

the offense, and there forthwith make complaint on oath or affirmation of the offense."

It is to be noted that since the section above quoted does not provide a fixed term for which an agent may be appointed by a humane society, the term of such appointment is at the pleasure of the appointing authority. An opinion of the Attorney General found in the Opinions of the Attorney General, 1910, page 891, holds that an appointment authorized to be made for a term not limited is at the pleasure of the appointing authority.

Section 10071, General Code, relating to the approval by the probate judge of the appointment of an agent by the humane society, and Section 10072, General Code, which relates to the salary of said agent, do not disclose any authority vested in the probate judge to alter or limit his approval of said appointment. The probate judge is merely given the discretion to determine whether or not public necessity requires the appointment. *State ex rel. v. Ashman*, 90 O. S. 200. And once his approval is given, his power with reference thereto is at an end. *Opinions of the Attorney General*, 1929, page 1176.

Having determined that the power of approval of the probate judge of the appointment of an agent by a humane society vests the judge with the option of sanctioning officially or of disapproving the appointment submitted to him, the question arises as to whether or not the action of the probate judge in qualifying his approval of such appointment amounts to an approval or disapproval of the appointment.

In the instant case, the probate judge recognized the necessity of such appointment when he gave his qualified approval for a considerable period of time beyond which it would be difficult to ascertain the then existing conditions.

Since the year's limitation which he placed upon his approval was not authorized by the statutes and probate judges have only such powers as are conferred by the Constitution and laws of Ohio, I am of the opinion that the action of the probate judge amounted to an approval of the appointment and that the attempted restriction should be treated as surplusage and disregarded.

In view of the foregoing, it is my opinion that a probate judge has no authority to limit his approval of the appointment of an agent of a humane society to a definite term. When such a qualified approval is given, compensation may be paid to the agent by the county under the provisions of Section 10072, General Code, until the humane society terminates the appointment of such agent.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

2936.

APPROVAL, LEASE TO OHIO CANAL LANDS AT AKRON, OHIO, FOR RAILROAD WAREHOUSE AND GENERAL RAILROAD BUSINESS PURPOSES—BALTIMORE AND OHIO RAILROAD COMPANY.

COLUMBUS, OHIO, February 11, 1931.

HON. A. T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval a certain canal land lease in triplicate executed by the State of Ohio, through you as superin-

tendent of public works, by which there is leased and demised to the Baltimore and Ohio Railroad Company, for a term of fifteen years, the right to use and occupy for railroad warehouse and for general railroad business purposes a certain parcel of Ohio Canal lands located in the city of Akron, Ohio, and described as follows:

"Commencing at a point on the easterly side of the Ohio Canal in said city of Akron, that is 15 feet northeasterly from the lower quoin post on the east side of Lock No. 6, north of Portage Summit and running thence northeasterly, at right angles to the inner face of the lock wall 40 feet, more or less, to the outer margin of the State canal property; thence southeasterly along the outer margin of the canal property, 55 feet, more or less, to the intersection of said line with the westerly right of way line of The Cleveland Terminal and Valley Railroad Company; thence southeasterly along said railway right of way heretofore leased from the State of Ohio 55 feet, more or less, to a point opposite the upper easterly quoin post of said Lock No. 6, that is 47 feet, more or less, northeast of said quoin post measured at right angles to the inner face of said lock wall; thence southwesterly 20 feet, more or less, to a point opposite said upper quoin post that is 15 feet northeasterly therefrom, measured at right angles to the face of the lock wall; thence northwesterly parallel to the inner face of the easterly lock wall and 15 feet northeasterly therefrom 100 feet, more or less, to the place of beginning, and containing 3900 square feet, more or less."

Upon examination of said lease, which is one calling for an annual rental of two hundred and thirty-four dollars, I find that the same has been properly executed by the parties thereto, and that the form and provisions of said lease are in conformity with Sections 13965, et. seq., General Code, and with other statutory enactments relating to leases of this kind.

Said lease is therefore approved by me as to legality and form, which approval is evidenced by my written approval endorsed upon said lease and upon the duplicate and triplicate copies thereof.

Respectfully,  
GILBERT BETTMAN;  
*Attorney General.*

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2937.

APPROVAL, LEASE TO OHIO CANAL LAND ON EASTERLY SIDE OF OHIO CANAL, AKRON, OHIO, FOR RAILROAD WAREHOUSE AND GENERAL RAILROAD BUSINESS PURPOSES—BALTIMORE AND OHIO RAILROAD COMPANY.

COLUMBUS, OHIO, February 11, 1931.

HON. A. T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval a certain canal land lease in triplicate executed by the state of Ohio, through you as superintendent of public works, by which there is leased and demised to the Baltimore