

pass on the question, administrative officials have no other guide for their conduct than the statute itself.

I am therefore of the opinion that in the Second Appellate District, Section 3963, General Code, is unconstitutional and void. In the Eighth and Ninth Appellate Districts the statute is valid, and must be so administered. In the other six Appellate Districts, municipalities should look upon the statute in the light of the principle that statutes are presumed to be constitutional until held to be otherwise, and that until the Courts of Appeals of these several districts pass upon the question, municipal administrative officials in those districts should consider Section 3963, General Code, as being constitutional, and act accordingly.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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713.

APPROVAL, FINAL RESOLUTION ON EXTRA WORK CONTRACT—  
FAYETTE COUNTY.

COLUMBUS, OHIO, August 7, 1929.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

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714.

APPROVAL, TRANSCRIPT OF PROCEEDINGS FOR SALE OF ABANDONED MAD RIVER FEEDER CANAL LANDS IN THE CITY OF DAYTON, MONTGOMERY COUNTY—CITY OF DAYTON.

COLUMBUS, OHIO, August 7, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval certain findings and proceedings made and conducted by you in your official capacity as Superintendent of Public Works and as director of said department, relating to the sale of certain parcels of abandoned Mad River Feeder Canal Lands in the city of Dayton, Ohio, to said city; and with said findings and proceedings of your department you have likewise submitted for my examination and approval a form of a resolution to be adopted and signed by the Governor, the Attorney General and by you as Superintendent of Public Works of Ohio and as Director thereof, providing for and authorizing the sale of said property to the city of Dayton, Ohio, and authorizing and directing the execution by the Governor of a deed therefor.

The parcels of abandoned Mad River Feeder Canal Lands to which said findings, proceedings and resolution relate is hereby described as follows:

Commencing at a line drawn at right angles to S. A. Buchanan's transit line through Station 3 of his survey of the Mad River Feeder Canal in said city of Dayton, made under the direction of the State Board of Public Works in 1909, being at or near the point of divergence of said Mad River Feeder Canal from the main line of the Miami and Erie Canal in said city of Dayton, and extending thence southwesterly over and along said Mad River Feeder Canal, including the full width of the bed and embankments thereof, a distance of 6,697 lineal feet, more or less, to a line drawn through Station 69+97 of Buchanan's survey of said feeder, and at right angles to his transit line of said survey, and being at or near the junction of said Feeder Canal with the main Miami and Erie Canal, just south of Sixth Street in said city of Dayton, Ohio.

Also Lot No. 424, of Cooper's Addition to the city of Dayton, deeded by Louis Schenck of the State of Ohio by deed dated August 3rd, 1842, and recorded in Volume H-2, Page 114, of Montgomery County Deed Records.

Also a certain one and one-half (1½) acre tract of land on the southeasterly side of the Mad River Feeder Canal and west of Lock No. 21, numbering south from the Loramie Summit Level of the Miami and Erie Canal, that was deeded by D. Z. Cooper to the State of Ohio by deed dated December 21, 1824, and recorded in Volume U, pages 69 and 70, of Montgomery County Deed Records.

For additional description of the abandoned Mad River Feeder Canal lands to be conveyed to the city of Dayton, Ohio, reference is hereby made to Plats Nos. 203, 207-B, 211 and 212, of S. A. Buchanan's survey of the Mad River Feeder Canal Lands within the city of Dayton, Ohio, made under the direction of the Board of Public Works of Ohio in 1909, and now on file in the Department of Public Works, at Columbus, Ohio.

The findings and proceedings and resolution above referred to are made and had pursuant to the authority of an act of the General Assembly of the State of Ohio, passed April 4, 1927, and duly approved by the Governor, April, 1927 (112 O. L., p. 120)), which authorizes the Governor, the Attorney General and the Superintendent of Public Works of Ohio to sell at private sale to said city of Dayton, Ohio, so much of the Mad River Feeder Canal Lands within the limits of said city of Dayton, Ohio, as will be required or that will be helpful in any alteration or relocation of any street, alley or other public way, or any railroad or railroads, or for any other purposes in carrying out any scheme for the elimination of railway grade crossings or for the elevation of railway tracks within said city, and pursuant to the amendatory provisions of Senate Bill Number 63 passed by the 88th General Assembly of Ohio on the 6th day of April, 1929, which went into effect July 25, 1929.

