only as coroner, I am of the opinion that he would be entitled to receive ten cents for each mile traveled by him by reason of such information.

This view seems to be supported by my predecessor in an opinion found in the Opinions of the Attorney General, 1923, Volume 1, page 360.

Your inquiry states that the coroner was "notified" that a dead body had been found. The statute provides when he is "informed" that the body of a person, etc., has been found, he shall act. To be informed means to receive knowledge of some fact. This is the definition found in all dictionaries and is the common and well recognized use of said term.

However, if the coroner, who was a physician, rendered personal services to this man after he reached the place and made a charge against him therefor, he would not in that event be entitled to collect fees as coroner for the reason that he would abandon his right to the fees when he made a charge against the person receiving the services, thereby making it a personal matter between himself and the patient treated.

It is therefore my opinion that when a coroner has been informed that a dead body has been found in his county, whose death is supposed to have been caused by unlawful or suspicious means, and he travels to the place where the body is reported to be, he is entitled to a fee of ten cents for each mile traveled by reason of such information; such right is not defeated by the fact that the information was false.

Respectfully,
GILBERT BETTMAN,
Attorney General.

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DISAPPROVAL, AUTHORITY TO CANCEL LEASE OF THE COLUMBUS, NEWARK & ZANESVILLE R. R. COMPANY TO OHIO CANAL LAND.

COLUMBUS, OHIO, August 12, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication with which you enclose copy of a lease executed to the Columbus, Newark and Zanesville Railway Company January 5, 1923, by which there was granted to said company for a term of twenty-five years the right to use and occupy the Ohio canal banks and prpoerty between Newark and Hebron for railway right-of way and pole line purposes. The annual rental to be paid under said lease was and is the sum of $1700.00, of which the sum of $420.00 was and is apparently segregated as the apportioned rental of said property for pole line purposes.

In your communication, you advise that the Columbus, Newark and Zanesville Railway Company, pursuant to authority granted to it for the purpose by the Ohio Public Utilities Commission, has discontinued service over its line between Columbus and Newark; and my opinion is asked in the alternate as to your authority to cancel this lease and execute a new lease to the Ohio Power Company, the successor in interest to the property and assets of the Columbus, Newark and Zanesville Railway Company, or as to your authority to cancel so much of the existing lease as pertains to railway right-of-way over said canal lands, and leave standing so much of said lease as pertains to the pole line easement or privilege over said land.

Touching the questions presented in your communication, it is noted that this department, in an opinion directed to the Superintendent of Public Works under date of March 1, 1915, Opinions of the Attorney General, 1915, Vol. I, p. 205, held:

"The superintendent of public works has no authority to cancel an existing lease of state lands or accept a surrender of the same, merely in order that a new lease may be entered into between him and the original lessee."

In the opinion of this department above referred to, it is said:

"This inquiry raises a question as to the implied power of the Superintendent of Public Works to cancel existing leases. Under Section 13965 of the appendix to the General Code, it is necessary that lands shall not be under an existing lease before the Superintendent of Public Works is authorized to lease the same. Section 13966 authorizes leases of land 'for fifteen years' and leases of the right to erect buildings across canals 'for the term of fifteen years.'

I have carefully examined all the statutes relating to the leasing of state lands and find no provision authorizing the superintendent to cancel any lease under the circumstances suggested by you, and indeed the only circumstances under which he is authorized to cancel a lease seems to be in case rents shall not be paid by the lessee at the time specified in the lease, or within ten days thereafter, this provision being contained in Section 13968. The statute expressly requiring that land be not under an existing lease before the superintendent has any authority to lease it, it would seem that the superintendent would be without authority to lease land under an existing lease unless the power to make the original lease conferred by statute, carried with it the implied power to cancel the lease."

