

upon a road improvement and the material furnished for the road improvement is performed and furnished with a view to the bond as it existed at the time that the labor is performed and the material is furnished. In law, at least, it can be assumed that the man performing labor and those furnishing material for road improvements take into consideration the fact that such and such a person or company is surety on the bond and that said person or company is satisfactory to said persons. Hence, in law it occurs to me that the state highway commissioner has no authority, after a contract for a road improvement has once been entered into to substitute a new bond for that which was given in the beginning, or, in other words, in substituting one surety for another.

Further, I am of the opinion that to do so would be against sound public policy. If this principle were followed it might lead to the substitution of a surety which is not financially responsible for one which is financially responsible, and this even though the state highway commissioner should exercise the greatest care and caution in making the change."

It is believed that the above opinion is decisive of the question at hand and that any further extended discussion is unnecessary. I may say that I am in entire accord with said opinion.

Accordingly, in specific answer to your question, I am of the opinion that after the highway director has accepted a contract bond given under the provisions of Section 1208, General Code, he may not lawfully substitute another bond for such original bond.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2483.

APPROVAL, ONE GAME REFUGE LEASE TO LAND IN LOGAN TOWNSHIP, AUGLAIZE COUNTY, OHIO.

COLUMBUS, OHIO, October 25, 1930.

HON. J. W. THOMPSON, *Commissioner, Division of Conservation, Department of Agriculture, Columbus, Ohio.*

DEAR SIR:—You have submitted lease No. 2084, in which Clarence Lathrop grants 153 acres of land situated in Logan Township, Auglaize County, Ohio, to the State of Ohio for Game Refuge purposes for the term of five years.

Finding said lease to have been executed in proper legal form, I have accordingly endorsed my approval thereon and return the same herewith.

Respectfully,
GILBERT BETTMAN,
Attorney General.