

4667.

## APPROVAL, CONTRACT FOR ROAD IMPROVEMENT IN BUTLER COUNTY, OHIO.

COLUMBUS, OHIO, September 30, 1932.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

4668.

## APPROVAL, LEASE TO ABANDONED MIAMI AND ERIE CANAL LANDS IN WATERVILLE AND PROVIDENCE TOWNSHIPS, LUCAS COUNTY, OHIO, FOR PUBLIC PARK AND RECREATION PURPOSES—TOLEDO METROPOLITAN PARK BOARD.

COLUMBUS, OHIO, October 4, 1932.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—There has been submitted for my examination and approval, a certain lease and instrument of writing executed by you, in your official capacity as Director of Highways, to the Toledo Metropolitan Park Board.

By this lease, which is executed by you under the authority of Section 9, of Amended Senate Bill No. 48, executed by the 87th General Assembly April 4, 1927 (112 O. L., 360) as amended by the 89th General Assembly March 31, 1931 (114 O. L., 19) there is leased and demised to the Toledo Metropolitan Park Board, for public park and recreation purposes, three certain parcels of abandoned Miami and Erie Canal lands in Waterville and Providence Townships, Lucas County, Ohio, which will not be required for highway purposes.

Upon examination of this lease, I find that the same has been executed by you, in your official capacity as Director of Highways, and by the lessee above named, in the manner required by law. This lease has not been acknowledged by the Director of Highways, and inasmuch as there is no statute which provides specially for the filing and recording of leases executed by the Director of Highways, as is the case with respect to leases executed by the Superintendent of Public Works (Section 429, General Code) the question is suggested whether this lease is not required to be acknowledged under the general law providing for the execution of leases (Section 8510, General Code).

In this situation it is to be observed that if there were some statutory provision which *required* leases executed by the Director of Highways to be recorded of the county where the property is situated, the lease would not be valid without acknowledgment by the lessor for the reason that in such case the lease without such acknowledgment would not be entitled to record. *Atkinson vs. Dailey*, 2 Ohio, 213. However, there is no statute which requires this lease to be recorded; and the only question remaining for determination is whether the general provisions of Section 8510, General Code, relating to the execution and acknowledgment of leases applies to a lease of this kind. It is a general principle applicable in the construction of statutory provisions that the same do not apply to the state