In the former opinion of this department above referred to, it is further said:

"While recognizing the force of the suggestion that the authority to cancel existing leases and make new ones under the conditions named by you might result in advantage to the state by way of increased rentals, I am unable to say, as a matter of law, that the power lodged in a public officer to make a lease carries with it by necessary implication, the power to cancel such lease. On the other hand, I am of the opinion that the power to make such a lease does not carry with it an implied power to cancel the same, and that in the present state of the law the Superintendent of Public Works has no authority to cancel an existing lease of state lands unless there be a default in the payment of rent as set forth above."

Later, in an opinion of this department, directed to the Superintendent of Public Works, under date of September 4, 1915, Opinions of Attorney General, 1915, Vol. II, p. 1670, it was held that:

"The Superintendent of Public Works is without authority to cancel a lease of canal property merely because the lessee, or the assignee of the lessee does not longer desire to use the leased property."

In this opinion, it is said:

"I know of no statute which authorizes the Superintendent of Public Works to cancel a lease of canal property merely because the lessee does not desire to longer use the same. The term of canal leases is fixed by the statute at fifteen years, and while this department has approved leases of canal lands containing a clause authorizing the Superintendent of Public Works to cancel

such leases in case an opportunity should arise to lease the property in question for electric railway purposes, yet it would be going much further than that to hold that the Superintendent of Public Works has authority to cancel a lease of canal lands merely because the lessee does not longer desire to use the same."

The lease here in question was executed pursuant to the authority of Section 14203-23, General Code, as amended by the General Assembly in the year 1919, 108 O. L., Pt. I, 608, the same being originally a part of an act to abandon certain portions of the Ohio Canal between Newark and the Village of Hebron, Licking County, Ohio, and to provide for leasing and selling the canal land included therein. Said Section 14203-23, General Code, authorizes the Superintendent of Public Works, subject to the approval of the Governor and Attorney General, to sell or lease said abandoned canal lands "in strict conformity with the various provisions of the General Code relating to the selling and leasing of state canal lands, (Section 13971, G. C.) except that the term of such leases shall not be for less than fifteen, nor more than twenty-five years."

With respect to the questions here involved, it is apparent that the provisions of the particular sections of the General Code under which the lease here in question was executed, do not confer upon the Superintendent of Public Works any greater power or authority than those of Sections 13965, et seq., or of other related statutes pertaining to canal land leases. In the case of *State, ex rel.* vs. *Railway Company,* 37 O. S., 157, 174, which was a case involving certain questions with respect to the power and authority of the Board of Public Works in and with respect to the canal lands of the state, it was said that said Board of Public Works possessed no power to grant rights with respect to such canal land, otherwise than as expressly authorized by law. It is obvious that the same observation is required to be made with respect to the power and authority of the Superintendent of Public Works as the successor to the Board of Public Works in matters relating to the canal lands of the state.

I am, therefore, of the opinion that you have no authority to cancel this lease in whole or in part otherwise than for the non-payment of rentals or for the non-performance by the lessee or its assigns of some other provision of the lease, violation of which would give you the right to cancel the same.

If the action of the Columbus, Newark and Zanesville Railway Company, in discontinuing its service between Columbus and Newark in and over the right-of-way covered by this lease, was taken pursuant to the command of a superior legal authority, or if it appeared that the abandonment of this lease was authorized by a court having competent jurisdiction of the subject matter and of said lessee company, a different question would be here presented. However, as I understand the facts, the discontinuance of service by said lessee company between the points above indicated and over the right-of-way granted to said company by this lease was done voluntarily by said company, and the Ohio Public Utilities Commission acted in the matter only because its consent to such discontinuance of service was requested as is provided by law in such cases.

By way of specific answer to the questions presented in your communication, I am of the opinion, as above indicated herein, that both of said questions should be answered in the negative.

I am herewith returning to you the lease here in question and a lease executed to the Southern Ohio Public Service Company under date of May 3, 1927, which latter lease was the subject of a former opinion of this department.

Respectfully,

GILBERT BETTMAN,

Attorney General.