

year 1928 as shown by the duplicate in the office of the auditor of Lawrence County was \$633,900.00. Section 2293-15, General Code, 112 O. L. 370, insofar as is pertinent, provides:

“The net indebtedness created or incurred by any school district without a vote of the people shall never exceed one-tenth of one per cent of the total value of all property in such school district as listed and assessed for taxation.”

This section further provides certain bonds which shall not be considered in ascertaining the limitations of indebtedness provided therein, none of which appear to be applicable to this issue. It is manifest that under the provisions of Section 2293-15, supra, the board of education of this district may not authorize bonds for the purposes set forth in an amount exceeding \$633.90.

In view of the foregoing, I am of the opinion that the above issue of bonds, having been authorized without a vote of the people in an amount in excess of the limitation provided in Section 2293-15, General Code, is invalid, and I accordingly, advise you not to purchase these bonds.

Respectfully,
 GILBERT BETTMAN,
Attorney General.

1353.

DISAPPROVAL, SIXTY LEASES TO RESERVOIR LANDS PLACED UNDER JURISDICTION OF COMMISSIONER OF CONSERVATION BY AMENDED SENATE BILL NO. 131.

COLUMBUS, OHIO, December 31, 1929.

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

DEAR SIR:—Some time ago you submitted for my examination and approval certain reservoir land leases in triplicate, sixty in number, by which there were leased and demised to the respective lessees therein named, parcels of reservoir lands particularly described in said several leases. The leases here in question, designated with respect to the several lessees therein named, the reservoir lands leased and the valuations of the parcels are as follows:

| <i>Lessee</i> | <i>Location</i> | <i>Valuation</i> |
|------------------------------|------------------|------------------|
| Geo. L. Fink, et al., | Indian Lake..... | \$466 67 |
| O. E. Freeman, et al., | Indian Lake..... | 866 67 |
| Anabel Hill, | Indian Lake..... | 666 67 |
| J. Frank Leatherman, et al., | Indian Lake..... | 833 34 |
| J. Frank Leatherman, et al., | Indian Lake..... | 766 67 |
| J. Frank Leatherman, et al., | Indian Lake..... | 300 00 |
| J. Frank Leatherman, et al., | Indian Lake..... | 366 67 |
| Ruth A. Mack, | Indian Lake..... | 100 00 |
| Mrs. Sarah R. Marshall, | Indian Lake..... | 200 00 |
| Fred Rentz, | Indian Lake..... | 400 00 |
| E. C. Ring, et al., | Indian Lake..... | 1,383 33 |
| Mrs. Jean F. Thomas, | Indian Lake..... | 816 67 |

| <i>Lessee</i> | <i>Location</i> | <i>Valuation</i> |
|---|-----------------|------------------|
| Elizabeth Walther, Indian Lake..... | | \$466 67 |
| Mrs. Lily Fidler, Indian Lake..... | | 1,200 00 |
| Lester Newland, Indian Lake..... | | 350 00 |
| Dan S. O'Dea, Indian Lake..... | | 100 00 |
| W. B. Randall, Indian Lake..... | | 100 00 |
| Maxel S. Raymond, Indian Lake..... | | 800 00 |
| S. J. Schwarzwald, Indian Lake..... | | 100 00 |
| Morris Stine, Indian Lake..... | | 200 00 |
| E. W. Stumpp, Indian Lake..... | | 1,600 00 |
| Rachel A. Berry, et al., Indian Lake..... | | 566 67 |
| Louis Burkhardt, Indian Lake..... | | 716 67 |
| Sidney R. Courtad, Indian Lake..... | | 916 67 |
| J. W. Custenborder, Indian Lake..... | | 350 00 |
| Glenn A. Dakin, Indian Lake..... | | 750 00 |
| Glenn A. Dakin, Indian Lake..... | | 733 34 |
| Dr. George Davis, Indian Lake..... | | 933 34 |
| Mrs. Loretta W. Downing, Indian Lake..... | | 683 33 |
| Mrs. Louise Earl, Indian Lake..... | | 400 00 |
| Mrs. Louise Earl, Indian Lake..... | | 600 00 |
| Mrs. Louise Earl, Indian Lake..... | | 466 67 |
| Charles Folsom, Indian Lake..... | | 350 00 |
| Geneva Helmstetter, et al., Indian Lake..... | | 366 67 |
| Frank Hoberhauer, Indian Lake..... | | 500 00 |
| W. J. Kinstle, Indian Lake..... | | 616 67 |
| C. T. Kolter, Indian Lake..... | | 616 67 |
| Fred L. Kolter, et al., Indian Lake..... | | 500 00 |
| F. F. Kolter, Indian Lake..... | | 1,166 67 |
| Emma Nagel, Indian Lake..... | | 666 67 |
| Mrs. Mary Schohl, Indian Lake..... | | 466 67 |
| Earl H. Summers, et al., Indian Lake..... | | 200 00 |
| B. C. Wallace, et al., Indian Lake..... | | 566 67 |
| P. Walther, et al., Indian Lake..... | | 700 00 |
| Mrs. Mary Darragh, Lake St. Marys..... | | 200 00 |
| The Central Savings & Trust Company, et al., Portage Lakes..... | | 400 00 |
| V. E. McCormish, Portage Lakes..... | | 200 00 |
| B. S. Edwards, Lake Loramie..... | | 600 00 |
| Wm. Koverman, Lake Loramie..... | | 1,666 67 |
| Edward C. Luthman, Lake Loramie..... | | 1,500 00 |
| J. M. Morgan, Lake Loramie..... | | 600 00 |
| Mrs. Ella A. Harlow, Buckeye Lake..... | | 500 00 |
| Miss Mary Marzetti Buckeye Lake..... | | 100 00 |
| Mrs. Effie Seipel, Buckeye Lake..... | | 500 00 |
| John A. Wenger, Buckeye Lake..... | | 200 00 |
| Russell T. Wenger, Buckeye Lake..... | | 200 00 |
| Charles Bristol, Indian Lake..... | | 1,666 67 |
| Nathan Coon, Indian Lake..... | | 833 34 |
| Nathan Coon, Indian Lake..... | | 1,000 00 |
| H. L. Johnston, Indian Lake..... | | 100 00 |

