

be written into the body of the lease immediately following the name of E. J. Weber as therein written. And acting under the assumption that this correction will be made, said lease is hereby approved by me 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,

HERBERT S. DUFFY,

*Attorney General.*

2304.

APPROVAL—PROPOSED SALE AND CONVEYANCE TO WALTER BORRESON, LOCKLAND, OHIO, PARCEL, ABANDONED MIAMI AND ERIE CANAL LANDS, CINCINNATI, OHIO, PARCEL No. 187, APPRAISED AT \$1740.00.

COLUMBUS, OHIO, April 13, 1938.

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

DEAR SIR: You have submitted for my examination and approval a transcript of your proceedings as Superintendent of Public Works relating to the proposed sale and conveyance to one Walter Borreson of Lockland, Ohio, of a parcel of abandoned Miami and Erie Canal lands in the city of Cincinnati, Ohio, which was relinquished by the city of Cincinnati, Ohio, to the State of Ohio by deed under the authority of and in the manner provided for by Amended Senate Bill No. 123 enacted by the 87th General Assembly under date of May 2, 1927, which parcel of land is sufficiently designated and described for the purposes of this opinion as being Parcel No. 187 of the Miami and Erie Canal lands relinquished to the State of Ohio under said act.

By this act, which provided generally for the relinquishment to the State of Ohio of such parcels of Miami and Erie Canal lands, theretofore leased to said city by the state for subway and boulevard purposes, as were not needed for such purposes, it was further provided that such parcels of canal lands thus relinquished to the state should be sold to the owner or owners of property contiguous to and abutting upon the parcels of canal lands thus made available for sale

or lease, and that such owners of contiguous lands should have the prior right to purchase or lease such parcels of Miami and Erie Canal lands if application therefor was made by such person or persons within the time prescribed by said act; in which case such sale or lease was to be made on an appraisal of the property made by the Superintendent of Public Works and agreed to by the Board of Rapid Transit Commissioners of the city of Cincinnati.

However, Section 11 of said act provides that "if after three years from the date at which this act becomes effective, all of the tracts of land relinquished to the state of Ohio, under this act, shall not have been sold or leased, the remaining tracts shall be re-appraised and thereafter sales and leases thereof shall be made on the basis of such re-appraisal." In the transcript of your proceedings relating to the sale of the parcel of relinquished Miami and Erie Canal lands therein referred to and described, you state that you, as Superintendent of Public Works of Ohio, found that said parcel of land is worth \$1740.00 and that you, therefore, appraised the same at said sum of money. I infer from this that the appraisal thus made of this property was an independent appraisal made by you under the provisions of Section 11 of the act of May 2, 1927, above noted, and is not, necessarily, the appraisal made by the Superintendent of Public Works by agreement with the Board of Rapid Transit Commissioners of the city of Cincinnati, as provided for by an earlier section in said act. Following a former opinion of this office on this question, I am inclined to the view that with the consent of the Governor and the Attorney General you are authorized to sell such relinquished parcel of Miami and Erie Canal lands upon an independent appraisal of the property made by you under the provisions of Section 11 of said act as the same is herein quoted.

Upon examination of your proceedings relating to the sale of this property, I find that the same is in conformity with the act of the legislature above referred to and with all other statutory provisions which might on any view be applicable with respect to the sale of the parcels of canal land here in question; and the sale of this property and the transcript of your proceedings relating to such sale are hereby approved as is evidenced by my approval endorsed upon the transcript and upon the duplicate copy thereof.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*