

stated and by Lester Dupont, the lessee therein named, in the manner provided by law. Assuming, as I do, that the parcel of canal land above described has not been designated by the Director of Highways for state highway purposes, and that no application for the lease of this property for park purposes has been made by the City of Defiance, I find that the provisions of this lease and the conditions and restrictions therein contained are in conformity with the Act of the Legislature above referred to and with other statutory provisions relating to leases of this kind.

I am, accordingly, approving this lease, and I am herewith returning the same with my approval endorsed thereon and upon the duplicate and triplicate copies thereof which are likewise herewith returned.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

1625.

LEASE — CANAL LAND, STATE TO ISAAC H. NORMAN, DESIGNATED PORTION, OHIO AND ERIE CANAL, STATION 3284 + 46.7, COSHOCTON COUNTY, USE, AGRICULTURAL PURPOSES.

COLUMBUS, OHIO, December 30, 1939.

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: You recently submitted for my examination and approval a canal land lease executed by you as Superintendent of Public Works and as Director of said Department, to one Isaac H. Norman, R. R. No. 1, Fresno, Ohio.

By this lease, which is one for a stated term of fifteen years, and which provides for an annual rental of \$15.00, there is leased and demised to the lessee above named, the right to occupy and use for agricultural purposes, that portion of the Ohio and Erie Canal property described as follows:

“Beginning at Station 3284 + 46.7, which is on the easterly line of the lands of the grantee herein, and extending thence westerly with the lines of said canal property, a distance of fourteen hundred and thirty-nine (1439') feet, to Station 3298 + 85.7, said station being on the westerly line of the lands of said grantee herein, and containing two and eight-tenths (2.8) acres, more or less.”

Upon examination of this lease, which is executed by you under the authority of an Act of the 89th General Assembly, 114 Ohio Laws, 541,

I find that the same has been executed by you in your official capacity above stated, and by Isaac H. Norman, in the manner provided by law.

Assuming as I do, that this property has not been designated for state highway purposes and that no application for the lease of the same has been made by any of the corporations or persons having prior rights to the lease of the property, I find that the terms and provisions of this lease are in conformity with the Act of the Legislature and related statutes.

I am, therefore, approving this lease, as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith enclosed.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

1626.

SENTENCE—OHIO STATE PENITENTIARY OR OHIO STATE REFORMATORY—TRIAL COURTS DURING TERM HAVE POWER AND JURISDICTION TO VACATE JUDGMENT AND SENTENCE—SUSPEND IMPOSITION OF NEW SENTENCE—PLACE ON PROBATION—RESENTENCE—DECREASE, NOT AUGMENT PUNISHMENT—EVEN THOUGH ACCUSED COMMENCED TO SERVE SENTENCE—SEE SECTIONS 13452-1 ET SEQ., G. C.

SYLLABUS:

1. *Trial courts in Ohio have the power and jurisdiction during term to vacate a judgment and sentence in a criminal case and to resentence so as to decrease but not augment the punishment, even though the accused shall have commenced to serve his sentence in the Ohio Penitentiary or the Ohio State Reformatory.*

2. *This power and jurisdiction includes the power during term entirely to vacate the judgment and sentence once pronounced, and to suspend the imposition of a new sentence and place the accused upon probation in accordance with the provisions of Sections 13452-1, et seq., General Code.*

COLUMBUS, OHIO, December 30, 1939.

HONORABLE CHARLES L. SHERWOOD, *Director, Department of Public Welfare, Columbus, Ohio.*

DEAR SIR: This will acknowledge receipt of your request for my opinion which reads as follows:

“Will you please advise us on the following questions:

Under what circumstances may courts of common pleas