An examination of the findings and proceedings of your department relating to the sale of the above described property to the city of Dayton, and the resolution to be signed by the Governor, the Attorney General and by you as Superintendent of Public Works of Ohio, authorizing and approving the sale of said property for the purchase price therein named, to-wit, the sum of \$225,489, shows said findings and proceedings and said resolution to be in conformity with the above noted statutory provisions authorizing and providing for the sale of this property, and in conformity with other related provisions of the General Code of Ohio pertaining to the sale of abandoned canal lands. I am therefore accordingly approving the said sale and the findings, proceedings and resolution above mentioned relating to the same as is evidenced by my approval endorsed upon the transcript of said findings, proceedings and resolution and upon the duplicate copy thereof.

With the transcript above mentioned, you likewise submit for my examination

and approval a deed form of a deed to be signed by the Governor, conveying the above described property to the city of Dayton. An examination of said deed shows that the same is in all respects in proper form with the exception that the sentence in the first paragraph of said deed with respect to the sale to the city of Dayton is not complete arising out of the fact that the words "canal lands" as used in said paragraph stands objectively to the predicate "to appraise" rather than to the predicate "sold." This can be corrected by striking out the words "to appraise" in the last line of the first paragraph of said deed as they appear after the terms "January, 1927." Assuming that this correction in the deed will be made, the deed is likewise approved as is evidenced by my approval endorsed thereon.

Respectfully,  
 GILBERT BETTMAN,  
*Attorney General.*

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715.

DISAPPROVAL, BONDS OF CITY OF YOUNGSTOWN, MAHONING  
 COUNTY—\$250,000.00.

COLUMBUS, OHIO, August 7, 1929.

Re: Bonds of city of Youngstown, Mahoning County, Ohio, \$250,000.00.

*Industrial Commission of Ohio, Columbus, Ohio.*

GENTLEMEN:—I have examined the transcript relative to the above bonds, which are part of an issue of street improvement bonds in the aggregate amount of \$493,-951.02. These bonds are issued in anticipation of the collection of assessments covering forty-four separate street improvements.

The proceedings toward the construction of the various improvements in question were commenced prior to July 10, 1927, the effective date of the Uniform Bond Act, and therefore, references herein to the sections of the General Code are to their provisions prior to amendment by the 87th General Assembly.

The portion of the transcript relating to the improvement of North Phelps street by paving refers to this improvement in the resolution of necessity as an improvement of North Phelps street from Woods street to Lincoln avenue by re-surfacing the same. The ordinance determining to proceed with this improvement describes the extent of North Phelps street to be improved in the same way as the ordinance of necessity, viz., from Woods street to Lincoln avenue. The notice published pursuant to the provisions of Section 3895, General Code, refers to the improvement as "Phelps Street resurfacing from Lincoln avenue to Rayen avonue." Following this publication, Ordinance No. 31602 levying special assessments for the improvement, refers to the street as Phelps street from Lincoln avenue to Rayen avenue. The publications of the ordinance levying special assessments accordingly refer to the improvement as Phelps street between Lincoln avenue and Rayen avenue. The transcript does not show that Woods street and Rayen avenue are the same street and it therefore appears that assessments have been levied for an improvement without the preliminary resolutions of necessity and determination to proceed having been passed. The bond resolution authorizes bonds in anticipation of the collection of assessments for the improvement of North Phelps street from Woods street to Lincoln avenue. The tabulation of assessments due upon which the amount of the bonds is computed, shows this improvement as North Phelps street from Woods street to Lincoln avenue. There