

ing the limitations of indebtedness set forth in the section, to the extent of three per cent on the tax duplicate. The only exception as to the limitations contained in this section in case of destruction by fire or other casualty, is as to schoolhouses. No reference is made to school buildings which might be construed as a broader term. The garage which you state has been destroyed is clearly not a schoolhouse. To hold that this provision relating to schoolhouses is applicable to garages, would require writing into this section a provision which has not been made by the Legislature.

Section 2293-18, General Code, provides as follows:

"If at the effective date of this act any of the limitations of Sections 2293-14, 2293-15, 2293-16 or 2293-17 hereof are exceeded in any subdivision, such subdivision so long as such excess exists may in any calendar year issue bonds falling within the class covered by said limitations in an amount equal to a sum not exceeding nine-tenths of the amount by which the net indebtedness on bonds of such class has been reduced during the said calendar year; provided that the total bonds issued in any year under the provisions of this section shall in no case exceed an amount equal to amount of bonds which may be issued within said limitation."

In view of your statement that very little of the amount by which the bonded indebtedness has been reduced this year has been applied to the unvoted net indebtedness, I assume this section would not be applicable to the question you submit.

In view of the foregoing, I am compelled to advise you that in my opinion, your question must be answered in the negative.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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793.

APPROVAL, TRANSCRIPT OF PROCEEDINGS FOR SALE OF ABANDONED OHIO CANAL LAND IN MADISON TOWNSHIP, LICKING COUNTY, OHIO.

COLUMBUS, OHIO, August 26, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication, submitting for my examination and approval findings of fact and other record of proceedings of your office relating to the proposed sale to one Dwight M. Warner of Newark, Ohio, of a certain parcel of abandoned Ohio canal lands in Madison Township, Licking County, Ohio, being that portion of the abandoned Ohio canal property including the full width of the bed and embankments thereof located in Madison Township, Licking County, Ohio, and described as follows:

"Beginning at a line drawn at right angles to the transit line of the Bruce Doughton's survey of said canal property through Station 2022-42 and running thence westerly with the northerly and southerly lines of said canal property, eight hundred and five (805) feet, as measured along the transit line of said survey to a line drawn at right angles through Station 2030-47 and containing one and six-tenths (1.6) acres, more or less.

For a more definite description of the above described property, reference is hereby made to Plat No. 127, Bruce Doughton's survey of said canal property, said plat being on file at the office of the Department of Public Works, Columbus, Ohio."

An examination of the transcript of the proceedings with respect to the sale of the above described parcel of land shows that the same is in substantial compliance with the statutory provisions authorizing and providing for the sale of such lands, and said proceedings are accordingly herewith approved as to form.

In this connection, I note that aside from the general authority conferred upon you by Section 13971, General Code, with respect to the sale of canal lands, the special authority with respect to your authority to sell the particular parcel of canal land here in question, and other canal lands in Madison Township, Licking County, Ohio, is found in the provisions of Section 14203-14, General Code, rather than in the provisions of Section 14203-22, General Code. The provisions of the latter section of the General Code apply only to canal lands between the city of Newark and the village of Hebron, abandoned by act of the General Assembly, in 1917, (107 O. L. 741), which act was carried into the General Code (Appendix) as Sections 14203-20 to 14203-25, inclusive of the General Code. As above noted, special authority is conferred upon you to sell the particular parcel of canal land here in question, by Section 14203-14, General Code, which is part of an act passed by the General Assembly in 1911 (102 O. L., 293) providing for the abandonment of that portion of the Ohio canal commencing at the junction of said canal with what is known as the Dresden Side Cut near Trinway, in Muskingum County, Ohio, and extending thence south-westerly to the southerly end of the aqueduct across Raccoon Creek in West Newark in Licking County, Ohio, which act has been carried into the General Code (Appendix) as Sections 14203-12 to 14203-19, inclusive.

Under the statutory provisions relating to the sale of abandoned Ohio canal lands at private sale, such sales are required to be approved by the Governor and the Attorney General.

In the present instance, the purchase price of the property to be sold to said Dwight M. Warner, is the sum of \$320.00, the appraised value of said parcel. No facts relating to the appraisal of this property or other matters touching this proposed sale are presented which suggest any reason why the sale of this property should not be approved by me. My approval of this sale is accordingly hereby given, as is evidenced by my written approval of the resolution providing for the sale of this property found in said transcript.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

794.

INTOXICATED DRIVER—POST OFFICE EMPLOYEE—AMENABLE TO STATE LAW IN ABSENCE OF FEDERAL REGULATION—CONSTITUTIONAL QUESTIONS WITH REFERENCE TO SECTION 12628, GENERAL CODE, CONSIDERED.

**SYLLABUS:**

1. *In the absence of a rule or order of the Postmaster General of the United States or of a federal statute, regulating or punishing a driver of a motor vehicle used*