

397.

ADMINISTRATIVE OFFICERS—SHOULD ACT IN ACCORDANCE WITH
ORDERS OF COURT.

SYLLABUS:

Administrative officers in the performance of their official duties should act in accordance with the orders of a court, even though such orders may not be in accord with the opinion of the attorney general and even though the court's decision may have been made in the discharge of an administrative duty rather than in its strictly judicial capacity.

COLUMBUS, OHIO, April 27, 1927.

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

GENTLEMEN:—I am in receipt of your recent communication, in which you call my attention to an opinion rendered by my predecessor, Honorable C. C. Crabbe, on May 20, 1926, with reference to the interpretation of the law relating to compensation of the members of certain building commissions charged with supervision of the erection of certain public buildings. You state that one of your examiners has found that the members of such a building commission have been allowed by the common pleas court in the county wherein such building commission functions, compensation in a greater amount than should have been allowed in accordance with the opinion of the attorney general, and you request my advice as to whether or not it is within your province to question the legality of the allowance made by the court, and to make findings for the recovery of the amount allowed in excess of the amount which should have been allowed under the opinion of the attorney general.

Upon examination of your communication and the enclosed journal entry of the court to which you refer, it is my opinion that the court in this instance had jurisdiction with reference to the allowances which were made.

In this connection, it is well to bear in mind the provisions of Section 341, General Code, wherein it is provided that the attorney general when so requested, shall give legal advice to state officers, boards or commissions. I believe that state officers, boards and commissioners generally feel justified in acting upon the advice of the attorney general, especially where that advice is given with reference to the interpretation and application of legislative enactments, inasmuch as the attorney general is the chief law officer of the state, and at least should be qualified to pass on questions of that character. His interpretation of the meaning of the law should be justifiable direction to state officers in the performance of their administrative duties in the absence of any court orders with reference to the subject.

After all, however, the law is not an exact science nor is its application a finished art. Because of the complexity of the law differences of opinion as to the meaning and practical application of legislative enactments continually arise and thus it becomes necessary that some final arbiter be authorized to definitely determine what construction shall be placed on the language of such enactments to the end that the scale of justice may be kept even and steady and rules of conduct made certain and stable.

Courts are by the law made such final arbiters, and when the law is interpreted by a court the interpretation given to it by the court becomes the law within the jurisdiction of the court, and such interpretation as the court gives to the law should be followed and acted upon, at least within the territory over which such court has jurisdiction.

It is therefore my opinion that the Bureau of Inspection and Supervision of Public Offices has no authority to question the legality of the orders of a court but should act in accordance with such orders, even though such orders may not be in accord with the opinion of the attorney general, and even though, as in this case, the court's decis-

ion may be made in the discharge of an administrative duty rather than in his strictly judicial capacity.

Respectfully,
EDWARD C. TURNER,
Attorney General.

398.

DISAPPROVAL, BONDS OF CITY OF EAST LIVERPOOL, COLUMBIANA COUNTY, OHIO—\$9,540.00.

COLUMBUS, OHIO, April 27, 1927.

Re: Bonds of city of East Liverpool, Columbiana county, \$9,540.00.

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

GENTLEMEN:—Upon examination of the transcript for the above bond issue I note that there is supplied the affidavit of the publisher showing publication of the notice of the bond sale for four consecutive weeks commencing on February 25, 1927. The bond sale occurred on March 22, 1927. The last publication accordingly occurred on March 18th, hence a full week did not elapse between the date of the last publication and the day of sale.

In construing a similar section requiring the publication of notice the Supreme Court in the case of State of Ohio vs. Kuhner and King, 107 O. S. 406, held that the statutory provision requiring publication for a given number of weeks means that a full week must expire after the date of the last publication and before the happening of the event advertised.

In this case only four days elapsed and the notice was therefore ineffective. Section 3924, General Code, requires four weeks publication in two newspapers printed and of general circulation in the county. The one publication in this case having been insufficient it is unnecessary to consider whether or not there was publication in a second newspaper for the proper time. The transcript, however, shows only the publication in one newspaper.

For the reason that I have above indicated, there was no valid sale of these bonds and the issue must therefore be disapproved.

Respectfully,
EDWARD C. TURNER,
Attorney General.

399.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND IN HANOVER TOWNSHIP, COLUMBIANA COUNTY, OHIO.

COLUMBUS, OHIO, April 27, 1927.

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

DEAR SIR:—I have examined the encumbrance estimate and abstract of title purporting to cover Tract No. 15, Guilford Lake Park, consisting of 77.71 acres, more or less, standing in the name of E. C. Charlton.