

271.

APPROVAL, ABSTRACT OF TITLE TO LAND OF EDJEL C. LUTZ, IN
THE CITY OF URBANA, CHAMPAIGN COUNTY, OHIO.

COLUMBUS, OHIO, April 6, 1929.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your communication transmitting for my examination and approval corrected abstract and corrected deed form, relating to a tract of land in the city of Urbana, Champaign County, Ohio, owned of record by one Edjel C. Lutz, and which is more particularly described in Opinion No. 238, directed to you under date of March 25, 1929.

An examination of the corrected abstract of title submitted, shows that said Edjel C. Lutz has a good and merchantable fee simple title to this property, free and clear of all encumbrances whatsoever.

An examination of the deed form submitted shows that the same has been corrected to meet the objections of this department noted in said former opinion, and the same is hereby approved. It is noted that the deed has not yet been executed by said Edjel C. Lutz, and it is suggested that before the transaction with respect to the purchase of this property is closed, this department be given an opportunity to examine said deed with reference to the matter of its execution and acknowledgment.

The encumbrance estimate and the controlling board certificate relating to the purchase of this property were approved in the former opinion of this department above referred to.

I am herewith enclosing said corrected abstract and corrected deed form.

Respectfully,

GILBERT BETTMAN,
Attorney General.

272.

APPROVAL, LEASE TO MIAMI AND ERIE CANAL LANDS IN THE VIL-
LAGE OF FORT LORAMIE, SHELBY COUNTY, OHIO.

COLUMBUS, OHIO, April 6, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You recently submitted for my examination and approval a lease in triplicate executed by you as superintendent of public works and as director of said department, by which, under the authority of Sections 15 and 18 of the act of March 25, 1925, 111 O. L. 208, you have leased and demised to W. J. Borchers a parcel of abandoned Miami and Erie Canal lands in and adjacent to the village of Fort Loramie, Shelby County, Ohio, and which parcel of land is more particularly described in said lease.

From an examination of this lease, I find that the only question of any import presented by the provisions thereof, is that arising with respect to the renewal clause in said lease. As to this, it will be noted that the lease is one for a stated term of fifteen years with the provision "that the grantee herein, his heirs, administrators and assigns, shall have the option of a renewal of this lease at the expiration of the same, subject to the re-appraisal of said canal property."

Under the provisions of Sections 15 and 18 of the act above referred to, leases of such abandoned Miami and Erie Canal lands to individuals may be for a term of fifteen years or any multiple thereof, subject to re-appraisal by proper state authority at the end of each fifteen year period. In the case of *Gross vs. Clauss*, 6 O. A. 140, it was held that a lease for a term with a privilege or option in the tenant of a renewal or extension of the lease for a further term, upon the same terms and conditions, is a present demise of the renewal term to begin at a future time. Although the case just noted is not in all respects applicable to the lease here in question and the provision as to renewal therein contained, it lends support to the conclusion that this lease is one for a term of fifteen years or for thirty years at the option of the lessee on the same terms and conditions other than the fact that the rental for the second fifteen years is to be based upon an appraisal to be made at the end of the first fifteen year period.

Inasmuch as under the provisions of this act you are authorized to execute a lease in the first instance to the lessee for a period of thirty years, subject to a re-appraisal at the end of the first fifteen years for the purpose of computing the rent to be paid for the second fifteen years, I am inclined to the view that the provision for renewal of this lease is not in substance a violation of the provisions of the act above referred to.

Finding said lease to be otherwise in proper form and in accordance with law, the same is herewith approved as is evidenced by my signed approval on this lease and the duplicate and triplicate copies thereof, all of which are herewith returned to you.

Respectfully,

GILBERT BETTMAN,
Attorney General.

273.

APPROVAL, ABSTRACT OF TITLE TO LAND OF MELL C. GABRIEL, IN
THE CITY OF TROY, MIAMI COUNTY, OHIO.

COLUMBUS, OHIO, April 6, 1929.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication submitting for my examination and approval corrected abstract and corrected deed form relating to a tract of land in Troy, Ohio, standing in the name of one Mell C. Gabriel, which tract of land is more particularly described in Opinion No. 233, directed to you under date of March 23, 1929.

An examination of the corrected abstract of title submitted shows that said Mell C. Gabriel has a good and merchantable fee simple title to this property, free and clear of all encumbrances whatsoever.

An examination of the deed form submitted shows that the same has been corrected so as to meet the objections thereto noted in the former opinion of this department above referred to. It is noted that the deed has not yet been executed and acknowledged by said Mell C. Gabriel, and it is suggested that before the transaction relating to the purchase of this property is closed that this department be given an opportunity to examine and approve said deed with respect to the matter of its examination and acknowledgment.

I am herewith enclosing said corrected abstract of title and corrected deed form.

Respectfully,

GILBERT BETTMAN,
Attorney General.