

4856.

APPROVAL, NOTES OF LAFAYETTE-JACKSON RURAL SCHOOL DISTRICT, ALLEN COUNTY, OHIO—\$4,000.00.

COLUMBUS, OHIO, January 4, 1933.

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

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4857.

APPROVAL, NOTES OF McDONALD VILLAGE SCHOOL DISTRICT, TRUMBULL COUNTY, OHIO—\$15,000.00.

COLUMBUS, OHIO, January 5, 1933.

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

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4858.

APPROVAL, NOTES OF CLARK CONSOLIDATED RURAL SCHOOL DISTRICT, HOLMES COUNTY, OHIO—\$28,000.00.

COLUMBUS, OHIO, January 5, 1933.

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

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4859.

DISAPPROVAL, CONTRACT BETWEEN THE STATE OF OHIO AND ONE WILLIAM H. GOULD, TO DETERMINE THE BOUNDARY LINES OF LANDS IN THE VILLAGE OF HARBOR VIEW IN LUCAS COUNTY, OHIO.

COLUMBUS, OHIO, January 5, 1933.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of a recent communication with which you submit the form of a proposed contract to be entered into by and between one William H. Gould, who, it appears, is a State Agent in the Department of Public Works, and the several littoral owners of upland along the shore of Maumee Bay at or near the Village of Harbor View in Lucas County, Ohio. By this proposed contract, William H. Gould, as agent, in consideration of a certain compensation to be paid to him by the several littoral owners of upland property, which compensation is to be determined in the manner pro-

vided for in the contract, contracts and agrees, among other things, to determine the boundary lines of the property of the littoral owners "at approximately the line of the original land survey of 1834," and to procure from the State of Ohio a permit or lease of such rights as the State can legally give to the owner covering property lying between the owner's boundary line as re-established, and the line of navigation. By this proposed contract, it is provided that the same shall be effective only if the approval of the Director of Public Works of the State of Ohio is endorsed thereon. And you request my opinion as to your authority to approve this contract or to otherwise become a party to the contract.

If, as a matter of law, the question with respect to the title of submerged lands lying between the present shore line of Maumee Bay were one to be determined by conditions existing at the time the survey of the shore line of Maumee Bay was made by the Federal Government in 1834, or by conditions existing at some prior time, it might be a matter of considerable interest to the State of Ohio, acting through your department or some other authorized agency of the State government, to have the original boundary lines of the littoral owners determined and established. In such case, the question might be suggested with respect to the application of the provisions of section 13964, General Code, to the situation. This section, which was originally enacted under date of April 12, 1889, as an amendment to an act passed March 28, 1888, entitled "An Act to provide for a commission to establish the boundaries and lines of the canals, canal basins and reservoirs of the State," provides a method for the determination of the boundary lines of land claimed by the state which is in the possession and occupancy of any person or corporation claiming the ownership thereof. To my mind, it is more than doubtful whether the provisions of this section could in any event apply to the situation here presented. However, I do not find it necessary to pass on this question. Inasmuch as it appears from facts stated in other communications from your department to this office that the submerged lands lying between the present upland shore line of Maumee Bay at this point and the shore line of the bay as it existed in 1834 have been submerged by erosion, I am of the opinion that the State has title to the submerged lands of Maumee Bay below high water mark along the present shore line of the bay at this point, without reference to the shore line as it existed at the time when the government survey was made.

In this situation, it is not apparent how any interest of the state can be served by a determination of the shore line of Maumee Bay as it existed at the time of the government survey or at any prior time, and, for this reason, I am of the opinion that you have no authority to either approve or enter into the contract here in question.

In this connection, you will of course understand that I am not hereby intending to express any views with respect to the right of Mr. Gould as an individual to enter into any contract that may be agreed upon by and between him and any owner or owners of upland property at this point, for the purpose of determining the location of any line or lines in the bay which such property owners may deem to be material and important with respect to any right which such property owners may claim to have in and to any of the submerged lands of Maumee Bay.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*