special election is controlled expressly by its terms and that the only purpose for which bonds may be voted at a special election is "whenever it is necessary to rebuild or repair public property wholly or partially destroyed by fire or other casualty, * * * or to build a new similar property in lieu of repairing or rebuilding said property." The words "fire or other casualty" clearly do not comprehend the prohibition of use under order of the Department of Industrial Relations, since, under Section 7630-1, General Code, above quoted, such a prohibition is recognized as a separate and distinct purpose.

Answering your question specifically, therefore, I am of the opinion that there is no authority for submitting at a special election the question of issuing bonds for the building of a new school building to replace the one closed by reason of an order of the Department of Industrial Relations.

I call your attention to the fact that there is now pending before the present General Assembly House Bill No. 1, the purpose of which is to revise and codify the laws relating to the issuance of bonds by political subdivisions. This bill has not been passed, but should it be enacted into law, it would constitute the governing procedure in the case of the submission of such a bond issue as you suggest to a vote of the people.

Section 2293-22 of the bill is in its language analogous to Section 5649-9b, which I have quoted above, and it would seem that the same conclusion would be reached as to the lack of authority to authorize bonds at a special election under the proposed law. It is my suggestion, therefore, that you take care to examine any changes in the bond issuing law before proceeding.

Respectfully,
EDWARD C. TURNER,
Attorney General.

342.

ROADS AND HIGHWAYS—TRACTORS—DAMAGES RECOVERED THROUGH CIVIL ACTION—INTERPRETATION OF WORD "CLEAT" USED IN SECTION 13421-12, GENERAL CODE.

SYLLABUS:

1. *The word "cleat", as used in Section* 13421-12 *of the General Code, means a strip of wood or iron fastened to the tires or wheels of a tractor, to prevent said tractor from slipping.*

2. *An angle iron attached to the wheel or tire of a traction engine or tractor driven over an improved highway violates Section* 13421-12.

3. *Where a statute for the protection of roads is violated, damages may be recovered through civil action.*

COLUMBUS, OHIO, April 19, 1927.

HON. C. H. CONAWAY, *Prosecuting Attorney, Mt. Gilead, Ohio.*

DEAR SIR:—This acknowledges receipt of your recent letter reading as follows:

> "You will find enclosed diagram of tractor wheel. Exhibits Numbers 1 and 4 I do not question as being cleats as referred to in the latter part of an opinion by your department dated August 11, 1917, and appearing on page 817 of Department Reports of Ohio, Volume 6.
>
> Numbers 2, 3 and 5 we find on numerous tractors in our county, which are at this particular time of the year doing considerable damage.

There are several companies who equip their tractors with cleats, numbers 2 and 3 non-removable and advertise them as cleats, and one equipped with number 5, which is a non-removable cleat and sets at an angle.

You will note from the diagram that numbers 2, 3 and 5 are an L. type cleat and a surface of 1/4 inch touches the pavement and a cleat 2 inches long having the same effect on the highway that an ice pick or lug.

Section 13421-12 of the General Code of Ohio reads in part as follows: 'A traction engine or tractor with tires or wheels equipped with ice picks, spuds, spikes, chains or other projections of any kind, extending beyond the cleats'.

In your opinion would numbers 2, 3 and 5 be cleats; if so then would numbers 2 and 5, the extension merely being beyond the edge of the wheel if the same size be an extension beyond the cleats?

The damage to the highways of Morrow county, resulting from the use of such tractors by some of our most progressive farmers, has been very great, but before prosecuting under Section 13421-12 would like your opinion on the same.

Since the tractor manufacturers advertised these as cleats, and the General Code of Ohio is silent, as to a legal definition for cleats as used in tractor wheels, are you of the opinion that the types 2, 3 and 5 would be liable for prosecution under Section 13421-12?"

