

and after the first day of September, 1933. With respect to sections 6212-50 and 6212-58, General Code, which were amended in and by said act, and which provide the means by which the amounts of taxes due from permit holders on the sale of barrel beer are determined, it is provided that these sections in their amended form shall be operative with respect to the returns and statements made in the calendar month next following the month in which said act took effect as a law. Inasmuch as the law took effect in the month of August, 1933, the returns of permit holders with respect to barrel beer sold by them during the month of August were required to be filed with the Tax Commission of Ohio on or before the tenth of September, 1933; and the taxes on such sales became due and payable on or before the twentieth of September, 1933, after the determination thereof by the Tax Commission of Ohio from the returns made to it.

The provision in the last paragraph of section 3 of this act to the effect that the amendments of sections 6212-50 and 6212-58, General Code, should not affect the power of the Ohio Liquor Control Commission to proceed under the law then in force in the collection of taxes and penalties accruing prior to the time when this act shall take effect as a law, obviously refers to taxes on the sale of barrel beer which had accrued on or before August 20, 1933, and prior thereto on account of sales of barrel beer made prior to the month of August, 1933. Such taxes may be collected by the Ohio Liquor Control Commission by the means afforded by the several acts above referred to. I am of the opinion, however, by way of specific answer to the question presented in your communication, that the Tax Commission of Ohio has the power and authority to determine the taxes to be paid on account of the sales of barrel beer made by permit holders during the month of August, 1933, the amounts of which taxes are to be assessed from returns filed by such permit holders with the Tax Commission on or before September 10, 1933.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2244.

APPROVAL—CONTRACT BETWEEN THE STATE OF OHIO AND
THE OTIS ELEVATOR COMPANY, FOR THE MAINTENANCE
OF ELEVATORS IN THE STATE OFFICE BUILDING.

COLUMBUS, OHIO, January 31, 1934.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—A few days ago Hon. C. H. Burk, Director of Finance, submitted for my examination and approval a contract form in duplicate of a contract to be entered into by and between the State of Ohio, acting through you as Superintendent of Public Works and as Director of said Department, and the Otis Elevator Company, by the hand of some authorized officer or officers of said company. By this proposed contract, the Otis Elevator Company, in consideration of the monthly compensation payments therein provided for, contracts and agrees to maintain the elevators in the new State Office Build-

ing and to furnish such parts as may be required to keep such elevators in complete and proper order for the purposes for which they are to be used during the remainder of this calendar year.

Upon consideration of the contract form submitted and of the purpose to be served by the same, I am of the opinion that you are authorized to enter into this contract on behalf of the State under the general authority conferred upon you by section 154-40, General Code, to make contracts for the repair of buildings under the control of the state government or any department thereof, and to exercise general custodial care of all buildings of the State other than educational institutions administered by boards of trustees.

In view of the fact that the proposed contract is one for maintenance and is primarily one for personal service to be furnished by the Otis Elevator Company in carrying out the provisions of the contract on its part to be performed, I am inclined to the view that the provisions of section 2314, et seq., General Code, relating to building contracts generally, do not apply to a contract of this kind. As to this, I am advised, however, that the Controlling Board, acting under section 7 of the general appropriation act enacted as House Bill No. 699, has, within the last day or two, authorized you to enter into this contract without competitive bids therefor.

Of course, this contract cannot be entered into by you without an encumbrance record to be executed by the Director of Finance, as required by section 2288-2, General Code, certifying that there is a balance in the appropriation pursuant to which the obligation of this contract is to be paid, not otherwise obligated to pay precedent obligations. In the absence of a request therefor, I do not feel that it is incumbent upon me to advise the Director of Finance through this opinion or otherwise as to whether there is sufficient money in any particular appropriation item to the credit of your department out of which the obligations of this contract during the remainder of the year can be paid. As to this, it may be observed, however, that if sufficient money cannot be found in an item appropriate to the expenditures to be made under this contract, the Controlling Board under section 7 of the general appropriation act has the power to grant the necessary authority to your department to expend moneys appropriated to the credit of your department under other items within the classification of maintenance and to make the necessary transfers therefor.

I am, accordingly, approving the contract form submitted and I herewith return the same for such action in the premises as you may desire to take.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2245.

APPROVAL—BOND OF SIXTY HIGHWAY PATROLMEN FOR THE
FAITHFUL PERFORMANCE OF THEIR DUTIES.

COLUMBUS, OHIO, January 31, 1934.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a schedule bond upon which sixty highway patrolmen, appointed under section 2 of House Bill No. 270