to it under the authority of the act of the Legislature above referred to, the course and distance of the south line of said tract of land was erroneously stated in the deed as 152.8 feet, instead of 169.30 feet which was the true length of the south line of the tract which the state by said deed intended to convey. By reason of the designated courses and distances in the following calls in the description of said property as contained in said deed the effect thereof was to convey to The American Marble and Toy Manufacturing Company less land than was contained in said tract and which the state intended to convey to said company.

Further investigation with respect to this matter shows that after The American Marble and Toy Manufacturing Company obtained said deed from the State of Ohio, which was executed by the Governor under date of September 2, 1898, it conveyed said property by a deed containing the same description to one Nathan Morse, trustee, under date of May 5, 1905; that thereafter under date of June 21, 1905, said Nathan Morse, trustee, conveyed this property by deed containing the same description to The American Cereal Company, which company later under date of August 23, 1906, conveyed the property to The Quaker Oats Company which company is now the owner of record of the tract of land here in question. The deed by which The Quaker Oats Company obtained title to this tract likewise contained the erroneous description of the property above mentioned. From the files submitted to me and from the investigation that I have made with respect to this matter I am of the opinion and so find that an error occured in the deed executed by the State of Ohio to The American Marble and Toy Manufacturing Company in the manner above noted and that The Quaker Oats Company as the legal successor and assign is, under the provisions of Section 8528, General Code, entitled to receive from the Governor a deed correcting the error occuring in the description of the property contained in the former deed above mentioned executed to The American Marble and Toy Manufacturing Company.

I further find that inasmuch as the description of the land conveyed in said former deed did not convey any property that is not included within the correct description of the property which the state intended to convey to The American Marble and Toy Manufacturing Company, no property was erroneously conveyed to said company by said deed, and no release of the same to the State of Ohio is now necessary under the provisions of Section 8528, General Code.

I am herewith enclosing the files that have been submitted to me with respect to this matter, included in which you will find a deed which was prepared by the attorneys for The Quaker Oats Company and submitted by them to the Superintendent of Public Works. You may make such use of this deed as you may see fit in the preparation of the deed to be executed by the Governor under the provisions of the section of the General Code above noted in case he likewise finds that there was an error in the description of this property in said former deed.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2081.

MUNICIPALITY—GASOLINE AND VEHICLE LICENSE TAX MONEYS APPLICABLE FOR CONSTRUCTING AND REPAVING ALLEY.

SYLLABUS:

The portion of the gasoline and motor vehicle license taxes available to municipalities for the repaving of public streets and roads may be used for the purpose of repaving an alley dedicated to public use.

COLUMBUS, OHIO, July 10, 1930.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is made of your recent communication which reads as follows:

> "Sections 3629, 3812 and others, of the General Code, use the words 'streets and alleys.'
>
> Section 5537, as amended in 113 O. L., page 279, refers to 'public streets and roads.'
>
> Section 5541-8, General Code, as enacted in 113 O. L., page 71, refers to 'streets and roads,' and Section 6309-2, General Code, as amended in 113 O. L., page 280, provides for 'the improvement of public streets.'
>
> QUESTION 1. May a city's portion of the gasoline tax receipts be used for the purpose of constructing and repaving alleys?
>
> QUESTION 2. May a city's portion of the motor vehicle license tax receipts be used for such purpose?"

Section 3629, General Code, to which you refer, which relates to the powers of municipalities, authorizes the establishing, improving, etc. of streets, alleys and public grounds, etc.

Section 3812, General Code, relates to special assessments, and the powers of municipal corporations to levy and collect special assessments for the cost and expense of the improvement of streets, alleys, public roads, etc.

Your questions raise the issue as to whether the language used in the gasoline tax and motor vehicle license tax laws precludes the use of the proceeds of said taxes for the purpose of constructing and repaving alleys.

