ing the fact that these bonds were issued prior to the effective date of the ten mill limitation, that is Article XII, Section 2 of the Constitution, they are not bonds which come within the exceptions of the schedule of said Section 2 and therefore are subject to the present ten mill constitutional limitation.

For your further information, there are now outstanding of this issue due and owing to the State Teachers Retirement System some $1250.00 in bonds, of which $375.00 are now in default.

For the above reasons, I will be unable to approve this issue and advise your Commission against the purchase of the same.

Respectfully,
HERBERT S. DUFFY,
Attorney General.

2758.

MOTOR VEHICLE — OPERATOR WHO FAILS TO COMPLY WITH PROVISIONS OF SECTION 12606 G. C. MAY BE CHARGED WITH FAILURE TO STOP, GIVE NAME AND ADDRESS OR NUMBER OF VEHICLE—WHEN MUNICIPAL ORDINANCE NOT LAW—WORDS "WHEN REQUIRED SO TO DO BY LAW" FOUND IN SECTIONS 6298-1 AND 6296-17 G. C. REFER TO PROVSIONS OF SECTION 12606 G. C.

SYLLABUS:

1. *An operator of a motor vehicle who fails to comply with the provisions of Section* 12606 *of the General Code may be charged with any of the following offenses: (a) failure to stop after an accident or collision, or (b) failure to give his name and address when requested so to do by the injured person or any other person or if not the owner of the motor vehicle, the name and address of the owner thereof, together with the registered number of such motor vehicle.*

2. *A municipal ordinance is not a law in the sense in which the term "law" is used in Sections* 6298-1 *and* 6296-17 *of the General Code.*

3. *The phrase "when required so to do by law" as contained in Section* 6298-1 *and* 6296-17 *of the General Code, refers only to the statutory provisions contained in Section* 12606 *of the General Code.*

COLUMBUS, OHIO, July 26, 1938.

Bureau of Motor Vehicles, Main and Fourth Streets, Columbus, Ohio.

GENTLEMEN: Acknowledgment is made of your communication wherein you request my opinion regarding the following:

> "Among the offenses enumerated in 6298-1 of the General Code which brings a person under the provisions of the Financial Responsibility Law is (3) 'Failing to stop after accident, when required so to do by law.' The only law in effect at the time of the effective date of the Financial Responsibility Law, August 20, 1935, which provided for any offense similar to the one set forth above, seems to be 12606, O. G. C., the first paragraph of which is as follows:
>
> "In case of accident to or collision with persons or property upon any of the public roads or highways, due to the driving or operation thereon of any motor vehicle, the person so driving or operating such motor vehicle, and having knowledge of such accident or collision, shall stop and upon request of the person injured or any person, give such person his name and address and in addition thereto if not the owner, the name and address of the owner of such motor vehicle, together with the registered number of such motor vehicle.'
>
> Since the effective date of said Financial Responsibility Law, the Drivers' License Law became effective and in Section (5) 6296-17, the following language is used:
>
> 'Failure to stop and disclose identity at the scene of the accident when required so to do by law.'
>
> Many cities and villages have also passed ordinances apparently in an attempt to come within the limits of the provisions of the state statute General Code, 12606, which ordinances are couched in different terms but all more or less similar to the General Code 12606.
>
> Our question is: Does 6298-1 in so far as it pertains to the offense of 'failing to stop after the accident', include all and refer to General Code, 12606 and 6296-17 and the various city ordinances? If not, just what offense is intended and what section of the law or laws are intended by the phrase, 'when required so to do by law'?"

In addition to the foregoing, it has come to my attention that you are also desirous of having the provisions of Section 12606, General Code, construed, particularly with regard to the question as to whether or not a violation of this section constitutes merely the offense of failing to stop after an accident or collision or whether non-compliance on the part of an operator of a motor vehicle with the provisions thereof may be considered as constituting one or all of several offenses. This particular question will first be considered.

Since in your request, the first paragraph of Section 12606 of the General Code has been quoted, the same will not be requoted herein. However, this section, after imposing certain duties and obligations on operators of motor vehicles becoming involved in accidents or collisions, then proceeds in the second paragraph thereof, to prescribe the penalty for the violation of any of the provisions therein contained, as follows:

> "*Any person who violates the provisions of this section shall be deemed guilty of a misdemeanor* and upon conviction thereof, shall be fined not more than two hundred dollars or imprisoned in the county jail or workhouse not more than six months, or both." (Italics the writer's.)

