

The leases in question, as identified by the names of the respective lessees and the valuation of said respective parcels of land are as follows:

<i>Name</i>	<i>Miami &amp; Erie Canal</i>	<i>Valuation</i>
Fred A. Clawson, land.....	-----	\$1,400 00
Winfield S. Kircher, land.....	-----	250 00

The parcels of land covered by these leases are parts of Miami and Erie canal lands which were abandoned for canal purposes by the act of the General Assembly under date of March 25, 1925, (111 O. L. 208). Although these leases do not contain any recital that no city, village or other political subdivision of the State has made application to lease the particular parcels of land covered by said leases, I assume this to be the fact, and that in your capacity as Superintendent of Public Works, you are authorized to lease these respective parcels of land to the individuals above named by Section 15 of said act which provides that abandoned canal lands covered by said act lying outside municipalities and not included in an application for lease by an adjacent municipality or other legal subdivision of the State may be leased in strict conformity with existing statutes relating to the leasing of canal lands. The provisions of Section 15 of said act here noted obviously refer to Section 13965, et seq., General Code. This section provides that when in the opinion of the Canal Commission the Board of Public Works and the chief engineer of Public Works the leasing of canal lands will not materially injure or interfere with the maintenance and navigation of the canal such canal lands may be leased in the manner provided for by said section.

The canal lands here in question having been abandoned for canal purposes, no reason is apparent why you as successor to the powers and duties of the Canal Commission and the Board of Public Works should be required to make any finding with respect to the effect that the leasing of these parcels of canal lands will not interfere with the navigation of the canal, were it not for the fact that Section 15 of the act above referred to, abandoning these lands for canal purposes requires leases of such abandoned canal lands to persons other than municipalities or other political subdivisions to be made in strict conformity with the provisions of Section 13965. In this situation, although the presumption of regulation which attends the act of a public officer obviates the necessity of incorporating in the lease any recital of fact with respect to this matter, it is suggested that in all leases of this kind a finding of this kind be made by you and entered upon your records.

For the purposes of this opinion I will assume that findings of fact as to this matter have been made with respect to both of the leases here in question and finding said leases to be otherwise in proper form and in conformity with law, the same are hereby approved, as is evidenced by my signature on the lease forms submitted, which are herewith returned.

Respectfully,  
 GILBERT BETTMAN,  
*Attorney General.*

148.

APPROVAL, LEASE TO OHIO CANAL LAND IN TUSCARAWAS COUNTY,  
 OHIO.

COLUMBUS, OHIO, March 4, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your communication of recent date, submitting for my examination and approval a lease in triplicate executed by the

State of Ohio through you, as Superintendent of Public Works, as director thereof, leasing and demising to one Roy Affolter a certain parcel of Ohio canal property located in Dover Township, Tuscarawas County, Ohio, and more particularly described in said lease. This lease I assume is one executed under the authority of Section 13965, General Code, which seems to require as a condition to the right to lease canal lands that a finding be made that the lease of such lands will not materially injure or interfere with the maintenance and navigation of the canal. The presumption of regularity which attends your acts as a public officer obviates the necessity of a recital in the lease that a finding of this kind has been made. Assuming that such finding has been made and entered upon your records, and finding as I do that said lease is otherwise in proper form and in accordance with the law, the same is hereby approved.

You will please find enclosed herewith said lease in triplicate, with my approval endorsed thereon.

Respectfully,  
 GILBERT BETTMAN,  
*Attorney General.*

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149.

TOWNSHIP TRUSTEES—NO RIGHT TO ISSUE BONDS FOR ROAD CONSTRUCTION WITHOUT VOTE OF ELECTORS.

*SYLLABUS:*

*A board of township trustees may not issue bonds to pay the township's portion of the cost of constructing township roads without a vote of the electors as provided in Section 2293-17, General Code.*

COLUMBUS, OHIO, March 5, 1929.

HON. ALFRED DONITHEN, *Prosecuting Attorney, Marion, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your letter of recent date which is as follows:

“As prosecuting attorney of Marion County, Ohio, I desire an opinion upon the following proposition:

The joint board of township trustees of Tully Township, Marion County, Ohio, and Washington Township, Morrow County, Ohio, are attempting to build a joint township road under Sections 3298-1 et seq. of the General Code of the State of Ohio. Tully Township proposes to issue bonds to pay the township's share of the costs, which is three-elevenths of the cost of the improvement under Sections 3298-15d and 3298-15e. The question arises as to whether or not they may proceed under Section 3298-15e without submitting the question of issuing bonds to a vote of the electors, in view of the provision of existing Section 2293-17 providing for the limitation of the net indebtedness of townships. Section 3298-15e apparently has not been repealed, as it is referred to in Section 6921-1, which provides for compensation and damages and bond issue when the cost and expenses of an improvement are paid in part by a county and in part by a township in which the improvement is situated. In the present case, the township trustees of