

opinions referred to relate to sanitary districts but as the statutes involved with reference to sanitary districts and conservancy districts are similar, said opinions are applicable to conservancy districts.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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6039.

APPROVAL.—BONDS OF CITY OF TOLEDO, LUCAS COUNTY,  
OHIO, \$15,000.00.

COLUMBUS, OHIO, September 8, 1936.

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

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6040.

APPROVAL.—BONDS OF TOLEDO CITY SCHOOL DISTRICT,  
LUCAS COUNTY, OHIO, \$30,000.00.

COLUMBUS, OHIO, September 8, 1936.

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

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6041.

APPROVAL—ABSTRACT OF TITLE, ETC., TO LAND IN  
WAPAKONETA, AUGLAIZE COUNTY, OHIO—ROBERT W.  
REA AND HELEN CURLEY REA.

COLUMBUS, OHIO, September 10, 1936.

HON JOHN JASTER, JR., *Director of Highways, Columbus, Ohio.*

DEAR SIR: This is to acknowledge the receipt of a recent communication from your department with which there is submitted for my examination and approval an abstract of title, warranty deed form, contract encumbrance record No. 1528 and Controlling Board certificate relating to the proposed purchase by the state of a parcel of land in the city of

Wapakoneta, Auglaize County, Ohio, which parcel of land, together with the reservation subject to which this property is to be conveyed to the state by the present owner of record, is set out and described in the submitted deed form as follows:

The east part of Lots Numbered 2, 3, and 4 of Wild's Subdivision of the west half of the southeast quarter and east part of southwest quarter of Section 32, Town 5 South, Range 6 East, particularly described as follows: Commencing at the northeast corner of said Lot No. 2 on the west line of the right of way of the Dayton & Michigan (now B. & O.) Railroad; thence in a southerly direction with said west line of said right of way and the east line of said Lots Numbered 2, 3, and 4, 990 feet, more or less, to the southeast corner of said Lot No. 4; thence west on south line of said Lot No. 4, 238.9 feet to a point; thence northwesterly crossing said Lots 4, 3 and 2 to a point on the north line of said Lot No. 2, said point being 478.7 feet west of the northeast corner of said Lot No. 2; thence east on the north line of said Lot No. 2, 478.7 feet to the place of beginning.

Subject, however, to the right of way for electric transmission line, substation and other electric purposes heretofore conveyed by Western Ohio Railway and Power Corporation to Central Ohio Light and Power Company on December 5, 1930, which conveyance is recorded in the Deed Records of Auglaize County, Ohio.

Upon examination of the abstract of title of the above described tract of land which is now owned of record by one Robert W. Rea, I find that said Robert W. Rea has a good and indefensible fee simple title to this property subject to an outstanding easement upon the property for electric transmission line and other related purposes now owned and held by the Central Ohio Light and Power Company and which was conveyed to said company for the purposes therein stated by the Western Ohio Railway and Power Corporation, the then owner of the property, by deed under date of December 5, 1930.

It appears further from the abstract, which is certified by the abstractor under date of July 2, 1936, that the taxes on the above described property for the last half of the year 1935, the amount of which is not stated, are unpaid and are a lien upon the property. The undetermined taxes on this property for the year 1936 are likewise a lien upon the property in the amount of such taxes as the same may be eventually determined.

Upon examination of the deed form of the warranty deed to be ex-

ecuted and acknowledged by the grantors, Robert W. Rea, and Helen Curley Rea, his wife, conveying the above described parcel of land to the state of Ohio, I find that said deed form is such that when the same is properly executed and acknowledged by the above named grantor and his wife the same will be legally sufficient to convey this parcel of land, together with all appurtenances thereto belonging, to the state of Ohio by full fee simple title free and clear of the inchoate dower interest of the grantor's wife with a covenant of warranty that the property is free and clear of all encumbrances whatsoever save and except the reservation with respect to the easement on the property now owned and held by the Central Ohio Light and Power Company which is referred to in said deed form.

I have examined contract encumbrance record No. 1528 which has been submitted as a part of the files relating to the purchase of the above described property. From my examination of this instrument, I find that the same has been executed by the Director of Finance and by the Budget Division of said department in such manner as to comply with the provisions of section 2288-2, General Code, and that there is shown a sufficient amount of money to the credit of your department in the proper appropriation account to pay the purchase price of this property, which purchase price is the sum of \$4,000,00. It is suggested, however, that before this contract encumbrance record, together with the other files relating to the purchase of this property, is submitted to the Auditor of State for a warrant covering the purchase price of the property, this contract encumbrance record should be approved by you as the head of the Department of Highways.

I likewise find that the purchase of this property has been approved by the Controlling Board by a resolution of said Board made and entered June 4, 1936, as authorized by the provisions of section 8 of House Bill No. 531 enacted by the 91st General Assembly.

I note in the files submitted to me a letter directed to you by the Resident Division Deputy Director referring to the deed form of the deed to be executed by Robert W. Rea and wife conveying this property to the state, in which it is suggested that the word "substation" should be stricken from the reservation in this deed before the deed is accepted by you. As to this, it may be observed that the abstract of title submitted to me does not clearly indicate all of the purposes covered by the easement which was granted to the Central Ohio Light and Power Company by the Western Ohio Railway and Power Corporation by its deed under date of December 5, 1930. The purpose and extent of this easement can be gathered only from references thereto in the court proceedings in and by and pursuant to which this property was conveyed by sheriff's deed to Robert W. Rea. In some of the references to this easement

in the court proceedings the same is noted as one for electric transmission line and equipment purposes. However, the order of the court directing the Sheriff of Auglaize County to sell this property apparently recited that the property was subject to a right of way for electric transmission lines and substations and other electric purposes theretofore granted and conveyed by the Western Ohio Railway and Power Corporation to the Central Ohio Light and Power Company. In this situation, it is quite clear that the full purpose and scope of the easement on this property now owned and held by the Central Ohio Power and Light Company can be ascertained by an examination of the deed in and by which said easement was granted and conveyed to said company by the Western Ohio Railway and Power Corporation. This deed has not been set out or abstracted in the abstract of title submitted to me and if full information upon this point is desired, examination will have to be made of the deed as the same is recorded in the office of the Recorder of Auglaize County, Ohio.

Subject to the exceptions and reservations above noted, the title to the above described property in said Robert W. Rea, the present owner of record, is approved, as are, likewise, the abstract of title and other files submitted to me in connection with the purchase of this property. It is submitted, however, in this connection, that when the executed deed of the grantor and his wife is delivered to your department, the same be submitted to this office for approval before the warrant covering the purchase price of the property is delivered to the grantor.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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6042.

APPROVAL—BONDS OF VILLAGE OF RICHWOOD, UNION  
COUNTY, OHIO, \$2,500.00.

COLUMBUS, OHIO, September 8, 1936.

*Industrial Commission of Ohio, Columbus, Ohio.*