legislative intent that such returns be made so as to become the basis of taxation for the current year. This duty is enjoined upon the auditor, and is mandatory."

The conclusion in said opinion reads as follows:

"From these considerations, we believe the conclusion is inescapable that the only duplicate which may be used by the authorities of Delaware county is the duplicate obtained by the appraisal made in the year 1924, and that if this is not now complete, it must be completed by the authorities charged with that duty, even though it is impossible to complete it by the time fixed by statute."

Succeeding the rendering of this opinion, and upon the failure of the auditor of Delaware county to proceed to compute the amount of tax due from the owners of real estate of Delaware county for the year 1925 on the basis of the valuations fixed by the appraisal as made by him during the year 1924, the Tax Commission of Ohio brought an action in mandamus in the Supreme Court against said auditor, reported in 112 Ohio St., at page 721. The Supreme Court found as follows:

"This day came the defendant herein and withdrew the demurrer heretofore filed, and the defendant not desiring to plead further, and having failed to show cause why the alternative writ of mandamus heretofore allowed by the court should not be made peremptory, it is therefore ordered and adjudged that said temporary writ be, and the same hereby is, made peremptory, and that said defendant, Wilbur J. Main, is ordered to proceed forthwith to compute the amount of tax due from the owners of real estate of Delaware county for the year 1925 on the basis of the valuations fixed by the appraisal as made by him during the year 1924, and revised by the board of revision of Delaware county and the tax commission of Ohio."

This decision was rendered January 13, 1925.

It is, therefore, believed that it is the duty of the auditor of Crawford county to compute the amount of tax due from the owners of real estate of Crawford county for the year 1926 on the basis of the valuations fixed by the appraisal as made by him during the year 1925, and as revised by the board of revision of Crawford county and the Tax Commission of Ohio.

Respectfully,
EDWARD C. TURNER,
Attorney General.

11.

GASOLINE TAX RECEIPTS—NO AUTHORITY FOR MUNICIPAL CORPORATION LOCATED ON INTER-COUNTY HIGHWAY OR MAIN MARKET ROAD TO EXPEND ONE-SIXTH PART GASOLINE EXCISE FUND FOR REPAIRS UNLESS STREET OR ROADWAY IS DESIGNATED EXTENSION OR CONTINUANCE OF INTER-COUNTY HIGHWAY OR MAIN MARKET ROAD.

SYLLABUS:

When a municipal corporation is located on an inter-county highway or main market road, there is no authority in law, either express or implied, for a municipal

corporation to expend the one-sixth part of the gasoline excise fund, set aside during the current year, for the purpose of repairing any street or roadway within such municipal corporation, unless said street or roadway has been designated by the Director of Highways and Public Works as an extension or continuation of an inter-county highway or main market road.

COLUMBUS, OHIO, January 19, 1927.

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

GENTLEMEN:—I beg to acknowledge receipt of your communication dated January 14th, 1927, as follows.

> "Section 5537, G. C., 111 O. L., 299, provides for the distribution of the gasoline tax receipts by the state to municipalities and further provides that:
>
> 'Wherever a municipal corporation is on the line of an inter-county highway or main market road, one-sixth of the amount so paid to any municipal corporation shall be used by such municipal corporation for the sole purpose of maintaining and repairing such streets and roads within such municipal corporation, as may be designated by the director of highways and public works as extensions or continuances of inter-county highways or main market roads.'
>
> An inter-county highway, passing through one Ohio municipal corporation is being resurfaced in its entirety, by the state highway department, and paid for from state funds. There are no other streets or roads in such municipality which could be designated as extensions of main market roads, or inter-county highways, and one-sixth part of the gasoline tax receipts will not be needed for such purposes during the current year.
>
> *Question:*
>
> May the municipality in question, expend the one-sixth part of the gasoline tax receipts set aside during the current year for improving extensions of main market roads or inter-county highways for the purpose of repairing any street or roadway within such municipality?"

In this instance, there is an inter-county highway passing through the municipal corporation in question. As the same passes through said municipal corporation, that part of said inter-county highway which passes through said municipal corporation must necessarily have been heretofore designated by the Director of Highways and Public Works as an extension or continuation of said inter-county highway.

Therefore, one-sixth of the gasoline tax excise fund must be used for the sole purpose of maintaining and repairing such part of such highway as lies within such municipal corporation which within the said municipal corporation is necessarily an extension or continuation of such inter-county highway.

It is unfortunate that this section of the statute which is uniformly operative throughout the state, does not meet the conditions existing in this particular municipal corporation, but I must consider the application of the law as it affects all municipal corporations, rather than the effect of the law upon any particular one.

The legislature intended to safeguard the maintenance and repair of inter-county highways and main market roads, as otherwise, it would not have used the emphatic and concise term, "sole purpose," as in Section 5537 of the General Code of Ohio.

Respectfully,
EDWARD C. TURNER,
Attorney General.