

3425.

APPROVAL, CONTRACT FOR ROAD IMPROVEMENT IN LUCAS
COUNTY.

COLUMBUS, OHIO, July 14, 1931.

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

3426.

APPROVAL, CONTRACT FOR ROAD IMPROVEMENT IN HAMILTON
COUNTY, OHIO.

COLUMBUS, OHIO, July 14, 1931.

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

3427.

APPROVAL, CONTRACT FOR ROAD IMPROVEMENT IN MORROW
COUNTY, OHIO.

COLUMBUS, OHIO, July 15, 1931.

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

3428.

APPROVAL, LEASE FOR RIGHT TO USE FOR COTTAGE SITE, PUBLIC
PARK AND DOCKLANDING PURPOSES, LAND AT INDIAN LAKE
—J. C. JACOBS.

COLUMBUS, OHIO, July 15, 1931.

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

DEAR SIR:—This is to acknowledge the receipt of a recent communication from the conservation division of your department, over the signature of the chief of the bureau of inland lakes and parks of that division submitting for my examination and approval a certain reservoir land lease in triplicate executed by the conservation commissioner to one J. C. Jacobs of Huntsville, Ohio. The lease here referred to is one granting and demising to the lessee above named the right to use and occupy for cottage site, public park and docklanding purposes a certain parcel of state reservoir land at Indian Lake, the land covered by said lease being more particularly described as being:

“The water front and adjacent State land lying between the easterly

line of a certain leasehold granted by the State of Ohio to Violet C. Bryan, as recommended by the Superintendent of Public Works on the 4th day of June, 1926, which line passes through Station 739 plus 09.2 of J. C. Wonder's transit line of his survey of the Lewistown Reservoir, made under the direction of the Ohio Canal Commission in 1892, which line produced, terminates in the most easterly extremity of Lot No. 28 of H. Landon's Allotment, known as 'Island View' on the north shore of Indian Lake, and extending easterly, southerly and southeasterly over and along said water front and adjacent State lands, run to a contour line two feet above the present wasteweir of Indian Lake, between Station 739 plus 09.2 and Station 730 plus 82; thence South 81 degrees, 14' East, 120' to a concrete monument; thence South 13 degrees, 32' West, 150 feet to a concrete monument; thence South 35 degrees, 34' East, 227.8' to a monument in the westerly side of the Hotel road; thence South 2 degrees, 05' East, along the westerly road line, 75.4 to the northeast corner of Lot No. 390; thence North 75 degrees, 19' West along the northerly line of Lot No. 390, 156.9 feet to a point 16' from the shore line of Indian Lake; thence southeasterly and northerly on a line 16' feet from and parallel to the shore line of Indian Lake the following courses: South 5 degrees, 36' East, 42.3'; South 2 degrees, 31' East, 42.2'; South 00 degrees, 55' East, 41.2'; South 12*degrees, 25' West, 40.8'; South 15 degrees, 22' West 38.9'; South 13 degrees, 02' West, 40.4'; South 11 degrees, 47' West, 40'; South 13 degrees, 31' West, 39.7'; South 17 degrees, 13' West 39.7'; South 8 degrees, 54' West, 40.5'; South 3 degrees, 18' East, 10.2'; South 10 degrees, 23' West, 68.4'; South 1 degree, 54' East, 69.6'; South 19 degrees, 59' East, 71.7'; South 73 degrees, 04' East, 70.7'; South 71 degrees, 18' East, 69.7'; North 63 degrees, 20' East, 69.7'; North 27 degrees, 45' East, 70.7'; North 19 degrees, 22' East, 70.5'; North 41 degrees, 45' East, 10.2'; North 29 degrees, 20' East, 60.3'; North 28 degrees, 56' East, 60'; North 13 degrees, 39' West, 30'; North 52 degrees, 49' West, 47.8'; North 64 degrees, 50' West, 51.7'; North 3 degrees, 31' West, 24', to the northeast corner of Lot No. 370; thence North 67 degrees East, along the northerly line of Lot No. 370, 19.5 feet, to a point in the 2' contour line opposite Station 723 plus 94; thence following the said two-foot contour line easterly, southerly and northeasterly to Station 713 plus 40 of said Wonder's transit line and terminating at the easterly line of J. C. Jacob's land.

Also permission to improve and beautify the State Marsh Land that lies between the new dredge channel and the Main body of Indian Lake and east of lands leased by the State of Ohio to Violet C. Bryan, by lease dated June 26th, 1926; said improvements to be made in accordance with plans to be approved by the Conservation Commissioner."

Said lease is for the stated term of fifteen years and provides for an annual rental to be paid to the state in the sum of one hundred dollars, payable in semi-annual installments of fifty dollars each.

Upon examination of said lease, I find that the same has been properly executed by the conservation commissioner, acting on behalf of the state of Ohio, and by said J. C. Jacobs, the lessee therein named.

Upon examination of the provisions of said lease and of the conditions, restrictions and reservations therein contained, I find the same, with one possible exception, to be in conformity to law, and to be such as the conservation commissioner may insert and provide for in leases of this kind.

In one of the provisions of said lease there is granted to the lessee and to his heirs, executors, administrators, successors and assigns, "the right to exercise, jointly with the State of Ohio and its authorized agents, police powers over the lands and water front herein leased." It does not, of course, lie within the power of the conservation commissioner or of any other officer of this or any other department of the state government to delegate to any individual any part of the police power of the state. Reading this lease as a whole, however, I am inclined to the view that by this provision of the lease nothing more is intended than that the lessee in the conduct and operation of park grounds covered by said lease, shall have the right to provide for police protection in addition to that which may be furnished by the conservation division in the maintenance of Indian Lake as a public park. And, inasmuch as under the terms of the lease all arrangements with respect to such additional police protection on such park grounds are required to be approved by the conservation commissioner, I am not disposed to question the legality of this provision of the lease as I have interpreted the same in the light of the other provisions of the lease.

I am accordingly approving said lease as to legality and form and hereby endorse my approval upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3429.

CORPORATION—NOT FOR PROFIT—ORGANIZED UNDER REPEALED SECTIONS 3060 ET SEQ., G. C.—UNAUTHORIZED TO NOW RECEIVE COUNTY DONATIONS AND CONSTRUCT MEMORIAL BUILDING—REPEAL OF AFOREMENTIONED SECTIONS NOT RETROACTIVE—ARTICLES AND REGULATIONS MAY NOW BE AMENDED UNDER GENERAL CORPORATION ACT.

SYLLABUS:

1. *A corporation not for profit heretofore organized under the General Corporation Laws of Ohio for the purposes heretofore provided in Section 3060, General Code, which corporation did not acquire a site or institute proceedings for the construction of a memorial building prior to the repeal of Section 3060 by the 87th General Assembly, is not now authorized to receive donations from the county for such site or to take any action toward the construction of a county memorial building thereon.*
2. *The repeal of Sections 3060, 3061, 3061-1, 3062 and 3063, General Code, by the 87th General Assembly is not retroactive.*
3. *Corporations heretofore organized not for profit may amend their articles of incorporation or their code of regulations only in accordance with the provisions of the General Corporation Act.*

COLUMBUS, OHIO, July 15, 1931.

HON. RAY T. MILLER, *Prosecuting Attorney, Cleveland, Ohio.*

DEAR SIR:—This is to acknowledge your recent request for my opinion upon the following three questions relating to the present status of a corporation not for