Section 13421-12 of the General Code reads in part as follows:

"Whoever drives over the improved highways of the state, or any political subdivision thereof, a traction engine or tractor with tires or wheels equipped with ice picks, spuds, spikes, chains or other projections of any kind extending beyond the cleats shall be fined for each offense not less than ten dollars nor more than one hundred dollars. The terms 'traction engine' or 'tractor' as used in this act, shall apply to all self-propelling engines equipped with metal-tired wheels operated or propelled by any form of engine, motor or mechanical power, used for agricultural purposes. * * *"

Opinion No. 523, found on page 1488 in Volume II of the Opinions of the Attorney General for the year 1917, and referred to in the first paragraph of the above letter, is pertinent to your question only to the extent of holding that a farmer, while passing from one part of his farm to another, is not exempt from complying with the provisions of Section 13421-12, General Code.

Your questions are fully discussed in Opinion No. 665, found on page 1806 of Volume II of the Opinions of the Attorney General for the year 1917, to which your attention is directed. In this opinion the word "cleat" is defined as "a strip of wood or *iron* fastened across other materials, as a board or boards, to strengthen, keep in place and prevent slipping. A piece of wood nailed down to secure something from slipping."

The word "cleat" is defined by both Webster's and Standard Dictionary as a strip. Nowhere am I able to find that an angle of any kind comes within the definition of a cleat. If your illustrations Nos. 2, 3 and 5 consist of an angle iron attached to the wheel or tire so that a part of the angle projects from the strip fastened to the tire, it is my opinion that such projection extending beyond the cleat is a violation of law. Therefore, anyone driving a traction engine or tractor with tires or wheels equipped with such angle irons upon an improved highway of this state is guilty of a misdemeanor.

I agree with you that your No. 4 is a cleat. I am not clear as to No. 1. It seems to me to be something more than a cleat. It is hardly a strip.

I desire to call your attention to the provisions of Section 7251 of the General

Code, which provides that any person violating any provision of law relating to or regulating the use of inter-county highways or main market roads shall be liable for all damages resulting to such highway.

I further call your attention to Section 2408 of the General Code, which provides in part as follows:

> "The board of county commissioners may sue and be sued, plead and be impleaded, in any court of judicature, bring, maintain and defend all suits in law or in equity involving an injury to any public, state or county road * * * established by such board in its county."

I am of the opinion that you would get better results from a civil action than from a criminal action. You could use the criminal statute as a basis for your civil action.

I am of the further opinion that the injury which you describe may be prevented by injunction. The public has a right of travel over these roads and the injury is not limited to the road itself but to the public who are inconvenienced not only in traveling over an injured road but in being compelled to detour while the road is being repaired. I think that there is an irreparable injury upon which to base an injunction. You will have to determine which civil statute is applicable to the particular road.

Respectfully,
EDWARD C. TURNER,
Attorney General.

343.

VALUE OF PROPERTY OF PUBLIC UTILITY—WHEN CERTIFIED TO COUNTY AUDITOR FOR TAX DUPLICATE APPORTIONMENT IS FINAL UNLESS A DIFFERENT REPORT FILED BY PUBLIC UTILITY AND CORRECTED AND CERTIFIED BY TAX COMMISSION IN CURRENT YEAR.

SYLLABUS:

When the value of the property of a public utility is apportioned and certified to a county auditor to be placed on the tax duplicate, such apportionment is final unless a different report is filed by the public utility and said apportionment corrected and certified by the Tax Commission in the current year.

COLUMBUS, OHIO, April 19, 1927.

HON. HOWARD J. SEYMOUR, *Prosecuting Attorney, Ravenna, Ohio.*

DEAR SIR:—Acknowledgement is made of your recent communication with which you inclosed a letter from the county auditor of Portage County which reads:

> "A question has arisen in the matter of taxes between the village of Mantua and the city of Ravenna upon which I would like to have your written opinion. The situation seems to be about as follows:
>
> The Ohio Electric Power Company, formerly the Ravenna Gas & Electric Light Company, which has lines in several of the different taxing districts of Portage county, has for the last nine years certified to the Tax Commission of Ohio all of their taxable property as being in Ravenna city, consequently all the taxes which should have been distributed through these several taxing districts has at the time of our semi-annual distribution paid