

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 constructing and maintaining a bridge across the Ohio Canal at or near Station 288-70, in the transit line of W. J. Slavin's Survey of said canal property, located in Coventry Township, Summit County, Ohio, which is more particularly described in Plat No. 39, of W. J. Slavin's Survey of said Canal Property, now on file in your office.

Upon examination of this lease, I find that the same has 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 the said W. P. Wilkes.

Upon examination of the provisions of the lease and of the conditions and restrictions therein contained, I find that the same are in conformity with the provisions of sections 13965 et seq., General Code, and with 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.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

835.

LEASE—CANAL LAND, STATE TO P. R. NYE, DESIGNATED PORTION, OHIO CANAL, TUSCARAWAS TOWNSHIP, COSHOCTON COUNTY.

COLUMBUS, OHIO, July 1, 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 one P. R. Nye, of Akron, 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 cottage site and agricultural purposes, that portion of the Ohio Canal property located in Tuscarawas Township, Coshocton County, Ohio, which is more particularly described as follows:

Beginning at the southerly end of the double lock connecting the Walhonding River with the Lower Basin of said canal; thence northerly along the line of said lock, two hundred and ten (210')

feet, more or less, to the southerly bank of the Walhonding River; thence westerly along the southerly bank of said river, two hundred fifty (250') feet, more or less, to the westerly line of said lot; thence southerly along said westerly line of said lot, one hundred twenty-three (123') feet, more or less; thence easterly two hundred forty (240') feet, more or less, to the point of beginning and containing thirty-nine thousand, one hundred twenty (39,120) square feet, more or less.

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 municipi-

pality, 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 appraisement."

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 assuming, 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 P. R. Nye, 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 P. R. Nye, the lessee. 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 enclosed.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

836.

LEASE—CANAL LAND, STATE TO J. D. WILSON, DESIGNATED PORTION, MIAMI AND ERIE CANAL, FRANKLIN TOWNSHIP, WARREN COUNTY.

COLUMBUS, OHIO, July 1, 1939.

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

DEAR SIR: You have submitted for my examination and approval a canal land lease in triplicate executed by you in your official capacity as Superintendent of Public Works, to one Mrs. J. D. Wilson, of Franklin, Warren County, Ohio.

By this lease, which is one for a stated term of fifteen years and which provides for an annual rental of \$24.00, payable in semi-annual installments of \$12.00 each, there is leased and demised to the lessee