

Upon examination of the lease submitted I find that the lease has been properly executed by the Conservation Commissioner and by the lessee above named pursuant to the authority of a resolution of the board of directors of said company.

Upon examination of the provisions of this lease and of the conditions and restrictions therein contained, I find the same to be in accordance with the statutory provisions relating to leases of this kind and I am accordingly approving this lease as appears by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4572.

APPROVAL, CONTRACT BETWEEN THE STATE OF OHIO AND THE INGERSOLL-RAND COMPANY OF NEW YORK, N. Y., FOR THE CONSTRUCTION AND COMPLETION OF BOILER FEED PUMPS, WASH WATER PUMPS AND BOOSTER PUMPS FOR THE OHIO STATE PENITENTIARY, AT AN EXPENDITURE OF \$6,067.00—SURETY BOND EXECUTED BY THE MARYLAND CASUALTY COMPANY OF BALTIMORE, MARYLAND.

COLUMBUS, OHIO, August 17, 1932.

HON. JOHN MCSWEENEY, *Director of Public Welfare, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Welfare, for the Ohio Penitentiary, Columbus, Ohio, and the Ingersoll-Rand Company of New York, N. Y. and Cleveland, Ohio. This contract covers the construction and completion of boiler feed pumps 1800 RPM, Wash Water Pump and Booster Pumps for the Ohio Penitentiary, Columbus, Ohio, in accordance with items 3, 4 and 5 of the form of proposal dated June 10, 1932. Said contract calls for an expenditure of six thousand and sixty-seven dollars (\$6,067.00).

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. You have also shown that the Controlling Board has approved the expenditure of moneys for this contract in accordance with section 8 of House Bill No. 624 of the 89th General Assembly. In addition, you have submitted a contract bond upon which the Maryland Casualty Company of Baltimore, Maryland, appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with. A certificate of the Secretary of State shows that the contracting foreign corporation is authorized to do business in Ohio.

Finding said contract and bond in proper legal form, I have this day noted

my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,
GILBERT BETTMAN,
Attorney General.

4573.

FISH—STOCKED IN ARTIFICIAL LAKE OWNED BY MUNICIPALITY—
STATE DOES NOT LOSE TITLE.

SYLLABUS:

The state does not lose its title to and ownership of fish stocked in artificial lakes owned and controlled by municipalities.

COLUMBUS, OHIO, August 18, 1932.

HON. I. S. GUTHERY, *Director, Department of Agriculture, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of a letter from William H. Reinhart, Conservation Commissioner, which reads as follows:

“Your formal legal opinion is requested on the following question:

The city of Akron, like most of the other cities of Ohio, including Columbus, obtains its city water supply from an artificial lake, an impounded portion of the Cuyahoga River near Kent in Portage County. This lake was created by the construction of a dam across the valley of a natural watercourse. The city of Akron owns the land surrounding this artificial lake, called Lake Rockwell and its secondary basin called Lake Pippin, though a flow of water enters from above the city property and leaves over the spillway. This body of water has been in existence some time, and since 1919 the State Division of Fish and Game, and more recently its successor, the Division of Conservation, has used this sizable lake as a rearing pond proposition. The lake has been stocked with hatchery fish and fish from Lake Erie, and this Division has reaped an annual harvest of fish for distribution into other waters. Since 1929 this has been done under authorization of the Akron City Council by City Ordinance. During all of this period the lake has been kept closed to public fishing by the City authorities.

At the present time the Akron authorities are considering a proposition made to them by a local organization to remove the control of the fish from the State and sell the privilege in order to obtain revenue. It is our uninformed opinion that the fish in a body of water of this description are exactly of similar status to the fish and game of all of the rest of the waters of the state, namely held in trusteeship by the State for the benefit of the public. The statutes that apply to these fish are the same as those which apply to all fish and game, and it is hardly conceivable to us that by the establishment of a dam across a stream, the land owner wrests the trusteeship of wild life from the state.

Your formal opinion of the legal status of the fish in the waters of