deposits. Pending the settlement of the controversy, therefore, I think you will be obliged to secure protection for these funds in some other manner and I advise that you do so.

PRISON, INDIANA STATE: Proper operation of the "good time" act of the 1933 legislature with regard to unpaid fine and costs.

June 21, 1933.

L. E. Kunkel, Warden,
Indiana State Prison,
Michigan City, Indiana.

Dear Sir:

I have before me your letter of June 13, 1933, in which you state that William Brooks, prisoner No. 15549, was sentenced for one year on a petit larceny charge on July 1, 1932, and was assessed a fine and costs amounting to $119. You attach a certified copy of the commitment of such prisoner from the Gibson Circuit Court, and ask our opinion as to the proper operation of the "good time" act of the 1933 legislature with regard to the unpaid fine and costs.

Section 1 of the act in question, being chapter 164 of the Acts of 1933, reads in part as follows:

"Every inmate who is now or hereafter may be confined in the Indiana state prison, Indiana reformatory, or Indiana woman's prison, for a determinate term of imprisonment, and who, while an inmate in such institution, shall have no infractions of the rules and regulations of the institution, nor infractions of the laws of the State of Indiana or laws of the United States recorded against him or her, and who performs in a faithful manner the duties assigned to him or her while an inmate, shall be entitled to a diminution of time from his or her sentence as indicated in the following table for the respective years of his or her sentence, including time being served for unpaid fine or costs, and pro rata for any part of a year when the sentence is for more or less than a year." (Our italics.)

This language of the act is capable of only one construction, and that is, that the days the prisoner would be required to serve to satisfy unpaid fine or costs, should be added to
the sentence and "good time" allowed upon the entire period of imprisonment thus computed, upon the basis of the table set out in the act. (See Sec. 1, chapter 164, Acts 1933.)

Prisoner William Brooks, under the table mentioned, would be entitled to one month off of his year's sentence for good time. The table provides for two months off of the second year, which would figure one-sixth of the second year of imprisonment. Since the act provides that the prisoner shall be entitled to diminution of time as set out in the table for the respective years, "and pro rata for any part of a year when the sentence is for more or less than a year," the prisoner in question would be entitled to additional "good time" figured on the rate of \textit{one-sixth of the additional period of imprisonment} imposed by law on account of the $119 unpaid fine and costs. This would figure 19 days, or a total of one month and nineteen days from the entire term of imprisonment.

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**CONSERVATION DEPARTMENT:** Whether public service company must construct fish ladders in connection with diversion dam across Whitewater river in Wayne county.

June 21, 1933.

Kenneth M. Kunkel, Director,
Fish and Game Division,
Conservation Department,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of June 15, 1933, in which you ask whether or not the Public Service Company of Indiana may be compelled to construct fish ladders in connection with its diversion dam across Whitewater river in Wayne County, Indiana. You attach correspondence from officers of such company purporting to state the facts concerning the erection and operation of such dam and of the canal created by the diversion.

Section 4757, Burns Revised Statutes, 1926, provides as follows:

"The owner or owners of any dam across any of the rivers, streams or watercourses in this state, when such dam is of the height of four feet or over, shall, within six months after the passage of this act, con-