

3272.

APPROVAL—BONDS, CITY OF AKRON, SUMMIT COUNTY, OHIO, \$30,000.00, PART OF ISSUE DATED SEPTEMBER 1, 1923.

COLUMBUS, OHIO, November 17, 1938.

State Employes Retirement Board, Columbus, Ohio.

GENTLEMEN:

RE: Bonds of City of Akron, Summit County, Ohio,
\$30,000.00.

I have examined the transcript of proceedings relative to the above bonds purchased by you. These bonds comprise part of an issue of main trunk sewer bonds in the aggregate amount of \$1,500,000 of a \$3,000,000 authorization, dated September 1, 1923, bearing interest at the rate of $5\frac{1}{4}\%$ per annum.

From this examination, in the light of the law under authority of which these bonds have been authorized, I am of the opinion that bonds issued under these proceedings constitute valid and legal obligations of said city.

Respectfully,
HERBERT S. DUFFY,
Attorney General.

3273.

STATUS—CANAL LAND LEASE, STATE OF OHIO, THROUGH DIRECTOR OF PUBLIC WORKS, TO MILLERSPORT BANK COMPANY, MILLERSPORT, OHIO, TERM FIFTEEN YEARS, ANNUAL RENTAL, \$12.00, DESCRIBED PORTION OHIO CANAL, FAIRFIELD COUNTY; OHIO, RIGHT TO OCCUPY AND USE FOR COTTAGE SITE AND GARDENING PURPOSES.

COLUMBUS, OHIO, November 18, 1938.

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval a canal land lease in triplicate, executed by you as Superintendent of Public Works and as Director of said Department to the Millersport Bank Company of Millersport, Ohio.

By this lease, which is one for a stated term of fifteen years and which provided for an annual rental of twelve dollars, there is demised and granted to the lessee above named the right to occupy and use for cottage site and gardening purposes that portion of the state's allotment of the spoil embankment on the west side of the Ohio Canal, south of what is known as the Refugee Road, that is included in Lot No. 3 of said allotment; said Lot having a frontage of one hundred feet on what is commonly known as the Baltimore Road, and being a part of Section 4, Township 16, Range 18, Fairfield County, Ohio.

I assume that this lease is one executed by you under the authority of House Bill No. 144, enacted by the Eighty-Eighth General Assembly under date of April 19, 1929, 113 O. L. 524; which Act in terms authorizes the Superintendent of Public Works, by and with the approval of the Governor and the Attorney General, to sell or lease certain canal lands between the flume at Buckeye Lake in Fairfield County, Ohio, and Little Walnut Creek in Pickaway County, Ohio.

Although, as above noted, the provisions of this Act authorize the officials above named to execute leases of Ohio canal lands covered by the provisions of said Act, a further consideration of the facts relating to this lease is necessary in order to show the authority of the Millersport Bank Company, a corporation engaged in the banking business, to enter into this lease contract as the named lessee therein; for, ordinarily, a banking corporation would have no authority to take a lease of this kind for the purpose therein stated. However, in this connection, it appears that the lease in question is, as to the canal property therein described, a renewal of a lease executed by the State of Ohio through the then Superintendent of Public Works to one Cora B. Walters under date of October 1, 1923. The title and interest of Cora B. Walters in this lease passed by mesne assignments to a number of persons until on August 11, 1936, all of the interests demised by this lease with respect to Lot No. 3 of said spoil bank allotment passed to the Millersport Bank Company, which corporation, I am advised, acquired the title to the cottage and other buildings which had been constructed and erected upon this land. And it appears further, in this connection, that the only purpose of the Millersport Bank Company in taking the lease here in question is to protect its interests in the cottage and other structures on this Lot. I am of the view that the Millersport Bank Company was authorized to take a lease of this canal property for this purpose; and as to this, I assume that it is the intention of the officials of the Bank to hold this

lease until such time as they may be able to dispose of the cottage and other structures upon the Lot, and that at such time the Bank will assign the lease to the person or persons to whom the cottage and other structures are conveyed.

Upon examination of this lease I find that the same has been properly executed by you as Superintendent of Public Works acting for and on behalf of the State of Ohio, and by the Millersport Bank Company acting by the hand of its Cashier pursuant to the authority of the resolution of the Board of Directors of said Bank duly adopted under date of September 28, 1938.

Upon the consideration above noted, I am approving this lease as to legality and form as is evidenced by my approval indorsed upon the lease and upon the duplicate and triplicate copies thereon, all of which are herein enclosed. With this I am also enclosing a copy of the lease executed to Cora B. Walters, which lease is referred to in this opinion.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

3274.

STATUS—ABSTRACT OF TITLE AND OTHER INSTRUMENTS.
STATE OF OHIO, THROUGH THE OHIO STATE ARCHAEOLOGICAL AND HISTORICAL SOCIETY, DESCRIBED TRACT OF LAND, VILLAGE OF RIPLEY, BROWN COUNTY, OHIO, AL HATFIELD, GRANTOR, PROPOSED PURCHASE PRICE, \$5,000.00.

COLUMBUS, OHIO, November 19, 1938.

The Ohio State Archaeological and Historical Society, Ohio State Museum Building, Columbus, Ohio.

GENTLEMEN: You recently submitted for my examination and approval an abstract of title and supplement thereto, warranty deed, contract encumbrance record No. 24 and other files relating to a tract of land which is owned of record by one Al Hatfield in Union Township, Brown County, Ohio, and which is more particularly described as follows:

Beginning at a point in the Township Road, leading from Second Street, in the Village of Ripley, Ohio; thence S. 43° E., passing a stake at five (5) feet, 91.07 rods to a post; thence S.