

vailed since that time, I am of the opinion that all revenues collected by the Conservation Commissioner from rentals for leases of state lands, pipe permits, boat licenses, dock licenses in state reservoir parks and moneys for special privileges of any nature in or adjacent to such parks, should be deposited in the general revenue fund of the state.

Respectfully,
 GILBERT BETTMAN,
Attorney General.

1918.

APPROVAL, BONDS OF SUMMIT SPECIAL RURAL SCHOOL DISTRICT,
 MONROE COUNTY—\$30,000.00.

COLUMBUS, OHIO, May 28, 1930.

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

1919.

APPROVAL, ABSTRACT OF TITLE TO LAND OF CLEVELAND, CINCINNATI, CHICAGO AND ST. LOUIS RAILWAY COMPANY IN CITY OF CINCINNATI, HAMILTON COUNTY, OHIO.

COLUMBUS, OHIO, May 28, 1930.

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

DEAR SIR:—There has lately been submitted to me a corrected abstract of title of a certain parcel of real estate situated in the City of Cincinnati, Hamilton County, Ohio, to-wit:

Being a strip of land seventy-six (76) feet in width off of the southeasterly end of lots numbers eight (8), nine (9), ten (10) eleven (11) and twelve (12) of Theophilus French's subdivision in the town of Carthage, now the City of Cincinnati, of record in Plat Book 3, page 51, of the records of Hamilton County, and being part of the same property conveyed by Thomas T. Brown and George S. Brown, to the Cincinnati and Springfield Railway Company by deed dated September 5, 1871, and recorded in Deed Book 402, page 146 of the records in the office of the Recorder of Hamilton County.

An examination of the corrected abstract of title submitted shows that the title of the Cleveland, Cincinnati, Chicago and St. Louis Railway Company, which is the owner of record of the above described property, is subject to the following exceptions:

1. It appears from said abstract that on and prior to May 1, 1869, said above described lots, together with lot 7 in said subdivision, were owned and held in fee simple title by said Theophilus French. On said date, to-wit, May 1, 1869, Theophilus French, his wife joining with him in the conveyance, conveyed said lots 7, 8, 9, 10

and 11 in said subdivision to one John Dean. Shortly after this conveyance said John Dean died, and thereafter on May 1, 1871, Theophilus French, his wife joining with him in the deed, conveyed said lots, together with lot 12 in said subdivision to Thomas T. Brown and George S. Brown. The abstract does not disclose how the title to said lots 7, 8, 9, 10 and 11 in said subdivision came back to Theophilus French after he conveyed the same to John Dean, nor is there found in said abstract any information showing that the title of said John Dean or his heirs in and to said lots was ever extinguished of record. As to this exception, however, I find from the information submitted to me, that the Cleveland, Cincinnati, Chicago and St. Louis Railway Company, the present record owner of the lots here in question, and its predecessors in title, have owned and held said lots in open and adverse possession since the year 1871, and in such manner as to bar the heirs of said John Dean, who died intestate, from asserting any right, title or interest in and to this property. I am of the opinion, therefore, that the exception above noted to the record title of the Cleveland, Cincinnati, Chicago and St. Louis Railway Company may be safely waived.

The other exceptions here noted are mortgages affecting the property here in question, executed by the Cleveland, Cincinnati, Chicago and St. Louis Railway Company, and by its predecessor in title, the Cincinnati and Springfield Railway Company. As to this it appears that the Cleveland, Cincinnati, Chicago and St. Louis Railway Company obtained title to this property by a conveyance from the Cincinnati and Springfield Railway Company, which company had previously obtained title to the property by a deed of conveyance from said Thomas T. Brown and George S. Brown, who are referred to above in the chain of title to this property. The Cleveland, Cincinnati, Chicago and St. Louis Railway Company owns and holds this property subject to the lien of certain mortgages heretofore executed by said railway company, and by the Cincinnati and Springfield Railway Company, which mortgages are not satisfied of record so far as the property here under investigation is concerned, and are a lien on said property and upon other property now owned and held by the Cleveland, Cincinnati, Chicago and St. Louis Railway Company:

(1) A mortgage executed under date of February 22, 1871, by the Cincinnati and Springfield Railway Company to the Union Trust Company of New York to secure an issue of bonds to the amount of \$2,000,000, which bonds were due and payable April 1, 1901.

