

Consequently, in specific answer to your inquiry, it is my opinion that the derivative legal settlement of M. B., the minor child of G. B., would be in Wyandot County since that is the legal settlement of her father, G. B.

Respectfully,

JOHN W. BRICKER,
Attorney General.

3614.

CONDITIONAL APPROVAL—LEASE FORM OF LEASES WITH RESPECT TO CANAL LANDS THAT HAVE BEEN ABANDONED FOR CANAL PURPOSES AND OTHERWISE.

COLUMBUS, OHIO, December 11, 1934.

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

DEAR SIR:—You have submitted for my examination and approval a general lease form of leases to be executed by you in your official capacity as Superintendent of Public Works and as Director of said Department, of canal lands under the provisions of various statutory enactments authorizing the execution of such leases with respect to canal lands that have been abandoned for canal purposes, and otherwise. The lease form submitted for the most part follows the printed form which has been heretofore used in the execution of leases of this kind. However, there is one marked exception and that is as to the provisions in this lease form with respect to the sale of spirituous or intoxicating liquors on the premises leased. In the lease form heretofore used, the sale of spirituous and intoxicating liquors on the premises leased is strictly forbidden under penalty of a forfeiture of the lease. Under the proposed lease form submitted, the sale of spirituous or intoxicating liquors on the premises leased is permitted under restrictions therein provided for. The particular paragraph in the lease form which sets out the provisions above referred to, reads as follows:

“It is distinctly understood and agreed between the respective parties hereto, that the party of the second part, heirs, executors, administrators, successors and assigns, shall not permit the same to be used for immoral purposes nor allow to be sold on the premises hereby leased, any spirituous or intoxicating liquors, other than those and in the manner allowed by law upon the date of this lease, or under laws subsequently passed by the General Assembly of Ohio, under penalty of a forfeiture of this lease; providing further, that such sale of said spirituous or intoxicating liquors shall at all times be conducted in strict compliance with any and all State laws and local ordinances pertaining thereto.”

Inasmuch as there is no statutory enactment which forbids the sale of spirituous or intoxicating liquors on state owned canal lands, no legal objection can be made to a provision in a lease of such canal lands which permits the sale on these lands of such spirituous or intoxicating liquors as are otherwise permitted to be sold in this State, subject to the restriction that such sale or sales shall be

made only in the manner provided by the laws in this State. And since the question as to whether the sale of spirituous and/or intoxicating liquors on canal lands leased by your department should be prohibited or should be permitted under proper restrictions, is a question of sound governmental policy to be determined by you as the responsible head of the department of state government having charge of these lands, and is not a question which this office is called upon to determine, I cannot say, on any considerations governing my duty in the premises, that you may not insert in the lease form of the leases to be executed by you a provision such as that above quoted.

In this connection, however, I do not think it improper to suggest that aside from the restrictions which the law imposes upon the sale of spirituous or intoxicating liquors in this State, it might be well for the Superintendent of Public Works as Director of said Department to keep a controlling hand on the matter of the sale of such liquors on canal lands leased by him and to provide in the lease that such liquors should be sold or be permitted to be sold only on his written consent. There are some canal lands so situated with respect to environment that it might be detrimental not only to the public interest and welfare but also to the proprietary interest of the State to permit the sale of intoxicating liquors on such lands. You will understand, of course, that this is only a suggestion and I am not assuming to pass upon any question other than those properly before me as your legal advisor.

As a mere matter of carrying out your obvious intention in the provisions of the lease form above quoted, it is suggested that between the words "nor" and "allow" in the fourth line of the paragraph of the lease form in which such provisions are set out, there should be inserted the words "sell or".

With respect to the sections of the General Code appearing at the head of the lease form as the authority of the Superintendent of Public Works to execute canal land leases, I am inclined to the view that it is sufficient to indicate sections 464, 486-1, 13965, et seq., 154-3 and 154-40 of the General Code, and, in case of the lease of canal lands which have been abandoned for canal and/or hydraulic purposes, there should be a reference to such act by year book and page.

In conclusion, it is suggested that the lease form should be so drawn that the location of the parcel of canal land leased should be so designated as to show the county and the township (or municipal corporation) in which the property is situated.

Respectfully,

JOHN W. BRICKER,

Attorney General.

3615.

APPROVAL—RESERVOIR LAND LEASE IN FAIRFIELD COUNTY, OHIO,
FOR THE RIGHT TO OCCUPY AND USE FOR COTTAGE SITE AND
DOCKLANDING PURPOSES A CERTAIN PARCEL OF LAND AT
BUCKEYE LAKE—THELMA L. GARRISON.

COLUMBUS, OHIO, December 11, 1934.

HON. EARL H. HANEFELD, *Director, Department of Agriculture, Columbus, Ohio.*

DEAR SIR:—The Chief of the Bureau of Inland Lakes and Parks of the Di-