

It appears to me that the instrument set forth in section 5528-1, General Code, is an instrument of writing by which lands are incumbered in law, within the meaning of said section 2757, General Code. Section 5528-1 specifically states that the amount of the bond (incorporated in the certificate) "shall become a *lien* upon the property." If the certificates creating the lien are to be filed in the mortgage record book, it would seem logical that the certificates releasing the lien should be recorded by a county recorder in the same manner that releases of mortgages are recorded.

I am therefore of the opinion, in specific answer to your question, that the county recorder should record the certificate filed by the secretary of the Tax Commission, under the provisions of section 5528-1, General Code, in the mortgage record book. I am further of the opinion that the certificate releasing the lien created by the filing of the certificate by the secretary of the Tax Commission should be recorded in the same manner that releases of mortgages are recorded.

Respectfully,
JOHN W. BRICKER,
Attorney General.

1858.

OPINION NO. 69, JANUARY 26, 1933, REVERSED—CASE OF HEUCK,
AUD., VS. STATE, EX REL. MACK, (NO. 24218, SUP. CT. OF OHIO).

COLUMBUS, OHIO, November 10, 1933.

HON. JOSEPH T. TRACY, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—Since the rendition of my opinion No. 69, addressed to you under date of January 26, 1933, the Supreme Court of Ohio has decided the case of *Robert Heuck, Auditor, etc., vs. State of Ohio, ex rel. Alfred Mack* (No. 24218 in the Supreme Court of Ohio). Such case held, as disclosed by the syllabus, as follows:

"1. Under Section 1-c, Article II of the Constitution of Ohio, providing that no law shall go into effect until ninety days after it shall have been filed in the office of the secretary of state, and further that when a petition, signed by six per centum of the electors, shall have been filed with the secretary of state within ninety days after any law shall have been so filed, such law shall be submitted to a referendum, the prescribed ninety day periods embrace ninety full days, and such time should be computed by excluding the date upon which the law was filed.

2. The so-called salary reduction act (114 Ohio Laws, pt. 2, 70), passed by the General Assembly September 30, 1932, and approved and filed in the office of the secretary of state on October 3, 1932, was subject to the filing of a referendum petition until at least the last moment of January 1, 1933, and, therefore, such law did not become effective until at least the first moment of January 2, 1933.

3. A judge of the court of common pleas, whose term of office began on January 1, 1933, was not affected by such salary reduction act,

since it would decrease his salary during his term of office, contrary to the provisions of Section 14, Article IV, of the Constitution of Ohio."

The foregoing case overrules the opinion of this office, No. 69, and I accordingly officially direct your attention to this decision for your guidance in the premises.

Respectfully,
JOHN W. BRICKER,
Attorney General.

1859.

DEPOSITORY — ALTHOUGH DEPOSITORY CONTRACT AWARDED BIDDING BANK BY COUNTY COMMISSIONERS NO NEW DEPOSITORY CREATED UNTIL BOND OR LAWFUL SECURITIES HAVE BEEN DEPOSITED WITH COMMISSIONERS—SURETIES ON BOND OF COUNTY DEPOSITORY BANK LIABLE WHEN.

SYLLABUS:

1. *When a board of county commissioners has advertised in the manner provided in Section 2716, General Code, for depositories, and has made an award of the depository contract to a bidding bank, pursuant to Section 2717, General Code, no new depository is created until a bond has been filed with the board of county commissioners and approved by it, or lawful securities have been so deposited with it for the insurance of the safekeeping and return of moneys deposited in such depository.*

2. *The sureties on the bond of a county depository bank remain liable on their bond given in compliance with Sections 2722 to 2727, General Code, until the funds which have been in the depository have been returned, a new depository created, or a substitute bond has been furnished and accepted by the board of county commissioners, in lieu thereof.*

COLUMBUS, OHIO, November 10, 1933.

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

GENTLEMEN:—I am in receipt of your request for my opinion concerning the following matters:

"In 1929 a contract was entered into between the county commissioners of Van Wert County and the Wren Bank of Van Wert County under which the Wren Bank was to act as depository for the funds of Van Wert County, as provided by Sections 2741 et seq. of the General Code. A personal bond was furnished under the contract. This bond was approved by the county commissioners as sufficient, and \$15,000 was placed in said Wren Bank under the agreement, as inactive money.

This contract went into effect in January, 1930.

In 1933 the question of a new contract came up. After the county commissioners had advertised for bids, a proposal was received from