(2) A mortgage executed by the Cincinnati and Springfield Railway Company to one Oscar Townsend, trustee, dated January 1, 1872, to secure an additional issue of bonds amounting to \$750,000, and which bonds were payable January 1, 1902.

(3) A mortgage executed by the Cleveland, Cincinnati, Chicago and St. Louis Railway Company to the Mercantile Trust Company and Theodore P. Haughey, trustee, dated May 15, 1893, to secure an issue of bonds to the amount of \$50,000,000, which bonds are payable June 1, 1993.

(4) A mortgage executed by the Cleveland, Cincinnati, Chicago and St. Louis Railway Company to the Central Trust Company of New York and William A. Wildhack, trustee, dated January 2, 1913. It appears that this mortgage was executed by said railway company for the purpose of extending the lien of a mortgage executed by the Cincinnati, Indianapolis, St. Louis and Chicago Railway Company to the railroad and properties of the Harrison Branch Railroad Company. The consideration of said mortgage was the sum of \$1.00 and other considerations not stated in the abstract, and it is possible that said mortgage does not affect the property here in question.

(5) A mortgage executed by the Cleveland, Cincinnati, Chicago and St. Louis Railway Company to the Bankers Trust Company and Union Trust Company of Indianapolis, trustees, under date of January 26, 1913, to secure an issue of bonds in the sum of \$3,754,730. It does not appear from the abstract when the bonds secured by this mortgage are due and payable.

(6) A mortgage executed by the Cleveland, Cincinnati, Chicago and St. Louis Railway Company to the Guarantee Trust Company of New York and Frank L. Littleton, trustees, under date of June 27, 1919. This mortgage apparently was executed for the purpose of securing an issue of bonds, but the amount of said bond issue and the maturities of said bonds do not appear.

Upon reference to the deed form of the deed to be executed by and on behalf of the Cleveland, Cincinnati, Chicago and St. Louis Railway Company, conveying the property under investigation to the State of Ohio, it appears that the deed to be executed by said railway company is a warranty deed, and from this I assume that it is the intention of the railway company to obtain releases with respect to each of the above mentioned mortgages, so far as the lien of the same affects the property in question.

It appears from a certificate of the Title, Guarantee and Trust Company of Cincinnati, Ohio, the abstracter, that the taxes for the last half of the year 1929 which are due and payable in June, 1930, are unpaid and a lien upon this property. The same is true of the undetermined taxes for the year 1930. The amount of said unpaid taxes is not stated in the abstract and some adjustment with respect to such taxes should be made before the transaction relating to the purchase of this property is closed.

An examination of the deed form of the deed to be executed by the Cleveland, Cincinnati, Chicago and St. Louis Railway Company is such that the same, when properly executed, will convey to the State of Ohio a fee simple title to the property, free and clear by a general warranty, of all encumbrances. It is suggested, however, that the description of the property here under investigation to be set out in said deed, be that above set out in this opinion rather than that now contained in the deed form.

I am herewith returning to you said corrected abstract of title with my approval, subject to the exceptions above noted with respect to said mortgages and tax liens and likewise said deed form, which likewise has my approval subject to the exception above noted with respect to the description of the property as therein contained.

In connection with the execution of the deed of the Cleveland, Cincinnati, Chicago and St. Louis Railway Company conveying this property to the State of Ohio, I assume that the same will be executed in conformity with Section 8761, General Code, which provides that conveyances made by the company shall be signed by the president under the corporate seal.

In returning to you said abstract of title and deed form, I desire to call your attention to the fact that there was not submitted to me any encumbrance estimate relating to the purchase of this property nor any certificate of the Controlling Board showing a release of moneys appropriated for the purpose of purchasing the property in question and other property in the vicinity for uses and purposes in connection with Longview Hospital.

I am forwarding a copy of this opinion to Hon. Hal H. Griswold, Director of Public Welfare, and another copy of said opinion to Mr. W. R. Gibbons, Real Estate and Tax Agent for the Cleveland, Cincinnati, Chicago and St. Louis Railway Company, who has this matter in charge on behalf of said company.

Respectfully,

GILBERT BETTMAN,

Attorney General.