

Upon examination of this lease, I find that the same has been properly executed by you as Conservation Commissioner and by C. A. Stubbs, the lessee therein named. I further find, from an examination of the provisions of this lease and of the conditions and restrictions therein contained, that the same are in conformity with section 471 and other sections of the General Code relating to leases of this kind.

I am accordingly approving this lease, as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5749.

APPROVAL—LEASE TO CANAL LAND IN DOVER TOWNSHIP, TUSCARAWAS COUNTY, OHIO, TO THE PENNSYLVANIA RAILROAD COMPANY.

COLUMBUS, OHIO, June 26, 1936.

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: This is to acknowledge the receipt of your recent communication under date of June 24, 1936, with which you submit for my examination and approval a canal land lease in triplicate executed by Hon. T. S. Brindle, your immediate predecessor in office, to The Pennsylvania Railroad Company.

By this lease, which is one for a stated term of ninety years and which provides for the payment of an annual rental of \$30.00 during the first fifteen-year period of the term of the lease, there is leased and demised to The Pennsylvania Railroad Company the right to occupy and use for railway right-of-way purposes that portion of the abandoned Ohio Canal property situated in Dover Township, Tuscarawas County, Ohio, and more particularly described by metes and bounds as follows:

Being the westerly part of the old winding basin of said canal at Blicktown, Dover Township, Tuscarawas County, beginning at a point in the westerly line of said canal property that is north 80° 44' west, 130.81 feet from Station 1619+85.05, of the G. F. Silliman Survey of said canal property, and running thence north 3° 3' 24" west with said westerly line 187.92 feet

to a point that is 148.5 feet westerly from Station 1618, as measured at right angles to the transit line of the said Silliman survey; thence north 4° 31' 02" west, with the said westerly line 308.91 feet to a point that is 222.1 feet westerly from Station 1615, as measured at right angles to said transit line; thence north 66° 3' 44" east, 69.3 feet to a point that is 164.12 feet westerly from Station 1614+62.05, as measured at right angles to said transit line; thence south 3° 10' west, 524.51 feet, to the place of beginning and containing 0.3545 acres, as shown by blue-print hereto attached.

This lease was the subject of consideration by me in Opinion No. 5505 directed to you under date of May 12, 1936. As the lease was submitted to me at that time the same was disapproved specifically for the reason that although the law under which this lease was executed, 114 O. L., 541, 543 (Sec. 1423-97, G. C.), authorized the Superintendent of Public Works to execute a lease of this property for a term of ninety years, subject to revaluation at the end of each fifteen-year period of the term of the lease, as is provided for by this lease, it did not appear that, considering the lease as a contract, there was a meeting of the minds of the parties with respect to the term of the lease. In other words, and more specifically, it appeared from the resolution of the Board of Directors of The Pennsylvania Railroad Company that the only lease of this property which its officers were authorized to execute on its behalf as the named lessee therein was a lease for a term of ninety-nine years, subject to reappraisal at the end of each fifteen-year period.

No other legal infirmity was noted in the lease, and the suggestion was made to you in the opinion of this office above referred to that if the Board of Directors of The Pennsylvania Railroad Company by proper action saw fit to ratify the act of the officers of the company in executing this lease for a term of ninety years, subject to reappraisal at the end of each fifteen-year period, no reason was apparent why the lease should not be approved by me. With and as a part of this lease, as the same is now submitted to me, there appears a copy of a resolution of the Board of Directors of The Pennsylvania Railroad Company adopted under date of June 10, 1936, approving the execution of this lease on the property above described for a term of ninety years at a rental of thirty dollars per annum during the first fifteen years, with the provision that the rental shall be subject to revision at the end of each fifteen-year period upon the terms and conditions set forth in the lease. Accepting the action of the Board of Directors of The Pennsylvania Railroad Company, as the lessee named in this instrument, as a ratification and approval of the lease as the same was executed by the Superintendent of Public Works and by the

authorized officers of The Pennsylvania Railroad Company, this lease is approved by me as to legality and form, as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5750.

PARKING METERS—MUNICIPALITY MAY LEGALLY INSTALL SAME—MAY NOT BE PURCHASED ON INSTALLMENT PLAN, PAYABLE FROM RECEIPTS OF SAME—MAY NOT BE PAID FOR FROM GASOLINE TAX FUND.

SYLLABUS:

1. *A municipality may legally purchase and install parking meters along the curb lines of a street for the purpose of regulating and controlling the parking of automobiles on such street, and may require that the person parking his automobile at designated places on such street pay a fee which is reasonably commensurate with the cost of enforcing such parking ordinance.*

2. *A municipality may not legally enter into an arrangement with a manufacturer whereby the manufacturer installs the parking meters, allowing the municipality a percentage of the revenue therefrom, and retains the balance until the total cost of the meters has been earned, at which time the title to the meters is transferred to the municipality.*

3. *A municipality may not legally use its proportion of the motor vehicle license tax and the gasoline tax receipts for the purchase and installation of such parking meters.*

COLUMBUS, OHIO, June 26, 1936.

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:

“We have been requested to submit questions to you relative to the legal authority of municipal corporations to install meters along the curbs for the purpose of traffic regulation and parking control of automobiles. We are inclosing for your information a pamphlet describing the meters manufactured by one concern.