

4. When a warrant drawn by the Auditor of State on the State Treasurer has been delivered to the Director of Highways of the State of Ohio for the purpose of enabling such official to perform some official duty, the Director of Highways may under authority of Section 6, General Code, give a surety bond to the Auditor of State in order to comply with Section 246, General Code, in obtaining a duplicate warrant and pay therefor from funds appropriated by the legislature to his department for such purpose.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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1111.

LEASE—CANAL LAND, STATE WITH GOSHEN BRICK & CLAY CORPORATION, RIGHT TO OCCUPY AND USE FOR CROSSING RIGHT OF WAY PURPOSES, DESIGNATED PORTION, OHIO CANAL PROPERTY, OXFORD TOWNSHIP, TUSCARAWAS COUNTY.

COLUMBUS, OHIO, August 29, 1939.

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

DEAR SIR: You have submitted to me for my examination and approval, a canal land lease in triplicate, executed by you as Superintendent of Public Works and as Director of said Department for and in the name of the State of Ohio, to the Goshen Brick & Clay Corporation, of Newcomerstown, Tuscarawas County, Ohio.

By this lease, which is one for a stated term of fifteen years, and which provides for the payment of an annual rental of \$12.00, there is leased and demised to the lessee above named, the right to occupy and use for crossing right-of-way purposes that portion of the Ohio Canal property located in Oxford Township, Tuscarawas County, Ohio, which is more particularly described as follows:

“Beginning at a line between the lands formerly owned by R. Dougherty and the lands formerly owned by John H. Asher, at Station 2814+00, of G. F. Silliman’s Survey of said canal property, and extending thence in a westerly direction fourteen hundred and forty-three (1443’) feet, more or less, to a point being at or near Station 2828+43, and excepting therefrom any of the above described property that may be now occupied by a state highway.”

This lease is one executed by you under the authority of the Act of the 89th General Assembly enacted under date of April 29, 1931, 114 O. L., 541, which provides for the abandonment of that portion of the Ohio Canal and all lateral canals and canal-feeders situated within Tuscarawas, Coshocton and Muskingum Counties, Ohio. By Section 6, of this Act there are reserved from the further provisions thereof, all such portions of Ohio Canal property abandoned by this act, as were at the time occupied by state highways or that might thereafter within one year from the effective date of the act be designated by the Director of Highways for highway purposes. Assuming that no part of the parcel of Ohio Canal property covered by this lease is occupied by a state highway, and further that no part thereof was designated for highway purposes within one year from the effective date of this act, you are authorized to execute this lease under the provisions of Section 8, of the act, subject to the conditions therein prescribed. By this section, certain persons and corporations are given prior rights with respect to the lease of Ohio Canal lands abandoned for canal purposes by the act of which this section is a part. In the first instance, railroads are given prior rights to acquire by lease such portions of the Ohio canal abandoned by this act, as were then occupied for right-of-way crossings. Secondly, owners of existing leases are given prior rights with respect to the lease of such portions of said property as are covered by their respective existing leases. In the third place, with respect to prior rights municipalities are given the right to lease those portions of the canal lands abandoned by the act that were applied for within one year from the effective date of the act. Next, the owners of tracts abutting upon canal property abandoned by this act are given a prior right to lease such contiguous canal properties, providing application therefor is made by such owner within ninety days after the expiration of the prior right of the municipal corporations with respect to the lease of such property. This section of said act in and by the last paragraph thereof, provides as follows:

“All tracts of said abandoned canal property lying within a municipality, but not included in the application of any one of the four classes enumerated above, and likewise the abandoned canal property lying outside the corporate limits of any municipality, may be leased by the superintendent of public works, who shall appraise such tracts at their true value in money for any purpose for which they can be used, and the annual rental shall be six per cent of such appraisalment.”

It may be assumed that this lease is one executed by you under the authority of that part of Section 8 of said Act above quoted; although as to this, it is quite probable that the lessee above named is the owner of lands contiguous to the canal property covered by this lease. And, as-

suming as I do, that no application for the lease of this canal land has been made by any person or corporation entitled to prior rights with respect to the lease of the above described parcel of Ohio Canal land, I find that you are authorized to execute this lease to Goshen Brick & Clay Corporation, the lessee therein named.

Upon examination of this lease I find that the same has been properly executed by you, acting for and in the name of the State of Ohio, and by the hand of M. S. Russell, Secretary of Goshen Brick & Clay Corporation, as authorized by resolution of the Board of Directors, a copy of said resolution being attached to the lease. I further find upon examination of the provisions of this lease and of the conditions and restrictions therein contained, that the same are in conformity with the provisions of the act above referred to, and with those of other statutory enactments relating to leases of this kind. I am accordingly approving this lease 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,

THOMAS J. HERBERT,  
*Attorney General.*

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1112.

DEPARTMENT OF FINANCE — TRANSFER — FUNCTIONS FORMERLY POSSESSED BY STATE AUDITOR AND SECRETARY OF STATE — SECTION 196-13 G. C. — DEPARTMENT OF HIGHWAYS — MACHINERY, TOOLS, EQUIPMENT, NOT NEEDED OR WORN OUT — PURCHASE PRINTED MATTER — RELEASE — SECTION 196-6 G. C. — DEPARTMENT OF FINANCE SHOULD FURNISH STATE AUDITOR COPIES BIDS, PURCHASE ORDERS AND PURCHASE RELEASES.

*SYLLABUS:*

1. *The functions formerly possessed by the Secretary of State and the Auditor of State as provided in Section 196-13, General Code, have been transferred to the Department of Finance and neither the Auditor of State nor the Secretary of State has any duties or powers in connection therewith.*

2. *The disposal of machinery, tools or equipment of the Highway Department which is no longer needed by that department or which is worn out, is solely within the jurisdiction of the Department of Highways, and the Department of Finance has no function or duty in connection therewith.*

3. *The Department of Finance has exclusive authority to purchase printed matter required for the use of the Department of Highways unless*