This later quoted provision is significant to note in that it is dispositive of the question here considered. By virtue of this provision, a violation of any of the provisions contained in the first paragraph of Section 12606 is deemed a misdemeanor which, upon conviction thereof, subjects a person to the penalty as therein provided.

It is quite evident that the provisions contained in Section 12606, General Code, impose upon an operator of a motor vehicle becoming involved in an accident or collision, two separate and distinct duties; first, such an operator must stop his motor vehicle; and second, he must disclose his identity if requested, and if not the owner of the motor vehicle, the name and address of the owner, together with the registered number of such motor vehicle. It is, therefore, quite clear that notwithstanding the fact that an operator of a motor vehicle may, after an accident or collision, stop his motor vehicle, he nevertheless is not relieved from the further obligation of disclosing his identity if requested, or if not the owner of the motor vehicle, the name and address of the owner, together with the registered number of such motor vehicle. His failure, therefore, to comply with either of these requirements would constitute a separate and distinct offense which, upon conviction thereof, would subject such operator to the penalty provided in the section.

Consideration is now directed to the particular question contained in your request. Section 6298-1 of the General Code, provides in part as follows:

"The registrar of motor vehicles * * * is hereby authorized and empowered to * * * revoke and terminate the right and privilege of operating a motor vehicle * * * of or belonging to any person, who has hereafter either:

(a) Been convicted of or plead guilty to any of the following offenses, to-wit:

* * *

3. Failing to stop after an accident when required so to do by law; * * *"

Section 6296-17, General Code, provides in part as follows:

"The trial judge of any court of record shall, in addition to, or independent of, all other penalties provided by law or ordinance, suspend for any period of time or revoke the license of any person who is convicted of or pleads guilty to any of the following crimes:

* * *

5. Failing to stop and disclose identity at the scene of the accident when required so to do by law."

The provisions of Section 12606 above referred to, are to my knowledge, the only provisions of statutory law which require an operator of a motor vehicle, becoming involved in an accident or collision, to stop his motor vehicle and if requested, to disclose his identity, or if not the owner of the motor vehicle, the identity of the owner thereof, together with the registered number of such motor vehicle.

It is, therefore, necessary in order to arrive at a proper solution of the question presented, to determine whether or not the language "when required so to do by law," contained both in Sections 6298-1 and 6296-17, supra, refers only to the statutory provisions contained in Section 12606, General Code or whether such language is broad enough to include within its meaning duly enacted municipal ordinances which, by the terms thereof, impose upon operators of motor vehicles like or similar duties.

Although an ordinance of a municipal corporation, duly enacted by the proper authorities describing general, uniform and permanent requirements of conduct relating to the corporate affairs of the municipality, is a local law of the municipality operating within its restricted sphere as effectually as a general law of a sovereignty, it nevertheless is not a law in every sense in which the term "law" is used in the Constitution and statutes of this State.

As far as I am able to ascertain, the question which you have presented has never been decided by a court of this state. However, the

Supreme Court of Ohio has, on numerous occasions, been called upon to consider and pass upon the validity of certain municipal ordinances, which under certain facts, were claimed to be in conflict with the general laws of this state. On other occasions, questions were presented to the court as to whether municipal ordinances were included within the term "law" as that term permeates the Constitution of the State of Ohio. An examination of these cases readily discloses that the court without exception has never referred to a municipal ordinance as a law, but as an ordinance or regulation of the municipality to which it applied.

A situation analogous to the one here presented was before the Supreme Court of Ohio in the case of the *Village of Brewster, et al.* vs. *Hill, a Taxpayer,* 128 O. S. 354. This case involved the question as to whether or not municipal ordinances are "laws" within the meaning of Section 2 of Article IV of the Constitution of Ohio. Section 2 of Article IV, insofar as material to the immediate question here considered, provides that:

> "No law shall be held unconstitutional and void by the supreme court without the concurrence of at least all but one of the judges, except in the affirmance of a judgment of the court of appeals declaring a law unconstitutional and void."

In deciding the foregoing question in the negative, the Court held as is disclosed by the syllabus:

> "A municipal ordinance is not a 'law,' within the meaning of Section 2, Article IV of the Ohio Constitution, requiring the concurrence of at least all but one of the judges of the Supreme Court to declare a law unconstitutional, except in the affirmance of a judgment of the Court of Appeals."

