

164.

APPROVAL, LEASE FOR RIGHT TO USE WATER TAKEN FROM SUMMIT LAKE OF THE OHIO CANAL, IN THE CITY OF AKRON, SUMMIT COUNTY—THE B. F. GOODRICH COMPANY.

COLUMBUS, OHIO, March 7, 1929.

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

DEAR SIR:—You have submitted for my examination and approval a certain lease in triplicate executed by the State of Ohio, through you as Superintendent of Public Works, and as Director thereof, by which there is granted to The B. F. Goodrich Company, of Akron, Ohio, the right to use a minimum of 4,500,000,000 gallons of water annually for a term of twenty-five years, such water to be taken from Summit Lake of the Ohio canal, in the city of Akron, Summit County, Ohio.

From a careful examination of the provisions of said lease, it appears that said lease is in all respects in conformity with the provisions of Sections 14009 and 14012, General Code, relating to the execution of leases of this kind. I am, therefore, approving said lease as to legality and form.

In approving said lease I am assuming that the use by The B. F. Goodrich Company of the water provided for by the lease will in no wise interfere with any water rights of the city of Akron granted to said city by the provisions of Sections 14203-1, 14203-2 and 14203-3 of the General Code. I also assume that the use of the water provided for by this lease will not be needed by the state for the maintenance of state reservoirs, public parks and pleasure resorts, as provided for by Section 14011, General Code.

Section 14009, General Code, above referred to, provides that all rentals in water leases of this kind shall be fixed by the Superintendent of Public Works with the approval of the Governor and Attorney General. The rentals provided by the lease here under consideration are $3\frac{1}{2}$ mills per one thousand gallons of water used for the first twelve and one-half years of the term of said lease, and 4 mills per thousand gallons for the second twelve and one-half years of the term of the lease. The lease further provides that approximately 85% of all water pumped by the lessee from Summit Lake and from the Ohio canal shall be returned uncontaminated and undiminished to the Summit Level of the Ohio canal. I am advised by your department that the lease here in question is a renewal of an existing lease held by The B. F. Goodrich Company for the use of waters of the state at this same place and that the rental provided for in said prior lease is 3 mills per thousand gallons for water used by said company. From an official report of the Superintendent of Public Works to the Governor, under date of December 12, 1914, it appears that some time prior to said date a survey was made under the supervision of Professor C. E. Sherman, head of the engineering department of Ohio State University, with a view of establishing a scientific basis for the determination of the proper rentals to be charged by the state for the use of water from the Summit Level. By the survey so made it was determined that a just and equitable rate for such water was 6 mills per thousand gallons for water taken from the canal and not returned, and 3 mills per thousand gallons for water used and returned to the canal. It was there further determined that this charge would cover the cost of maintenance and afford a return of 6% on the value of the property used.

I am advised by you that the rates provided for in the lease here under consideration were fixed pursuant to agreement between you and the lessee company after extended negotiations with respect to this matter. Aside from the natural inclination which I have to defer to your judgment finding and determination with respect to a

question of this kind, I have no reason to question the correctness of the figures arrived at by you as to rates to be charged the lessee company for the water to be used by it under this lease. The rentals provided for in said lease are, therefore, hereby approved.

My approval of this lease indicated in the foregoing opinion is likewise noted by endorsement on said lease and the duplicate and triplicate copies thereof, which are herewith returned.

Respectfully,
GILBERT BETTMAN,
Attorney General.

165.

APPROVAL, NOTES OF URBANA CITY SCHOOL DISTRICT, CHAMPAIGN COUNTY—\$75,000.00.

COLUMBUS, OHIO, March 7, 1929.

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

166.

APPROVAL, NOTES OF NEW BREMEN VILLAGE SCHOOL DISTRICT, AUGLAIZE COUNTY—\$80,000.00.

COLUMBUS, OHIO, March 7, 1929.

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

167.

MINOR—JUDGMENT OF FOREIGN COURT REMOVING DISABILITY—NOT EFFECTIVE IN OHIO TO LEGALIZE SAID MINOR'S DEED OF CONVEYANCE—SECTION 8516, GENERAL CODE, INAPPLICABLE.

SYLLABUS:

A judgment and decree of a court of competent jurisdiction in another state, removing the disability of a minor residing and domiciled in such state, pursuant to the statutory law there, does not of its own force operate in this state so as to confer capacity in such minor to execute an indefeasible deed conveying lands in this state.

The provisions of Section 8516, General Code, are held not to be applicable for the reason that the deed in question was not executed by said minor in the state where such judgment removing his disability as an infant was rendered.