

ing sixteen thousand, nine hundred seventy-four and five-tenths (16,974.5) square feet, more or less.

Upon examination of this lease, which is executed by you under the authority of an Act of the 89th General Assembly enacted April 29, 1931, 114 O. L. 541, I find that the same has been executed by you in your official capacity above stated and by The American Legion, Thomas C. Montgomery Post No. 431, the lessor, by the hand of John J. Gainer, Commanler, duly authorized in the premises.

Assuming, as I do that this property has not been designated for state highway purposes and that no application for the lease of the same has been made by any of the corporations or persons having prior rights to the lease of this property under Section 8 of said Act, I find that the terms and provisions of this lease and the conditions and restrictions therein contained are in conformity with the above mentioned Act of the legislature and with other related statutes. I am, therefore, 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,

HERBERT S. DUFFY,
Attorney General.

1214.

APPROVAL — CANAL LAND LEASE EXECUTED BY THE
STATE OF OHIO TO THE DELTA FUEL AND SUPPLY
COMPANY OF TOLEDO, OHIO.

COLUMBUS, OHIO, September 22, 1937.

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

DEAR SIR: This is to acknowledge the receipt of your recent communication with which you submitted 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 to the Delta Fuel and Supply Comuanry of Toledo, Ohio.

By this lease, which is one for a stated term of fifteen years and which provides for an annual rental of \$1,000.00, payable in semi-annual installments of \$500.00 each, during the term of lease, there is leased and demised to the lessee above named the right to occupy and use for

general business purposes that portion of a certain state lot located in the city of Toledo, Lucas County, Ohio, that was deeded to the State of Ohio by William R. Morris by deed dated May 12, 1852, and commonly known as the "Toledo Workhouse Lot" and being a part of River Tract No. 3, and which is more particularly described as follows:

Beginning at the point of intersection of the northerly line of that portion of the Miami and Erie Canal property that was sold to the city of Toledo under date of December 29, 1922, and a line drawn at right angles to the transit line of the S. A. Buchanan Survey of said canal through station 8+8 of said survey, said right angle line being the approximate east line produced of a brick wall now in place along the easterly line of the tract of land herein described, and running thence westerly with the northerly line produced of that portion of the Miami and Erie Canal sold to the city of Toledo, three hundred and eighty (380') feet, more or less, to the easterly line of that portion of the abandoned Wabash and Erie Canal sold to the city of Toledo under date of December 29th, 1922; thence northerly with the easterly line of the Wabash and Erie Canal as sold to the city of Toledo, three hundred twenty (320') feet, more or less to the southerly top water line of Swan Creek; thence easterly with the southerly top water line of Swan Creek, two hundred eighty (280') feet, more or less, to the right angle line above mentioned; thence southerly with said right angle line, two hundred fifteen (215') feet, more or less, to the place of beginning and containing two (2) acres, more or less.

Also the right to occupy and use the office building located thereon, together with overhead switch track and truck scales, with the understanding that the party of the second part make repairs that may be needed to the above mentioned equipment.

From the description of this property as the same is set out in the lease instrument and from the recitals therein contained, I assume that the parcel of state land above described was acquired by the State on the date above indicated under the authority of the Act of February 7, 1826, 24 O. L., 58, which Act authorized the Canal Commissioners "to procure, by purchase or otherwise, a suitable number of acres of land, at each and every point on or adjoining the Ohio canals, heretofore authorized to be constructed, where surplus water passing through said canals may be profitably used for hydraulic purposes." The above described state lot was and is continuous to a section of the Miami and

Erie Canal in the city of Toledo, Ohio, which was abandoned for canal and hydraulic purposes by an Act of the 83rd General Assembly under date of January 22, 1920, 108 O. L., Pt. 2, page 1138, and which under the provisions of this Act was later sold by the State of Ohio to the city of Toledo for street purposes.

In this situation, the parcel of land above described cannot, as originally intended, be leased and demised as a part of a lease for hydraulic purposes of water out of the Miami and Erie Canal at this point, as originally provided for by the Act of March 23, 1840, 38 O. L., 87, 92; and your sole authority to now lease this property is that conferred upon you generally with respect to the lease of canal and other contiguous state lands. And in this view, I am of the opinion that you are authorized to execute the lease here in question for the term above stated.

Upon examination of this lease instrument, I find that the same has been properly executed by you as Superintendent of Public Works and as Director of said department and by the Delta Fuel and Supply Company, the lessee therein named, by the hands of its President and its Secretary pursuant to the authority conferred upon them by a resolution of the Board of Directors of said company. I further find, upon my examination of this lease instrument, that the provisions thereof and the conditions and restrictions therein contained are in conformity with all of the statutory enactments of this State relating to leases of this kind. I am accordingly 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,

HERBERT S. DUFFY,

Attorney General.

1215.

APPROVAL -- CANAL LAND LEASE EXECUTED BY THE
STATE OF OHIO TO ONE WILLIAM HAWTHORN OF
DAYTON, OHIO.

COLUMBUS, OHIO, September 22, 1937.

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

DEAR SIR: You recently submitted for my examination and approval