

There is nothing in the provisions of the above quoted section of the General Code which expressly requires that the vacation of the portion of the "abandoned highway" within the limits of the right of way of the railroad shall be conditioned on the affirmative action of any subdivision of the state government. It may be said that Sections 1229, et seq., were enacted chiefly with the intention of prescribing the duties and authority of the Director of Highways, although in some of the latter sections powers of the subdivisions of the state to cooperate with the Director of Highways in the construction of highway improvements on the state highway system are set forth. There is nothing in the context of Section 1229-1, General Code, that indicates that the word "abandoned" is used therein in other than its usually accepted legal meaning. As so used "abandoned" is construed to mean to relinquish, to give up, including both the intention and the external act evidencing such intention. 1 Bouvier's Law Dictionary, page 2; 29 C. J. 534, Sections 250, et seq. I assume, of course, that in such projects as are contemplated within the scope of your inquiry it will be the intention of the Director of Highways, followed by appropriate acts, to abandon the portion of the highway between the bounds of the railroad right of way, duplicated by the grade separation project.

It will therefore be seen that in such a proceedings full power and authority is vested in the Director of Highways and there is no approval required on the part of the county commissioners. It follows, of course, that I cannot agree with the position of the railroad company, that the agreement should contain a stipulation to the effect that the county commissioners agree to cause that portion of the road within the right of way to be vacated.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2637.

APPROVAL, BONDS OF VILLAGE OF CEDARVILLE, GREENE COUNTY,
OHIO—\$22,000.00.

COLUMBUS, OHIO, December 8, 1930.

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

2638.

APPROVAL, BONDS OF VILLAGE OF CEDARVILLE, GREENE COUNTY,
OHIO—\$2,000.00.

COLUMBUS, OHIO, December 8, 1930.

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