin Blvd., Cleveland, Ohio.*

GENTLEMEN:—Your letter of recent date is as follows:

“As Secretary-Treasurer of the State Board of Embalming Exam-