

An examination of the above noted leases shows that each and all of the same conform with the provisions of Sections 13965, 13966 and other related sections of the General Code, authorizing and providing for leases of the kind here in question. Said leases and each of them are accordingly by me approved as to legality and form, as is evidenced by my approval endorsed upon said leases, and upon the duplicate and triplicate copies thereof.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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1225.

APPROVAL, LEASE TO CERTAIN PREMISES IN CITY OF CLEVELAND,  
CUYAHOGA COUNTY, FOR USE OF OHIO NATIONAL GUARD.

COLUMBUS, OHIO, November 25, 1929.

HON. A. W. REYNOLDS, *Adjutant General, Columbus, Ohio.*

DEAR SIR:—You have submitted for my consideration a lease entered into on November 20, 1929, whereby the commissioners of Cuyahoga County grant to the State of Ohio certain premises situated in the City of Cleveland for the use and benefit of the Ohio National Guard during the full term of two years ensuing from the first day of July, 1929. Said lease is entered into in pursuance of House Bill No. 233 as enacted by the 88:th General Assembly of Ohio. Without an extended discussion of the terms of said act, reference is made to my opinion No. 572 issued to you under date of June 28, 1929. In said opinion the terms of the lease then submitted were considered and it was pointed out that certain changes should be made. Suffice it to say that the objections mentioned in my former opinion have been eliminated from the lease which you now submit with the exception that the lease as now submitted provides for the payment by the State for the use and occupancy of the premises "an annual rental in an amount equal to four per cent of the unpaid balance of the purchase price", etc. In my former opinion it was pointed out that this clause might be objectionable for the reason that by the terms of Section 3 of the act, it was provided that the rate of rental for each successive term shall be four per cent of the amount of the purchase price remaining unpaid at the date of the beginning of such term. It was further pointed out that a possible construction could be made that the four per cent referred to the biennial period and not to the yearly period. In other words it could be argued that the amount payable for the use of said premises for the two year period would be four per cent of the unpaid balance rather than eight per cent. In all probability the Legislature intended that the rental should be computed upon an annual basis even though the act does not expressly so provide. In any event if as a matter of law the act did not refer to the computing of said rentals upon an annual basis, the inserting of the word "annual" in the contract could not alter the situation excepting as to indicate the administrative interpretation of said act.

I am therefore of the opinion that the lease which contains an option of purchase as now submitted is a substantial compliance with the provisions of said act. Said lease is being returned herewith.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*