

patient to that jurisdiction without expense to the state in the event her husband is unable to provide or care for her here.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

2223.

BANKS AND BANKING—THE WORD "OFFICER" AS USED IN SECTION 5624-10 G. C. DOES NOT INCLUDE CASHIER OF AN INCORPORATED BANK, NOR CASHIER OR OWNER OF AN UNINCORPORATED BANK MENTIONED IN SECTION 5411 G. C.

The word "officer," as used in section 5624-10 G. C., does not include the cashier of an incorporated bank, nor the cashier, manager or owner of an unincorporated bank, mentioned in section 5411 G. C.

COLUMBUS, OHIO, July 1, 1921.

Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—Your letter of recent date was duly received, requesting an opinion on the following question:

"Is a cashier of an incorporated bank, or the cashier, manager or owner of an unincorporated bank, who are required to make a return under section 5411 G. C., an officer required to perform a duty relating to the assessment of property for taxation as set forth in section 5624-10, whose negligence or error in making the return of such bank may properly be the basis of a remission of taxes by the Tax Commission as provided under the latter section?"

Section 5411, referred to in your letter, relates to the listing or returning for taxation of property and shares of capital stock of banks and bankers, whereas section 5624-10 G. C., also referred to in your letter, is one of the group of statutes relating to the assessment of property for taxation, and the levying and collection of taxes by the taxing authorities (sections 5579 to 5624, inclusive, G. C.)

Section 5411 G. C. reads as follows:

"The cashier of each incorporated bank, and the cashier, manager or owner of each unincorporated bank, shall return to the auditor of the county in which such bank is located, between the first and second Mondays of May, annually, a report in duplicate under oath, exhibiting in detail, and under appropriate heads, the resources and liabilities of such bank at the close of business on the Wednesday next preceding the said second Monday, with a full statement of the names and residences of the stockholders therein, the number of shares held by each and the par value of each share, and of the amount of capital employed by unincorporated banks, not divided into shares, and the name, residence and proportional interest of each owner of such bank."

Upon receiving the return or report called for by the section just quoted, it is then provided by section 5412 G. C. that the county auditor shall fix the

total value of the bank shares, etc., and transmit to the annual state board of equalization for banks a copy of such return so made by the cashier, manager or owner with the valuation of such shares or property representing capital employed as so fixed by the auditor.

Section 5624-10 G. C., referred to in your letter, reads as follows:

"The tax commission of Ohio may remit taxes and penalties thereon, found by it to have been illegally assessed, and such penalties as have accrued or may accrue, in consequence of the negligence or error of an officer required to perform a duty relating to the assessment of property for taxation, or the levy or collection of taxes. It may correct an error in an assessment of property for taxation or in the tax list or duplicate of taxes in a county, but its power under this section shall not extend to taxes levied under the provisions of subdivision 2 of chapter 15 of title 2, part second of the General Code."

The statute just quoted, together with the other sections of the chapter of which it forms a part, indicate that the "officer" therein referred to means one of the public officers who perform some duty relating to the assessment of property for taxation, or to the levying or collection of taxes, and not to an officer of the bank who has no duty to perform in that regard, but whose activity in the premises is confined to making to the county auditor the return called for by section 5411 G. C.

Since the receipt of your letter, I was informed by the chairman of your commission that the question under discussion relates exclusively to a state bank, and this opinion is limited accordingly. For an opinion involving the power of the commission to remit taxes and penalties assessed against a national bank growing out of the fraudulent act of its cashier in over-valuing the bank's assets, see 1913 Opinions of Attorney-General, Vol. I, page 532. However, the meaning of the word "officer" as used in section 5617-4 G. C., now section 5624-10 G. C., was not involved.

You are therefore advised that the specific question submitted in your letter should be answered in the negative.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2224.

APPROVAL, REFUNDING BONDS, CARTHAGE TOWNSHIP RURAL
SCHOOL DISTRICT, ATHENS COUNTY, IN THE AMOUNT OF \$7,500.

COLUMBUS, OHIO, July 1, 1921.

Industrial Commission of Ohio, Columbus, Ohio.