

tions. And, inasmuch as the proceedings relating to this matter have been substantially regular and in conformity with House Bill No. 467 passed by the 90th General Assembly, I am approving your proceedings as to legality and form, as is evidenced by my approval endorsed upon the resolution which is attached to your finding and which is made a part of the proceedings relating to the adjustment of these rentals. You will find enclosed herewith all of the files which have been submitted to me with respect to this matter.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*

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2739.

APPROVAL, PROCEEDINGS RELATING TO APPLICATION OF GABLE BRUSH, PIQUA, OHIO, FOR ADJUSTMENT OF UNPAID RENTALS AND OF CURRENT ANNUAL RENTALS OF MIAMI AND ERIE CANAL LAND LEASE, IN LOCKINGTON, SHELBY COUNTY, OHIO.

COLUMBUS, OHIO, May 24, 1934.

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

DEAR SIR:—You have submitted for my examination and approval, your findings on an application made by Gable Brush, of Piqua, Ohio, for an adjustment of unpaid rentals and of current annual rentals on Miami and Erie Canal land lease No. 299, which was executed to said Gable Brush on or about July 6, 1928. By the lease here in question, there was leased and demised to the lessee therein named, for residence and agricultural purposes, and for an annual rental of \$120.00, therein provided for, a parcel of abandoned Miami and Erie Canal property in the Village of Lockington, Shelby County, Ohio. It appears from the application, as well as from your finding, that the lessee is delinquent in the payment of rentals due and payable under this lease, up to and including May 1, 1934, in the sum of \$275.00. His application is for a reduction in such delinquent rentals as well as for a reduction in the amount of the current annual rental provided for in the lease. Acting upon this application and after investigating the facts in regard to the same, you have rejected the application in so far as the delinquent rentals under this lease are concerned, and you have granted a reduction in the current annual rental payable under the lease for the period from May 1, 1934 to May 1, 1935, from \$120.00 to \$72.00.

It is only that portion of your findings which effects a reduction in the amount of current annual rental which requires the approval of the Governor and of the Attorney General. And addressing myself to this question, I am unable to find as a matter of law, that your action in making this reduction is not justified; and finding that the proceedings relating to this reduction have been substantially regular and in conformity with the act of the Legislature authorizing the same, your proceedings in this matter are hereby approved as to legality and form, as

is evidenced by my approval endorsed upon the resolution which is attached to your finding and made a part of the proceedings relating to this matter.

I am herewith enclosing the files which have been submitted to me.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*

2740.

LIQUOR CONTROL BOARD — APPOINTMENT — CONFIRMATION BY SENATE—ADOPTION OF RULES BY SENATE—QUORUM OF SENATE—FAILURE TO CONFIRM NOT REJECTION OF APPOINTMENT WHEN.

*SYLLABUS:*

1. *The action of the 90th General Assembly on May 3, 1934, in voting against a ruling of the chair, which ruling was that a majority of a quorum was sufficient to confirm such appointment, did not constitute the adoption of a rule upon this question.*

2. *A majority of all the members elected to the Senate is a quorum to do business, and when the Senate journal discloses less than that number voting upon a question, other than a question to adjourn, without showing that there were any senators present who did not respond to the call of their names, or who were excused from voting, then any presumption of a continuance of a theretofore existing quorum is overcome and such vote is not a vote of the Senate.*

3. *When an appointment is made by the Governor which is subject to the advice and consent of the Senate, the failure of the Senate to confirm such appointment while in special session before adjourning for several months does not constitute a rejection of such appointment and the appointee should continue in office unconfirmed until the Senate either acts on his appointment at such special session or until such special session is terminated.*

COLUMBUS, OHIO, May 25, 1934.

HON. GEORGE WHITE, *Governor of Ohio, Columbus, Ohio.*

MY DEAR GOVERNOR:—Your letter of recent date is as follows:

“Will you please render to me your formal opinion upon the question of whether or not the action taken by the Ohio Senate the evening of May 3rd, 1934, does or does not constitute the confirmation of my appointment of George O’Brien and Lockwood Thompson, as members of the Liquor Control Board?

I shall appreciate your giving this matter your earliest possible consideration.”

Section 2 of the “Liquor Control Act” provides that “The members of the board \* \* shall be appointed by the Governor with the advice and consent of the Senate.”