

Your attention is invited to Section 3490, General Code, entitled "Medical relief of poor in townships or corporations" and to Sections 3411 to 3414, inclusive, and Sections 4021 to 4035, inclusive, which respectively permit townships and municipalities to levy a tax not to exceed one mill on each dollar of the taxable property in the township or municipality for such purpose and to agree with a corporation organized for charitable purposes for the erection and management of a hospital suitably located for the treatment of the sick and disabled of such township or municipality.

In this connection your attention is invited to an opinion of this department reported at page 1177 of the Opinions of the Attorney General for 1920, which sets forth at length the law with reference to the respective duties of the county and the township in caring for the indigent poor.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

227.

APPROVAL, BONDS OF DELHI TOWNSHIP RURAL SCHOOL DISTRICT,  
HAMILTON COUNTY, OHIO—\$4,200.00

COLUMBUS, OHIO, March 23, 1927.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*

228.

TAXPAYER—MUST AVAIL HIMSELF OF REDUCTION REMEDIES AND  
APPEAL JUDGMENT—IF NOT, EXECUTION MAY BE TAKEN  
AGAINST HIS EQUITIES.

**SYLLABUS:**

*Where a taxpayer fails to avail himself of the administrative remedies provided by statute for having the valuation of property reduced, and fails to appeal from a judgment for delinquent taxes, or to prosecute error thereon, he can not invalidate said judgment on the ground of excessive valuation of property. Proceedings in aid of execution may be taken to subject equities of said taxpayer to satisfy said judgment.*

COLUMBUS, OHIO, March 23, 1927.

HON. FRANK F. COPE, *Prosecuting Attorney, Carrollton, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication in which you request my opinion on the following statement of facts:

"We have, in this county, delinquent taxes on the O. & P. Coal Company property due the county, in the amount of approximately \$20,000.00, dating back to about 1919, consisting of several definite pieces of property and various

amounts. The property in this county belonging to said company has already been sold for the payment of the judgment in one of these suits, and they are not the owner of any property in this county at the present time.

The property sold consisted of barren coal land and was of very little value. The balance of the taxes has been reduced to a judgment and we are desirous of knowing if we can proceed with an execution on other lands in an adjoining county, in which said O. & P. Coal Company holds an equity in the matter of royalties to be received from a co-operative company to which they have sold the mine.

We understand they are going to attack this execution on the grounds that the taxes were levied at a time when there was no coal underlying this land. They filed no application to have the tax reduced and they also permitted default judgments to be taken in the original action for taxes. The prayer of our petition was as follows: Your petitioner, therefore, prays that the court make an order that said property be sold by the sheriff of said county in the manner provided by law for the sale of real estate on execution, on which the court granted a personal judgment. No appeal or error was taken from the original proceedings in common pleas court. Said company did, however, file a map with the county auditor showing that certain coal had been exhausted about the time of the commencement of this suit.

We wish to know just what you think of our status in this matter."

The balance due on claim for delinquent taxes has been reduced to judgment, and it is now desired to levy execution on other lands of said company in an adjoining county, in which said Coal Company holds an equity in the matter of royalties from a co-operative company to which their mine has been sold.

Although the said company filed no application to have their taxes reduced, and permitted default judgment to be taken in the original action, it now intends to attack the execution on the ground that at the time of the levy of said taxes there was no coal underlying the land.

As no appeal was taken to this judgment, and no error was prosecuted, it is presumed that it is a valid judgment.

It is evident that said Company did not avail itself of any of the remedies prescribed by law to have the tax on said land reduced. Neither did said Company avail itself of any of the administrative remedies prescribed by law to have the valuation of said lands reduced, either by filing complaint to these valuations with the proper officers or by proceeding to enjoin the collection of said taxes. The judgment of the Common Pleas Court, therefore, stands as any valid judgment, and execution may issue thereon the same as on any valid judgment of said Court.

In your communication you state that the court granted a personal judgment.

Under the rules of the common law there was no personal liability for the payment of real estate taxes but this rule has been changed in Ohio by statute and taxes levied on real estate become the personal debt of the owner of the realty.

It was held in *Creps vs. Baird*, 3 Ohio St., 277, that taxes due upon lands are a personal debt of the one in whose name the lands are listed when the taxes accrue. This conclusion was based upon a construction of the statute then in force, and, while the present statute does not read precisely like the former one, yet it does, by its plain terms, make all personal property which is subject to taxation liable to be seized and sold for taxes. General Code Section 5671. And that section is one which fixes the lien of the state for taxes levied on real estate. The case just cited was followed and approved in *Warner, Admr., vs. York*, 16 Ohio Cir. Ct. R., (N. S.), 369, 31 O. C. D., 543, and the court in this latter case held that taxes upon real estate, accruing after the death of the owner, are a personal debt of the heirs. The judgment of the

Circuit Court was affirmed, without written opinion, in *York vs. Warner*, Admr., 75 Ohio St., 595, 80 N. E., 1135.

From your statements it appears that the Coal Company owns only certain equities consisting of royalties, which of course can not be reached by a levy of execution, but only by proceedings in aid of execution.

Respectfully,

EDWARD C. TURNER,

*Attorney General.*

229.

DISAPPROVAL, BOND FOR FAITHFUL PERFORMANCE OF DUTIES—  
OTHO WALTER MERRELL.

COLUMBUS, OHIO, March 24, 1927.

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

DEAR SIR:—You have submitted for my examination the official bond of Otho Walter Merrell to the State of Ohio, in the amount of five thousand dollars (\$5,000.00), with The Aetna Casualty and Surety Company as surety, to cover the faithful performance of his duties as Resident Deputy State Highway Commissioner.

This bond was given in accordance with the provisions of Section 1182 of the General Code. While dated and signed by the surety under date of August 31, 1925, it was not approved by you and transmitted to this department for examination until March 17, 1927.

I am herewith returning this bond without my approval endorsed thereon for the following reasons:

1. The bond was not signed and executed by the principal, Mr. Merrell.
2. Two interlineations appear on the face of the bond, the word "Resident" being twice written in before the words "Deputy State Highway Commissioner". No showing is made as to whether these interlineations were made before or after the execution of the bond by the surety company. If they were made before, the bond should contain a statement to that effect signed by the parties bound thereby.

Respectfully,

EDWARD C. TURNER,

*Attorney General.*

230.

DEALER IN SECURITIES—RIGHT TO DISPOSE OF SECURITIES—SEC-  
TIONS 6373-14 AND 6373-16, GENERAL CODE, CONSTRUED.

**SYLLABUS:**

1. *An Ohio licensed dealer in securities, who acquires from an owner, not the issuer, certain securities, may thereafter dispose thereof upon complying with the requirements of Section 6373-9 of the General Code.*

2. *An Ohio licensed dealer in securities, who underwrites a portion of an issue of securities, may not claim exemption from the requirements of Sections 6373-14 and 6373-16, which provide for the certification of certain classes of securities, by reason of the fact that such dealer has firmly contracted to purchase and pay for said stock ninety per cent of the*