

Also, all of inlot No. 19, in Block 36 east addition to the city of St. Marys, Ohio, excepting therefrom any part of said lot that may be leased to the New York Central Railroad Company.

Upon examination of this lease, which is one executed by you under the authority of the DeArmond Act, so-called, 114 O. L., 546, I find that the same has been properly executed by you in your official capacity above stated and by the City of St. Marys, acting by the hand of its Mayor pursuant to the authority of a resolution of the Council of said city duly adopted under date of September 9, 1938. Assuming, as I do, that the parcels of canal land above described have not been designated by the Director of the Department of Highways for state highway purposes, and that no application for the lease of this property for park purposes has been made by any political subdivision entitled to the lease of the property for such purposes, 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 which are likewise herewith enclosed.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

3035.

APPROVAL--LEASE, CANAL LAND, DEPARTMENT OF PUBLIC WORKS WITH ETHEL RIFE LIST, ASHVILLE, OHIO, OHIO AND ERIE CANAL IN WALNUT TOWNSHIP, PICKAWAY COUNTY, OHIO, TERM OF FIFTEEN YEARS, ANNUAL RENTAL, \$10.00, FOR AGRICULTURAL AND RESIDENTIAL PURPOSES.

COLUMBUS, OHIO, September 28, 1938.

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

DEAR SIR: You have submitted for my examination and approval a canal land lease in triplicate executed by you as Superintendent of Public Works and as Director of said department to one Ethel Rife

List of Ashville, Ohio. By this lease, which is one for a stated term of fifteen years and which provides for an annual rental of \$10.00, there is leased and demised to the lessee above named the right to occupy and use for agricultural and residential purposes that portion of the abandoned Ohio and Erie Canal in Walnut Township, Pickaway County, Ohio, that is described as follows:

Beginning at a point in the westerly line of said canal property, same being at or near station 2957+96, of A. Albright's Survey of said canal property, said point being the intersection of said canal property line and the right of way line of U. S. Highway No. 23; thence southerly along the westerly line of said canal property, four hundred and sixty-six (466') feet, more or less, to station 2962+62; thence south 85° 0' west, one hundred eighty-five (185') feet, more or less, to the easterly line of said canal property; thence along said easterly line of said canal property, two hundred seventy-eight (278') feet, more or less, to a point, same being the intersection of said canal property and the right-of-way of said highway; thence along said highway right-of-way with a curve to the left having a radius of six hundred eighty-six and three-tenths (686.3') feet, a distance of two hundred thirty-seven (237') feet, more or less, to the point of beginning, and containing one and thirty-two (1.32) hundredths acres, more or less, and excepting therefrom any of the above described canal property that may be occupied by the aforementioned highway.

I am unable to determine from the description of the canal property covered by this lease whether the location of the same is such that the lease of the property is governed by the provisions of the Act of April 19, 1929, 113 O. L., 524, providing for the sale or lease of canal lands between the flume at Buckeye Lake in Fairfield County, Ohio, and Little Walnut Creek in Pickaway County, Ohio, or by the earlier and more general provisions of the Act of June 7, 1911, providing for the sale or lease of Ohio and Erie Canal lands between the flume at Buckeye Lake at the west end of said lake in Fairfield County, Ohio, and the junction of said canal with the Ohio River near Portsmouth, Ohio. In any view, as to this particular question, I am of the opinion that the execution of this lease is within the authority conferred upon you by law.

Upon examination of this lease, I find that the same has been executed by you as Superintendent of Public Works and as Director of said department on behalf of the State of Ohio and by said Ethel Rife List in the manner provided by law. 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,

HERBERT S. DUFFY,
Attorney General.

3036.

DEPARTMENT OF PUBLIC WELFARE—INTERPRETATION
AMENDED HOUSE BILL 829 SECTION 3 AND AMENDED
SENATE BILL 369—OHIO STATE PENITENTIARY PER-
SONAL SERVICE-A-1-SALARIES—GUARDS—SALARIES
APPROPRIATION—SUPPLEMENTARY—AMOUNT MAY
BE USED FOR PURPOSE OF APPROPRIATION ITEM.

SYLLABUS:

The appropriation contained in Section 3 of Amended House Bill 829 of the 92nd General Assembly is a supplementary appropriation to augment the amount appropriated in and by the General Appropriation Act, Amended Senate Bill 369, under the heading "Ohio State Penitentiary Personal Service—A 1. Salaries" and the amount therein appropriated may be used for the purpose of such appropriation item.

COLUMBUS, OHIO, September 29, 1938.

Department of Public Welfare, State Office Building, Columbus, Ohio.

GENTLEMEN: Your letter of recent date reads as follows:

"Amended H. B. 829, enacted by the 92nd General Assembly, in special session, provides for a \$20.00 per month increase in salary, effective March 1, 1938, for the guards employed at the Ohio Penitentiary, and also provides a new schedule of working hours and leaves of absence. Copy of amended H. B. 829 is attached.

Section 3 of the Act appropriates the sum of \$102,500.00 to provide for the increases set forth in Section 1. No direct mention is made, however, regarding payment of the 45 additional guards employed since March 1, 1938, to carry out the provisions of Section 2 of this Act. Since the effective date of this Act it has been generally accepted that the \$102,500.00 appropriated was available to cover both the increases in salary and pay the salaries of the additional guards employed.