

ered by this lease whether the same is a part of the Ohio Canal abandoned by the Act of June 7, 1911, 102 O. L., 293, or is a part of that section of the canal known as the Columbus Feeder to the Ohio Canal which was abandoned for canal purposes by the Act of June 8, 1911, 102 O. L., 318. I assume, however, from your reference to the Ohio Canal in your description of the property in the lease that the same is a part of the Ohio Canal proper rather than of the Columbus Feeder to the Ohio Canal. In either event, however, your statutory authority to execute a lease of the parcel of canal land here in question is the same and is such as to cover the terms and provisions of this lease as the same is executed.

This lease and the duplicate and triplicate copies thereof have been properly executed by you as Superintendent of Public Works and as Director of said department, acting on behalf of the State of Ohio, and by Galitan Cremeans and Ethel Cremeans, the lessees therein named.

The provisions of the lease and the conditions and restrictions therein contained are such as are in conformity with the statutory provisions above noted and with the other statutory enactments relating to leases of this kind.

I am accordingly 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 returned.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

288.

APPROVAL—LEASE OF CERTAIN CANAL LANDS TO D. B. MOORE OF NEWCOMERSTOWN, OHIO.

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

DEAR SIR: This is to acknowledge the receipt of your recent communication with which you submit for my examination and approval a certain canal land lease in triplicate executed by you as Superintendent of Public Works and as Director of said department to one D. B. Moore of Newcomerstown, Ohio.

By this lease, which is one for a term of fifteen years and which provides for an annual rental of \$54.00, there is leased and demised to the lessee above named the right to occupy and use for residence, garage and general business purposes that portion of the Ohio Canal property

in the village of Newcomerstown, Ohio, commencing at the easterly line, produced, of College Street in said village and extending eastward for a distance of one hundred (100') feet, and having a width of sixty (60') feet, measured from the southerly line of the Ohio Canal property as shown by G. F. Silliman's survey of said Ohio Canal through Newcomerstown, Ohio, made under the direction of the State Board of Public Works in the summer of 1911, plats of said survey being on file in the Department of Public Works, at Columbus, Ohio; excepting and reserving therefrom many portion of said described land that is now occupied by permanent buildings.

The parcel of canal land covered by this lease is included in that section of the Ohio Canal which is abandoned for canal purposes by Amended Substitute Senate Bill No. 72 enacted April 29, 1931, 114 O. L., 541.

Assuming, as I do, that the parcel of Ohio Canal land covered by this lease has not been reserved for state highway purposes as authorized by Section 6 of said act and that no application for the lease of the same has been made by any person or corporation having prior rights to the lease of this property under Section 8 of the act, you are authorized to execute the lease to the lessee above named under the fifth paragraph of the section of the act last above mentioned, even though he may not under the provisions of this section have any prior rights with respect to such lease.

Upon examination of this lease and of the duplicate and triplicate copies thereof, I find that the same have been executed in the manner required by law both by you as Superintendent of Public Works and as Director thereof, acting on behalf of the State of Ohio, and by D. B. Moore, the lessee therein named. I further find, from an examination of the provisions of the lease and of the conditions and restrictions therein contained, that the same are in conformity with the act above referred to and with other statutory enactments relating to leases of this kind.

I am accordingly 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 returned.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

289.

NOTES—ANTICIPATION OF APPORTIONMENT, PUBLIC SCHOOL FUNDS—PAID OFF FROM SUCH APPORTIONMENT ONLY—INTEREST PAID FROM ANY OTHER REVENUES, EXCEPT PUBLIC SCHOOL FUND—VIOLATION OF NON-PAYMENT, WHEN.

*SYLLABUS:*

1. *Notes issued in anticipation of apportionments received from the state public school fund as provided for in House Bill 635 of the special session of the 91st General Assembly, as amended by House Bill 701 of said special session, must be paid directly and solely from such apportionments when received and from no other funds of the local boards of education; and interest on such notes shall be paid by the board of education issuing the same from any revenues accruing to the district except those from the state public school fund.*

2. *No violation of non-payment exists until such a time as the apportionments from the state public school fund for the specific purpose of paying such notes have been received and not applied to the retirement of the notes issued in anticipation thereof.*

COLUMBUS, OHIO, March 19, 1937.

HON. HUGH A. STALEY, *Prosecuting Attorney, Greenville, Ohio.*

DEAR SIR: Your letter of recent date requesting my opinion reads as follows:

“The Allen Township School Board, of Darke County, Ohio, under the provisions of House Bill No. 635, borrowed \$1,000 from the First National Bank, of Ansonia, Ohio, and gave the note of the board, signed by the president and clerk of the board of education, as provided in paragraph 4 of said bill. The note matured on the 1st day of February, 1937, having been drawn in compliance with Section 4 of the Act, which reads:

‘Such notes shall be payable on or before February 1, 1937, and shall bear interest from their date at a rate not exceeding 4% per annum, interest to be payable when notes are paid, shall be signed by the president and clerk of the board of education, and shall recite on their face that they are issued pursuant to this Act and the resolution authorizing the same.’

Paragraph 6 of the Act provides as follows: