

under the provisions of Section 367-7, supra, which section is exactly parallel to Section 154-45c, supra, it is my opinion that the Auditor of State has authority to draw warrants for the disbursement of money of which the Treasurer of State is custodian under the provisions of Amended Senate Bill No. 402 of the 90th General Assembly.

Respectfully,  
JOHN W. BRICKER,  
*Attorney General.*

---

2600.

APPROVAL CONDITIONALLY—TRANSCRIPT OF PROCEEDINGS RELATING TO THE SALE AND CONVEYANCE OF ABANDONED OHIO CANAL LANDS IN NEWARK TOWNSHIP, LICKING COUNTY, OHIO.

COLUMBUS, OHIO, May 1, 1934.

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

DEAR SIR:—You have submitted for my examination and approval a transcript of the proceedings of your office relating to the proposed sale and conveyance to John C. Miller and Ella M. Miller of Newark, Ohio, of a parcel of abandoned Ohio Canal lands located in Newark Township, Licking County, Ohio, which parcel is more particularly described as follows:

Beginning at the point of intersection of the easterly line of the said canal property and the line between the lands of L. E. Clark and the lands of the applicant herein, said point being opposite station 269+81.5, of W. H. Heiby's survey of the said abandoned canal, south of Newark, Ohio, and running thence southerly with the said easterly line of said canal property seven hundred seventy-three (773') feet, more or less, to the center line of Ramp Creek; thence westerly with the center line of Ramp Creek, seventy-eight (78') feet, more or less to the easterly line of State Highway No. 359 (being State Route No. 79) as relocated and constructed in 1932; thence northeasterly with the said easterly line of the said highway seven hundred fifty-nine (759') feet, more or less, to the said line produced between the lands of L. E. Clark, and the lands of the applicant herein; thence easterly with the said line produced sixty (60') feet, more or less, to the place of beginning and containing one and thirty-six hundredths (1.36) acres, more or less.

The proposed sale and conveyance of the above described parcel of Ohio Canal lands is under the authority of an act of the legislature passed March 21, 1917, 107 O. L. 741, which act was amended in part by an act of the legislature under date of May 8, 1919, 108 O. L., Part I, page 608. This act provided for the abandonment of certain portions of the Ohio Canal between Newark and the Village of Hebron, Licking County, Ohio, and for the lease or sale of the canal lands so abandoned; and the act as amended is now found in the General Code as sections 14203-20 to 14203-25, inclusive. Section 14203-23, General Code, the same being a part of the act above referred to, provides for the appraisal

of said abandoned canal lands and for the sale or the lease of the same, subject to the approval of the Governor and Attorney General, in conformity with the provisions of section 13971, General Code, relating generally to the sale of canal lands. This section of the General Code provides for the sale of canal lands when the same cannot be leased so as to yield six per cent upon the appraised valuation thereof; which sale is to be made at public vendue after advertisement thereof in the manner therein provided. It is further provided in this section, however, that if the appraised value of the parcel of land to be sold is five hundred dollars or less, the same may be sold at private sale at not less than the appraised value thereof, on the approval of the Governor and Attorney General.

It appears from recitals set out in the transcript of your proceedings relating to the sale of this property that this parcel of land cannot be leased so as to yield six per cent upon the appraised value thereof, which appraised value as stated in the transcript is the sum of \$290.00. It appears, therefore, that as far as the provisions of section 13971, General Code, are concerned this parcel of land may properly be sold by you upon the approval of the Governor and the Attorney General. However, section 14203-23, General Code, which, as above noted, is a later enactment, provides that before the Superintendent of Public Works can sell any of the Ohio Canal lands abandoned by this act, he is required to give notice by publication in the manner therein provided that he will on and after the date of such publication and for ninety days thereafter receive application for the purchase of such canal lands, and that after the expiration of said period, sales (and leases) of such abandoned canal lands may be made in accordance with the provisions of said act. It does not appear from any recitals or other statements of fact made in the transcript here under consideration, that any advertisement of such notice was made preliminary to the application for the purchase of this particular parcel of land. As to this, I am advised by your office, however, that the required notice was in fact published in the manner provided by law, although, as above noted, no recital of this fact appears in the transcript.

On the considerations above noted, I am hereby approving your proceedings relating to the purchase of the parcel of abandoned Ohio Canal lands above described, as is evidenced by my approval endorsed upon the transcript of said proceedings and upon the duplicate copy thereof.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

2601.

APPROVAL CONDITIONALLY—TRANSCRIPT OF PROCEEDINGS RELATING TO THE SALE AND CONVEYANCE OF ABANDONED OHIO CANAL LANDS IN NEWARK TOWNSHIP, LICKING COUNTY, OHIO.

COLUMBUS, OHIO, May 1, 1934.

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

DEAR SIR:—You have submitted for my examination and approval a tran-