In the consideration of whether the term "law" found in Section 2 of Article IV of the State Constitution comprehends municipal ordinances, the Court, speaking through Judge Jones, on page 357 of the opinion stated:

> "Does the term 'law,' found in Section 2, Article IV, comprehend municipal ordinances, and therefore require the concurrence of all but one of our judges in declaring a law unconstitutional? The term 'law' permeates the amendments of the Constitution adopted in 1912. It is often used in repeated phrases, such as 'Laws may be passed to secure to mechanics' etc.; 'Laws may be passed fixing and regulating the hours of labor' etc.; 'Laws may be passed for the purpose of providing

> compensation to workmen,' etc.; 'Laws may be passed to encourage forestry,' etc.; 'Laws may be passed providing for the prompt removal from office' etc.; and throughout the entire constitutional amendments then adopted we find frequent repetition of these phrases, disclosing that it was the unquestionable intention of the Constitution makers to apply the term 'laws' to legislative enactments only, and not to municipal ordinances."

Again in the case of *Wilson* vs. *City of Zanesville,* 130 O. S. 286, the Court had under consideration the constitutionality of an ordinance passed by the council of the City of Zanesville which provided for the licensing of barbers and the regulations of barber shops. In determining the question therein involved, the Court had under consideration the provisions of Section 34 of Article II of the Constitution of the State of Ohio, which in substance provides that laws may be passed fixing and regulating the hours of labor, establishing a minimum wage, and providing for the comfort, health, safety and general welfare of all employes.

Although the Court held the ordinance there under consideration to be a valid exercise of the police power and constitutional, it nevertheless was stated on page 288 of the opinion that:

> "In our judgment the word 'laws' does not embrace municipal ordinances and therfore this provision defines the legislative power of the General Assembly of Ohio only."

Thus, from the foregoing authorities, it is quite evident that the question of whether or not municipal ordinances are "laws" within the meaning of that term as used throughout the State Constitution has been definitely determined and no longer remains a matter of conjecture. In view of the definite stand taken by the Supreme Court in this respect, it is quite logical to assume that the same conclusion would be reached if the court were called upon to determine a question like or similar to the one here considered for the same reasoning which impelled the court in concluding that municipal ordinances are not comprehended within the meaning of the term "laws" as used throughout the State Constitution, would be equally applicable to the question herein involved.

It is quite apparent, in my opinion, that the Legislature, in the enactment of Sections 6298-1 and 6296-17, supra, particularly in view of the decision rendered in the Brewster case, supra, contemplated that the term "law" as used therein should have application only to the statutory provisions contained in Section 12606, supra. In other words, it must be assumed that the Legislature used this term advisedly and intelligently, fully cognizant of the decision of the Supreme Court in the Brewster

case, the effect of which definitely dispelled for once and for all any doubt which may have existed as to whether or not municipal ordinances are laws within the strict meaning of the term "law" as used in the Constitution of the State of Ohio.

It is, therefore, my opinion in specific answer to your questions that: (1) An operator of a motor vehicle who fails to comply with the provisions of Section 12606 of the General Code may be charged with any of the following offenses: (a) failure to stop after an accident or collision, or (b) failure to give his name and address when requested so to do by the injured person or any other person or if not the owner of the motor vehicle, the name and address of the owner thereof, together with the registered number of such motor vehicle; (2) A municipal ordinance is not a law in the sense in which the term "law" is used in Sections 6298-1 and 6296-17 of the General Code; (3) The phrase "when required so to do by law" as contained in Sections 6298-1 and 6296-17 of the General Code, refers only to the statutory provisions contained in Section 12606 of the General Code.

Respectfully,
HERBERT S. DUFFY,
Attorney General.

2759.

APPROVAL—GRANTS OF EASEMENT, STATE OF OHIO, THROUGH CONSERVATION COMMISSIONER, SIX TRACTS OF LAND, NUMBERED AND DESIGNATED, MARSEILLES TOWNSHIP, WYANDOT COUNTY, OHIO, FOR PUBLIC FISHING GROUNDS AND TO IMPROVE THE WATERS OR WATER COURSES PASSING THROUGH AND OVER SAID LANDS.

COLUMBUS, OHIO, July 26, 1938.

HON. L. WOODDELL, *Conservation Commissioner, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval certain grants of easement, executed to the State of Ohio, by several property owners in Marseilles Township, Wyandot County, Ohio, conveying to the State of Ohio, for the purposes therein stated, certain tracts of land in said townships and county.

The grants of easement here in question, designated with respect to the number of the instrument and the name of the grantor, are as follows: