

has been placed by the courts in the hands of a receiver, such receiver having obtained the permission of the court appointing him, may receive the incidental benefits of Amended Senate Bill No. 200 of the regular session of the 90th General Assembly as amended by Substitute Senate Bill No. 53 of the first special session of the 90th General Assembly, provided all the other conditions as set forth in the law have been complied with.

I come now to your second question. It is obvious that when real property has been sold by the court by foreclosure order and is acquired by a person, company, bank, or building and loan company, such person, company, bank, or building and loan company is the "owner" thereof and is in the same category as any other owner of real property and hence is necessarily within the purview of the so-called "Housing Relief Act" (Amended Senate Bill No. 200 of the 90th General Assembly as amended by Substitute Senate Bill No. 53 of the first special session of the 90th General Assembly), and assuming all the conditions of the law have been complied with, with respect to the housing of an indigent family, such person, company, bank, or building and loan company is eligible to the incidental benefits of said Act.

Respectfully,

JOHN W. BRICKER,

Attorney General.

3400.

APPROVAL—BONDS OF ROME TOWNSHIP RURAL SCHOOL DISTRICT,
ATHENS COUNTY, OHIO, \$5,000 00.

COLUMBUS, OHIO, November 3, 1934.

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

3401.

APPROVAL—CERTAIN INDENTURE FOR THE TRANSFERRING TO
THE OHIO STATE ARCHAEOLOGICAL AND HISTORICAL SOCIETY
CERTAIN PARCELS OF CANAL LANDS IN LAWRENCE TOWNSHIP,
TUSCARAWAS COUNTY, OHIO.

COLUMBUS, OHIO, November 3, 1934.

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

DEAR SIR:—You have submitted for my examination and approval a certain indenture in triplicate in and by which, subject to the exceptions and conditions therein provided for, you have transferred to the Ohio State Archaeological and Historical Society certain parcels of canal lands, pursuant to the authority conferred upon you for this purpose by House Bill No. 278 enacted by the 90th General Assembly under date of April 13, 1933, 115 O. L. 208.

The parcels of abandoned canal lands here referred to are in Lawrence

Township, Tuscarawas County, Ohio, and the same, including the full width of the bed and banks thereof, all locks, basins, waste weirs, buildings and other structures appurtenant thereto, are more particularly described as follows:

PARCEL ONE.

Beginning at the southerly line, produced across said canal property, of Poplar Street in the village of Bolivar, said line crossing the transit line of the G. F. Silliman survey of said canal property, at or near Station 849, of said survey, and running thence southerly with the lines of said canal property 3.958 miles, as measured along the transit line of the said Silliman survey to Station 1058, as shown by plats Nos. 72 to 76, inclusive, of said survey. Excepting therefrom that portion of said canal property beginning at the southerly right of way line, produced across said canal property, of the Wheeling and Lake Erie Railroad, at or near Station 1023+86, and running thence southeasterly with the lines of said canal property, one thousand three hundred fourteen (1,314') feet, as measured along said transit line to Station 1037, of said survey, as leased to the Division of Conservation of the Department of Agriculture, under date of November 29, 1932, with the right of renewal of said lease.

PARCEL TWO.

That portion of the abandoned Ohio Canal property known as the Sandy and Beaver Canal, including the bed and embankment thereof and all devices connected therewith, beginning at the junction of said Sandy and Beaver Canal with the abandoned Ohio Canal at Station 853, of G. F. Silliman's survey of said Ohio Canal and running thence southeasterly with the lines of the said Sandy and Beaver Canal, ten hundred and fifty (1,050') feet, more or less, to Station 180 of the W. C. Rowe Survey of the said Sandy and Beaver Canal, said station 180 being approximately two hundred seventy (270') feet easterly from the easterly line of the Tuscarawas River.

Your authority to transfer these canal lands, which have been abandoned for canal purposes, is predicated under the provisions of the act of the 90th General Assembly, above referred to, upon your finding that this canal property "is worthy of preservation from a historical standpoint," which finding so made by you appears in this instrument. From the facts which have been presented to me, I am of the opinion that this finding so made by you is fully justified, inasmuch as it appears that the property transferred to the Ohio State Archaeological and Historical Society by this instrument is adjacent to and will constitute an enlargement of the site of Fort Laurens which was an outpost covering the advance of the American Forces against the British and Indians in this territory at the time of the Revolutionary War.

This indenture has been executed by you in your official capacity as Director of the Department of Public Works and the same has been accepted by H. C. Shetrone, Director of the Ohio State Archaeological and Historical Society, pursuant to the authority and direction of a resolution of the Board of Trustees of said Society. I have only two suggestions to make with respect to your execution of this instrument. Carrying out the provisions of the act of the legislature above referred to, it should affirmatively appear on the face of the instrument that you are executing the same as Superintendent of Public Works, as well as in your capacity as Director of said Department. Carrying out this

thought, you are advised that immediately under your signature the following should appear instead of the word "Director" now found therein, to wit, "Superintendent of Public Works and Director of said Department."

Although in and by the terms of this instrument, the property above described is transferred to the Ohio State Archaeological and Historical Society for a term of ninety-nine years, renewable forever, subject to the conditions of avoidance therein provided for, this instrument is not required to be acknowledged. However, your execution of this instrument should be witnessed and the signatures of two witnesses to your execution of this instrument should appear on the same.

Subject to the corrections with respect to the execution of this instrument above noted, the same is hereby approved, as is evidenced by my approval endorsed upon the instrument and upon the duplicate and triplicate copies thereof.

Respectfully,

JOHN W. BRICKER,
Attorney General.

3402.

GOVERNOR—MAY ISSUE PARDON RELEASING PERSON FROM FINE AND COSTS AS WELL AS IMPRISONMENT.

SYLLABUS:

The Governor, by virtue of section 11 of Article III of the Ohio Constitution, may issue a pardon which releases a person from payment of a fine and the cost of prosecution as well as from any imprisonment.

COLUMBUS, OHIO, November 5, 1934.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your request for my opinion, which reads as follows:

"Prior to January, 1932, a defendant was sentenced by the Probate Court for violation of the liquor law to pay a fine and costs, and was committed to jail until the fine and costs were paid or secured to be paid.

Some time later, a note and mortgage were given to secure the payment of the fine and costs, whereupon the defendant was released from the jail.

Later, under date of July 17, 1934, the Governor pardoned this defendant.

QUESTION: May the Probate Judge release the mortgage, thereby releasing payment of the fine and costs?

We are enclosing herewith a copy of the Governor's pardon."

Section 11 of Article III of the Ohio Constitution, relative to the powers of the Governor, reads in part as follows: