

1993.

APPROVAL, FINAL RESOLUTION FOR ROAD IMPROVEMENTS, CHAMPAIGN COUNTY, OHIO.

COLUMBUS, OHIO, April 11, 1921.

HON. LEON C. HERRICK, *State Highway Commissioner, Columbus, Ohio.*

1994.

OHIO BOARD OF ADMINISTRATION—PENITENTIARY—ENTERTAINMENT AND AMUSEMENT FUND IS A TRUST FUND—HOW EXPENDITURES ARE TO BE MADE FROM SUCH FUND.

1. *The entertainment and amusement fund, created by authority of the board of administration out of the interest accruing on other funds of the penitentiary and added to by funds obtained otherwise, but being the property of the institution, is a trust fund and must be strictly accounted for as such by the warden in his official capacity.*

2. *Proper expenditures from a fund created by the board of administration are those made for the beneficiary thereof in the furtherance of the purpose and intent expressed in creating the same. The beneficiary in the instant case is the penitentiary, and in the absence of specific directions by the board of administration in creating the fund, any expenditure that may with reason and justice be said to come within the purposes of the fund are legal expenditures.*

COLUMBUS, OHIO, April 12, 1921.

HON. JOSEPH T. TRACY, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your letter, which reads thus:

“Accompanying this letter is a history of the entertainment and amusement fund of the Ohio penitentiary.

We ask an opinion from you on the status of this fund during the period from February 2, 1916, to September 1, 1920, covering the following points:

First: Were said funds a trust?

Second: If a trust, were they a trust in charge of the state, the warden, or P. E. Thomas as an individual, or in whose charge were the said funds?

Third: In any case, should any accounting have been made of the fund?

Fourth: For what purposes could disbursements from this fund be legally made?”

The statement of facts attached to this letter reads as follows:

“The Ohio board of administration in its minutes under date of September 12, 1913, directed the fiscal supervisor to authorize the warden of the Ohio penitentiary to credit \$1,453.33 interest on the convict fund, parole and