

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

above named, the right to occupy and use for residential and agricultural purposes that portion of the abandoned Miami and Erie Canal located in Franklin Township, Warren County, Ohio, described as follows:

Beginning at a point twenty-two (22') feet east of the east end of Lock No. 28; thence east two hundred and twenty-two (222') feet with water line to a stake; thence north eighty-four (84') feet to a stake; thence west two hundred sixteen (216') feet to a stake; thence south eighty-eight (88') feet to the water line, to the point of beginning and containing eighteen thousand eight hundred (18,800) square feet, more or less, being all of the above land, except fourteen (14') feet running parallel with the water line which is the towing path of said canal. Privilege is granted under this for ingress and egress from the public highway over the towing path above mentioned."

This parcel of abandoned Miami and Erie Canal land is in that section of the Miami and Erie Canal which was abandoned for canal and hydraulic purposes by the Act of April 9, 1931, 114 O. L., 546, by which act the canal lands in this section, including the parcel here under consideration, were transferred to the jurisdiction and control of the Director of Highways for highway and other purposes. As to this, it appears, however, that the present Director of Highways, acting under the authority conferred upon him by sections 14153-5, et seq., General Code, as amended, 116 O. L., 157-159, has transferred the above described parcel of canal land back to the jurisdiction and control of the Superintendent of Public Works.

In this situation, it would appear that you are authorized to lease this parcel of canal land under the authority of section 14153-8, General Code, as amended by the act last above referred to.

And inasmuch as it appears that this lease has been properly executed by you as Superintendent of Public Works, for and on behalf of the State of Ohio and by Mrs. J. D. Wilson, the lessee above named, and since it further appears that the provisions of this lease and the conditions and restrictions therein contained are in conformity with the statutory provisions relating to leases of this kind, I am approving this lease, as is evidenced by my approval endorsed thereon, and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,

THOMAS J. HERBERT,
Attorney General.