

"The proceeds of the gasoline tax levied under the provisions of Section 5541, General Code, and expended under the authority of Section 5541-8, General Code, may be used for the construction of new bridges upon public roads and highways in the county system of highways."

In the present situation, the township trustees propose to build the abutments. The abutments are as much a part of the bridge as the superstructure. They are as necessary as the actual road surface over which the vehicular traffic passes. An abutment is defined in 1 Corpus Juris 377, as "a part of a bridge, consisting of that mass of stone or solid work at the end of the bridge by which the extreme arches or timbers are sustained". The Supreme Court of Vermont in the case of *Bardwell vs. Jamaica*, 15 Vt. 438, held, as disclosed by the first branch of the syllabus:

"An abutment to a bridge, as matter of description, is part of the bridge; and when a declaration alleged an injury to have been occasioned by the insufficiency of a bridge, and the proof was, that the defect and insufficiency was in the abutment—*Held* that this was not such a variance as to be ground for reversing the judgment."

The court at page 442 said:

"The abutment, in the sense in which the term is, ordinarily, used, is a part of the bridge. The abutment has such an immediate connexion with the other parts of the bridge, that, in speaking of a bridge, in connexion with the use for which bridges are erected, we can no more exclude the abutment from our minds than the flooring, or the framework, of the bridge."

To the same effect, see the case of *Freeholders of Sussex vs. Strader*, 18 N. J. L. 108.

In view of the above and in specific answer to your question, it is my opinion that township trustees may legally expend gasoline tax funds for the construction of abutments for a bridge upon a public road or highway within the township.

Respectfully,

JOHN W. BRICKER,
Attorney General.

1386.

APPROVAL, LEASE TO CANAL LANDS IN OXFORD TOWNSHIP,
COSHOCKTON COUNTY, OHIO, FOR RIGHT TO OCCUPY AND USE
FOR COTTAGE SITE AND AGRICULTURAL PURPOSES—C. E.
WALKENSPAU.

COLUMBUS, OHIO, August 11, 1933.

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

DEAR SIR:—This is to acknowledge the receipt of your recent communication submitting for my examination and approval, a certain Canal Land Lease in tripli-

cate, executed by you, in your official capacity as Superintendent of Public Work, and Director of said Department, to one C. E. Walkenspau of Newcomerstown, Ohio. This lease is one for a stated term of 15 years and provides for an annual rental of \$9, payable in semi-annual installments, and by the provisions of the same, there is leased and granted to the above named lessee, the right to occupy and use for cottage site and agricultural purposes, that portion of the Ohio Canal Lot including the full width of the bed and embankment thereof, located in Oxford Township, Coshocton County, Ohio, and described as follows:

Beginning at a line drawn at right angles to the transit line of the G. F. Stillman survey through Station 3169, and running thence south-westerly with the lines of said canal property, one hundred (100') feet, to a line drawn at right angles through Station 3170; reserving therefrom any portion of the above described property that may be occupied by the Public Highway.

This lease is one executed by you under the authority conferred upon you by Amended Substitute Senate Bill No. 72, enacted by the 89th General Assembly, 114 O. L., 541. This act which provides for the abandonment of the Ohio Canal in Tuscarawas, Coshocton, and Muskingum Counties, provides for certain priorities with respect to the right to take leases of Ohio Canal Lands abandoned by the provisions of this Act. It does not appear that C. E. Walkenspau, the lessee named in this lease, is within the class of persons having priorities with respect to the lease of the above described parcel of abandoned Ohio Canal Lands. In approving this lease, I am assuming, therefore, that all persons, corporations and political sub-divisions having priorities with respect to the lease of the parcel of land here in question, have waived their rights by failing to make application for the lease of this property within the time prescribed in said Act.

With these assumptions, and finding, as I do, that the lease has been properly executed by you and by the lessee above named, and that the provisions of this lease and all of the conditions and restrictions therein contained are in conformity with the Act of the Legislature above referred to, and with other statutory enactments relating to cases of this kind, I am hereby approving this lease 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.

1387.

APPROVAL, LEASE TO CANAL LANDS IN MADISON TOWNSHIP,
MUSKINGUM COUNTY, OHIO, FOR RIGHT TO OCCUPY AND USE
FOR AGRICULTURAL AND RESIDENCE PURPOSES—WILMER R.
RANGLES AND LORENA RANGLES. ¶

COLUMBUS, OHIO, August 11, 1933.

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

DEAR SIR:—You have submitted for my examination and approval a certain