

4. The county's portion of gasoline excise tax funds (Section 5537 and related sections of the General Code) may be only used for the purpose of maintenance and repair of roads in the county highway system, including roads that are unimproved.

5. The term "maintenance and repair" as used in Section 5537, General Code, embraces all work done upon roads and highways within the meaning of the term in its ordinary acceptance, and in addition thereto, includes all work done upon any public road or highway in which the existing foundations thereof are used as the subsurface of the improvement thereof in whole or in substantial part.

6. By the terms of Section 1224, General Code, as amended in House Bill No. 67, passed by the 87th General Assembly (Norton-Edwards Act) it is the duty of the Director of Highways to maintain and repair all roads and highways and all the bridges and culverts thereon in the state highway system.

7. By the terms of Section 7464, General Code, as amended in House Bill No. 67, passed by the 87th General Assembly (Norton-Edwards Act) and Sections 2421, 7557 and 7467, General Code, it is the duty of county commissioners to maintain and keep in repair all bridges on county roads.

8. It is also the duty of county commissioners to maintain and keep in repair bridges on township roads, although township trustees are authorized to appropriate and use township road funds in the maintenance and repair of bridges within their jurisdiction.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1675.

APPROVAL, ABSTRACT OF TITLE TO LAND OF CLARA R. HERMAN
AND PHILLIP HERMAN, FRANKLIN TOWNSHIP, ADAMS COUNTY,
OHIO.

COLUMBUS, OHIO, February 4, 1928.

HON. CARL E. STEEB, *Secretary, Ohio Agricultural Experiment Station, Columbus, Ohio.*

DEAR SIR:—You have resubmitted for my examination and opinion an abstract of title pertaining to three tracts of real estate in Franklin Township, Adams County, Ohio, which it is proposed to purchase from Clara R. Herman and Phillip Herman, her husband.

Under date of August 17, 1927, I rendered to you my opinion bearing number 885, in which I stated that in my opinion Clara R. Herman has a good and merchantable title to the premises, subject to a mortgage to Edward A. Day executed June 12, 1923, and recorded in Volume Q-2, page 446 of the record of mortgages, Adams County, Ohio, for the purpose of securing the mortgagor's note for \$2,100 and subject to taxes for the years 1926 and 1927.

Upon re-examination of the abstract, I find a notation on the page where the above mortgage is shown to the effect that the conditions of the mortgage have now been complied with, and the same is satisfied and discharged.

Among the papers submitted by you is a letter from T. J. Rice of Oberlin, Ohio, in which he says that he has advanced money to pay the taxes, and has the receipts

showing that the same have been paid. In my opinion, you should satisfy yourself that this is true.

In view of the foregoing, and subject to your satisfying yourself that the taxes for 1926 and 1927 have been paid, I am of the opinion that Clara R. Herman has a good and merchantable title in the premises.

The encumbrance estimate and deed were approved in Opinion No. 885 above referred to.

In accordance with the request contained in your letter under date of February 1, 1928, I am transmitting the abstract, deed, encumbrance estimate and other papers submitted in this connection to the Auditor of State.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1676.

BOND ISSUE—REFUNDER—APPROVAL OF ISSUE OF BONDS TO REFUND PAYMENT OF BONDS ALREADY ACCRUED.

SYLLABUS:

Under the provisions of Section 2293-5, General Code, as amended in House Bill No. 1, enacted by the 87th General Assembly, the Tax Commission of Ohio may approve an issue of bonds to refund the payment of bonds already accrued and is not precluded from said approval by the phrase in said section, "bonds which are about to mature."

COLUMBUS, OHIO, February 4, 1928.

The Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your recent communication, which reads:

"The Tax Commission wishes an official opinion from your office relative to the language of Section 2293-5 of House Bill No. 1 as enacted by the 87th General Assembly.

The section involved has to do with approval of the Tax Commission to different taxing authorities authorizing them to issue refunder bonds. The particular language which we wish interpreted is in line three 'bonds which are about to mature.' The question is, would the Tax Commission have the authority under this section to authorize the issuance of refunder bonds where the bonds have already matured, or in other words where the political subdivision has defaulted in the payment of its obligation.

We have pending several requests for permission to issue refunder bonds where bonds have matured in some cases as early as May, 1926. Now, the officials are coming to us asking authority to refund these bonds.

We shall be very pleased if we can have an early opinion in this matter."

Section 2293-5, General Code, as amended in House Bill No. 1, as enacted by the 87th General Assembly, reads as follows: