

nance and operation of the canal and that the same cannot be leased so as to produce an annual rental of six percent on the appraised value of the property, which findings of fact are required by law as a predicate to your authority to sell the property. It appears, further, that the appraised value and sale price of this property does not exceed \$500.00; and in this situation you are authorized to sell this property at private sale subject to the approval of the Governor and the Attorney General.

Upon the considerations above noted, I am approving the sale of this property and the transcript of your proceedings relating to such sale, all of which is evidenced by my approval endorsed upon the transcript of your findings relating to this sale and upon the duplicate copy thereof, both of which are herewith enclosed.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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1096.

LEASE—CANAL LANDS, STATE TO LEW SEIBERT, DESIGNATED PORTION, OHIO CANAL PROPERTY, ADAMS MILLS, COSHOCTON COUNTY.

COLUMBUS, OHIO, August 25, 1939.

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

DEAR SIR: You have submitted to me 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 for and in the name of the State of Ohio, to one Lew Seibert of Adams Mills, Coshocton County, Ohio.

By this lease, which is one for a stated term of fifteen years, and which provides for the payment of an annual rental of \$18.00, there is leased and demised to the lessee above named, the right to occupy and use for agricultural and residential purposes only, that portion of the Ohio Canal property located in Adams Mills, Coshocton County, Ohio, which is more particularly described as follows:

“Beginning at a line drawn at right angles to Station 4307 + 00 of G. F. Silliman’s Survey of said canal property, and extending thence southwesterly with the canal property lines, a distance of three hundred eighty-four (384’) feet to Station 4310 + 84 of said survey and containing one and four-tenths (1.4)

acres, more or less, excepting therefrom any of the above described property that may be occupied by a public highway."

This lease is one executed by you under the authority of the Act of the 89th General Assembly enacted under date of April 29, 1931, 114 O. L., 541, which provides for the abandonment of that portion of the Ohio Canal and all lateral canals and canal-feeders situated within Tuscarawas, Coshocton and Muskingum Counties, Ohio. By Section 6 of this Act there are reserved from the further provisions thereof, all such portions of Ohio Canal property abandoned by this act, as were at the time occupied by state highways or that might thereafter within one year from the effective date of the act be designated by the Director of Highways for highway purposes. Assuming that no part of the parcel of Ohio Canal property covered by this lease is occupied by a state highway, and further that no part thereof was designated for highway purposes within one year from the effective date of this act, you are authorized to execute this lease under the provisions of Section 8, of the act, subject to the conditions therein prescribed. By this section, certain persons and corporations are given prior rights with respect to the lease of Ohio Canal Lands abandoned for canal purposes by the act of which this section is a part. In the first instance, railroads are given prior rights to acquire by lease such portions of the Ohio Canal abandoned by this act, as were then occupied for right-of-way crossings. Secondly, owners of existing leases are given prior rights with respect to the lease of such portions of said property as are covered by their respective existing leases. In the third place, with respect to prior rights municipalities are given the right to lease those portions of the canal lands abandoned by the act that were applied for within one year from the effective date of the act. Next, the owners of tracts abutting upon canal property abandoned by this act are given a prior right to lease such contiguous canal properties, providing application therefor is made by such owner within ninety days after the expiration of the prior right of the municipal corporations with respect to the lease of such property. This section of said act in and by the last paragraph thereof, provides as follows:

"All tracts of said abandoned canal property lying within a municipality, but not included in the application of any one of the four classes enumerated above, and likewise the abandoned canal property lying outside the corporate limits of any municipality, 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 Lew Seibert, 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 Lew Seibert, 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.*

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1097.

LEASE—CANAL LAND, STATE TO MIAMI SPECIALTIES, INC., DESIGNATED PORTION, ABANDONED MIAMI AND ERIE CANAL PROPERTY, CITY OF TROY, RIGHT TO OCCUPY AND USE FOR GENERAL BUSINESS PURPOSES.

COLUMBUS, OHIO, August 25, 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 Miami Specialties, Inc., of Troy, Ohio.

By this lease, which is one for a stated term of fifteen years and which provides for an annual rental of \$103.00, payable in semi-annual installments of \$51.50 each, there is leased and demised to the lessee above named the right to use and occupy for general business purposes that portion of the abandoned Miami and Erie Canal property located in the City of Troy, Ohio, that is described as follows:

“Beginning at a point in the easterly line of Plum Street in said city that is one hundred forty-four (144') feet south of