

1881.

APPROVAL—CANAL LAND LEASE, SUPERINTENDENT OF PUBLIC WORKS TO COLUMBUS AND SOUTHERN OHIO ELECTRIC COMPANY, NINETY-NINE YEARS, RENEWABLE FOREVER, TERMS AS STIPULATED, RIGHT TO USE AND OCCUPY FOR RAILWAY, ELECTRIC POWER TRANSMISSION, GENERAL BUSINESS AND OTHER INCIDENTAL PURPOSES, COLUMBUS FEEDER TO THE OHIO CANAL AS DESCRIBED.

COLUMBUS, OHIO, February 4, 1938.

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

DEAR SIR: This is to acknowledge the receipt of your communication under date of January 27, 1938, with which you submit in corrected form a canal land lease in triplicate executed by the State of Ohio, acting through you as Superintendent of Public Works and as Director of said department, to the Columbus and Southern Ohio Electric Company.

By this lease, which is one for a stated term of ninety-nine years renewable forever, and which further provides for an annual rental of six per cent on the appraised value of the property covered by the lease, which during the first fifteen-year period of the term of the lease is the sum of \$3,000.00, there is leased and demised to the lessee above named and to its successors and assigns the right to use and occupy for railway, electric power transmission, general business and other incidental purposes the canal lands formerly included in the Columbus feeder to the Ohio Canal (abandoned for canal purposes by the Act of June 8, 1911, 102 O. L., 318), other than the parcels thereof specifically excepted in said lease.

This lease is one executed by you in your official capacity above stated under the authority of Amended Substitute Senate Bill No. 69, otherwise known as the Farnsworth Act, which was enacted April 22, 1931, and which went into effect August 6, 1931. 114 O. L., 518, 519. This act in and by Section 1 thereof, which has been carried into the General Code as Section 464-1, authorized any village, city, township, county or other taxing district to make application in writing for the lease of any abandoned canal lands for public park or recreational purposes at any time within two years from the effective date of said act. However, this act in and by the section thereof above referred to, further provided as follows:

“Tracts of such abandoned canal property not disposed of in the manner herein provided may be leased by the superintendent of public works to responsible parties under the provisions of Section 13965 of the General Code, except the length of the term of such leases may be for ninety-nine years, renewable forever, or for a term of fifteen years, and multiples thereof up to ninety years, and that railroad rights-of-way need not be limited to lengths of two miles; leases granted for a longer term than fifteen years shall contain a clause providing for a reappraisal of the canal lands described in such leases, by proper state authority, at the end of each 15-year period, embraced in such leases and the annual rental therefor shall be six per cent of the appraised value thereof for each period.”

It appears that no political subdivision or other taxing district has made application for the lease of the abandoned canal lands covered by this lease or of any part thereof, and that you are now authorized to execute a lease of this canal property to the lessee above named.

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 for and in the name of the State of Ohio and by the Columbus and Southern Ohio Electric Company, by the hands of its President and Secretary acting pursuant to the authority of a resolution of the Board of Directors of the Columbus and Southern Ohio Electric Company duly adopted under date of September 15, 1937.

I further find upon examination of this lease instrument that the provisions of the same and the conditions and restrictions therein contained are in conformity with the act above referred to under the authority of which the same is executed, and with other statutory enactments relating to leases of this kind. I am accordingly approving the 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.