

3005.

U. S. GRANT MEMORIAL PARK—PAYMENT FOR LIGHTING OF BRIDGE—CHARGED AGAINST APPROPRIATION MADE BY GENERAL ASSEMBLY.

SYLLABUS:

*From the appropriation made to the U. S. Grant Memorial Park Commission by the 87th General Assembly, said commission may pay to the U. S. Grant Memorial Centenary Association the reasonable and necessary expenses incurred by said association in lighting the bridge on the road running through the U. S. Grant Memorial Park.*

COLUMBUS, OHIO, December 10, 1928.

HON. ALLEN B. NICHOLS, *Chairman, U. S. Grant Memorial Commission, Batavia, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of your recent communication which reads as follows:

“On April 26, 1923, the legislature of the State of Ohio passed a House Joint Resolution No. 31 in which there was appropriated \$15,000.00 for Grant park purposes in Point Pleasant, Ohio, and the balance unexpended in said fund was reappropriated at the last Legislature. This legislation also created, as you probably know, the Grant Commission of which I happen to be chairman.

Immediately adjoining the Grant Bridge, which was built by the State, Clermont County and the U. S. Grant Commission of which my brother, Judge Nichols, is chairman, but which Commission has nothing to do with our Commission, and on both sides of said Bridge, the land is owned by the State of Ohio and is part of the Grant Park. There is a light bill of about \$15.00 to \$20.00 per month for lighting the Bridge, which bill is being paid by that Commission which in a way is a private commission, of which my brother is chairman. He has presented to the Commission of which I am Chairman, a bill for the amount expended by him for light, and before paying the same I would like to have your opinion on the same, as would also my brother.

He tells me that you have heretofore ruled that the State Highway Commission could not pay for these lights, but what I would like to know is can the Commission of which I am Chairman pay for the same?

If it can be legally paid I, of course, will issue a voucher to the other Grant Commission for the amount they have expended. Otherwise, I will not.”

Upon April 6, 1923, the 85th General Assembly adopted House Joint Resolution No. 31 relating to a memorial to General U. S. Grant in which, after reciting that the citizens of Clermont County had raised \$15,000.00 to further perpetuate the name and activities of General U. S. Grant, and to that end had formed the “U. S. Grant Memorial Centenary Association”, and that it was decided to use said sum of money and additional sums to acquire the tract of ground where the house in which he was born was located and make the same a public park, it was provided that there should be incorporated in the appropriation bill of said General Assembly

the sum of \$15,000.00, and that in conjunction with the same amount raised by the citizens of Clermont County said sum to be appropriated should be used for the purchase of the site of the birthplace of General U. S. Grant and for the purchase of additional land to be made into a public park. By said resolution it was further provided that the governor be authorized and directed to appoint three citizens of Ohio to co-operate with the U. S. Grant Memorial Centenary Association, to serve without compensation, and to report to the governor their accomplishments. Under the authority of this resolution the governor appointed you and your associates, although, as may be noted, no name was therein designated under and by which the appointees provided for should function.

No appropriation was made by said General Assembly for the purposes mentioned in said resolution, and as said resolution provided should be made. However, on March 27, 1925, the succeeding General Assembly in Amended House Bill No. 517 appropriated \$15,000.00 to the U. S. Grant Memorial Centenary Association which, as above noted, was the private association formed by the citizens of Clermont County. The purpose of said appropriation was stated in said appropriation act as follows: "For the purchase of the site of the birthplace of General U. S. Grant at Point Pleasant, Clermont County, Ohio, as provided by House Joint Resolution No. 31 (110 O. L. 627)". Whatever may be said with respect to this appropriation it is apparent that some expenditures were made therefrom, and that when said appropriation lapsed there was a balance in said appropriation account of \$11,377.59. Thereafter on April 21, 1927, the 87th General Assembly in and by House Bill No. 502 re-appropriated said balance of \$11,377.59. This appropriation was made to the U. S. Grant Memorial Park Commission which I am advised is the body of which you are chairman and which consists of yourself and the two other persons appointed by the governor under the authority of House Joint Resolution No. 31 above mentioned. The purpose of said appropriation is stated in said appropriation act as follows: "For the purchase of additional land for park purposes and the necessary expenses incident to a public park (H. B. 517)".

I am advised that the commission of which you are chairman has been making expenditures out of this appropriation account; and the question presented in your communication is whether said commission can pay out of said appropriation to the U. S. Grant Memorial Centenary Association of which your brother, Judge Nichols, is chairman, expenses incurred by said association in lighting the bridge on the road through said park. By reference to the appropriation act, last above referred to, it will be noted that the U. S. Grant Memorial Park Commission, of which you are chairman, has the authority to pay from the appropriation made therein the necessary expenses incident to the public park that has been provided for as a memorial to General Grant. If, in the exercise of the judgment of the members of your commission on the situation presented by the location of this bridge with reference to said park, it is determined that the lighting of this bridge is necessary for the proper use and enjoyment of said park, the terms of said appropriation act, in my opinion, confer upon your commission ample authority to pay the expenses of such lighting out of said appropriation. Likewise, if the U. S. Grant Memorial Centenary Association has incurred expenses in providing for the lighting of said bridge, I see no reason why your commission would not be authorized to pay the U. S. Grant Memorial Centenary Association for the reasonable expenses incurred by said association in providing for the lighting of said bridge; and the question presented in your communication is, therefore, answered in the affirmative.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*