Section 5537, General Code, provides for the use and distribution of said funds which includes the repaving of public streets and roads. There can be no doubt but that this section is sufficiently broad so as to include the paving of alleys which are dedicated to public use.

In the case of *Sullivan, et al.* vs. *Columbus*, 12 O. D. N. P. 650, it was held that the term "highway" is the generic term for all kinds of public ways, streets, alleys, etc. It was further held that the term "alley" used in a plat will be taken to mean a public way unless the word "private" is prefixed or the content requires a different meaning.

It is believed that the term "road" is more or less a generic term, and undoubtedly would include a street or alley which is dedicated to public use. Likewise, Section 5541-8, General Code, which authorizes the use of a portion of the second gasoline tax fund for the reconstruction of streets and roads clearly, in my opinion, would include the power to repave an alley.

Section 6309-2, General Code, which relates to the repavement of "public streets" is not so clear with reference to the use of said funds, because it does not include the term "roads."

In the case of *Dalton, etc.* vs. *Cleveland Electric Illuminating Company*, 30 O. C. A., 24, it was held that a vacant lot which had been used for more than twenty-one years as a passage way from the street to an alley, could be held to be within the provisions of an ordinance requiring the erection of guard rails along "street lines."

It is a matter of common knowledge that alleys are frequently dedicated to the public use in the same manner that streets are dedicated and that frequently in municipalities an alley for the accommodation of the public is as important as a street. While ordinarily we think of a street as a main thoroughfare and an alley of less importance and a narrower passage way, nevertheless, the same is a public way.

Keeping in mind the provisions of the gasoline and motor vehicle license taxes which are for the improvement of public ways, to the end that the vehicular traffic

may be better accommodated, it would seem a narrow and technical construction in view of the language hereinbefore referred to, to hold that the same could not be used for the purpose of repaving an alley dedicated to public use in those instances wherein the judgment of the municipal authorities is to the effect that such action will be a benefit to the public.

It is my opinion that a common sense construction of the language of the sections hereinbefore referred to, impels the conclusion that in all of the instances which you mention, the portion of the taxes available for the repaving of public streets and roads may be used for the purpose of repaving an alley dedicated to public use.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2082.

PUBLIC OFFICERS—MUNICIPALITY—WHEN TRAVELING EXPENSES FOR ATTENDANCE AT CONVENTIONS AND FOR INVESTIGATING PURPOSES PAYABLE FROM TREASURY.

SYLLABUS:

1. *The payment from city funds, of the traveling expenses of a recreation director employed by a city recreation board when attending a convention of recreation officials for mere purposes of general education or the acquiring of general ideas pertaining to the duties of his position is unauthorized. If, however, the attendance upon such convention is authorized by resolution of the city recreation board which in the exercise of a sound discretion finds it necessary to send its recreation director on a trip in furtherance of a definite, presently contemplated undertaking for the benefit of the municipality the city may lawfully pay the necessary traveling expenses of such recreation director. Fourth branch of syllabus of Opinion No.* 1327, *dated December* 3, 1929, *modified in conformity herewith.*

2. *The traveling expenses of a salaried police officer, incurred in investigating finger print systems, may or may not lawfully be paid from city funds, depending on whether or not such investigation is merely for the purpose of acquring general information with respect to finger print systems, or whether it is for the purpose of determining the actual working of a system, with a view to its installation in the city department which the police officer serves.*

3. *The traveling expenses of municipal officers or employes, incurred in attending conventions of like municipal officers and employes can not be legally paid from public funds, even though authorized by the taxing authority of a municipal corporation, unless the attendance upon such convention is for the purpose of acquiring information relative to and necessary for the furtherance of a definite, presently contemplated undertaking for the benefit of the municipality in the performance of a duty enjoined by law.*

COLUMBUS, OHIO, July 11, 1930.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your request for my opinion, which reads as follows:

"The fourth branch of the syllabus of Opinion No. 1327, dated December 23, 1929, reads:

'If a recreation board in the exercise of a sound discretion finds it neces-