

a mortgagee would open the door to collusion and afford a ready means of evading the law. How readily such a provision might be used for defeating the purpose for which the law was enacted is apparent, when we consider that any person desiring to engage in illegal transportation of intoxicating liquors could, by placing an encumbrance upon an automobile, minimize the financial investment and hazard of the business.' "

I am therefore of the opinion that unless said mortgagee intervenes at the hearing or other proceeding brought for the purpose of confiscating and selling said automobile, or for distributing the proceeds of sale, and establishes by competent evidence that he holds a bona fide lien which was created without the lienor having any notice that the vehicle was being used or was to be used for the illegal transportation of liquor, such mortgagee waives the right to participate in the proceeds of the sale. It will be the duty of the court to order the sale of the automobile whether the mortgagee intervenes or not, if there has been a conviction of the user thereof, unless good cause to the contrary is shown by the owner.

If, however, the mortgagee does intervene and does establish that his lien is bona fide and was created without any notice to him that the vehicle was being used or was to be used for the transportation of liquor, I am of the opinion that he will be entitled to priority over the state for the amount of his lien. It will be noted that the statute (Section 6212-43, G. C.,) transfers all liens against the property sold to the proceeds of the sale of the property.

The costs of the sale, together with the costs of seizing and detaining the automobile, should be paid ahead of all liens. In other words, the proceeds of the sale are what is left after paying the expenses in connection with the seizure and sale of the automobile.

Respectfully,
EDWARD C. TURNER,
Attorney General.

418.

APPROVAL, FINAL RESOLUTION ON ROAD IMPROVEMENT—LIMA-SANDUSKY ROAD, I. C. H. NO. 22, ALLEN COUNTY.

COLUMBUS, OHIO, April 30, 1927.

HON. GEORGE F. SCHLESINGER, *Director of Highways and Public Works, Columbus, Ohio.*

419.

APPROVAL, NOTE OF SUNFISH TOWNSHIP RURAL SCHOOL DISTRICT, PIKE COUNTY—\$4,800.00.

COLUMBUS, OHIO, April 29, 1927.

Retirement Board, State Teachers' Retirement System, Columbus, Ohio.