

From the foregoing discussion, it would appear that your second inquiry must be answered in the affirmative, for when the county treasurer has performed each act required of him by law and in addition thereto determines that the taxpayer is unable to pay the item of tax at the time prescribed by the statute and states such fact as his excuse for his failure to collect, it necessarily must be a sufficient compliance with the law.

I do not believe it is necessary to answer your third and fourth inquiries since, if the facts as set forth on the duplicate at the time of their entry thereon were a compliance with the law, no act could render them ineffective except a new enactment by the legislature.

Specifically answering your inquiries, it is my opinion that:

1. A county treasurer has no authority to collect real estate and public utility property taxes in any other manner or by any other means than that provided in the statutes.

2. When the county treasurer has mailed the tax bills for real estate and public utility property taxes to the taxpayer, has kept his office open for the receipt of payment of such taxes during the times required by sections 2649 and 2657, General Code, and has ascertained that the taxpayer is unable to pay the taxes at such times and reports such fact to the county auditor at the time of the semi-annual or annual settlement between the county treasurer and the county auditor, and the county auditor causes such reason to be noted in the marginal column appearing on the tax duplicate, such acts are a compliance with the requirements of the second sentence of section 2596, General Code, by the county auditor and county treasurer.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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1381.

APPROVAL, LEASE TO CANAL LAND, IN WALNUT TOWNSHIP, FAIRFIELD COUNTY, OHIO, FOR THE RIGHT AND PRIVILEGE OF OCCUPYING AND USING CERTAIN SECTIONS FOR THE PURPOSE OF MAINTAINING THEREON POLES AND POLE LINES FOR THE TRANSMISSION OF ELECTRIC CURRENT FOR COMMERCIAL LIGHT AND POWER PURPOSES.

COLUMBUS, OHIO, August 11, 1933.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval two certain Canal Land Leases in triplicate, executed by you, in your official capacity, to the Ohio Power Company, by which for the stated term of 15 years each, there are demised and granted to said lessee the right and privilege of occupying and using certain sections of the Ohio Canal, in Fairfield County, for the purposes of maintaining thereon, poles and pole lines for the transmission of electric current, for commercial light and power purposes. By the first lease here in question, which provides for an annual rental of \$28 to be paid by said lessee, there is granted to the lessee named the right to occupy and use for said purpose 3995 feet of said Canal Land in Walnut Township in said County; while in the second of said leases, above referred to, which provides for an annual rental of \$24 to be paid

by said lessee, there is granted to the lessee the right to occupy and use a section of said Canal Land between the villages of Basil and Baltimore, in said County, more particularly described in the lease.

Upon examination of these leases, I find that the same have been properly executed by you, in your official capacity, and by the Ohio Power Company, by the hand of its Vice-president, acting pursuant to the authority conferred upon him by a resolution of the Board of Directors of said Company. I likewise find upon examinations of the provisions of this lease and of the conditions and restrictions therein contained, that the same are in conformity with the special and general statutory provisions, relating to leases of this kind. I am accordingly approving these leases as to legality and form as is evidenced by my approval endorsed upon these leases and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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1382.

APPROVAL, LEASE OF CANAL LAND, IN SECTION 4 TOWNSHIP 16  
RANGE 18, FAIRFIELD COUNTY, OHIO, FOR THE RIGHT TO USE  
AND OCCUPY FOR COTTAGE SITE PURPOSES—HUBERT W. DAY.

COLUMBUS, OHIO, August 11, 1933.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You recently submitted to me, for my examination and approval, a number of Canal Land Leases, among which, is one executed by you, in your official capacity, to one, Hubert W. Day of Millersport, Ohio. By the lease here in question, which is one for a stated term of 15 years and which provides for an annual rental of \$12 to be paid by the said lessee, there is leased and demised to said lessee, the right to occupy and use for cottage site purposes that portion of the state land known as the "Spoil Embankment", of the Ohio Canal in Section 4 Township 16 range 18, Fairfield County, Ohio, lying between what is commonly known as the County Road, leading to Baltimore, Ohio, and the Ohio Canal, that is included in Lot Number 21 of the State Spoil Bank Allotment, south of the Refugee Road, and having a frontage of 100 feet, measured along the easterly line of the County Road.

I am unable to determine, from the description of the property covered by this lease, whether this property is included within that section of the Ohio Canal, abandoned for canal purposes, by the Act of April 19, 1929, 113 O. L., 524, or whether authority for the execution of this lease is to be found in the Act of May 31, 1911, 102 O. L., 293, which Act provided for the abandonment of the Ohio Canal with the Ohio River at Portsmouth, Ohio. In any view, as to this question, however, I find the lease here in question to be in conformity with the statutory authority, and, inasmuch as it appears that this lease has been properly executed by you, in your official capacity and by the lessee above named, I am approving this