

precinct, the amended language would have been useless and I can not presume that the legislature added the language it did without intent.

It is therefore my opinion that:

1. The actual cost of a recount, pursuant to Section 4785-162, General Code, must be disregarded when such cost is less than \$5.00, per precinct, such minimum cost being fixed by statute at \$5.00 per precinct.

2. When the result of the election is not changed by the recount, the amount to be refunded to a candidate requiring such recount is determined by returning the entire deposit for any precinct in which an error of two percent of the total vote cast concerning an issue or office is found; but in all other precincts in which the error does not amount to two percent of the total of such recount and does not change the result of the election even though the cost is less than \$5.00 per precinct, there should be deducted from the deposit the sum of \$5.00 for each precinct in which a recount is required and the remainder of such excess deposit returned to the candidate.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

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3948.

APPROVAL, LEASE TO OHIO CANAL LAND IN MASSILLON, OHIO—  
THE McLAIN GROCERY COMPANY.

COLUMBUS, OHIO, January 13, 1932.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of a communication from your department submitting for my examination and approval a certain canal land lease in triplicate executed on behalf of the State of Ohio by your predecessor, Hon. A. T. Connor. By this instrument there is leased and demised to The McLain Grocery Company of Massillon, Ohio, for a term of ninety-nine years, renewable forever, a certain parcel of abandoned Ohio Canal property which is more particularly described as follows:

“Beginning at a point at the intersection of the south line of Charles Street, extended, with the easterly top water line of the Ohio Canal property, said point being One Hundred and Thirty-six and five-tenths (136.5') feet west of the southwest corner of Charles and Erie Streets in said City; thence southerly, along the easterly top water line of the Ohio Canal, a distance of One Hundred and Twelve (112') feet to a point in said water line that is One Hundred and Thirty-five (135') feet of the west line of Erie Street, measured at right angles thereto; thence westerly crossing said Canal, along the south line of Charles Street produced, a distance of Seventy-one and four-tenths (71.4') feet, more or less, to a point in the west line of said Canal property; thence northerly along the said west line and parallel to the westerly line of Canal Street, and fifty-eight (58') feet easterly therefrom, a distance of One Hundred and Twelve (112') feet to a point in said west line; thence easterly along the south line of Charles Street, produced, crossing said Canal a distance of Seventy-one and Seventy-hundredths (71.70') feet, more or

less, to the place of beginning, and containing Eight Thousand and Eight (8,008) square feet, more or less, and being a renewal of a lease."

The lease here in question, which provides for the payment of an annual rental of one thousand two hundred and two (\$1,202.00) dollars during the first fifteen (15) years of the term of the lease, with a provision for a reappraisal of the property leased at the end of each fifteen (15) year period and the payment of subsequent annual rentals at the rate of six percent (6%) upon respective amounts of such successive appraisals, is for the use of said property for general business building purposes by the above named lessee.

This lease is one executed by the superintendent of public works, under the authority of sections 14203-51, et seq., enacted as Amended Senate Bill No. 235 by the 88th General Assembly, 113 O. L. 532. This act was one providing for the abandonment for canal purposes of that portion of the Ohio Canal, and lateral canals connected therewith, lying within Stark County, and to provide for the lease and sale thereof. This act provides generally for the lease or sale of such parts of the Ohio Canal lands abandoned for canal purposes by said act as are not retained for hydraulic purposes. Under the provisions of this act such lands may be leased to municipal corporations or other political subdivisions in the county and, under certain conditions, to corporations and individuals.

It appears that the above named lessee, The McLain Grocery Company, is now the only holder of a lease upon the parcel of Ohio Canal lands above described, which lease, I assume, is one originally executed for a term of fifteen (15) years under the general provisions of sections 13965, et seq., General Code.

Upon examination of the provisions of this lease, I find, assuming that no part of the above described parcel of canal lands is included in any lease executed to the City of Massillon, or to any other political subdivision in the county, that said lease is in conformity with the provisions of the act of the General Assembly, above referred to.

I likewise find upon examination of this lease that the same has been properly executed on behalf of the State of Ohio by the superintendent of public works and by the above named lessee, The McLain Grocery Company, pursuant to the authority of a resolution duly adopted by the directors of the company.

I am accordingly hereby approving said lease as to legality and form and the same, together with the duplicate and triplicate copies thereof, are herewith returned with my approval endorsed thereon.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

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3949.

APPROVAL, CONTRACT BETWEEN THE STATE OF OHIO AND JOHN HOLMER & COMPANY OF CINCINNATI, OHIO, FOR MURAL PAINTINGS FOR HEARING ROOM NO. 1 OF THE NEW STATE OFFICE BUILDING, AT AN EXPENDITURE OF \$13,000.00.

COLUMBUS, OHIO, January 13, 1932.

HON. F. W. MOWREY, *Executive Secretary, State Office Building Commission, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State