

or for the use of another, with the intent that it or part thereof shall be used to induce such person to vote or to refrain from voting, shall be guilty of bribery, and shall, upon conviction thereof, be fined not more than one thousand dollars, or imprisoned in the penitentiary not more than three years, or both; and if he be a candidate he shall forfeit the nomination he received, or if elected to any office he shall forfeit the office to which he was elected at the election with referenc to which such offense was committed."

Applying the foregoing section to the facts presented, if the candidate attempted by unlawful means to induce an elector to vote for him at a primary, such candidate shall forfeit the nomination. As hereinbefore indicated, however, you have presented no facts to indicate a violation of Section 4785-190, supra, by the candidate.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4409.

HOCKING CANAL LANDS—AUTHORIZED TO BE USED BY MUNICIPALITY FOR STREET PURPOSES—UNUSED PORTION MUST BE APPRAISED BEFORE SOLD TO ABUTTING OWNERS.

SYLLABUS:

Marginal parcels of abandoned Hocking Canal lands not included within the lines of a street laid out and constructed by the city of Lancaster, Ohio, in and upon the lands of such canal, under authority of House Bill No. 417, enacted by the 89th General Assembly, 114 O. L. 536, cannot be legally sold to the owners of abutting property or to others without an appraisal being made of such marginal parcels in the manner provided for by said act.

COLUMBUS, OHIO, June 10, 1932.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This is to acknowledge the receipt of a communication from you in which you ask my opinion upon a question submitted by the city solicitor of the city of Lancaster, Ohio, which communication reads as follows:

"In accordance with your letter of February 29, will you kindly obtain for me the opinion of the Attorney General with reference to House Bill No. 417, passed by the 89th General Assembly.

Section No. 2 of this Act grants to the City of Lancaster the authority and permission to enter upon, improve and occupy forever for street, sewerage, drainage and other municipal purposes that portion of the said Hocking Canal property situated within the corporate limits of the said City, described as follows:

'Whatever right, title and interest the state of Ohio may have in and to that portion of the abandoned Hocking Canal, originally known

as "the Lancaster Lateral Canal", commencing at the north line of Main street, in the city of Lancaster, Fairfield County, Ohio, and extending thence northerly and westerly over and along the said canal property the full width thereof, as controlled by the state of Ohio, a distance of 8093 feet, more or less, to a line drawn at right angles to the transit line of Bruce Daughton's survey of said canal, made under the direction of the state board of public works in 1912.'

Tract No. 2 is also described, but it is with Tract No. 1 that the question arises. It is desired to lay out a street on this tract, but the tract describes a curve or curves and the street is planned straight. In order to eliminate these curves it will be necessary to purchase some land from abutting owners, and there will be corresponding land on the other side which is a part of the land included in said Tract No. 1, but which the city will not need for the straightened street, and which it wishes to sell to the abutting owners. These owners are the same parties who own the land which the city needs to straighten the tract, and they are willing to sell to the city if the city will sell to them and at the same price.

Can the city deed, sell or dispose of any part of Tract No. 1 without an appraisalment and other procedure as set out in the Act?"

House Bill No. 417, referred to in the communication of the city solicitor, was enacted by the 89th General Assembly, May 4, 1931, and became effective on the 5th day of August, 1931.

Said act is one for the stated purpose of providing for the abandonment of that portion of the Hocking Canal, including the full width of the bed and banks thereof, situated within the corporate limits of the city of Lancaster, Fairfield County, Ohio, and authorizing said city to enter upon, improve and occupy forever that portion of said abandoned Hocking Canal property situated within the corporate limits of the city, which property is specifically described in section 2 of the act. The properties described are in two tracts, only one of which, to wit, that described in the communication of the city solicitor, is material to the question made in her communication.

Section 3 of this act provides that the city of Lancaster shall, within one year from the effective date of the act, locate and define by an accurate survey and by monuments the boundaries of a street or highway, not less than sixty feet in width over the canal property herein described, and shall also lay out the marginal strips on each side of said street or highway, into lots corresponding to the widths of the adjacent lots or tracts, and that the mayor of the city shall, within three months from the time of the completion of these surveys, file with the superintendent of public works, certified copies of blue-prints, which shall show the alignments of the proposed street or highway and give the serial numbers of the lots laid out on each side of such street or highway.

By section 4 of the act, it is provided that at any time within two years from the date of the approval of the act by the governor, the city of Lancaster, by its mayor, duly authorized thereto by a resolution of the city council, may make an application to the governor requesting the appointment of a commission to appraise the adjacent marginal tracts, and also other abandoned canal lands that are not to be improved for street or highway purposes, and that within sixty days after the receipt of such application, the governor shall appoint an appraisal board of three members; one of whom shall be the superintendent of public works, to

appraise each and every marginal tract of land laid out by the city adjacent to the proposed street or highway, and to appraise likewise any portions of the abandoned canal lands in the city that are not to be improved for street or highway purposes. This section further provides that such appraisal shall be made by the appraisal board thus constituted, within six months from the date of the organization of the board.

By this act, it is further provided that as soon as such appraisal has been completed, the appraisal board shall file with the governor a report, with a plat of said canal lands, listing each and every tract included in such appraisal with the appraised value thereof, and that it shall likewise file with the mayor of the city of Lancaster and the superintendent of public works certified copies of such appraisements with plats showing the location and serial numbers of said marginal tracts.

By this act, it is further provided that the owners of the abutting lots or lands shall have the first option of purchasing the marginal tracts adjacent to their own property at the appraised value thereof, as shown by the schedule of appraisements filed with the governor; and that parties in actual possession of portions of the abandoned canal lands that will not be needed and used for street or highway purposes shall have the first option of purchasing such portions of the canal property as their actual necessities may require and as may be mutually agreed upon between such occupant or occupants and the mayor of the city and the superintendent of public works.

It appears that the city of Lancaster, through its proper officers and agents, has made a survey of the boundaries of a street sixty-six feet in width to be laid out in and over tract No. 1 of such abandoned canal lands described in section 2 of the act and in the communication of the city solicitor to you; and by this survey the marginal strips on each side of said proposed street have been laid out into lots corresponding to the widths of the adjacent lots and tracts of land.

From the communication of the city solicitor set out above, it appears that, inasmuch as the tract of canal land which is to be used for the purposes of the proposed street describes a curve, a part of the proposed street, which follows straight lines, will be on property other than such canal lands, with correspondingly larger margins of unused canal lands on the opposite side of the proposed street.

The inquiry made by the city solicitor is whether such margins of unused canal lands can be sold to the respective abutting owners without the appraisal thereof in the manner provided by said act.

As to this, you are advised that although, under the provisions of section 7 of this act, the owner of lands abutting upon any of such marginal lots or strips may purchase the same at the appraisal value placed upon the property by the appraisal board provided for in this act, the city has no authority to sell such property without the appraisal provided for and the question presented in said communication must be answered in the negative.

Respectfully,
GILBERT BETTMAN,
Attorney General.