

914.

APPROVAL, LEASES CANAL BANK, DOVER, OHIO, AND WATER
LEASE AT AKRON, OHIO.

COLUMBUS, OHIO, January 6, 1920.

HON. JOHN I. MILLER, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—I have your letter of January 2, 1920, in which you enclose the following leases, in triplicate, for my approval:

LAND LEASE.	Valuation.
To the Ohio Service Company, land lease for pole line right-of-way on canal bank at Dover Ohio.....	\$1,666 67
WATER LEASE.	Annual Rental.
The Thomas Phillips Company, water lease seven-inch pipe at Akron, Ohio	\$1,100 00

I have carefully examined said leases, find them correct in form and legal, and am therefore returning the same with my approval endorsed thereon.

Respectfully,

JOHN G. PRICE,
Attorney-General.

915.

COUNTY MEMORIAL ASSOCIATION—COSTS OF TRUSTEES IN GIVING
BONDS—NOT SUCH “NECESSARY EXPENSES” TO BE REPAID
FROM FUNDS RAISED BY BOND ISSUE UNDER SECTION 3061 G. C.

Costs incurred by the trustees of county memorial associations in giving bonds to the state as required by section 3064 G. C. are not “necessary expenses” within the meaning of section 3060 G. C., which provides that the trustees shall be entitled to be repaid their necessary expenses from the fund raised by the issue of bonds authorized by section 3061 G. C.

COLUMBUS, OHIO, January 6, 1920.

HON. PAUL M. ASHBAUGH, *Prosecuting Attorney, Mt. Vernon, Ohio.*

DEAR SIR:—Your letter of recent date, inquiring whether the premium on bonds given by the members of the board of trustees of a county memorial association can be paid out of funds derived from the issue of bonds authorized and provided for by section 3061 G. C., was duly received.

Section 3064 G. C. provides that the trustees shall give bond to the state in such sum as the commissioners fix, and to the approval of the commissioners, before making any expenditure of the fund above referred to.

The bond issue authorized and provided for by section 3061 G. C. (108 O. L. 70) is for the erection or construction and maintenance of a county memorial building, and for the payment of compensation of an assistant secretary, superintendents,

architects, clerks, laborers and other employes (see Sec. 3064), acquiring necessary lands (see Sec. 3065), and the preparation of plans and specifications for the construction of the memorial building (see Sec. 3066).

In 1914 Opinions of Attorney-General, Volume II, page 1450, it was held that the proceeds of the bond issue authorized by the above statute were trust funds, and that being true no part thereof should be expended for any purpose not clearly warranted by statute.

The only claim of authority for the payment of the premiums on trustees' bonds is based upon section 3060 G. C., which provides that the trustees shall be entitled to be repaid their "necessary expenses" from the fund referred to. The term "necessary expenses", in my opinion, does not refer to personal expenses incurred by the trustees in qualifying themselves for office, but rather to necessary expenses incurred in the performance of the duties imposed upon them in their official capacity as trustees with respect to the erection or construction and maintenance of the memorial building, the compensation of the assistant secretary, superintendents, architects, clerks, laborers and other employes, the acquisition of necessary lands, and the preparation of plans and specifications.

The general assembly has, in some instances, expressly provided that the premium on official bonds shall be paid from public funds (see Sec. 1855 G. C. which provides that the cost of bonds of officers and employes of institutions under the control of the board of administration, etc., shall be paid from funds available for the respective institutions), and the inference to be drawn from that and kindred legislation is that such payment of such items, to be lawful, must be so authorized.

Section 9572 G. C. also provides that whenever any fiduciary has given bond with a surety thereon, a reasonable sum paid therefor shall be allowed in the settlement of his account as such fiduciary by the judge, court or officer whose duty it is to pass upon the account. The latter statute appears to be inapplicable to the trustees of county memorial buildings, for the reason that no duty appears to be enjoined upon such trustees to file an account.

You are therefore advised that the costs incurred by the trustees of county memorial associations in giving bonds to the state as required by section 3064 G. C. are not "necessary expenses" within the meaning of section 3060 G. C. which provides that the trustees shall be entitled to be repaid their necessary expenses from the fund raised by the issue of bonds authorized by section 3061 G. C.

Respectfully,

JOHN G. PRICE,
Attorney-General.

916.

ROADS AND HIGHWAYS—ASSESSMENTS PROVIDED IN SECTION 3298-15b G. C. MAY BE PAID IN INSTALLMENTS ONLY UNLESS LUMP SUM TENDER INCLUDES INTEREST ON ASSESSMENTS.

The road improvement assessments mentioned in section 3298-15b G. C. may be paid in installments only and not as a lump sum, unless the tender of payment in lump includes interest on the assessments in full from date of issue to date of ma-