

bus case, above mentioned, is dispositive of the question you present. In that case the statute made no express provision relative to the purchase of machinery."

In amending Section 5541-8, General Code, to allow the municipalities to use the second gas tax proceeds for "cleaning" streets, the legislature did not see fit to do likewise in the case of the first gas tax and motor vehicle license tax statutes.

It seems clear therefore, that since Sections 5537 and 6309-2, General Code, with respect to the disposition of municipal first gas tax and motor vehicle license tax proceeds were not amended to add the words "for cleaning and clearing the public streets," that the legislature did not intend that such proceeds should be used for the purchase of equipment for street cleaning and clearing purposes.

Hence it would appear that a city may purchase a service truck with funds arising from Sections 5537 and 6309-2, General Code, if such truck will be used only in connection with the maintaining, repairing, constructing and repaving of the city streets. However, it also appears that a city may not purchase a service truck from funds arising from Section 5537, and Section 6309-2, General Code, if the service truck is to be used for "cleaning and clearing" the city streets.

I am therefore of the opinion in specific answer to your question that the city of Circleville may legally purchase, out of the proceeds of funds arising from the provisions of Sections 5537 and 6309-2, General Code, a service truck, providing such truck is used only in connection with the maintaining, repairing, constructing and repaving of the city streets, and is not used in connection with the cleaning and clearing of the city streets.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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3869.

APPROVAL, CONTRACT FOR HIGHWAY CONSTRUCTION IN FRANKLIN  
COUNTY, OHIO.

COLUMBUS, OHIO, January 29, 1935.

HON. JOHN JASTER, JR., *Director, Department of Highways, Columbus, Ohio.*

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3870.

APPROVAL, BONDS OF MONTGOMERY COUNTY, OHIO, \$89,000.00.

COLUMBUS, OHIO, January 29, 1935.

*Industrial Commission of Ohio, Columbus, Ohio.*