

2. Annie E. Armstrong (M&E Lease No. 58), current rental reduction from November 1, 1935, to November 1, 1936, from \$72.00 to \$54.00.

3. The Cincinnati and Lake Erie Railroad Company (M&E Lease No. 257), reduction of current rental from November 1, 1935, to November 1, 1936, from \$842.95 to \$674.36.

4. Louise Ernst (M&E Lease No. 402), reduction of current rental from November 1, 1934, to November 1, 1935, from \$120.00 to \$90.00, and reduction of delinquent rental from November 1, 1933, to November 1, 1934, from \$120.00 to \$90.00.

In each of the applications filed with the Superintendent of Public Works by the respective lessees above named, certain reasons have been set out for the reduction of the rentals therein requested. Assuming that in each case your department made the investigation contemplated by the act of the legislature which authorizes and provides for proceedings of this kind, the findings made by you with respect to the reductions in current and delinquent rentals accruing under these leases are approved as is evidenced by my approval endorsed upon the resolution which accompanies each of these findings and upon the copies thereof, all of which, together with said findings and the applications made by the several lessees, are herewith enclosed.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5505.

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

COLUMBUS, OHIO, May 12, 1936.

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

DEAR SIR: You have submitted for my examination and approval a canal land lease in triplicate, executed by Honorable T. S. Brindle, your predecessor in office, as Superintendent of Public Works and as Director of said Department, to the Pennsylvania Railroad Company. By this lease, which is one for a stated term of ninety (90) years and which provides for an annual rental of \$30.00 during the first fifteen-year period of the term of the lease and which is subject to reappraisal at the end of each fifteen-year period during 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 a parcel of abandoned Ohio Canal property located in Dover Township, Tuscarawas County, Ohio, containing 0.3545^o acres of land and which is more particularly described by metes and bounds in this lease.

As above noted, this lease is one for a stated term of ninety (90) years subject to reappraisal at the end of each fifteen-year period and, in this connection, it is recited in the lease that the same is made under the terms of an act of the 89th General Assembly, 114 O. L., 541, 543 (Section 14203-97, General Code). This act, which is one providing for the abandonment for canal purposes of that portion of the Ohio Canal situated in Tuscarawas, Coshocton and Muskingum Counties, Ohio, does not expressly and by its own language prescribe the term or terms of leases executed under its authority. In this connection, the act of the 89th General Assembly, above referred to, refers to certain sections of an earlier act of the legislature providing for the abandonment for canal purposes of that part of the Ohio Canal which is situated in Stark County, Ohio, as such sections appear in the General Code; and among the sections thus referred to is Section 14203-65, General Code, which provides that the term of leases executed under its provisions may be for fifteen (15) years and multiples thereof.

It appears, therefore, that the Superintendent of Public Works was authorized to execute a lease of this parcel of land to the Pennsylvania Railroad Company for a period of ninety (90) years. As before noted, this lease was executed on behalf of the State of Ohio by your immediate predecessor in office as Superintendent of Public Works and as Director of said department; and it further appears that the lease was executed by and on behalf of the Pennsylvania Railroad Company, the lessee therein named, by the hands of its Vice-President and Secretary. It has been a uniform requirement of your department and of this office, as well, that all leases of canal lands owned by the State shall be signed by the lessee therein named as well as by the Superintendent of Public Works acting on behalf of the State of Ohio. Likewise it has been a uniform requirement of your department and of this office as to leases executed by corporations that the authority of the officer or officers of the corporation signing the lease on behalf of the corporation should be evidenced by a copy of a resolution of the Board of Directors of the corporation authorizing and directing the execution of the lease on its behalf, which copy is to be attached to and made a part of the lease. Attached to this lease and made a part thereof is a copy of a resolution of the Board of Directors of the Pennsylvania Railroad Company adopted under date of December 20, 1934. By this resolution the Board of Directors of the Railroad Company authorized the execution of a lease to it of the parcel of abandoned Ohio Canal Lands, above referred to, for a term of ninety-nine

(99) years from November 1, 1934; and, in this connection, it is noted that the application made by the Railroad Company for a lease of this property provides that said application is made "for a lease for a term of ninety-nine (99) years, subject to reappraisal at the end of each fifteen-year period." Inasmuch as the officers of the Pennsylvania Railroad Company who signed this lease for it had no authority to execute a lease of this property to it as lessee otherwise than in accordance with the directions of the Board of Directors of the Railroad Company evidenced by the resolution of the Board, above mentioned, it follows that the officers of the Railroad Company signing this lease had no authority to execute a lease on behalf of the Railroad Company as lessee for a term of ninety (90) years. And the validity of this conclusion is not affected by the fact that there was and is no authority under the laws of this state for the execution of a lease on this property to this railroad company or to any other named lessee for a term of ninety-nine (99) years.

No other legal infirmity is noted in this lease and if the Board of Directors of the Railroad Company by proper action see fit to ratify the act of the officers of the company in executing this lease as the same has been written, no reason is seen why this lease should not be approved by me. However, until this is done and proper evidence of such ratification is presented and made a part of the lease, I do not feel that I am authorized to approve this lease. I am accordingly returning this lease without my approval endorsed thereon, trusting that the lease will soon be re-submitted in such form as will permit my approval of the same.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5506.

SHARES OF STOCK IN DOMESTIC CORPORATION—OWNED
BY FOREIGN CORPORATION DOING BUSINESS IN OHIO
—INCLUDED IN COMPUTATION OF FRANCHISE TAX OF
FOREIGN CORPORATION.

SYLLABUS:

The issued and outstanding shares of stock of an Ohio corporation, all of which shares of stock are owned by a foreign corporation doing business in this state, have a situs in this state for purposes of franchise taxes to be paid by such foreign corporation, and the value of such shares of stock may be included as the property of the foreign corporation in determining the amount of franchise taxes to be paid by it in this state.