

the compensation is allowed annually, and when in case of services per diem, for the amount of the bill approved by the court, from the general fund upon the presentation of a certified copy of the journal entry of appointment and compensation of such shorthand reporters."

Under the provisions of the sections of the General Code above quoted, it seems clear that in a case like that here presented the judge of the Court of Common Pleas, if in his opinion the business of the court does not require the appointment of an official court reporter for a term certain not exceeding three years, may appoint a shorthand reporter for the purpose of a particular case or cases to be tried in said court, and fix the per diem compensation of such shorthand reporter for services in the trial of such cases at any amount not to exceed fifteen dollars.

It is likewise clear that the appointment of such shorthand reporter on a per diem compensation basis may be made in any case tried in such court, whether the same be a civil or criminal case.

Under the express provisions of Section 1550, General Code, the compensation of such shorthand reporter so appointed is to be paid out of the general fund of the county upon the warrant of the county auditor when the bill for the per diem compensation of such shorthand reporter is approved by the court.

In connection with your inquiry, I assume that the compensation of the shorthand reporter, whether the same be the official court reporter or otherwise, is subject to appropriation by the county commissioners under the provisions of Sections 5625-29, et seq., General Code; and assuming that in the case here presented a proper and adequate appropriation has been made by the county commissioners for this purpose, I am of the opinion, by way of specific answer to your question, that the county auditor should draw a warrant on the county treasurer for the services rendered by the shorthand reporter appointed by the court on a per diem basis, where the bill for such shorthand reporter's services has been approved by the court, whether such services were rendered in civil or criminal cases, or both.

In this connection, it is to be noted that under the provisions of Section 1552, General Code, the folio charge of such shorthand reporter for making a transcript in a civil case is not to be paid out of the county treasury, unless such transcript is ordered by the court; in which case the cost of making such transcript is to be taxed as costs in the case, collected as other costs and paid by the clerk into the treasury of the county to the credit of the general fund. It should be, likewise, noted that under the provisions of Section 1549, General Code, a per diem charge of four dollars for the services of a shorthand reporter appointed by the court in any case should be taxed as a part of the costs in the case; and, when collected, the same should be paid into the treasury of the county to the credit of the general fund.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

147.

APPROVAL, LEASE TO MIAMI AND ERIE CANAL LANDS.

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 two certain canal land leases, in triplicate, covering parcels of Miami and Erie canal lands therein respectively described.

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