The leases here in question were executed by you pursuant to the assumed authority of Sections 464 and 471 of the General Code, as the sections read prior to the effective date of amended Senate Bill No. 131, which was passed April 5, 1929, ap-

proved by the Governor April 25, 1929, and which went into effect on the 25th day of July, 1929. (113 O. L. 551).

Prior to the enactment and effective date of the act of the General Assembly, above referred to, you had under Section 464, General Code, all the powers and duties with respect to the lease or sale of canal or other state lands theretofore conferred by law upon the Ohio Canal Commission.

Section 471, General Code, had application to state lands in, or adjacent to Buckeye Lake, Indian Lake, Lake St. Marys and the Portage Lakes; and it was provided therein that such lands should not be sold, but that the Superintendent of Public Works might lease such lands, including marginal strips and marsh lands around said lakes, the outer slopes of artificial embankments, islands, borrow pits and state lands adjacent thereto as he might deem proper under the laws governing the leasing of canal lands.

By the act of the General Assembly above referred to, which was an act creating the Conservation Council and the office of Conservation Commissioner, and transferring certain functions of the Department of Public Works to the Conservation Council and Conservation Commissioner, Section 464, General Code, was amended so as to except state reservoir lands dedicated as public parks and other resorts from the canal lands which the Superintendent of Public Works has authority to lease and sell under said section; and Section 471, General Code, was amended so as to provide that the Conservation Commissioner may lease said lands in or adjacent to Buckeye Lake, Indian Lake, Lake St. Marys, Guilford Lake or Portage Lakes. By said act original Sections 464 and 471, General Code, were repealed.

Upon receipt of the leases here in question, all of which were executed by you, as Superintendent of Public Works after the effective date of said amended Senate Bill No. 131, said leases were held by me without action thereon for the reason that the question had been raised by you with respect to the constitutionality of amended Senate Bill No. 131, in so far as said act affected the jurisdiction, powers and duties of the Superintendent of Public Works with respect to state reservoirs and state reservoir lands as public works of the state.

It was my expectation that this question would be presented to the court for determination as soon as the Conservation Council and the Conservation Commissioner took over the powers and duties conferred and imposed upon them with respect to state reservoirs and state reservoir lands by the provisions of said act. As you were advised at the time, I expected to assist in the presentation of this question to the court, both personally and through the assistance of designated counsel on my office staff. Neither the Conservation Council nor the Conservation Commissioner up to this time have attempted to take over or exercise any of the powers and duties with respect to state reservoirs and state reservoir lands; the constitutionality of said act of the General Assembly with respect to the matters above indicated has not been presented to the court. In this situation conformable to the uniform policy that has governed this office in its attitude toward laws duly enacted by the General Assembly, I am required to assume that the provisions of the Conservation Act are constitutional. Assuming the constitutionality of said act and of the provisions thereof, it appears that by reason of the amendments to Sections 464 and 471, General Code, in the manner above pointed out, you as Superintendent of Public Works, had no authority to execute said leases, and the same are, for this reason, returned to you without my approval endorsed thereon.

Respectfully,
GILBERT BETTMAN,
Attorney General.