

4071.

APPROVAL, RIGHT OF THE OHIO REVOLUTIONARY MEMORIAL COMMISSION TO ACCEPT THE SITE OF OLD FORT RECOVERY AS A GIFT FROM INTERESTED CITIZENS OF THAT LOCALITY.

COLUMBUS, OHIO, February 19, 1932.

HON. A. D. HOSTERMAN, *Chairman, Ohio Revolutionary Memorial Commission, Springfield, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of your recent communication in which you advise that a number of citizens of Fort Recovery desire to acquire and to thereafter convey to or for the use of the state of Ohio, by way of donation, the actual site of Old Fort Recovery; and you inquire as to the authority of the Ohio Revolutionary Memorial Commission to accept this conveyance for the state.

The question presented in your communication requires a consideration of the provisions of an act of the legislature enacted by the 88th General Assembly, 113 O. L. 547. This act provides for the creation of the Ohio Revolutionary Memorial Commission, and defines the powers and duties of said commission.

Stated in general terms, the primary duty of the Ohio Revolutionary Memorial Commission, as prescribed by said act, is to mark by means of bronze tablets, monuments, statues and other means, historical sites in the state of Ohio of the Revolutionary War and the War of 1812. By section 3 of said act, the authority of the commission is extended so as to include, where reasonably practicable, historical sites of importance not connected with said two periods above mentioned.

The site of Old Fort Recovery, which is located in Mercer County, near the Indiana line, has its historical interest in the Indian Wars which followed the Revolutionary War and which preceded the War of 1812. It follows, therefore, that if the commission deems it reasonably practicable to do so, it may include the site of Old Fort Recovery as one of the sites to be marked by it in the manner provided by section 3 of the act of the legislature, above noted.

With respect to the authority of the Ohio Revolutionary Memorial Commission to acquire historical sites of the kind referred to in this act, it is noted that section 6 of the act provides that the commission is authorized to purchase real estate for sites for the monuments, statues and memorials authorized by section 3 of the act, above referred to. As a provision immediately applicable to the question presented in your communication, the following language of section 8 of the act is noted:

“The commission is empowered to receive in the name of and for the state of Ohio, gifts and contributions, for the purposes of this act, of real or personal property, including articles of historical or archaeological interest, money and services.”

Upon consideration of the provisions above quoted, found in the act of the General Assembly above noted, I am of the opinion that the Ohio Revolutionary Memorial Commission may, by resolution of said body, accept for and on behalf of the state of Ohio a conveyance of the site of Old Fort Recovery as a gift from interested citizens of that locality, if the commission finds that the site in question is one of historical importance and that it is reasonably practicable to acquire the site for the purpose of having the same marked in the manner provided by

section 3 of said act. I am inclined to the view, however, that the conveyance of this site, when made, should be to the state of Ohio as the named grantee in the deed of conveyance.

The conclusions above stated have been reached upon the assumption that the Ohio Revolutionary Memorial Commission is still in existence and that nothing has been done to terminate the functions of the commission under section 8 of the act which provides that upon completion of the work authorized by said act the functions of the commission shall cease, and it shall make full report of its doings to the governor, and deliver all property, however acquired, into the custody of the Ohio State Archaeological and Historical Society, which is thereafter required to care for such property.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4072.

APPROVAL, LEASE FOR RIGHT TO USE FOR DOCKLANDING AND WALKWAY PURPOSES, WATER FRONT AND STATE LAND AT PORTAGE LAKES, SUMMIT COUNTY, OHIO—A. H. PALMER.

COLUMBUS, OHIO, February 19, 1932.

HON. I. S. GUTHERY, *Director, Department of Agriculture, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of a recent communication from the Division of Conservation in your department submitting for my examination and approval a certain reservoir land lease in triplicate, executed by the Conservation Commissioner to one A. H. Palmer of Akron, Ohio, and by the terms of which there is leased and demised to the lessee above named, for a term of fifteen years, the right to use and occupy for docklanding and walkway purposes the water front and state land in the rear thereof, that lies immediately in front of lot No. 243 of Maple Beach Addition, Portage Lakes, and being in section 13, Coventry Township, Summit County, Ohio.

Upon examination of this lease, which is one calling for an annual rental of six dollars (\$6.00), I find that the same has been properly executed by the Conservation Commissioner, acting on behalf of the State of Ohio, and by A. H. Palmer, the lessee therein named.

The lease here in question is one executed by the Conservation Commissioner under authority of section 471, General Code, and upon examination of the terms and provisions of this lease, I find the same to be in conformity with the provisions of said section and with other statutory provisions relating to leases of this kind.

I am accordingly approving this lease as to legality and form, and the same together with the duplicate and triplicate copies thereof are herewith returned with my approval endorsed thereon.

Respectfully,

GILBERT BETTMAN,
Attorney General.