

797.

APPROVAL, LEASES TO OHIO CANAL LAND IN THE CITY OF AKRON,
SUMMIT COUNTY, OHIO.

COLUMBUS, OHIO, August 27, 1929.

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

DEAR SIR:—You have submitted for my examination and approval two certain leases in triplicate, by which there are leased and demised to the respective grantees therein named, for terms of fifteen years each, certain parcels of Ohio canal property located in the city of Akron, Summit County, Ohio, and which parcels are fully described in said respective leases. Said leases designated with respect to the lessees named therein, the size of the parcels leased and the appraised valuations thereof, are as follows:

The Thos. Phillips Company, 15,773 sq. ft.-----	\$25,000.00
The Commercial Printing & Lithographing Company, 13,455 sq. ft.	\$21,833.34

An examination of said leases shows that the same, and each of them, have been executed in conformity with the provisions of Section 13965 and other related sections of the General Code applicable to leases of canal lands. Said leases are, therefore, accordingly approved as to form.

The annual rental reserved in each of these leases is 6% of the appraised value of the parcels covered by said leases.

From the standpoint of the appraised value of said parcels and the rent reserved for the lease of the same, the leases here in question seem to be in all respects advantageous from the standpoint of the state, and the same are hereby approved as is evidenced by my approval endorsed upon said leases and upon the duplicate and triplicate copies thereof.

Respectfully,
GILBERT BETTMAN,
Attorney General.

798.

MINNOW DEALER—SALE OF HUNDRED MINNOWS A DAY TO AN-
OTHER DEALER ALLOWED—EMPLOYEES NEED NOT BE LICENSED.

SYLLABUS:

1. *Under the terms of Section 1414-1, General Code, a minnow dealer is prohibited from selling to any other minnow dealer more than one hundred minnows in any one day.*

2. *Persons employed by a duly licensed minnow dealer for the purpose of gathering minnows are not required to obtain a license, as provided in Section 1414-1, of the General Code.*

COLUMBUS, OHIO, August 27, 1929.

HON. J. W. THOMPSON, *Chief, Division of Fish and Game, Department of Agriculture, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your request of recent date for my opinion, which is as follows:

"We are submitting to you a question pertaining to the handling of minnows under Sections 1414 and 1414-1. The question has been raised as to the legality of minnow dealers for bait, who have complied with the law and paid for their license for handling same, as to *whether or not they can sell more than one hundred minnows to any other dealer*, who has also complied with the law by obtaining a minnow dealer's license.

The last parts of Sections 1414 and 1414-1 are the parts in question. No person at any time in the inland fishing district shall have in his possession either alive or otherwise, more than one hundred minnows, except persons, firms, association and corporations buying, selling or dealing in bait, which persons, firms, associations or corporations must be licensed as provided in Section 1414-1.

We also wish to know your opinion as to *whether or not a man dealing in minnows and having a minnow dealer's license may hire a man by the hour, or day or otherwise to gather minnows for him, when said employe has no minnow dealer's license.*"

Section 1414, General Code, part of which is pertinent to your inquiry, is as follows:

" * * * In the inland waters of the state no minnows shall be taken or caught with a minnow seine exceeding four feet in depth and eight feet in length and in the Lake Erie fishing district no minnows shall be taken with a minnow seine exceeding thirty feet in length."

Section 1414-1, General Code, is as follows:

"Each person, firm, partnership, association or corporation who buys, sells or deals in minnows is required to obtain, annually, from the director of agriculture a permit, and operate under such rules and regulations as the director of agriculture is hereby empowered to prescribe. Such permit shall be issued upon application and the payment of a fee of five dollars. It is further provided that such dealers shall not have in possession more than four thousand minnows at any one time, nor sell to any one person more than one hundred minnows in any one day."

Section 1390 of the General Code, defines the words and phrases as used in Sections 1390 to Section 1454 of the General Code. The word "person" is construed in Section 1390, as follows:

" * * * Person: Includes company, partnership, corporation or association, also any employe, agent or officer thereof. * * * "

Since the Legislature has defined the word "person" as used in Section 1414-1 of the General Code, it is apparent that a dealer in minnows is prohibited from selling more than one hundred minnows to any one person, partnership, association or corporation.

In an opinion rendered by this office, and found in Opinions of the Attorney General for 1928, Volume 2, at page 928, the then Attorney General said as follows:

" * * * By the plain and unambiguous language of Section 1414-1, supra, minnow dealers 'shall not * * * sell to any one person more than one hundred minnows in any one day.' As provided by Section 1390, supra,

the word 'person' shall be construed to include any company, partnership, corporation or association, also any employe, agent or officer thereof.

In view of the language used in the sections of the General Code herein referred to I am of the opinion that a minnow dealer may not legally sell to any one person more than one hundred minnows in any one day. The fact that the vendee also is a minnow dealer would not constitute a defense to a prosecution of the vendor instituted under Section 1454, supra, charging such vendor with selling more than one hundred minnows to any one person in any one day."

I am in accord with the opinion of my predecessor, and therefore, in answer to your first inquiry, I am of the opinion that under the terms of Section 1414-1 of the General Code, a minnow dealer is prohibited from selling to any other minnow dealer more than one hundred minnows in any one day.

While Section 1390 of the General Code, defines the word "person" as used in Section 1414-1, supra, so as to include any officer, employe or agent, nevertheless, it appears from a reading of Section 1414-1, General Code, that it was the intention of the Legislature to license dealers in minnows, for in Section 1414-1, General Code, the Legislature uses this language:

" * * * It is further provided that *such dealers* * * *"

It also appears that the title of Section 1414-1, General Code, is as follows:

"Minnow Dealer's Permit, how obtained: * * *"

The word "dealer" is defined in Webster' New International Dictionary, as follows:

"A dealer: one who does business, a trader, a trafficker, a person who makes a business of buying and selling goods."

It is apparent that an employe of a person, firm, partnership, association or corporation engaged in gathering minnows, is not a dealer, and it was not the intention of the Legislature to require such employe to obtain a license, as provided in Section 1414-1 of the General Code.

Your second inquiry as to whether or not a man dealing in minnows, and having a minnow dealer's license, may hire a man by the hour, day or otherwise, to gather minnows for him when said employe does not have a minnow dealer's license must therefore be answered in the affirmative.

In view of the foregoing, and in specific answer to your inquiries, I am of the opinion:

First, under the terms of Section 1414-1, General Code, a minnow dealer is prohibited from selling to any other minnow dealer more than one hundred minnows in any one day.

Second, persons employed by a duly licensed minnow dealer for the purpose of gathering minnows are not required to obtain a license, as provided in Section 1414-1 of the General Code.

Respectfully,

GILBERT BETTMAN,
Attorney General.